
A BILL FOR AN ACT

RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.

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

1 SECTION 1. Section 36-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§36-27 Transfers from special funds for central service
4 expenses. Except as provided in this section, and
5 notwithstanding any other law to the contrary, from time to
6 time, the director of finance, for the purpose of defraying the
7 prorated estimate of central service expenses of government in
8 relation to all special funds, except the:

- 9 (1) Special out-of-school time instructional program fund
10 under section 302A-1310;
- 11 (2) School cafeteria special funds of the department of
12 education;
- 13 (3) Special funds of the University of Hawaii;
- 14 (4) State educational facilities improvement special fund;
- 15 (5) Convention center enterprise special fund under
16 section 201B-8;
- 17 (6) Special funds established by section 206E-6;
- 18 (7) Housing loan program revenue bond special fund;



- 1 (8) Housing project bond special fund;
- 2 (9) Aloha Tower fund created by section 206J-17;
- 3 (10) Funds of the employees' retirement system created by
- 4 section 88-109;
- 5 (11) Unemployment compensation fund established under
- 6 section 383-121;
- 7 (12) Hawaii hurricane relief fund established under chapter
- 8 431P;
- 9 (13) Hawaii health systems corporation special funds and
- 10 the subaccounts of its regional system boards;
- 11 (14) Tourism special fund established under section
- 12 201B-11;
- 13 (15) Universal service fund established under chapter 269;
- 14 (16) Emergency and budget reserve fund under section
- 15 328L-3;
- 16 (17) Public schools special fees and charges fund under
- 17 section 302A-1130(f);
- 18 (18) Sport fish special fund under section 187A-9.5;
- 19 (19) Neurotrauma special fund under section 321H-4;
- 20 ~~(20) Deposit beverage container deposit special fund under~~
- 21 ~~section 342G-104;~~



1 ~~(21)~~ ~~Glass advance disposal fee special fund established by~~
2 ~~section 342G-82;~~

3 ~~(22)~~ (20) Center for nursing special fund under section
4 304A-2163;

5 [(23)] (21) Passenger facility charge special fund
6 established by section 261-5.5;

7 [(24)] (22) Solicitation of funds for charitable purposes
8 special fund established by section 467B-15;

9 [(25)] (23) Land conservation fund established by section
10 173A-5;

11 [(26)] (24) Court interpreting services revolving fund under
12 section 607-1.5;

13 [(27)] (25) Trauma system special fund under section 321-
14 22.5;

15 [(28)] (26) Hawaii cancer research special fund;

16 [(29)] (27) Community health centers special fund; and

17 [(30)] (28) Emergency medical services special fund;

18 shall deduct five per cent of all receipts of all other special
19 funds, which deduction shall be transferred to the general fund
20 of the State and become general realizations of the State. All
21 officers of the State and other persons having power to allocate
22 or disburse any special funds shall cooperate with the director



1 in effecting these transfers. To determine the proper revenue
2 base upon which the central service assessment is to be
3 calculated, the director shall adopt rules pursuant to chapter
4 91 for the purpose of suspending or limiting the application of
5 the central service assessment of any fund. No later than
6 twenty days prior to the convening of each regular session of
7 the legislature, the director shall report all central service
8 assessments made during the preceding fiscal year."

9 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§237-24.75 Additional exemptions.** In addition to the
12 amounts exempt under section 237-24, this chapter shall not
13 apply to:

14 [~~1~~] ~~Amounts received as a beverage container deposit~~
15 ~~collected under chapter 342G, part VIII,~~

16 ~~(2)]~~ (1) Amounts received by the operator of the Hawaii
17 convention center for reimbursement of costs or advances made
18 pursuant to a contract with the Hawaii tourism authority under
19 section 201B-7[; and]

20 [~~(3)]~~ (2) Amounts received] by a professional
21 employment organization from a client company equal to amounts
22 that are disbursed by the professional employment organization



1 for employee wages, salaries, payroll taxes, insurance premiums,
2 and benefits, including retirement, vacation, sick leave, health
3 benefits, and similar employment benefits with respect to
4 assigned employees at a client company; provided that this
5 exemption shall not apply to a professional employment
6 organization upon failure of the professional employment
7 organization to collect, account for, and pay over any income
8 tax withholding for assigned employees or any federal or state
9 taxes for which the professional employment organization is
10 responsible. As used in this paragraph, "professional
11 employment organization", "client company", and "assigned
12 employee" shall have the meanings provided in section 373K-1. "

