

ACT 241

S.B. NO. 1611

A Bill for an Act Relating to the Deposit Beverage Container Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§235- **Deposit beverage container deposit exemption.** This chapter shall not apply to amounts received as a deposit beverage container deposit collected under part VIII of chapter 342G.”

SECTION 2. Section 342G-101, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Redemption rate” means the percentage of deposit beverage containers redeemed over a reporting period. The percentage is calculated by dividing the number of deposit beverage containers redeemed by the number of deposit beverage containers sold and then multiplying that number by one hundred.”

SECTION 3. Section 342G-102, Hawaii Revised Statutes, is amended to read as follows:

“[E]§342G-102[F] Deposit beverage container fee. (a) Beginning on October 1, 2002, every deposit beverage distributor shall pay to the department a deposit beverage container fee on each polyethylene [~~terephthalte,~~] terephthalate, high density polyethylene, or metal deposit beverage container manufactured in or imported into the [~~State-~~] state. The fee shall be imposed only once on the same deposit beverage container. The fee shall be 0.5 cents per deposit beverage container.

(b) Beginning on October 1, 2004, every deposit beverage distributor shall pay to the department a deposit beverage container fee on each deposit beverage container manufactured in or imported into the [~~State-~~] state. The deposit beverage container fee shall not apply to deposit beverage containers exported for sale outside of the state. The fee shall be imposed only once on the same deposit beverage[-] container. The fee shall be 1 cent per deposit beverage container.

(c) No county shall impose or collect any assessment or fee on deposit beverage containers for the same or similar purpose that is the subject of this chapter.

(d) Beginning January 1, 2005, [~~the deposit beverage container fees shall be based on a previous calendar quarter’s recycling rates as established by rules. The rates shall be as follows, based on the number of containers sold and the number recovered during a previous quarter;~~] and every August 1 thereafter, the department shall notify deposit beverage distributors in writing of the amount of the deposit beverage container fee. The effective date of changes to the fee amount shall be September 1. The fee shall be based on the redemption rate calculated annually based on the redemption rate information submitted to the department for the previous period of July 1 through June 30. The fee amount shall be as follows:

- (1) If the [~~recovery~~] redemption rate is seventy per cent or less: 1 cent per container; and
- (2) If the [~~recovery~~] redemption rate is greater than seventy per cent: 1.5 [~~cent~~] cents per container.”

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

“[E]§342G-104[F] Deposit into deposit beverage container deposit special fund; use of funds. (a) There is established in the state treasury the deposit beverage container deposit special fund, into which shall be deposited:

- (1) All revenues generated from the deposit beverage container fee as described under sections 342G-102 and 342G-105;
- (2) All revenues generated from the deposit beverage container deposit as described under sections 342G-105 and 342G-110; and
- (3) All accrued interest from [~~this~~] the fund.

(b) Moneys in the deposit beverage container deposit special fund shall be used to reimburse refund values and pay handling fees to redemption centers. The department may also use the money to:

- (1) Fund administrative, audit, and compliance activities associated with collection and payment of the deposits and handling fees of the deposit beverage container ~~[fee and deposit]~~ program;
- (2) Conduct recycling education and demonstration projects;
- (3) Promote recyclable market development activities;
- (4) Support the handling and transportation of the deposit beverage containers to end-markets;
- (5) Hire personnel to oversee the implementation of the deposit beverage container ~~[fee and deposit]~~ program, including permitting and enforcement activities; and
- (6) Fund associated office expenses.

(c) Any funds that accumulate in the deposit beverage container deposit special fund shall be retained in the fund unless determined by the auditor to be in excess, after adjustments to the deposit beverage fee, pursuant to the management and financial audits conducted in accordance with section 342G-107.

SECTION 5. Section 342G-111, Hawaii Revised Statutes, is amended to read as follows:

“[E]§342G-111[3] Sales of beverages in deposit beverage containers[7]; distributor report; fee and deposit payment. (a) ~~[Beginning]~~ By January 1, 2005, every deposit beverage distributor who pays a deposit to the department shall charge the dealer or consumer a deposit equal to the refund value for each deposit beverage container sold in Hawaii. The deposit charge may appear as a separate line item on the invoice.

