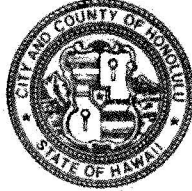


DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



March 11, 2008

ERIC S. TAKAMURA, Ph.D., P.E.
DIRECTOR

KENNETH A. SHIMIZU
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
RR 08-019

The Honorable Hermina M. Morita, Chair
Committee on Energy & Environmental Protection
State Representative
State Capitol, Room 314
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Representative Morita:

RE: S.B. No. 2841
Relating to the Deposit Beverage Container Program

The City and County of Honolulu Department of Environmental Services maintains its support of S.B. No. 2841, which requires retail dealers with more than 75,000 square feet of retail space to operate redemption centers. The success of the HI-5 beverage container deposit recycling program depends on locating redemption centers convenient to the consumer. Retailers in other states have provided redemption centers for their customers for decades.

Since the start of the HI-5 program in 2005, Oahu has seen a significant jump in recovery rates for aluminum, glass and plastic, but we estimate that millions of beverage containers are still going into the trash each year. Diverting waste from landfill is a top priority and necessitates increasing recycling in all programs.

Sincerely,

A handwritten signature in black ink, appearing to be "Eric S. Takamura", is written over a large, stylized letter "F" that has been printed or drawn on the document.

Eric S. Takamura, Ph.D., P.E.
Director



Conservation Council for Hawai'i

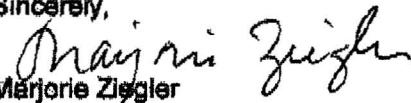
Testimony Submitted to the House Committee on Energy & Environmental Protection
Hearing: Tuesday, March 11, 2008 9 am
Conference Room 312

Support for SB 2841 Relating to the Deposit Beverage Container Program

Aloha. The Conservation Council for Hawai'i supports SB 2841, which requires large retail dealers to operate redemption centers. This will reduce the amount of solid waster, litter, and marine debris in our environment, and save countless birds, sea turtles, monk seals, and other wildlife that are harmed and killed by litter and marine debris each year. In addition, these bills will help decrease our use of oil and coal in the production and transport of beverage containers.

Anything we can do to recycle beverage containers – and reduce the use of one-time beverage containers to begin with – should be encouraged. Mahalo for the opportunity to testify.

Sincerely,


Marjorie Ziegler



Working Today for the Nature of Tomorrow!

Telephone/Fax 808.693.0255 • email: info@conservehi.org • web: www.conservehi.org
P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 212 • Honolulu, HI 96814

Hawai'i Affiliate of the National Wildlife Federation

President: Julie Lalaoha * Vice-President: Nelson Ho * Secretary/Treasurer: Kim Ramos * Directors: Fred Kraus, Ph.D. * Douglas Lamerson, George Robertson * Claire Shimabukuro * Helene Takemoto * Meshuri Waite * Executive Director: Marjorie Ziegler

Representative Hermina Morita, Chair
Representative Mele Carroll, Vice Chair
Committee on Energy & Environmental Protection
State Capitol, Honolulu, Hawaii 96813



HEARING Tuesday, March 11, 2008
9:00 am
Conference Room 312

RE: SB2841, Relating to the Deposit Beverage Container Program

Chair Morita, Vice Chair Carroll, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH stands in opposition of SB2841. Retailers should not be mandated to become garbage collectors. The Department of Health has developed some 75 pages of sanitation regulations [Administrative Rules governing Food Establishment Sanitation (Title 11, Section 12)] with which businesses that sell food products must comply. Proponents of this measure continue to state that convenience for consumers is the primary reason to support a dealer mandate. We find it appalling that "convenience" takes priority over sanitation and the health of our residents.

Consumers expect and retailers must provide the highest level of sanitation where food products are sold. Collecting and storing redeemed containers inevitably attracts pests, including roaches, rats and ants. Preventing food contamination and controlling vermin infestation would require retailers utilize poisons and insecticides, which could pose health risks for our employees and our customers. Considering that most retailers are located in high density urban areas, these concerns must extend to neighboring residents.

