

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB3138
RELATING TO INDEPENDENT AUDITS OF DEPOSIT BEVERAGE DISTRIBUTORS.**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date, Time, and Room Number: 02/26/2026, 1:00 PM, 225

1 **Fiscal Implications:** A majority of the deposit beverage container (DBC) distributors would save
2 on independent audit costs. The financial impact on the Department of Health (Department)
3 would be negligible.

4 **Department Position:** The Department supports this measure.

5 **Department Testimony:** The Environmental Management Division, Solid and Hazardous Waste
6 Branch provides the following testimony on behalf of the Department.

7 This measure limits the independent audit requirement to DBC distributors who
8 annually import or distribute 2,000,000 or more DBCs in a calendar year.

9 Hawai'i Revised Statutes, Chapter 342G-121.5(c)(2) currently requires all DBC
10 distributors to obtain independent audits every year ending in an odd number. This
11 requirement was directly adopted from recommendation 3 of the Office of the Auditor's 2019
12 Financial and Program Audit of the Department of Health's Deposit Beverage Container
13 Program. The Auditor wrote that independent audit recommendation was made to increase
14 distributors' accountability for information provided to the DBC Program.

1 However, the Department recognizes that this requirement caused hardship to small
2 businesses. For many distributors, the cost of each audit is incongruent to the amount of
3 deposits and container fees paid to the Department; and in some cases, costs more than the
4 amount paid to the Department.

5 The Department believes that SB3138s strikes a balance between addressing the
6 Auditor's concerns and alleviating the financial burden of our small business community. Based
7 on FY2025 data, there are about 322 DBC distributors. Using the tiered system described in the
8 measure and FY2025 data, the uppermost tier is represented by about five distributors, who
9 sell 75 million or more DBCs per year. They would be required to conduct independent audits
10 every two years (the same as the current requirement). The middle tier is represented by about
11 19 distributors, who sell at least two million but less than 75 million DBCs per year. They would
12 be required to obtain an independent audit every five years. The remaining 298 distributors
13 would be exempt from obtaining independent audits. Based on FY2025 data, the independent
14 audits will cover about 96% of the funds that are collected into the DBC program. SB3138 also
15 clarifies independent audit requirements, addressing a concern raised by the regulated
16 community.

17
18 **Offered Amendments:** None.

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



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Eddie Asato, Pint Size Hawaii, *Advisor*
Gary Okimoto, Safeway, *Advisor*
Maile Miyashiro, C&S Wholesale, *Immediate Past Chair*

TO: Committee on Health and Human Services
FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 6, 2026

TIME: 1pm

RE: SB3138 Relating to Independent Audits of Deposit Beverage Distributors
Position: Support

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

HFIA is in support of this measure. We'd like to thank the Governor for including this important measure in his package and the Committee for hearing it. As the measure notes, the way the independent audit requirement was implemented has caused extreme hardship for many beverage distributors, especially smaller local businesses. Some local businesses that manufacture and sell beverages locally have paid thousands of dollars for audits, sometimes paying more for audits than they contribute to the deposit beverage container program. Put simply this is untenable for these businesses.

We think it is important to note that no other state imposes a fixed, universal requirement that every distributor obtain an independent audit on a set biennial schedule regardless of risk; instead, other states rely on reporting, compliance oversight, and targeted enforcement mechanisms to maintain program integrity.

We believe the optimal solution would be to repeal unnecessary and disproportionate administrative burdens on deposit beverage distributors and redemption centers in the State, including the universal biennial independent audit requirement, while preserving the deposit beverage container program's existing risk-based accountability verification



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Gary Okimoto, Safeway, *Advisor*
Maile Miyashiro, C&S Wholesale, *Immediate Past Chair*

framework. SB2105 includes language for a repeal and we encourage the Committee to consider amending this measure to include that language.

We are in strong support of making the necessary changes to ensure that arbitrary audit requirements do not unnecessarily damage the local businesses that manufacture, distribute, supply, and sell beverages for Hawaii consumers. We thank you for the opportunity to testify.



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E-mail: mail@abcstores.com

TO: Committee on Health and Human Services

FROM: John Mark Mageo

Employee Relations & Government Affairs Manager

ABC Stores

DATE: February 6, 2026

TIME: 1:00 p.m.