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

(c) Each deposit beverage distributor shall generate and submit to the department a monthly report on:

- (1) The number of deposit beverage containers, by container size and type, manufactured in or imported into the state; and
- (2) The number of deposit beverage containers, by container size and type, exported and intended for consumption out of the state during the reporting period.

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

(d) Payment of the deposit beverage container fee and deposits as described in section 342G-110 shall be made monthly based on reports of the deposit beverage distributors under subsection (c).

(e) Beginning January 1, 2005, a deposit beverage distributor who annually imports or manufactures one hundred thousand or fewer deposit beverage containers may submit reports and payments required under subsections (c) and (d) on a semi-annual basis; provided that the semi-annual report and payment period shall end on June 30 and December 31 of each year.

(f) The amount due from a deposit beverage distributor shall be the net number of deposit beverage containers sold multiplied by the sum of the prevailing deposit beverage container fee and the deposit value of 5 cents. Payment shall be made by check or money order payable to the “Department of Health, State of Hawaii”. All reports and payments shall be made no later than the fifteenth day of the month following the end of the previous payment period.

(g) The department may allow dealers to charge customers the refund value beginning November 1, 2004; provided that the deposit beverage containers are

clearly marked with the refund value and the deposit beverage distributor has paid the refund value on each container to the department. The dealer shall inform customers that the deposits paid prior to January 1, 2005, shall not be redeemable until January 1, 2005.

SECTION 6. Section 342G-112, Hawaii Revised Statutes, is amended to read as follows:

“[§342G-112] Deposit beverage container requirements. (a) Except as provided in subsection (b), every deposit beverage container sold in [this State] the state shall clearly indicate the refund value of the container and the word “Hawaii” or the letters “HI”. The names or letters representing the names of other states with comparable deposit legislation may also be included in the indication of refund value. [Other indications may be required as specified in rules.] The refund value on every deposit beverage container shall be clearly, prominently, and indelibly marked by painting, printing, scratch embossing, raised letter embossing, or securely affixed stickers and shall be affixed on the top or side of the container in letters at least one-eighth inch in size.

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

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

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

SECTION 7. Section 342G-113, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

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

- (1) Operate a redemption center by [accepting] July 1, 2005, and shall accept all types of empty deposit beverage containers with a Hawaii refund value;
 - (2) Pay to the redeemer the full refund value for all deposit beverage containers [which] that bear a valid Hawaii refund value; and
 - (3) Ensure each deposit beverage container collected is recycled, and forward documentation necessary to support claims for payment as stated in section 342G-119[;] or rules adopted under this part.
- (b) Subsection (a) shall not apply to any dealer:
- (1) Who is located in a high density population area as defined by the director in rules, and within two miles of a certified redemption center that is operated independently [from] of a dealer;
 - (2) Who is located in a rural area as defined by rule;
 - (3) Who subcontracts with a certified redemption center [for operation] to be operated on the dealer’s premises;
 - (4) Whose [sale] sales of deposit beverage containers are only via vending machines;
 - (5) Whose place of business is less than five thousand square feet of interior space;
 - (6) Who can demonstrate physical [hardship,] or financial hardship, or both, based on specific criteria established [in rules;] by rule; or

(7) Who ~~[meet]~~ meets other criteria established by the director. Notwithstanding paragraphs (1) and (2), the director may allow the placement of redemption centers at greater than prescribed distances to accommodate geographical features while ~~[assuring]~~ ensuring adequate consumer convenience.

(c) ~~[All dealers, regardless]~~ Regardless of the square footage of ~~[the]~~ a dealer's place of business, ~~dealers who are not redemption centers~~ shall post a clear and conspicuous sign at ~~[each]~~ the primary public entrance ~~[to]~~ of the dealer's place of business~~[-, which]~~ that specifies the name, address, and hours of operation of the closest redemption center locations.''

