



GOV. MSG. NO. 659

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2239 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB2239 SD2 CD1

A BILL FOR AN ACT  
RELATING TO THE DEPOSIT BEVERAGE CONTAINER  
PROGRAM.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2239

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2239, entitled "A Bill for an Act Relating to the Deposit Beverage Container Program."

The purpose of this bill is to expand the Hawaii Beverage Container Deposit Program by removing the current recycling program exemption for liquid dietary supplement containers starting July 1, 2010.

This bill is objectionable because the inclusion of liquid dietary supplement containers will make it difficult to recycle these containers, it will not be possible to implement by the bill's effective date, and will have a negative impact on consumers during these difficult economic times.

First, this bill would include liquid dietary supplement containers in the Deposit Beverage Container Program on July 1, 2010. There is no phase-in period, as there was when the original program began. As a result, the industry will not be able to comply with the bill's requirements since it would become law on July 1, 2010, and that date has already passed.

Second, this additional fee on liquid dietary supplement containers will impact Hawaii consumers by increasing the cost of drinking dietary supplements and health-related beverages. The fee increase would occur at a time when Hawaii families are still feeling the impacts of the recession and when it is important for Government to take steps to limit the cost of living increases imposed on our families.

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HOUSE BILL NO. 2239  
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Finally, redeeming the refund value of these containers will be inconvenient because reverse vending machines do not accommodate energy drink and dietary supplement containers, many of which are neither standard in size nor shape. Currently, reverse vending machines already have trouble identifying non-standard containers with HI5 labels, thus forcing consumers to either make another trip to a redemption center or throw away the containers, thus losing their refund.

For the foregoing reasons, I am returning House Bill No. 2239 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE  
Governor of Hawaii

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## 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. The legislature finds that dietary supplements  
2 are excluded from the definition of "deposit beverage" under  
3 section 342G-101, Hawaii Revised Statutes, and their containers  
4 are excluded from the deposit beverage container program. There  
5 has also been a significant increase in the number of beverages  
6 that are marketed as "energy" or "dietary" supplement drinks.  
7 Although not required by law, some of these products are labeled  
8 with the Hawaii recyclable refund label (HI-5¢) and are often  
9 sold in containers that are recyclable plastic, aluminum, or  
10 glass. The legislature further finds that the intended uses of  
11 these purported "energy" and "dietary" supplements are similar  
12 to, if not the same as, the intended use of many other sports  
13 drinks, sodas, and juice beverages that are sold in containers  
14 subject to the deposit beverage container program.

15       The purpose of this Act is to include energy and dietary  
16 supplement beverage containers in the deposit beverage container  
17 program.



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

4 "Deposit beverage" means beer, ale, or other drink  
5 produced by fermenting malt, mixed spirits, mixed wine, tea and  
6 coffee drinks regardless of dairy-derived product content, soda,  
7 or noncarbonated water, and all nonalcoholic drinks in liquid  
8 form and intended for internal human consumption that is  
9 contained in a deposit beverage container.

10 The term "deposit beverage" excludes the following:

11 (1) A liquid which is:

12 (A) A syrup;

13 (B) In a concentrated form; or

14 (C) Typically added as a minor flavoring ingredient  
15 in food or drink, such as extracts, cooking  
16 additives, sauces, or condiments;

17 (2) A liquid which is a drug, medical food or infant  
18 formula as defined by the Federal Food, Drug, and  
19 Cosmetic Act (21 U.S.C. §301 et seq.);

20 [~~(3) A liquid which is designed and consumed only as a~~  
21 ~~dietary supplement and not as a beverage as defined in~~



1 ~~the Dietary Supplement Health and Education Act of~~  
2 ~~1994 (P.L. 103-417);~~

3 ~~(4)]~~ (3) Products frozen at the time of sale to the  
4 consumer, or, in the case of institutional users such  
5 as hospitals and nursing homes, at the time of sale to  
6 the users;

7 ~~(5)]~~ (4) Products designed to be consumed in a frozen  
8 state;

9 ~~(6)]~~ (5) Instant drink powders;

10 ~~(7)]~~ (6) Seafood, meat, or vegetable broths, or soups, but  
11 not juices; and

12 ~~(8)]~~ (7) Milk and all other dairy-derived products, except  
13 tea and coffee drinks with trace amounts of these  
14 products."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2010.

