



# Research Brief

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## Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2009

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## Introduction

The Greens Member for the Western Metropolitan Region in the Legislative Council, Ms. Colleen Hartland, introduced the Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill on 1 April 2009. The private member's bill ('the Bill') is designed to introduce container deposit legislation (CDL) into Victoria with the purpose of establishing a beverage container deposit and recovery scheme to be administered by the Environment Protection Authority. The Bill was second read on 6 May.

Container deposit legislation exists in only one jurisdiction in Australia – South Australia. However, the Northern Territory government recently announced that it would be introducing CDL by 2011 and other Australian jurisdictions are also examining the feasibility of introducing CDL. Container deposit and recovery schemes exist in a variety of jurisdictions overseas.

An assessment has been carried out under the auspices of the Environment Protection and Heritage Council to examine options for national measures, including container deposit legislation, to address resource efficiency and the reduction of litter from packaging wastes such as beverage containers. On 22 May 2009 the Council considered the assessment report and agreed to conduct a community survey to gauge attitudes towards a container deposit scheme. In national terms, the National Packaging Covenant has been the main instrument for managing the environmental impacts of consumer packaging in Australia since 1999.

## 1. The Bill

In her second reading speech to the Legislative Council on 6 May 2009, Ms Colleen Hartland described the Bill as representing 'a radical change' in the way that Victorians view rubbish and recycling'. The proposed 10 cent deposit scheme would turn 'litterers into recyclers', placing value on an empty beverage container.

Ms Hartland pointed to a 2006 Newspann that found 94 per cent of Victorians are in favour of a container deposit system. She stated that many people are not concerned with redeeming the deposit, but rather with the principles of the scheme itself. She believes that others are happy to donate their refund to charity.

### Purpose

As stated in Part 1, the Bill's purpose is to amend the *Environment Protection Act 1970* ('the Act') to establish a beverage container deposit and recovery scheme that is administered by the Environment Protection Authority ('the Authority').

In her second reading speech, Ms Hartland stated that container deposit legislation 'fits into the Act like a hand into a glove', consistent with the Act's emphasis on 'shared responsibility between industry, all levels of government, and community'.

### New definitions

The Scheme operates via 'authorised collection depots' and 'authorised transfer stations'. These are defined in the Bill, the Explanatory Memorandum, and the second reading speech as follows:

- **Authorised Collection Depot:** a premises for the collection of empty beverage containers, as authorised under section 52I of the Act. According to the Explanatory Memorandum, these depots are 'intended to collect used beverage containers directly from the public, and to issue refunds under the Scheme. Depots are intended to sort the used containers and deliver to an authorised transfer station'.
- **Authorised Transfer Stations:** according to the Explanatory Memorandum, these stations 'are intended to receive used containers from authorised depots and other large collectors. They will generally not deal directly with the public except via an authorised collection depot on their premises'. Ms Hartland told the House that the transfer stations would keep the Authority's administrative function 'to a minimum', by making arrangements to pay transaction fees to the authorised collection depots, and by disbursing refunds to large collectors such as local councils who would deliver their containers directly to the transfer station (such arrangements are not prescribed in the Bill). These transfer stations will also sell the recycle; i.e., the recycled materials such as plastic, aluminium, glass and liquid paperboard.<sup>1</sup>

The Bill inserts other new definitions into the Act, including:

- **Beverage:** this can mean any kind of carbonated or non-carbonated fruit juice, soft drink or water; any alcoholic drink; or, any milk, including soy milk; and,
- **Beverage Container:** a container that is produced for the sale of a beverage. The container should have a capacity of 4 litres or less, and can include plastic or glass bottles, aluminium or steel cans, a liquid paperboard or composite carton, or a composite container.

### **Amendments to the Environment Protection Act 1970**

Part 4 of the Bill inserts Division 6 into Part IX of the Act, to provide for the beverage container deposit and recovery scheme. Section 52 states that the objective of the new division is to promote 'the principles of environmental protection' by regulating 'the use, sale and recovery of beverage containers'.

Part 5 of the Bill amends Section 70 of the Act, which concerns the Environment Protection Fund. The amendment enables the Fund to receive beverage container deposit levy monies and administer those monies for the purposes of the Scheme. As Ms Hartland stated in her second reading speech, this Fund already administers landfill levies and such levies are 'a well-established way of achieving environmental outcomes'.<sup>2</sup>

Part 6 of the Bill amends Section 71 of the Act, to enable regulations to be made on the various definitions of beverage and beverage container, on the higher amount provided for under Section 52E, on labelling requirements under Section 52H, and on the criteria for an exemption under Section 52N.

### *Environment Protection Authority*

Section 52C outlines the functions of the Authority in administering the Scheme. These include:

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<sup>1</sup> Victoria. Legislative Council (2009) *Debates*, Book 2, 6 May, p. 2058.

<sup>2</sup> *ibid*, p. 2057.

