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**NWGA Support of HB 2803 - Provided by Joe Gilliam, President NWGA
3/2/2015**

Impact of HB 2803 - The bill revises the reporting and compliance requirements of the OLCC when approving Oregon Bottle Bill redemption centers. It establishes a reasonable timeline and process for dealer/retailer compliance, and timely OLCC enforcement to guarantee that non-participating dealer/retailers are compliant with the existing law.

Key Terms:

Redemption Center: A Oregon Bottle Bill redemption site that eliminates multiple in-store bottle redemption locations within a radius of 3.5 miles and consolidates the Bottle Bill redemption services to a single location that offers hand counting, high speed reverse vending, and bag-drop off services (account).

Participating Dealer/Retailer: A seller of Oregon Bottle Bill beverages that is participating in the support of a redemption center and is compliant with the current law.

Non-participating Dealer/Retailer : A seller of Oregon Bottle Bill beverages that is not participating in the support of the a redemption center but instead offers the equivalent services of the redemption center and is compliant with the law.

Non-Compliant Dealer/Retailer: A seller of Oregon Bottle Bill beverages that is not participating in the support of the a redemption center and does NOT offer equivalent services and knowingly ignores the law.

General Subject of the Bill:

In 2007, the Oregon Legislature expanded the Oregon Bottle Bill (SB 707) to include water and flavored water containers. The bill also required that retailers redeem all containers regardless of brand. This abolished the "closed loop" system and established an "open loop" system. This open loop requirement led to the formation of the beverage distributor company, Oregon Beverage Recycling Cooperative (OBRC). In short, they are the clearinghouse for all the nickel deposits and the recycling of material.

In 2011, the Oregon Legislature passed HB 3145 that authorized a pilot project to establish Oregon Bottle Bill redemption centers, set a minimum 80% redemption rate trigger for the deposit to increase to ten cents, and set an outside date of January 1, 2018 for the expansion to most other beverage containers (e.g. sports, energy, juice drinks). This legislation put the onus on retailers and distributors

(OBRC) to create the infrastructure to handle the volume increases created by a potential increase in the deposit and the expansion to other beverages in 2018 (40% estimate). The current in-store structure cannot support the new legal requirements.

In 2013, the Oregon Legislature passed SB 117. This bill codified the expansion of the redemption center pilot model and provided legal verbiage that clarified the requirement of non participating retailers to offer "equivalent services" to the redemption center versus "similar services".

Current Status - To meet the Legislative policy outlined in the 2007 - 2013 legislation, retailers and wholesalers are constructing a redemption center infrastructure that will handle at least 60% of the statewide volume of redeemed bottle bill containers by 2018. This will require the building of no less than 23 redemption centers. There are currently 11 redemption centers in operation with the plan to have 45 redemption centers at 100% completion.

Redemption centers are a true cooperative operation. The total cost of operation is split equally between distributors and retailers. Retailers then allocate the fixed cost to each participating retailer based on their input of containers (sales) into the redemption system.

A retailer can choose not to participate, but must provide the "equivalent services" of the redemption center. The intent of this requirement is to ensure that a non-participating retailer cannot push their sales volume and the related redemption cost onto their competitors and escape their share of the system load.

Net Effect of Past Legislation and Projection of Scope Going Forward:

Statewide	2015	2018 Expansion (40%)	Change
Total Volume	1,100,000,000	1,540,000,000	40%
Measured in Miles	91,477	128,068	40%
Loops around the Earth	3.7	5.1	40%
OBRC BottleDrop RC Volume	2015 11 RC's	2018 Expansion 23 RC's	Change
Store Volume Prior to RC Participation	250,000,000	n/a	n/a
% of Total	23%	n/a	n/a
OBRC BottleDrop RC Volume	350,000,000	1,024,545,455	193%
% of Total	32%	67%	109%
Measured in Miles	26,681	78,102	193%
Loops around the Earth	1.1	3.1	193%
Average Containers per RC	31,818,182	44,545,455	40%

What is the problem? - The most important regulatory component for success of the new Oregon Bottle Bill is the regulatory oversight and enforcement that is to be provided by OLCC. This piece of the puzzle has been missing.

After the 2011 legislation (HB 3145) was passed, the OLCC refused to enforce the non-participation requirements. OLCC Counsel stated to NWGA the Agency could not act on enforcement of the 2011 law because the use of the words "similar services" wasn't clear enough for the Agency to act. They advised that we should have used the words "**equivalent services**" instead. In 2013, we made this correction in SB 117 that went into effect May 13, 2013.

Even with the "equivalent services" fix, the OLCC still has not enforced the law even when formal complaints are submitted. From the implementation of SB 117 in May of 2013 to February of 2014, the OLCC inaction has cost complying retailers just over \$500,000 in cost shifted from retailers breaking the law to retailers following the law.

In February of this year, after exhausting legal theories and becoming aware of this impending legislation, WalMart went from non-compliance to participating in the OBRC redemption center network. The WalMart compliance took a total of 21 months and no fines or regulatory restrictions were imposed after NWGA filed a formal complaint in February of 2014. During this time the OLCC wrote only one compliance letter to WalMart and did not provide any formal conclusion to the complaint that was filed in February of 2014.

