
A BILL FOR AN ACT

RELATING TO SOLID WASTE.

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

1 PART I

2 SECTION 1. Section 342G-101, Hawaii Revised Statutes, is
3 amended by amending the definition of "deposit beverage
4 container" to read as follows:

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

11 SECTION 2. Section 342G-105, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§342G-105[+] **Deposit beverage container inventory**
14 **report and payment.** (a) Beginning October 1, 2002, payment of
15 the deposit beverage container fee and deposits as described in
16 section 342G-110 shall be made monthly based on inventory
17 reports of the deposit beverage distributors. All deposit



1 beverage distributors shall submit to the department
2 documentation in sufficient detail that identifies[+:

3 ~~(1) The number of beverages in deposit beverage~~
4 ~~containers, by container size and type, manufactured~~
5 ~~in or imported to the State; and~~

6 ~~(2) The number of these deposit beverage containers, by~~
7 ~~container size and type, exported and intended for~~
8 ~~consumption out of the State during the reporting~~

9 ~~period.]~~ the net number of deposit beverage containers
10 sold, by container size and type.

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



1 SECTION 3. Section 342G-111, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Each deposit beverage distributor shall generate and
4 submit to the department a monthly report on[+:

5 ~~(1) The number of deposit beverage containers, by
6 container size and type, manufactured in or imported
7 into the State; and~~

8 ~~(2) The number of deposit beverage containers, by
9 container size and type, exported and intended for
10 consumption out of the State during the reporting~~

11 ~~period.]~~ the net number of deposit beverage containers
12 sold, by container size and type. All information contained in
13 the reports, including confidential commercial and financial
14 information, shall be treated as confidential and protected to
15 the extent allowed by state law."

16 SECTION 4. Section 342G-112, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§342G-112 Deposit beverage container requirements.** (a)

19 Except as provided in subsection (b), every deposit beverage
20 container sold in the State shall clearly indicate the refund
21 value of the container and the word "Hawaii" or the letters
22 "HI". The names or letters representing the names of other



1 states with comparable deposit legislation may also be included
2 in the indication of refund value. The refund value on every
3 deposit beverage container shall be clearly, prominently, and
4 indelibly marked by painting, printing, scratch embossing,
5 raised letter embossing, or securely affixed stickers and shall
6 be affixed on the top or side of the container in letters at
7 least one-eighth inch in size.

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

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

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



1 (e) Containers that do not meet the definition of a
2 deposit beverage container, as specified in section 342G-101,
3 shall not indicate the Hawaii refund value."

4 SECTION 5. Section 342G-113, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

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

7 (1) Operate [a] each redemption center [by July 1, 2005,
8 and shall accept] for a minimum of thirty hours per
9 week. Business hours shall include at least five
10 hours per week during Saturday or Sunday, unless
11 otherwise determined by the department by rule;

12 (2) Accept all types of empty deposit beverage containers
13 with a Hawaii refund value;

14 [~~+2~~] (3) Pay to the redeemer the full refund value for all
15 deposit beverage containers that bear a valid Hawaii
16 refund value; and

17 [~~+3~~] (4) Ensure each deposit beverage container collected
18 is recycled, and forward documentation necessary to
19 support claims for payment as stated in section 342G-
20 119 or rules adopted under this part.

21 (b) Subsection (a) shall not apply to any dealer:



- 1 (1) Who is located in a high density population area, as
2 defined by the director in rules, [~~and~~] within two
3 miles of a certified redemption center that is
4 operated independently of a dealer[+] and is open for
5 business for a minimum of thirty hours per week as
6 specified in subsection (a)(1);
 - 7 (2) Who is located in a rural area as defined by rule;
 - 8 (3) Who subcontracts with a certified redemption center to
9 be operated on the dealer's premises;
 - 10 (4) Whose sales of deposit beverage containers are only
11 via vending machines;
 - 12 (5) Whose place of business is less than five thousand
13 square feet of interior space;
 - 14 (6) Who can demonstrate physical or financial hardship, or
15 both, based on specific criteria established by rule;
16 or
 - 17 (7) Who meets other criteria established by the director.
- 18 Notwithstanding paragraphs (1) and (2), the director may allow
19 the placement of redemption centers at greater than prescribed
20 distances to accommodate geographical features while ensuring
21 adequate consumer convenience."



1 SECTION 6. Section 342G-114, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§342G-114 Redemption centers.** (a) Prior to operation,
4 redemption centers shall be certified by the department.

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

8 (c) The department, at any time, may review the
9 certification of a redemption center. After written notice to
10 the person responsible for the establishment and operation of
11 the redemption center and to the dealers served by the
12 redemption center, the department, after it has afforded the
13 redemption center operator a hearing in accordance with chapter
14 91, may withdraw the certification of the center if it finds
15 that there has not been compliance with applicable laws, rules,
16 permit conditions, or certification requirements.

17 (d) Redemption centers shall:

18 (1) Accept all types of empty deposit beverage containers
19 for which a deposit has been paid;

20 (2) Verify that all containers to be redeemed bear a valid
21 Hawaii refund value;



1 (3) Pay to the redeemer the full refund value in either
2 cash or a redeemable voucher for all deposit beverage
3 containers, except as provided in section 342G-116;

4 (4) Ensure each deposit beverage container collected is
5 recycled through a contractual agreement with an out-
6 of-state recycler or an in-state recycling facility
7 permitted by the department; provided that this
8 paragraph shall not apply if the redemption center is
9 operated by a recycler permitted by the department;
10 and

11 (5) Forward the documentation necessary to support claims
12 for payment as stated in section 342G-119.

