



**Scott Breen**

Senior Vice President, Sustainability  
601 13th Street, NW  
Industrious, 12th Floor  
Washington, DC 20005  
Office: 202-232-4677  
Email: sbreen@cancentral.com

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Senator Fount Hawj  
Chair, Environment, Climate, and Legacy Committee  
3231 Minnesota Senate Building  
St. Paul, MN 55155

**RE: Comments on SF 3887, Environment Supplemental Finance Bill**

Dear Chair Hawj and Members of the Senate Environment, Climate, and Legacy Committee:

The Can Manufacturers Institute (CMI) appreciates the opportunity to comment on SF 3887, introduced by Sen. Fount Hawj. CMI's comments are focused on concerns related to the extended producer responsibility (EPR) for packaging aspects of the bill. CMI has previously shared these concerns and has suggestions on how to address them.

CMI is the U.S. trade association representing metal can makers and their suppliers. The industry employs more than 28,000 people and our members have facilities in 33 states, including Minnesota. One member, Silgan Containers, manufactures food cans in Savage, employing 130 people. Another member, Crown Holdings, makes aerosol cans in Faribault, beverage cans in Mankato and food cans in Owatonna. Between those three facilities, Crown Holdings employs almost 400 people. CMI members are proud to make the most sustainable package for foods, beverages, and other products important for everyday use.

CMI offers the following suggestions to improve the bill's language. These suggestions will mitigate potential unintended consequences with the toxic materials provisions, minimize unfair market distortions toward reusable packaging, ensure post-consumer recycled content targets consider practical limitations, and sufficiently increase recycling of beverage containers both at home and away from home.

**Limit Toxics Provisions to Technical Assistance and Risk-Based Assessments**

The toxics provisions in SF 3887 largely are limited to technical assistance with the exception of the eco-modulation factor that incentivizes elimination of toxic substances in covered materials. CMI would like to see this eco-modulation factor eliminated or revised to refer to reducing toxic materials to a risk-based level determined by a Minnesota state agency or the U.S. Federal Drug Administration as part of existing regulation of toxic substances. The current language may drive unnecessary elimination of substances beyond the levels determined safe

by the appropriate authorities, such as the U.S. Food and Drug Administration and the U.S. Department of Agriculture's Food Safety and Inspection Service. Both of these federal agencies are responsible for regulating food contact materials. Such materials ensure canned foods and beverage deliver the highest standards for safe and healthy foods.

CMI appreciates that the bill limits the definition of toxic substance to existing Minnesota state law rather than creating new regulation or bans of certain toxic substances.

### **Eliminate Unfair Support for Reusable Containers**

While CMI understands bill supporters want to enable greater use of reusable packaging, the bill unfairly puts its thumb on the scale to reusables on the assumption that reusable packaging is always better than single-use packaging. Reusables do not always have less impact than single-use packaging. The impact of reusables is highly variable based on the number of times it is used, the distance to washing areas, whether the reusable packaging is standardized, etc. Further, with the higher recycling rates and recycled content that an EPR system could enable, the footprint of single-use packaging is set to decrease, particularly a package like metal cans where displacement of virgin material means a much lower footprint.

Most importantly, CMI recommends deleting the provision that says reusable packaging only needs to pay a fee the first time that it is introduced into the system. This is unfair because the system is enabling the reuse of that packaging each subsequent time it goes through the system. With only needing to pay the first time, that means the cost of the reusable packaging going through the system each subsequent time will be borne by fees on the other packaging in the system. The fees on all packaging should be such that there is no cross-subsidization of one material paying for another (i.e., each material type should pay for its own cost of recycling or reuse).

Ideally, consumer demand would determine the growth of reusable container systems rather than forcing the market to choose reusable packaging by law. If there is going to be an eco-modulation factor on reuse, CMI believes the eco-modulation factor should be limited to only when opting for reuse has a lower environmental impact than the single-use version of those items.

### **Clarify Recycled Content Goals Should Consider Practical Limitations**

CMI appreciates that the needs assessment considers the amount of post-consumer recycled content that could be included in covered materials. However, it should be clarified that the Commissioner will consider the practical limitations identified in the needs assessment when setting statewide requirements on post-consumer recycled content or in applying the eco-modulation factor focused on recycled content.

The quality, integrity, and environmental footprint of food cans that consumers rely upon to enjoy food grown in Minnesota and elsewhere depends on whether practical limitations for

recycled content are clearly considered in target setting. By not doing so, the legislation would result in adverse consumer and environmental outcomes. In the basic oxygen process used to make steel for cans, recycled content above 35 percent makes it impossible to meet strict product safety and formability requirements, as well as results in energy inefficiencies.

Also, CMI believes the bill should focus recycled content provisions on those covered materials that need greater demand to stimulate end markets. Aluminum and steel from cans already have robust end markets. Requiring or incentivizing greater recycled content in cans will not increase the amount of overall aluminum and steel recycled, as it simply shifts the material from one end market to another. It actually could result in worse environmental outcomes as it may require greater shipping distances to get it to a metal can end market versus another metal end market.

### **Strengthen the Deposits Language**

CMI suggests adding language to ensure that if the contemplated program does not deliver the desired rates for beverage containers, there should be a recycling refund program (i.e., deposit return system) created or at least a plan devised to increase beverage container recycling rates to the statewide requirements that the Commissioner will set. This is important to sufficiently address the 3.8 billion beverage containers sold in Minnesota that currently go to landfill each year that are collectively worth \$47.2 million. That's 666 beverage containers littered or landfilled for each Minnesotan. An EPR program that increases recycling access at the household will result in more beverage containers recycled but likely will not sufficiently collect beverage containers for recycling considering one-third of beverage containers are consumed away from home. Recycling refunds have proven in the United States and around the world to consistently collect high volumes of beverage containers no matter where they are consumed, creating high quality feedstock for domestic manufacturers to use rather than virgin material.

In closing, CMI supports the intent of SF 3887 and the goal of increasing the collection and circularity of all metal cans. CMI appreciates the opportunity to share our thoughts and suggestions for improving SF 3887. CMI's suggestions will mitigate potential unintended consequences with the toxic materials provisions, minimize unfair market distortions toward reusable packaging, ensure post-consumer recycled content targets consider practical limitations, and sufficiently increase recycling of beverage containers both at home and away from home.. Please do not hesitate to contact me if CMI can answer questions and provide additional input.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Breen".

Scott Breen

Senior Vice President, Sustainability  
Can Manufacturers Institute