

**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony in SUPPORT of HB2025 HD1
RELATING TO THE DEPOSIT BEVERAGE CONTAINER FEE**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Hearing Date: 2/13/2020 Room Number: 329

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities if inflation outpaces the amount of container fees collected.

4 **Department Testimony:** The Department supports HB2025 to adjust the deposit beverage
5 handling fee annually by the percentage that the current Consumer Price Index (CPI) for All
6 Urban Consumers in the Honolulu area exceeds the previous year's CPI for All Urban
7 Consumers as published by the federal Bureau of Labor Statistics. Rising costs in the State can
8 outpace inflation at the federal level and accounting for this difference may assist the Department
9 in effectively implementing the Deposit Beverage Container Program.

10 The Department is currently updating its handling fee for State Fiscal Year 2021, and the
11 Department's contractor has already been instructed to incorporate the CPI variance, in addition
12 to other factors like labor, transportation, and healthcare costs.

13 **Offered Amendments:** None.

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

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

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ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 20-65

February 11, 2020

The Honorable Roy M. Takumi, Chair
The Honorable Lydia Ichiyama, Vice-Chair
and Members of the Committee on Consumer Protection and Commerce
House of Representatives
State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi, Vice-Chair Ichiyama, and Members of the Committee on Consumer Protection and Commerce:

SUBJECT: HB 2025 - Relating to Deposit Beverage Container Fee

The Department of Environmental Services (ENV) of the City and County of Honolulu submits the following comments on HB 2025, which would annually adjust the deposit beverage container fee based upon percentage changes in the Consumer Price Index for the Honolulu area.

ENV supports the deposit beverage container program, which has enabled the diversion of thousands of tons of beverage containers to recycling within the City and County of Honolulu since the program's inception in 2007-2008. Likewise, we support adjustments to the fee that reflect changes in cost to the Department of Health to administer the program. We question if the CPI, which measures the average change in prices paid for goods and service, is reflective of those costs. Also, the year-to-year CPI percentage change is small and would appear to not have any immediate and measurable impact on the fee.

Thank you for your consideration.

Sincerely,


Lori M.K. Kahikina, P.E.
Director



To:
House Committee on Consumer Protection & Commerce
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

February 13, 2020, 2:00 pm
Conference Room 329

From: Bruce Iverson, Director of Marketing and Development,
Reynolds Recycling, Inc.

Reynolds Recycling, as Hawaii's largest bottle and can recycler, **supports HB 2025 H.D.1 with amendments.**

This bill would help support the Recyclers with an increase in the handling fee amounts they are paid by the state as they do the actual work of recycling within the state.

While the handling fee was adjusted in 2019, that was actually the first adjustment of all handling fees since the inception of the program in 2005. That adjustment was based on a two-year study which was not implemented for another year, so the data is already 3 years old. As business costs increase yearly, and yet the handling fees stayed the same, this "high cost" of business caused an almost 40% drop in the number of recycling locations available to the public as recyclers could not afford to keep location open. Fewer recycling locations caused residents to have to travel further, creating longer wait times and causing lower recycling rates.

Examining the Handling Fee on an annual basis would keep the recycling industry strong and enable them to continue to operate a recycling network that adequately services the public throughout the state. Convenience is one of the major reasons people decide to recycle or not.

We would however encourage the adoption of language as in SB 2726 S.D.1 which would remove the effective date of July 1 2050.

Because of the above we **support HB 2025 H.D.1. with amendments.**

Thank you for the opportunity to submit this testimony.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Index Deposit Beverage Container Fee

BILL NUMBER: HB 2025, HD-1

INTRODUCED BY: House Committee on Energy & Environmental Protection

EXECUTIVE SUMMARY: Annually adjusts the handling fee for certified redemption centers based upon percentage changes in the Consumer Price Index for the Honolulu area. Effective 7/1/2050.

SYNOPSIS: Amends section 342G-102, HRS, to provide that beginning on August 1, 2021, and every August 1 thereafter, the deposit beverage handling fee shall be changed by the percentage, if any, by which the Consumer Price Index for All Urban Consumers in the Honolulu area published by the Bureau of Labor Statistics of the federal Department of Labor for that calendar year exceeds the Consumer Price Index for All Urban Consumers for the prior calendar year.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: This bill ties increases in the container fee to an index, just like how tax brackets at the federal level are indexed. The trouble is that the deposit beverage container fee is one cent now, and it would have to go up 100% to get to the next cent. That would take some time. The chart on the next page, from the U.S. Bureau of Labor Statistics, shows that the year-over-year changes to the CPI-U index are typically in the -2.5% to 5% range. It may make sense for retailers or recycling companies that handle thousands of bottles a day to compute the fee to several decimal places, but that would make no sense as applied to the typical retail consumer.

