C O R R E C T E D V E R S I O N

STANDING COMMITTEE ON ENVIRONMENT AND PLANNING

LEGISLATION COMMITTEE

Inquiry into Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011

Melbourne — 8 February 2012

Members

Mr A. Elsbury
Mrs J. Kronberg
Mr C. Ondarchie
Ms S. Pennicuik
Mrs I. Peulich
Mr J. Scheffer
Mr L. Tarlamis
Ms G. Tierney

Chair: Mrs I. Peulich
Deputy Chair: Ms G. Tierney

Staff

Secretary: Mr K. Delaney

Witnesses

Ms C. Hartland, member for Western Metropolitan Region, and

Ms E. Ingham, electorate officer.

The CHAIR — Welcome, colleagues, and welcome to our proponents of the legislation that we have been asked to consider. The committee agreed to hold tonight's final public hearing with Ms Hartland to consider the bill clause by clause, following our research and taking of evidence, both intrastate and interstate. This attempts to replicate the consideration of legislation in the committee of the whole Council stage on the floor of the house. All past legislation committees have considered bills in a clause-by-clause manner. In this case Ms Hartland and Ms Ingham, her adviser, will answer questions from members in the same way that members would question a minister. The transcript usually forms a part of the committee's report. We have not been through this before; this is a new experience for the Legislative Council committees, so we are winging it a little and will feel our way as we go along.

I declare the Legislative Council Environment and Planning Legislation Committee public hearing open to consider in detail the Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011. As I have outlined, the committee will adopt a similar procedure as that adopted by the house. I remind members that they may move amendments to the bill tonight; however, in the event that an amendment is unsuccessful, they will not be precluded from moving the same amendment should the bill proceed to a committee of the whole stage in the Legislative Council.

Welcome back to the committee, Ms Hartland and Ms Ingham, and I remind you that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and by the Legislative Council standing orders. You are protected against any action for what you say here today, but obviously that does not extend outside this room. All evidence is being recorded by Hansard. A copy of the transcript will be attached to the committee's final report. You will receive your copy of the transcript in a few days, and you will have an opportunity to correct any typographical errors. We have allowed about 5 to 10 minutes for you to make an opening statement or comments, and then we will proceed to consideration of the bill clause by clause.

Ms HARTLAND — I would like to speak on two issues that have been raised during the committee hearing — that is, legal issues and the commonwealth EPHC process. I would like to make some suggestions and commentary on possible changes to my bill that may address some of the concern raised during the committee hearing. This is the first piece of legislation to be examined by the new committee system, so this would be a good example of a committee examining a bill and suggesting improvements. I am actually more interested in Victoria having the benefit of a 10-cent deposit and refund system than I am in having a win for myself or the Greens or in just being right. If members of the committee think the concept is good but the detail is wrong, then let us talk about the detail.

I will give a brief summary of five potential changes that the committee might consider. The first is a big change that would impact on the entire bill. The EPA in my bill might be replaced by an independent body set up jointly by the drinks companies and recycling industry, at arms length from the government. This would bring my scheme closer to the South Australian system and deal with the excise issue in the same way the South Australian system does. If an independent body had the recycling industry on equal footing with drinks companies, we might not have the problems that were hinted at in the South Australian hearings where drink companies are in control.

Secondly, if the committee is concerned about the impact on households, it might consider exempting plain milk, which is also exempted in South Australia. I do not personally support exempting milk but I would accept a recommendation to do so. The argument in favour is that plain milk containers are used at home and are seldom littered. The argument against is that plain milk is also used away from home in places like cafes.

Thirdly, since there has been a great deal of interest and speculation on the EPHC process and what might come of it, the committee may recommend that my bill be set aside for a period of, say, 12 months to give that process time to be resolved. This might take the form of a trigger provision in the legislation, which is why I have raised it in the list of potential changes. It needs to be acknowledged that the current Premier, Deputy Premier and Minister for Environment and Climate Change are strong advocates of a national system. A 12-month delay or a trigger provision would give them time to make some progress. The minister could go to COAG and champion a national scheme from a position of certainty. It would also give the opponents some incentive to come to the table.

Fourthly, this committee should certainly consider recommending that a Victorian scheme accept the return of containers that were purchased in South Australia and the Northern Territory, with a view to making reciprocal

arrangements. Since I tabled my bill in the Victorian Parliament an almost identical one has appeared in Western Australia, tabled by the ALP. It is word-for-word identical to mine down to the smallest comma, except for two interesting differences. One is that WA already has a waste authority, but the other difference is that it provides for WA to accept containers that were purchased in South Australia and the Northern Territory. This is a common-sense measure for people travelling between states. It would not create any incentive to bring containers across the border, but it would pave the way for a national system.

The fifth potential change relates to the commencement date, which needs to be changed as July 2012 is now almost upon us.

Many committee members and those giving evidence anticipated the then-forthcoming consultation regulatory impact statement for packaging which has been prepared as part of the commonwealth EPHC process. The consultation RIS was released in early December, about two weeks after the last public hearing date for this committee, which was in late November. I would encourage the committee to seek an extension of time so you can call an expert witness such as Jeff Angel, who made a written submission to this committee and who has years of experience in the EPHC process. In the absence of any expert, I will give you a brief summary. You should have a copy of the RIS in front of you, and I will hand up my notes which include some page references for data analysis.

Firstly, and most importantly, the RIS is not about drink containers. It conflates all packaging, so it disguises both the drink container problem and the benefits of a container deposit system — see especially pages 8, 10 and 18 for this. Paper and cardboard really pad out the numbers because they have very high rates of consumption and recycling. This tends to hide the poor recycling figures for some drink container materials, especially away from home — see pages 17 and 18.

The RIS makes no recommendation, but it notes the estimate of recycling targets and costs is more reliable for CDL than any other options because it is less speculative, as you will see on page 35. This is confirmed on page 1 of the ABARE peer review, which says:

> The increased beverage container recycling rate assumptions for CDL options are likely to be more precise than for other options.

The EPHC process confirms there would be very strong gains for local government. There is really no doubt that the financial position of kerbside recycling is improved by a container deposit system. I will hand out the summary prepared by Jeff Angel which is based on the last three EPHC reports before the consultation RIS. The RIS goes on to say that CDL has the most benefits before subtracting cost plus all the co-benefits — see page 39 where it says:

> Highest benefits and avoided costs, due to savings to the kerbside recycling system and the price premium that was applied to materials collected through a CDS.

This confirms what you heard in South Australia about the benefits to kerbside and the price premium for clean, well-sorted recyclate. It says on page 54 that the costs to government are low and notes that the costs are further offset by avoided costs of regulation. The RIS includes some extraordinary assumptions which bump up the apparent costs of CDL — for example, what it calls the household participation cost. It assumes that every single container would be returned by car on a journey that has no other purpose. It gives a money value to the time taken by each member of the public, plus the petrol and the wear and tear on the car — see pages 41 and 42. Conversely, it does not give a money value to some important benefits like recycling industry jobs, avoided costs from contamination and co-benefits to other recycling that the committee heard about in South Australia — page 43. Even with that bias, the calculated costs to the economy are low, but you have to drill down a bit to get to them. Table 19 on page 51 estimates that CDL would cost $1.4 billion over 20 years to the Australian economy. Option 4(a) is based on the same model as my bill. Victoria has about 30 per cent of the market share, so that is about $21 million per year, including all the infrastructure. If you take into account that the household participation cost is nonsense and the benefit of more employment, the co-benefits for other recycling and all the rest, one thing becomes clear: if you are willing to allow private investment in infrastructure, then CDL works financially. Before I leave table 19, look at the figure of $463 million over 20 years Australia-wide in the market value of resources. That is the value of material that is not presently being collected in kerbside bins and public place bins but would be collected by container deposits.