SECTION 8. Section 342G-114, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Redemption centers shall:

- (1) Accept all types of empty deposit beverage containers for which a deposit has been paid;
- (2) Verify that all containers to be redeemed bear a valid Hawaii refund value;
- (3) Pay to the redeemer the full refund value in either cash or a redeemable voucher for all deposit beverage containers, except as provided in section 342G-116;
- ~~[(4) Crush or destroy all deposit beverage containers that are accepted at the time of redemption;~~
- (5) (4) Ensure each deposit beverage container collected is recycled through a contractual agreement with an out-of-state recycler or an in-state recycling facility permitted by the department; provided that this paragraph shall not apply if the redemption center is operated by a recycler permitted by the department; and
- ~~[(6) (5) Forward the documentation necessary to support claims for payment as stated in section 342G-119.’’~~

SECTION 9. Section 342G-115, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342G-115]]~~ **Reverse vending machine requirements.** Reverse vending machines may be used by redemption centers to satisfy the requirements of section ~~[342G-113; provided that the reverse]~~ 342G-113. Reverse vending [machine] machines shall accept any type of empty deposit beverage container and pay out ~~[appropriate refunds via]~~ the full refund value in either cash or a redeemable voucher for those containers that bear a valid Hawaii refund value. If the reverse vending machine is unable to read the barcode to calculate the [Hawaii] refund value, then the department ~~[shall]~~ may specify a delayed date in which the reverse vending machines may be used. The reverse vending machine shall be routinely serviced to ensure proper operation and continuous acceptance of empty deposit beverage containers and payment of the refund value [refunds]. ~~[All deposit beverage containers accepted by a reverse vending machine shall either be crushed or destroyed at the point of redemption.]’’~~

SECTION 10. Section 342G-117, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) The ~~[State]~~ department shall pay to each certified redemption center a handling fee of not less than the prevailing deposit beverage container fee for each deposit beverage container redeemed by a consumer ~~[which]~~ that is ~~[transported];~~

- (1) Transported out-of-state; ~~[or received]~~

- (2) Received by an approved in-state company for an approved end use for recycling; or [received]
- (3) Received by a [department-permitted] department-permitted recycling facility.

[(b) Not less than thirty days before paying the handling fees required by this section, the department shall publish a notice statewide in accordance with applicable state law of the recovery rate for the calendar quarter for which the handling fee will be paid. Payments for handling fees shall be made not less than six months after the completion of the calendar quarter to which the payment applies.]

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

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

SECTION 11. Section 342G-119, Hawaii Revised Statutes, is amended to read as follows:

“[E]§342G-119[.] **Redemption center reporting.** The [State] department shall pay certified redemption centers handling fees and refund values as described in [E]section[E] 342G-117, based on collection reports submitted by the redemption centers. All redemption centers shall submit to the department[.] the following information on forms prescribed by the department[.]–Information[.] which information shall include at a minimum:

- (1) The [amount and type of containers accepted and rejected;] number or weight of deposit beverage containers of each material type accepted at the redemption center for the reporting period;
- (2) The amount of refunds paid out[;] by material type;
- (3) The [amount and] number or weight of [each type of] deposit beverage containers of each material type transported out-of-state[.] or to a permitted recycling facility; and
- (4) Copies of out-of-state transport and weight receipts[.] or acceptance receipts from permitted recycling facilities. If the redemption center and the recycling facility are the same entity, copies of out-of-state transport and weight receipts, or documentation of end use accepted by the department, shall also be included.

The requests for payment shall be no more frequent than two times per month. [Beginning January 1, 2005, each center shall report the previous quarter’s information no later than thirty days after the end of that quarter so that the handling rate can be calculated. Failure to timely submit the report shall postpone payment for those containers until they are timely submitted for a subsequent quarter.]’’

SECTION 12. The following procedures shall be used by the department of health to implement and administer the deposit beverage container program. For purposes of enforcement, the procedures shall be treated as rules of the department of health.

1. General provisions.

- 1.1 Purpose. The purpose of these procedures is to implement chapter 342G, part VIII (deposit beverage container program), to establish minimum standards that provide a mechanism for the economical and

environmentally sound collection of empty deposit beverage containers, foster redemption systems that facilitate recycling of empty deposit beverage containers, and minimize costs without inconveniencing consumers.

1.2 **Applicability.** These procedures are applicable to all persons who are subject to regulation under the deposit beverage container program, including but not limited to beverage manufacturers, distributors, recycling facilities, redemption centers, dealers, and other businesses that sell deposit beverages in deposit beverage containers, unless specifically stated otherwise.

1.3 **Definitions.** The following definitions shall apply whenever the terms are used in these procedures unless the context requires otherwise:

“Applicant” means the owner or duly authorized representative of a redemption center.