- To manage the operation of the container deposit and recovery scheme, with regard to the objective of Section 52;
- To collect the levy;
- To grant exemptions as provided for under Section 52N;
- To authorise a premises to be an authorised collection depot;
- To enter into agreements with operators of these collection depots and operators of transfer stations;
- To facilitate and promote the scheme;
- To provide grants and other financial incentives to promote the use of recyclable and reusable containers and material from recycled containers; and,
- To provide information and advice to the Minister as to the operation of the scheme.

As Ms Hartland stated in the second reading speech, the Authority will perform 'the central administration', liaise with the largest recycling enterprises, create regulations, report to the Government and manage the funds.<sup>3</sup>

Sub-section 2 enables the Authority to use available funds for:

- Market creation;
- Kerbside recycling services;
- Helping to offset the collection industry costs for the scheme;
- Product development to improve the recyclability and reusability of containers; and,
- Other activities that promote recycling, sustainable resource use and best practices in waste management.

#### **Beverage Container Environmental Levy**

Section 52D provides that the importation of a beverage container into Victoria, or the production of a beverage container in Victoria, incurs a beverage container environmental levy unless exempted under Section 52N of the Bill. The penalty for not doing so is 2400 penalty units, which Ms Hartland states is equivalent to other penalties under the Act, such as waste discharge offences and pollution abatement notice offences.

Under Section 52E the levy amount is set at 10 cents per container or a higher amount if prescribed under the regulations. The levy must be paid within 14 days after the end of the month in which the container was sold by that person in Victoria to a wholesaler, retailer or individual.

The containers must be labelled as refundable, similar to those sold under the South Australian scheme.

#### *Authorised Collection Depots*

Section 52I provides for the approval of authorised collection depot premises by the Authority and the agreements that the Authority may enter into with depot operators. These agreements can include details of how containers are delivered to an authorised transfer station and the payment to the collection depot operator. According to sub-

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<sup>3</sup> *ibid.*

section 4, authorised collection depots may consist of manual or mechanised handling facilities, including reverse vending machines. In addition, a collection depot may be authorised at the following premises:

- Council sites;
- Community centres and community-based facilities;
- Shopping centres and centre car parks;
- Service stations or other retailers;
- Schools;
- 'Drive through' recycling centres; and,
- Authorised transfer stations.

#### *Authorised Transfer Stations*

Under Section 52J, the Authority may approve premises to be an authorised transfer station and enter into an agreement with the operator of the station. Among other things, this agreement may cover the receiving and processing of empty beverage containers, the payment to the operator of the station, and the sale of processed materials.

The agreement may also cover the submission of a monthly report to the Authority. This report will concern 'the number and types of empty beverage containers received and processed'.

#### *Containers Purchased Interstate*

Under Section 52K, it is an offence to claim a refund on a beverage container purchased outside Victoria 'if the person knows or has reason to believe' the container was not purchased in this state. The penalty for doing so is 240 penalty units. The operator of an authorised depot or transfer station may request that person to complete a declaration stating that they have 'no reason to believe the container was not purchased in Victoria'. If within a period of 48 hours a person presents 3000 or more beverage containers to an authorised collection depot or transfer station for the purpose of claiming a refund, the operator must request the person to complete a declaration form. If the person does not comply with this request, then the operator must not pay them the refund. If they do complete the requested declaration, then the operator must keep this declaration for a period of three years after it is made and have the declaration 'readily available for inspection at any reasonable time by an authorised officer'.

#### *Refund Levy*

Under Section 52L, an authorised collection depot or transfer station must pay the refund of the levy to a person returning a used, unbroken beverage container.

A depot or transfer station may however, refuse to accept the container if it is in an 'unsafe' condition. As discussed under section 52K, the container may also be refused if it is believed to have been purchased outside Victoria, or a request to complete a declaration under Section 52K has not been fulfilled. In addition, a reverse vending machine may be operated in such a way as to reject containers that are returned in a condition that prevents the machine from reading the label.

Under Section 52M, the Authority is required to review the amount of the refund value at least once every 5 years. In doing so, the Authority must consider the minimum refund value 'necessary to maintain the appropriate level of incentive' for the following:

- To encourage producers, distributors and consumers to recycle and reuse;
- To ensure high rates of recovery of containers;
- To reduce litter and associated costs;
- To reduce the cost of waste, disposal and recycling; and,
- To conserve resources.

Section 52N provides for exemptions from the levy. It states that a person can apply to the Authority for a whole or part exemption from the provisions under Section 52D, i.e. payment of the beverage container levy. The Authority must notify the applicant of its decision within a prescribed timeframe, including the terms and conditions of the exemption (if granted) or the reasons for refusing to grant the exemption.

#### *Existing Containers*

Under Section 52O, Division 6 does not apply to existing beverage containers imported into or produced in Victoria prior to the commencement of the Bill.