Before I finish with the financial issues I would like to say that the document provided to the committee by the EPA, which purports to be the sensitivity analysis, is completely inaccurate. They get gross figures mixed up with net figures, volumes mixed up with numbers; they make mistakes all over the place. It is very sloppy work indeed. I would welcome questions on that one, because if you use their own methodology and fix the mistakes in every scenario they present, the scheme would be wildly profitable.

The committee has been presented with several legal opinions since I last appeared. There is nothing new on mutual recognition. There is no conceivable reason why the commonwealth would refuse to issue an exemption while the 12-month state-issued exemption applied. Nor is there anything new in section 92 of the commonwealth constitution. This bill does not discriminate between Victorian and interstate manufacturers.

I presume that the committee has had the advantage of receiving advice from the Clerk of the Legislative Council about whether this bill may be introduced into the Legislative Council. I have not seen that advice of course. Indeed I will make a general point. If this bill is considered to be a money bill, it may be introduced in the upper house if the Legislative Assembly waives its privileges. This would have no effect on the legality of the legislation once it is passed. This is an issue for the government — does it want it or not?

The only remaining controversial issue is excise — the section 90 tax issue. Even then the VGSO does not rule out a container scheme for Victoria but advises:

> … merely that such a scheme should be carefully drafted in order to minimise the prospect of a constitutional invalidity.

It notes that the South Australian and Northern Territory schemes do not involve the state or a public authority. It implies that the Northern Territory government opted not to run its own scheme to avoid creating an excise. That is why I have suggested that the committee discuss whether the scheme should be amended to include an independent body run by the recycling and bottling industries instead of the EPA. The joint body could administer the scheme, respond to changes in the commodities market and create market opportunities for recyclate, minimise red tape for the drinks company and head off any problems in the scheme before they manifest. This would also eliminate any controversy about the bill originating in the upper house. That is where I will leave it.

The CHAIR — We will now move to the clause-by-clause consideration of the bill.

Ms HARTLAND — If it is acceptable to the committee, Ms Ingham and I will both be answering questions, as we have in the past.

The CHAIR — Yes, interchanging. Thanks.

Ms HARTLAND — Thank you; I appreciate that.

Clause 1

The CHAIR — In relation to clause 1, the purposes clause, does any member have any questions for Ms Hartland or general questions in relation to the bill?

Ms PENNICUIK — Ms Hartland, you mentioned that one of the possibilities for change could be to replace the EPA in your bill with an independent body similar to that in South Australia. That would mean the purpose would obviously alter. It would be administered by an independent body. You would not name the independent body?

Ms HARTLAND — No, I think you would just name it as an independent body because then the government could look at the structure of what that could be. We are trying to be really flexible about this, because, as I said in my remarks, we want the scheme, so we want that cooperative way of doing it.

Ms PENNICUIK — Ms Hartland, do you think that would make many substantial consequential changes to the bill?

Ms HARTLAND — Yes, it would.

Ms INGHAM — It would require almost a complete redrafting.

Ms PENNICUIK — That is what I thought.

The CHAIR — It is such a significant change and there are implications.

Ms HARTLAND — It has also been, I would have to say, through this hearing process, which I think has been hugely beneficial, that we have been able to look at a way of actually making this better. From listening to the transcripts and by listening to your questions, I can only say how valuable I think this process has been.

The CHAIR — Is there a question on this side?

Ms TIERNEY — It is not so much a question. I suppose I am just questioning the process, or putting on the table the process we are going through now, given that what is being proposed is dramatically different to what we have in front of us.

Mr SCHEFFER — I guess all we can do is, taking note of what Ms Hartland has said, deal with the bill as is. Then it would be Ms Hartland's prerogative, if she wishes, to withdraw it and then review the bill.

Ms HARTLAND — I think that what we are suggesting is that by putting this up in this way it is an opportunity for the committee to consider how it might like to amend the bill. We are making a number of suggestions as to how it might be amended, but it is up to the committee to do that. I know I am putting forward something vastly different, but it is very much from what we have heard.

The CHAIR — My proposal, if I may, and I would certainly welcome the committee members' comments, is to work through the program as set out and offer members the opportunity of moving any amendments, and then following this process we will have a private discussion as to the way forward.

Mr ELSBURY — On that clause and with the possible amendment in mind, basically all of the studies that we have been doing and all of the work we have been doing has been based on the EPA actually being the authority. That makes it rather difficult for the report to be finalised. I am just concerned, with this new information coming to hand, about whether or not any costings have been done for a new authority being developed outside of the EPA. Once upon a time we were talking about it being a function of the EPA to conduct. Now we are talking about a new office undertaking the work. That suggests to me there could be additional funding constraints brought in because of the fact that we are bringing in a new organisation.

Ms INGHAM — First of all, we still stand by the bill as it is. The greatest benefits for the state of Victoria are with a public authority like the EPA running the scheme, because the state retains control of the purse strings and can use the unredeemed deposit fund and so on to create benefits for the state that the state directs. The advantage of an industry body at arms length from government is purely to get around the excise issue, and it eliminates any financial implication for the government. It would mean that it would actually not be a money bill; there would be no implication at all, as there is not in South Australia or the Northern Territory.

The CHAIR — Although not entirely, if I may, Ms Ingham, because it is always possible for a government to subsidise if there is a deficit. So I accept what you are saying except there are examples where government subsidies can be put in place to support or prop up a financial business case.

Ms INGHAM — In terms of the figures for recycling and the value of the recyclate, none of that would change.

Mr ONDARCHIE — Can you just run through for us again why you would want to shift away from the EPA? What was the thinking behind that?

Ms HARTLAND — As Ms Ingham has said, we actually still believe it should be in the EPA, but this has come about because we want to be flexible about this. We are making suggestions to the committee that there might be other ways it might want to consider. As Ms Ingham has said, we still think it should be the EPA, because then the government is the one getting the money, so then that money can be used on recycling projects, helping with kerbside et cetera. We are putting out suggestions for the committee — —

Ms INGHAM — Because of the very strong advice provided to this committee by the Victorian Government Solicitor's Office, which raised constitutional issues to do with excise in section 90 of the commonwealth constitution. It suggested that for a bill to be constitutional it would need to be very carefully

worded, and it seemed to us that the advice suggested that the way to do that is the way that it outlined. It said that similar problems do not exist in South Australia because the government does not touch the money. Parliament legislates, but it is not a public body. The disadvantage of that was hinted at in the transcript that we read from South Australia. But the advantage is if this committee feels that the excise issue is an insurmountable barrier to the EPA running the scheme, and if that is the only barrier, then let us get over that barrier.

Mrs KRONBERG — I would just like to pick up on your tone in how you are bringing us up to date, and I am happy for Ms Hartland or Ms Ingham to answer this. It seems to me that there are still a lot of exploratory elements here in terms of the shape of an overarching authority or agency or whatever we want to call it. There are things that are yet to be plumbed; we cannot dimension it, so I must say that I have a rising consternation coming through from the revelations in this session on the basis that sometimes when you have the opportunity to drill down through things there are all the things that can delay and derail. In terms of the advice that you have received on the issue of excise it is a really fundamental problem for what is generally an important and laudable concept.

My question is: can either of you let me know of other areas — because this is a seismic shock issue, an issue that is hard to dimension. This is an issue that would be an impediment because there is unexplored territory. There is a range of things, and all of the competing interests from sovereign states too, whether it was ever to be accepted in a COAG setting as well.