“Cancel” means the act of removing the refund value of an empty deposit beverage container as follows:

- (1) Metal empty deposit beverage containers shall be deemed cancelled when such containers can no longer be physically reconstituted or distinguished as individual containers;
- (2) Glass empty deposit beverage containers shall be deemed canceled when such containers have been crushed; and
- (3) Plastic empty deposit beverage containers shall be deemed cancelled when the original form has been so altered as to make reconstitution physically impossible.

“Certification” means an official document issued by the department that identifies a redemption center as being certified by the department.

“Certified” means a redemption center has met the minimum requirements of subsection 4.2.

“Consumer” means a person who buys a beverage in a deposit beverage container for use or consumption and pays the deposit.

“Department” means the department of health.

“Director” means the director of health.

“Facility” means all contiguous land, including buffer zones and structures, other appurtenances, and improvements on the land, used for the handling of solid waste.

“High density population area” means all United States Postal Service zip code areas on Oahu that:

- (1) Contain three or more dealers each having five thousand or more square feet of interior space; or
- (2) Have a resident population of seventeen thousand five hundred or greater.

“Manufactured” means completely filled bottles, cans, or other deposit beverage containers that are inventoried for sale or distribution.

“Manufacturer” means any person who bottles, cans, or otherwise fills deposit beverage containers for sale to distributors, dealers, or consumers.

“Material” means the physical substance used to manufacture a deposit beverage container including but not limited to plastic, aluminum, metal, or glass.

“Recycling” means the collection, separation, recovery, and sale or reuse of secondary resources that would otherwise be disposed of as municipal solid waste, and which is an integral part of a manufacturing

process aimed at producing a marketable product made of post-consumer material.

“Redeem” means to return an empty deposit beverage container that is marked with the Hawaii refund value to a certified redemption center and receive the refund value of the container.

“Refund value” means the amount of the deposit established under the deposit beverage container program.

“Rural area” means a non-high density population area.

“Segregated” means deposit beverage containers divided by material type and consisting of one hundred per cent Hawaii refund value material.

“Segregated rate” means a payment rate set by the department for loads of segregated deposit beverage containers assessed by weight.

1.4 General requirements.

- (a) Penalties. Any person who violates any provision of these procedures shall be fined not more than \$10,000 for each separate offense. Each day that a person is in violation of any provision shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be made through administrative, civil, or criminal actions.
- (b) Enforcement. If the director determines that any person has violated or is violating any provision of these procedures, any rule adopted under section 342G-109, Hawaii Revised Statutes, or any term or condition of a certification or permit issued pursuant to these procedures, the director may do one or more of the following:
 - (1) Issue a field citation assessing an administrative penalty and ordering corrective action immediately or within a specified time;
 - (2) Issue an order assessing an administrative penalty for any past or current violation;
 - (3) Require compliance with these procedures immediately or within a specified time; and
 - (4) Commence a civil action in a circuit court of the jurisdiction in which the violation occurred or where the person resides or maintains the person’s principal place of business for appropriate relief, including but not limited to a temporary, preliminary, or permanent injunction and the imposition and collection of civil penalties.
- (c) Any order issued pursuant to subsection 1.4 may include a suspension, modification, or revocation of a certification or permit issued under these procedures and shall state with reasonable specificity the nature of the violation.
- (d) Any order issued under these procedures shall become final unless, not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed under these procedures shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Upon request for a hearing, the director shall require the alleged violator or violators to appear before the director for a hearing at a time and place specified in the hearing notice to answer the charges complained of.