To date, we still have 16 Walgreens, 16 Dollar Trees, and three Grocery Outlets (Eugene, Redmond, and Bend) in non-compliance at an estimated cost of \$100,000 a year to participating retailers. The OLCC is aware of the situation, but has not acted. Unfortunately, the OLCC has sent a clear message to the retail community that compliance with the Oregon Bottle Bill law is voluntary. This threatens the success of implementing legislative policy. Without HB 2803 any retailer could remain or revert to non-compliance at anytime without penalty or enforcement from the OLCC.

HB 2803 Components (amended):

1) At the time the OLCC approves a new Redemption Center the approval order will include:

- Both participating **and** non-participating retailers
- The services to be provided by the redemption center **and** the equivalent services to be provided by the non-participating retailers
- A map of the convenience zones served by the redemption center

2) No later than five (5) after approval of the Redemption Center the OLCC shall notify all non-participating retailers of their responsibilities under the law and the specific equivalent services they must offer.

- Within sixty (60) days of receiving the notice from the OLCC, the non-participating retailer shall provide written and visual proof of compliance to the OLCC
- From the time a retailer is initially approached to participate in a redemption center, to the time of meeting the above requirement, the retailer will have approximately 23 weeks to execute compliance.
- The OLCC shall ensure compliance within thirty (30) days of receiving written and visual compliance document from a non-participating retailer.

3) Outlines equivalent compliance process for retailers who commence business after a redemption center is open in the area.

4) Sets specific penalties for non-compliance

- Automatic Ten (10) day liquor license suspension, or until compliance is reached
- Civil penalties of \$50 to \$500 per day, per violation

Attached:

- SB 117
- Copy of complaint letter to OLCC
- Copy of NWGA letter sent to all retailers in redemption service areas

Conceptual

DRAFT

LC 1795
2015 Regular Session
11/26/14 (MAM/ps)

SUMMARY

Requires Oregon Liquor Control Commission to include certain information in orders approving beverage container redemption centers. Requires commission to provide certain notices to dealers within convenience zones for beverage container redemption centers.

Requires dealers that are within convenience zones for beverage container redemption centers but that do not participate in redemption centers to meet certain requirements. Requires commission to inspect premises of certain dealers to ensure compliance.

Punishes noncompliance with provisions applying to dealers that do not participate in redemption centers with temporary suspension of liquor license.

A BILL FOR AN ACT

1
2 Relating to beverage containers; creating new provisions; and amending ORS
3 459.992, 459A.735 and 459A.737.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 459A.735 is amended to read:

6 459A.735. (1) To facilitate the return of empty beverage containers and to
7 serve dealers of beverages, any person may establish a redemption center,
8 subject to the approval of the Oregon Liquor Control Commission, at which
9 any person may return empty beverage containers and receive payment of the
10 refund value of such beverage containers.

11 (2) Application for approval of a redemption center shall be filed with the
12 commission. The application shall state the name and address of the person
13 responsible for the establishment and operation of the redemption center, the
14 kind of beverage containers that will be accepted at the redemption center,
15 the names and addresses of the dealers to be served by the redemption center

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and proposals for up to two convenience zones described in [ORS 459A.737]
2 **section 3 of this 2015 Act.** The application shall include such additional
3 information as the commission may require.

4 (3) The commission shall approve a redemption center if it finds the re-
5 demption center will provide a convenient service to persons for the return
6 of empty beverage containers. The order of the commission approving a re-
7 demption center shall state:

8 (a) The dealers to be served by the redemption center;

9 **(b) The dealers that will not participate in, and are not served by,
the redemption center;**

10 (c) [and] The kind of empty beverage containers that the redemption
11 center must accept[.];

12 ~~(e)~~ (d) **The services to be provided by the redemption center and the
13 equivalent services required to be provided under section 3 (5) of this
14 2015 Act by a dealer that does not participate in, and is not served by,
15 the redemption center;**

16 ~~(d)~~ (e) **The up to two convenience zones specified by the commission
17 under section 3 (1) of this 2015 Act; and**

18 ~~(e)~~ (f) [The order may contain] Such other provisions to ensure the redemp-
19 tion center will provide a convenient service to the public as the commission
20 may determine.

21 (4)(a) **No later than five days after approving a redemption center
22 under subsection (3) of this section, the commission shall provide
23 written notice to each dealer that is:**

24 (A) **Not included in the order approving the redemption center un-
25 der subsection (3)(a) of this section as a dealer to be served by the
26 redemption center; and**

27 (B) **Doing business within either convenience zone.**

28 (b) **The notice required under this subsection shall include:**

29 (A) **All information required to be in the order approving the re-
30 demption center under subsection (3) of this section; and**

31 (B) **Notice of the provisions of section 3 of this 2015 Act that are**

32 **applicable to the dealer receiving the notice.**

1 **(5) (c) No later than 60 days after receiving the notice from the
commission required in subsection (4) of this section, a dealer must
provide the commission with a physical document that includes visual
confirmation of compliance with each of the requirements in Section
3 of this 2015 Act that are applicable to the dealer receiving the notice.**

2

3 ~~[(4)]~~ **(5)** The commission may review at any time approval of a
redemption
4 center. After written notice to the person responsible for the establishment
5 and operation of the redemption center, and to the dealers served by the re-
6 demption center, the commission may, after hearing, withdraw approval of
7 a redemption center if the commission finds there has not been compliance
8 with its order approving the redemption center, or if the redemption center
9 no longer provides a convenient service to the public.