13 SECTION 3. Section 342G-82, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "**§342G-82 Advance disposal fee.** (a) Every glass
16 container importer shall pay to the department an advance
17 disposal fee. The fee shall be imposed only once on the same
18 glass container and shall not be assessed on drinking glasses,
19 cups, bowls, plates, ashtrays, and similar tempered glass
20 containers. For the period beginning September 1, 1994, the fee
21 shall be one and one-half cents per glass container. [~~Beginning~~
22 ~~October 1, 2004, the glass advance disposal fee shall only apply~~



1 ~~to glass containers that are not glass deposit beverage~~
2 ~~containers.] "~~

3 SECTION 4. Section 342G-83, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) All glass container importers shall maintain records
6 reflecting the manufacture of their glass containers as well as
7 the importation and exportation of products packaged in glass.
8 ~~[The records shall identify the type (glass deposit beverage~~
9 ~~container or non deposit beverage glass container) and quantity~~
10 ~~of each type of glass container.]~~ The records shall be made
11 available, upon request, for inspection by the department;
12 provided that any proprietary information obtained by the
13 department shall be kept confidential, and shall not be
14 disclosed to any other person except:

- 15 (1) As may be reasonably required in an administrative or
16 judicial proceeding to enforce any provision of this
17 chapter or any rule adopted pursuant to this chapter;
18 or
19 (2) Under an order issued by a court or administrative
20 agency hearing officer."

21 SECTION 5. Section 342G-84, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§342G-84 Deposit into environmental management special
2 fund; distribution to counties. (a) Revenues generated from
3 the advance disposal fee shall be deposited into a special
4 account in the environmental management fund. Moneys from the
5 special account shall be used to fund county glass recovery
6 programs established in accordance with the requirements under
7 section 342G-86; provided that no moneys shall be made available
8 to a county unless the county has first submitted its formally
9 adopted integrated solid waste management plan to the department
10 for review. In the event of any surplus in the special account,
11 the department shall recommend a reduction in the fee as deemed
12 necessary.

13 (b) The department shall distribute the moneys contained
14 in the special account to the counties in proportion to the
15 amount of glass imported into each county based on the county's
16 de facto population. The distribution shall be in the form of
17 direct contracts with the department as permitted under chapters
18 103 and 103D or transfer of funds from the department.

19 (c) No more than ten per cent, in the aggregate, of the
20 revenue collected in any one year may be used by the department
21 for administrative and educational purposes and to promote glass



1 recovery, recycling, and reuse in Hawaii through research and
2 demonstration projects.

3 ~~[(d) All moneys distributed to the counties under~~
4 ~~subsection (b), and not used by the counties as specified in~~
5 ~~section 342G-86, shall be returned to the State for deposit into~~
6 ~~the environmental management special fund at the end of each~~
7 ~~annual contract period.] "~~

8 SECTION 6. Section 342G-85, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§342G-85 Container inventory report and payment.** (a)

11 Payment of the advance glass disposal fee shall be made
12 quarterly based on inventory reports of the glass container
13 importers, except for those importers subject to subsection (c)
14 or (d). All glass container importers shall submit to the
15 department documentation in sufficient detail that identifies
16 the number of glass ~~[deposit beverage and glass non-deposit~~
17 ~~beverage]~~ containers manufactured or imported to the State and
18 sold or distributed, by manufacturer or distributor, during the
19 calendar year.

20 (b) ~~[Until September 30, 2004, the]~~ The amount due from
21 glass container importers less glass containers exported for the
22 calendar year shall be the sum equal to the number of glass



1 containers provided in subsection (a) multiplied by the advance
2 disposal fee specified in section 342G-82. [~~Beginning October~~
3 ~~1, 2004, the amount due from glass container importers shall be~~
4 ~~the sum equal to the number of non-deposit beverage glass~~
5 ~~containers provided in subsection (a), less non-deposit beverage~~
6 ~~glass containers exported, and multiplied by the advance~~
7 ~~disposal fee.] Payment shall be made by check or money order
8 payable to the "Department of Health, State of Hawaii". All
9 subsequent inventory reports and payments shall be made not
10 later than the fifteenth day of the month following the end of
11 the previous calendar quarter, except for those importers
12 subject to subsection (d).~~

13 (c) [~~Until September 30, 2004, a~~] A glass container
14 importer who imports fewer than five thousand glass containers
15 within a one-year period shall be exempt from payment of the
16 fee. Any empty, imported glass container designed to hold not
17 more than two and one-half fluid ounces of a product meant for
18 human consumption shall be exempt from the fee. [~~Beginning~~
19 ~~October 1, 2004, a glass container importer who imports or~~
20 ~~manufactures in the State fewer [than] five thousand non-deposit~~
21 ~~beverage glass containers within a one-year period shall be~~
22 ~~exempt from payment of the fee.]~~



