

S.B. NO. 1461

JAN 22 2007

A BILL FOR AN ACT

RELATING TO SOLID WASTE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to allow dealers to
2 manage the deposit beverage container program. The Act will
3 facilitate the deposit beverage container program by increasing
4 opportunities and locations where the public may redeem empty
5 deposit beverage containers.

6 SECTION 2. Section 342G-102, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§342G-102 Deposit beverage container fee.** (a) Beginning
9 on October 1, 2002, every deposit beverage distributor shall pay
10 to the department a deposit beverage container fee on each
11 polyethylene terephthalate, high density polyethylene, or metal
12 deposit beverage container manufactured in or imported into the
13 State. The fee shall be imposed only once on the same deposit
14 beverage container. The fee shall be 0.5 cents per deposit
15 beverage container.

16 (b) Beginning on October 1, 2004, every deposit beverage
17 distributor shall pay to the department a deposit beverage
18 container fee on each deposit beverage container manufactured in

1 or imported into the state[-] before July 1, 2008. The deposit
 2 beverage container fee shall not apply to deposit beverage
 3 containers exported for sale outside of the State. The fee shall
 4 be imposed only once on the same deposit beverage container. The
 5 fee shall be 1 cent per deposit beverage container.
 6 (c) No county shall impose or collect any assessment or fee
 7 on deposit beverage containers for the same or similar purpose
 8 that is the subject of this chapter.
 9 ~~[(d) Beginning January 1, 2005, and every August 1~~
 10 ~~thereafter, the department shall notify deposit beverage~~
 11 ~~distributors in writing of the amount of the deposit beverage~~
 12 ~~container fee. The effective date of changes to the fee amount~~
 13 ~~shall be September 1. The fee shall be based on the redemption~~
 14 ~~rate calculated annually based on the redemption rate information~~
 15 ~~submitted to the department for the previous period of July 1~~
 16 ~~through June 30. The fee amount shall be as follows:~~
 17 ~~(1) If the redemption rate is seventy per cent or less: 1~~
 18 ~~cent per container; and~~
 19 ~~(2) If the redemption rate is greater than seventy per~~
 20 ~~cent: 1.5 cents per container.] "~~
 21 SECTION 3. Section 342G-103, Hawaii Revised Statutes, is
 22 amended by amending subsection (b) to read as follows:

S.B. NO. 1461

1 "(b) ~~[All]~~ For deposit beverage containers sold through
2 June 30, 2008, all deposit beverage distributors shall maintain
3 records until June 30, 2009, reflecting the manufacture of their
4 beverages in deposit beverage containers as well as the
5 importation and exportation of deposit beverage containers. The
6 records shall be made available, upon request, for inspection by
7 the department; provided that any proprietary information
8 obtained by the department shall be kept confidential and shall
9 not be disclosed to any other person, except:

10 (1) As may be reasonably required in an administrative or
11 judicial proceeding to enforce any provision of this
12 chapter or any rule adopted pursuant to this chapter;
13 or

14 (2) Under an order issued by a court or administrative
15 agency hearings officer."

16 SECTION 4. Section 342G-104, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§342G-104 Deposit into deposit beverage container deposit**
19 **special fund; use of funds.** (a) There is established in the
20 state treasury the deposit beverage container deposit special
21 fund, into which shall be deposited:

1 (1) All revenues generated from the deposit beverage
2 container fee as described under sections 342G-102
3 and 342G-105;

4 (2) All revenues generated from the deposit beverage
5 container deposit as described under sections 342G-
6 105 and 342G-110; and

7 (3) All accrued interest from the fund.

8 (b) Moneys in the deposit beverage container deposit
9 special fund shall be used to reimburse refund values, pay
10 handling fees to redemption centers, [~~fund the reverse vending~~
11 ~~machine rebate program under section 342G-102.5,~~] and fund the
12 redemption center and recycling infrastructure improvement
13 program established pursuant to section 342G-114.5. The
14 department may also use the money to:

15 (1) Fund administrative, audit, and compliance activities
16 associated with collection and payment of the deposits
17 and handling fees of the deposit beverage container
18 program;

19 (2) Conduct recycling education and demonstration projects;

20 (3) Promote recyclable market development activities;

21 (4) Support the handling and transportation of the deposit
22 beverage containers to end-markets;

- 1 (5) Hire personnel to oversee the implementation of the
- 2 deposit beverage container program, including
- 3 permitting and enforcement activities; ~~[and]~~
- 4 (6) Fund associated office expenses[-];
- 5 (7) Fund grants-in-aid to the counties for litter control;
- 6 and
- 7 (8) Fund the department's efforts to assist dealers in the
- 8 implementation of the deposit beverage container
- 9 program.