Ms HARTLAND — If I can maybe answer the part about why we have done this, and then I will hand over to Ms Ingham to talk more about the details. What we are trying to do here today is give the committee some room to move because of what we have heard from the committee — these are the concerns that have been repeatedly raised. So we are putting forward some scenarios about how we could fix it. I realise that what we have also done — and I think the term you used was a 'seismic shift', and I know that that has probably made it somewhat difficult for the committee too. But we wanted to be able to present some other ideas, and these ideas are coming from the transcripts, from the witnesses and from your questions. I will hand over to Ms Ingham- — —

Ms INGHAM — The only thing I would add is that in terms of packaging, recycling and the process that has been going on with reports at the Victorian and federal level over a number of years, if there is one thing we know, it is that container deposits work. So that at least is a level of certainty that we can start with. We have this EPHC report that has just come out. It is the latest in a series that have all said the same thing: that it is good for kerbside; it works. We have had additional confirmation on this occasion, so if you are looking for certainty, it says the figures for container deposits have the higher certainty, and the ABARE peer review confirmed they have the highest certainty.

We have perhaps shaken things up a bit by turning up at the 11th hour and saying, 'Here are some options'. Sorry about that — —

The CHAIR — Could I just ask a follow-up question as well. The EPHC process — I think you are generally respectful of this, because obviously if we could have a national scheme that irons out all of those things, brings all the stakeholders around the table and takes away the controversies, there is the greater chance of it, firstly, going through and, secondly, being successful. You have suggested that the committee may consider it. I do not wish to pre-empt anything, of course; it would be inappropriate to do so. The committee may decide to recommend that the bill be set aside for 12 months to see the EPHC process conclude. Are you able to tell us, given your recommendation, does that mean that the EPHC process is to last for 12 months? Is that the indication?

Ms INGHAM — I neglected to find out the date of its final report.

Ms HARTLAND — It has been going on for some time, as you would be aware.

Ms INGHAM — It has been going on for years.

Ms HARTLAND — It is about 10 years.

The CHAIR — But it seems to be gaining some momentum?

Ms INGHAM — Yes.

Ms HARTLAND — Yes. The other thing, too, is that a number of states have talked about the need for a national scheme. Every state agrees that there is a need for a national scheme, but we just do not seem to be able to, as yet, get over the hurdle. Obviously the environment minister has indicated his support but said that he wants a national scheme, as has the Premier, as has the Deputy Premier. That was one of the other reasons we put that in to give it that bit of space.

The CHAIR — And if that were to occur, that recommendation, then that would give us the opportunity and perhaps the proponents an opportunity to finetune the bill in line with obviously what may or may not have transpired.

Ms HARTLAND — Yes, because we have always thought that a national scheme was the logical way to go.

Ms INGHAM — And given that this COAG process has been going on for donkey's years, we think the most likely way for a national process to come about is for an enthusiastic advocate — an environment minister from Victoria — to negotiate with proponents in other states and make it happen despite the COAG process rather than because of it.

Mr SCHEFFER — I just want to come back to your comments, Chair, earlier on that this is the first time this committee has done this and therefore in a way we are trying out how we operate. In light of that I support your proposal on the way we go forward, which was that we deal with the bill as is, and I will add the comment that I do not think it is the job of this committee to renegotiate a piece of legislation that is before the Legislative Council. That is the proponent's prerogative and obligation, and I personally do not think we should be getting into the whys and wherefores and what-ifs and what-may-bes. This is the document that you have tabled in the chamber and this is the document that we will deal with, and while we might make some amendments in the way we would in the committee of the whole, that would be as far as it goes. I think, as Mrs Kronberg was saying before, that these are pretty fundamental changes in the bill, and I do not want to be thinking about another bill that I have not thought about before. I want to deal with this bill.

The CHAIR — I do not disagree with your comments.

Ms TIERNEY — I agree with Johan in terms of the way forward, but before we start that, can I just ask a practical question? You mentioned that there is a bill in Western Australia. Has it actually been tabled, and who was sponsoring it?

Ms HARTLAND — It is the ALP.

Ms INGHAM — Yes, the opposition leader, I believe, tabled it. Sorry, I do not have a copy with me.

Ms TIERNEY — And that is based on an EPA-type model?

Ms HARTLAND — Yes.

Ms INGHAM — Yes. It is based — —

The CHAIR — You are saying that it is based on your bill, with very little difference, and obviously imitation is a very high form of flattery.

Ms INGHAM — We were delighted.

Ms HARTLAND — And the difference is that WA already has a waste authority. So that is — —

Ms TIERNEY — That is the vehicle.

Ms HARTLAND — Yes. So they already have — —

The CHAIR — Machinery.

Ms HARTLAND — A way of dealing with it.

Ms TIERNEY — Yes.

The CHAIR — Okay. In view of the comments, and I do not think there is too much disagreement — I am just trying to read between the lines — I suggest that we move forward then.

Ms HARTLAND — I do understand, Mr Scheffer, what you are saying, and I think we are all a bit new to this. What we are trying to do is be of assistance, and it may have actually made it more difficult but we are not actually doing this to try to undermine the process of the committee, because we actually think it is really important.

The CHAIR — We may judge the outcome in two years time.

Mr ELSBURY — I was just about to say that by showing us all of these amendments that you are willing to put forward, you are showing a flexibility in the proposal that is being put forward, and that is admirable, but certainly it has caused a bit of a culture shock here, considering what we have been exploring over that time.

Mrs KRONBERG — In trawling through the history of the deliberations of COAG, where would you rank your proposition in terms of erudite input, research, the product that we see today, your bill — —

Ms INGHAM — If it is of assistance — —

Mrs KRONBERG — Just in terms of your own analysis of what have been the barriers in the deliberations of COAG and how you feel you are offering — perhaps if I could just indulge by saying — in a 'generic' sense, in terms of how broad your research has been and how engaged you have been in this process for some time, in terms of the offering to COAG for its deliberation over the decades? We have not had some sort of contextualising.

Ms INGHAM — We have not been involved in the EPHC process, which I understand has only recently become a COAG process — just for terminology's sake. We have not been involved in that, but in the consultation RIS option 4A is our model. So certainly our model for legislation at a state level which could be rolled out nationally has been on the table for some time and is well accepted. So it has all of those elements that we may appear this evening to have put up for grabs. That model does not include the authority because it does not have any impact on the figures for recycling, whether it is run by a state authority or otherwise, but it includes milk, for example, which we have put on the table tonight. It is very much our model that they are discussing as one of their options, one of their five options.

The CHAIR — Thank you, Ms Ingham. If I could actually bring the discussion on the purposes clause to a conclusion and try to get a bit of momentum. My intention is to put the question that clause 1 stand part of the bill.

Clause agreed to.

Clause 2

The CHAIR — Do any members wish to move any amendments to clause 2?

Mr SCHEFFER — I just have a question. That date is obviously not right, as you said, but would you substitute that for another time?

Ms HARTLAND — Yes.

Ms INGHAM — It would depend on what was recommended, whether a trigger clause ended up in the bill. Ms Hartland tabled the bill in June, with 12 months, so we would imagine a 12-month period would be appropriate.

The CHAIR — Does any member wish to move any amendments to clause 2?

Mr ELSBURY — Given the evidence we have got in front of us, or that we are dealing with here and now, you would probably be looking at a 2013 start date — —

Ms INGHAM — Indeed.

Mr ELSBURY — So 1 July.

The CHAIR — I am also noting Mr Scheffer's comments that it really is up to the proponents to amend the legislation.

Mr ELSBURY — Okay.

Ms HARTLAND — Yes, that is fine.

Mr ELSBURY — Fair enough.

Clause agreed to.

Clause 3

The CHAIR — Does any member have any question for Ms Hartland in relation to clause 3, in terms of definitions?

