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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 been a significant increase in the number of beverages that  
6 are marketed as "energy" or "dietary" supplement drinks.  
7 Labeling of these products with the Hawaii recyclable refund  
8 label (HI-5¢) is inconsistent, and beverages are often sold in  
9 containers that are recyclable plastic, aluminum, or glass. The  
10 legislature further finds that the intended uses of these  
11 purported "energy" and "dietary" supplements are similar to, if  
12 not the same as, the intended use of many other sports drinks,  
13 sodas, and juice beverages that are sold in containers subject  
14 to the deposit beverage container program.

15           The purpose of this Act is to include energy and dietary  
16 supplement beverage, hard spirits, and wine containers in the  
17 deposit beverage container 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, hard spirits, mixed spirits, wine,  
6 mixed wine, tea and coffee drinks regardless of dairy-derived  
7 product content, soda, or noncarbonated water, and all  
8 nonalcoholic drinks in liquid form and intended for internal  
9 human consumption that is contained in a deposit beverage  
10 container.

11 The term "deposit beverage" excludes the following:

12 (1) A liquid which is:

13 (A) A syrup;

14 (B) In a concentrated form; or

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

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

21 [~~(3) A liquid which is designed and consumed only as a~~  
22 ~~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.

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**Report Title:**

Deposit Beverage Container Program; Dietary Supplements

**Description:**

Removes the exemption for dietary supplements from the deposit beverage container program; adds hard spirits, and wine containers. (SD1)

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