

Inside NYSABC

The official newsletter of the New York State Association of Beverage Centers



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Bottle Law Amendments May Get Traction In Albany

The latest proposal to amend the Returnable Container Act (RCA-the "Bottle Bill"), S237, sponsored by Senator Rachel May (D-Syracuse) is the favorite of environmental groups, but right now it's a one-house bill (no Assembly counterpart), so nothing is imminent, but things can change quickly in Albany. Here's a summary.

Expands Containers Covered

Adds wine, liquor, distilled spirit coolers, cider, and wine coolers effective April 1, 2025. Adds non-carbonated soft drinks, non-carbonated fruit or vegetable juices containing less than 100% fruit or vegetable juice, coffee and tea beverages, and carbonated fruit beverages, effective April 1, 2026.

Increases Deposit and Handling Fee

Increases the deposit to 10¢ and the handling fee to 6¢ effective April 1, 2026.

Redemption Receipts Must Show Expiration Date

If redemption/refund receipts expire they must indicate the expiration date and the dealer must post a conspicuous sign to that effect.

Failure to Make Timely Pickups a Violation

A distributor's failure to pick up empties in a timely manner and at reasonable times would be a violation of the law. Directs the DEC to define by regulation what constitutes timely pickups by April 1, 2026.

Use of Dealer Equipment/ Staff to Load Empties

Retains the prohibition on requiring a dealer or redemption center to load



empties onto distributor's vehicle or provide staff or equipment to do so, but adds that where pallets, bags, etc. are readily movable only by means of a forklift or similar, the distributor may require a dealer or redemption center to move such items at no cost using dealer/RC equipment and staff, if available.

Off-Site Counting and Count Discrepancy Resolution

Retains the ban on off-site container counting but provide that In the event of a discrepancy in the count (except for RVMs) all empties must be retained and a re-count may be requested. The recount may be held at a location other than the redemption center or dealer's place of business only if the dealer or redemption center agrees and is present.

RVM Audits

Authorizes the DEC and the Department of Taxation and Finance to "to audit any reverse vending machine." - not further defined or explained.

Use of Recycled Materials

Establishes phased-in requirements for post-consumer recycled material content of glass, PET and plastic beverage containers.

State-Specific UPC

Initiators who use a NY State-specific UPC will have to pay 75% of the balance attributable to such containers (instead of the normal 80%) into the state refund value account.





AB InBev

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Summary of Pending Legislation

Here's a summary of other pending legislation of interest to beverage centers. It's too early to tell if any of these proposals have legs.

SB 1809 (Addabbo) no same as. Exempts veterans service organizations from sales tax on beer, wine and soda.

SB 1686 (Hinchev) no same as. Adds single-use cannabis containers to the bottle bill.

AB 685 (Dinowitz) no same as. Requires a health warning label on certain sugar-sweetened beverages, concentrates used to make sugar-sweetened beverages, beverage dispensing machines, and vending machines that dispense sugar-sweetened beverages.

SB 128 (Krueger) no same as. Prohibits the sale of beverage containers connected by a plastic holding device.

AB 3501 (Epstein)/SB 352 (Jackson). Increases beer tax from 14 cents to 30 cents/gallon and requires that 50% be dedicated to SUNY and CUNY.

SB 2614 (Parker) no same as. Would require distributors to reimburse high-volume dealers (purchasers of more than 100,000 cases/year) by cash on pickup or credit for immediate use for filled product purchases.

AB 3397 (Fall) no same as. Creates a phased-in schedule that allows individuals to hold more than one seven-day license to sell wine and spirits at retail for off-premises consumption.

AB 1947 (Clark) SB 3496 (Kennedy) increases the amount of the alcoholic beverage production tax credit for NYS-produced cider, wine, and liquor.

A 3590 (Pretlow) no same as. Increases the handling fee to 5¢ and effective 12/31/23 indexes subsequent increases to increases in the federal minimum wage.

SB 2603 (Hoylman-Sigal) no same as. Allows the SLA to impose conditions on the issuance of licenses that will assure compliance with the law and public interest.

AB 3375 (Woerner) no same as. Increases the handling fee to 5¢ and reduces a deposit initiator's quarterly payment from 80% to 47% of the balance of the initiator's refund value account.

SB 3568 (Skoufis) no same as. Would allow liquor stores to sell tonic water, bitters and maraschino cherries.