Mr SCHEFFER — I do. I just have a quick question about 'beverage container'. The definition says:

> beverage container means a container containing a beverage …

I gather it means a container that contained a beverage; you are talking about the empties. That implies to me that it is still full. There is a very slight ambiguity. It should read 'a container that contained a beverage'.

Ms INGHAM — Yes, contains or has contained.

Mr SCHEFFER — Yes. That is right.

Ms INGHAM — Indeed.

The CHAIR — Good pick up, Mr Scheffer.

Ms INGHAM — You may want to propose that change.

Mr ELSBURY — I have a question, and possibly I am missing something here, but I have also picked up in the definition of 'beverage' that at the very end it says 'but does not include a beverage container of a class that is prescribed not to be a beverage container'. By its very definition, if you are saying it is a beverage, it is a beverage. Are we saying a liquid?

Ms INGHAM — Clause 6 provides for the EPA to prescribe a beverage not to be a beverage for the purposes of the definition of 'beverage'.

Mr ELSBURY — Okay.

Ms HARTLAND — Try to say it really quickly.

Mr ELSBURY — Three times?

Ms INGHAM — What that means is there might be discussions about whether, for example, vinegar is a beverage.

Ms HARTLAND — That is a classic one.

Ms INGHAM — The EPA would be able to say that.

Mr ELSBURY — Would that also include some imported beers that are using glass of an inferior quality that would cause a contamination of the glass products?

Ms INGHAM — We would love to do that, but we are not sure that it would be allowed. For example, it would be delightful to give the EPA the power to get rid of composite containers that are not easily recycled and cause that Pyrex mountain that you spoke about, but we were advised early in the piece that we cannot do that.

Mr ELSBURY — Even if it is an imported beer in an imported bottle, we would not be able to exclude it from this process?

Ms INGHAM — That I do not know. I think we were only advised on interstate trade.

Mr ELSBURY — Although I am concerned that I immediately went for an imported beer, but anyway that is my problem.

Ms HARTLAND — Yes. You are not supporting the local industry.

Mr SCHEFFER — Also on the definition of 'beverage container', paragraph (c) says 'a liquid paperboard or composite carton'. You would be aware, of course, that those containers also contain custards, creams, sauces and various other products. My question is: is there a technology that distinguishes by some coding that it is in fact a beverage?

Ms INGHAM — Yes, the bar code. If it is based on reverse vending machines, as this legislation is, the bar code readers are very fast and can easily do so. Of course it is not just liquid paperboard; glass containers and glass bottles contain things that may be prescribed not to be a beverage for the purposes — —

Mr SCHEFFER — You said the bar code contains all the necessary information to effect these laws.

Ms INGHAM — Yes.

The CHAIR — Ms Hartland, the bill defines a 'beverage container' essentially as a sealed container not exceeding 3 litres. Why is it limited to beverage containers that are less than 3 litres.

Ms HARTLAND — It is the size of the reverse vending machines. At this stage they can only take materials up to 3 litres.

The CHAIR — So they are limited by existing technology.

Ms HARTLAND — That might change in five years time, but at this stage it is up to 3 litres. There is very little that is over 3 litres as well.

Mr ELSBURY — Just on that, is the use of a reverse vending machine a deal breaker? If it is found that the vending machine technology is just not up to the work that we expect of it — —

The CHAIR — The volume.

Mr ELSBURY — The volume, is that a deal breaker for this particular legislation, or are we able to continue on with a more manual or alternate means of sorting.

Ms INGHAM — Yes, it could be done.

Mr ELSBURY — Yes, it is a deal breaker or yes, it is okay?

Ms INGHAM — We think the reverse vending machines make it a lot better and bring it into urban areas and so on, but it is not a deal breaker at all.

The CHAIR — It does not hinge on that?

Ms HARTLAND — The reverse vending machines are obviously the part that is the absolute convenience for families to be able to deal with this.

Mrs KRONBERG — My question is related to the question from Mr Elsbury. One thing has just struck me. With the reverse vending machine, the absorption offering and the cash or voucher offering, what is your thinking about it being a honey pot for children?

The CHAIR — Did you say 'honey pot' or 'money pot'?

Mrs KRONBERG — A honey pot for children and therefore a place where you could see criminal or predatory behaviour ancillary to the noble activities in what you are trying to achieve. Have you thought that through from a public safety perspective?

Ms HARTLAND — No, I cannot say that I have. At the last hearing at which I appeared I brought some photos from my trip to Germany, and the machines were all inside the supermarket. They were not on the outside; they were on the inside. There is lots of supervision and lots of oversight. I saw them in very crowded places, so it is not something I have thought about. But where I saw them it was very crowded, with lots of adults around. I do not think it would be a huge problem. I would presume too that it is going to mainly be adults taking the bottles back, because they will be taking multiples back.

Ms INGHAM — We do envisage them being in schools, which would be safe places, supermarket car parks and so on where there are large numbers of people.

Mrs KRONBERG — Do you see your having oversight of the placement of them in some kind of accreditation process or who is entitled to have them on their property?

Ms INGHAM — Yes. The bill provides for the EPA to licence these places.

The CHAIR — Can we just restrict ourselves to the consideration of definitions in this clause. I have a quick question. Is it intended the scheme would apply to therapeutics, such as cough medicines?

Ms INGHAM — No, it is not intended to apply.

The CHAIR — How is 'sealed form' to be interpreted? Could this mean the scheme applies to takeaway coffee containers if they have no spill lids put on them?

Ms INGHAM — That is not intended. We drafted the definition of 'container' with the intention to preclude those containers.

The CHAIR — Does the scheme apply to beverages sold in casks?

Ms INGHAM — It does, but that is when Ms Hartland spoke about difficulties. One of the difficulties would be beverages sold in casks. We hope by giving the EPA the regulatory powers that are in clause 6 that down the track, when it becomes easier to deal with large casks, they would be able to be included.

The CHAIR — Are there any further questions on the definitions?

Mr SCHEFFER — If it does not have a bar code that gives the right sign, then it is not in it; is that what you are saying about coffee containers?

The CHAIR — However, at the same time we did hear Ms Ingham and Ms Hartland say that the vending machine was not necessarily the deal breaker and a more manual sorting would not necessarily preclude them.

Ms INGHAM — Having said that, later on when we go through the bill you will see that a depot must give a refund. So we have drafted the legislation to make it possible for a reverse vending machine to give a refund on every occasion.

The CHAIR — Are there any further questions in relation to definitions contained in clause 3?

Clause agreed to.

Clause 4

Mr SCHEFFER — In new section 52, headed 'Objective', in the third line it says it regulates the use. I understand that it regulates sale and recovery of beverage containers. I was not sure what you meant by 'use'.

Ms INGHAM — Indeed. No, use only in terms of collecting together for recycling, but in no other sense.

Mr SCHEFFER — Okay, so it should not be there; right.

The CHAIR — Are there any further questions in relation to clause 4?

Mr ONDARCHIE — I am at new section 52C, specifically paragraph (2), which is on page 5. I said when we last met that I wanted to give this bill the best opportunity to get through. I am worried about this. In relation to the potential use of available funds by the authority, I draw your attention to proposed section 52C(2)(b) and (2)(c) vis-a-vis financial support for kerbside recycling and offsetting the collection costs of the industry. Prima facie this could mean that a council which has a revenue shock because of the downturn in kerbside recycling could seek compensation from the authority. It has a significant budget impact on any government in this state, and I respectfully suggest to you that on the basis of that this bill will struggle to get up.

Ms INGHAM — There is no trigger for the government to compel the authority to pay compensation, but the authority may use any available funds for any of the following purposes. We put these things in to guide the authority as to things that they may use and also to guide the Parliament for the sorts of things that the bill envisages the authority doing, but there is nothing to — —

Ms HARTLAND — There is nothing to say that compensation — —

Mr ONDARCHIE — I know you are not saying it compels anybody to do anything here, but in a sense it does allow a discussion between local government and the state government of the day to seek compensation through this bill.