RE: SB3138 – Relating to Independent Audits of Deposit Beverage Distributors

POSITION: Support

Chairs and members of the Committee,

My name is **John Mark Mageo**, and I serve as the **Employee Relations and Government Affairs Manager for ABC Stores**, which operates retail locations statewide and partners closely with local beverage manufacturers and distributors. I respectfully submit testimony **in strong support of SB3138**.

The current independent audit requirement for deposit beverage distributors has created **significant and disproportionate financial burdens**, particularly for small, local businesses. In some cases, the cost of required biannual audits exceeds what distributors contribute annually to the beverage container deposit program itself—an imbalance that is unsustainable.

For ABC Stores, these costs are not abstract. Excessive compliance expenses ripple through the supply chain, impacting **pricing, product availability, and the long-term viability of local beverage partners**. When local distributors are strained, retailers and consumers ultimately feel the effects.

Hawai'i's approach is also an outlier. No other state imposes a fixed, universal audit schedule regardless of risk. Most rely on **risk-based oversight** that protects program integrity without penalizing compliant businesses.

SB3138 strikes a better balance—maintaining accountability while reducing unnecessary administrative burden. This will help stabilize local suppliers, support Hawai'i-owned businesses, and avoid downstream cost pressures on consumers.

We strongly support SB3138 and thank the Committee for the opportunity to testify.

Respectfully submitted,

John Mark Mageo

Employee Relations & Government Affairs Manager

ABC Stores



4 February 2026

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Angus L.K. McKelvey, Vice Chair

Re: Recommended Amendments to SB3138

Aloha Chair, Vice Chair, and Members of the Committee:

My name is Garrett W. Marrero, I am the CEO and Co-Founder of Maui Brewing Co., operating locations in Lahaina, Kaanapali, and Kihei on Maui, and Waikiki and Kailua on Oahu. Made in Hawai'i and sold in 6 States and 2 Countries, employing more than 500 teammates across Hawai'i. I am submitting these **COMMENTS with AMENDMENTS** for **SB3138**, which addresses the Hawaii Deposit Beverage Program audit requirements.

As you know I was part of the Infobrief this past year and we highlighted our concerns of the small producers in the business community where the audit requirements applied to every level of producer and carried costs from \$15,000 to \$20,000 PER LOCATION even though many of these businesses remit less than \$300 in deposits per year. This was an oversight and unintended consequence of previous rulemaking.

We appreciate the Department of Health's willingness to engage with small businesses and industry stakeholders to address issues within the Deposit Beverage Container Program. We share the goal of improving transparency and program integrity, and we could be supportive of this legislation if the audit thresholds and reporting requirements are amended to reflect where actual risk exists and to avoid unnecessary burden on small local producers.

As both the Department of Health and the Legislature's own information briefing materials have stated, fraud within the deposit beverage container system appears to rest primarily with redemption centers—not distributors or producers. Distributors do not realize any measurable financial gain from deposits; we simply collect deposits and forward them to the department. There is no incentive or mechanism for distributors to profit from misreporting deposit activity.

With that context, we respectfully request the following amendments:

1. Raise Current Proposed Exemption for Small Producers Below a Reasonable Threshold

We ask the committee to amend the bill to exclude from audit requirements any producer or distributor handling fewer than **five million containers** annually.

Handcrafted Ales & Lagers Brewed with Aloha
605 Lipoa Parkway, Kihei, HI 96753
808.213.3002

2. Allow these Exempt Small Producers to choose Monthly, Quarterly or Semi-Annual

For producers under the threshold, reduce the burden of filings.

3. Modernize Reporting to a Web-Based System

We strongly encourage the Legislature to add language requiring the Department of Health to modernize reporting into a web-based system, consistent with other state filings such as GET and M-18 excise tax reports. This is currently a paper and mail in process. There should be no new fees to develop this as the department holds over \$85,000,000 in funds from recycling fees.

4. Include Industry in the Development of Audit Standards and Forms

The bill currently outlines audit requirements in very broad terms, leaving significant room for interpretation. We ask that language be added to require industry participation in developing audit documentation and to provide a standardized audit form or structure.