10 ~~[(c) Any funds that accumulate in the deposit beverage~~

11 ~~container deposit special fund shall be retained in the fund~~

12 ~~unless determined by the auditor to be in excess, after~~

13 ~~adjustments to the deposit beverage fee, pursuant to the~~

14 ~~management and financial audits conducted in accordance with~~

15 ~~section 342G-107.] "~~

16 SECTION 5. Section 342G-105, Hawaii Revised Statutes, is

17 amended to read as follows:

18 " ~~[+]~~ §342G-105 ~~[+]~~ **Deposit beverage container inventory**

19 **report and payment.** (a) Beginning October 1, 2002, for deposit

20 beverage containers that distributors sell before July 1, 2008,

21 payment of the deposit beverage container fee and deposits as

22 described in section 342G-110 shall be made monthly based on

1 inventory reports of the deposit beverage distributors. All
2 deposit beverage distributors shall submit to the department
3 documentation in sufficient detail that identifies:

4 (1) The number of beverages in deposit beverage containers,
5 by container size and type, manufactured in or imported
6 to the State; and

7 (2) The number of these deposit beverage containers, by
8 container size and type, exported and intended for
9 consumption out of the State during the reporting
10 period.

11 (b) [The] For deposit beverage containers that distributors
12 sell before July 1, 2008, the amount due from deposit beverage
13 distributors shall be the net number of deposit beverage
14 containers imported or manufactured into the State (the total
15 number of containers imported or manufactured less the total
16 number of containers exported for consumption outside the State)
17 multiplied by the sum of the prevailing deposit beverage
18 container fee and the refund value of 5 cents. Payment shall be
19 made by check or money order payable to the "Department of
20 Health, State of Hawaii". All inventory reports and payments
21 shall be made no later than the fifteenth day of the month
22 following the end of the payment period of the previous month.

1 SECTION 6. Section 342G-107, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§342G-107[+] **Management and financial audit.** The
4 auditor shall conduct a management and financial audit of the
5 program for fiscal years 2004-2005 [~~and~~], 2005-2006, and [~~for~~
6 ~~each fiscal year thereafter ending in an even numbered year.~~]
7 2006-2007. The auditor shall submit the audit report, including
8 the amount of unredeemed refund value and recommendations, to the
9 legislature and the department no later than twenty days prior to
10 the convening of [+]the[+] next regular session. The costs
11 incurred by the auditor for the audit shall be reimbursed by the
12 deposit beverage container program special fund. The auditor may
13 contract the audit services of a third party to conduct the
14 audit."

15 SECTION 7. Section 342G-110, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) The deposit on each filled deposit beverage container
18 shall be paid by the deposit beverage distributor, who, prior to
19 July 1, 2008, manufactures or imports beverages in deposit
20 beverage containers. Payment and reporting of the deposits shall
21 be in accordance with section 342G-105. The deposits shall be

1 deposited into the deposit beverage container deposit special
2 fund as described in section 342G-104."

3 SECTION 8. Section 342G-111, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§342G-111 Sales of beverages in deposit beverage
6 containers; distributor [~~report,~~] and dealer reports; fee and
7 deposit payment. (a) By January 1, 2005, every deposit beverage
8 distributor who pays a deposit to the department shall charge the
9 dealer or consumer a deposit equal to the refund value for each
10 deposit beverage container sold in Hawaii[-] before July 1, 2008.

11 The deposit charge may appear as a separate line item on the
12 invoice. On July 1, 2008, every deposit beverage distributor
13 shall cease to pay or charge a deposit on the deposit beverage
14 container sold to a dealer.

15 (b) Each dealer shall charge the consumer the deposit
16 beverage container deposit at the point of sale of the beverage,
17 excluding sales for on-premises consumption. The deposit charge
18 may appear as a separate line item on the invoice.

19 (c) [~~Each~~] For deposit beverage containers it sells before
20 July 1, 2008, each deposit beverage distributor shall generate
21 and submit to the department a monthly report on:

1 (1) The number of deposit beverage containers, by container
2 size and type, manufactured in or imported into the
3 State; and

4 (2) The number of deposit beverage containers, by container
5 size and type, exported and intended for consumption
6 out of the State during the reporting period.