## **2. The Scheme**

The beverage container deposit and recovery scheme will be administered by the Environment Protection Authority through an Environmental Protection Waste Levy Fund. Manufacturers will pay a levy of 10 cents per beverage container to the Fund.

The cost of this levy will be factored into the retail price. The product label on each container must state '10c refund at collection depots when sold in Vic'. Consumers can then be reimbursed the 10 cent levy by returning containers to an authorised collection depot.

Depots will likely operate as 'reverse vending machines', which will read the product barcode and crush and sort the container accordingly. The machines will issue refunds as cash or as vouchers which can be redeemed for goods with nearby retailers.

Authorised transfer stations then collect the returned containers and compact, bale and transport them to a materials recycler. Larger redeemers, such as businesses, councils or community groups, can return containers in bulk directly to authorised transfer stations.

The scheme will be funded by three streams of revenue:

- The sale of the recyclable material (otherwise known as 'recyclate');
- Unclaimed levy monies; it is estimated that around 17.7 per cent of containers will never be returned;<sup>4</sup> and,

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<sup>4</sup> Office of Colleen Hartland MLC (2009) *Turning Rubbish into Community Money: The benefits of a 10c deposit on drink containers in Victoria*, Office of Colleen Hartland MLC, Seddon, p. 9.

- Advertising and business incentives relating to reverse vending machines - organisations can associate themselves with good environmental outcomes.

### 3. National Approaches to Waste Management

Because constitutional responsibility for waste management policy lies with state jurisdictions, the Commonwealth Government 'is largely confined to working with the states through the Environment Protection and Heritage Council (EPHC) and the National Environment Protection Council (NEPC) in the development of harmonised national approaches for significant waste issues'.<sup>5</sup>

Since 1999 the National Packaging Covenant ('the Covenant') has been the primary instrument for managing the environmental impacts of consumer packaging in Australia. It is a voluntary product stewardship agreement between all levels of government and industries in the packaging supply chain, designed to reduce the environmental effects of packaging.

The NEPC has established a National Environment Protection Measure (NEPM) for Used Packaging Materials to provide regulatory support for the National Packaging Covenant.

#### Environment Protection and Heritage Council (EPHC)

Established in June 2001 by the Council of Australian Governments (COAG), the Environment Protection and Heritage Council of Australia and New Zealand is an intergovernmental council of environment ministers, whose objective is to protect the environment and heritage of Australia and New Zealand.

In April 2008, the EPHC agreed to conduct an assessment of potential options for national measures, including container deposit legislation, to address resource efficiency, environmental impacts, and the reduction of litter from packaging wastes such as beverage containers.

The assessment was aimed at assisting EPHC to determine:

- 'the nature and extend of problems that might presently exist with the management of beverage containers;
- the effectiveness of existing legislation as it relates to the problem;
- the rationale, if any, for further government action at the national level; and,
- options at the national level to potentially [sic] improve the management of beverage containers'<sup>6</sup>.

The assessment report was considered by the EPHC at its meeting on 22 May 2009. The Council agreed 'to conduct a community attitudes survey on preparedness to pay for a container deposit scheme'.<sup>7</sup> In the light of the survey results, it would then decide

<sup>5</sup> Senate Standing Committee on Environment, Communications and the Arts (2008) *Management of Australia's Waste Streams (including consideration of the Drink Container Recycling Bill 2008)*, Canberra, Senate Standing Committee on Environment, Communications and the Arts, viewed 18 May 2009, <[http://www.aph.gov.au/senate/Committee/eca\\_cte/aust\\_waste\\_streams/report/index.htm](http://www.aph.gov.au/senate/Committee/eca_cte/aust_waste_streams/report/index.htm)>, p. 58.

<sup>6</sup> Environment Protection and Heritage Council (2009) 'Beverage Containers', viewed 19 May 2009, <<http://www.ephc.gov.au>>.

<sup>7</sup> *ibid.*, viewed 25 May 2009, <<http://www.ephc.gov.au>>.

whether to proceed to a full regulatory impact statement. The EPHC also agreed at this meeting, that the National Packaging Covenant 'would be strengthened to include additional focus on workplace and public place recycling and litter reduction programs'.<sup>8</sup>

The EPHC incorporates the National Environment Protection Council (NEPC).

### **National Environment Protection Council**

The National Environment Protection Council (NEPC) is an intergovernmental council made up of ministers (not exclusively but often environment ministers) from the Australian Government and each state and territory.

It emerged from the Special Premiers' Conference held in October 1990, at which the Prime Minister, Premiers and Chief Ministers agreed to develop an Intergovernmental Agreement on the Environment. The Agreement, which came into effect on 1 May 1992, provided for the creation of a national body in which each of the participating jurisdictions would have complementary legislation establishing the National Environment Protection Council. Although the NEPC was incorporated into the EPHC in June 2001, it retains its distinct status by virtue of its law making powers under the *National Environment Protection Council Act* (Cth). It meets simultaneously with the EPHC.

