

A Bill for an Act Relating to Solid Waste.

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

SECTION 1. The governor vetoed S.B. No. 3181, C.D. 1 (2006), based primarily upon the difficulty of redeeming and recycling the sixty-eight-fluid-ounce containers. The legislature finds that the widespread use of sixty-eight-fluid-ounce bottles warrants their inclusion in the deposit beverage container program, notwithstanding technical obstacles that can be remedied over time. Currently, containers up to sixty-four-fluid-ounce are included in the deposit beverage deposit redemption program without recycling challenges. Sixty-eight-fluid-ounce containers, which are comprised of mainly of two liter soda and water drinks, are of the same recyclable composition as sixty-four-fluid-ounce containers and there is no logical reasoning for its exclusion because of a four-ounce difference in size.

The purpose of this Act is to, among other things, increase the size of the eligible deposit beverage container and to allow the director of health some discretion in temporarily suspending the deposit beverage container handling fee if it is determined that the deposit beverage container deposit special fund contains sufficient funds.

SECTION 2. Section 342G-101, Hawaii Revised Statutes, is amended by amending the definition of “deposit beverage container” to read as follows:

““Deposit beverage container” means the individual, separate, sealed glass, polyethylene ~~terephthalate,~~ terephthalate, high density polyethylene, or metal container less than or equal to ~~[sixty-four]~~ sixty-eight fluid ounces, used for containing, at the time of sale to the consumer, a deposit beverage intended for use or consumption in this State.”

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

“§342G-102 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 terephthalate, high density polyethylene, or metal deposit beverage container manufactured in or imported into the 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. 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, 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 redemption rate is seventy per cent or less: 1 cent per container; and
- (2) If the redemption rate is greater than seventy per cent: 1.5 cents per container.

(e) The director may temporarily suspend an automatic increase of the deposit beverage container fee if, after consultation with the auditor, it is determined that the deposit beverage container deposit special fund contains sufficient funds for the purposes of section 342G-104(b)."

SECTION 4. Section 342G-105, Hawaii Revised Statutes, is amended to read as follows:

“[§342G-105] Deposit beverage container inventory report and payment. (a) ~~[Beginning October 1, 2002, payment]~~ Payment of the deposit beverage container fee and deposits as described in section 342G-110 shall be made monthly based on inventory reports of the deposit beverage distributors. All deposit beverage distributors shall submit to the department documentation in sufficient detail that identifies[:

- (1) ~~The number of beverages in deposit beverage containers, by container size and type, manufactured in or imported to the State; and~~
- (2) ~~The number of these deposit beverage containers, by container size and type, exported and intended for consumption out of the State during the reporting period.]~~ the net number of deposit beverage containers sold, donated, or transferred, by container size and type.

(b) The amount due from deposit beverage distributors shall be the net number of deposit beverage containers ~~[imported or manufactured into the State (the total number of containers imported or manufactured less the total number of containers exported for consumption outside the State)]~~ sold, donated, or transferred multiplied by the sum of the prevailing deposit beverage container fee and the refund value of 5 cents. Payment shall be made by check or money order payable to the “Department of Health, State of Hawaii”. All inventory reports and payments shall be made no later than the fifteenth day of the month following the end of the payment period of the previous month.”

SECTION 5. Section 342G-111, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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.]~~ the net number of deposit beverage containers sold, donated, or transferred by container size and type. 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.”

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 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. 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] shall not apply to any type of refillable glass deposit beverage container [which] that has a brand name permanently marked on it and [which] that has the equivalent of a refund value of at least 5 cents, which is paid upon receipt of 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.]~~

(c) Containers that do not meet the definition of a deposit beverage container, as specified in section 342G-101, shall not indicate "Hawaii" or "HI" on the container."

SECTION 7. Section 342G-114, Hawaii Revised Statutes, is amended to read as follows:

"§342G-114 Redemption centers. (a) Prior to operation, redemption centers shall be certified by the department.

(b) Applications for certification as a redemption center shall be filed with the department on forms prescribed by the department.

(c) The department, at any time, may review the certification of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center and to the dealers served by the redemption center, the department, after it has afforded the redemption center operator a hearing in accordance with chapter 91, may withdraw the certification of the center if it finds that there has not been compliance with applicable laws, rules, permit conditions, or certification requirements.