7 All information contained in the reports, including confidential
8 commercial and financial information, shall be treated as
9 confidential and protected to the extent allowed by state law.

10 (d) For deposit beverage containers it sells after June 30,
11 2008, each deposit beverage dealer shall generate and submit to
12 the department a yearly report on:

13 (1) The number of deposit beverage containers sold and
14 redeemed, by container size and type, and

15 (2) The recycler or other entity or facility to which the
16 deposit beverage containers were delivered for
17 recycling.

18 The report shall be submitted within two months after the end of
19 the calendar year.

20 All information contained in the reports, including
21 confidential commercial and financial information, shall be

1 treated as confidential and protected to the extent allowed by
2 state law.

3 [~~d~~] (e) Payment of the deposit beverage container fee and
4 deposits as described in section 342G-110 shall be made monthly
5 based on reports of the deposit beverage distributors under
6 subsection (c). These payments will cease for deposit beverage
7 containers sold after June 30, 2008.

8 [~~e~~] (f) Beginning January 1, 2005~~7~~ for containers sold
9 through June 30, 2008, a deposit beverage distributor who
10 annually imports or manufactures one hundred thousand or fewer
11 deposit beverage containers may submit reports and payments
12 required under subsection (c) on a semi-annual basis; provided
13 that the semi-annual report and payment period shall end on June
14 30 and December 31 of each year.

15 [~~f~~] (g) [~~The~~] For deposit beverage containers that a
16 distributor sells before July 1, 2008, the amount due from a
17 deposit beverage distributor shall be the net number of deposit
18 beverage containers sold multiplied by the sum of the prevailing
19 deposit beverage container fee and the deposit value of 5 cents.
20 Payment shall be made by check or money order payable to the
21 "Department of Health, State of Hawaii". All reports and

1 payments shall be made no later than the fifteenth day of the
2 month following the end of the previous payment period.

3 ~~[(g) The department may allow dealers to charge customers~~
4 ~~the refund value beginning November 1, 2004, provided that the~~
5 ~~deposit beverage containers are clearly marked with the refund~~
6 ~~value and the deposit beverage distributor has paid the refund~~
7 ~~value on each container to the department. The dealer shall~~
8 ~~inform customers that the deposits paid prior to January 1, 2005,~~
9 ~~shall not be redeemable until January 1, 2005.]"~~

10 SECTION 9. Section 342G-112, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§342G-112 Deposit beverage container requirements. (a)**
13 Except as provided in subsection (b), every deposit beverage
14 container sold in the State shall clearly indicate the refund
15 value of the container and the word "Hawaii" or the letters "HI".
16 The names or letters representing the names of other states with
17 comparable deposit legislation may also be included in the
18 indication of refund value. The refund value on every deposit
19 beverage container shall be clearly, prominently, and indelibly
20 marked by painting, printing, scratch embossing, raised letter
21 embossing, or securely affixed stickers and shall be affixed on

1 the top or side of the container in letters at least one-eighth
2 inch in size.

3 (b) Subsection (a) does not apply to any type of refillable
4 glass deposit beverage container which has a brand name
5 permanently marked on it and which has the equivalent of a refund
6 value of at least 5 cents which is paid upon receipt of the
7 container by a dealer or deposit beverage distributor.

8 ~~[(c) All deposit beverage containers that do not indicate
9 the Hawaii refund value by January 1, 2005, and are intended for
10 sale shall be sold with stickers as specified in subsection (d).~~

11 ~~(d) Stickers that indicate the Hawaii refund value may be
12 purchased from the department from November 1, 2004, to December
13 31, 2004. Surplus stickers may be redeemed at the department by
14 March 1, 2005. The cost of a sticker shall be equal to the Hawaii
15 refund value.]"~~

16 SECTION 10. Section 342G-113, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§342G-113 Redemption of empty deposit beverage containers.

19 (a) Except as provided in subsection (b), a dealer shall:

20 (1) ~~[Operate a redemption center by July 1, 2005, and shall
21 accept] Accept all types of empty deposit beverage~~

1 containers with a Hawaii refund value; except as
2 excused by section 342G-116;

3 (2) Pay to the redeemer the full refund value, in either
4 cash or redeemable voucher, for all deposit beverage
5 containers that bear a valid Hawaii refund value;
6 except as excused by section 342G-116; and

7 (3) Ensure each deposit beverage container collected is
8 recycled, and forward to the department documentation
9 necessary to [~~support claims for payment as stated in~~
10 ~~section 342G-119 or rules adopted under this part.~~]
11 verify that such recycling has occurred.

