

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA FUDDY, ACSW, MPH
ACTING DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
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In reply, please refer to:
File:

SENATE COMMITTEE ON HEALTH

S.B. 178, RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM

Testimony of Loretta Fuddy, ACSW, MPH
Acting Director of Health

January 28, 2011
2:45 P.M.

1 **Department's Position:** The Department of Health supports this bill.

2 **Fiscal Implications:** Increased revenue of unknown amount.

3 **Purpose and Justification:** This bill proposes to eliminate the Deposit Beverage Containers (DBC)
4 program's exemption for dietary supplements; and add hard spirit and wine containers to the DBC
5 program.

6 Dietary supplements were excluded from the DBC program along with drugs, medical foods, and
7 infant formula with the understanding that all of these types of beverages provided equal medical value.
8 However, the beverage market has since evolved with the increased popularity of "energy drinks."
9 Many of these drinks nominally qualify as "dietary supplements" while being marketed similarly to soft
10 drinks. This has led to a situation whereby manufacturers and consumers find it difficult to differentiate
11 those energy drinks that qualify as a deposit beverage from those that do not.

12 The department, therefore, believes that eliminating the dietary supplement exemption (while
13 leaving in place the exemption for drugs, medical foods, and infant formula) would simplify the
14 situation by providing for more uniform criteria for what constitutes a deposit beverage.

1 The proposed inclusion of hard spirit and wine containers in the DBC program would primarily
2 affect product contained in glass containers. Glass containers for hard spirits and wines are currently
3 covered by the glass advance disposal fee (ADF) program which is also administered by the department.
4 The department collects 1.5 cents per container and contracts with each of the counties to conduct
5 collection programs. Collection programs have focused on commercially generated recyclable glass and
6 have not been highly visible to the general public. Prior to the inception of the DBC program, glass
7 beverage containers, such as beer bottles, were a part of the ADF program. ADF volume decreased by
8 approximately 80% when glass beverage containers transferred to the DBC program.

9 The department feels it appropriate that hard spirit and wine containers be included in the DBC
10 program as it is consistent with existing program operations and goals. Recycling opportunities for hard
11 spirit and wine containers will increase because the DBC program's collection system is more
12 convenient to the general public.

13 Thank you for the opportunity to testify on this measure.
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MEMORANDUM

TO: Senator Josh Green
Chair, Committee on Health
Via: HTHTestimony@Capitol.hawaii.gov

FROM: Mihoko E. Ito

DATE: January 27, 2011

RE: **S.B. 178 – Relating to the Deposit Beverage Container Program**
Hearing: Friday, January 28, 2011 at 2:45 pm, Room 229

Dear Chair Green and Members of the Committee on Health:

I am Mihoko Ito, appearing on behalf of the Distilled Spirits Council of the United States (“DISCUS”). DISCUS is a national trade association representing producers and marketers of distilled spirits sold in the United States.

DISCUS opposes S.B. 178. This bill seeks to amend the definition of “deposit beverage” to include wine and spirits.

Distilled spirits are already assessed significant taxes and fees in Hawai‘i, including a one and one half cent advance disposal fee per glass container. For a typical bottle of distilled spirits sold here, 25% percent of the retail price goes to pay State and local taxes and fees. When factoring in federal requirements, 51% of the purchase price of each bottle of distilled spirits goes toward taxes and fees.

Given the fact that glass bottles for wine and spirits are not a significant part of Hawai‘i’s litter, the current system—assessing an advance disposal fee to handle glass containers—is working. Hawai‘i Revised Statutes §342G-84, states that all revenues generated from advance disposal fees are deposited into a special account in the environmental management fund. These moneys are used to fund county glass recovery programs, essentially *already* performing the intended function of S.B. 178, which is to prevent

January 27, 2011

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litter caused by wine and spirits bottles.

Finally, the logistical complexity and added costs of including wine and distilled spirits in a deposit beverage container program are significant. Labels for each bottle would need to be changed and these goods would need to be assessed higher prices. This is why the vast majority of states with “bottle bills”—including California—*do not* include wine and distilled spirits.

For the reasons stated above, we respectfully ask that you hold S.B. 178.



HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1050 Bishop St. Box 235

Honolulu, HI 96813

Fax : 808-791-0702

Telephone : 808-533-1292

DATE: Friday January 28, 2011

TIME: 2:45 p.m.

PLACE: Conference Room 229

TO: COMMITTEE ON HEALTH

Senator Josh Green, M.D., Chair

Senator Clarence K. Nishihara, Vice Chair

FROM: Hawaii Food Industry Association

Lauren Zirbel, Government and Community Relations

RE: SB 178 RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.

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

Chairs & Committee Members:

The Hawaii Food Industry Association opposes this bill.

We oppose this measure, as it merely addresses the symptom rather than the problem. Glass has little value, but is necessary for packaging. Thus we can't ban glass. Spending millions of dollars to collect glass to recycle is not only cost ineffective, it does not make sense, since there is so much of it, and it has little recycling value. In fact, we believe it to have a negative value, based on our experience with it over the past fifteen years when the first glass ADF (Advance Disposal Fee) came into existence in Hawaii

at the initiation of the Hawaii Food Industry Association. It cost too much to collect, too much to ship, and in essence, it is only good for creating low paying jobs. Anything we have to ship back to the Mainland other than aluminum is wasting resources.

We need to get glass out of the waste stream, and we need to use it in Hawaii for a useful purpose. We believe the answer to pulverize glass for use as sand locally, in both construction and to replenish our beach sand being lost via erosion.

We have identified the problem, and a need. Next comes to how to collect glass, make it back into sand, and replenish one of our most valuable resources, the beaches. To accomplish this, we don't have to re-invent the wheel. It is being done in Florida. What we do have to do is reinvent how we collect the glass.

Our recommendations are as follows;

- Remove glass from the Beverage Deposit law, and require all glass to once again
- come under the glass ADF. It is currently 1.5 cents per unit;
- Re-allocate this money to each County as it now is, but require each county to collect
- glass separately from the waste stream (The Big Island already does this);
- Create a reasonable penalty for disposing of glass with other refuse to encourage
- consumers to separate their glass for proper disposal;
- Use the Florida Broward County Office of Integrated Waste Management's Beach Renourishment Pre-Feasibility Study as a starting point to design the Hawaii Beach Renourishment Program.

Important issues that should be addressed are:

- Glass will have to be separated by color in order to match the beach requirement, as discussed in the Broward County Study. This can be done up front, or through a MRF (Material Recovery Facility), or by consumers, which would be far less expensive on the system;
- The option of convincing the Professional Golf Assn. (PGA) to allow sand made from glass to be used in sand traps as another alternative.
- Glass has no BTU rating. Since it will not create energy, it does not belong in the waste stream. It does not burn in HPOWER, and in fact is a negative, because it can melt onto the walls, requiring sandblasting to remove it. It is being suggested that we will be mining our landfills in future years, thus the less glass in our landfills will increase the value of the Btu recovery for use in generating energy.
- So, here is a blueprint for solving the environmental problems created by spent glass, while controlling costs, and addressing our beach erosion issue.

This is why we oppose SB 178. It addresses the symptom of one challenge, while we are looking at addressing three issues:

- Land Fills becoming landfills;
- Increasing the value of landfills as a future source of energy by removing as much glass as possible;

- Glass having little value as a recyclable product;
- Waste to Energy plants can't burn glass; and
- Solving our beach erosion problem.

*Source: Council on Plastics and Packaging in the Environment

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Expand deposit beverage container program

BILL NUMBER: SB 178

INTRODUCED BY: Gabbard, Chun Oakland, Kidani and 3 Democrats

BRIEF SUMMARY: Amends HRS section 342G-101 to amend the definition of "deposit beverage" to include containers of hard spirits and wine. Also repeals the exclusion for dietary supplements.