Rather than worry about tiny fractions of a cent, it may make sense to focus attention on the operation of the program and preventing fraud, waste, and abuse as has been documented in the State Auditor's Report Nos. 15-02, 17-02, 19-08, and several others. The Auditor's Summary of Findings in its latest report states:

This is the seventh biennial financial and program audit of the Program since its inception. As in the prior years' audits, we have found that the Program has failed to develop and execute procedures to verify the accuracy and completeness of data used to prepare the required forms that determine:

1. Deposits and container fees paid to the Program by the distributors
2. Deposits and handling fees paid to the redemption centers

Because procedures were not developed and executed to verify the accuracy of critical self-reported data, the Program has essentially relied upon and accepted that cash receipts from the distributors and payments made to redemption centers were accurate and complete.

Due to this failure of the Program to validate the accuracy and completeness of critical data, our testing has found inaccuracies and possible fraudulent reporting in the data used in the aforementioned calculations. Our testing revealed the following:

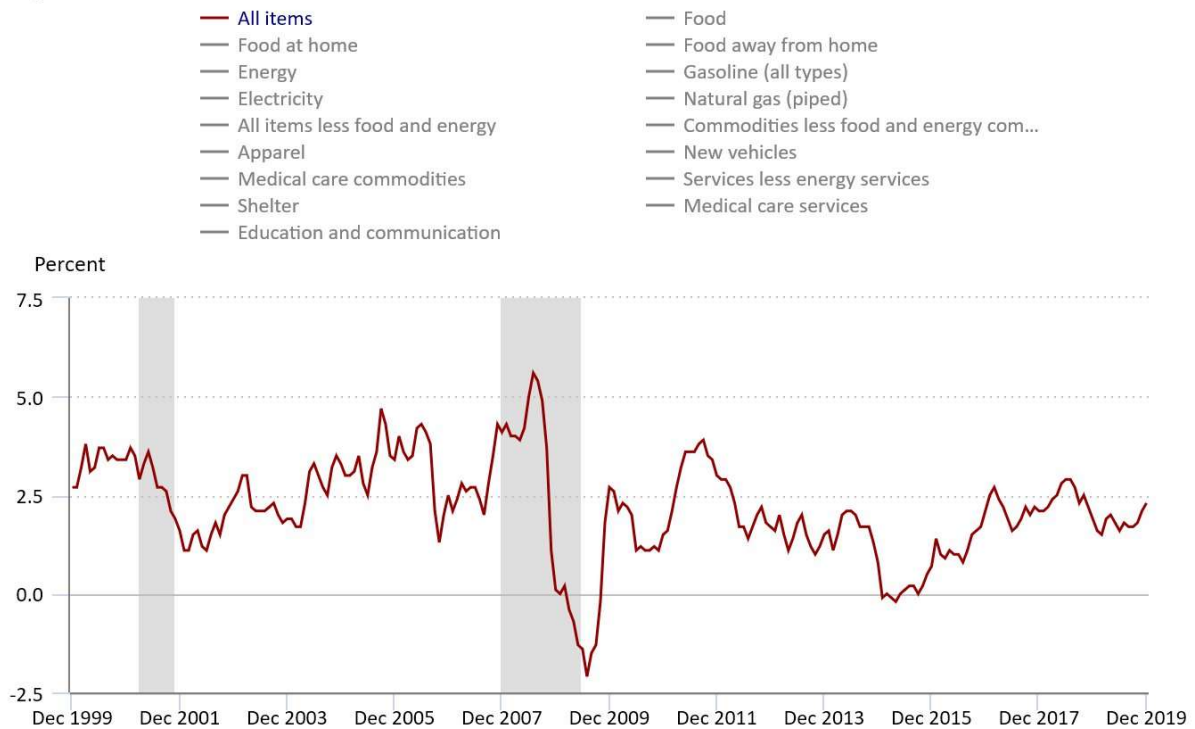
1. There were differences noted between the amounts reported on the Monthly Distribution Report Form and the distributor's supporting records
2. There potentially exists fraudulent overpayments of deposit refund reimbursements to redemption centers

Given the discrepancies noted in the prior years' audits and the discrepancies noted above and considering the limited sample testing performed, there are concerns as to whether the amounts being remitted by the distributors or amounts paid to the redemption centers are appropriate.

State Auditor's Report No. 19-08, p. 15.

The CPI-U chart follows.

12-month percentage change, Consumer Price Index, selected categories, not seasonally adjusted



Hover over chart to view data.

Note: Shaded area represents recession, as determined by the National Bureau of Economic Research.

Source: U.S. Bureau of Labor Statistics.





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TO:
Committee on Consumer Protection and Commerce
Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 13, 2020
TIME: 2pm
PLACE: Conference Room 329

RE: HB2025 HD1 Relating to the Deposit Beverage Container Fee

Position: Oppose

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

Consumers are not reimbursed for the handling fee, so this would be an increase the out of pocket expense for Hawaii consumers buying beverages.

The determination to raise any fee should be made thoughtfully by the State Legislature if it's necessary after fixing long running problems in the program. Increasing the price of groceries for Hawaii families should never be done automatically and without verifiably good reason.