SB 3567 (Skoufis) no same as. Would allow liquor stores to sell or give away certain promotional products related to wine and spirits.

AB 2954 (Simpson)/SB 3028 (Stec) creates a tax credit for small businesses that sell a certain percentage of products produced in NY State. Credit is \$1000-\$5000 depending on % of total sales (\$1000 for 5-9% of total sales, \$2000 if 10-24%, \$5000 if 25% or more). "Small business" is an "independently or privately-owned cafe, restaurant, eatery, bar, pub, brewery, distillery, orchard, food truck, **retail store**, farm stand, hotel, or motel. "Qualified product" is a product which is grown, brewed, distilled in New York state including beer, wine, spirits, and ciders.

SB 3459 (Skoufis) no same as. Would allow brewery supply stores to sell New York state labeled beer for off-premises consumption.

SB 3386 (Krueger) no same as. Authorizes grocery and drug stores to get a Grocery/drug store wine license that would allow them to sell wine for off-premises consumption and to conduct on-premises wine tastings (C licenses are included). Allows liquor stores to sell non-alcoholic beverages for consumption on or off premises, including bottled water, juice and soda; to sell tobacco products, magazines, food items not specifically prepared for immediate on-premises consumption, gift bags and baskets, and glassware, related to the consumption of wine and spirits; install ATMs. Removes the prohibition on a person holding multiple licenses. Caps the issuance of new liquor licenses. Allows the sale of wine and liquor to other licensees for on-premises consumption.

AB2603 (Hyndman)/SB 3419 (Mannion) establishes the "bottle redemption fraud task force" (sic) to investigate and report on fraud, enforcement, and reporting requirements related to the RCA.

SB 2981 (Kavanagh) no same as requires DEC to do in-depth study of single use plastic water bottles; prohibits state funds being used to purchase single use water bottles not made from 100% recycled materials; 5 years from effective date bans sale or use of single use plastic water bottles unless comprised of 100% recycled materials. Requires food service establishments to provide customers with tap water, beverages and leftovers in reusable beverage containers provided by the customer.

SB 2845 (Lanza) no same as authorizes the SLA to issue a temporary retail permit to (a) the transferee of a retail license to continue operations during the period a transfer application is pending; and (b) to an applicant for a premises that is not licensed in a municipality with a population of less than one million (i.e., that is in NYC).

SB 2722 (Skoufis) no same as authorizes issuance of temporary New York craft beverage permits for all New York state manufactured liquor, spirits, wine, beer, cider and mead, for events located in a municipality with a population of less than one million.



New York State Assemblywoman Jodi Giglio (AD2-Riverhead) letter to Governor Hochul supporting NYSABC's position that the Governor's "blue ribbon" committee studying reform of the ABC Law is not transparent or representative; and arguing that no piecemeal changes should be made to the "bottle bill" until there's a comprehensive study by an independent agency, especially on the impact on small businesses.



JODI GIGLIO
Assemblywoman
2nd District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RANKING MINORITY MEMBER
People with Disabilities Committee

COMMITTEES
Environmental Conservation
Governmental Employees
Labor
Transportation

March 9, 2023

Hon. Kathy Hochul
Executive chamber
State Capitol, Second Floor
Albany, New York 12224

Madame Governor:

Long Island supports a robust economy of beverage producers ranging from award-winning wineries to small-town community beverage centers. The New York State Comptroller's office said it simply: "Long Island has become one of the state's main grape-growing and wine-producing regions."¹ Bearing this in mind, our agricultural and beverage industries are sensitive to new laws in the universe of alcohol production, storage, and sale, including the recommendations of state-appointed boards such as the New York State Commission to Study the Reform of the ABC Law.

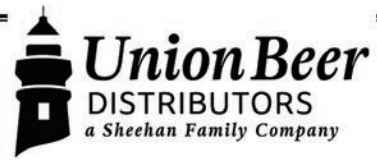
Per the New York State Department of Agriculture 2017 Census, Suffolk County – where my district is – sports 560 farms across more than 30,000 acres.² These farms sold \$225.6 million of products in that year, and their crops continue to support nearly 70 wineries on the island, the most of any region in New York State. The Wine Institute, a public policy advocacy organization, assesses that the North Fork region of Long Island cultivates 3,000 acres of planted vineyards. In other words, one in every ten acres of Long Island farmland is dedicated to vineyards, with much of it concentrated in my Assembly District. The production, bottling, and sale of alcoholic beverages is specifically important to our economy.