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

17 (f) The department shall develop procedures to facilitate
18 the exchange of information between deposit beverage container
19 manufacturers, distributors, and retailers and certified
20 redemption centers, including but not limited to universal
21 product code information for reverse vending machine purposes.
22 The procedures developed by the department shall allow for a

1 reasonable time period between the introduction of a new deposit
2 beverage product and the deadline for submitting universal
3 product code information to certified redemption centers
4 operating reverse vending machines.

5 (g) Consumers may request that the refund value be
6 computed by container count for loads of two hundred containers
7 or less."

8 SECTION 7. Section 342G-116, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§342G-116 Refusal of refund value payment for a deposit**
11 **beverage container.** Redemption centers shall refuse to pay the
12 refund value on any broken, corroded, or dismembered deposit
13 beverage container, or any deposit beverage container that:

- 14 (1) Contains a free-flowing liquid;
- 15 (2) Does not properly indicate a refund value; [~~or~~]
- 16 (3) Contains a significant amount of foreign material[~~or~~];
- 17 or
- 18 (4) Exhibits characteristics of having been previously
19 processed and baled."

20 SECTION 8. Section 342G-117, Hawaii Revised Statutes, is
21 amended as follows:

22 1. By amending subsection (a) to read:



1 "(a) The department shall pay to each certified redemption
2 center a handling fee of not less than the prevailing deposit
3 beverage container fee for each deposit beverage container
4 redeemed by a consumer that is:

- 5 (1) Transported out-of-state;
- 6 (2) Received by an approved in-state company for an
7 approved end use for recycling; or
- 8 (3) Received by a department-permitted recycling
9 facility[-];

10 provided that the deposit beverage container is physically
11 received by the redemption center."

12 2. By amending subsection (c) to read:

13 "(c) The handling fee shall be paid in addition to the
14 refund value of each empty deposit beverage container. Payments
15 for handling fees shall be based on redemption center reports
16 submitted to the department; provided that there is no
17 discrepancy in the reports. The department may choose to pay
18 the handling fee and refund value on the basis of the total
19 weight of the containers received by material type and the
20 average weight of each container type[-]; provided that the
21 deposit beverage container is physically received by the
22 redemption center."



1 PART II

2 SECTION 9. Chapter 342G, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "§342G- Penalties. (a) Notwithstanding section 342G-71
6 and except as provided in subsections (c) and (d), any person
7 convicted of a violation of this part is guilty of a violation
8 that is punishable by a fine of \$100 for each initial separate
9 violation and not more than \$1,000 for each subsequent separate
10 violation per day.

11 (b) Every person who, with intent to defraud, takes any of
12 the following actions is guilty of fraud:

- 13 (1) Submits a false or fraudulent claim for payment
- 14 pursuant to section 342G-117 or 342G-119;
- 15 (2) Fails to accurately report the net number of deposit
- 16 beverage containers imported to or manufactured in the
- 17 State, as required by sections 342G-105 and 342G-111;
- 18 (3) Redeems out-of-state deposit beverage containers,
- 19 containers rejected pursuant to section 342G-116, or
- 20 containers that have already been redeemed; and
- 21 (4) Submits a false or fraudulent claim for handling fee
- 22 payments pursuant to section 342G-117.

1 (c) The following penalties shall apply to violations of
2 subsection (b):

3 (1) If the money obtained or withheld pursuant to
4 subsection (b) equals or is less than \$400, the fraud
5 is punishable by:

6 (A) Imprisonment for not more than six months;

7 (B) A fine not exceeding \$1,000; or

8 (C) Both fine and imprisonment as set forth in
9 subparagraphs (A) and (B).

10 (2) If the money obtained or withheld pursuant to
11 subsection (b) exceeds \$400, the fraud is punishable
12 by:

13 (A) Imprisonment for not more than one year;

14 (B) A fine not exceeding \$10,000; or

15 (C) Both fine and imprisonment as set forth in
16 subparagraphs (A) and (B).

17 (d) Each violation of this section is a separate offense
18 and each day of the violation is a separate offense."

19 SECTION 10. Section 342G-104, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) There is established in the state treasury the
2 deposit beverage container deposit special fund, into which
3 shall be deposited:

4 (1) All revenues generated from the deposit beverage
5 container fee as described under sections 342G-102 and
6 342G-105;

7 (2) All revenues generated from the deposit beverage
8 container deposit as described under sections 342G-105
9 and 342G-110; ~~and~~

10 (3) All accrued interest from the fund~~[+]~~; and

11 (4) All penalties and fines collected pursuant to this
12 part; provided that:

13 (A) The penalties and fines shall be deposited into a
14 penalty account, which is hereby established in
15 the fund; and

16 (B) Moneys in the penalty account may be expended by
17 the department only upon appropriation by the
18 legislature, for purposes of this part."

19 SECTION 11. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 12. This Act shall take effect upon its approval.



REPORT Title:

Deposit Beverage Container; Penalties

Description:

Increases the volume limit of deposit beverage containers from 64 to 68 fluid ounces. Requires distributors to report container numbers sold and make fee payments on that basis. Specifies redemption center operating hours. Permits calculation of redemption value by container count in certain instances. Allows refusal of refund for previously processed and baled containers. Establishes penalties for violation of the deposit beverage container program. (HD1)