10 **SECTION 2.** ORS 459A.737 is amended to read:

11 459A.737. (1)~~[(a)]~~ Pursuant to the provisions of ORS 459A.735, the Oregon
12 Liquor Control Commission:

13 ~~[(A)]~~ **(a)** Shall approve one beverage container redemption center in a city
14 having a population of less than 300,000, operated by a distributor cooper-
15 ative serving a majority of the dealers in this state; and

16 ~~[(B)]~~ **(b)** May approve one or more additional beverage container re-
17 demption centers.

18 ~~[(b)]~~ **(2)** Notwithstanding any other provision of ORS 459A.700 to
19 459A.740, a beverage container redemption center:

20 ~~[(A)]~~ **(a)** May not refuse to accept and to pay the refund value of up to
21 350 individual empty beverage containers, as established by ORS 459A.705,
22 returned by any one person during one day;

23 ~~[(B)]~~ **(b)** Must provide hand counting of up to 50 individual empty
24 beverage containers returned by any one person during one day for the re-
25 fund value established by ORS 459A.705;

26 ~~[(C)]~~ **(c)** May provide drop off service for at least 125 individual empty
27 beverage containers returned by any one person during one day for the re-
28 fund value established by ORS 459A.705, and may provide an accounting
29 mechanism by which the person may redeem the refund value of the beverage

30 containers at a later date; and

31 [(D)] **(d)** May provide other services as determined necessary by the per-
32 son responsible for the operation of the beverage container redemption cen-
33 ter.

1 [(2)(a) *For each beverage container redemption center, the commission shall*
2 *specify up to two convenience zones. The first convenience zone shall be the*
3 *sector within a radius of not more than two miles around the beverage con-*
4 *tainer redemption center. The second convenience zone shall be the sector be-*
5 *ginning at the border of the first convenience zone and continuing to a radius*
6 *of not more than three and one-half miles around the beverage container re-*
7 *demption center. The convenience zones shall be based to the greatest extent*
8 *practicable upon the proposals submitted as part of the application for ap-*
9 *proval of the redemption center under ORS 459A.735.]*

10 [(b) *All dealers doing business within the first convenience zone that occupy*
11 *a space of 5,000 or more square feet in a single area may participate in, be*
12 *served by and be charged the cost of participation in the beverage container*
13 *redemption center and, if such a dealer participates in, is served by and pays*
14 *the cost of participation in the redemption center, the dealer may, notwith-*
15 *standing any other provision of ORS 459A.700 to 459A.740, refuse to accept*
16 *and to pay the refund value of empty beverage containers.]*

17 [(c) *All dealers doing business within the second convenience zone that oc-*
18 *cupy a space of 5,000 or more square feet in a single area may participate in,*
19 *be served by and be charged the cost of participation in the beverage container*
20 *redemption center and, if such a dealer participates in, is served by and pays*
21 *the cost of participation in the redemption center, the dealer may, notwith-*
22 *standing any other provision of ORS 459A.700 to 459A.740, refuse to accept*
23 *and to pay the refund value of more than 24 individual empty beverage con-*
24 *tainers returned by any one person during one day.]*

25 [(d) *All dealers doing business within either convenience zone that occupy*
26 *a space of less than 5,000 square feet in a single area may, notwithstanding*
27 *any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay*
28 *the refund value of more than 24 individual empty beverage containers re-*

29 turned by any one person during one day.]

30 [(e)(A) Any dealer doing business in either convenience zone that occupies
31 a space of 5,000 or more square feet in a single area that does not participate
1 in, and is not served by, the beverage container redemption center may not re-
2 fuse to accept and to pay the refund value of up to 350 individual empty
3 beverage containers, as established by ORS 459A.705, returned by any one
4 person during one day and must provide services equivalent to those provided
5 by the redemption center under subsection (1)(b) of this section, including hand
6 counting and drop off service.]

7 [(B) In addition to complying with the requirements specified in subpara-
8 graph (A) of this paragraph, a dealer described in subparagraph (A) of this
9 paragraph must:]

10 [(i) Post in each area where beverage containers are received a clearly vis-
11 ible and legible sign that contains the list of services that must be provided
12 by the dealer; and]

13 [(ii) Provide two automated reverse vending machines capable of processing
14 metal, plastic and glass beverage containers, or one automated reverse vending
15 machine capable of processing metal, plastic and glass beverage containers for
16 each 500,000 beverage containers sold by the dealer in the previous calendar
17 year, whichever is greater.]

18 [(C) The provisions of subparagraphs (A) and (B) of this paragraph do not
19 apply to a dealer described in subparagraph (A) of this paragraph if the dealer
20 sold fewer than 100,000 beverage containers in the previous calendar year.]

21 [(3) The provisions of subsection (2) of this section do not apply to any
22 dealer for which the driving distance from the place of business of the dealer
23 to the beverage container redemption center, calculated using the shortest
24 route, is more than two times the radius specified for the second convenience
25 zone or, if only one convenience zone is specified by the commission, two times
26 the radius specified for that convenience zone.]

