



May 13, 2022

The Honorable Steve Englebright
New York Assembly
Legislative Office Building 621
Albany, NY 12248

Dear Assemblyman Englebright,

I am writing to you on behalf of members of the New York Wine Policy Institute, the principal advocacy organization for the state's wine industry. We have reviewed your new bottle bill expansion proposal (A10184) and your latest extended producer responsibility legislation (A10185). We were pleased to see that the EPR legislation represents a considerable improvement from earlier proposals as well as the current Senate Bill (S1185C). For this reason, we would like to engage in the EPR program's development process outlined by A10185 rather than be excluded because of mandated inclusion in the expanded deposit law envisaged by A10184. New York wineries are very concerned about the potential financial and physical burdens imposed by an expanded bottle deposit program. To force A10184 on us before the EPR program is operational will prevent us from participating later in what is likely to be a more cost-effective recycling program.

Although many details of the EPR bill have yet to be determined, we believe that your emphasis on a needs assessment as a basis for further development of the new law is significant, especially given the timetable for producers to use the findings to prepare their product responsibility plans and work closely as stakeholders with the Department of Environmental Conservation on regulations and fees to support the new program.

In the hope that we will be able to participate in the eventual EPR program, we would like to offer some recommendations that we believe will make the legislation even better for New York wineries and many other small businesses. These include:

- A change that we had hoped to see was inclusion of the manufacturers of packing materials in the definition of producers. In our view, manufacturers are much better placed to innovate and improve packaging for reuse and recycling than small winery businesses that buy from them. We believe it is important for packaging manufacturers to be fully invested in the success of the program.
- As noted above, we support the call for an early needs assessment to help determine the parameters of the eventual law. We would suggest two additional components of the report: i) an analysis of the current situation (quantities, source, etc.) with each type of packaging material to be covered under the bill, which will further help determine program targets and costs; and ii) an evaluation of the experience with existing EPR programs in other jurisdictions and how it might help New York benefit from successes and avoid pitfalls.

- An example of what might be gleaned from other programs involves the revenue threshold for exemption. Although we were pleased to see the revenue threshold raised to \$2 million in your current bill, we suggest that New York's program adopt a phased-in approach similar to Maine, where the exemption is set at \$5 million for the first three years, and then lowered to \$2 million thereafter. A temporarily higher threshold will give wineries and other small businesses more time to adapt to the new program.
- We also noted the bill's proposed eco-modulating incentives, particularly the suggestion of reducing packaging and fees by shifting to re-use and refill systems. We have been actively exploring the use of such systems for our wine bottles and, unfortunately, our latest information shows that they are not yet economically feasible for our small businesses as re-used bottles cost more per unit than new ones. We recommend that the new law acknowledge this situation and wait to encourage adoption of re-use/refill systems until suitable technology and supporting infrastructure is available. Indeed, we would welcome a public-private partnership with the state to support development and implementation of bottle washing/sterilization/re-use operations.

We know that you have heard a wide range of comments on previous versions of the proposed EPR bill so we appreciate your efforts to develop a new, more acceptable approach that offers small businesses like ours opportunities to work with DEC on an eventual law. As stated above, we hope to participate in the program rather than to be excluded because of a premature mandate for wine packaging to be included in an expanded bottle bill.

Yours sincerely,



Erica Paolicelli
President

cc: Members of the NY Assembly Committee on Environmental Conservation
Members of the NY Assembly Agriculture Committee
Senator Todd Kaminsky, Chair, NY Senate Committee on Environmental Conservation
Senator Michelle Hinchey, Chair, NY Senate Agriculture Committee
Ms. Ashley Dougherty, Assistant Secretary for Environment
Mr. Kevin S. King, Deputy Secretary for Food & Agriculture
Sam Filler, Executive Director, NYWGF
Jeff Williams, Director of Public Policy, NYFB
Rob Carpenter, Administrative Director, LIFB