Ms INGHAM — Clause 2 would stand; in fact the bill would stand without clause 2 because it is merely guidance. It would guide conduct and guide regulation, but — —

Ms HARTLAND — We also do not envision that for local government — —

The CHAIR — You mean part 2 of clause 4?

Ms HARTLAND — We actually believe that this would be a financial benefit.

Ms INGHAM — Sorry, new section 52C.

Mr ONDARCHIE — We will talk about it at another point.

Mr SCHEFFER — I could not hear what Ms Hartland said.

Ms HARTLAND — Sorry. We do not envision that it would be an economic problem for local government. Everything that we have researched and everything that we have presented says to us that this is actually a benefit to local government and, while I accept that some local governments have said that they need more time and more research into it, I think it has huge benefits for local government.

Mr SCHEFFER — Through you, Chair, that is not an answer to Mr Ondarchie's question, though.

Ms HARTLAND — Yes, I accept that.

The CHAIR — Do you have a follow-up question, Mr Scheffer?

Mr SCHEFFER — I did not understand what (a) meant, subclause (2)(a).

Ms HARTLAND — Market creation and support for collector beverage containers and materials?

Ms INGHAM — That goes to the issue of secondary markets.

Mr SCHEFFER — Is 'market' the verb there? To market creation and support, or is it — —

The CHAIR — It is a noun.

Ms INGHAM — To create markets. It is a noun.

Mr ONDARCHIE — It is a market development function?

The CHAIR — Market as in the private sector.

Mr SCHEFFER — Market creation.

The CHAIR — The private sector may create schemes that complement, or for the other — —

Mr ONDARCHIE — I am with Mr Scheffer. There is a problem with that first word.

Mr SCHEFFER — I just cannot quite get my head around it. I think I know what it is dancing around.

The CHAIR — Could you clarify?

Ms INGHAM — What the intent is — that market is intended as a verb to create — —

Ms HARTLAND — To create markets.

The CHAIR — To create markets?

Ms INGHAM — Or to create opportunities for — —

Ms PENNICUIK — Is it more to facilitate?

Mr ONDARCHIE — Promotional?

Ms INGHAM — Facilitate, promote, yes.

Mr ONDARCHIE — You are talking about some sort of promotional effort here, are you?

The CHAIR — Right. The scheme of collection, is it?

Ms INGHAM — No. Once the materials have been collected — because the thing that the bill does, which has been pointed out to us, is it only collects together the containers for recycling. The challenge then is to have them recycled and for those jobs to be in Victoria, so we want some of the money that is brought in through the scheme to be used for that, or the opportunity to use the fund for that.

Ms HARTLAND — But we can see the difficulty that you are raising.

Mr SCHEFFER — Chair, if I could just ask procedurally, given that this proposed section 52 is quite long and there are some overlapping bits, would you be stepping us through each separately? The reason I am asking that is because if we wanted to talk about the EPA costings, we could talk about it at proposed section 52A or we could talk about it at 52E.

The CHAIR — So you want to break it down into steps?

Mr SCHEFFER — Yes.

The CHAIR — Could I just gain an indication as to how many questions there may be in relation to this particular clause altogether?

Mr SCHEFFER — Are you taking proposed section 52 as a clause?

The CHAIR — As in clause 4.

Mr ONDARCHIE — I have a few.

Mr SCHEFFER — But then clause 4 has proposed section 52 and it goes for pages.

The CHAIR — That is right. Let me gauge how many questions there may be from committee members. Mrs Kronberg, do you have questions that you will be asking, several questions? Do we need to break it down, Mr Ondarchie?

Mr ONDARCHIE — I reckon I have a dozen.

Mr ELSBURY — It is quite substantial, Chair.

The CHAIR — Let us take it step by step. Division 6, proposed section 52, are there any further questions in relation to 52? That is at the bottom of page 3, clause 4.

Mr ONDARCHIE — We talked about use, did we not?

Ms HARTLAND — Yes.

The CHAIR — So 52A, 52B, 52C.

Mr ONDARCHIE — I would take you to proposed section 52C(2)(d), which is second from the bottom on page 5, about product development. I am not quite sure what the intent of this is. Typically product development in any industry is driven by the market, not by some regulatory authority. Are you using this in terms of potential R and D grants or to drive the research and development? Are you expecting a state-owned authority or a state department to drive product development that is typically driven by the market?

Ms HARTLAND — What we are trying to achieve there is to be able to look at this kind of R and D because there are some products now that are very difficult to recycle, so we want to be able to come up with suggested products that will be simple to recycle, and we would have thought that was quite a logical way to do that, and because of the money that would be earned by the EPA that it would be a way of developing those kinds of grants.

Mr ONDARCHIE — Typically in a free enterprise, though, the manufacturers sink investment in research and development to make their product more stable, more competitive et cetera. I am just curious about why you would expect a government authority to do that.

Ms INGHAM — It is not unknown for the government to provide grants and incentives to industry to set up in Victoria.

Mr ONDARCHIE — That is what you really mean here — grants rather than leading the development activity.

Ms INGHAM — Indeed.

The CHAIR — Are there any further questions in relation to 52C?

Mrs KRONBERG — Further to that, I just want clarification because I react to the term 'product development' as well, with a background in business. I just want a clear understanding that we do not see anything of a prescriptive nature flowing back to industry. If you like, the genesis would originate in terms of the industry's response to the marketplace. This process would not be prescriptive. I start to get concerned if it gets to be prescriptive.

Ms INGHAM — If it would be of assistance, subsection 2 of proposed section 52C refers back to proposed subsections 1(g) and 1(h), and (h) is 'provide grants and other financial incentives', so subsection (2) is simply a fleshing out of the sorts of things that those grants or financial incentives might be spent on. I hope that assists in backing up that we are not intending to drive it simply to assist industry to create jobs in Victoria.

The CHAIR — Ms Pennicuik?

Ms PENNICUIK — I think I was going to say something similar.

The CHAIR — Any further questions in relation to — —

Ms PENNICUIK — I just wanted to remind Ms Kronberg that subsection (2) has the word 'may' in it, which means nothing is prescriptive in it.

The CHAIR — Are there any further questions in relation to proposed section 52C? Proposed section 52D?

Mr SCHEFFER — I have a question on that. That can all be done technically — I do not know enough about it myself. There is an international standard, like the bar code you were referring to before, that enables this to happen. That is what you are saying — because that is easy?

Ms INGHAM — Yes.

Ms HARTLAND — The bar code, yes.

Ms INGHAM — Yes, and if a product does not have a bar code because it is being made in too small a quantity, they can apply for an exemption.

Mr SCHEFFER — Yes.

Mr ELSBURY — I am just interested in whether any costings have been done about the impost put on an importer actually seeking the exemption. As you are well aware, there are numerous subcontinent shops dotted right across the western suburbs. You even have the various Vietnamese groceries and Chinese groceries around who have been importing all sorts of interesting and tasty beverages, so for a small importer who just brings in a couple of dozen crates every so often, what kind of cost are we talking about for them to apply for the exemption?

Ms INGHAM — That is stepping ahead a little in the legislation, but really, filling in a form and applying to the EPA, there is no indication of what the application fee might be. That really would be up to the EPA.

The CHAIR — Are there any further questions in relation to proposed section 52D? Proposed section 52E?

Mr SCHEFFER — Just a comment. You mentioned in your opening remarks that the work that had been done by the EPA was not sound. I have not had time to go through the additional material you presented but personally I was persuaded by what the EPA indicated, and I think that is a major problem with the legislation.