12 (b) Subsection (a) shall not apply to any dealer:

13 (1) Who is located in a high density population area as
14 defined by the director in rules, and within two miles
15 of a certified redemption center that is operated
16 independently of a dealer;

17 (2) Who is located in a rural area as defined by rule;

18 (3) Who subcontracts with a certified redemption center to
19 be operated on the dealer's premises;

20 (4) Whose sales of deposit beverage containers are only via
21 vending machines;

1 (5) Whose place of business is less than five thousand
2 square feet of interior space; or

3 (6) Who can demonstrate physical or financial hardship, or
4 both, based on specific criteria established by rule[+
5 or].

6 ~~[(7) Who meets other criteria established by the director.~~

7 ~~Notwithstanding paragraphs (1) and (2), the director may allow~~
8 ~~the placement of redemption centers at greater than prescribed~~
9 ~~distances to accommodate geographical features while ensuring~~
10 ~~adequate consumer convenience.~~

11 ~~[(c) Regardless of the square footage of a dealer's place~~
12 ~~of business, dealers who are not redemption centers shall post a~~
13 ~~clear and conspicuous sign at the primary public entrance of the~~
14 ~~dealer's place of business that specifies the name, address, and~~
15 ~~hours of operation of the closest redemption center locations.~~

16 ~~(d) If there is no redemption center within the two-mile~~
17 ~~radius of a dealer due to the criteria described in subsection~~
18 ~~(b), then the respective county and the State shall determine the~~
19 ~~need for a redemption center in that area. If a redemption~~
20 ~~center is deemed necessary, then the State, with assistance from~~
21 ~~the county, shall establish the redemption center with funding~~
22 ~~from the deposit beverage container deposit special fund.~~

1 ~~(c) Businesses that sell deposit beverages for on premises~~
2 ~~consumption, such as hotels, bars, and restaurants, shall collect~~
3 ~~used deposit beverage containers from the patron and either use a~~
4 ~~certified redemption center for the collection of containers or~~
5 ~~become a certified redemption center.]"~~

6 SECTION 11. Section 342G-115, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§342G-115 Reverse vending machine requirements.** [Reverse]
9 Properly operated and maintained reverse vending machines may be
10 used by redemption centers and dealers to satisfy the
11 requirements of section 342G-113. Reverse vending machines shall
12 accept any type of empty deposit beverage container and pay out
13 the full refund value in either cash or a redeemable voucher for
14 those containers that bear a valid Hawaii refund value. [~~If the~~
15 ~~reverse vending machine is unable to read the barcode then the~~
16 ~~reverse vending machine shall reject the container. The reverse~~
17 ~~vending machine shall be routinely serviced to ensure proper~~
18 ~~operation and continuous acceptance of empty deposit beverage~~
19 ~~containers and payment of the refund value.]"~~

20 SECTION 12. Section 342G-116, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "**§342G-116 Refusal of refund value payment for a deposit**
2 **beverage container.** Redemption centers [~~shall~~] and dealers may
3 refuse to pay the refund value on any broken, corroded, or
4 dismembered deposit beverage container, or any deposit beverage
5 container that:

- 6 (1) Contains a free-flowing liquid;
7 (2) Does not properly indicate a refund value; [~~or~~]
8 (3) Contains a significant amount of foreign material [~~-~~];
9 (4) Is not of the kind, size, and brand sold by the dealer;
10 or
11 (5) Exceeds more than 144 individual deposit beverage
12 containers returned to the dealer by any one person
13 during one day."

14 SECTION 13. Section 342G-111, Hawaii Revised Statutes, as
15 previously amended by SECTION 8, is amended to read as follows:

16 "**§342G-111 Sales of beverages in deposit beverage**
17 **containers; [~~distributor and~~] dealer reports; fee and deposit**
18 **payment.** (a) [~~By January 1, 2005, every deposit beverage~~
19 ~~distributor who pays a deposit to the department shall charge the~~
20 ~~dealer or consumer a deposit equal to the refund value for each~~
21 ~~deposit beverage container sold in Hawaii[.] before July 1,~~
22 ~~2008,.~~ ~~The deposit charge may appear as a separate line item on~~

1 ~~the invoice.]~~ On July 1, 2008, every deposit beverage
2 distributor shall cease to pay or charge a deposit on the deposit
3 beverage container sold to a dealer.