The stated purpose of NEPC is to ensure that:

- Australians enjoy the benefit of equivalent protection from air, water or soil pollution and from noise wherever they live; and
- business decisions are not distorted and markets are not fragmented by variations in major environment protection initiatives between member governments.

Its two main functions are:

- 'to make National Environment Protection Measures (NEPMs); and
- to assess and report on their implementation and effectiveness in participating jurisdictions'.<sup>9</sup>

### **National Environment Protection Measures (NEPMs)**

National Environment Protection Measures are 'broad framework-setting statutory instruments defined in the National Environment Protection Council Act 1994 (Cth)'. 'They outline agreed national objectives for protecting or managing particular aspects of the environment' and may comprise of environmental protection goals, standards, protocols and guidelines.<sup>10</sup>

Individual jurisdictions however, remain responsible for determining the suite of regulatory and non-regulatory approaches they use to implement the NEPMs, and each jurisdiction is obligated to report annually to the NEPC on each measure, all of which are presented in the NEPC annual report.

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<sup>8</sup> *ibid.*

<sup>9</sup> National Environment Protection Council (2008) *Annual Report 2007-08*, Canberra, NEPC, viewed 19 May 2009, <<http://www.ephc.gov.au>>, p. 1.

<sup>10</sup> Environment Protection and Heritage Council (2009) 'NEPMs', viewed 19 May 2009, <<http://www.ephc.gov.au>>.

As can be seen by the list presented below, the the NEPC has powers to to make National Environment Protection Measures (NEPMs) on, among other things, the re-use and recycling of used materials.

National Environment Protection Measures (NEPMs) may be made on:

- ambient air quality;
- ambient marine, estuarine and fresh water quality;
- the protection of amenity in relation to noise;
- general guidelines for the assessment of site contamination;
- environmental impacts associated with hazardous wastes;
- the re-use and recycling of used materials; and
- motor vehicle noise and emissions (in consultation with the National Transport Commission).<sup>11</sup>

### **The National Packaging Covenant**

Since 1999 the National Packaging Covenant (the Covenant) has been the primary instrument for managing the environmental impacts of consumer packaging in Australia. 'It is the voluntary component of a coregulatory arrangement based on the principles of shared responsibility through product stewardship, between key stakeholders in the packaging supply chain and all spheres of government - Australian, State, Territory and Local.'<sup>12</sup>

At the moment the National Packaging Covenant lists 732 covenant signatories representing industry, industry associations, state government, local government and community groups across Australia.<sup>13</sup>

In Victoria, the National Packaging Covenant is currently 'the preferred mechanism for minimising the environmental impacts of packaging waste'<sup>14</sup>. According to the Environment Protection Authority Victoria (EPA Victoria), the EPHC's report into beverage containers, including the assessment of container deposit legislation which was released at the end of May 2009, will play an important role in informing the ongoing debate into options for reducing litter and increasing packaging recycling rates, to the Victorian Government.<sup>15</sup>

Phase one of the Covenant and its respective NEPM expired in July 2005. For phase two of the Covenant (2005 to 2010) signatories have committed to three overarching targets relating to waste reduction and increased recycling:

- 'increasing the amount of post-consumer packaging recycled to 65 per cent by 2010 from its current rate of 48 per cent (2003 baseline data);

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<sup>11</sup> Australia. Department of the Environment, Water, Heritage and the Arts (2009) 'National Environment Protection Council', viewed 21 May 2009,

<<http://www.environment.gov.au/about/councils/nepc/index.html>>.

<sup>12</sup> Australia. Department of the Environment, Water, Heritage and the Arts (2009) 'National Packaging Covenant', viewed 21 May 2009,

<<http://www.environment.gov.au/settlements/waste/covenant/index.html>>.

<sup>13</sup> National Packaging Covenant (2009) 'Current Covenant Signatories', viewed 21 May 2009,

<<http://www.packagingcovenant.org.au/page.php?name=currentsignatories>>.

<sup>14</sup> Environmental Protection Authority Victoria (2009) 'Product Stewardship', viewed 20 May 2009,

<[http://www.epa.vic.gov.au/waste/product\\_stewardship.asp](http://www.epa.vic.gov.au/waste/product_stewardship.asp)>.