According to a press release from the Department of Health, the redemption rate "remains high at 68%." As curbside recycling programs expand to include other areas, it is highly likely that most of the unredeemed containers will be captured. RMH has consistently advocated for comprehensive curbside recycling, which also addresses many recyclable materials like newspapers and other metal, glass and plastic containers.

Hawaii's retailers are not anti-environment. Hawaii's retailers currently recycle tons of waste: backhauling their shipping materials, recycling wooden pallets, and baling cardboard cartons for recycling. This translates to thousands of tons of trash that are NOT dumped into the landfill.

The members of the Retail Merchants of Hawaii respectfully urge you to hold SB2841. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in black ink, appearing to read "Carol Mele Carroll".

President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803

808.537.9019 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 11th, 2008, 9:00 A.M.

(Testimony is 5 pages long)

TESTIMONY IN SUPPORT OF SB 2841

Chair Morita and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, strongly supports SB 2841, requiring that certain retailers take back deposit containers at their store.

The single best way to ensure easy, convenient redemption for Hawaii's consumers is to mandate that grocery stores and retailers of a certain size take back the bottles and cans that they sell, just like every other deposit law state.

Hawaii's bottle law has proven to be an overwhelming success for Hawaii's environment, with nearly a billion bottles and cans being diverted from Hawaii's landfills. Beyond waste diversion, the new recycling law reduced litter, created jobs, and provided new opportunities for churches, charities, and schools to fundraise. The recycling program proves that a little change can make a big difference.

Despite its success, the bottle law can be improved. Residents have rightfully complained about the cumbersome redemption process, with infrequent redemption centers and spotty hours of operation (and service). This problem would be solved by simply requiring that grocery stores and retailers take back the bottles and cans that they sell.

Hawai'i is currently the only state with a bottle law that does not require grocery stores to 'close the loop' on recycling. Hawai'i should require that stores over a certain size (or over a certain sales threshold) provide redemption, exempting most "mom and pop" stores. SB 2841 will do this, requiring that large, "big box" stores over 75,000 square feet provide for redemption. Stores would not need to staff a redemption center; they could simply install "reverse vending machines" at the store or in the parking lot.

Such an improvement to our bottle law will streamline the redemption process and provide residents with convenient recycling where they shop, when they shop.

We strongly recommend, however, that this measure be amended to include regular grocery stores in the beverage container redemption program. We recommend that stores 10,000 feet and larger be required to take back bottles and cans, just like they do in every other bottle law state (see attached pages on take-back requirements from other states). Setting the size limit at 10,000 square feet would provide more opportunities to recycle for residents (at the Foodlands, Safeways, etc. where they shop) while excluding the smaller, mom-and-pop stores (for comparison, most "7-11" stores in Hawai'i are smaller than 10,000 square feet).

As a reminder to this committee, the legislature has tried previously to encourage the voluntary use of reverse vending machines by offering rebates to retailers and recyclers who use them. The rebates ranged from \$30,000 to \$90,000 (depending on store size), effectively covering a majority of the cost of such machines. These enticements failed to increase the number of stores participating in the redemption program. It is unfortunate that the retailers and grocery stores have refused to play a role in Hawaii's beverage container program by providing easy, convenient recycling – just as they do in the other bottle law states where they operate. SB 2841—properly amended to include more of the everyday grocery stores that residents patronize—will ensure that they participate in this recycling program to keep the products that they profit from out of our landfills and off our beaches.

Please review the attached listing of retailer “take back” requirements from other bottle law states. We hope this committee amends SB 2841 to include more stores in Hawaii's bottle law program.

Hawaii's bottle law: OVER A BILLION AND A HALF SAVED AND COUNTING!

Thank you for the opportunity to testify.

