March 11, 2019

Senator Michael Dembrow, Chair
Committee on Environment and Natural Resources
900 Court St. NE, S-407,
Salem, Oregon 97301

**VIA ELECTRONIC MAIL ONLY**

RE: Senate Bill 892_SUPPORT

On behalf of the Grocery Manufacturers Association[1] ("GMA") and its member companies, we strongly support Senate Bill 892, which would amend the revised Oregon Bottle Bill to clarify that oral rehydration products, such as oral electrolyte solutions are NOT included in the deposit program.

House Bill 3145 amended the Bottle Bill in 2011 to add all beverages except wine, liquor, dairy, or plant-based milk, meal replacement beverages, and infant formula to the Bottle Bill program beginning January 1, 2018. While the list is relatively easy to follow and the supplemental fact sheets[2] are helpful, ambiguity remains regarding oral rehydration solutions.

Not explicitly included in the list of exempted products are oral rehydration products, which are used in cases of severe dehydration and are products regulated as "medical foods" by the U.S. Food and Drug Administration (FDA). Senate Bill 892 would clarify the Oregon Bottle Deposit Law and explicitly exclude "Oral rehydration products that are medical food as defined in the Federal Food and Cosmetic Act, 21 U.S.C. 360ee(b)(3)."

Medical foods serve a unique role because they are specially formulated products intended for patients who are seriously ill or require the product as a major treatment modality. Federally, medical foods are subject to their own statutory and regulatory requirements, which are not applicable to conventional foods and beverages. Oral rehydration products are specially formulated to prevent dehydration by restoring key electrolytes and fluids, which may be lost due to illness in infants, children or adults. Additionally, these products are used for the maintenance of fluids and electrolytes following corrective parenteral therapy, surgery, or illness.

Unlike conventional foods and beverages, these products are intended exclusively for use under medical supervision (21 CFR 101.9(j)(8)). The decision whether to use these products should be driven by the nutritional adequacy of a

[1] The Grocery Manufacturers Association represents the world's leading consumer packaged goods companies. The CPG industry plays a unique role as the single largest U.S. manufacturing employment sector, delivering products vital to the wellbeing of people's lives every day. GMA's mission is to empower the industry to grow and thrive. For more information, visit gmaonline.org.

[2] https://www.oregon.gov/olcc/pages/bottle_bill.aspx#About_the_Bottle_Bill

formulation in the medical management of the specific disease or medical condition, as determined by the assessment of a healthcare professional. Furthermore, federal and state agencies and health care practitioners recognize that these products are different from conventional foods and beverages (e.g., sports drinks). FDA plainly explains that they "consider the statutory definition to narrowly constrain the types of products that fit within this category".[3] Therefore, the narrow clarification provided by SB 892 would be limited. Products such as sports drinks, soft drinks, juices, bottled waters and the like would fall outside of the scope of medical foods, as defined by FDA.

Lastly, GMA believes SB 892 is also necessary to ensure national uniformity for those states that implement bottle deposit programs. Consumers, retailers, and manufacturers all benefit with consistency and uniformity of laws and regulations. The bottle deposit program is no different. Product distribution takes place regionally and without SB 892 food manufacturers and distributers would have to establish "Oregon Only" bottle deposit labels and segregate their manufacturing and distributing to ensure that oral rehydration products bound for Oregon only are sold in Oregon. Products could not be brought in from or sent to California (or any other bottle deposit state) or they would risk being non-compliant with bottle deposit laws.

GMA believes the clarifications provided for in SB 892 are necessary to avoid consumer, retailer, and manufacturer confusion and strongly encourage your support. If you have any questions, please feel free to contact John Hewitt: (916) 508-6278 or jhewitt@gmaonline.org.

Respectfully submitted,

John Hewitt
Senior Director
Grocery Manufacturers Association

[3] FDA Guidance about Medical Foods, Second Edition, May 2016. Available at https://www.fda.gov/downloads/food/guidanceregulation/guidancedocumentsregulatoryinformation/ucm500094.pdf