Ms HARTLAND — Sorry, could you just — —

Mr SCHEFFER — I am saying that I think that this particular clause about the 10 cents and then the flow-on implications of the cost structure to me is a serious issue that requires a lot of work and I do not think it has been done.

Ms INGHAM — Would you like us to flesh out the errors made by the EPA in their analysis?

Mr SCHEFFER — No, I do not think so because I would not be able to judge whether what you are saying is right or not and I am saying that I think — —

The CHAIR — That it is a difficulty.

Mr SCHEFFER — And the house has a dilemma about how we have the competence to assess it.

The CHAIR — And also weighing the status of the comment and the advice is something that I think most members of this committee have had to contend with, and it is not easy. Is it the advice?

Mr SCHEFFER — No, I am talking just about the costings — —

The CHAIR — No, I am just saying that generally speaking we are not in a position to form those types of sophisticated judgements. Are there any further questions in relation to proposed section 52E? Proposed section 52F?

Ms TIERNEY — I want to ask a question about the 14 days. How was that arrived at, and is that practicable?

Ms INGHAM — The intention is that the people who are paying a deposit will have recouped it from the retailers in time. The retailers tend to pay their suppliers on a 7 to 10-day basis, so by having 14 days — —

Ms HARTLAND — We thought that would be enough turnaround but it can be extended out. One of the things we want to — —

Ms INGHAM — After the end of the month, that is. Not 14 days — 14 days after the end of the month.

Ms HARTLAND — And because one of the things that quite concerned as was the burden on small business et cetera, and that was why we looked at it that hard.

The CHAIR — Are there any further questions on proposed section 52F?

Mr ONDARCHIE — In the FMCG market — the fast-moving consumer goods market — —

The CHAIR — The fast-moving?

Mr ONDARCHIE — Consumer goods market. The retailers would tell you that a 45-day payment scheme to suppliers is ambitious. There are many major retailers paying suppliers well outside a 45-day window now. There are significant cash flow implications for businesses here if you embark on a scheme that gives them a 14-day window outside of the end of the month.

The CHAIR — Are there any further comments or questions in relation to proposed section 52F? Proposed section 52G? Proposed section 52H?

Ms TIERNEY — Proposed section 52H talks about prescribed requirements. Can you give us some indication about what is envisaged beyond what is contained in 52G as being on the container?

Ms INGHAM — Proposed section 52H refers through to clause 6 and the regulations, which inserts proposed subsection (je):

> prescribing labelling requirements in relation to beverage containers for the purpose of section 52H;

It just means that if something comes up down the track, for example — —

Ms HARTLAND — Suddenly every state in Australia starts it and we have to change the label to indicate that. At this stage the labels will only indicate the Northern Territory and South Australia.

Ms TIERNEY — So it is an enabling clause; it is not a prescriptive addition to what is described in 52G?

Ms INGHAM — Yes.

The CHAIR — Mr Ondarchie, did you have another question?

Mr ONDARCHIE — Proposed section 52G is explicit by nature. It bears no relationship to proposed section 52N in the bill.

The CHAIR — You are jumping ahead of yourself.

Mr ONDARCHIE — If you have an exemption — —

Ms INGHAM — Yes.

Mr ONDARCHIE — It is not catered for in 52G, because you are saying that everything that says that it is a beverage container must have this label on it. If a business has a short run and you have an exemption under 52N because you are a cottage industry or something like that, it does not allow for that. You are saying that every single container must have this label on it.

Ms INGHAM — The bill relates to a container deposit scheme. Once you are exempted from the scheme then the other requirements do not take — —

The CHAIR — They are exempt from the requirements — —

Mr ONDARCHIE — So there are the manufacturing costs associated with labelling; that is my point.

Ms INGHAM — Excuse me, sorry; I missed that.

Mr ONDARCHIE — I am trying to think of a good example. Come back to me; I will think of a good example.

The CHAIR — I think what Ms Ingham has said is that once they are exempt, they are exempt from all provisions.

Mr SCHEFFER — In relation to proposed section 52I(3)(b), the payment to the operator of the authorised collection depot of the refund value paid by the authorised collection depot looks circular with the exception of the word 'operator'. So the operator of the authorised collection depot — I did not understand that; that is what I am saying.

Ms INGHAM — The authorised collection depot, which in this case would most likely be a reverse vending machine, pays 10 cents to the member of the public who returns the container.

Mr SCHEFFER — So that is the operator?

Ms INGHAM — We are on (3)(b), so that is the agreement between the authorised depot and the authority.

Mr SCHEFFER — Yes.

Ms INGHAM — The authority has an agreement with them that includes, basically, the refund to them of the money they have paid out to the public — the 10 cents.

Mr SCHEFFER — Yes, my point is that the four lines in the bill under (b) — —

The CHAIR — Lack clarity.

Mr SCHEFFER — I do not think they are clear. I had to struggle with it; I do not get it. That is all.

Ms INGHAM — I take your point.

Ms PENNICUIK — I am just saying that I think it is clear.

The CHAIR — It is clear?

Ms PENNICUIK — Yes. It is clear to me what (3)(b) means.

The CHAIR — Would you like to just — —

Ms PENNICUIK — Proposed section 52I(2) is a general subsection and proposed subsection (3) just says that without limiting that generality, these are the types of things. It is like what we were going through with the previous section. These are the types of things that that will include, which is that the authority pays back the money to the operator that the operator has already paid out to the people for their — —

The CHAIR — For running the scheme?

Ms PENNICUIK — No, already paid out to the people who put in the beverage containers.

Mr SCHEFFER — In my view, it does not say it. I hear your point, but it does not say that.

Ms PENNICUIK — I think it says that.

Mr ELSBURY — Just as a suggestion, perhaps we would need to look at making the operator a definition in the bill so it is clearer. I believe Mr Scheffer is having some issue with the word 'operator' — that is the case?

Mr SCHEFFER — I am saying that is ambivalent, yes.

Mr ELSBURY — If it is defined more in the definitions, I think it would clear up the issue.

Mr SCHEFFER — In proposed section 52I(c), which is just below that, I just want to know about those penalties. Do the revenues gathered from the penalties go to the EPA or do they go into general revenue?

Ms INGHAM — They would be penalties imposed by a court, not under the Infringements Act where we come up in with some problems.

Mrs KRONBERG — In terms of the stability and the integrity of the operator, is it something that could be on-sold? How do we keep that relationship between the authorising body and the actual operator? It is a cash business and it probably has a lot of other attractors for people with nefarious pursuits. Can it be sub-let — —

Mr ONDARCHIE — Second tier.

Mrs KRONBERG — Second tier, yes. That was the term I was looking for.

Ms INGHAM — I do not think so. The contract would be between the EPA and the operator of the depot.

Ms HARTLAND — So there would be oversight from the EPA.

Mrs KRONBERG — Is that economically feasible in terms of the cost burden to the EPA or the agency that takes on the authorising role? There are things here that are a little bit hard to define.

Ms INGHAM — In South Australia the depots you visited are all authorised under their scheme.

Mr ONDARCHIE — If I could just pick up Mr Scheffer's very good point about the definition of 'operator', and following on from what Mrs Kronberg just said, it is around the authorised collection depot. Is a Lions Club trailer in a shopping centre car park an authorised collection depot, because they are a second-tier collector?

Ms INGHAM — If they are going to be giving out a refund — —

Mr ONDARCHIE — Yes.

Ms INGHAM — Yes. If they are not going to be giving out a refund and you are simply donating your container to them because you love the Lions Club, then no.

Ms HARTLAND — Which is what happens in South Australia with the scouts.