REVIEW OF REGULATIONS FROM OTHER BOTTLE LAW STATES

1. Maine

- Anyone who sells, beverages in redeemable containers, including vending machines, is a dealer. Me. Rev. Stat. Ann. tit. 32, §1862(5).
- “[A] dealer may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the dealer . . .” Me. Rev. State. Ann. tit. 32, §1866(1).
- A dealer may refuse to accept containers if the type of the container and the dealer are covered by an order permitting a redemption center. Me. Rev. State. Ann. tit. 32, §1866(2).
- **LIMIT:** 240 containers per person per day. Me. Rev. State. Ann. tit. 32, §1866(2-A).
- A dealer may refuse to accept containers during no more than 3 hours each day. If the dealer chooses to do this, the hours during which he or she will not accept containers must be posted. Me. Rev. State. Ann. tit. 32, §1866(2-B).
- The only exemption is for apple cider produced in the state. Code. Me. R. §01-001-15.

Link to Statute: <http://janus.state.me.us/legis/statutes/32/title32sec1867.html>

Link to Regulations: <http://www.maine.gov/sos/cec/rules/01/001/001c360.doc>

2. Vermont

- The Vermont statute requires all **retailers** to accept and pay the refund for any beverage containers “of the kind, size and brand sold by the retailer . . .” 10 V.S.A. §1523(a)(1).
- Containers may be redeemed during no less than 40 hours per week, during regular operating hours. 10 V.S.A. § 1522(d).
- A retailer may refuse to accept containers, with the prior approval of the Secretary of the Agency of Natural Resources, if there is a redemption center serving the public need. 10 V.S.A. § 1523(b).

- Retailers may refuse to accept containers that are dirty, broken, or were not purchased in Vermont. 10 V.S.A. § 1532(c).

Website Statute: <http://www.leg.state.vt.us/statutes/sections.cfm?Title=10&Chapter=053>

3. Massachusetts

- Any dealer must accept any empty beverage container of the size, brand, and type which the dealer sells and pay the customer the refund for the container. Mass. Gen. Laws Ch. 94 §323(b).
- Dealers must accept containers during their normal business hours. Id.
- Dealers may refuse to accept containers contaminated with foreign material. Mass. Gen. Laws Ch. 94 §323(f).
- In addition to retail establishments, any person can establish a redemption center. Mass. Gen. Laws Ch. 94 §323(e).
 - A redemption center may choose what containers it will accept. Id.

Link to Massachusetts General Law: <http://www.mass.gov/legis/laws/mgl/94-321.htm>

4. Connecticut

- A dealer must accept “any empty beverage containers of the kind, size and brand sold by the dealer” at the dealer’s place of business unless the container contains foreign material or is not labeled in accordance with the statute. Conn. Gen. Stat. Ch. 446d §22a-245(b).
- A dealer may also refuse to accept containers if the dealer “sponsors, solely or with others, a redemption center which is located within a one-mile radius of such place of business and which accepts beverage containers of the kind, size and brand sold by such dealer at such place of business or unless there is established by others, a redemption center which is located within a one-mile radius of such place of business and which accepts beverage containers of the kind, size and brand sold by such dealer at such place of business.” Id.
- A dealer may also refuse to accept containers 60 days after the dealer discontinues the sale of a particular kind, size or brand of beverage, but the dealer must post notice of the date on which he or she will stop accepting that particular type of container. Id.
- A person may apply to the Commissioner of Environmental Protection to establish a redemption center. Conn. Gen. Stat. Ch. 446d §22a-245(a) (formerly §22a-79).
 - “Any person establishing a redemption center shall have the right to determine what kind, size and brand of beverage container shall be accepted. Any redemption center may be established to serve all persons or to serve certain specified dealers.” Id.