EFFECTIVE DATE: July 1, 2011

STAFF COMMENTS: The legislature by Act 176, SLH 2002, established a nonrefundable beverage container fee and a deposit on beverage containers that are sold in the state. The redemption program took effect on January 1, 2005. While this measure proposes to extend the deposit beverage container program to include hard spirits, wine and dietary supplements, a similar measure that expanded the deposit beverage container program to liquid dietary supplements was passed by the legislature during the 2010 session but was vetoed by the governor. The governor's veto message stated that the measure was vetoed because: (1) there was no phase-in period to allow the industry to comply with July 1, 2010 effective date; (2) the fee increase would increase the cost of the dietary supplements "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;" and (3) the reverse vending machines do not accommodate energy drink and dietary supplement containers making it inconvenient for consumers to recycle those containers.

While the proposed measure would also extend the deposit beverage container to include hard spirits and wine containers, it should be remembered that wine and spirits are currently subject to the advanced fee disposal fee of 1.5 cents per glass container and the adoption of this measure will result in additional costs which will be passed on to the consumer. In addition, there are very few states that subject containers of hard spirits and wine to a deposit fee program. If this measure were adopted, labeling of hard spirits and wine may have to be changed to comply with the deposit beverage container program and will result in higher costs to the consumer or certain products may not be available in Hawaii because the cost would be prohibitive to comply with this added regulation.

If the intent of this proposal is to put wine and liquor beverages on par with convenience beverages, than it goes counter to the original intent of the beverage deposit program, that is to encourage those who consume convenience beverages to return the empty containers. Because local laws generally frown on the consumption of alcoholic beverages in public, these generally are not purchase for casual and convenient consumption and, therefore, the used containers are not usually found discarded in public areas as would soft drink and beer containers. Thus, this measure amounts to nothing more than a money grab and not a serious attempt to protect the environment.



WINE INSTITUTE

KATIE JACOY
WESTERN COUNSEL

TO: Senate Committee on Health
Senator Josh Green, MD, Chair
Senator Clarence Nishihara, Vice- Chair

DATE: January 28, 2011, 2:45pm
Conference Room 229

RE: Opposition to SB178
RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.

The Honorable Josh Green, Chair and Members of the Committee:

I am Katie Jacoy, Western Council for the Wine Institute.

Wine Institute, representing 923 California wineries of all sizes, opposes including wine bottles in the Hawaii Deposit Beverage Container Program as proposed in SB 178. Wine Institute (WI), like Hawaii, is committed to environmental stewardship. Through our Sustainable Winegrowing Program, we provide California vintners and growers with information on how to conserve natural resources, protect the environment and enhance relationships with employees, neighbors and local communities. WI, therefore, supports efficient and cost-effective mechanisms to increase the recycling of wine bottles. To that end, we believe that resources in Hawaii would be better dedicated to a comprehensive curbside recycling program than expanding the bottle bill to include wine bottles.

Curbside is the ideal recycling method for wine bottles, since pick-up is at home where the product is primarily consumed. Wine bottles are heavy, breakable, and take up limited household storage space, so they are NOT well suited for recycling programs that require the consumer to return them to a retail location or redemption center.

A comprehensive curbside recycling program would likely be more effective in increasing the recycling rate for wine bottles, rather than simply putting a "fee" on every bottle. A deposit fee is essentially a tax increase. SB 178 would add a \$.05 deposit fee for every wine bottle, which just increases the price for wine. In addition, the high cost of complying with the law (explained below) would also be passed along to Hawaii wine consumers.

By including wine bottles in the Hawaii deposit beverage container law, it will cost Hawaii consumers more than \$7.5 million dollars to raise about \$200,000 in revenue. This just doesn't make sense!

Wine Institute estimates that including wine bottles in Hawaii's bottle redemption law will cost in excess of \$7.5 million for wineries and even more for Hawaii consumers. Wineries pass along

these costs to consumers, which are marked-up as the wine moves from winery to wholesaler to retailer.

- ✓ Maine & Iowa are the only two states that include wine bottles in their redemption laws. In those states, wholesalers open each case and place the state specific redemption sticker on each bottle before it goes to the retailers. Wineries pay them to perform that function. One large California winery reports paying 34 cents per bottle for this work in Maine.
- ✓ To demonstrate the magnitude of the costs, 21,917,640 bottles of wine were consumed in Hawaii in 2008. The estimated cost to wineries, and therefore Hawaii consumers, to comply with the bottle redemption law would be \$7,451,998 (using 34 cents per bottle).

Wine Institute estimates that the state will only raise about \$200,000 in revenue.