<sup>15</sup> *ibid.*

- increasing the recycling of materials that are currently either not recycled or recycled at low rates (due to their design, lack of collection/processing infrastructure or lack of markets), from the existing 10 per cent recycling rate (2003 baseline data) to 25 per cent by 2010; and
- ensuring that there is no increase in the amount of packaging disposed of to landfill (against 2003 baseline data).<sup>16</sup>

A mid-term review of the Covenant was conducted in 2008. The Covenant Council reported that the packaging recycling rate increased from 39 per cent in 2003 to 57 per cent in 2008.<sup>17</sup> Consequently Ministers requested that the National Packaging Covenant Council prepare a framework for an extended Covenant beyond June 2010, in addition to consideration of other options for managing the environmental impacts of packaging.<sup>18</sup>

### **The National Environment Protection Measure (NEPM) for Used Packaging Materials.**

The National Environment Protection Measure (NEPM) for Used Packaging Materials provides regulatory support for the National Packaging Covenant. In Victoria, this is embodied by the Waste Management Policy (Used Packaging Materials), to ensure that signatories are not competitively disadvantaged in the market place, by placing obligations on non-signatories or non-compliant signatories (free riders). Signatories are obligated to produce and report annual performance documentation including action plans outlining how they will contribute to the Covenant's objectives against set key performance indicators.

"Brand owners' who don't participate in the Covenant will have to comply with the requirements of the state legislation giving effect to the NEPM.<sup>19</sup> 'This includes the systematic recovery of the packaging in which their products are sold to the consumer eg. diverting their product packaging from landfill and demonstrating that their packaging is recycled or reused'.<sup>20</sup>

Under the NEPM, they are obligated to comply with more stringent data collection and reporting than is required for members of the Covenant. This is to encourage participation in the Covenant. 'If this information is not supplied or is deemed inadequate local governments may recover kerbside collection costs from "Brand owners" who contribute to the kerbside waste stream'.<sup>21</sup>

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<sup>16</sup> Senate Standing Committee on Environment, Communications and the Arts (2008) op. cit., p. 91.

<sup>17</sup> This figure has been debated in the media. See S. Lauder (2008) 'Recycling? What a load of rubbish', ABC News online, 7 April, viewed 21 May 2009, <<http://www.abc.net.au/news/stories/2008/04/07/2209512.htm>>.

<sup>18</sup> Environment Protection Authority Victoria (2009) op. cit.

<sup>19</sup> 'In Victoria, non-signatories are first contacted by mail to advise the company of their options and obligations (to either sign the Covenant or be subject to the regulations) under the Waste Management Policy (Used Packaging Materials). If a company fails to comply with the requirements of the first notice within 28 days, the EPA issues a draft Pollution Abatement Notice requesting specific information for each packaging material used for a financial year. Companies must demonstrate a recovery/reutilisation rate for each material that is greater than the recovery targets set under the Covenant. If a company again fails to comply, the EPA then issues a Pollution Abatement Notice to enforce compliance.' National Packaging Covenant (2008) *Mid-term Performance Review October 2008*, Melbourne, NPC, viewed 21 May 2009, <<http://www.ephc.gov.au>>, p. 56.

<sup>20</sup> National Packaging Covenant (2009) 'The National Packaging Covenant for Used Packaging Materials', viewed 21 May 2009, <<http://www.packagingcovenant.org.au/page.php?name=nepm>>.

<sup>21</sup> *ibid.*

## 4. Other States and Territories

### *Northern Territory*

The government of the Northern Territory announced in March 2009 that it would be introducing a 'cash for containers' scheme. A reference group was appointed to explore the details of the scheme, and will report back to the government by mid-year. The government has committed itself to container deposit legislation by 2011.<sup>22</sup>

### *Tasmania*

The Joint Standing Committee on Environment, Resources and Development began an investigation into waste management in Tasmania in June 2004. The Committee's first term of reference was whether Tasmania should implement container deposit legislation. The Committee's final report, presented in October 2006, recommended that the government introduce a container deposit system in Tasmania, subject to its viability and effectiveness being supported by a cost benefit analysis.<sup>23</sup> Following a tender process, the government announced that a feasibility study into the introduction of a container deposit system would be conducted by Hyder Consulting Pty Ltd, an environmental consulting firm. This study, with its findings, is due to be released in mid-2009.<sup>24</sup>

### *New South Wales*

The New South Wales government commissioned a report from the Institute for Sustainable Futures on container deposit legislation in 2001. The report recommended that NSW introduce container deposit legislation to establish a scheme, or that industry recycling targets be strengthened to a level consistent with the outcomes of CDL.<sup>25</sup> In April 2008 the Greens member of the Legislative Council, Ian Cohen, introduced a private member's bill, the Waste Avoidance And Resource Recovery (Container Recovery) Bill 2008, the purpose of which is to implement a beverage container deposit scheme in NSW. This remains on the notice paper.<sup>26</sup>

### *Australian Capital Territory*

The Greens member of the ACT Legislative Assembly, Dr. Deb Foskey, introduced a private member's bill, the Waste Minimisation (Container Recovery) Amendment Bill 2008 in May of that year. The bill, which was designed to introduce a container deposit scheme for the ACT, lapsed on 18 October 2008.

