



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 786, RELATING TO DEPOSIT BEVERAGE CONTAINER RECYCLING.

BEFORE THE:

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

DATE: Tuesday, January 28, 2025 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Lyle T. Leonard, Deputy Attorney General

Chair Lowen and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill.

This bill: (1) limits the circumstances in which beverage dealers are exempt from operating redemption centers; (2) amends the types of beverage containers the dealers must accept for redemption; (3) allows the establishment of regional centers for the redemption of refillable beverage containers in certain circumstances; and (4) authorizes the Department of Health (DOH) to use the Deposit Beverage Container Deposit Special Fund (DBCD fund) to provide grants to deploy reverse vending machines.

Article VII, section 4, of the State Constitution requires, in part: "No grant of public money or property shall be made except pursuant to standards provided by law." However, section 1 of the bill (page 2, lines 4-5), which authorizes the DOH to "[p]rovide grants to deploy reverse vending machines," does not establish standards for awarding these grants.

If the intent of the bill is to allow the DOH to contract with vendors for reverse vending machines, we suggest either:

- (1) Amending the bill to replace the wording "Provide grants to deploy" on page 2, line 4, with "Contract for deployment of"; or,

- (2) Amending section 342G-104(b)(3), HRS (page 1, lines 13-14), which already allows the DOH to use the DBCD fund to “[p]romote recyclable market development activities,” by adding “including, but not limited to, deploying reverse vending machines in the State.” This approach would eliminate the need to amend lines 3-6 on page 2 of the bill.

If the intent is for the DOH to grant funds to private entities to install and operate reverse vending machines, we recommend adding appropriate grant standards. Examples of existing statutes that provide standards for agencies to issue grants include part II of chapter 9 and sections 10-17, 210D-11, and 383-128, Hawaii Revised Statutes.

We have attached draft grant standards to this testimony as a sample to work from. These standards could be inserted as a new subsection to section 342G-104 or a new section to chapter 342G. Additionally, we are happy to work with you on developing more specific standards.

We respectfully ask the Committee to make the recommended amendments if the bill is to pass. Thank you for the opportunity to provide comments.

POSSIBLE STANDARDS FOR THE GRANTS IN THIS BILL

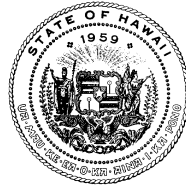
(c) Applications for grants shall be made to the department of health and contain the information as shall be required by rules adopted thereunder. At a minimum, the applicant shall:

- (1) Be licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the recycling activities or provide the services for which a grant is awarded, including all requirements of a redemption center;
- (2) Provide a detailed plan outlining the scope, objectives, and projected impact of the recycling project or projects and a clear breakdown of how grant funds will be used;
- (3) Agree to use state funds exclusively for the purposes of this recycling program;
- (4) Indicate capability to properly use the grant for the purpose of the grant program. [Specific applicant qualifications should be described for the different types of grants.];
- (5) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, disability, or any other characteristic protected under applicable federal or state law;
- (6) Agree not to use state funds for purposes of entertainment or perquisites;
- (7) Comply with other requirements as the department may prescribe, including reporting, documenting, and auditing requirements;
- (8) Comply with all applicable federal, state, and county statutes, rules, and ordinances;
- (9) Agree to indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or

resulting from activities carried out or projects undertaken with funds provided hereunder and procure sufficient insurance to provide this indemnification if requested to do so by the department.

- (10) Agree to make available to the department all records the applicant may have relating to the grant, to allow state agencies to monitor the applicant's compliance with this section.

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII



KENNETH S. FINK, M.D., M.G.A., M.P.H.
DIRECTOR OF HEALTH
KA LUNA HO'ŌKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB0786
RELATING TO DEPOSIT BEVERAGE CONTAINER RECYCLING.**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Hearing Date: January 28, 2025
9:00 am

Room Number: 325

Fiscal Implications: The Department of Health (“Department”) requests that this measure be considered as a vehicle to provide this needed funding so long as it does not supplant the priorities and requests outlined in the Governors executive budget request.

Department Testimony: The Environmental Management Division, Solid and Hazardous Waste Branch (EMD-SHWB) provides the following testimony on behalf of the Department. This measure: (1) allows the Department to provide grants to deploy reverse vending machines (RVMs); (2) removes an exemption that effectively requires dealers of a certain size in a high-density population area to operate a redemption center even if located within two miles of a certified redemption center (CRC); and (3) removes the requirement for the state and county to evaluate the need for a redemption center due to the exemptions specified in subsection 342G-113(b), Hawaii Revised Statutes (HRS) and the ability to establish and fund a certified redemption center.

The Department recognizes and supports the idea of encouraging more consumers to redeem their deposit beverage containers (DBC) by improving their accessibility to redemption centers, however, we have concerns regarding the proposed amendments in this measure. We offer the following comments on this measure.

