



## Survey of Retailer Compliance with New York’s Recently-Expanded Beverage Container Deposit Law

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### Summary

After the recent expansion of New York’s beverage container deposit law, known as the Bottle Bill, to include bottled water, there were concerns about what complications may arise for retailers and consumers in New York. A survey of 84 retail locations across the state conducted roughly three months after the expansion took effect shows that the transition has been relatively smooth from a consumer perspective. The bulk of retailers surveyed (75%) had all bottled water in their stores properly labeled (indicating a 5-cent deposit in NY), and another 20% of retail locations only had one or two brands per store that lacked the proper labeling. In addition, the vast majority of retailers surveyed (93%) honored deposits on the products they sold as required by law. The only widespread compliance problem noted by surveyors was that only 26% of retailers surveyed had posted the “New York Bottle Bill of Rights” as required under the recent Bottle Bill expansion.

## Background

Enacted in 1982, New York's Bottle Bill mandates a minimum 5-cent refundable deposit on certain beverage containers sold in New York State. Retailers that sell such products are required to act as redemption points where consumers can return their empty containers in exchange for the return of their deposit. The original law applied only to the carbonated beverages that dominated the market at the time such as beer and soda, with wine coolers added soon thereafter.

In response to the changing beverage market, New York's Bottle Bill saw its first major overhaul in decades in 2009 when it was expanded to include bottled water. All bottles of water under a gallon in size which do not have added sugar are now required to be labeled with a deposit in New York State and retailers who sell these products must charge and refund deposits, just as the law has always required for carbonated beverages. In addition, the new law requires retailers to conspicuously post a "Bottle Bill of Rights," which outlines the consumer's rights under the law.

The Bottle Bill amendments were enacted in April 2009 as part of the state budget. A subsequent court challenge by the bottled water industry delayed implementation of the expansion and certain other aspects of the new law until October 31<sup>st</sup>, 2009. Concerns were raised at the time that the start-up delays might result in implementation problems for retailers and confusion among consumers.

The intent of this survey was to take a look at how well New York's retailers have been able to implement major components of the new law that affect New York's consumers.

## Methods

Beginning in February 2010, roughly three months after the major provisions of the new law took effect, student volunteers surveyed a variety of retail locations from Buffalo to Long Island. A total of 84 retailers from across New York State were surveyed between February 4<sup>th</sup> and March 2<sup>nd</sup> 2010. The types of retailers surveyed included supermarkets (39), drug stores (34), and convenience stores/delis (11).

Surveyors looked at three basic requirements of the new law:

- 1) Does the retailer have the "New York Bottle Bill of Rights" posted?
- 2) Are all of the eligible water bottles offered for sale by the retailer properly labeled?
- 3) Does the retailer redeem deposits on the bottled water that they sell?

To answer the first question regarding the "New York Bottle Bill of Rights," surveyors looked throughout the retail location in search of the required sign (see Appendix A). The new law requires that retailers post the "New York Bottle Bill of Rights" conspicuously at the point of sale. If the surveyor found the proper language posted anywhere on the premises, regardless of location, the retailer was given credit in this survey for compliance with this aspect of the law.

In assessing the second question of whether or not retailers' bottled water stock was properly labeled, surveyors inspected the bottles offered for sale on retailers' shelves. While the method of indicating a 5-cent refund value varied from brand to brand (some used stickers, some printed

on the plastic itself, some included the indication on the label, etc.), any indication on the product of a 5-cent refund value in New York was recorded as compliant with the law.

Finally, several methods were employed to check whether or not retailers actually redeem deposits on the products that they sell. In most cases, surveyors actually brought a water bottle (matching the brand and size sold by the retailer and indicating a 5-cent refund value in NY) into the store and attempted to redeem the deposit. In some instances, retailer compliance was verified by either watching customers return water bottles for a deposit, or by speaking directly with a store manager or other employee.

