

SLIDE ONE (TITLE SLIDE)

Rhode Island Plastic Waste Commission

Sazerac Presentation

January 22, 2023

SLIDE TWO: (INTRO)

Hello, and thank for you the opportunity to speak to you today. I'm Kellie Duhr, the vice president of government affairs for Sazerac, one of America's oldest family-owned, privately held distillers with operations in the United States and globally. We own the Buffalo Trace Distillery in Frankfort, Kentucky, where some of the best bourbons in the world are made. We also own consumer favorites, Dr. McGillicuddy, 99, and Fireball, which are most commonly purchased in portion control 50 and-100 ml sizes. I'm here today to talk to you about these small sized alcohol bottles, give a quick overview of what we've seen in communities that have tried to ban them and offer a comprehensive solution to waste and recycling that captures a more complete array of consumer packaging than just bottle deposits.

SLIDE THREE: (A STANDARD DRINK)

An important part of responsible drinking is understanding the standard drink equivalent established in the U.S. Dietary Guidelines, which state that regular beer (12 oz.), distilled spirits (1.5 oz. of 80-proof spirits) and wine (5 oz.) each contain the same amount of alcohol.

The 50 ml bottle equals approximately one standard drink and eliminates the guesswork allowing the consumer to measure their precise intake of alcohol as opposed to free pouring from a larger bottle where over consumption is likely.

SLIDE FOUR:

Sazerac is passionate about responsible consumption and has led the industry in promoting portion control sizes, including the 50 ml. We strongly advocate giving consumers the choice to moderate their alcohol intake.

Consumer demand for packaging that promotes responsible consumption along with convenience, affordability and portion control is not new. Whether it is snacks, fruit, cheese, frozen meals, bottled water or other beverages, the demand for portion control sizes continues to rise across a wide variety of food and beverage categories. In fact, as you can see from this slide, based on NABCA data for control states, the 50 ml package size has the fastest dollar growth across all NE control states. And in Rhode Island, 50 and-100 ml sizes make up the largest portion of Sazerac sales.

SLIDE FIVE:

One of the challenges with all small sized packaging has been an increase in material in our waste and recycling streams. And, unfortunately, we also see more packaging in litter.

Reaction differs by jurisdiction. The most aggressive and concerning policy has been the introduction of bans for 50 and 100-ml alcohol containers.

Unlike other beverages that have no restrictions on the size of the container, spirits sizes are regulated by the Federal Tobacco, Tax and Trade Bureau (TTB). Generally, there are 11 sizes for spirits; conversely malt beverages and non-alcohol packaging is unrestricted.

Being a highly regulated product, spirits must be sold in manufacture sealed containers so bringing your own reusable container to refill alcohol is not an option like it is with coffee or water. Policy that eliminates 20 percent of the package sizes allowed for spirits containers seems unreasonable and certainly harms small businesses, some of which count on minis for up to 30 percent of their sales.

SLIDE SIX:

Just a quick map to show that every state but Utah allows for the sale of small sized alcohol bottles. In that state, the fastest growing size is the 375 ml and the 200 ml, which is four times the amount of alcohol than a 50 ml. I say this to demonstrate Utah's strong desire for small format packaging. New Mexico allows for the sale of 50 mls if sold in 10 packs or larger. There are no restrictions on the sale of 100 mls. In 2023, the state of Arkansas, which only allowed small sized packaging in twin packs, changed their law to allow for single sales of 50 mls, with many lawmakers talking about portion control as a reason for the change. Why force consumers to purchase twice the amount alcohol? Also, in 2020, Louisiana changed their law to allow for the sale of 50 mls. Prior to that, the 100 ml was the smallest package size allowed for sale, but many recognized again the 50 ml container gives the consumer the choice for even greater moderation.

SLIDE SEVEN:

There has been ban activity in Massachusetts but it's not as prevalent as some have suggested. Of the 351 cities and towns in the Commonwealth, only nine have banned small sizes while nearly double have defeated ban proposals. This month in fact, residents in the town of Plymouth voted to overturn their ban demonstrating consumer preference is to find another solution to litter, waste and recycling challenges.

SLIDE EIGHT:

Consumer demand for small sizes doesn't diminish with a ban, but it will drive purchases to a neighboring community. In Chelsea, which banned 50 and-100 ml containers in 2018, sales simply moved to the surrounding towns of Revere, Everett and South Boston. This is full year data, post ban vs. prior year sales.

Bans also hurt small businesses. Independent retailers suffered most from the ban in Chelsea, including store owner Harry Patal who has testified recently in other Massachusetts communities urging policymakers to consider the consequences when other options are available. He had to close his two stores in Chelsea as a direct result of the ban.

