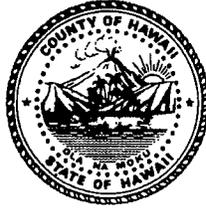


**HB 574**

William P. Kenoi  
Mayor



Lono A. Tyson  
Director

Ivan M. Torigoe  
Deputy Director

**County of Hawai'i**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
25 Aupuni Street • Hilo, Hawai'i 96720  
(808) 961-8083 · Fax (808) 961-8086  
[http://co.hawaii.hi.us/directory/dir\\_envmng.htm](http://co.hawaii.hi.us/directory/dir_envmng.htm)

April 2, 2009

The Honorable Donna Mercado Kim, Chair  
The Honorable Shan S. Tsutsui, Vice Chair  
Committee on Ways and Means  
Hawaii State Capitol  
Honolulu, HI 96813

HEARING DATE & TIME: Friday April 3, 2009 at 9:45 A.M.  
HEARING LOCATION: Conference Room 211

Re: In Favor of HB 574 Relating to the Deposit Beverage Container Program.

Dear Senators Mercado Kim and Tsutsui and Members of the Ways and Means Committee;

Thank you for the opportunity to present testimony on HB 574. As we have stated previously, the County of Hawai'i (County) Department of Environmental Management supports this Bill.

The County currently only has two companies operating on the eastside of the island with Reverse Vending Machines (RVMs). There is a need for RVMs on the westside of the island where there are fewer certified redemption centers operating full-time hours. Additionally, my staff has had inquiries from local retailers about the RVM Rebate Program. According to the Department of Health, there was no funding available during FY08-09 for the RVM program.

As you may know, the County of Hawai'i had a 90% HI5 redemption rate for FY07-08, the highest in the State. We are confident that by continuing the RVM rebate program as stated in HB 574, we will continue to see an increase in our redemption numbers.

The County further supports the inclusion of grants-in-aid in for least the amounts of recycling program support which was provided this past fiscal year. As stated in our testimony in opposition to SB 884 (copy enclosed), loss or reduction of HI5 funding would have severe adverse effects on recycling personnel and programs on the Big Island.

We respectfully request your consideration of the above testimony, and support for HB 574.

Best Regards and Aloha,

Lono Tyson  
DIRECTOR

cc: Mayor William Kenoi

enclosures

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

## SENATE COMMITTEE ON WAYS AND MEANS

### H.B. 574, H.D. 2, S.D. 1, Relating to the Deposit Beverage Container Program

Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health

April 3, 2009  
9:45 a.m.

1 **Department's Position:** The Department of Health respectfully opposes Part I of this bill given the  
2 current difficult financial situation; however, the Department supports Part II, which requires retail  
3 dealers with more than seventy-five thousand square feet of retail space to operate as redemption  
4 centers.

5 **Fiscal Implications:** Unspecified amount from the Deposit Beverage Container Program Special Fund.

6 **Purpose and Justification:** Part I of this bill extends the reverse vending machine (RVM) rebate  
7 program for an additional three years and offers financial incentives to cover RVM operational costs for  
8 two years; appropriates unspecified monies to the counties to plan and operate county recycling  
9 programs; and Part II of the measure, effective October 1, 2009, requires retail dealers with more than  
10 seventy-five thousand square feet of retail space to operate redemption centers.

11 With regards to Part I of the bill, the Department of Health appreciates the intent of this bill to  
12 encourage more people to open certified redemption centers and to assist counties with recycling  
13 programs. However, in these difficult financial times, we think it prudent to defer added expenditures  
14 from the Department fund, especially because the Department supports the original version of S.B. 884,

1 which proposed transferring \$10 million from the fund to help meet the state's urgent fiscal needs. In  
2 normal times we would likely take a different position, but these are abnormal times.

3 The Department supports Part II of the bill, also provided in S.B. 243, which offers another  
4 means to increase redemption opportunities by having retailers with more than seventy-five thousand  
5 square feet of retail space to operate as redemption centers.

