

JAN 23 2009

A BILL FOR AN ACT

RELATING TO RECYCLING.

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;



- 1 (7) Housing loan program revenue bond special fund;
- 2 (8) Housing project bond special fund;
- 3 (9) Aloha Tower fund created by section 206J-17;
- 4 (10) Funds of the employees' retirement system created by
- 5 section 88-109;
- 6 (11) Unemployment compensation fund established under
- 7 section 383-121;
- 8 (12) Hawaii hurricane relief fund established under chapter
- 9 431P;
- 10 (13) Hawaii health systems corporation special funds and
- 11 the subaccounts of its regional system boards;
- 12 (14) Tourism special fund established under section 201B-
- 13 11;
- 14 (15) Universal service fund established under chapter 269;
- 15 (16) Emergency and budget reserve fund under section 328L-
- 16 3;
- 17 (17) Public schools special fees and charges fund under
- 18 section 302A-1130(f);
- 19 (18) Sport fish special fund under section 187A-9.5;
- 20 (19) Neurotrauma special fund under section 321H-4;
- 21 ~~(20) Deposit beverage container deposit special fund under~~
- 22 ~~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;
- 17 ~~(30)~~ (28) Emergency medical services special fund; and
- 18 ~~(31)~~ (29) Rental motor vehicle customer facility charge
19 special fund established under section 261-5.6;
- 20 shall deduct five per cent of all receipts of all other special
21 funds, which deduction shall be transferred to the general fund
22 of the State and become general realizations of the State. All



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

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

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

16 [~~(1)~~ ~~Amounts received as a beverage container deposit~~
17 ~~collected under chapter 342G, part VIII;~~

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



1 [~~+~~(3)] (2) Amounts received[+] by a professional employment
2 organization from a client company equal to amounts
3 that are disbursed by the professional employment
4 organization for employee wages, salaries, payroll
5 taxes, insurance premiums, and benefits, including
6 retirement, vacation, sick leave, health benefits, and
7 similar employment benefits with respect to assigned
8 employees at a client company; provided that this
9 exemption shall not apply to a professional employment
10 organization upon failure of the professional
11 employment organization to collect, account for, and
12 pay over any income tax withholding for assigned
13 employees or any federal or state taxes for which the
14 professional employment organization is responsible.
15 As used in this paragraph, "professional employment
16 organization", "client company", and "assigned
17 employee" shall have the meanings provided in section
18 373K-1."

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

21 "(a) Every glass container importer shall pay to the
22 department an advance disposal fee. The fee shall be imposed



1 only once on the same glass container and shall not be assessed
2 on drinking glasses, cups, bowls, plates, ashtrays, and similar
3 tempered glass containers. For the period beginning September
4 1, 1994, the fee shall be one and one-half cents per glass
5 container. [~~Beginning October 1, 2004, the glass advance~~
6 ~~disposal fee shall only apply to glass containers that are not~~
7 ~~glass deposit beverage containers.]"~~

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

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

20 (1) As may be reasonably required in an administrative or
21 judicial proceeding to enforce any provision of this



1 chapter or any rule adopted pursuant to this chapter;
2 or
3 (2) Under an order issued by a court or administrative
4 agency hearing officer."

5 SECTION 5. Section 342G-85, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§342G-85 Container inventory report and payment.** (a)

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

17 (b) [~~Until September 30, 2004, the~~] The amount due from
18 glass container importers less glass containers exported for the
19 calendar year shall be the sum equal to the number of glass
20 containers provided in subsection (a) multiplied by the advance
21 disposal fee specified in section 342G-82. [~~Beginning October~~
22 ~~1, 2004, the amount due from glass container importers shall be~~



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

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

20 (d) [~~Until September 30, 2004, a~~] A glass container
21 importer who imports five thousand or more glass containers, but
22 less than or equal to one hundred thousand glass containers,