<sup>22</sup> See Northern Territory. Minister for Natural Resources, Environment and Heritage & Chief Minister (2009) *Cash for Cleaning up the Territory*, media release, 11 March; Northern Territory Government (2009) 'Container Deposit Scheme - Cash for Containers', Natural Resources, Environment, The Arts and Sport, viewed 18 May 2009, <<http://www.cashforcontainers.nt.gov.au>>. Northern Territory. Minister for Natural Resources, Environment and Heritage (2009) 'Budget 2009 – Protecting the Territory Environment', media release, 5 May, viewed 18 May 2009, <<http://newsroom.nt.gov.au>>.

<sup>23</sup> See Parliament of Tasmania (2006) *Waste Management In Tasmania*, Joint Standing Committee on Environment, Resources and Development, p. 7.

<sup>24</sup> Tasmania. Department of Environment, Parks, Heritage and the Arts (2009) 'Feasibility Study for Container Deposit System', Environment Division, viewed 18 May 2009, <<http://www.environment.tas.gov.au/index.aspx?base=4994>>.

<sup>25</sup> S. White (2001) *Independent Review of Container Deposit Legislation in New South Wales*, Institute for Sustainable Futures, UTS, Sydney, viewed 19 May 2009, <[http://www.isf.uts.edu.au/whatwedo/CDL\\_execsummary.html](http://www.isf.uts.edu.au/whatwedo/CDL_execsummary.html)>.

<sup>26</sup> See Parliament of New South Wales (2009) Waste Avoidance And Resource Recovery (Container Recovery) Bill 2008, viewed 19 May 2009, <<http://www.parliament.nsw.gov.au/prod/parliament/nswbills.nsf/131a07fa4b8a041cca256e610012de17/bf517113ea29b646ca2572d6007cfe94!OpenDocument>>.

*Western Australia*

An advisory group was established by the former Labor government in 2006 to investigate best practice container deposit systems for WA. The final report of the group was delivered in January 2007 and recommended a best practice approach to such a scheme.<sup>27</sup> However, the group was unable to provide conclusive advice on a number of elements, and as such, further recommended that the state government commission an economic analysis to assist in creating an optimal design for a container deposit scheme for the state. The current Liberal government is now awaiting the report of the Environment Protection and Heritage Council before making a decision on the implementation of a scheme for WA.<sup>28</sup>

*Queensland*

The Queensland government is committed to working with the Commonwealth and the other states to produce a uniform national approach to container deposit legislation. In this vein, it is waiting on the final report of the Environment Protection and Heritage Council's working group on container deposit legislation, which it co-chairs with WA.<sup>29</sup>

*South Australia*

The only jurisdiction in Australia to have introduced container deposit legislation, South Australia's CDL began in 1977, and was recently amended under regulations passed in 2008. The SA scheme is regarded as highly effective and successful in reducing waste, and covers a broad range of beverage containers. Last year's amendments increased the deposit amount to 10 cents per item for all items in the scheme.<sup>30</sup>

## 5. Overseas Jurisdictions

*United States*

In the United States on April 22 2009 Congressman Ed Markey (D-Mass.) introduced the *Bottle Recycling Climate Protection Act*.<sup>31</sup> The Bill would establish a national five cent deposit on beverage containers and also prohibit retailers and distributors from selling beverages in containers that do not display a statement of refund value.<sup>32</sup>

All of the eleven states which currently have deposit schemes would be exempt from the bill providing they maintain high levels of recycling. States that currently have a container deposit scheme include: California, Connecticut, Delaware, Hawaii, Iowa, Massachusetts, Maine, Michigan, New York, Oregon, and Vermont. Most of these

<sup>27</sup> See Stakeholder Advisory Group on Best Practice Container Deposit Systems for Western Australia (2007) 'Investigation Into Best Practice Container Deposit Systems For Western Australia: Final Report for the Minister for the Environment Western Australia', Department of Environment and Conservation.

<sup>28</sup> See Western Australia. Legislative Assembly (2008) *Hansard*, p. 1133b.

<sup>29</sup> See Queensland. Estimates Committee (2008) *Hansard*, Estimates Committee F – Sustainability, Climate Change and Innovation, p. 55, viewed 19 May 2009, <<http://parlinfo.parliament.qld.gov.au>>.

<sup>30</sup> See Environment Protection Authority (2009) 'Container deposit refunds', EPA (SA) – Waste, viewed 19 May 2009, <<http://www.epa.sa.gov.au/cdl.html>>; *Environment Protection Act 1993* (SA) viewed 19 May 2009, <<http://www.legislation.sa.gov.au>>; *Environment Protection (Beverage Container) Regulations 2008* (SA) viewed 19 May 2009, <<http://www.legislation.sa.gov.au>>.

<sup>31</sup> The bill was originally introduced in 2007 but was referred to the Subcommittee on Environment and Hazardous Materials. See: E. Markey (2009) 'Earth Day Message in a Bottle: Increase Recycling, Decrease Pollution, Energy Use' Congressman Ed Markey, viewed 22 May 2009, <<http://markey.house.gov>>.