- ✓ The 2009 Wine Handbook table "Consumption of Total Wine Ranked by State 2007-2008" reported that 1,826,470 9-liter cases of wine were consumed in Hawaii in 2008.
- ✓ This is equal to 21,917,640 wine bottles (1,826,470 x 12 per case) making the estimated deposits collected \$1,095,882 (21,917,640 x \$.05). (We did not include the additional penny that is currently charged per bottle because it is our understanding that this money is used for bottle handling costs.)
- ✓ Assuming an 80% redemption rate (Hawaii's Deposit Beverage Container redemption rate as of November 2009), the state Deposit Beverage Container fund will gain only an estimated \$219,176 from unredeemed deposits on the remaining 20% of the wine bottles.

Hawaii wine consumers already pay one of the highest prices in the United States for their wine.

The price of wine for Hawaii consumers is already increased by excise tax (eighth highest in the country), general excise tax of 4.17% (or 4.712% for the City and County of Honolulu), and the higher transportation costs to ship wine to Hawaii. We urge you not to add more costs that will just result in higher prices for consumers.

Wine bottles do not typically create a litter problem and are more likely recycled at curbside. So we urge you NOT to add wine bottles to Hawaii's Deposit Beverage Container Program, which will just make wine more costly in Hawaii.

Thank you for allowing me to provide testimony on this matter.

January 26, 2011

Via Email: HTHTestimony@Capitol.hawaii.gov

COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair
Senate
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: S.B. No. 178 relating to the Deposit Beverage Container Program

Dear Chair Green, Vice Chair Nishihara, and Committee Members:

On behalf of the Hawaii Liquor Wholesalers Association ("HLWA"), we respectfully submit the following written testimony in opposition to S.B. No. 178, relating to the deposit beverage container program, which is scheduled before your Committee on Health for hearing on January 28, 2011. Section 2 of S.B. No. 178 would make wine and hard spirits subject to the deposit beverage container program. HLWA believes that the inclusion of hard spirits and wine in the definition of "Deposit Beverage" in S.B. No. 178 is inappropriate and unworkable for several reasons.

First, wine and spirits already are subject to the advanced disposal fee for glass containers under Part VII of Hawaii Revised Statutes ("HRS") chapter 342G. Specifically, HRS section 342G-82 already imposes an advanced disposal fee of one-and-one-half cents per glass container. Changing fee to, effectively, six cents per bottle, imposes more cost on the consumer.

Second, by statute, the advance deposit fees are to be used for glass incentive or "buy back" programs that provide a means of encouraging participation by the public or private collectors, and the paving of the equivalent of one mile of two lane asphalt roadway as part of a research and demonstration program utilizing glassphalt or glass within any other portion of the pavement section, or other demonstration projects approved by the Department of Health. In addition, county programs may include the collection and processing of glass containers, either through existing county agencies or through external contracts for services, subsidizing the transportation of processed material to off-island markets, the development of collection facilities or the provision of containers for glass recycling, or the incremental portions of multi-material programs, additional research and development programs, including grants to private

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COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair
January 26, 2011
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sector entrepreneurs, especially those activities developing higher value uses for the material, and public education and awareness programs focusing on glass recovery, or the incremental portions of multi-material programs. In contrast the fees for deposit beverage program appear to be intended to be substantially to fund the program itself.

We also note that one of the primary goals of bottle bills is the reduction of litter; however, to our knowledge glass and spirit bottles are not significant sources of litter and including wine and spirit bottles in the bottle bill would have only a marginal impact with respect to litter.

Finally, very few other U.S. jurisdictions impose deposit requirements on wine and spirits, meaning that wine and spirit makers and distributors would need to change their labels to accommodate the requirement of a tiny minority of jurisdictions. For example, California does not include wine and spirits in its deposit program. Imposing this requirement may result in certain products becoming unavailable in the Hawaii market because the cost of changing the labels may exceed the return from Hawaii's relatively small market.

For the foregoing reasons, HLWA respectfully requests that S. B. 178 be held or that Section 2 of S.B. 178 be deleted.

Thank you for your consideration of the foregoing.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION



Warren A. Shon