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

9 SECTION 6. Section 342G-1, Hawaii Revised Statutes, is
10 amended by deleting the definition of "deposit beverage."

11 [~~"Deposit beverage" means beer, ale, or other drink~~
12 ~~produced by fermenting malt, mixed spirits, mixed wine, tea and~~
13 ~~coffee drinks regardless of dairy-derived product content, soda,~~
14 ~~or noncarbonated water, and all nonalcoholic drinks in liquid~~
15 ~~form and intended for internal human consumption that is~~
16 ~~contained in a deposit beverage container.~~

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

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

19 (A) ~~A syrup;~~

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



- 1 ~~(C) Typically added as a minor flavoring ingredient~~
- 2 ~~in food or drink, such as extracts, cooking~~
- 3 ~~additives, sauces, or condiments;~~
- 4 ~~(2) A liquid which is ingested in very small quantities~~
- 5 ~~and which is consumed for medicinal purposes only;~~
- 6 ~~(3) A liquid which is designed and consumed only as a~~
- 7 ~~nutritional supplement as defined in the Dietary~~
- 8 ~~Supplement Health and Education Act of 1994 (P.L. 103-~~
- 9 ~~417) and not as a beverage;~~
- 10 ~~(4) Products frozen at the time of sale to the consumer,~~
- 11 ~~or, in the case of institutional users such as~~
- 12 ~~hospitals and nursing homes, at the time of sale to~~
- 13 ~~the users;~~
- 14 ~~(5) Products designed to be consumed in a frozen state;~~
- 15 ~~(6) Instant drink powders;~~
- 16 ~~(7) Seafood, meat, or vegetable broths, or soups, but not~~
- 17 ~~juices; and~~
- 18 ~~(8) Milk and all other dairy derived products, except tea~~
- 19 ~~and coffee drinks with trace amounts of these~~
- 20 ~~products."]~~



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

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

5 ~~(1) The individual, separate, sealed, glass container used~~
6 ~~for containing, at the time of import, sixty-four~~
7 ~~ounces or less of a beverage; or~~

8 ~~(2) The empty, individual, separate glass container that~~
9 ~~will be filled with sixty-four ounces or less of a~~
10 ~~beverage and sealed in this State, so that these glass~~
11 ~~beverage containers will be subject to [part VIII]."]~~

12 SECTION 8. Section 342G-84, Hawaii Revised Statutes, is
13 amended by deleting subsection (d):

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

19 SECTION 9. Section 235-18, Hawaii Revised Statutes, is
20 repealed.

21 ~~["~~§235-18~~ Deposit beverage container deposit exemption. This~~
22 ~~chapter shall not apply to amounts received as a~~



1 ~~deposit beverage container deposit collected under~~
2 ~~part VIII of chapter 342G."]~~

3 SECTION 10. Part VIII of chapter 342G, Hawaii Revised
4 Statutes, is repealed.

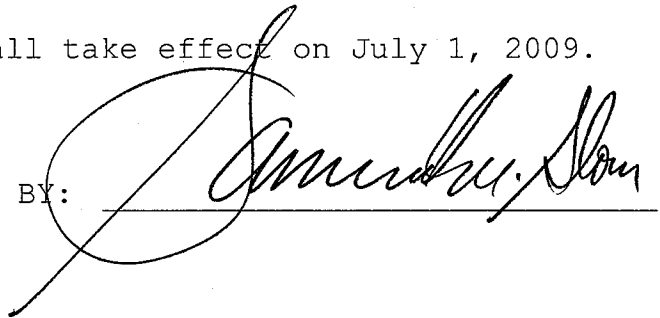
5 SECTION 11. All moneys collected pursuant to part VIII of
6 chapter 342G, Hawaii Revised Statutes, deposited into the
7 deposit beverage container special fund established under
8 section 342G-104, Hawaii Revised Statutes, and remaining
9 unencumbered on balance in that special fund shall lapse to the
10 credit of the general fund on July 1, 2009.

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

13 SECTION 13. This Act shall take effect on July 1, 2009.

14

INTRODUCED BY:

A large, stylized handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to read "Darius D. Brown".

Report Title:

Deposit Beverage Container Program; Repeal; Environmental Management Special Fund; Counties

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. Repeals the requirement that counties return unused monies distributed by the State for glass recovery programs if not used by the end of each annual contract period.