27 [(4)] **(3)** The commission may adopt all rules necessary to implement and
28 administer the provisions of this section **and section 3 of this 2015 Act.**

29 **SECTION 3. (1) For each beverage container redemption center, the**
30 **commission shall specify up to two convenience zones. The first con-**

31 **venience zone shall be the sector within a radius of not more than two**
1 **miles around the beverage container redemption center. The second**
2 **convenience zone shall be the sector beginning at the border of the**
3 **first convenience zone and continuing to a radius of not more than**
4 **three and one-half miles around the beverage container redemption**
5 **center. The convenience zones shall be based to the greatest extent**
6 **practicable upon the proposals submitted as part of the application for**
7 **approval of the redemption center under ORS 459A.735.**

8 **(2) All dealers doing business within the first convenience zone that**
9 **occupy a space of 5,000 or more square feet in a single area may par-**
10 **ticipate in, be served by and be charged the cost of participation in the**
11 **beverage container redemption center and, if such a dealer partic-**
12 **ipates in, is served by and pays the cost of participation in the re-**
13 **demption center, the dealer may, notwithstanding any other provision**
14 **of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund**
15 **value of empty beverage containers.**

16 **(3) All dealers doing business within the second convenience zone**
17 **that occupy a space of 5,000 or more square feet in a single area may**
18 **participate in, be served by and be charged the cost of participation**
19 **in the beverage container redemption center and, if such a dealer**
20 **participates in, is served by and pays the cost of participation in the**
21 **redemption center, the dealer may, notwithstanding any other pro-**
22 **vision of ORS 459A.700 to 459A.740, refuse to accept and to pay the re-**
23 **fund value of more than 24 individual empty beverage containers**
24 **returned by any one person during one day.**

25 **(4) All dealers doing business within either convenience zone that**
26 **occupy a space of less than 5,000 square feet in a single area may,**
27 **notwithstanding any other provision of ORS 459A.700 to 459A.740, re-**
28 **fuse to accept and to pay the refund value of more than 24 individual**
29 **empty beverage containers returned by any one person during one day.**

30 **(5)(a) Any dealer doing business in either convenience zone that**
31 **occupies a space of 5,000 or more square feet in a single area that does**

1 not participate in, and is not served by, the beverage container re-
2 demption center may not refuse to accept and to pay the refund value
3 of up to 350 individual empty beverage containers, as established by
4 ORS 459A.705, returned by any one person during one day and must,
5 beginning on the date that the redemption center begins accepting
6 beverage containers, provide services equivalent to those provided by
7 the redemption center under ORS 459A.737 (2), including hand count-
8 ing and drop off service.

9 (b) In addition to complying with the requirements specified in
10 paragraph (a) of this subsection, a dealer described in paragraph (a)
11 of this subsection must, ~~beginning on the date that the redemption center
12 begins accepting beverage containers,~~

2 (A) Post in each area where beverage containers are received a
3 clearly visible and legible sign that contains the list of services that
4 must be provided by the dealer; and

5 (B) Provide two automated reverse vending machines capable of
6 processing metal, plastic and glass beverage containers, or one auto-
7 mated reverse vending machine capable of processing metal, plastic
8 and glass beverage containers for each 500,000 beverage containers sold
9 by the dealer in the previous calendar year, whichever is greater.

10 (c)(A) The provisions of paragraphs (a) and (b) of this subsection
11 do not apply to a dealer described in paragraph (a) of this subsection
12 if the dealer sold fewer than 100,000 beverage containers in the previ-
13 ous calendar year. To be eligible for the exemption under this para-
14 graph, a dealer described in paragraph (a) of this subsection must
15 report to the commission the number of beverage containers sold by
16 the dealer in the previous calendar year.

17 (B) The report required under this paragraph must be submitted by
18 a dealer:

19 (i) Except as provided in subsection (6) of this section, no later than
20 30 days after receipt of the notice required under ORS 459A.735 (4); and

21 (ii) No later than January 1 of each calendar year following the year

1 that the notice under ORS 459A.735 (4) was received and for which the
2 dealer intends to claim the exemption.

3 (d) The commission shall ~~inspect the premises of~~ **ensure compliance of a** dealer described in paragraph (a) of this subsection that is not subject
4 to an exemption under paragraph (c) of this subsection ~~to ensure~~
5 ~~compliance with this subsection~~.

6 (A) No later than 30 days after the date that the beverage container
7 redemption center associated with the convenience zone in which the
8 dealer does business begins accepting beverage containers; or

9 (B) No later than 30 days after the date that the commission re-
10 ceives a complaint that the dealer is not in compliance.

11 (6) A dealer that plans to begin doing business in either convenience
12 zone after the date that the beverage container redemption center as-
13 sociated with the convenience zone begins accepting beverage con-
14 tainers shall, **no later than 60 days** prior to the date that the dealer begins
15 doing business:

16 (a) Provide notice to the commission explaining whether the dealer
17 will or will not participate in, be served by and pay the cost of par-
18 ticipation in the redemption center; and

19 (b) ~~If the dealer will not participate in the redemption center the dealer~~
20 ~~must provide the commission with a physical document that includes~~
21 ~~visual confirmation of compliance with each of the requirements in~~
22 ~~Section 3 of this 2015 Act that are applicable to non-participating~~
23 ~~dealers prior to beginning to sell beverages defined in ORS 459A.702.~~

24 (c) If the dealer will not participate in the redemption center and
25 will claim an exemption under subsection (5)(c) of this section, an es-
26 timate of the number of beverage containers that the dealer expects
to sell during the first calendar year that the dealer does business in
the convenience zone.

(7) The provisions of subsections (2) to (6) of this section do not
apply to any dealer for which the driving distance from the place of
business of the dealer to the beverage container redemption center,
calculated using the shortest route, is more than two times the radius
specified for the second convenience zone or, if only one convenience

27 **zone is specified by the commission, two times the radius specified for**
28 **that convenience zone.**

29 **SECTION 4.** ORS 459.992 is amended to read:

1 459.992. (1) The following are Class A misdemeanors:

2 (a) Violation of rules or ordinances adopted under ORS 459.005 to 459.105
3 and 459.205 to 459.385.