In 2016 the State Auditor completed the sixth biennial audit of the Deposit Beverage Container Program. The Auditor's Summary states,
"We found, as we did in each of our previous audits, the Program relies on self-reported data from distributors and certified redemption centers and **lacks adequate controls to monitor the accuracy and completeness of the information submitted...**"
and,

“...the Program continues to be exposed to fraud, which may result in higher costs and an unreliable reported redemption rate.”

We believe that the state should prioritize fixing the existing problems in the program before making other changes. Tying the handling fee to the Consumer Price Index as a means to increase funds in the special fund does not make sense if we don't have accurate data about how current funds are being used.

Making real improvements to the Deposit Beverage Container Program will require getting reliable data, figuring out what is working in the program and what isn't, and then creating a plan to address those issues. Raising the fee as a knee jerk response is not the right way to make this important program work better for our environment and the people of our state.

For these reasons we encourage you to hold this measure, we thank you for the opportunity to testify.



**Written Testimony of
David Thorp, American Beverage Association**

**Before the House Committee on Consumer Protection & Commerce
Opposition to H.B. 2025, HD 1 – Relating to the Deposit Beverage Container Fee
February 13, 2020**

Good afternoon Chair Takumi, Vice Chair Ichiyama and members of the committee. Thank you for the opportunity to comment in opposition to H.B. 2025, HD 1 – relating to the deposit beverage container fee.

I am David Thorp, senior director of government affairs for the American Beverage Association (ABA). The American Beverage Association is the trade association representing the non-alcoholic beverage industry.

Overview of the Deposit and Redemption Process

- The HI-5 program requires deposit beverage distributors to pay a 5-cent “deposit” and 1-cent non-refundable “container fee” to the HI-5 program;
- In turn, distributors shall pass on the 6-cent costs to dealers or consumers;
- The 1-cent “container fee” helps to provide Program operational support, Program administration, and redemption center handling fees;
- Consumers or redeemers turn in empty containers to redemption centers and can only claim the 5-cent “deposit” amount (the 1-cent “container fee” is non-refundable to consumers);
- Redemption centers then deliver containers to recycling facilities and obtain reimbursement for the 5-cent “deposit” and also an additional “handling fee” on a sliding scale rate for aluminum, glass, plastic and bi-metal containers as well different rates depending on the Island.
- In addition to receiving the “handling fee” per container, redemption centers also keep the value of the commodities which is a significant source of revenue for aluminum and PET.

Fix the HI-5 Program Before Pouring More Public Money into the Program

The State Auditor’s biennial audit of the HI-5 program continually calls for improving efficiencies of the program, including the need to address the potential for millions of dollars in annual redemption center fraud. Before more public money is poured into the program, improving the efficiencies and oversight of the HI-5 program need to be undertaken.

Redemption Center Audits Detail Major Concerns

- The state Department of Health ultimately paid \$543,374 for audits of its beverage container redemption centers that were “of little value,”...
- In 2013, the state audit showed the HI-5 redemption program paid out \$6.2 million in deposit funds between fiscal 2010 to 2012 for nearly 7.5 million pounds of material that could not be accounted for.

Higher Handling Fees Would Siphon from HI-5 Program Fund Balance and Could Require Increased Costs to Consumers

If the handling fees do increase it would likely lead to more redemption centers opening, more redemption returns, and lower volumes at existing centers (which drives up their cost starting the vicious cycle all over again).

The HI-5 program fund could likely not withstand higher handling fees and a higher redemption rate. The result would be the need for the legislature to approve a tax increase on consumers by increasing the deposit or deposit container fee by 50% - 100%.

DOH Already Authorized to Evaluate Handling Fee

One-size Fits All Automatic Annual Increased Handling Fee Is Not the Solution

Hawai'i Revised Statutes, Chapter 342G-177 states that the department shall evaluate the handling fee at least once a year. This annual evaluation is able take into account the variety of factors impacting the HI-5 program, both globally and locally.

Not all redemption centers are the same. There is a wide degree of variability among redemption center operations and locations: urban versus rural; Oahu versus neighbor island; processor versus non-processor, multiple sites versus single location; stand-alone redemption center versus part of other business activity, etc.

No business, government or entity should automatically receive an annual funding increase.

Sincerely,
David Thorp



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

H.B. NO. 2025, H.D. 1, RELATING TO THE DEPOSIT BEVERAGE CONTAINER FEE.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Thursday, February 13, 2020 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Clare E. Connors, Attorney General, or
William F. Cooper, Deputy Attorney General

Chair Takumi and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill provides for the adjustment of the handling fee under section 342G-117, Hawaii Revised Statutes (HRS), instead of the adjustment to the deposit beverage container fee under section 342G-102, HRS, that was proposed in the bill as introduced. The bill's title, however, is "RELATING TO THE DEPOSIT BEVERAGE CONTAINER FEE." Since the substance of the bill is not related to its title, the bill appears to violate article III, section 14 of the Hawaii Constitution, which provides in part that, "[e]ach law shall embrace but one subject, which shall be expressed in its title."

Based on this constitutional issue, we suggest that the bill be held unless it is amended to address deposit beverage container fees.

Thank you for the opportunity to provide this testimony.