### Findings

Table 1. Survey Results

<b>Type of Retailer</b>	<b>Number surveyed</b>	<b>Bottle Bill of Rights?</b>	<b>% Compliant</b>	<b>Properly-labeled water bottles?</b>	<b>% Compliant</b>	<b>Redeem deposits?</b>	<b>% Compliant</b>
Convenience stores / delis	11	1	9%	9	82%	9	82%
Drug Stores	34	9	26%	25	74%	32	94%
Supermarkets	39	12	31%	29	74%	37	95%
Total	84	22	26%	63	75%	78	93%

#### *Signage*

Under the recent expansion of the Bottle Bill, retailers are required to post the “New York Bottle Bill of Rights” language conspicuously at the point of sale (see appendix A for language).

Surveyors looked for such a sign at each retail location, and found that only 26% of all locations surveyed had proper signage. Convenience stores/delis showed the lowest level of compliance, with just one of the eleven stores surveyed (9%) posting the New York Bottle Bill of Rights. Only 26% of drug stores and 31% of supermarkets surveyed had the proper sign posted. Clearly, retailer compliance with new consumer signage requirements was found to be very poor in this survey.

#### *Container Labeling*

As has always been required of containers covered under New York’s Bottle Bill, water bottles must now indicate that there is a minimum 5-cent refundable deposit on eligible containers sold in New York. Overall, surveyors found that 75% of the stores surveyed were in full compliance, meaning that all the water bottles on their shelves were properly labeled. By retail category, 82% of convenience stores/delis and 74% of both supermarkets and drug stores surveyed were fully compliant. An additional 20% of the retailers surveyed only had one or two brands that failed to indicate the presence of a 5-cent deposit in New York.

Surveyors did not find any consistently “bad actors” in terms of chain supermarkets, drug stores, or convenience stores that demonstrated labeling problems across locations, but one brand in particular was found, without the proper labeling, in more locations than any other. Of the 84 locations surveyed, 9 of them (11%) carried Fiji brand water that was lacking the proper labeling (many of the locations carried several sizes of Fiji containers that lacked the proper deposit designation). In contrast, other brands lacking the proper labels were found in just three locations or fewer.

### *Redeeming Deposits*

From the perspective of most consumers, the single most important aspect of retailer compliance with the Bottle Bill is whether or not retailers redeem deposits on the products that they sell. Compliance in this area was the best of the three main survey questions, with 93% of the 84 locations surveyed redeeming deposits on the bottles that they sell. Surveyors verified that 82% of convenience stores, 94% of drug stores, and 95% of supermarkets surveyed redeem deposits on the containers that they sell

### Conclusion

Just three months after the bottle bill expansion was implemented, it appears that most stores surveyed seem to have easily transitioned to incorporating water bottles into the deposit system as required by law. The 84 store samples taken in this survey included eleven different chain retailers at multiple locations, and no across-the-board “bad actors” were found when it comes to ensuring that products sold are properly labeled and are redeemed as required by law. As time passes and retailers sell off any remaining beverage stock from prior to the expansion, it is likely that even fewer improperly labeled containers will be found on store shelves.

More effort must be made in terms of ensuring compliance with the consumer notification provision of the new law requiring the posting of the Bottle Bill of Rights in a conspicuous location. The results of this survey strongly suggest that retailers across the board failed to implement this component of the new law as of February.

The ease of transition demonstrated in the expansion of the bottle bill to include bottled water suggests that future expansions to other beverage types could be achieved relatively easily from the consumer perspective.

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**NEW YORK BOTTLE BILL OF RIGHTS**

**STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE**

**YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER ACT:**

**THE RIGHT** to return your empties for refund to any dealer who sells the same brand, type and size, whether you bought the beverage from the dealer or not. It is illegal to return containers for refund that you did not pay a deposit on in New York State.

**THE RIGHT** to get your deposit refund in cash, without proof of purchase.

**THE RIGHT** to return your empties any day, any hour, except for the first and last hour of the dealer's business day (empty containers may be redeemed at any time in 24-hour stores).

**THE RIGHT** to return your containers if they are empty and intact. Washing containers is not required by law, but is strongly recommended to maintain sanitary conditions.

The New York State returnable container act can be enforced by the New York State Department of Environmental Conservation, the New York State Department of Agriculture and Markets, the New York State Department of Taxation and Finance, the New York State Attorney General and/or by your local government.

**To report a violation, call 1-877-846-8802 (9am - 5pm M-F).**