Link to Statute: <http://www.cga.ct.gov/2001/pub/Chap446d.htm#sec22a-243.htm>

5. New York

- A dealer is required to accept at his or her place of business “any empty beverage containers of the design, shape, size, color, composition and brand sold by the dealer” NY Environmental Conservation Law §27-1007(1).
- A dealer may refuse to accept an empty beverage container if: (1) the container does not state a refund value; (2) the bottle is broken; (3) the can is corroded or dismembered; (3) the container contains a significant amount of foreign material. NY Environmental Conservation Law § 27-1009(1)-(2).
- The Department of Environmental Conservation is authorized to promulgate rules that would allow dealers and redemption centers to limit the kind and number of containers

that particular facility will accept, but it has not done so. NY Environmental Conservation Law §27-1013.

Link to Statute: <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>

6. Delaware

- A dealer shall accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, and pay the consumer the refund on the appropriately labeled returnable beverage container. Del. Code Ann., tit. 7, §6057.
- A dealer may refuse to refund deposits on beverage containers if a redemption center or centers are established in the vicinity which serve the public need. *Id.*
- A dealer or redemption center may refuse to refund deposits on beverage containers which are broken, or unclean, or not empty. *Id.*
- **LIMIT:** Such dealer or center may refuse to accept beverage containers from any person who attempts to return 120 or more containers at the same time, or within a 1-week period. *Id.*
- Any dealer or distributor or manufacturer or person or any combination thereof may establish a redemption center subject to approval of the Department. Del. Code Ann., tit. 7, §6056(a).

Link to statute:

<http://www.delcode.state.de.us/title7/c060/sc03/index.htm>

Link to regulations:

<http://www.dnrec.state.de.us/DNREC2000/Divisions/AWM/hw/sw/pdf/bevreg.pdf>

7. Michigan

- Dealers are required to provide “a convenient means whereby the containers of any kind, size, and brand sold or offered for sale by the dealer may be returned by, and the deposit refunded in cash” on the premises or within 100 yards of the premises. Mich. Comp. Laws §445.572(2).
- “Regional centers for the redemption of returnable containers may be established, in addition to but **not as substitutes for**, the means established for refunds of deposits prescribed in subsection (2).” Mich. Comp. Laws §445.572(3) (emphasis added).
- A dealer may refuse to pay a refund when accepting an empty container if that dealer does not require a deposit when he or she sells returnable beverage containers. Mich. Comp. Laws §445.572(5).
- A dealer or distributor has discretion to refuse to accept containers that do not clearly state the refund value of the container and “Michigan.” Mich. Comp. Laws §445.572(7)
- **LIMIT:** In addition, a dealer is not required to accept empty containers for a refund of more than \$25 on a single given day. Mich. Comp. Laws §445.572(10).

Links to statute:

[http://www.legislature.mi.gov/\(S\(y1ksaimi44igdd55i4yeumrg\)\)/mileg.aspx?page=getobject&objectname=mcl-initiated-law-of-1976](http://www.legislature.mi.gov/(S(y1ksaimi44igdd55i4yeumrg))/mileg.aspx?page=getobject&objectname=mcl-initiated-law-of-1976)

<http://www.deq.state.mi.us/documents/deq-wmd-swp-Bottle-Bill.doc>

8. Iowa

- Dealers must accept “any empty beverage container of the kind, size and brand sold by the dealer . . .” Iowa Code §455C.3(1)

- A dealer may refuse to accept any empty container that does not have a refund value on it. Iowa Code §455C.4(1).
- A dealer is also permitted to refuse to accept an empty beverage container if the dealer and the kind and brand of container are covered by an order approving a redemption center. Iowa Code §455C.4(2).
- Dealers may also refuse to accept alcoholic beverage containers that were originally sold at a state liquor store. Iowa Code §455C.4(3).
- Any person may establish a redemption center, subject to the approval of the Department of Natural Resources. Iowa Code §455C.6(1).

