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**Rhode Island General Assembly
House Environment and Natural Resources Committee
Public Hearing on House Bill 8312
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Written Testimony

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Chair Bennett and members of the Committee, thank you for this opportunity to submit written testimony on House Bill 8312, which would establish the Beverage Container Recycling Act for Rhode Island (bottle deposit program), provide for source reduction, and set mandates for recycled content use for beverage containers.

The International Bottled Water Association (IBWA) is the trade association representing all segments of the bottled water industry, including spring, artesian, mineral, sparkling, well, groundwater and purified bottled waters. IBWA represents bottled water bottlers, distributors, and suppliers throughout the United States, including several small, medium, and large-size companies doing business in Rhode Island. IBWA's stated mission is to serve the members and the public by championing bottled water as an important choice for healthy hydration and lifestyle and promoting an environmentally responsible and sustainable industry.

IBWA has always been a strong advocate for recycling and supports comprehensive, multi-industry approaches to recycling and solid waste management. We are also active supporters of efficient and effective deposit return systems (DRS) and greatly appreciate the sponsor's and Committee's work on this issue. IBWA has a few concerns about HB 8312 that could impact the success of a DRS program in the state.

Provided below are key elements of a successful DRS program. IBWA believes that these principles can help increase redemption rates, provide better results for the state, and ease the burden on consumers and manufacturers. IBWA's recommendations are based on our experience with the most effective provisions in other state deposit programs. A list of those recommendations, along with comments on how the current version of HB 8312 addresses these issues can be found below.

- **Industry-Led Producer Responsibility Organization.** The best practice for a deposit return system is to establish a third-party organization, often referred to as a Producer

Responsibility Organization (PRO) that manages the DRS and is led by beverage manufacturers and distributors. The organization will set the redemption system cost structure and associated fees to ensure an effectively and efficiently run program. This cooperative model will foster higher rates of redemption rather than artificially capping redemption rates due to an inefficient costly structure.

The bill clearly establishes a PRO with a comprehensive list of requirements, activities, goals, and responsibilities.

- **Performance-based with Achievable Targets.** Targets for redemption, recycling rates, and the quality of redeemed material should be established and must be measurable, achievable, and cost effective. Targets should be phased in over time, and revision of performance-based targets should be carried out at appropriate intervals. If a target is not achieved, the producer responsibility organization must make changes to the program. Targets for new programs should account for the considerable time necessary for consumers to adapt to a new collection system.

While the bill does set redemption performance goals, IBWA is concerned that the timeline for achieving these goals is too aggressive and could lead to an initial failure of the DRS that comes with significant consequences. In previous actions to develop a DRS in a state, or to expand an existing program, 5 years tends to be the norm for achieving the initial redemption goals that are set. It is unrealistic to set a goal of 2 years to achieve a 70% redemption rate. The amount of investment in education, program development, establishing collection facilities, sites, and routines will require more than 2 years if the program is to be successful.

- **Ensure Primary Access to Post-Consumer Content.** As noted earlier, IBWA supports a true circular economy, which is only achievable when producers have access to post-consumer recycled materials, such as recycled PET (rPET) and recycled High Density Polyethylene (rHDPE). To support a closed loop circular economy system, an organization's primary mission must be material collection. Beverage producers who are members of the organization must have the first right of refusal to collected post-consumer recycled materials that can be re-made into new bottles. IBWA does not support the "downcycling" of post-consumer recycled material (e.g., taking rPET or rHDPE from beverage containers and using it to produce carpet), which undermines the concept of a circular economy.

There are no provisions in the bill directly tied to recycled content material development or the ability of producers to purchase collected material prior to sale to other parties. The legislation should include a right of first refusal for the beverage producers to ensure collected materials can be used to make new bottles. Especially since the bill includes mandates for recycled content use for both PET and HDPE plastics.

- **Unclaimed Deposits Stay with the DRS Program.** All funds from unclaimed deposits should be used solely for collection of post-consumer materials and improvements within the DRS program. Time and again in existing DRS systems, states have diverted consumers'

unclaimed deposits to general funds for other uses undermining the DRS system's integrity and consumers' trust that material is actually recycled.

The bill adequately allocates unclaimed for reinvestment back into the program and utilization for consumer education, collection, recycling and reuse programs, and other aspects that seek to build a stronger, more effective, and more efficient DRS.

- **Focus on Reducing Contamination and Increasing Yield.** DRS typically keep beverage container types separate (from each other and from non-container recyclables), thereby improving material quality, market value, and reducing processing loss, all of which lead to higher yields, and thus support the circular economy. This could include standardizing quality control and increasing oversight of recycling processing to better ensure proper sorting of materials.

The bill contains administrative penalties for violations that could impede the proper function of the program and allows the PRO the right not to accept contaminated material. IBWA would also recommend that lawmakers consider more defined requirements that can assist the organization in making determinations for avoiding contamination issues. As an example, reverse vending machines are strong mechanisms to prevent contamination, but consumer bag drop off and curbside collection can tend to cause increased contamination of non-deposit items unless there is strong monitoring of the collection practices. Regular policing of these collection programs must occur in order to prevent contamination.