Regarding the provision of grants for RVM deployment, we note that many CRCs have utilized RVMs in the past but have discontinued their use due to staffing and logistical issues, as

1 well as high operation and maintenance costs. Currently, there are no CRC operators that utilize
2 RVMs in their operations. The Department is open to issuing grants should there be interest from
3 CRCs, however we have serious concerns over the lack of eligibility requirements or the
4 specification of overall grant funding or individual grant amounts in the measure.

5 For the proposed amendment on lines 14 to 15, page 2 “of the kind, size, and brand sold
6 by the dealer;” we note that this conflicts with subsection 342G-114(d)(1), HRS, which requires
7 CRCs to accept all eligible deposit beverage containers. Implementing this change would result
8 in reduced customer convenience by requiring retailer-operated CRCs to accept only the DBC
9 products that they sell. This would require customers to travel to the retailers where they
10 purchased their retailer-specific product in order to redeem it.

11 For the proposed elimination of the high density population area exemption (lines 4 to 7,
12 page 3), we note that §11-282-03, Hawaii Administrative Rules (HAR) defines “High Density
13 population area” to mean all United States Postal Service Zip Code areas on Oahu, which contain
14 three or more dealers of 5,000 or more square feet of interior space; or a resident population of
15 17,500 or greater. This covers the majority of the island with the exception of the North Shore,
16 Kahuku to Kaaawa, and Waimanalo. A “Rural area” means a non-high-density population area.
17 The Department estimates that there are approximately 125 retailers of at least 5,000 square feet
18 in high-density population areas. We have no estimate on the number of retailers that maintain
19 less than 5,000 square feet of space.

20 For the proposed change in the square footage exemption on page 3, lines 14 and 15, we
21 recognize that the requirement to operate a CRC may pose financial and logistical hardship for
22 smaller “Mom and Pop” retailers.

23 For the proposed deletion on page 4, lines 11 to 17, the Department notes that we
24 currently use the authority provided to contract for redemption services on Hawaii Island and
25 Lanai.

26 With regard to the implementation date for this measure we recommend that the
27 Legislature allow time for: (1) dealers to develop a plan for a redemption center, negotiate leases,

1 enter contracts with recyclers, obtain necessary permits and certifications, purchase equipment,
2 and hire staff; and (2) provide the Department with time to establish grant award rules. In
3 addition, given the number of increased redemption centers, the Department will be faced with
4 an increased number of contracts with redemption centers, requiring contract development and
5 management, invoice payment and CRC inspections. We anticipate additional full-time
6 equivalent permanent positions will be required, but the specific number and type has not yet
7 been determined.

8 **Offered Amendments:** None.

9 Thank you for the opportunity to testify on this measure.



1050 Bishop St. PMB 235 |

Honolulu, HI 96813

P: 808-533-1292 | e:

info@hawaiiifood.com

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TO: Committee On Energy and Environmental Protection

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: January 28, 2025

TIME: 9am

RE: HB786 Relating to Deposit Beverage Container Recycling

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, manufacturers and distributors of food and beverage related products in the State of Hawaii.

HFIA believes that encouraging recycling of HI-5 eligible containers, and all types of recyclable material is an important goal. Regional centers for the redemption of refillable beverage containers may prove to be an important step in encouraging recycling of these containers. Grants to test the feasibility of reverse vending machines in suitable locations could provide valuable data to guide recycling initiatives in the future.

We oppose the section of this measure that seeks to remove the exemptions for certain retailers to operate redemption centers.

We note that there was not a reason given in the measure for removing these exemptions and we do not believe this will be an effective way to address some of the issues with the deposit beverage container program.

In regards to promoting increased recycling of HI-5 eligible beverage containers we encourage legislators to read the auditor's summary and full report here:

<https://auditor.hawaii.gov/summary/report-no-19-08-financial-and-program-audit-of-the-department-of-healths-deposit-beverage-container-program-june-30-2018/>

Lack of additional redemption centers close to existing redemption centers is not among the problems identified in the report, and removing the distance exemption is not one of the auditor's recommendations.

It is important to understand that most retailers do not control the space in which they operate their stores. Landlords have strict rules about what types of behavior is allowed on their property. In many cases landlords do not sanction the collection of waste, including recyclables, in large quantities inside or outside the premise of a retail location.

The retail businesses that supply their communities with beverages in HI-5 recyclable containers have not been identified as a source of any of the many problems noted in the auditor's report. However, recent changes and implementation of some of the auditor's recommendations have added reporting requirements for these companies and created a substantial administrative burden. Removing the distance exemption would create yet another burden for these businesses, one which will not address the core problems with the program.

We encourage the legislature to continue to look for ways to improve recycling, and address already identified problems with beverage container recycling in Hawaii, in ways that do not place more unnecessary burdens on the food and beverage retailers in our communities.

We thank you for the opportunity to testify.