4 (b) Violation of ORS 459.205.

5 (c) Violation of ORS 459.270.

6 (d) Violation of ORS 459A.080.

7 (e) Violation of ORS 459.272.

8 (2) Each day a violation referred to by subsection (1) of this section con-
9 tinues constitutes a separate offense. Such separate offenses may be joined
10 in one indictment or complaint or information in several counts.

11 (3) Violation of ORS 459A.705, 459A.710, 459A.718 (5) or 459A.720 is a
12 Class A misdemeanor.

13 (4) In addition to the penalty prescribed by subsection (3) of this section,
14 the Oregon Liquor Control Commission or the State Department of Agricul-
15 ture may revoke or suspend the license of any person who willfully violates
16 ORS 459A.705, 459A.710, 459A.718 (5) or 459A.720, who is required by ORS
17 chapter 471 or 635, respectively, to have a license.

18 **(5) The commission shall suspend the license of any person required**
19 **by ORS chapter 471 to have a license who, ~~upon inspection,~~ is found**
20 **to be in violation of section 3 of this 2015 Act. The period for a sus-**
21 **pension under this subsection shall be:**

22 ~~(a) No longer than 10 5 days for a first violation; and~~

23 ~~(b) At least 20 10 days or until the violation is cured, whatever period~~
24 ~~is longer for each violation, for a second and subsequent violations.~~

Enrolled Senate Bill 117

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

CHAPTER

AN ACT

Relating to beverage containers; creating new provisions; amending ORS 459A.735 and 459A.737; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The beverage container redemption center approved by the Oregon Liquor Control Commission as a pilot project pursuant to ORS 459A.737 before the effective date of this 2013 Act is deemed approved by the commission for the purposes of ORS 459A.737, as amended by section 2 of this 2013 Act.

SECTION 2. ORS 459A.737 is amended to read:

459A.737. (1)(a) Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Commission:

(A) Shall approve one beverage container redemption center [*pilot project*] in a city having a population of less than 300,000, operated by a distributor cooperative serving a majority of the dealers in this state[.]; **and**

(B) May approve one or more additional beverage container redemption centers.

(b) Notwithstanding any other provision of ORS 459A.700 to 459A.740, [*the*] a beverage container redemption center [*operated under the pilot project*]:

(A) May not refuse to accept and to pay the refund value of up to [300] **350** individual empty beverage containers, as established by ORS 459A.705, returned by any one person during one day[.];

(B) Must provide hand counting of up to 50 individual empty beverage containers returned by any one person during one day for the refund value established by ORS 459A.705;

(C) May provide drop off service for at least 125 individual empty beverage containers returned by any one person during one day for the refund value established by ORS 459A.705, and may provide an accounting mechanism by which the person may redeem the refund value of the beverage containers at a later date; and

(D) May provide other services as determined necessary by the person responsible for the operation of the beverage container redemption center.

(2)(a) **For each beverage container redemption center, the commission shall specify up to two convenience zones [*for the pilot project*]. The first convenience zone shall be the sector within [*the one and one-half mile radius*] a radius of not more than two miles around the beverage container redemption center [*pilot project, and*]. The second convenience zone shall be the sector [*within the three mile radius*] beginning at the border of the first convenience zone and continuing to**

a radius of not more than three and one-half miles around the beverage container redemption center [pilot project]. The convenience zones shall be based to the greatest extent practicable upon the proposals submitted as part of the application for approval of the redemption center under ORS 459A.735.

(b) All dealers doing business within the first convenience zone that occupy a space of 5,000 or more square feet in a single area may participate in, [and] be served by[,] and be charged the cost of participation in the [pilot project] beverage container redemption center and, if such a dealer participates in, [and] is served by[,] and pays the cost of participation in the [pilot project] redemption center, the dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of empty beverage containers.

(c) All dealers doing business within the second convenience zone that occupy a space of 5,000 or more square feet in a single area may participate in, [and] be served by[,] and be charged the cost of participation in the [pilot project] beverage container redemption center and, if such a dealer participates in, [and] is served by[,] and pays the cost of participation in the [pilot project] redemption center, the dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.

(d) All dealers doing business within either convenience zone that occupy a space of less than 5,000 square feet in a single area may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.

(e)(A) Any dealer doing business in either convenience zone that occupies a space of 5,000 or more square feet in a single area that does not participate in, and is not served by, the [pilot project] beverage container redemption center may not refuse to accept and to pay the refund value of up to [300] 350 individual empty beverage containers, as established by ORS 459A.705, returned by any one person during one day and must provide services [similar] equivalent to those provided by the redemption center under subsection (1)(b) of this section [pilot project], including hand counting [of individual empty beverage containers that are returned for the refund value established by ORS 459A.705] and drop off service.

(B) In addition to complying with the requirements specified in subparagraph (A) of this paragraph, a dealer described in subparagraph (A) of this paragraph must:

(i) Post in each area where beverage containers are received a clearly visible and legible sign that contains the list of services that must be provided by the dealer; and

(ii) Provide two automated reverse vending machines capable of processing metal, plastic and glass beverage containers, or one automated reverse vending machine capable of processing metal, plastic and glass beverage containers for each 500,000 beverage containers sold by the dealer in the previous calendar year, whichever is greater.