Link to statute: <http://web.legis.state.ia.us/IACODE/1999SUPPLEMENT/455C/index.html>

9. Oregon

- A dealer must accept “any empty beverage containers of the kind, size and brand sold by the dealer . . .” Or. Rev. Stat. § 459A.710(1)
- A dealer may refuse to accept any container if: (1) it does not state the refund value; (2) the dealer and the container are covered by an order approving a redemption center; (3) the container is visibly contaminated by any substance other than water, the original contents, or dust; (4) the container is damaged to the extent that the brand is unidentifiable. Or. Rev. Stat. § 459A.715(1)-(3).
- A dealer need not accept a container if the dealer: (a) Has not offered the product in the specific container size for sale within the past six months; (b) Has reasonable grounds to believe the container was sold at retail outside Oregon; or (c) Has reasonable grounds to believe that container was obtained from or through a distributor without paying the refund value Or. Admin. R. 845-020-0035.
- **LIMIT:** In addition, a dealer may refuse to accept more than 144 containers from any one person in a single day. Or. Rev. Stat. § 459A.715(2)(b).
- Any person may establish a redemption center upon approval of the Oregon Liquor Control Commission. Or. Rev. Stat. §459A.735(1).

Link to Statute: <http://landru.leg.state.or.us/ors/459a.html>

Link to Administrative Rules:

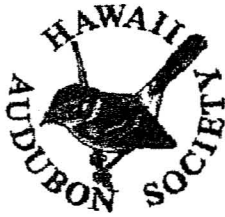
http://arcweb.sos.state.or.us/rules/OARS_800/OAR_845/845_020.html

10. California

- Every dealer must either allow for redemption of empty containers at all open cash registers in the dealer’s place of business or at a specified location on the dealer’s premises, or the dealer must post a conspicuous sign notifying customers of the name and address of the certified recycling center or location(s) nearest to the dealer, “which redeems all types of empty beverage containers at one location during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9:00 a.m. to 5:00 p.m. . . .” Cal. Pub. Res. Code §14570.
- The Administrative Rules do not add any additional restrictions on recycling centers.

Link to Statute: <http://www.consrv.ca.gov/DOR/crcp/recyclers/Images/Act.pdf>

Link to Administrative Rules: <http://www.consrv.ca.gov/DOR/crcp/recyclers/Images/Regs.pdf>



For the Protection of Hawaii's Native Wildlife
HAWAII AUDUBON SOCIETY

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TO: **Committee on Energy & Environmental Protection**
Representative Hermina Morita, Chair & Representative Mele Carroll, Vice Chair

HEARING: **Tuesday, March 11, 2008; 9:00 A.M., Conference Rm. 312**

Re: **SB2841, SSCR2522 – Relating to Deposit Beverage Container Program**

TESTIMONY IN SUPPORT WITH AMENDMENT

Chair Morita, Vice Chair Carroll, and members of the Committee on Energy & Environmental Protection. My name is George Massengale, and I am the Legislative Analyst for the Hawai'i Audubon Society, thank you for the opportunity to submit our testimony in support of SB2842 (SSCR2552), which would improve Hawai'i's container deposit beverage program.

The Hawaii Audubon Society (HAS), founded in 1939, is Hawaii's oldest conservation group, with over 1,500 dedicated members statewide. The Society's primary mission is the protection of Hawaii's native birds, wildlife and habitats. This includes protecting our land and ocean environments from scourge of beverage container debris that afflicts our sea birds, turtles, and aquatic mammals, such as the monk seal.

From all accounts, our bottle law has proven to be a success. It has diverted many millions of cans and bottles away from our landfills, created jobs, and fund raising opportunities for charitable organizations. Hawai'i's bottle law is working well, and it will work better by requiring large stores, over 75,000 square feet to provide for redemption. The question we ask is why stop at 75,000 square feet? **We believe that amending the language in section (f) to 10,000 square feet would increase the efficacy of the program.**

We urge the committee to vote to pass SB2841 (SSCR2522), with amended language in section (f) reducing the square footage from 75,000 to 10,000 square feet.

Thank you for the opportunity testify here today.

Sincerely,

George Massengale, JD
Legislative Analyst