5. Clarify the Definition and Exclusion of Reusable Containers

The bill should explicitly clarify what constitutes a reusable container and confirm its exclusion from the deposit program. Examples include refillable glass or metal growlers, reusable water bottles, and insulated beverage containers such as Hydro Flask–style bottles or Stanley insulated cups.

6. Address Program Enforcement Clarity

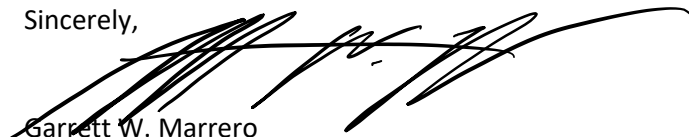
The bill does not clearly articulate what penalties apply if an audit reveals discrepancies or how findings of underpayments or overpayments would be resolved.

Recall that the Department of Health currently has zero employees dedicated to administering the Deposit Beverage Container Program. The above changes will dramatically streamline the program to allow for better oversight and administration.

We appreciate the intent behind SB3138 and the Department of Health's engagement with stakeholders. With targeted amendments that focus oversight where actual risk exists, modernize reporting, and protect small local producers from undue burden, this bill could be significantly improved.

Mahalo for the opportunity to provide comments and for your consideration.

Sincerely,

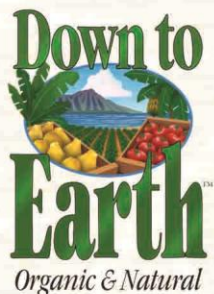


Garrett W. Marrero
CEO and Co-Founder

Garrett@MauiBrewing.com

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SB3138 Relating to Independent Audits of Deposit Beverage Distributors Senate Committee on Health and Human Services February 6, 2026, 1:00pm

Aloha Chair Joy San Buenaventura, Vice Chair Angus McKelvey, and Committee Members,

Down to Earth Organic & Natural **supports SB3138 and respectfully requests amendments.**

Down to Earth Organic & Natural is a Hawai'i-based natural and organic foods retailer that has served local communities for more than 45 years. Our six stores focus on organic and natural foods, local products, and values-based business practices. As part of our operations, we distribute deposit beverage containers and are a "distributor" in the Deposit Beverage Container (DBC) Program.

We appreciate the intent of SB3138 and the Legislature's recognition that the current independent audit requirement created serious hardship for beverage distributors, particularly small and local businesses. We support efforts to improve proportionality and fairness in program oversight, and we agree that the existing one-size-fits-all audit mandate is unreasonable, does not create benefits proportionate to its cost, was enacted without discussion with auditors as to their ability to conduct the audits, and is thus unworkable.

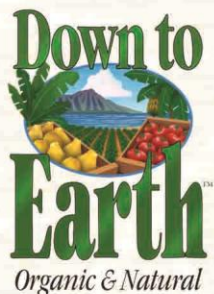
As implemented, the universal biennial independent audit requirement has imposed extreme and unnecessary financial burdens on distributors without a clear corresponding benefit to program integrity. Our audit quote from a local accounting firm was \$25,000—nearly half of the roughly \$60,000 we remit annually to the State in beverage deposits. We had paid \$15,000 of this fee before the audit requirement was put on hold. Audit firms were not consulted prior to its enactment and in practice it turned out that very few audit firms in Hawai'i were willing or able to perform these specialized audits that auditors had never done before, thus driving up audit costs, limited the availability of professionals to conduct the audits, and left some distributors unable to comply at all.

This requirement is layered on top of the Department of Health's existing authority to conduct audits when there is a specific concern (i.e., risk-based audits). Historically, fraud risk within the DBC Program has primarily been associated with redemption centers rather than distributors, yet the current law places substantial cost and administrative burden on compliant retailers and manufacturers. Even state and federal tax agencies do not require independent audits for income taxes and general excise taxes, which involve the collection of far larger revenues. In short, the cost of the audit requirement imposed on distributors was out of proportion to the revenue involved.

