

## ACT 228

S.B. NO. 212

A Bill for an Act Relating to Environment.

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

SECTION 1. In 2002, the legislature established the deposit beverage container program under Act 176, Session Laws of Hawaii 2002, recognizing that recycling is an important element of the integrated solid waste management system that helps to protect and preserve environmental resources and reduce economic costs to residents and businesses within the State. Since the implementation of the redemption program on January 1, 2005, public participation in the deposit beverage container program has been growing steadily, with the department of health reporting that the redemption rate for the first quarter reached thirty-two per cent. Although above the national average of twenty-seven per cent for non-deposit states, the program is still far below its goal of eighty per cent redemption.

The legislature finds that two of the primary factors contributing to the low participation rate are the inadequate number of redemption centers and a lack of the dealer participation necessary to make recycling convenient for consumers. The legislature also finds that the infrastructure supporting the fifty-six currently certified redemption centers and recyclers is overburdened and stressed in its attempts to handle growth of the deposit beverage container program.

The purpose of this Act is to:

- (1) Require and outline the minimum standards for the department of health to provide a rebate for the cost of a reverse vending machine purchased by a dealer; and
- (2) Authorize the department of health to solicit requests for proposals to increase opportunities for redemption and improve the recycling infrastructure to handle the growth of the deposit beverage container program.

SECTION 2. Chapter 342G, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§342G-A Reverse vending machine rebate program; standards.** (a) The department shall provide a rebate, not to exceed \$3,000,000 in the aggregate in any fiscal year, of the cost of purchasing a reverse vending machine, including shipping and general excise tax, purchased by a dealer:

- (1) That is a certified redemption center and that agrees to maintain operations as a certified redemption center for a minimum period of two years; or
- (2) That is serviced by a recycler that is a certified redemption center; provided that the dealer has entered into a service agreement with the recycler for a minimum period of two years.

(b) The rebate provided under this section shall be granted for reverse vending machines that:

- (1) Are installed and operational by December 31, 2005;
- (2) Are located on the dealer’s premises;
- (3) Are accessible to the general public; and
- (4) Tender vouchers or receipts for the returned containers that are redeemable by the dealer at a location on the dealer’s premises that is accessible to the general public.

(c) Each dealer may receive a rebate of not more than:

- (1) \$30,000 per retail site over five thousand square feet but less than ten thousand square feet;
- (2) \$60,000 per retail site over ten thousand square feet but less than seventy-five thousand square feet; or
- (3) \$90,000 per retail site over seventy-five thousand square feet.

(d) Prior to the purchase of a reverse vending machine, an application for rebate shall be made to the department on forms provided by the department to certify eligibility for a rebate. The application shall contain information determined by the department to be required; provided that at a minimum, the application shall require the applicant to provide the following:

- (1) The applicant’s name;
- (2) The location where each reverse vending machine will be installed and operated;
- (3) A projection of the number of customers expected to use each reverse vending machine;
- (4) The requested rebate amount;
- (5) Proof of certification of the applicant’s redemption center or, in the case of a dealer that is serviced by a recycler, the executed service agreement between the recycler and dealer; and
- (6) The projected installation date of each reverse vending machine.

(e) The dealer or recycler providing the certified redemption service shall comply with all rules of the department. If any dealer or recycler is found by the department to be not in compliance with the department’s rules, the dealer shall

reimburse the department for the full amount of the rebate. The department may institute an action pursuant to chapter 91 to recover any rebate paid under this section if the dealer, or the recycler that has a contract with the dealer to service the reverse vending machine, fails to comply with the requirements of this part or any rule adopted pursuant to it.

(f) Amounts received under this section shall not be treated as income for purposes of chapter 235 or gross proceeds or gross income for purposes of chapter 237.

(g) A reverse vending machine shall not be considered a depreciable asset and no person may claim depreciation therefor, at least to the extent that the reverse vending machine has been purchased with rebate funds.

(h) Any dealer participating in the rebate program shall not be eligible to participate in the redemption center and recycling infrastructure improvement program under section 342G-B.

(i) The director shall include in the deposit beverage container program annual report to the legislature, a report on the reverse vending machine rebate program.

**§342G-B Redemption center and recycling infrastructure improvement program; standards.** (a) Notwithstanding chapter 103D, the department shall develop and implement a redemption center and recycling infrastructure improvement program using a request for proposals to contract with dealers and recyclers to improve redemption and recycling infrastructure statewide; provided that:

- (1) One award only shall be allowed for each person; and
- (2) An award under this program shall not be available to any person to whom a reverse vending machine rebate has been paid under section 342G-A;

provided further that the amount of awards shall not exceed \$3,000,000 in the aggregate in any fiscal year.

(b) The director shall include in the deposit beverage container program annual report to the legislature a report on the redemption center and recycling infrastructure improvement program.

**§342G-C Reporting requirement.** The department shall provide annual reports on the deposit beverage container program to the legislature and the governor, with each report being due no later than twenty days prior to the convening of each regular session. The reports shall contain but not be limited to:

- (1) Performance indicators;
- (2) Measures of effectiveness;
- (3) Organization charts; and
- (4) Position descriptions of every type of position created and actual salaries paid to each employee.

The reports shall include recommended legislation for statutory changes.

If the administration of the deposit beverage container program is contracted to a third party pursuant to section 342G-106, a copy of the contract shall be appended to the next applicable report, and the contractor shall abide by these reporting requirements as well. The contractor's pay scales shall be comparable to equivalent positions in civil service."

SECTION 3. Section 342G-104, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the deposit beverage container deposit special fund shall be used to reimburse refund values [and], pay handling fees to redemption centers[-]."

fund the reverse vending machine rebate program under section 342G-A, and fund the redemption center and recycling infrastructure improvement program established pursuant to section 342G-B. 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 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 program, including permitting and enforcement activities; and
- (6) Fund associated office expenses.’’

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

- SECTION 6. This Act shall take effect upon its approval; provided that:
- (1) This Act shall be repealed on June 30, 2006, and section 342G-104, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act; and
  - (2) Any action initiated by the department of health pursuant to section 342G-A(e), Hawaii Revised Statutes, shall be allowed to continue until final resolution of the action is achieved.

(Became law on July 12, 2005, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.