

JAN 21 2026

A BILL FOR AN ACT

RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.

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

1 SECTION 1. The legislature finds that Act 12, Session Laws
2 of Hawaii 2022, codified at section 328G-121.5, Hawaii Revised
3 Statutes, attempted to strengthen accountability for the deposit
4 beverage container program by requiring the department of health
5 to develop and implement procedures to verify the accuracy and
6 completeness of data reported by distributors and redemption
7 centers. The legislature finds, however, that the requirement
8 under section 328G-121.5(c)(2), Hawaii Revised Statutes, that
9 all deposit beverage distributors obtain independent audits
10 biennially has caused, and would have continued to cause,
11 financial hardship on some distributors had the governor not
12 paused enforcement on September 10, 2025. Many mid-sized
13 distributors have received preliminary quotes upwards of \$25,000
14 to complete an audit because the auditing firms found the
15 statutory language vague and the auditing requirement difficult
16 to execute in a consistent, defensible manner. These
17 unanticipated costs are unreasonable, particularly when applied



1 uniformly without regard to risk, and will inevitably be
2 transferred to consumers in the form of higher beverage prices.
3 Distributors and retailers have also noted that the cost of
4 conducting the required independent audits exceeds the amount
5 they pay into the deposit beverage container program, resulting
6 in a compliance mandate that costs more to administer than it
7 generates in program contributions or accountability benefits.

8 The legislature further finds that the State already has
9 among the highest food costs in the nation due to shipping
10 expenses, labor costs and shortages, commercial rents,
11 electricity rates, and other structural cost drivers. At the
12 same time, approximately one in three households in the State
13 struggle to afford food. Therefore, it is imperative that the
14 State refrain from imposing unnecessary administrative
15 requirements that increase the cost of food and beverages
16 without delivering a commensurate public benefit.

17 The legislature also finds that the department of health is
18 already given robust enforcement authority under other
19 provisions of section 342G-121.5, Hawaii Revised Statutes,
20 including a risk-based audit selection process, data analytics,
21 trend analysis, follow-up audits, and public reporting of



1 violations. These tools directly address compliance concerns
2 identified by the state auditor that led to the enactment of
3 Act 12 in 2022, and allow the department to focus oversight
4 where risk is greatest. The deposit beverage container deposit
5 special fund already has ample resources to support strong
6 oversight without shifting large audit costs onto the food
7 supply chain. The state auditor's most recent financial and
8 program audit reports that the deposit beverage container
9 deposit special fund had a fund balance of \$77,860,170 as of
10 June 30, 2024. These funds can support as many risk-based
11 audits through internal staff or external consultants as the
12 department of health deems necessary, while avoiding a blanket,
13 high-cost independent audit mandate that increases consumer
14 prices.

15 The legislature additionally finds that no other state
16 imposes a fixed, universal requirement that every distributor
17 obtain an independent audit on a set biennial schedule
18 regardless of risk; instead, other states rely on reporting,
19 compliance oversight, and targeted enforcement mechanisms to
20 maintain program integrity.



1 Accordingly, the purpose of this Act is to repeal
2 unnecessary and disproportionate administrative burdens on
3 deposit beverage distributors and redemption centers in the
4 State, including the universal biennial independent audit
5 requirement, while preserving the deposit beverage container
6 program's existing risk-based accountability verification
7 framework.

8 SECTION 2. Section 342G-121.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"[f]S342G-121.5[}] Risk-based selection process; audit.**

11 (a) The department shall develop a risk-based process to
12 select[~~r~~] for periodic audit[~~r~~] certain deposit beverage
13 distributor and redemption center reports submitted to the
14 deposit beverage container program. The department may hire
15 personnel or external consultants to perform the audits. In
16 developing a risk-based process to audit certain deposit
17 beverage distributor and redemption center reports, the
18 department shall:

19 (1) Consider a variety of risk factors, including but not
20 limited to the amount of money transacted, prior audit



1 findings, and frequency of the deposit beverage
2 distributor's or redemption center's prior audits;

3 (2) Require selected deposit beverage distributors and
4 redemption centers to send monthly or semi-annual
5 distribution reports and supporting records, such as
6 schedules of invoices, shipping documents,
7 point-of-sale reports, and other documentation as
8 required by the department, to the deposit beverage
9 container program; and

10 (3) Ensure that the audit process includes a risk
11 assessment derived from deposit beverage distributor
12 and redemption center data based on the reports
13 submitted, including but not limited to carrying out
14 analytics and trend analyses to target certain deposit
15 beverage distributors and redemption centers having
16 unusual fluctuations.

17 (b) The department shall:

18 (1) Summarize the results of the deposit beverage
19 distributor and redemption center audits and assess
20 whether enforcement actions should be considered to



1 ensure that the amounts that are [being] reported are
2 accurate;

3 (2) Consider conducting follow-up audits; and

4 (3) Consider publicly announcing violations.

5 ~~[c) All deposit beverage distributors shall:~~

6 ~~(1) Develop and submit to the deposit beverage container~~
7 ~~program for approval an internal control process to~~
8 ~~ensure that the monthly or semi-annual distribution~~
9 ~~report forms contain accurate data and that adequate~~
10 ~~records are maintained; and~~

11 ~~(2) Obtain independent audits for years ending in an odd~~
12 ~~number.] "~~

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Mike Gabbard



S.B. NO. 2105

Report Title:

DOH; Deposit Beverage Container Program; Audit; Internal Control Process; Repeal; Distributors; Redemption Centers

Description:

Repeals provisions requiring all deposit beverage distributors to send monthly or semi-annual distribution reports and supporting records to the Department of Health; develop and submit to the program for approval, an internal control process to ensure accurate data reporting and adequate record maintenance; and obtain biennial independent audits.

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