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September 16, 2020

Michigan House of Representatives  
The Honorable Michael Webber  
P.O. Box 30014  
Lansing, MI 48909

Dear Chairman Webber:

Thank you, Mr. Chairman, and Committee members, for allowing me to speak today. My name is Spencer Nevins, President of the Michigan Beer and Wine Wholesalers Association.

For over forty years, Michigan beer and soft drink distributors have implemented and run Michigan's bottle bill. Due to their efforts, Michigan's bottle bill is known as the best in the nation and is supported by over 90% of Michigan residents.

However, much of what distributors undertake to implement the bottle bill is voluntary and not legally required. For example, the bottle bill does not require distributors to initiate the deposit (collect the dime from retailers). It only requires retailers to collect a deposit from consumers.

However, the bottle bill does allow distributors to charge the deposit to retailers. It is permissive and at the distributor's discretion.

So why do distributors initiate the deposit? Because it is the only way to prevent large and border area retailers from being financially devastated by over-redemption, and to ensure that consumers have an easy way to return containers.

Border area and large retailers take back more returnable containers than they sell. This is referred to as being over-redeemed, and could, if not for distributors, cost retailers hundreds of thousands of dollars a year. Retailers have no way, under the current law, to reimburse each other for over-redemption. In addition, even if allowed to do so, retailers have no incentive to bail a competing retailer out from financial peril. Therefore, these Retailers would be incentivized to make the return process as difficult as possible for consumers. By doing so, retailers could protect themselves from over-redemption and increase unclaimed deposits, which would remain with the retailer, and not be remitted to the State.

By initiating the deposit, distributors prevent this from happening and willingly trigger a provision in the bottle bill that requires the distributor to provide a refund to a retailer for each beverage container that the retailer redeems. This is true even if the retailer redeems more containers than they bought from the distributor.

Simply stated, by initiating the deposit distributors voluntarily ensure that all retailers are made whole on deposits, that consumers enjoy the

easiest return system in the nation, and that the State receives unclaimed deposits. By taking on this burden, some distributors end up being over-redeemed by hundreds of thousands of dollars every year. However, distributors are legally able to balance redemption amongst themselves to ensure that no distributor ends up paying out more dimes than they took in. This balancing has no impact on the State's escheats fund as the vast majority of distributors, even after balancing redemptions with other distributors, are under-redeemed and legally required to remit unclaimed deposits to the escheats fund.

Unfortunately, the balancing is not feasible until the close of the calendar year. As a result, over-redeemed distributors are forced to float the cost of over-redemption to the State of Michigan for the entire calendar year. This causes cash flow issues for many distributors.

Senate Bill 779 changes that and will allow a distributor to get reimbursed quarterly from the State escheats fund. The reimbursement will have no impact on the fund. It will not reduce it at all. It just reduces the need for distributors to balance unclaimed deposits with each other.

Unfortunately, after discussing this bill for approximately four years, the Department of Treasury now opposes the bill, and claims it will cause a \$400,000 impact.

The real reason for its sudden opposition is the one that Senator McBroom shared in his testimony last week. The Department wants new language added to the bill that will, for the first time, require distributors to initiate the deposit. Both Senator McBroom and the MB&WWA have rejected the language.

This request is not related to SB 779 or the policy behind it. Instead, it is an attempt to use this bill to remove a bargaining chip that distributors have as we continue to attempt to negotiate with the Department of Treasury and EGLE on bipartisan escheats legislation, HB 5422-5425. That legislation was passed unanimously by this Committee earlier this year and is now sitting on the House Floor.

It is no secret that distributors invest over \$50 million every year in the bottle bill. It is also no secret that the costs of implementing the bottle bill have skyrocketed. Through HB 5422-5425, distributors are asking the State to finally invest in the bottle bill by using 20% of the yearly escheats revenue to partially reimburse distributors and invest in fraud prevention.

Rather than negotiate for a common-sense solution, the Department of Treasury and EGLE are attempting to create an unfunded mandate on distributors. The Department of Treasury and EGLE are aware that distributors are not required to collect deposits and, by not collecting deposits, have no requirement to pay anything into the State's unclaimed deposit fund.

If distributors stop initiating the deposits, which is our right under the law, retailers will be allowed to keep all of the unclaimed deposits. This amounts to about \$43 million per year. The Department of Treasury and EGLE both know that there is no requirement for

retailers to remit those unclaimed deposits into the state escheats fund. This is their Achilles Heel in the debate we are currently having with them regarding HB 5422-5425. They want to use SB 779 to eliminate that Achilles Heel and permanently subject distributors to EGLE's mismanagement of the Bottle Bill and the whims of environmental groups and EGLE.

If distributors don't voluntarily initiate the deposit, the State of Michigan unclaimed bottle deposit fund will receive \$0 per year. This means \$0 for environmental clean-up or, more accurately, EGLE FTE positions!

Rather than negotiate in good faith on HB 5422-5425, the Department wants to use the bill before you to force distributors to initiate the deposit and remit unclaimed deposits to the State. They want to hijack this bill and continue to force distributors to bear the burden of over-redemption as a bad faith negotiation tactic rather than finally admitting that the right and responsible thing to do is pass SB 779 and House Bills 5422-5425.

We are currently evaluating all options, including no longer initiating the deposit. We are tired of being the only people interested in protecting and preserving the bottle bill. If the Department of Treasury and EGLE want us to agree to having distributors legally required to initiate the deposit, and thereby protect the unclaimed deposit fund, they need to support SB 779 and HB 5422-5425.

With that, I respectfully request each of you to vote yes on SB 779.

Thank You,

A handwritten signature in cursive script that reads "Spencer Nevins".

Spencer Nevins  
President