As the Assemblywoman for Long Island's 2nd Assembly district, it is my duty to represent the interests of my constituents whenever their livelihoods may be impacted by government process. I ask for the governor's assistance in addressing several fundamental concerns relating to New York State's efforts to reform ABC laws.

1. The Commission's membership does not include any voices from Long Island beverage distributors. Given the economic importance of Long Island's wine and beverage industries, our region deserves a seat at the table. I respectfully ask for an explanation of that decision.

¹ <https://www.osc.state.ny.us/press/releases/2019/05/dinapoli-releases-economic-snapshot-long-island-highlighting-growth-and-challenges>

² https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_profiles/N



In Memory Of **Pete Sobol**

From your Friends at
Union Beer Distributors

2. Expertise around operation of beverage centers is missing from the Commission's membership as well. These small businesses frequently serve as centers of convenience for small communities in Long Island, and they are typically multi-generational family-owned businesses. These firms are integral to container redemption under New York's RCA (Returnable Container Act) thanks to their convenience and accessibility.
3. The conduct of the Commission is opaque. Recommendations are not published and there is no opportunity for public meetings or comments. It is effectively a system that only people connected to the Commission's membership can provide input to, leaving those without political connections on the sidelines. Aside from the dubious optics of this operating method, I do not believe this allows for the Commission to provide comprehensive recommendations because it restricts the expertise of the body exclusively to the membership's own personal frame of reference.
4. New York's 40-year-old Returnable Container Act (RCA – "the bottle bill") has achieved many of its goals, but it needs reform. While I respect current efforts to expand the types of containers covered, the proposed changes are tantamount to bolting on additional text to an archaic original structure. The suggestion of increasing the deposit from 5 to 10 cents/container and increasing handling fees retailers and redemption centers get for sorting and returning empties, are less than ideal solutions for modernizing the law. A better approach is to commission a detailed study of New York's history with the RCA laws that will also offer comparisons to RCA policies in other states, as well as how these states are currently changing their own RCA laws and regulations. Details should include the effects of expanding the law (adding wine and liquor, alternatives to increased handling fees, which businesses and licenses can sell wine and how to fairly implement that privilege, etc.) as well as efficient methods of container collection.
5. I also request the Commission take deliberate care to avoid recommending statutory changes to ABC laws that might incidentally cause the extinction of C-licenses. These licenses are grandfathered from earlier policy changes but still provide New Yorkers with jobs, including some in Long Island.

Thank you for your consideration of our thoughts. Long islanders are affected by all the issues above, and so I hope the governor and her office can realize the good faith intentions that have motivated me to write this letter and offer my ideas. If there is anything my office can do to help, feel free to ask. Please direct any questions or comments to the attention of Frank Pacella (Pacellaf@NYAssembly.gov). We look forward to gaining a better understanding of the governor's methods.

Sincerely,

Jodi Giglio, Assemblywoman

2nd Assembly District

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THC-Infused Seltzer

The New York State Office of Cannabis Management has confirmed that beverage centers may sell THC-infused seltzer and soft drinks so long as they obtain a Cannabinoid Hemp Retail License, and the product does not contain a THC concentration of more than 0.3% on a dry weight basis. The Cannabinoid Hemp Retail License costs \$300/year and can be obtained here <https://cannabis.ny.gov/retailers-distributors>. This is not a license to sell marijuana. The Cannabinoid Hemp Program only regulates products derived from hemp. Members who sell beer and wine products pursuant to their licenses will not run afoul of the SLA rule that prohibits a licensee from selling alcoholic beverages on the same premises as a dispensary, since this is not a dispensary license but a Cannabinoid Hemp Retail License. The products should be sold only to persons 21 and over.



NYSABC leadership spent 2 days in Albany in February meeting with lawmakers to advocate for the interests of beverage centers. L-R, Neil Kavanaugh, Consumers Beverages, Buffalo; Ken Rosenblum, Director/Counsel; Dave Schultzer, Bellport Beer; NY State Senator Dean Murray (SD3-Patchogue); Jared Kane, Liberty Beverage, East Meadow/Bay Shore Beer, Bay Shore.



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