<sup>32</sup> Library of Congress (2009) 'Bottle Recycling Climate Protection Act', United States Congress, viewed 22 May 2009, <<http://thomas.loc.gov>>.

schemes were initially implemented in the late 1970s and early 1980s, except for Hawaii which was introduced in 2005.<sup>33</sup>

Michigan and Vermont have the highest redemption rates with 97 per cent and 90-95 per cent. These two states also have the highest payment for deposits with Michigan issuing 15 cents per bottle and Vermont issuing 15 cents for liquor and 5 cents for all other containers. In Michigan, a combination of participating retailers and reverse vending machines are used.<sup>34</sup> In Vermont, a combination of retailers and larger 'redemption centres' are used.<sup>35</sup>

### Canada

Canada does not have national legislation covering container deposit schemes. However, all of Canada's eleven provinces and two of Canada's three territories have schemes in place.<sup>36</sup>

In British Columbia the *Litter Act* (1970) was the first North American container deposit program. This Act was replaced by the *Beverage Container Stewardship Program Regulation* (1997). All containers used for beverages are included in the 'return it' program except for milk and milk substitute containers.<sup>37</sup>

Encorp Pacific runs the 'return it' scheme with twelve depots throughout British Columbia. Several supermarkets also participate in the scheme on behalf of Encorp Pacific.<sup>38</sup> For containers that are less than one litre the deposit value is five cents for non-alcoholic and ten cents for alcoholic. Containers that are greater than one litre have a deposit value of twenty cents.<sup>39</sup>

### Europe

Across Europe several countries have container deposit schemes including; Belgium, Denmark, Finland, Germany, the Netherlands, Norway, Sweden and Switzerland.<sup>40</sup> In Norway container deposits are managed by Norsk Resirk, a non-profit organisation established in 1999 by various trade and industry organisations. Cans and bottles less than half a litre have a deposit value of NOK 1 (US\$0.15); more than half a litre is NOK 2.50 (US\$0.40). All manufacturers and importers are entitled to enrol their products with Norsk Resirk.<sup>41</sup>

The tax regime on beverage packaging rewards products with a high level of returns. Cans and non-refillable bottles incur an environmental tax, which is reduced as the return rate increases. The system works through a combination of participating stores

<sup>33</sup> United States Environmental Protection Agency 'Beverage Containers', viewed 22 May 2009, <<http://yosemite.epa.gov/ee/epalib/incent2.nsf/821321c2b2c0d5bd8525677500697227/34ec7a93ba49775585256ab200704262!OpenDocument>>.

<sup>34</sup> Michigan Department of Environmental Quality (2007) 'Michigan Bottle Deposit Law Frequently Asked Questions', viewed 22 May 2009, <<http://www.deq.state.mi.us>>.

<sup>35</sup> Vermont Department of Environmental Conservation (2006) 'Beverage Containers; Deposit Redemption System Effective 7/1/06', viewed 22 May 2009, <<http://www.anr.state.vt.us>>.

<sup>36</sup> Bottle Bill Resource Guide (date unknown) 'Current and Proposed Bills', viewed 22 May 2009, <<http://www.bottlebill.org/legislation/>>.

<sup>37</sup> British Columbia Environmental Management (date unknown) 'Regulation History', viewed 22 May 2009, <<http://www.env.gov.bc.ca/epd/recycling/bev/history.htm>>.

<sup>38</sup> Encorp (date unknown) 'Return it', viewed 22 May 2009, <<http://www.encorp.ca/cfm/index.cfm?lt=902&ld=1&Lo=100,1&Se=2&St=&Sv=depot>>.

<sup>39</sup> *ibid.*

<sup>40</sup> Bottle Bill Resource Guide (date unknown) 'Beverage Container Deposit Laws Worldwide', viewed 22 May 2009, <<http://www.bottlebill.org/legislation/world.htm>>.

<sup>41</sup> Norsk Resirk (2007) 'Annual Report', viewed 22 May 2009 <<http://www.resirk.no/Introduction-64.aspx>>.

and reverse vending machines. In 2007 there was a 92 per cent reduction in the environmental tax on cans and an 82 per cent reduction on non-refillable plastic bottles.<sup>42</sup>

### Asia

KK Asia operates Singapore's largest recycling facility and processes 65 per cent of all plastics recycled in Singapore. Since 2004 the company has been running a buy-back scheme that offers one cent for every two plastic bottles or 20 cents per kilogram.<sup>43</sup> Since 2008 Beijing and Shanghai have had reverse vending machines in supermarkets. Payments range from 0.05 to 0.1 Yuan depending on the size of the bottle.<sup>44</sup>

## 6. Stakeholders

A variety of groups and organisations have argued for CDL for many years, including green groups, consumer advocates, and local councils. Those opposed to the introduction of CDL include the packaging industry, the beverage industry and food industry representatives. Proponents of CDL argue that such schemes have high environmental, social and economic benefits, while opponents of CDL argue that such schemes have significant economic negatives attached to them.