(C) The provisions of subparagraphs (A) and (B) of this paragraph do not apply to a dealer described in subparagraph (A) of this paragraph if the dealer sold fewer than 100,000 beverage containers in the previous calendar year.

(3) The provisions of subsection (2) of this section do not apply to any dealer for which the driving distance from the place of business of the dealer to the beverage container redemption center, calculated using the shortest route, is more than two times the radius specified for the second convenience zone or, if only one convenience zone is specified by the commission, two times the radius specified for that convenience zone.

[(3)] (4) The commission may adopt all rules necessary to implement and administer the provisions of this section.

SECTION 3. ORS 459A.735 is amended to read:

459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Oregon Liquor Control Commission, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

(2) Application for approval of a redemption center shall be filed with the commission. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind of beverage containers that will be accepted at the redemption center, [and] the names and addresses of the dealers to be served by the redemption center **and proposals for up to two convenience zones described in ORS 459A.737**. The application shall include such additional information as the commission may require.

(3) The commission shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The order of the commission approving a redemption center shall state the dealers to be served by the redemption center and the kind of empty beverage containers that the redemption center must accept. The order may contain such other provisions to ensure the redemption center will provide a convenient service to the public as the commission may determine.

(4) The commission may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with its order approving the redemption center, or if the redemption center no longer provides a convenient service to the public.

SECTION 4. No later than March 1 of each odd-numbered year, the Oregon Liquor Control Commission shall submit a report to the Legislative Assembly regarding beverage container redemption centers approved pursuant to the provisions of ORS 459A.737. The report must include, for the two previous calendar years:

(1) The number of beverage containers that are returned for refund value as a percentage of the total number of beverage containers sold in this state.

(2) The number of beverage container redemption centers operating in this state and the number of redemption centers for which applications are pending with the commission.

(3) The number of beverage containers that are returned for refund value in areas designated by the commission and the number of beverage containers returned for refund value in each area in the year before the beverage container redemption center began operation.

(4) The number of beverage containers that are returned for refund value to beverage container redemption centers in this state and the number of beverage containers that are returned for refund value to dealers in this state.

SECTION 5. Section 4 of this 2013 Act is repealed on January 2, 2022.

SECTION 6. (1) The additional requirements for beverage container redemption centers imposed by the amendments to ORS 459A.737 by section 2 of this 2013 Act apply to all beverage container redemption centers, whether approved before, on or after the effective date of this 2013 Act.

(2) The amendments to ORS 459A.735 by section 3 of this 2013 Act apply to applications for approval filed with the Oregon Liquor Control Commission on or after the effective date of this 2013 Act.

SECTION 7. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate April 16, 2013

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 8, 2013

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

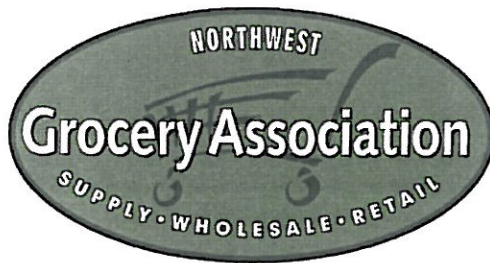
.....M,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State



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E-mail info@nwgrocery.org or Visit Web site www.nwgrocery.org

February 19, 2014

Ms. Kelly K. Routt
Administrative Policy & Process Division
Oregon Liquor Control Commission
PO Box 22297
Milwaukie, OR 97269-2297

Dear Kelly,

On behalf of the members of the Northwest Grocery Association (NWGA) as participating members of the beverage container redemption centers approved by Senate Bill 117, we respectfully request the action of the OLCC to enforce the provisions of Section 2 of SB 117 (2013) upon the non-participating retailers that are located in Salem within the prescribed zones approved by the OLCC for the redemption centers located at 1917 Lancaster NE and 4815 Commercial St. SE (list attached).

All of the listed retailers have been offered to be served by the redemption centers and all have rejected participation as allowed by law. However, none of the 9 listed retail locations has taken action to comply with requirements for non-participating retailers and are operating in violation of SB 117.

Given the fact that SB 117 went into effect in May of last year; and all retailers have been given equal opportunity to be informed and make a decision on participation; and 15 retail locations have made the decision to participate; we specifically request that all non-participating retailers immediately establish the following services required by law:

- Increase daily volume of returns per person from 144 to 350
- Provide convenient hand counting of up to 50 containers per person/per day
- Provide a drop off service for containers of 125 containers per person/per day that credits the refund value to an account that can be accessed at a later date for redemption by the person.
- Provide a minimum of two automated reverse vending machines that have the capability of processing glass, aluminum, and plastic, or one such machine for every 500,000 containers sold, whichever is the greater number of machines.
- Posting of the list of services (above) that must be provided at their location.

We ask for your swift action and resolution to this matter, as the listed retailers' non-compliance with the law shifts an excessive undue burden of cost onto the participating retailers that are compliant under SB 117 and undermines the policy set by the Legislature to expand the Oregon Bottle Bill.

I have included the names of retailers that have participation pending but not yet approved. These retailers' participation is anticipated and included in this letter to clarify their status. If their status were to change to non-participation, we would contact you at that time.