4 (b) Each dealer shall charge the consumer the deposit
5 beverage container deposit at the point of sale of the beverage,
6 excluding sales for on-premises consumption. The deposit charge
7 may appear as a separate line item on the invoice.

8 (c) For deposit beverage containers it sells before July 1,
9 2008, each deposit beverage distributor shall generate and submit
10 to the department a monthly report on:

11 (1) The number of deposit beverage containers, by container
12 size and type, manufactured in or imported into the
13 State; and

14 (2) The number of deposit beverage containers, by container
15 size and type, exported and intended for consumption
16 out of the State during the reporting period.

17 All information contained in the reports, including confidential
18 commercial and financial information, shall be treated as
19 confidential and protected to the extent allowed by state law.

20 (d) For deposit beverage containers it sells after June 30,
21 2008, each deposit beverage dealer shall generate and submit to
22 the department a yearly report on:

1 (1) The number of deposit beverage containers sold and
2 redeemed, by container size and type; and

3 (2) The recycler or other entity or facility to which the
4 deposit beverage containers were delivered for
5 recycling:

6 The report shall be submitted within two months after the end of
7 the calendar year.

8 All information contained in the reports, including
9 confidential commercial and financial information, shall be
10 treated as confidential and protected to the extent allowed by
11 state law.

12 (e) Payment of the deposit beverage container fee and
13 deposits as described in section 342G-110 shall be made monthly
14 based on reports of the deposit beverage distributors under
15 subsection (c). These payments will cease for deposit beverage
16 containers sold after June 30, 2008.

17 (f) Beginning January 1, 2005 for containers sold through
18 June 30, 2008, a deposit beverage distributor who annually
19 imports or manufactures one hundred thousand or fewer deposit
20 beverage containers may submit reports and payments required
21 under subsections (c) and (d) on a semi-annual basis; provided

1 that the semi-annual report and payment period shall end on June
2 30 and December 31 of each year.

3 (g) For deposit beverage containers that a distributor
4 sells before July 1, 2008, the amount due from a deposit beverage
5 distributor shall be the net number of deposit beverage
6 containers sold multiplied by the sum of the prevailing deposit
7 beverage container fee and the deposit value of 5 cents. Payment
8 shall be made by check or money order payable to the "Department
9 of Health, State of Hawaii". All reports and payments shall be
10 made no later than the fifteenth day of the month following the
11 end of the previous payment period."

12 SECTION 14. Section 342G-113, Hawaii Revised Statutes, as
13 previously amended by SECTION 10, is amended to read as follows:

14 **"§342G-113 Redemption of empty deposit beverage containers.**

15 (a) Except as provided in subsection (b), a dealer shall:

16 (1) Accept all types of empty deposit beverage containers
17 with a Hawaii refund value, except as excused by
18 section 342G-116;

19 (2) Pay to the redeemer the full refund value, in either
20 cash or redeemable voucher, for all deposit beverage
21 containers that bear a valid Hawaii refund value,
22 except as excused by section 342G-116; and

1 (3) Ensure each deposit beverage container collected is
2 recycled, and forward to the department documentation
3 necessary to verify that such recycling has occurred.

4 (b) Subsection (a) shall not apply to any dealer:

5 ~~[(1) Who is located in a high density population area as~~
6 ~~defined by the director in rules, and within two miles~~
7 ~~of a certified redemption center that is operated~~
8 ~~independently of a dealer;~~

9 ~~[(2) Who is located in a rural area as defined by rule;~~

10 ~~[(3) Who subcontracts with a certified redemption center to~~
11 ~~be operated on the dealer's premises;~~

12 ~~[(4)]~~ (1) Whose sales of deposit beverage containers are
13 only via vending machines;

14 ~~[(5)]~~ (2) Whose place of business is less than five
15 thousand square feet of interior space;

16 ~~[(6)]~~ (3) Who can demonstrate physical or financial
17 hardship, or both, based on specific criteria
18 established by rule."