(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) 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]

(5) Remain open at least thirty hours per week in high density population areas, of which at least five hours shall be on Saturday or Sunday; and

~~[(5)]~~ (6) Forward the documentation necessary to support claims for payment as stated in section 342G-119.

(e) Redemption centers' redemption areas shall be maintained in full compliance with applicable laws and with the orders and rules of the department, including permitting requirements, if deemed necessary, under chapter 342H.

(f) The department shall develop procedures to facilitate the exchange of information between deposit beverage container manufacturers, distributors, and retailers and certified redemption centers, including but not limited to universal product code information for reverse vending machine purposes. The procedures developed by the department shall allow for a reasonable time period between the introduction of a new deposit beverage product and the deadline for submitting universal product code information to certified redemption centers operating reverse vending machines.”

SECTION 8. Section 342G-115, Hawaii Revised Statutes, is amended to read as follows:¹

“**§342G-115 Reverse vending machine requirements.** Reverse vending machines may be used by redemption centers to satisfy the requirements of section 342G-113. Reverse vending machines shall accept any type of empty deposit beverage container and pay out 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 then the reverse vending machine shall reject the container. 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.”

SECTION 9. Section 342G-116, Hawaii Revised Statutes, is amended to read as follows:

“**§342G-116 Refusal of refund value payment for a deposit beverage container.** Redemption centers shall refuse to pay the refund value on any broken, corroded, or dismembered deposit beverage container, or any deposit beverage container that:

- (1) Contains a free-flowing liquid;
- (2) Does not properly indicate a refund value; [ø]
- (3) Contains a significant amount of foreign material[-]; or
- (4) Exhibits characteristics of having been previously processed and baled.”

SECTION 10. Section 342G-117, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The 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 that is:

- (1) Transported out-of-state;
 - (2) Received by an approved in-state company for an approved end use for recycling; or
 - (3) Received by a department-permitted recycling facility[-];
- provided that the deposit beverage container is physically received by the redemption center.”

2. By amending subsection (c) to read:

“(c) The handling fee shall be paid in addition to the refund value of each 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[-]; provided that the deposit beverage container is physically received by the redemption center.”

SECTION 11. The department of health shall phase-in all requirements affecting the redemption of sixty-eight-fluid-ounce containers, beginning December 1, 2007, as follows; provided that the phase-in shall be completed by March 1, 2008:

- (1) From December 1, 2007, distributors of deposit beverage containers may begin marking sixty-eight-fluid-ounce deposit beverage containers as required under section 342G-112(a)², Hawaii Revised Statutes;
- (2) From December 1, 2007, until March 1, 2008, a sixty-eight-fluid-ounce deposit beverage container may be redeemed under the deposit beverage container program, without regard to whether the container bears the refund value of the container and the word “Hawaii” or the letter “HI”, required by section 342G-112(a), Hawaii Revised Statutes;
- (3) Beginning March 1, 2008, every deposit beverage container holding up to sixty-eight fluid ounces and sold in the state shall be marked as required under section 342G-112(a), Hawaii Revised Statutes; and
- (4) Beginning March 1, 2008, only deposit beverage containers meeting the requirements of section 342G-112(a), Hawaii Revised Statutes, shall be eligible for redemption.

SECTION 12. (a) The legislature finds that the public interest in protecting the environment takes precedence over the delay in implementation of redemption of sixty-eight-fluid-ounce beverage containers under this Act. The legislature finds that the redemption rate is below the balance of the deposit beverage container deposit special fund.

(b) The department of health shall reimburse a redemption center, from the deposit beverage container deposit special fund, the refund values paid to a redeemer, as defined in section 342G-101, Hawaii Revised Statutes, for sixty-eight-fluid-ounce containers redeemed between December 1, 2007, and March 1, 2008, pursuant to section 11 of this Act; provided that a redemption center shall provide collection reports under section 342G-119, Hawaii Revised Statutes, for the sixty-eight-fluid-ounce beverage containers.

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

SECTION 14. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. Section 342G-115 contains no amendment.
2. Should probably be “342G-112(a)”.