1 (d) ~~[Until September 30, 2004, a]~~ A glass container
2 importer who imports five thousand or more glass containers, but
3 less than or equal to one hundred thousand glass containers,
4 shall be permitted to provide a report and payment of the fee
5 annually, rather than quarterly. ~~[Beginning October 1, 2004, a~~
6 ~~glass container importer who imports or manufactures in the~~
7 ~~State five thousand or more non-deposit beverage glass~~
8 ~~containers, but less than or equal to one hundred thousand non-~~
9 ~~deposit beverage glass containers, shall be permitted to provide~~
10 ~~a report and payment of the fee annually, rather than~~
11 ~~quarterly.] "~~

12 SECTION 7. Section 235-18, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§235-18] Deposit beverage container deposit exemption.~~
15 ~~This chapter shall not apply to amounts received as a deposit~~
16 ~~beverage container deposit collected under part VIII of chapter~~
17 ~~342G."]~~

18 SECTION 8. Section 342G-1, Hawaii Revised Statutes, is
19 amended by deleting the definition of "deposit beverage".

20 ~~["Deposit beverage" means beer, ale, or other drink~~
21 ~~produced by fermenting malt, mixed spirits, mixed wine, tea and~~
22 ~~coffee drinks regardless of dairy derived product content, soda,~~



1 ~~or noncarbonated water, and all nonalcoholic drinks in liquid~~
2 ~~form and intended for internal human consumption that is~~
3 ~~contained in a deposit beverage container.~~

4 ~~The term "deposit beverage" excludes the following:~~

5 ~~(1) A liquid which is:~~

6 ~~(A) A syrup;~~

7 ~~(B) In a concentrated form; or~~

8 ~~(C) Typically added as a minor flavoring ingredient~~

9 ~~in food or drink, such as extracts, cooking~~

10 ~~additives, sauces, or condiments;~~

11 ~~(2) A liquid which is ingested in very small quantities~~

12 ~~and which is consumed for medicinal purposes only;~~

13 ~~(3) A liquid which is designed and consumed only as a~~

14 ~~nutritional supplement as defined in the Dietary~~

15 ~~Supplement Health and Education Act of 1994 (P.L. 103-~~

16 ~~417) and not as a beverage;~~

17 ~~(4) Products frozen at the time of sale to the consumer,~~

18 ~~or, in the case of institutional users such as~~

19 ~~hospitals and nursing homes, at the time of sale to~~

20 ~~the users;~~

21 ~~(5) Products designed to be consumed in a frozen state;~~

22 ~~(6) Instant drink powders;~~



- 1 ~~(7) Seafood, meat, or vegetable broths, or soups, but not~~
2 ~~juices, and~~
- 3 ~~(8) Milk and all other dairy derived products, except tea~~
4 ~~and coffee drinks with trace amounts of these~~
5 ~~products."]~~

6 SECTION 9. Section 342G-81, Hawaii Revised Statutes, is
7 amended by deleting the definition of "deposit glass beverage
8 container".

9 ~~["Deposit glass beverage container" means:~~

- 10 ~~(1) The individual, separate, sealed, glass container used~~
11 ~~for containing, at the time of import, sixty four~~
12 ~~ounces or less of a beverage; or~~
- 13 ~~(2) The empty, individual, separate glass container that~~
14 ~~will be filled with sixty four ounces or less of a~~
15 ~~beverage and sealed in this State, so that these glass~~
16 ~~beverage containers will be subject to [part VIII]"~~

17 SECTION 10. Part VIII of chapter 342G, Hawaii Revised
18 Statutes, is repealed.

19 SECTION 11. All moneys collected pursuant to part VII of
20 chapter 342G, Hawaii Revised Statutes, deposited into the
21 deposit beverage container deposit special fund established
22 under section 342G-104, Hawaii Revised Statutes, and remaining



1 unencumbered on balance in that special fund, shall lapse to the
2 credit of the general fund on July 1, 2008.

3 SECTION 12. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 13. This Act shall take effect on July 1, 2008.

6

7

INTRODUCED BY:

Collin Meyer
Tom Brown
Rick Cabella
J. S. Lewis
JAN 23 2008



Report Title:

Deposit Beverage container Program; Repeal

Description:

Repeals the deposit beverage container program and requires that all moneys collected under the program and deposited into the deposit beverage container deposit special fund lapse into the general fund.