We are also concerned that the Department of Health does not have sufficient staffing or systems in place to meaningfully review and use these audits. DOH has acknowledged these challenges and suspended enforcement through Executive Order 25-04, and cancelled the September 30, 2025 audit deadline due to financial hardship for distributors. Unfortunately, some businesses, including ours, had already incurred significant audit expenses (in our case \$15,000 as mentioned above plus internal administrative cost) before enforcement was paused.

www.downtoearth.org

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While SB3138 takes an important step by narrowing and scaling audit requirements, we believe the most effective and equitable solution is to fully repeal the universal independent audit mandate and preserve the program's existing risk-based oversight framework. This approach is consistent with other states, which rely on reporting, targeted enforcement, and selective audits rather than fixed, universal audit schedules.

Accordingly, we respectfully request that the Committee consider amending SB3138 to include repeal language similar to SB2105, permanently removing the mandatory nindependent audit requirement while maintaining DOH's authority to conduct audits when warranted. This would protect local businesses, help contain food and beverage costs for Hawai'i consumers, and allow state resources to be focused where they can do the most good.

Down to Earth supports thoughtful, practical policies that maintain accountability while being workable for local businesses and affordable for our communities. We appreciate the opportunity to testify and look forward to working with the Legislature on this important issue.

Mahalo for the opportunity to testify.

Alison E Riggs

Alison Riggs
Public Policy & Government Relations Manager
Down to Earth

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TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Limit Independent Audits of Deposit Beverage Distributors

BILL NUMBER: SB 3138, HB 2318

INTRODUCED BY: SB by KOUCHI by request; HB by NAKAMURA by request (Governor's Package)

EXECUTIVE SUMMARY: 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.

SYNOPSIS: Adds a new section to chapter 342G, HRS, to require an independent audit of deposit beverage distributors as follows:

Number of containers distributed	Independent audit is required in...
More than 75 million	An even numbered year.
Between 2 million and 75 million	A year ending in 4 or 9
Less than 2 million	Audit not required

Provides criteria for the audit.

Amends section 342G-121.5, HRS, to delete the requirement for obtaining independent audits for years ending in an odd number.

Makes other technical and conforming changes.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This is an Administration measure sponsored by the Department of Health and designated HTH-10 (26).

We urge that serious attention be given to fraud risk and the buildup of the fund balance, as described in [this article the Foundation published on Jan. 27, 2025](#):

Those Nickels Add Up!

By Tom Yamachika, President

By now, most of us who go to the grocery store are used to seeing a bunch of little charges whenever we buy bottled or canned beverages. We get nicked for a nickel per container as a “deposit,” which theoretically is refundable if you bring the container back to the store or to a

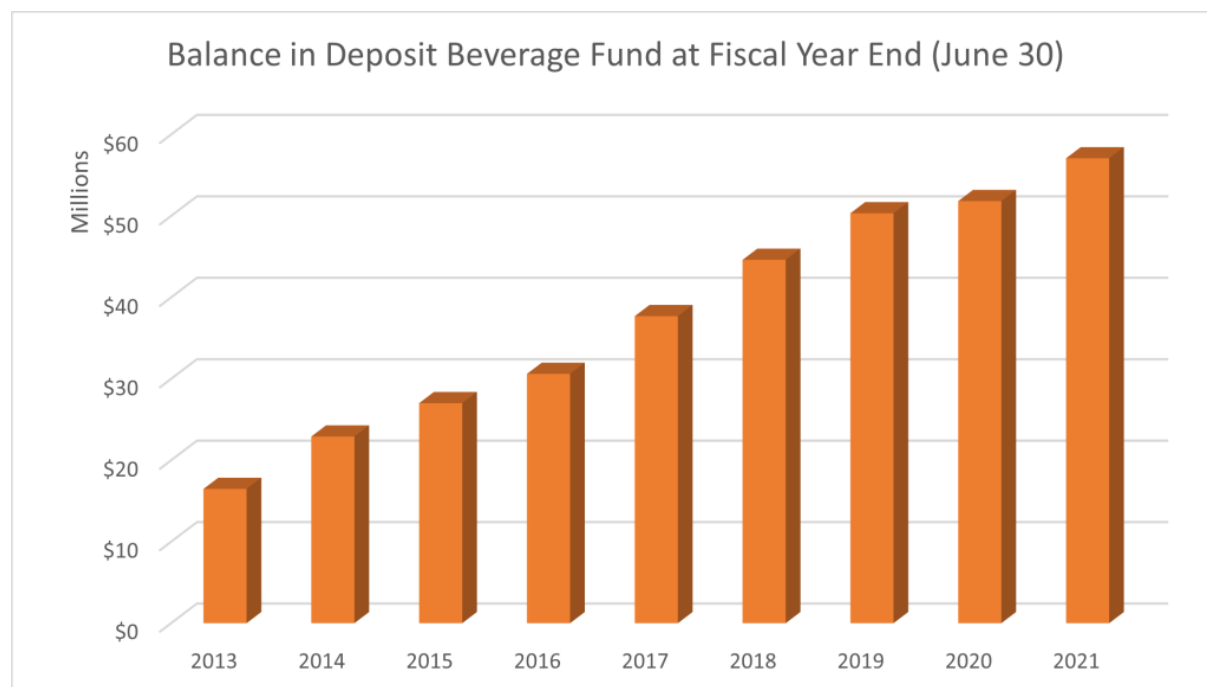
recycling center; and for a penny per container as a “fee,” which seems to disappear into a black hole.