- (e) Any hearing conducted under this subsection shall be conducted as a contested case under chapter 91, Hawaii Revised Statutes.
 - (f) In connection with any hearing held pursuant to this subsection, the director shall have the power to subpoena the attendance of witnesses and the production of evidence on behalf of all parties.
2. Deposit beverage distributors.
- 2.1 Reporting. Deposit beverage distributors shall submit inventory reports to the department using report forms prescribed by the department. The reports shall include but not be limited to information required by section 342G-103, Hawaii Revised Statutes.
3. Dealers.
- 3.1 Additional exemptions. Dealers are exempt from having to operate as a redemption center for empty deposit beverage containers if they:
 - (1) Can demonstrate:
 - (A) Physical hardship, such as the square footage needed to accommodate a redemption center would exceed one per cent of the dealer's retail space; or
 - (B) Such operation would pose a threat to public safety; or
 - (2) Can demonstrate financial hardship including but not limited to providing tax documentation to show that the cost to operate a redemption center will jeopardize the dealer's ability to conduct business.
4. Redemption centers.
- 4.1 Uncertified redemption activities. Uncertified redemption activities shall not be eligible to collect the refund value or handling fee from the department.
 - 4.2 Requirements for certified redemption centers.
 - (a) Redemption centers shall be certified by the department.
 - (b) Redemption centers shall have solid waste permits under chapter 342H, Hawaii Revised Statutes.
 - (c) Certification shall be effective for a period of five years following the date of approval by the department.
 - (d) Applicants shall re-certify the redemption center before expiration of the current certification or the redemption center shall not be eligible for the refund value or handling fee.
 - 4.3 Request for certification.
 - (a) Requests for certification shall be prepared on application forms provided by the department and shall include but not be limited to the following information:
 - (1) The legal name(s), street address, contact person's name and position title, and telephone and fax numbers of the applicant;
 - (2) Annual tax clearances issued by the state department of taxation and the Internal Revenue Service;
 - (3) A certificate of good standing issued by the department of commerce and consumer affairs business registration division, unless the applicant is a sole proprietor;
 - (4) A description of redemption centers including site plans and scope of services;
 - (5) A scope of services on how operations will be monitored to ensure compliance with the law;
 - (6) For redemption centers that issue vouchers for redemption values, an implementation plan submitted to the department for approval; and

- (7) Other information that the director determines to be appropriate.
- (b) Applications for certification shall be submitted to the department for each redemption center site.
- (c) Within thirty days of receiving a complete application, the director shall notify the applicant in writing of the status of the request for certification, including whether it has been approved or denied, and if denied, the reasons for denial.
- (d) The following may serve as a basis for denial of certification:
 - (1) An applicant has an outstanding balance owed to the State;
 - (2) An applicant has an outstanding fine, penalty, or violation within any office of the department;
 - (3) The applicant's history discloses revocation of a recycling center permit or certification within the last two years;
 - (4) The applicant's certification history demonstrates a pattern of operation in conflict with the requirements of chapter 342G, Hawaii Revised Statutes; and
 - (5) A principal officer of the applying company has a criminal conviction of a crime of deceit.
- (e) The department shall evaluate the applicant's response to the department's request for more information and shall notify the applicant in writing of the department's final approval or its intent to deny the application. No application for a permit shall be denied unless the applicant has had an opportunity for a hearing by the department in accordance with chapter 91, Hawaii Revised Statutes.
- (f) The department may, on the department's own motion or the application of any person, suspend or revoke a certification if, after affording the applicant a hearing in accordance with chapter 91, Hawaii Revised Statutes, the department determines that any condition of the certification has been violated, any provision of chapter 342G, Hawaii Revised Statutes, has been violated, or that suspension or revocation of certification is in the public interest.
- (g) No certificate shall be transferred or assigned to any other person, company, or redemption center.
- (h) Applicants shall submit new applications to the department if any changes occur in:
 - (1) The location of a redemption center;
 - (2) The operator of a redemption center; or
 - (3) The operations of a redemption center.
- (i) New applications shall be approved by the department before the redemption center changes its operations or the applicant shall not be eligible for refund value or handling fees.
- (j) Applicants shall notify the department thirty days prior to voluntary termination of certified redemption center activities.
- (k) The certificate shall be kept on file at the redemption center site.
- (l) The certificate shall be the property of the department and shall be returned to the department upon decertification, revocation, invalidation, expiration of certification, or voluntary termination.
- (m) The certificate issued to the applicant of a reverse vending machine shall be kept on file at the main business office of the applicant.