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

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APR - 1 2009



Testimony on HB574, HD2, SD1

To: Senator Donna Mercado Kim, Chair  
Committee on Ways and Means

From: Terry G. Telfer, President  
Reynolds Recycling

Aloha Chair Kim,

We strongly OPPOSE HB574 HD2 SD1 in its current form.

While we were in favor of HB 574 HD2, we cannot support the changes that were made with SD1.

We are very concerned that the mandate of SB 243 that would require stores greater than 75 thousand square feet would very seriously affect the current redemption centers abilities to survive.

There seems to be a misconception that Hawaii's Bottle Deposit Beverage Container Law does not already require stores to operate redemption centers. Hawaii's law already requires "dealers" to operate redemption centers if there is no certified redemption center within a two-mile radius. All bottle deposit law states allow independent redemption centers. Nine of 11-bottle deposit law states allow redemption centers to handle redemption for stores. The reality is that in these nine states, redemption centers have been handling the deposit beverage programs for their various states. Hawaii is part of this majority that has been successful in implementing great deposit programs. Hawaii's program is being looked at by other states as they consider how to improve their programs. Let's not look back to states that have programs that are not as successful as Hawaii's.

Review of the statistics:

- All deposit states (Hawaii included) currently require stores to operate redemption centers
- 9 of 11 deposit states (Hawaii included) allow stores to opt out if redemption centers are nearby
- No state currently requires stores to operate redemption centers based on size
- Nine of 11 deposit states (Hawaii included) redemption programs are based on the redemption center model.
- The redemption center model is working effectively. Hawaii is currently at an 80% redemption rate.

All of Reynolds Recycling certified redemption centers are open the full hours mandated by Act 285 (required 30 hours of operation per week of which at least 5 hours are on the weekend). There may be other operators not fulfilling their required hours, but this is an enforcement issue, rather than a legislative issue.

Current redemption rates show that the redemption center model is both highly effective, and quick. The April '08 Ward Research report for the DOH showed that 65 % of all redeemers travel 3 miles or less to reach a redemption center, and at least 53% of all redeemers were very satisfied (rated 8-10 out of 10) with the wait and processing time. Experience shows that you will normally spend more time waiting at the bank or post office than at most redemption centers.

Of course, you could aim for a higher percentage, but history has shown that the only way to improve on that is to raise the deposit. Michigan, at 90-95%, has a 10-cent deposit on everything. Germany, at almost 100%,

has the equivalent of a 25-cent deposit on deposit beverage containers. I do not believe that now is a good time to raise the deposit. I also do not believe that forcing "big-box" stores to take up redemption is the right move for the state. Having the big box stores operate redemption centers, as proposed in HB 574, or SB243 HD2 SD1, will continue to erode the customer base of the smaller local stores. This measure will both harm these smaller retailers, and harm the current redemption infrastructure as redemption volumes are significantly spread out. These retailers will lose 2 to 4 cents per container handled (per Stan Sorkin, president of the Connecticut Food Association). No stores will be strengthened, but some will be more negatively impacted, and this result will negatively impact our local retail environment.

In consideration of the strong work that the recyclers have already done, the success that the program has already shown, the work and monies that these same recyclers are putting out to further improve the system, please support the current redemption center network.

  
Terry G. Teffer, President  
Reynolds Recycling, Inc.

Please review the attached listing of retailer "take back" requirements from other bottle law states from a previous testifier. We have highlighted areas that show the work of redemption centers, which have been repeatedly discounted by this same testifier.