19 SECTION 15. Section 342G-103, Hawaii Revised Statutes, as
20 previously amended by SECTION 3, is repealed.

21 "[§342G-103] ~~Deposit beverage distributors; registration,~~
22 ~~recordkeeping requirements.~~ (a) ~~By September 1, 2002, all~~

1 ~~deposit beverage distributors operating within the State shall~~
2 ~~register with the department, using forms prescribed by the~~
3 ~~department, and shall notify the department of any change in~~
4 ~~address or other information previously submitted. After~~
5 ~~September 1, 2002, any person who desires to conduct business in~~
6 ~~the State as a deposit beverage distributor shall register with~~
7 ~~the department no later than one month prior to the commencement~~
8 ~~of the business.~~

9 ~~(b) For all deposit beverage containers sold through June~~
10 ~~30, 2008, all deposit beverage distributors shall maintain~~
11 ~~records until June 30, 2009, reflecting the manufacture of their~~
12 ~~beverages in deposit beverage containers as well as the~~
13 ~~importation and exportation of deposit beverage containers. The~~
14 ~~records shall be made available, upon request, for inspection by~~
15 ~~the department, provided that any proprietary information~~
16 ~~obtained by the department shall be kept confidential and shall~~
17 ~~not be disclosed to any person, except:~~

18 ~~(1) As may be reasonably required in an administrative or~~
19 ~~judicial proceeding to enforce any provision of this~~
20 ~~chapter or any rule adopted pursuant to this chapter,~~
21 ~~or~~

1 ~~(2) Under an order issued by a court or administrative~~
2 ~~agency hearings officer."]~~

3 SECTION 16. Section 342G-105, Hawaii Revised Statutes, as
4 previously amended by SECTION 5, is repealed.

5 [" [§342G-105] ~~Deposit beverage container inventory report~~
6 ~~and payment.~~ (a) ~~Beginning October 1, 2002, for deposit~~
7 ~~beverage containers that distributors sell before July 1, 2008,~~
8 ~~payment of the deposit beverage container fee and deposits as~~
9 ~~described in section 342G 110 shall be made monthly based on~~
10 ~~inventory reports of the deposit beverage distributors. All~~
11 ~~deposit beverage distributors shall submit to the department~~
12 ~~documentation in sufficient detail that identifies:~~

13 ~~(1) The number of beverages in deposit beverage containers,~~
14 ~~by container size and type, manufactured in or imported~~
15 ~~to the State; and~~

16 ~~(2) The number of these deposit beverage containers, by~~
17 ~~container size and type, exported and intended for~~
18 ~~consumption out of the State during the reporting~~
19 ~~period.~~

20 ~~(b) For deposit beverage containers that distributors sell~~
21 ~~before July 1, 2008, the amount due from deposit beverage~~

1 ~~distributors shall be the net number of deposit beverage~~
2 ~~containers imported or manufactured into the State (the total~~
3 ~~number of containers imported or manufactured less the total~~
4 ~~number of containers exported for consumption outside the State)~~
5 ~~multiplied by the sum of the prevailing deposit beverage~~
6 ~~container fee and the refund value of 5 cents. Payment shall be~~
7 ~~made by check or money order payable to the "Department of~~
8 ~~Health, State of Hawaii". All inventory reports and payments~~
9 ~~shall be made no later than the fifteenth day of the month~~
10 ~~following the end of the payment period of the previous month."]~~

11 SECTION 17. Section 342G-114, Hawaii Revised Statutes, is
12 repealed.

13 [~~"§342G-114 Redemption centers. (a) Prior to operation,~~
14 ~~redemption centers shall be certified by the department.~~

15 ~~(b) Applications for certification as a redemption center~~
16 ~~shall be filed with the department on forms prescribed by the~~
17 ~~department.~~

18 ~~(c) The department, at any time, may review the~~
19 ~~certification of a redemption center. After written notice to~~
20 ~~the person responsible for the establishment and operation of the~~
21 ~~redemption center and to the dealers served by the redemption~~
22 ~~center, the department, after it has afforded the redemption~~

1 ~~center operator a hearing in accordance with chapter 91, may~~
2 ~~withdraw the certification of the center if it finds that there~~
3 ~~has not been compliance with applicable laws, rules, permit~~
4 ~~conditions, or certification requirements.~~

5 ~~(d) Redemption centers shall:~~

6 ~~(1) Accept all types of empty deposit beverage containers~~
7 ~~for which a deposit has been paid;~~

8 ~~(2) Verify that all containers to be redeemed bear a valid~~
9 ~~Hawaii refund value;~~

10 ~~(3) Pay to the redeemer the full refund value in either~~
11 ~~cash or a redeemable voucher for all deposit beverage~~
12 ~~containers, except as provided in section 342G 116;~~

13 ~~(4) Ensure each deposit beverage container collected is~~
14 ~~recycled through a contractual agreement with an out-~~
15 ~~of-state recycler or an in-state recycling facility~~
16 ~~permitted by the department; provided that this~~
17 ~~paragraph shall not apply if the redemption center is~~
18 ~~operated by a recycler permitted by the department; and~~

