



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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INTERNATIONAL BOTTLED WATER ASSOCIATION,  
NESTLE WATERS NORTH AMERICA, INC., and  
POLAR CORP. d/b/a POLAR BEVERAGES,

Plaintiffs,

09 Civ. 4672 (DAB)  
ORDER

AMERICAN BEVERAGE ASSOCIATION,

Intervenor-Plaintiff,

-against-

DAVID A. PATERSON, in his official capacity  
as Governor of the State of New York, et al.,

Defendants.

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DEBORAH A. BATTIS, United States District Judge.

On August 13, 2009, this Court set a hearing for Oct 22, 2009, at which Plaintiffs' were to Show Cause why Defendants should continue to be enjoined from implementing and enforcing any and all amendments, other than the New York-exclusive UPC provisions, pertaining exclusively to bottled water products under Part 55 of Chapter 59 of the Laws of 2009 to Title 10 of Article 27 of the N.Y. Environmental Conservation Law. Due to circumstances beyond its control, the Court had to adjourn the hearing scheduled for October 22, 2009.

The Court is in receipt of, inter alia: American Beverage Association's Brief, filed October 22, 2009; International Bottled Water Association's Brief, dated October 22, 2009;

American Beverage Association's Letter, dated October 22, 2009; International Bottled Water Association's Letter, dated October 23, 2009; Nestle Waters North America Inc.'s Letter, dated October 23, 2009; and the Defendants' Letter, dated October 22, 2009.

Having considered these submissions, as well as all prior proceedings, Orders and submissions in this case, the Court HEREBY permanently enjoins the Defendants from enforcement of the New York-exclusive Universal Product Code provision of the New York State Returnable Container Act. N.Y. Env'tl. Conserv. Law § 27-1012.12 (as amended).

Further, to the extent the Court has enjoined enforcement of those other amendments to the New York State Returnable Container Act pertaining to bottled water products, that injunction will HEREBY expire at 11:59 p.m. October 30, 2009. The Court finds that after the injunction is lifted, retroactive application of that portion of the New York State Returnable Container Act, as amended, is not appropriate.

SO ORDERED.

Dated: New York, New York

October 23, 2009



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Deborah A. Batts  
United States District Judge