Mr ONDARCHIE — If the Lions Club is bulking up to sell it to a higher order depot, then the Lions Club needs to have an arrangement with the authority. Is that what you are saying?

Ms INGHAM — Indeed. As Ms Hartland just said, that is what happens in South Australia where the scouts operate with the collectors.

The CHAIR — But you are not suggesting that they operate as super-collectors; you are suggesting that they are merely collecting — —

Mr ONDARCHIE — Aggregating.

The CHAIR — Aggregating with a view to actually taking it to a collection depot.

Ms INGHAM — They will then not need to be authorised. If they are not giving refunds — —

The CHAIR — No.

Mr ONDARCHIE — But they might be. They might be giving less than the 10 cents, because in the past cash-a-can used to operate like this: the Lions Club would turn up with a trailer in a shopping centre, pay the recipients X cents per kilogram or whatever it was, aggregate it all up, sell it to the first-tier depot and use those funds for community facilities.

The CHAIR — The question is: would the bill need to legislate against that sort of entrepreneurship?

Mr ONDARCHIE — That is what I am worried about.

Ms INGHAM — They would not need to. They can take a container and give someone whatever amount of money they want. But the EPA is not going to reimburse them the 10 cents.

The CHAIR — I think what Mr Ondarchie is saying is that some entrepreneurial type could easily go through, say, Toorak or Chapel Street where there might be lots and lots of containers after a hot summer, and

say, 'I will take all of these away for 5 cents a container and go and earn a tidy profit by going to a collection depot'. Is that what you are talking about, Mr Ondarchie?

Ms INGHAM — Yes. Whatever that second-tier operator — —

The CHAIR — Are you able to comment on that scenario?

Mr ONDARCHIE — It is going to knock them out.

Ms INGHAM — Ms Pennicuik looks like she has something to say.

The CHAIR — Ms Pennicuik, did you want to comment on that?

Ms PENNICUIK — I think Ms Ingham has said it — that if they are not giving a refund, they cannot claim — —

Ms HARTLAND — They are not operators — —

Ms PENNICUIK — They might be doing it out of the goodness of their heart, but they cannot get that money reimbursed by the authority, so they are not very entrepreneurial if they are going to — —

The CHAIR — I do not think he is saying that. I think what he is saying is that as an intermediary they would collect that and be able to take it to a collection depot where they would cash in the 10 cents per container, for which they may have issued a 5-cent reimbursement per container, to someone who just wants the bottles out of their backyard or restaurant or hotel.

Ms INGHAM — Collectors will be collecting containers all over; they will not need to be authorised.

Mrs KRONBERG — Just pertaining to that very thing, if we have community organisations, service clubs and entities like that with that aggregation, if they have the means to encourage that and deliver that, what spot do they actually deliver that to, and how is that actually handled if they come with a very high cage full of aluminium cans, as we see now?

Ms INGHAM — They would go directly to the hubs.

Ms HARTLAND — Because they are bulk amounts, they would need to do that, yes.

Mrs KRONBERG — So those hubs have some fast way of counting?

Ms INGHAM — Indeed.

Mrs KRONBERG — Because we are looking at an individual thing, we are not looking at waste then; we are changing weight to individual units.

Ms HARTLAND — Items.

Ms INGHAM — The South Australian transcript indicates that at one of the places you went they had very fast bar code readers that could count considerably faster than a reverse vending machine; containers just fall through a hopper and get read as they go. It would make a lot of sense for that sort of collector to go directly to a hub and return in bulk. There are also provisions later in the bill that in the future permission may be given for return by weight and so on.

Mr SCHEFFER — My question relates to 4(b) and the seven locations that are listed there. They are not actually collection depots; they are sites, all of these, when you look at them, but my question is: a facility that occupies those sites, what delimits its size? I am thinking if it was not a transfer station but quite large, it could have an amenity impact on neighbours — you know, schools — —

The CHAIR — Noise, smell.

Mr SCHEFFER — Does council play a role in a permit system here? How does that work?

Ms HARTLAND — I would have thought councils would be involved with a permit, because, say, if it is a large reverse vending machine in a supermarket car park, you would presume that there would have to be a permit process.

Mr SCHEFFER — Right. Therefore in the bill there needs to be something that points to how that community impact would be managed by local government.

The CHAIR — We saw that collection depot in Adelaide, and the strength of that depot rested with the fact that it was open seven days a week and that it was within a prescribed distance; otherwise people would have — —

Mr SCHEFFER — That is right.

The CHAIR — Therefore finding that in the inner urban parts of Melbourne would be a challenge at the best of times. Are you able to comment on that?

Ms HARTLAND — That is why we believe that reverse vending machine technology is really important, because then they become, I suppose, like mini-depots, if you wanted to call them that. We totally agree that the convenience element of this is what is going to make it work. If someone goes to the supermarket with their bag of bottles, they have to be able to do it there.

The CHAIR — The problem is that evidence that was tendered suggested that the vending machines based on existing technology were not fast enough, did not have a sufficient capacity for the volume of containers that we would need to be processing. Mr Elsbury asked whether the vending machines were a deal breaker; you indicated that they were not entirely — —

Ms INGHAM — No, but they are certainly big enough for the volume of the ordinary person returning their containers.

The CHAIR — But many of them are not ordinary — —

Mr ELSBURY — Can I just pick up on that, because we did have an operator come out and say, 'If the vending machines were so good, I would have 20 of them in my yard tomorrow', and he does not, simply because he does not believe the technology is up to the task that a human can do for him in a depot.

Ms HARTLAND — But in a depot you are talking about bulk amounts, and when we talk about reverse vending machines we are talking about them being for household amounts. That is where we think that technology really fits well — —

Mr ELSBURY — If he thought he could put one in the mall, he would have.

Ms HARTLAND — But there are other recyclers, and you had evidence from Revive Recycling, which is very keen on this technology. I think there are differences of opinion on it, and what I saw in practice is — —

Ms INGHAM — The existing recyclers may not want to fit reverse vending machines, but the supermarkets certainly do, because it is the greatest loyalty scheme ever invented.

The CHAIR — We will not deviate, but those costs on the existing businesses have not really been factored into the cost-benefit analysis. Mr Elsbury, do you have a follow-up question?

Mr ELSBURY — Yes, I did, on 52I(4)(b)(v) — using schools as a collection point. I can see an advantage to that in that parents or caregivers can come along, pick up the kids and drop off their — —

Mr ONDARCHIE — Stubby.

Mr ELSBURY — Bottles — not necessarily stubbies — but by the same token, as a parent who is just about to send his kids off to school, you are very wary of the sorts of people who hang around those places, so my concern is that by including an educational institution as a collection point, you are welcoming people who are not necessarily controlled by the school to hang around.

Ms INGHAM — The EPA has a contract with each depot. Ms Hartland said in her second-reading speech — in both of them, I hope — that it is envisaged in terms of schools that the school would be able to use the facility as part of its recycling drive, but instead of playing advertising it might play something like a road safety message and so on. Part of the contract could include whether refunds are paid out or donated entirely to the school library, school sports team or the arts club. All of those things could be in the contract. All reverse vending machines should have the facility to donate.

Mr ELSBURY — But in the explanation we just got about people setting up a business where they pay out 5 cents a bottle for the refuse that is being reclaimed you said that those operators would not have to be registered. Why then would a school register itself if it just collects the bottles and the bottles are included as being a donation to the school?

Ms INGHAM — It would still be a transfer of 10 cents or a voucher for the school cafeteria or something like that. But if the depot then wants to deal with the hub, they will need to be registered under the scheme to have all of those benefits — if they want to get a transaction fee and so on.