## REVIEW OF REGULATIONS FROM OTHER BOTTLE LAW STATES

### 1. Maine

- Anyone who sells, beverages in redeemable containers, including vending machines, is a dealer. Me. Rev. Stat. Ann. tit. 32, §1862(5).
  - A dealer may refuse to accept containers if the type of the container and the dealer are covered by an order permitting a redemption center. Me. Rev. State. Ann. tit. 32, §1866(2).
  - LIMIT: 240 containers per person per day. Me. Rev. State. Ann. tit. 32, §1866(2-A).
  - A dealer may refuse to accept containers during no more than 3 hours each day. If the dealer chooses to do this, the hours during which he or she will not accept containers must be posted. Me. Rev. State. Ann. tit. 32, §1866(2-B).
- Link to Statute: <http://haolls.state.me.us/Jegis/statutes!32!title3!sec1867.html>  
Link to Regulations: <http://hmvw.maioe.gov/sos/cec/ruJes/OI!nOI1001c36n.doc>

### 2. Vermont

- The Vermont statute requires all retailers to accept and pay the refund for any beverage containers "of the kind, size and brand sold by the retailer ...." 10 V.S.A. §1523(a)(1).
  - Containers may be redeemed during no less than 40 hours per week, during regular operating hours. 10 V.S.A. § 1522(d).
  - A retailer may refuse to accept containers, with the prior approval of the Secretary of the Agency of Natural Resources, if there is a redemption center serving the public need. 10 V.S.A. § 1523(b).
- Website Statute: <http://www.vt.gov/leg/statc.vt.us/sr.atl1tcs/scctiol1s.cfm?Titlc=1O&Chapter=053>

### 3. Massachusetts

- Any dealer must accept any empty beverage container of the size, brand, and type which the dealer sells and pay the customer the refund for the container. Mass. Gen. Laws Ch. 94 §323(b).
  - Dealers must accept containers during their normal business hours. Id.
  - In addition to retail establishments, any person can establish a redemption center. Mass. Gen. Laws Ch. 94 §323(e).
- o A redemption center may choose what containers it will accept. Id.
- Link to Massachusetts General Law: <http://www.mass.gov/legis/laws/mgl/94-321.htm>

### 4. Connecticut

- A dealer must accept "any empty beverage containers of the kind, size and brand sold by the dealer" at the dealer's place of business unless the container contains foreign material or is not labeled in accordance with the statute. Conn. Gen. Stat. Ch. 446d §22a-245(b).



## 9. Oregon

- A dealer must accept "any empty beverage containers of the kind, size and brand sold by the dealer ...." Or. Rev. Stat. § 459A.710(1)
- A dealer may refuse to accept any container if: (1) it does not state the refund value; (2) the dealer and the container are covered by an order approving a redemption center; (3) the container is visibly contaminated by any substance other than water, the original contents, or dust; (4) the container is damaged to the extent that the brand is unidentifiable. Or. Rev. Stat. § 459A.715(1)-(3).
- A dealer need not accept a container if the dealer: (a) Has not offered the product in the specific container size for sale within the past six months; (b) Has reasonable grounds to believe the container was sold at retail outside Oregon; or (c) Has reasonable grounds to believe that container was obtained from or through a distributor without paying the refund value .... Or. Admin. R. 845-020-0035.
- **LIMIT:** In addition, a dealer may refuse to accept more than 144 containers from any one person in a single day. Or. Rev. Stat. § 459A.715(2)(b).
- Any person may establish a redemption center upon approval of the Oregon Liqueur Control Commission. Or. Rev. Stat. §459A.735(1).

Link to Statute: <http://landru.leg.state.or.us/lors/459a.html>

Link to Administrative Rules: [http://arcweb.sos.state.or.us/rules/OARS 800/OAR 845/845 020.html](http://arcweb.sos.state.or.us/rules/OARS%20800/OAR%20845%20020.html)

## 10. California

- Every dealer must either allow for redemption of empty containers at all open cash registers in the dealer's place of business or at a specified location on the dealer's premises, or the dealer must post a conspicuous sign notifying customers of the name and address of the certified recycling center or location(s) nearest to the dealer, "which redeems **all** types of empty beverage containers at one location during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9:00 a.m. to 5:00 p.m....." Cal. Pub. Res. Code §14570.
- The Administrative Rules do not add any additional restrictions on recycling centers.