19 ~~(5) Forward the documentation necessary to support claims~~
20 ~~for payment as stated in section 342G 119.~~

21 ~~(e) Redemption centers' redemption areas shall be~~
22 ~~maintained in full compliance with applicable laws and with the~~

1 ~~orders and rules of the department, including permitting~~
2 ~~requirements, if deemed necessary, under chapter 342H.~~

3 ~~(f) The department shall develop procedures to facilitate~~
4 ~~the exchange of information between deposit beverage container~~
5 ~~manufacturers, distributors, and retailers and certified~~
6 ~~redemption centers, including but not limited to universal~~
7 ~~product code information for reverse vending machine purposes.~~
8 ~~The procedures developed by the department shall allow for a~~
9 ~~reasonable time period between the introduction of a new deposit~~
10 ~~beverage product and the deadline for submitting universal~~
11 ~~product code information to certified redemption centers~~
12 ~~operating reverse vending machines."]~~

13 SECTION 18. Section 342G-117, Hawaii Revised Statutes, is
14 repealed.

15 [~~"§342G-117 Handling fees and refund values for certified~~
16 ~~redemption centers. (a) The department shall pay to each~~
17 ~~certified redemption center a handling fee of not less than the~~
18 ~~prevailing deposit beverage container fee for each deposit~~
19 ~~beverage container redeemed by a consumer that is:~~

20 ~~(1) Transported out of state;~~

21 ~~(2) Received by an approved in state company for an~~

22 ~~approved end use for recycling, or~~

S.B. NO. 1461

1 ~~(3) Received by a department permitted recycling facility.~~

2 ~~(b) The department shall evaluate the handling fee at least~~
3 ~~once per year. If the department changes the amount of the~~
4 ~~handling fee, the department shall publish notice of the change~~
5 ~~within thirty days of its determination.~~

6 ~~(c) The handling fee shall be paid in addition to the~~
7 ~~refund value of each empty deposit beverage container. Payments~~
8 ~~for handling fees shall be based on redemption center reports~~
9 ~~submitted to the department; provided that there is no~~
10 ~~discrepancy in the reports. The department may choose to pay the~~
11 ~~handling fee and refund value on the basis of the total weight of~~
12 ~~the containers received by material type and the average weight~~
13 ~~of each container type.~~

14 ~~(d) A handling fee and refund value may only be paid once~~
15 ~~for each container redeemed by a consumer and claimed by a~~
16 ~~redemption center in accordance with section 342G-119."]~~

17 SECTION 19. Section 342G-119, Hawaii Revised Statutes, is
18 repealed.

19 [~~§342G-119 Redemption center reporting. The department~~
20 ~~shall pay certified redemption centers handling fees and refund~~
21 ~~values as described in section 342G-117, based on collection~~
22 ~~reports submitted by the redemption centers. All redemption~~

1 ~~centers shall submit to the department the following information~~
2 ~~on forms prescribed by the department, which information shall~~
3 ~~include at a minimum:~~

4 ~~(1) The number or weight of deposit beverage containers of~~
5 ~~each material type accepted at the redemption center~~
6 ~~for the reporting period;~~

7 ~~(2) The amount of refunds paid out by material type;~~

8 ~~(3) The number or weight of deposit beverage containers of~~
9 ~~each material type transported out of state or to a~~
10 ~~permitted recycling facility; and~~

11 ~~(4) Copies of out of state transport and weight receipts or~~
12 ~~acceptance receipts from permitted recycling~~
13 ~~facilities. If the redemption center and the recycling~~
14 ~~facility are the same entity, copies of out of state~~
15 ~~transport and weight receipts, or documentation of end~~
16 ~~use accepted by the department, shall also be included.~~

17 ~~The requests for payment shall be no less than two times per~~
18 ~~month."]~~

19 SECTION 20. Section 342G-121, Hawaii Revised Statutes, is
20 repealed.

21 ~~["§342G-121] Audit authority. The records of the deposit~~
22 ~~beverage distributor, dealer, redemption center, and recycling~~

1 ~~facility shall be made available, upon request, for inspection by~~
2 ~~the department, a duly authorized agent of the department, or the~~
3 ~~auditor. Any proprietary information obtained by them shall be~~
4 ~~kept confidential and shall not be disclosed to any other person,~~
5 ~~except:~~