SLIDE NINE

I wanted to put Nick's slide up again showing the proximity of stores to the border. When Chelsea banned, sales went to other Massachusetts communities. In Rhode Island, the purchases will shift to a different state altogether not only harming small businesses but negatively impacting the state's tax revenue, as well.

SLIDE 10

Deposits are another solution proposed in Rhode Island and other states. I'll let my partners in retailing and wholesaling share their operational concerns because they are closer to the burden than a supplier. However, for Sazerac, bottle deposits are comparable to an additional tax on beverages; and could disproportionately harm low-income residents. If a bottle deposit program is created in Rhode Island, Sazerac recommends no more than \$.05 for small sized containers. This is consistent with Maine's deposit on 50 ml bottles (the only state with a deposit on 50s) and will not only lessen the cost burden for consumers, but it will also help with labeling consistency and ease the burden for businesses that must comply.

Policymakers should also consider that fraud is possible with deposit programs particularly due to Rhode Island's proximity to neighboring states without deposits on small sizes. Those purchasing minis in Massachusetts and other nearby states could easily return bottles in Rhode Island for redemption.

Another frustrating reality with some deposit programs is the transfer of unclaimed deposits to a state's general fund. If Rhode Island does enact a bottle deposit, funds from unclaimed deposits should be used to help grow redemption and fund the efficiency and effectiveness of the program and not as a general revenue raiser for each budget cycle.

SLIDE 11

Sazerac realizes that litter is one of the reasons bans and deposits have been proposed as possible solutions. Unfortunately, some consumers are irresponsible when it comes to recycling their empty containers. While we share concerns with respect to littering, we do not agree that minis should be singled out in legislation to address a pervasive, societal problem and a human behavior. If you take alcohol small sizes away, you're still going to have candy and chip wrappers, soda cans, water bottles, fast food wrapping and containers, scratch tickets, cigarettes, and coffee cups along your beaches and roads. Sazerac supports litter abatement policy that focuses on changing human behavior. It would also be nice to see waste and recycling receptacles in public spaces and more active enforcement of litter fines. The industry is willing and eager to do its part to help end litter and has funded programs with Keep America Beautiful, and state affiliates including Keep Massachusetts Beautiful and Rhode Island's Blackstone Valley, as well as local clean-up organizations to change litter behavior. We stand ready to continue funding abatement programs.

SLIDE 12

To close, I'd like to talk about a more comprehensive and equitable solution to the challenges we face due to the rise of single-use packaging and keeping valuable, recyclable material from landfills. I know this group has heard from others about Extended Producer Responsibility, or EPR, which can be a good solution for Rhode Island if the legislation is written correctly and creates a collaborative approach to a more circular economy for packaging.

EPR assigns producers greater responsibility for the end-of-life management of the products we introduce into the market and encourages innovations in product design. At its basic level, producers pay into a Producer Responsibility Organization (PRO) to set and meet recycling and materials management goals that contribute to a circular economy. PROs can also encourage product design innovation that minimizes environmental impacts.

SLIDE 13

Sazerac is part of the organization, the American Institute for Packaging and the Environment, or AMERIPEN, whose membership represents the entire packaging supply chain. They are material neutral and seek sustainable packaging solutions.

Through AMERIPEN, we work toward the most equitable and feasible EPR legislation that strikes the right balance between state oversight and flexibility for the packaging producers who fund EPR programs.

Key components of a good EPR program include:

- **A Fair Needs Assessment:** A fair needs assessment of the recycling system for costs, capacity, goals, gaps and other key issues is the optimal way to create reality-based PRO plans and a workable program.
- **Reasonable Funding Rates:** funding rates must not create a “blank check” where inefficient recycling program have 100 percent of their costs covered. AMERIPEN was supportive of a Maryland bill (SB 222) because of shared cost responsibility. In that bill, there would have been a cap to industry of 50 percent of collection costs so a true shared responsibility with existing municipal programs.
- **Producer Control of Producer Responsibility Organizations:** Producers should be in control of their PRO (as opposed to state control) in order for producers to have responsibility to adequately provide feedback and improve recycling systems. Maine’s law puts responsibility solely on the environmental agency without meaningful input from industry. This top-down approach does not allow for the PRO, recycling service providers or local communities to innovate and develop solutions and education programs that meet their needs. Like the Maryland bill, the laws in California, Oregon and Colorado all have producers operating the PROs.
- **Reasonable Performance Goals:** Goals should be driven by the needs assessment done of the recycling system and not by arbitrary performance goals set in statute that are not reality-based or feasible. Goals should be shaped by the PRO’s plan and reviewed by a state’s environmental agency and other stakeholders before being approved. Picking numbers that feel good in statute but are **not** based on real data sets the program up for failure. The idea is to reduce packaging waste going to landfill, which is different than a packaging source reduction being set in statute.

Slide 14

Thank you for the time to speak to you today. I think we're holding questions until after the wholesalers present.