Link to Statute: [http://www.consrv.ca.gov/f1\)OR/crcp i recyclers/ Images fact. PDF](http://www.consrv.ca.gov/f1)OR/crcp%20recyclers/Images/fact.PDF)

Link to Administrative Rules: [http://www.consrv.ca.gov/f1\)OR/crcp / recyclers Images /Regs.pdf](http://www.consrv.ca.gov/f1)OR/crcp%20recyclers/Images/Regs.pdf)

Senator Donna Mercado Kim, Chair  
Senator Shan Tsutsui, Vice Chair  
Committee on Ways and Means

HEARING      Friday, April 3, 2009  
                  9:45 am  
                  Conference Room 211  
                  State Capitol, Honolulu, Hawaii 96813



**RE:    HB574, HD2, SD1, Relating to the Deposit Beverage Container Program**

Chair Kim, Vice Chair Tsutsui, Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH does not take a position on HB 574, HD2, however, **we are in strong opposition to provision in the SD1, namely, Part II, Subsection (b)(7)(f) on page 7, lines 6 through 10, which requires dealers having greater than seventy-five thousand square feet of interior space to become redemption centers.**

**Sanitation Concerns:** Retailers should not be mandated to become garbage collectors; this is in direct conflict with the strict sanitation regulations required by the Department of Health. Collecting and storing redeemed containers inevitably attracts pests, including roaches, rats and ants. Preventing food contamination and controlling vermin infestation would require retailers utilize poisons and insecticides, which could pose health risks for our employees and our customers.

**Cost Concerns:** Given the state of our economy, this is not the time to burden retailers with additional costs. For a retailer of this size, a workable redemption facility requires a minimum of from 10 to 15 reverse vending machines. Of greater impact are on-going operating costs: 1) permitting and retrofitting construction costs; 2) staffing to empty and clean the machines; 3) electricity to operate the machines; 4) security to prevent malicious damage; and 5) contract services to haul the redeemed containers off the property. These valuable resources should and must be allocated to retaining employees and their benefits, and avoiding layoffs.

**Program Success:** According to the Department of Health's web site, the redemption rate "remains high at 73%." The recycling industry is to be commended for their considerable investment in developing a network of redemption centers that undoubtedly account for this high redemption rate. This retailer mandate most certainly will have a devastating impact on their business. Additionally, not-for-profit organizations, including Goodwill Industries, inevitably will lose valuable resources.

**Convenience:** Finally, as curbside recycling programs expand to include other areas on Oahu, it is highly likely that the remainder of unredeemed containers will be captured. One cannot deny that curbside recycling is the **MOST CONVENIENT** option.

Hawaii's retailers are not anti-environment. Hawaii's retailers currently recycle tons of waste: backhauling their shipping materials, recycling wooden pallets, and baling cardboard cartons for recycling. A recent survey of retailers revealed that in 2008, 10,000 tons of plastic and cardboard were shipped out of the state and NOT dumped into the landfill.

The members of the Retail Merchants of Hawaii respectfully urge you to hold delete the provisions of SD1 and allow HB574, HD2 to move forward. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII  
1240 Ala Moana Boulevard, Suite 215  
Honolulu, HI 96814  
ph: 808-592-4200 / fax: 808-592-4202

**REYNOLDS RECYCLING INC.**

260 Kilauea Ave. Hilo, Hawaii 96720

Cell 808 347-0837

Ph. 808-935-5679, Fax same

To: Senator Dwight Y. Takamine  
Senator Russell S. Kokubun

4/2/09

From: Rod Anjo, Big Island Manager  
Reynolds Recycling

Re: HB574, HD2, SD1

Hearing: Friday, April 3, 2009, 9:45 am, Conference Room 211

Aloha Senator Takamine and Senator Kokubun

This letter is in opposition to current HB574 HD2 SD1

The contents of SB243, which require stores greater than 75 thousand square feet to operate redemption centers, which were dropped into HB574 HD2, SD1, will strongly affect our abilities to survive.