Mr ELSBURY — I have to say if I was on a parents and friends committee, what I would be doing is having a trailer that everyone as they walk past into the school can toss whatever they want into, within reason of course. Then at the end of the week someone would be allocated to go and take that to a transfer station. The school itself would not deal with the vouchers. It would not deal with having the transaction occur on its premises. Schools have been put in this particular section of where depots would be authorised, and the suggestion to me is that a depot is open to anyone to refund their deposit.

Ms HARTLAND — I understand the difficulty you are having. We have always envisioned with schools that it would be next to the canteen or in a place that is accessible to the school. I can see what your problem is: you envision people coming onto the grounds on the weekend or just coming in or whatever.

Mr ELSBURY — Some bloke just wanders in and says, 'I'm here to drop off my cans'.

Ms HARTLAND — Yes, and we see it as an exclusive use for the school.

Ms INGHAM — There is nothing stopping the school preventing somebody from coming onto the premises. You practically need a passport these days to get onto a school premises. Nothing is going to change that.

Mr ELSBURY — True.

The CHAIR — I will intervene and say we have now been probably more protracted in some respects than the Leveson inquiry and certainly far less controversial. We are now 1½ hours into it — and I thank Ms Ingham for her generosity with her time — and we are only halfway through. If we could speed it up a little, I think that would be very useful.

Ms HARTLAND — The other thing is that if people want to email us tomorrow, and we have in our heads a number of concerns about location et cetera, we would be happy to take that on board.

The CHAIR — Further questions in relation to new section 52I?

Mr ONDARCHIE — Yes, I want to pick up the point I think Mr Elsbury was trying to make then. You are not expecting schools to capitalise the cost of reverse vending machines, are you?

Ms INGHAM — No, you heard from Revive Recycling that that would not be the case. There would be an arrangement, the advantage for the school being cleanliness and order. If the school decided to have a bin out the front, as Mr Elsbury suggested, they would also be able to do that. Certainly having a reverse vending machine in the school would not provide a right of way for anyone who does not belong at the school to go onto the schoolgrounds.

The CHAIR — New section 52J — any questions? New section 52K, 'Offence to claim refund on beverage container purchased outside Victoria' — any questions?

Mr ELSBURY — Yes. What would be the burden of proof? I mean if I was to go to Albury, not that I am frequenting Albury all too often, and I went and grabbed a Coke, which I do quite frequently, and then came back across the border, what is the burden of proof that I actually purchased that drink in New South Wales?

Ms INGHAM — If the person you have asked to refund you has any suspicion, then they can ask you to sign a form. They can ask you to sign a declaration under new section 52K(2).

Mr ELSBURY — I am not saying that I am going to see a rampant black market of truckloads of Coke bought in Albury.

Ms INGHAM — The border between South Australia and Victoria is porous. I am sure there is a certain amount of individual containers going across, and it has not brought the South Australian system to its knees.

Ms HARTLAND — And it is why we need a national scheme.

Ms INGHAM — Indeed. There is no way of guaranteeing it in the system as it is set up, but the things that you heard from Revive Recycling about not accepting crushed cans and so on prevent wide-scale fraud.

The CHAIR — The crushed cans are obviously an issue for the vending machines but not an issue for manual separation.

Ms INGHAM — Yes, but anyone bringing a large amount — 3000 units— must sign a declaration, and there are huge penalties. In terms of an unstaffed thing, like a reverse vending machine, it will not take crushed containers. There is no economic incentive for any large fraud, but it may occasionally happen, if you take your single container across, and if you are so dishonest as to do so, that you are given a 10-cent refund.

Ms HARTLAND — I am sure it is going to happen on a small scale, but there are penalties for the large-scale fraud.

Mr ELSBURY — Okay, so this is more for large-scale?

Ms HARTLAND — Yes.

Mr ONDARCHIE — On new section 52K(3), I am worried about my friends from the Lions Club here. They do a good job, and you are now asking them to commit to a signed authority that says, 'We do not believe that any of these cans were purchased outside of Victoria'. Is that too onerous for a community service group?

Ms INGHAM — If the Lions Club is operating in Boroondara, the likelihood of any of those containers having come from New South Wales or Tasmania would be quite low.

Ms HARTLAND — I think this is around border areas.

Mr ONDARCHIE — I understand why.

Ms INGHAM — Which might mean that the Lions Club of Bordertown may not get involved.

Ms HARTLAND — Everything around this kind of legislation and these conditions will be simple one-page declarations. It is also very much for the operator to protect themselves so they can say, 'That person brought 3000 cans, they signed this declaration and we accepted the declaration'. We do not want to make this difficult. It is very important not to make it difficult.

Mr ONDARCHIE — It is a little cumbersome in the sense that, given we are prescribing a refund per unit, if my memory serves me correctly, collection agencies used to buy by weight, so we expect in a large club to count that trailer one by one, do we not?

The CHAIR — Are you discriminating against Rotary?

Mr ONDARCHIE — No! I used to be a president of Apex; I like Apex as well.

Ms HARTLAND — As I understand it, the machines that you saw in South Australia can do the bulk count, which would be a much more accurate count than someone from the Lions having to spend all that time. You would presumably take it and it would be counted through those machines.

Mr ONDARCHIE — And how did you arrive at the penalty units — the value?

Ms INGHAM — Ah! The penalty units I have an extensive file note on, but basically South Australia and the Northern Territory are trying to make it commensurate, particularly with the larger penalties in other sections of the EPA act for similar offences, so high penalties for very serious offences.

The CHAIR — Proposed sections 52L; 52M; 52N; 52O? That brings us to the conclusion of this. Are there any members who wish to move any amendments to clause 4? The question is:

That clause 4 stand part of the bill.

Clause agreed to.

The CHAIR — Clause 5 amends section 70 of the principal act. Are there any questions of Ms Hartland? There being no questions, does any member wish to move any amendments to clause 5? The question is:

That clause 5 stand part of the bill.

Clause agreed to.

The CHAIR — Clause 6 amends section 71 of the principal act in relation to regulations. Does any member have any questions for Ms Hartland in relation to clause 6? Does any member wish to move any amendments to clause 6? The question is:

That clause 6 stand part of the bill.

Clause agreed to.

The CHAIR — Clause 7, 'Repeal of amending Act'. Does any member have any questions for Ms Hartland in relation to clause 7? Does any member wish to move any amendments to clause 7? The question is:

That clause 7 stand part of the bill.

Clause agreed to.

The CHAIR — That was a home run. This brings us the conclusion of tonight's public hearings. On behalf of the committee, I extend our thanks to Ms Hartland and Ms Ingham for their time and all their information and for their willingness to cooperate with the committee — and not just tonight but obviously since the bill was referred to this committee. The committee will commence a private meeting in this room. Do we need a 5-minute break?

Ms HARTLAND — Can I just say before we close that I think this has been a great process. It has been difficult. It has caused our office a lot of work, and I know that for this committee it has caused a lot of work, but I really think this is a great way of scrutinising legislation to make it better. I really appreciate the time and thought the committee has put into it, especially the grammatical issue. Thank you.

The CHAIR — The interesting thing, Ms Hartland, is that New Zealand does that before legislation is introduced.

Ms HARTLAND — Yes, and that is was what I was thinking when we were sitting here doing this process. It would probably be worth having some kind of assessment. I am not quite sure how we would do that, but how it worked and what can we make better. I was actually thinking that when we were sitting here it would have been great for us to have been able to bring this legislation to a committee like this before we took it to the house. It would have been the grammatical things. It would have been, 'I do not quite understand that; can you word it better?', making us go away and do that. I think it could be of huge benefit, and I have really appreciated the assistance.

The CHAIR — Thank you very much. I think the New Zealand model is probably something of interest to you. We will pause for a couple of minutes while Hansard dismounts and our witnesses get up and leave. Thank you very much.

Committee adjourned.