

2009-07-22

TO: The Secretary

Senate Standing Committee on Environment,

Communications and the Arts

PO Box 6100 Parliament House

CANBERRA ACT 2600



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Dear Sir/Madam,

Environmental Protection (Beverage Container Deposit and Recovery Scheme) Bill 2009

LEGISLATION OVERSEAS: The 11 US States with deposit laws, some of which have served well since the 1970s, include the two most populous States, California and New York, and appear in a [map here](#). A table of the history of each State's laws [appears here](#). A summary of the law in those States [appears here](#). A good [clickable world map of CDL](#) appears here.

SOUTH AUSTRALIA'S EXPERIENCE: A starting point for a [Commonwealth bill like that above](#) is - with necessary changes for the differences in the Commonwealth case - [Part 8 Division 2](#) of South Australia's *Environment Protection Act 1993*. It replaces the former [Beverage Container Act 1975](#).

Castlemaine Tooheys Ltd, when owned by the then Bond Corporation, tried - with a total lack of success - to have South Australia's then *Beverage Container Act 1975* declared invalid, under [Section 92](#) of the Commonwealth Constitution, in a [1986 High Court of Australia case](#) before the then Chief Justice, Sir Anthony Mason. That company was later [partly successful](#) in a [1990 High Court of Australia case](#) before the full court in having some of the new sections of the Act it opposed invalidated, so it is desirable that the present bill does not become an Act that suffers that fate.

AMOUNT OF THE DEPOSIT: A major weakness of South Australia's 1975 Act was its non-indexation of the 5 cent deposit written into the Act. Indexation of 5 cents in [1975 to 2006 values](#) would produce a deposit of 27 cents (\$0.05 X 2753/510), which would increase to 29 cents [for 2009](#). That is a six-fold increase, yet SA's only change from 1975 is the recent doubling to a mere 10 cents. Germany, where our Treasurer spent a week in March 2009, shows Australia up as a third-world nation in certain environmental practices. Its 0.25 euro (**A\$0.50**) deposit on beverage containers and its 0.30 euro (A\$0.60) charge for plastic bags in shops impressed him with Germany's commitment.

Section 20 would require quinquennial reviews, but Section 12, which determines the amount of the deposit, would be better worded if it included a requirement that the result of such a review must be that the amount set can never be less than a specified indexed amount.

A simple way to incorporate such essential indexing would be to require not a fixed minimum cash deposit (10 cents in the bill), but instead a requirement that the minimum refund amount shall not be less than 0.2 per cent of a penalty unit, which is presently \$110.00, rounded down to the nearest multiple of ten cents. That wording would mean that the initial minimum deposit level would be 20 cents, which is a less derisory amount than the 10 cents set in the bill. Using the value of a penalty unit is consistent with the reliance on those units elsewhere in the bill.

NOT DISCARDING IS MUCH MORE IMPORTANT THAN RECOVERY: It is of concern that beverage containers, once discarded, tend to accumulate harmfully for long periods. Examples are containers lying in the deep water of our bays, seas, rivers and lakes, and containers caught on the faces of steep cliffs and in relatively impenetrable vegetation. Containers accumulating in deep waters might never be seen again, but they are obviously harmful to life there even if only by occupying habitat, and eventually contaminating the site as they degrade. Unfortunately many fishing from boats would not be too bothered by foregoing \$2.40 for the ease of throwing a slab of empties overboard, whereas foregoing \$12.00 of 50 cent deposits should curtail such waste.

Containers can be aesthetically displeasing when visible in relatively inaccessible places, and attempts to remove them can also cause harm to the environment and to those making such attempts. Glass containers particularly should never be discarded, as they are so often wantonly smashed while being discarded, or afterwards by somebody else, leaving numerous dangerous and unsightly fragments that are much harder to remove than the original single bottle. Serious harm and hurt to people is caused by broken glass left lying around.

The significant category of discarded containers provides justification for a deposit large enough to seriously discourage discarding rather than being just enough to encourage subsequent recovery. Containers that are never discarded never intrude on the environment, whereas containers recovered from the environment after discarding spend considerable time there first, which collectively means there is always a display of containers awaiting recovery.

An **A\$0.50** deposit, such as Germany's, would be far more effective than the A\$0.10 amount proposed, as that will soon be Australia's least valuable coin - our next nuisance coin - once we follow New Zealand's lead and dispense with 5 cent coins. A deposit of 10 cents is equivalent to a mere 12 seconds of [Average Weekly Earnings](#), so too many people will still discard containers at that rate. A serious reduction in the incidence of discarding would be achieved by the German rate, which is equivalent to one minute's AWE. Germany's uncluttered environment demonstrates that.

VICTORIA USED TO HAVE DEPOSITS AND BOTTLE COLLECTIONS: Some of our members tell us that when they were children they greatly enjoyed collecting empty beer bottles around Beaumaris for a penny each, and were proud of their fine stacks awaiting the bottle-o man. Their children similarly enjoyed bottle-collecting to help their Scout Troop's finances. Sadly that is no longer available here. We hope our grandchildren might be able to collect container deposits in due course.

'KEEP AUSTRALIA BEAUTIFUL': Government attitudes in Australia to Container Deposit legislation like South Australia's seems to have been unduly influenced by '[Keep Australia Beautiful](#)', which still exists and is, we understand, still funded by container manufacturers. Like most governments in Australia, it has opposed Container Deposit legislation. Their unimaginative aping of the Keep America Beautiful campaign and even name is sad, but [the page here](#) on the less-than-fully-successful efforts of Keep America Beautiful is worth reading.

It is pleasing that the current Victorian Opposition and the Greens formed part of a majority vote in Victoria's Legislative Council to recently [pass a good Container Deposit bill](#) introduced by the Greens, although it is not supported by the Government in either House unfortunately.

Yours sincerely,

Adrian Cerbasi
President
Beaumaris Conservation Society Inc.