The nickels and the pennies get collected by the Department of Health. The Department’s Solid Waste Branch runs the deposit beverage container program. The program collects a certain amount per container, like similar programs in other states, to promote container recycling. So, the pennies and the nickels go into a special fund, called the Deposit Beverage Container Deposit Special Fund (am I the only one who is bugged by the word “Deposit” appearing twice in that fund name?), established by HRS section 342G-104. The special fund is there to provide the money to run the program, making it self-sufficient, but there is a wrinkle. Section 342G-104(c) says, “Any funds that accumulate in the deposit beverage container deposit special fund shall be retained in the fund unless determined by the legislature to be in excess.” Meaning that the legislature expected that there would be extra money at some point, at which time the fund would be ripe for raiding.

But that assumes that the State doesn’t get raided first. We have written about this program and this fund before. The State Auditor’s Report No. 19-08 told the story of a staff worker for the accounting firm hired to do the fund’s financial audit. He dropped off a few bottles at the redemption center and received a whole 61 cents for his trouble. But the redemption center altered the log and claimed against the fund for reimbursement of 69 DOLLARS. And that wasn’t the only instance of fraud found.

The Department of Health also complained that fraud was a serious and real risk for the program, but we heard no stories of folks going to the hoosegow over this.

In the meantime, even with the fraud risk, the nickels in the fund started to pile up. Here is what the fund contained at the end of each fiscal year from 2013 to 2021:



Source: Office of the Auditor, Reports No. 15-02, 17-02, 19-08, 21-13, 23-07.

As of the end of 2021, there was more than fifty million bucks in the fund apparently sitting around doing nothing.

Now that our legislative session has started, therefore, we have an important message to lawmakers: “Hey! Those of you numbskulls who want to raise taxes! Shut up, take this \$50 million, and leave us taxpayers alone! And, by the way, try not to spend it all in one place!”

Digested: 2/4/2026

SB-3138

Submitted on: 2/4/2026 8:50:02 PM

Testimony for HHS on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Steve Haumschild	Testifying for Lanikai Brewing Company LLC DBA Lanikai Spirits	Comments	Written Testimony Only

Comments:

Suggest that all submissions are through a digital portal to modernize and keep track easily.

Suggest that the minimum is raised from 2m units to 5m units



FIVE WATERFRONT PLAZA
500 ALA MOANA BLVD STE 400
HONOLULU, HAWAII 96813

February 5, 2026

Via Email

Committee on Health and Human Services
Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair
Hawaii State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: **S.B. No. 3138 - RELATING TO INDEPENDENT AUDITS OF DEPOSIT
BEVERAGE DISTRIBUTORS.**

DATE: Friday, February 6, 2026

TIME: 1:00 PM

Dear Chair San Buenaventura, Vice Chair McKelvey and Committee Members:

The Hawaii Liquor Wholesalers Association ("HLWA"), respectfully submits the following written testimony in opposition to S.B. No. 3138, relating to independent audits of deposit beverage distributors.