Sincerely,



Joe Gilliam
President

Enc: List of non-compliant & Pending Participating retailers
NWGA Notification of New Law

SB 117: NON-PARTICIPATING RETAILERS BY REDEMPTION CENTER LOCATION:

Salem Lancaster

Zone 1:

1. Grocery Outlet - East Salem, 2879 Lancaster Dr NE, Salem, OR 97305, (503) 370-8500
2. Rite Aid #5360, 681 Lancaster Dr NE, Salem, Oregon 97301
3. Walmart #1784, 3025 Lancaster Dr NE, Salem, OR 97305, (503) 378-7424

Participation Pending Corporate Approval:

1. Target, 3790 Center St NE, Salem, OR, (503) 588-7116
2. Walgreens #4229, 1992 Lancaster Dr, NE, Salem, OR, 97305, Phone: (503) 362-4845

Salem Lancaster

Zone 2:

1. Big K-Mart #4339, 2470 Mission St. SE, Salem, OR 97302
2. Cash and Carry, 1355 Salem Industrial Dr NE, Salem OR 97301,(503) 363-5731
4. Grocery Outlet of Salem, 299 D. St. NE, Salem, OR 97301
5. Rite Aid #5361,435 Liberty Street, N.E., Salem, Oregon 97301, Phone: (503) 362-3654

Participation Pending Corporate Approval:

1. Walgreens, 150 Fairgrounds Rd. NE, Salem, OR 97301
2. Walgreens #9287, 124 Lancaster Dr. SE, Salem, OR 97317

Salem South Commercial

Zone 1 (only):

1. Trader Joe's # 153, 4450 Commercial St SE, Salem, OR 97302
2. WalMart, 5250 Commercial St SE, Salem, OR

Participation Pending Corporate Approval:

1. Walgreens, 4380 Commercial St SE, Salem, OR

SB 117: NON-PARTICIPATING RETAILERS BY BRAND NAME:

1. Cash & Carry, 1355 Salem Industrial Dr NE, Salem OR 97301,(503) 363-573
2. Grocery Outlet - East Salem, 2879 Lancaster Dr NE, Salem, OR 97305, (503) 370-8500
3. Grocery Outlet of Salem, 299 D. St. NE, Salem, OR 97301
4. Kmart #4339, 2470 Mission St. SE, Salem, OR 97302
5. Rite Aid #5360, 681 Lancaster Dr NE, Salem, Oregon 97301
6. Rite Aid #5361,435 Liberty Street, N.E., Salem, Oregon 97301, Phone: (503) 362-3654
7. Trader Joe's # 153, 4450 Commercial St SE, Salem, OR 97302
8. WalMart #1784, 3025 Lancaster Dr NE, Salem, OR 97305, (503) 378-74249.
9. WalMart, 5250 Commercial St SE, Salem, OR

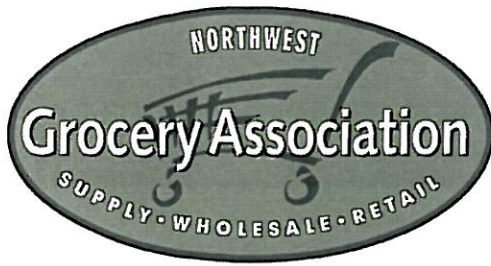
Participation Pending Corporate Approval:

1. Target, 3790 Center St NE, Salem, OR, (503) 588-7116

2. Walgreens #4229, 1992 Lancaster Dr, NE, Salem, OR, 97305, Phone: (503) 362-4845
3. Walgreens, 150 Fairgrounds Rd. NE, Salem, OR 97301
4. Walgreens #9287, 124 Lancaster Dr. SE, Salem, OR 97317
5. Walgreens, 4380 Commercial St SE, Salem, OR

Volume Determined to be below 100,000 unit minimum:

- Home Depot, 3021 Cherry Ave. NE, Salem
- Lowes Home Improvement, 1930 Turner Rd. SE, Salem



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E-mail info@nwgrocery.org or Visit Web site www.nwgrocery.org

RE: NEW LAW- EFFECTIVE IMMEDIATELY - URGENT

To: Salem Area Retailers

- Big K-Mart #4339: 2470 Mission St. SE, Salem, OR 97302
- Bi-Mart #663: 2155 Lancaster Dr. NE, Salem, OR 97305
- Cash & Carry #532: 1335 Salem Industrial Dr. NE, Salem, OR 97301
- Grocery Outlet of Salem: 299 D. St. NE, Salem, OR 97301
- Grocery Outlet-East Salem: 2879 Lancaster Dr. NE, Salem, OR 97305
- Lowes Home Improvement: 1930 Turner Rd. SE, Salem, OR 97302
- Target T-0608: 3790 Center St. NE, Salem, OR 97301
- The Home Depot: 3021 Cherry Ave. NE, Salem, OR 97301
- Wal-Mart Super #1784: 3025 Lancaster Dr. NE, Salem, OR 97305
- Walgreens: 2150 Fairgrounds Rd. NE, Salem, OR 97301
- Walgreens #9287: 124 Lancaster Dr. SE, Salem, OR 97317
- Walgreens #4229: 1992 Lancaster Dr. NE, Salem, OR 97305

FROM: Joe Gilliam, President, Northwest Grocery Association

DATE: 5/21/2013

RE: URGENT – OREGON BOTTLE BILL – IMMEDIATE NEW LEGAL REQUIREMENTS

IT IS EXTREMELY IMPORTANT TO YOUR BOTTOM LINE THAT YOU REVIEW AND RESPOND TO THIS MEMO.

