

S.B. NO. 3138

JAN 28 2026

A BILL FOR AN ACT

RELATING TO INDEPENDENT AUDITS OF DEPOSIT BEVERAGE DISTRIBUTORS.

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

1 SECTION 1. The legislature finds that the office of the
2 auditor conducts a financial and program audit of the department
3 of health's deposit beverage container program every other year.
4 The auditor's 2019 report to the legislature reported accounting
5 exceptions in records provided by six of twenty-four deposit
6 beverage distributors. One of the recommendations made by the
7 auditor was to increase deposit beverage distributors'
8 accountability for information provided to the deposit beverage
9 container program by requiring deposit beverage distributors to
10 obtain independent audits for years ending in odd numbers. The
11 auditor's recommendation for deposit beverage distributors to
12 obtain independent audits for years ending in odd numbers was
13 adopted by the legislature in Act 12, Session Laws of Hawaii
14 2022.

15 The legislature further finds that the independent audit
16 requirement caused financial hardship to small businesses. In
17 some cases, the cost of obtaining an independent audit exceeded

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1 the amount of deposits and container fees paid by a distributor
2 to the department of health.

3 Therefore, the purpose of this Act is to amend the deposit
4 beverage distributor independent audit requirement to mitigate
5 the financial impact to small businesses.

6 SECTION 2. Chapter 342G, Hawaii Revised Statutes, is
7 amended by adding to part VIII a new section to be appropriately
8 designated and to read as follows:

9 "§342G- Independent audit. (a) Deposit beverage
10 distributors who distribute at least seventy-five million
11 deposit beverage containers in a calendar year ending in an even
12 number shall obtain an independent audit for the calendar year
13 after the calendar year ending in an even number.

14 (b) Deposit beverage distributors who distribute at least
15 two million but fewer than seventy-five million deposit beverage
16 containers in a calendar year ending in four or nine shall
17 obtain independent audits for the calendar year after the
18 calendar year ending in four or nine.

19 (c) Deposit beverage distributors who distribute fewer
20 than two million deposit beverage containers in a calendar year
21 shall be exempt from the requirements of this section.

22 (d) At a minimum, each independent audit shall:

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- 1 (1) Assess the accuracy of inventory reports and payments
2 to the department required by section 342G-105;
- 3 (2) Assess the accuracy of fees collected in sales,
4 transfers, or donations of deposit beverage containers
5 to or from other deposit beverage distributors and
6 dealers;
- 7 (3) Contain a certification that the independent audit is
8 accurate to the best of the independent auditor's
9 knowledge and ability; and
- 10 (4) Be submitted to the department by September 30 of the
11 calendar year after the deposit beverage distributor
12 is required to obtain the independent audit."

13 SECTION 3. Section 342G-101, Hawaii Revised Statutes, is
14 amended by adding a new definition to be appropriately inserted
15 and to read as follows:

16 "Distribute" means to manufacture beverages in deposit
17 beverage containers in this State, or to import and engage in
18 the sale of filled deposit beverage containers to a dealer or
19 consumer."

20 SECTION 4. Section 342G-121.5, Hawaii Revised Statutes, is
21 amended to read as follows:

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1 " [+] § 342G-121.5 [+] **Risk-based [selection process;]** audit.

2 (a) The department shall develop a risk-based process to

3 select, for periodic audit, certain deposit beverage distributor

4 and redemption center reports submitted to the deposit beverage

5 container program. The department may hire personnel or

6 external consultants to perform the audits. In developing a

7 risk-based process to audit certain deposit beverage distributor

8 and redemption center reports, the department shall:

9 (1) Consider a variety of risk factors, including but not

10 limited to the amount of money transacted, prior audit

11 findings, and frequency of the deposit beverage

12 distributor's or redemption center's prior audits;

13 (2) Require deposit beverage distributors to send monthly

14 or semi-annual distribution reports and supporting

15 records, such as schedules of invoices, shipping

16 documents, point-of-sale reports, and other

17 documentation as required by the department, to the

18 deposit beverage container program; and

19 (3) Ensure that the audit process includes a risk

20 assessment derived from deposit beverage distributor

21 and redemption center data based on the reports

22 submitted, including but not limited to carrying out

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1 analytics and trend analyses to target certain deposit
2 beverage distributors and redemption centers having
3 unusual fluctuations.

4 (b) The department shall:

5 (1) Summarize the results of the deposit beverage
6 distributor and redemption center audits and assess
7 whether enforcement actions should be considered to
8 ensure that the amounts that are being reported are
9 accurate;

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

11 (3) Consider publicly announcing violations.

12 (c) All deposit beverage distributors shall[÷

13 (1) ~~Develop~~ develop and submit to the deposit beverage
14 container program for approval an internal control process to
15 ensure that the monthly or semi-annual distribution report forms
16 contain accurate data and that adequate records are maintained[+

17 and

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

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Department of Health; Deposit Beverage Container Program;
Independent Audit; Deposit Beverage Distributor

Description:

Limits the independent audit requirement to deposit beverage distributors who distribute 2,000,000 or more deposit beverage containers a year. Identifies frequency of obtaining and submitting independent audits based on quantities of deposit beverage containers imported, manufactured, or distributed. Creates minimum requirements for independent audits.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO INDEPENDENT AUDITS OF DEPOSIT BEVERAGE DISTRIBUTORS.

PURPOSE: To limit the independent audit requirement to deposit beverage distributors who manufacture, import, or sell two million or more filled deposit beverage containers (DBCs) in the State and in a calendar year; and also specify the frequency of independent audits based on the number of DBCs distributed, and create minimum requirements for independent audits.

MEANS: Add one new section to part VIII of chapter 342G, Hawaii Revised Statutes (HRS), and amend sections 342G-101 and 342G-121.5, HRS.

JUSTIFICATION: Section 342G-121.5(c)(2), HRS, currently requires all deposit beverage container distributors to obtain independent audits every other year. This requirement was adopted from Recommendation 3 of the Office of the Auditor's 2018 Financial and Program Audit of the Department of Health's Deposit Beverage Container Program.

For distributors who manufacture, import, or sell fewer than two million filled DBCs per year in the State, the cost of each audit is excessive in comparison to the amount of deposits and container fees paid to the department. In some cases, the cost of the independent audit exceeds the amount of deposits and container fees paid to the department. This bill is intended to balance the State's ability to ensure proper payment to the program as identified by the Auditor, with the financial impact on affected distributors.

The bill proposes tiering the independent audit requirement based on the number of DBCs manufactured, imported, or sold per

calendar year. Based on fiscal year 2024-2025 deposit beverage distributor data, this bill would require twenty-four of 322 deposit beverage distributors to submit annual audits, which represents approximately 96.6 percent of DBC program revenue in that year.

In fiscal year 2024-2025:

- Five deposit beverage distributors manufactured, or imported and sold seventy-five million or more filled DBCs in the State.
- Nineteen distributors manufactured, or imported and sold at least two million but fewer than 75 million filled DBCs in the State.
- 298 distributors manufactured, or imported and sold fewer than two million filled DBCs in the State.

Impact on the public: None.

Impact on the department and other agencies:
The independent audits will aid the Department in determining whether distributors are making accurate deposit and container fee payments to the Department.

GENERAL FUND: None.

OTHER FUNDS: Independent audit findings of inaccurate deposit and container fee payments will affect revenue in the deposit beverage container deposit special fund.

PPBS PROGRAM
DESIGNATION: HTH 840.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.