

## **Nestlé Waters files lawsuit challenging N.Y.'s bottle bill**

May 22 -- Nestlé Waters North America Inc. is challenging New York's expanded bottle bill, calling it unfair and unconstitutional.

Nestlé is joined by Polar Corp. and the International Bottled Water Association filed a lawsuit against the state in the U.S. District Court for the Southern District of New York.

New York's amended bottle bill requires beverage manufacturers and distributors to place a unique bar code exclusively for New York on bottles covered by the law and sold in the state. The labeling requirement violates the Commerce Clause of the U.S. Constitution, according to the lawsuit.

The Bigger, Better Bottle Bill also violates the Equal Protection Clause of the 14th Amendment because its definition of water does not include beverages identified as water with sugar added, according to the plaintiffs.

They also are challenging part of the amended bottle bill that allows retailers that do not sell a specific brand of bottled water to not accept those empty bottles for redemption.

Finally, the lawsuit claims the time frame in which bottled water companies must comply violates the Due Process Clause and the Commerce Clause, calling it "arbitrary and irrational." The state expanded its container deposit law to extend the 5-cent deposit to bottled water as part of its \$132 billion 2009-10 state budget. Gov. David Paterson signed the bill April 7 and it takes effect June 1.

Nestlé supports environmentally sound bottle deposit laws that encourage the recycling of all containers, said Kim Jeffery, CEO of Nestlé Waters North America. New York's expanded bottle bill gives an unfair advantage to noncarbonated, sugar-filled drinks, he said.

Contact Waste & Recycling News reporter Joe Truini at 330-865-6166 or [jtruini@crain.com](mailto:jtruini@crain.com)