Dear Store Directors,

I represent the Northwest Grocery Association comprised of statewide and local grocery stores. Attached is Senate Bill 117 that became effective May 13th, 2013. A bottle bill Redemption Center provided under the new law is planned to open this September at 1917 Lancaster Blvd., Salem Oregon. This bill and redemption center has an immediate effect on your store at the address listed above.

My purpose in contacting you is to request a meeting with you to:

- ✓ Explain the new law
- ✓ Provide you a tour of the existing redemption center at 4815 SE Commercial St.
- ✓ Explain the cost and savings of participating
- ✓ Explain the cost and options of not participating
- ✓ Confirm your choice of opting in or opting out

Who is affected by the new law?

Any Dealer (retailer) of beverages covered by the Oregon Bottle Bill (Beer, soda, water and flavored water) that has a location of 5000 or more square feet and sells more than 100,000 bottle bill beverage units annually.

Why is there a new law changing the Oregon Bottle Bill?

The Oregon Legislature expanded the Oregon Bottle Bill in 2007 (SB 707) and 2011 (HB 3145). In 2013, The Legislature approved legislation (SB 117) to accommodate the changes made in 2007 and 2011.

2007: The 2007 legislation added water and flavored water to the existing law that included soda and beer. The bill also required retailers to accept all brands of containers whether they sold the brand or not. This changed the bottle system from a closed loop system between retailers and their vendors, to an open loop recycling system greatly increasing retailers' responsibility for redemption services.

2011: The 2011 legislation set a drop dead date of 2018 for the addition of nearly all other single service beverages (juice, sports drinks, energy drinks, teas, new age, etc.). The effect of this will increase the redemption volume by over 40%.

Redemption Centers (RC): To accommodate the expansion, industry was given the opportunity and task to create a new infrastructure to handle the increasing volume. Our chosen method is to create a network of centralized redemption centers for all containers and eliminate redemption through large retail locations. The network will be based on the concept design of the new redemption center located at 4815 SE Commercial St. in Salem.

The operating costs of these redemption centers will be split evenly between wholesalers and retailers and function on a non-profit basis. Thus, the more retailers that participate, the lower the cost for each retailer. A retailer's proportionate share of cost is based on their previous year's gross bottle bill beverage sales (units) expressed as a percentage of the total for all participating retailers in the service area.

2013: The 2013 legislation sets up the new rules for retailers located within the service area of a new redemption center and deals primarily with the act of opting in or out of participation in the redemption model, and the subsequent obligations of each choice.

Bottle Bill related cost is never a popular subject, but NWGA has worked very hard to maintain private sector control of the Bottle Bill processing system and has been able to avoid government handling fees charged to retailers and vendors as is done in other states. We currently have three (3) centers in operation and anticipate providing \$300,000 in overall savings to retailers for every RC opened.

What does the new law require?

Any dealer within a service area may choose one of two options:

Opt In: If a retailer chooses to participate in the redemption center:

- Any retailer that is within two miles (Zone 1) of the redemption center can **eliminate all bottle redemption** at store level if they pay their proportionate share of the annual operating cost of the redemption center.
- Any retailer that is between two (2) miles and three and one-half (3.5) miles (Zone 2) of the redemption center can **reduce bottle redemption** at store level from 144 per person, per day, to

24 individual containers, per person, per day if they pay their proportionate share of the annual operating cost of the redemption center.

Opt Out: If a retailer within either Zone 1 or Zone 2 chooses not to participate, the retailer must offer the "equivalent services" of the redemption center. Equivalent services specifically include:

- Accepting 350 individual units per person, per day
- Provide hand counting of up to 50 individual containers per person, per day.
- Provide a 24-hour drop off service for at least 125 individual units per day that credits the customer's redemption value on an account for later withdrawal.
- Provide a minimum of two (2) reverse vending machines, or one reverse vending machine per 500,000 individual bottle bill containers sold annually, whichever is greater. (e.g. 2 million annual units sold equals four (4) reverse vending machines required on-site.) Each reverse vending machine is required to accept cans, plastic, and glass containers.
- Any other equivalent services that may be offered by the redemption center.

Status Quo / Laying Low: There is no way to avoid the new law. The State of Oregon has made the new expanded Oregon Bottle Bill a top environmental priority. Going "Old School" and making redemption slow or inconvenient is no longer a viable strategy. With the expansion to water, the coming expansion to most all other beverages, and the mandate to redeem all brands, every dealer is putting a load on the redemption system and is going to have to shoulder their fair share of the load.

Price of Non-compliance: The new law will be complaint driven. Retailers that opt-out, but do not comply should expect complaints to be filed by those participating in the cost of the system. Penalties by the OLCC can range from inspections to fines.

I have heard many retailer complaints since the Bottle Bill was expanded in 2007 to include bottled water. Most of the complaints center on the resistance to change. I am fully empathetic. But after 42 years since the inception of Oregon's Bottle Bill, a new reality is provided in the law and we must adapt.

Given this reality, I would like to extend an invitation to participate in the new redemption center at 1917 Lancaster Blvd. Salem Oregon. May I have an appointment with you to:

- ✓ Explain the new law
- ✓ Provide you a tour of the existing redemption center at 4815 SE Commercial
- ✓ Explain the cost and savings of participating
- ✓ Explain the cost and options of not participating
- ✓ Confirm your choice of opting in or opting out

Time is of the essence, thank you for your consideration of this matter.

Sincerely,

COPY

Joe Gilliam
President

Enclosures: SB 117, HB 3145, SB 707, NWGA Brochure