Due to the likely change in consumer habits, they will be able to do one stop shopping and recycling, they will likely go to Costco, Wal-Mart, etc, and stop bringing their recycling to us. If this were to happen, undoubtedly layoffs of current staff will be required.

The inclusion of the big box stores as redemption centers will give them a serious advantage over both local stores and recyclers. They are likely better able to absorb the cost of putting in reverse vending machines, or other redemption systems than smaller retailers, or recyclers. They could likely take much of our business, and leave us saddled with contracts that we may not be able to pay due to the high rents and poor returns of recyclables at our current locations.

We just recently opened a location at the Prince Kuhio Plaza to help meet customer needs, and while it is not yet making a profit, it will likely do so eventually if these mega stores are not required to operate redemption centers. If they are required to do so, we will be in direct competition with the Wal-Mart across the street, which likely will pay no additional rent to operate their redemption center. It is a huge disadvantage for us, and the result is that this brand new site is likely to be dropped. This will reduce consumer choice, but we will not be able to sustain further damage to our bottom line in Hilo.

Currently the certified redemption centers have made this system work in Hawaii. Please do not break this functioning system. It is working, and customers have learned what they need to do.

Please help protect small local businesses, and this very effective redemption system. Additionally any costs incurred by the big box stores will be passed on to the consumer increasing the already out of control inflationary spiral.

Please "OPPOSE" HB574, HD2, SD1. We already oppose the current form of this bill.

Sincerely



## **kim2 - Arline**

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**From:** Timothy C White [tcwliquid@hawaii.rr.com]  
**Sent:** Thursday, April 02, 2009 11:35 AM  
**To:** WAM Testimony  
**Cc:** Sen. Shan Tsutsui  
**Subject:** HB574, HD2, SD1

April 2, 2009

To: Senator Donna Mercado Kim, Chair  
Senator Shan S. Tsutsui, Vice Chair  
Committee on Ways and Means

From: Tim White, Maui Manager  
Reynolds Recycling

Re: HB574, HD2, SD1,

Hearing: Friday, April 3, 2009, 9:45 am, Conference Room 211

Aloha Senator Kim, Senator Tsutsui, and Members of the Committee

We oppose the current HB574 HD2 SD1.

We are worried that the portion from SB 243, which requires stores greater than 75 thousand square feet to operate redemption centers, will affect our abilities to survive.

Due to the likely change in consumer habits, they will be able to do one stop shopping and recycling, if they end up going to the big box stores, we will likely have to lay off 1/2 or more of our current employees.

While we can support the RVM rebate program, the inclusion of the big box stores as redemption centers will give them a serious advantage over both local stores, and recyclers. They are likely better able to absorb the cost of putting in reverse vending machines, or other redemption system than smaller retailers, or recyclers.

Laws in Hawaii, and all other deposit states (Hawaii included) currently require stores to operate redemption centers. Most of these states allow stores to opt out if redemption centers are nearby. This bill will take out this option for the big box stores. Unfortunately, it does not let the recycler off the hook for any locations they have already leased that happen to be near these new mega-competitors. This would take much of our business, and leave us saddled with contracts that we may not be able to pay due to the high rents of current locations.

I haven't found where any other state requires stores to operate redemption centers based on size. There must be a good reason for this. There are many places where there already are redemption centers near these large stores.

Throughout the United States, the reality is all deposit state programs but two are based on having independent redemption centers take care of the bottle and can redemption. This has worked well nationwide, and has already brought Hawaii to over 72% redemption.

We know that this current system works, we can quickly take care of our customers, and we know many of them by name. It is an effective system, it is not a broken system, and does not need to be fixed with a new requirement to have new operators that don't know about this business, and who likely don't want to be in the recycling business.

Please help protect Hawaii's consumers, small businesses, and the very effective current redemption system. We oppose HB 574, HD2, SD1, and hope that you will also.

Best regards,