October 12, 2018

Cathy Jamieson, Program Manager
Solid Waste Management Program
Department of Environmental Conservation
1 National Life Drive – Davis 1
Montpelier, VT 05620-3704
Cathy.Jamieson@vermont.gov

Re: Guidance on Eligibility to Qualify for the Retailer Exemption from Beverage Container Redemption under 10 V.S.A. § 1523b.

Dear Cathy,

Thank you for the opportunity to comment on the DEC’s draft guidance related to retailer exemption criteria under Vermont’s beverage redemption law.

The retailer exemption requirements are changing because, in 2018, the Vermont Legislature passed a bill repealing Agency of Natural Resource’s Environmental Regulation § 10-105(d) which specified that “A retailer, with the prior approval of the Secretary, may refuse to redeem beverage containers if a certified redemption center operates within a five mile radius of the retailer.”

Vermont’s container deposit law, and all such laws, creates a social contract between consumers and the state. The law requires consumers to pay a deposit on beverage containers, and then ensures consumers that the deposit will be fully refunded if the consumer returns the beverage container for recycling. The state is therefore responsible for ensuring that it is just as easy to return the beverage container for recycling as it was to purchase the beverage in the first place. The state is the key party responsible for ensuring the utmost in consumer convenience and consumer protection. The state should ensure that there are no “recycling deserts” in the state.

Vermont’s law has always required beverage retailers to accept returned beverage containers and return deposits to consumers. However, the deposit-return program has been identified as a hardship for certain very small beverage retailers, and the State of Vermont is exploring criteria for deciding when to grant an exemption (for taking back containers) to certain beverage retailers.

**CRI comments on draft guideline number 1: Exemption will be granted if there is an alternative redemption location within 5 miles of the retailer.**

CRI concurs with VPIRG’s comments: “We strongly oppose idea of granting a blanket exemption for any retailer that requests it, as long as they are within five miles of a redemption center. This could
have the effect of eliminating a great number of existing retailer redemption locations. The loss of these current redemption opportunities – which are often paired with grocery stores that consumers are visiting regularly anyway – would be a great inconvenience for Vermont shoppers.”

To put this in perspective, 50 container deposit laws around the world serve 500 million people, and the vast majority of the programs require all beverage retailers to accept empties for a refund. In the places that do allow certain retailers to be exempted from program requirements, the distance criteria vary from state to state, but no state has a guaranteed exemption for all retailers within a 5-mile radius of a redemption center.

We suggest that exemptions only be granted for an individual retailer that has:
• Proactively applied for an exemption,
• Demonstrated that the quantity of beverages they sell is small,
• Demonstrated that accepting beverage containers is difficult for them, such as due to space limitations;
• Has further demonstrated that there is adequate infrastructure nearby that ensures consumers will not be inconvenienced.

If a nearby redemption center is cited as the reason that consumer convenience exists, then there must be a process in place to re-verify the continued operation of the redemption center every 6 – 12 months. (We note that the state is very timely in maintaining a list of active redemption centers on the DEC website.)

Any retailer that has been granted an exemption from accepting containers should be required to post signage, of a designated size, with information on the location of the nearest redemption site for consumers. This is the law in California, for example, and retailers can be fined for failure to post appropriate signage.

Regarding the other proposed criteria, we concur with the comments provided by VPIRG.

Thank you very much for the opportunity to provide these comments.

Regards,

Susan V. Collins
President
Container Recycling Institute