6 ~~(1) As may be reasonably required in an administrative or~~
7 ~~judicial proceeding to enforce any provision of this~~
8 ~~chapter or any rule adopted pursuant to this chapter,~~
9 ~~or~~

10 ~~(2) Under an order issued by a court or administrative~~
11 ~~agency hearings officer."]~~

12 SECTION 21. Section 342G-122, Hawaii Revised Statutes, is
13 repealed.

14 ~~["[§342G-122] Advisory committee. The department shall~~
15 ~~convene an advisory committee to assist it in developing any~~
16 ~~rules needed to implement this chapter. The department shall~~
17 ~~select members of the committee so as to obtain input on the~~
18 ~~state level as well as assess the impact on each individual~~
19 ~~county, consumers, recyclers, and the beverage industry. Members~~
20 ~~of the committee shall be appointed by the director and shall~~
21 ~~serve at the director's pleasure. A simple majority of the~~

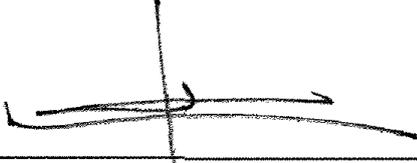
S.B. NO. 1461

1 ~~committee members shall constitute a quorum for the purposes of~~
2 ~~recommending rules and providing input to the director."]~~

3 SECTION 22. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 23. This Act shall take effect upon its approval,
6 except that section 13, 14, 16, 17, 18, 19, and 20 shall take
7 effect on July 1, 2008, and section 15 shall take effect on
8 December 31, 2008.

9
10
11 INTRODUCED BY:



BY REQUEST

12

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO SOLID WASTE.

PURPOSE: Improve and make the Deposit Beverage Container (DBC) program user friendly by allocating consumers to redeem deposits at their local grocery store. This bill also deletes the automatic container increase based on the redemption rate.

MEANS: Amend sections 342G-102, 342G-103(b), 342G-104, 342G-105, 342G-107, 342G-110(c), 342G-111, 342G-112, 342G-113, 342G-115, and 342G-116 Hawaii Revised Statutes, and repeal section 342G-103, 342G-105, 342G-114, 342G-117, 342G-119, 342G-121, and 342G-122, Hawaii Revised Statutes.

JUSTIFICATION: Manufacturer, Distributor, Dealer run redemption system.

The proposed bill language and DBC system is similar to the Oregon deposit program model. Redemption is managed by the industry with minimal oversight by the State. In the Oregon model grocery stores and other outlets which sell beverages in containers covered by the law will take back deposit containers from consumers and refund deposits to encourage convenience.

Container Fee.

Section 342G-102(d)(2), HRS, requires the container fee paid to the Department of Health (DOH) by container manufacturers and distributors, to increase from the existing 1 cent per container fee to 1.5 cent per container.

fee when the fiscal year redemption rate exceeds 70 percent. The deposit beverage container special fund now has an estimated surplus of \$15 million, and a container fee increase is not necessary.

The fund has a surplus because DOH budgeted conservatively to make sure it could pay for a 70% redemption rate from the start of the program in January 2005.

The current sources of program income are the container fee (now at 1 cent/container) and unredeemed deposits (5 cents/container). These fees pay for deposit refunds (5 cents/container), recyclers' handling fees (2 or 3 cents/container), DOH salaries, grants to counties, and administrative expenses.

With the change of the program to one operated by the market participants in the purchase and return of beverage containers, the need for the container fee will be eliminated. After the realignment of the redemption system, the fee will be eliminated and the balance in the fund will be used to carry out the priorities of Chapter 342G-2, HRS.

The system will then depend on unredeemed deposit moneys to cover program expenses.

Impact on the public: The public would adjust to a new redemption system whereby deposit beverage containers may be redeemed at their place of purchase rather than only at a separate, stand alone redemption center.

Impact on the department: The department of health (DOH) currently has ten (10) full-time permanent positions dedicated and funded by the deposit beverage container (DBC) program. This proposed change in the program would allow these positions to be redeployed to other recycling and solid waste functions.

GENERAL FUND: None.

OTHER FUNDS: Deposit Beverage Container Special Fund.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval, except that section 13, 14, 16, 17, 18, 19, and 20 shall take effect on July 1, 2008, and section 15 shall take effect on December 31, 2008.

The different effective dates provide for a transition from the current system using redemption centers to the system of dealer redemption of deposit beverage containers. The transition must cover such items as the distributors' payment of deposits and container fees, the dealers' duties to redeem, reporting, and audits.