- **Convenient for Consumers.** A DRS organization should establish a network of convenient collection points such as bag drops, redemption centers or other collection channels for easy and accessible consumer return and redemption. Use of consumer-friendly technology tools will also improve consumer engagement and operational efficiency of the system.

The bill leaves much of the work to establish redemption centers and the requirement of dealer participation to the PRO. While one could make the assumption that such details will be worked out during the regulatory process, it would be advisable that the legislation provide some framework as to requirements to ensure adequate opportunity for consumers to participate in the DRS. This could include the support of retail or other established facilities to allow for the return of beverage containers or suggestions on potential technology to assist in collection.

- **Controls to Reduce Fraud and Abuse.** An organization, in cooperation with the government oversight agency, should work to prevent and reduce opportunities for fraud. This could include licensing of redemption facilities, regular inspections at return facilities, increasing penalties for violations, and a daily limit on the bottle quantity that can be redeemed by an individual or entity.

The current language of the bill provides limited provisions for incentives to avoid fraud and abuse. IBWA would suggest allowing the PRO to further establish definitive penalties that would be used to reinvest back into the program.

Recycled Content Mandate Goals

IBWA supports reasonable recycled content requirements and effective dates, however we have concerns with the goals set for PET and HDPE plastic beverage containers. Achieving the bill's recycled plastic content mandates and effective dates will be very difficult given the current limited availability of food-grade recycled material and lack of data available for this material in the region.

Availability of rPET and rHDPE, especially the limited amount of quality material necessary for bottled water container production, and the price volatility of the market, need to be taken into consideration when any discussion of a recycled content mandate is addressed. According to the Rhode Island Resource Recovery Corporation, the state recycling rate was 31.8% (close to the national average) in 2022. Based upon such a low number, bottlers will not be able to meet the mandated use requirements the bill based on the current quantity of bottles recycled and the specific needs of beverage manufacturers for food-grade rPET or rHDPE. IBWA suggests, similar to what has been done in California and Washington (two states that have approved plastic beverage container recycled content mandates), a closer examination of the recycling, rPET and rHDPE markets to determine the availability of material prior to setting any type of mandate.

It is important to note that the majority of PET and HDPE bottles that are recycled never make it back into food grade recycled plastic bottles. Data from the National Association for PET Container Resources (NAPCOR) states that only 1 in 7 post-consumer PET bottles collected for recycling are recycled into new bottles. For rPET this is especially problematic as nearly 75% of total available rPET is currently being downgraded into less recycled applications such as fiber, sheet, film, and strapping. Similar issues exist in the rHDPE market. Such an abrupt change in requirements will force all beverage manufacturers to compete for the existing limited supply of food grade recycled plastic.

Opposition to Source Reduction

Although there is a lack of clarity on what source reduction may actually entail, as it is mostly being left to the PRO to make these decisions, IBWA opposes source reduction, as it fails to take into account the recyclability and reuse of specific materials and may put product safety in jeopardy without proper testing and research on alternative materials.

IBWA supports allowing for the use of postconsumer recycled content to be quantified as a means of source reduction. This would incentivize the use of recycled content material and help drive the market to achieve any requirements set for recycled content use.

Clarification Producer Definition as it Relates Remote Sale or Distribution

There is no definition in the bill of "remote sale or distribution" which could have a major impact on who is responsible as a producer for this type of sale. It would be helpful to have an example that demonstrates how this particular section is attended to operate.

The Bottled Water Industry in Rhode Island

When looking at Rhode Island's jobs and economy, it is important to note that the bottled water industry is a strong economic driver in the state. Companies in Rhode Island that manufacture, distribute, and sell bottled water employ as many as 855 people in the state and generate an additional 1,040 jobs in supplier and ancillary industries. Examples of such employment include jobs in companies that supply goods and services to manufacturers, distributors, and retailers, as well as those that depend on sales to workers in the bottled water industry. The jobs currently generated by the bottled water industry in Rhode Island are good jobs, paying an average of \$63,600 in wages and benefits.

Not only does the manufacture and sale of bottled water create good jobs in Rhode Island, but the industry also contributes to the economy as a whole. In fact, the bottled water industry is responsible for over \$351 million in total economic activity in the state. The industry also generates sizable tax revenues. In Rhode Island, the bottled water industry and its employees pay over \$15 million in business taxes while sales drive another \$12.6 million in consumption taxes.

In conclusion, IBWA and its members, both in Rhode Island and throughout the United States, strive to make a product that is healthy, refreshing, and considers the environmental impact of our products, both in manufacturing and waste management. IBWA is a strong advocate for comprehensive, multi-industry approaches to recycling and solid waste management that examine all types of programs that offer workable solutions.

IBWA would ask the Committee and others involved in this legislative effort to consider our recommendations presented by industry within the current proposal. We welcome the opportunity to work with the sponsor and the committee on this important legislation.