4.4 Posting of certification.

- (a) A certification sign will be provided to redemption centers by the department and shall be prominently displayed where customers approaching the center can view it. A certification sign shall not be displayed at a redemption center that is not certified by the department.
 - (b) The certification sign shall be the property of the department and shall be returned to the department upon decertification, revocation, invalidation, expiration of certification, or voluntary termination.
- 4.5 Load inspection requirements.
- (a) Redemption center staff shall visually inspect each load of containers for which value is claimed to determine whether any load is eligible for any refund value. Visual inspection shall include but not be limited to the following: Redemption center staff shall remove containers from any bag, box, or receptacle used to deliver the material to the center. In no case shall a certified redemption center pay or claim the refund value for any material not inspected by the redemption center. A load of materials shall be deemed ineligible for any refund value based on the criteria in section 342G-116, Hawaii Revised Statutes.
- 4.6 Redemption by weight. Redemption centers are allowed to redeem deposit beverage containers and pay refund value based on the weight of the containers presented for redemption as follows:
- (1) The weight shall be measured, recorded, and reported in tons, pounds, and fractions thereof. All weighing in the state shall be done on a scale or other device approved, tested, and sealed in accordance with the measurement standards division of the department of agriculture and applicable rules;
 - (2) Containers must be segregated by material type;
 - (3) Refund values for each type of material shall be posted and paid according to the container per pound rates issued by the department pursuant to subsection 6.1;
 - (4) Redemption centers must inspect loads as required under subsection 4.5; and
 - (5) For loads under fifty containers, consumers may request that redemption value be computed by container rather than by weight.
- 4.7 Obtain payment. The department shall pay handling fees and refund values to certified redemption centers based on the reports submitted by the redemption centers pursuant to subsection 4.8.
- 4.8 Reporting. Redemption centers shall submit reports to the department using report forms prescribed by the department. Report information shall include but not be limited to information stated in chapter 342G, Hawaii Revised Statutes.
5. Recycling facilities.
- 5.1 Load inspection requirements. Recycling facilities may reject loads of deposit beverage containers from redemption centers based on the criteria in section 342G-116, Hawaii Revised Statutes.
- 5.2 Reporting.
- (a) Recycling facilities receiving deposit beverage container material from redemption centers shall maintain records regarding empty beverage containers.

- (b) Recycling facilities shall provide documentation of the disposition of deposit beverage container material collected from redemption centers.
- (c) Documentation shall include information on the end user and shall verify weight and material type.

6. Department of health requirements.

6.1 Segregated rate.

- (a) The method used to determine the segregated rate is to calculate the average number of empty deposit beverage containers per pound by material type. This shall include sampling procedures that consider, at a minimum, the following factors:
 - (1) Weight by separately aggregated size categories of containers (same size) in their original manufactured and unfilled state;
 - (2) Weight by variously mixed aggregated size of containers (different sizes) in their original manufactured and unfilled state;
 - (3) Weight by separately aggregated size categories of containers (same size) in their post-filled state;
 - (4) Weight by variously mixed aggregated size of containers (different sizes) in their post-filled state;
 - (5) Weight by individually mixed aggregated size of container loads in their post-filled state as presented by consumers at recycling centers (selected statewide on a random basis);
 - (6) Volume of sales at wholesale and retail levels in various regions of the state; and
 - (7) The segregated rates for each material type shall incorporate a factor for typical contamination levels so that the refund value and handling fees paid by weight are based on container weights only and not contaminants.
- (b) The department shall re-evaluate the segregated rate as needed.
- (c) The department shall publish a segregated rate for each type of deposit beverage container material. These rates shall be used by redemption centers that redeem containers by weight in accordance with subsection 4.6.
- (d) The rates shall be published prior to the date when deposit beverage containers may first be redeemed and shall be made available to all certified redemption centers and recycling facilities.

6.2 Redemption centers established by the department.

- (a) If there is no redemption center within two miles of a dealer because a dealer is exempt under subsection 3.1, the respective county and the State shall determine the need for a redemption center in that area. If a redemption center is deemed necessary, the State, with assistance from the county, shall establish the redemption center with funding from the deposit beverage container deposit special fund.
- (b) The department shall be able to negotiate and pay higher handling fees for redemption centers established pursuant to this section.

SECTION 13. Unless modified hereafter pursuant to chapter 91, Hawaii Revised Statutes, the following definition shall supercede the current definition of

“recycling drop-off facility” as it appears in title 11, chapter 58.1, Hawaii Administrative Rules:

“Recycling drop-off facility” means a structure or site designated for collection and small scale (low technology) segregation of recyclable materials. The staffed or unstaffed site will receive and temporarily store “dropped-off” recyclable materials.

SECTION 14. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 16. This Act shall take effect upon its approval; provided that section 12 shall be repealed on March 31, 2005.

(Became law on July 13, 2004, without the Governor’s signature, pursuant to Art III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.