While S.B. No. 3138 amends the deposit beverage distributor independent audit requirement by limiting the independent audit requirement to deposit beverage distributors who distribute 2,000,000 or more deposit beverage containers a year, the affected distributors still must incur the financial cost of an independent audit in addition to the administrative and labor costs associated with the audit. For example, alcohol products are already the most highly regulated product in the nation. With present Federal and State oversight adding audit requirements is costly and redundant.

This bill would still require all deposit beverage distributors to develop and submit for approval an internal control process to ensure that the reports contain accurate data and that the adequate records are maintained.

These added expenses will only drive the price of beverages higher. Hawaii food and beverage costs are already among the highest in the nation and this bill will only result in financial hardship to businesses and the general public.

These requirements are not necessary and not justified given that the Department of Health has an existing risk-based program in place that can accommodate department managed risk-based audits.

In the alternative, S.B. No. 2105 and companion H.B. No. 1610 which repeal the requirement to develop and submit an internal control process and for independent audits for all deposit beverage distributors, should be considered.

For the foregoing reasons, we respectfully oppose S.B. No. 3138. Thank you for your consideration of the foregoing.

Very truly yours,
HAWAII LIQUOR WHOLESALERS ASSOCIATION

By: 

Kenneth G. K. Hoo
Its Secretary

LATE



To
Senate Committee on Health and Human Services
Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. Mckelvey, Vice Chair

February 5, 2026; 1:00 pm
Conference Room 225 & Videoconference

From: Terry G. Telfer, President, Reynolds Recycling, Inc.

Testimony in Opposition to current SB 3138 Relating to Independent Audits Deposit Beverage Container Distributors

Aloha Honorable Chair Buenaventura, Vice Chair Mckelvey, and Members of the Committee:

Reynolds Recycling, as Hawaii's largest HI-5 Deposit Beverage Container recycler, **Opposes SB 3138.**

Reynolds Recycling, as Hawaii's largest Deposit Beverage Container Recycler strongly believe that the current system of audits on both the beverage container distributors, and the redemption center operators is effective in determining fraud and misinformation in the Hi-5 program.

While there may be an additional expense caused by having independent audits on beverage distributors, the vast majority of cases where there have been discrepancies found have shown that the large beverage distributors have made errors, but smaller distributors have also made such errors. The proposed exemption of distributors who sell less than 2 million containers, should perhaps be changed to "may be subject to audit" rather than given a total exemption.

Additionally, the proposed requirement of audits of Redemption Centers is vague, and beyond using the term "Risk Based" is completely unclear as to what changes this may entail at this stage.

Because of the above we **opposed SB 3138 in its current form.**

Thank you for the opportunity to submit this testimony.

LATE

SB-3138

Submitted on: 2/6/2026 10:35:53 AM

Testimony for HHS on 2/6/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bahman Sadeghi	Testifying for Meadow Gold Dairies Hawaii	Support	Written Testimony Only

Comments:

Meadow Gold Dairies Hawaii is in support of this measure. We'd like to thank the Governor for including this important measure in his package and the Committee for hearing it. As the measure notes, the way the independent audit requirement was implemented has caused extreme hardship for many beverage distributors, especially smaller local businesses. Some local businesses that manufacture and sell beverages locally have paid thousands of dollars for audits, sometimes paying more for audits than they contribute to the deposit beverage container program. Put simply this is untenable for these businesses.

We think it is important to note that no other state imposes a fixed, universal requirement that every distributor obtain an independent audit on a set biennial schedule regardless of risk; instead, other states rely on reporting, compliance oversight, and targeted enforcement mechanisms to maintain program integrity.

We believe the optimal solution would be to repeal unnecessary and disproportionate administrative burdens on deposit beverage distributors and redemption centers in the State, including the universal biennial independent audit requirement, while preserving the deposit beverage container program's existing risk-based accountability verification framework. SB2105 includes language for a repeal and we encourage the Committee to consider amending this measure to include that language.

We are in strong support of making the necessary changes to ensure that arbitrary audit requirements do not unnecessarily damage the local businesses that manufacture, distribute, supply, and sell beverages for Hawaii consumers. We thank you for the opportunity to testify.