The Boomerang Alliance brings together a variety of environment groups to advocate for waste recycling, including CDL.<sup>45</sup> The Alliance is specifically campaigning for CDL in WA through its 'bringitback' campaign. It argues that CDL significantly increases rates of recycling, and that only countries and states that have CDL systems have high recycling rates. It also argues that kerbside recovery only captures part of the waste stream with over 50 per cent of products consumed away from home. According to the group, a CDL scheme captures this away-from-home packaging, prevents littering and gets people involved in protecting the environment.<sup>46</sup>

The Total Environment Centre (TEC) has claimed that almost four hundred community groups have called on federal and state environment ministers to establish a national container deposit scheme. The TEC argue that such a 'scheme will recover over 11 billion containers each year, reduce litter, increase recycling and create hundreds of jobs and new financial support for local government kerbside operations'.<sup>47</sup> Another group, the Environment Centre NT, welcomed the Northern Territory government's announcement concerning the introduction of CDL, saying that the South Australian experience demonstrates that recycling rates are higher when a CDL is in place.<sup>48</sup>

<sup>42</sup> *ibid.*

<sup>43</sup> Singapore National Environmental Agency (2005) 'Milieu', viewed 22 May 2009, <<http://www.nea.gov.sg>>.

<sup>44</sup> Corporate Social Responsibility in Asia (2009) 'Reverse vending machine for plastic bottle recycling', viewed 22 May 2009, <<http://www.csr-asia.com/index.php?id=13266>>.

<sup>45</sup> Boomerang Alliance (2009) 'Welcome', viewed 20 May 2009, <<http://www.bringitback.org.au/boomerang/>>.

<sup>46</sup> Bring It Back (2009) 'Container Deposit System for WA', Boomerang Alliance, viewed 20 May 2009, <<http://bringitback.org.au/condepsys/?q=faq>>.

<sup>47</sup> Total Environment Centre (2009) 'Australian Communities Demand Container Deposit Scheme', TEC, viewed 20 May 2009, <[http://www.tec.org.au/index.php?option=com\\_content&task=view&id=766&Itemid=270](http://www.tec.org.au/index.php?option=com_content&task=view&id=766&Itemid=270)>.

<sup>48</sup> The Environment Centre – Northern Territory (2009) 'A cleaner Territory and green jobs – a bargain at just 10 cents a can!', media release, viewed 20 May 2009, <[http://www.ecnt.org/html/media\\_other\\_2009\\_03\\_11.html](http://www.ecnt.org/html/media_other_2009_03_11.html)>.

Proponents of CDL regularly cite opinion polls showing overwhelming public support for the introduction of such schemes across Australia.<sup>49</sup>

By contrast, the Australian Food and Grocery Council (AFGC), which represents food and grocery products manufacturers, has argued that the introduction of CDL nationally would cost almost \$500 million a year. The AFGC have stated that consumers would pay up to 14 cents extra for containers, and that the introduction of the scheme would destroy \$70 million worth of kerbside recycling.<sup>50</sup> The AFGC have argued that Australia should continue to operate under the National Packaging Covenant, which involves recycling programs worth \$68.3 million. The Covenant is regarded by the AFGC as more efficient than CDL, requiring no charges and providing better value for money. The AFGC states that the current approach is successful, having increased packaging recycling rates to almost 60 per cent in the last 5 years. The AFGC has also argued that a CDL was a risk to investment.

The AFGC has previously argued that the CDL system in South Australia recovers only around 20 per cent of all the packaging materials generated in the state and that 80 per cent is recovered through household and commercial recycling collections.<sup>51</sup> The beverage maker, Coca-Cola Amatil, recently stated that Australian companies did not want to suffer additional costs due to the imposition of a 1970s regulatory approach under a CDL, but preferred to focus on investing in innovative solutions.<sup>52</sup>

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<sup>49</sup> See Clean Up Australia (2007) 'Clean up day comes of age', media release, viewed 21 May 2009, <<http://www.cleanuptheworld.org/au/NewsandMedia/cuad240207.html>>.

<sup>50</sup> Australian Food and Grocery Council (2009) '\$500 million Container Levy to crush Australia's recycling industry – 14 May 2009', media releases, viewed 20 May 2009, <<http://www.afgc.org.au/index.cfm?id=833>>.

<sup>51</sup> Australian Food and Grocery Council (2008) 'National CDL would cost working families \$400m per year – 20 February 2008,' media releases, viewed 20 May 2009, <<http://www.afgc.org.au/index.cfm?id=622&ver=2&print=1>>.

<sup>52</sup> B. Cubby (2009) 'Secret plan for recycling levy on bottles, cans', *Brisbane Times*, 15 May.

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