

LATE

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

S.B. 179, RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health**

**February 8, 2011
3:00 P.M.**

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

2 **Fiscal Implications:** Unknown. This measure is not intended to enhance revenue for the Deposit
3 Beverage Container (DBC) Program.

4 **Purpose and Justification:** The purpose of this bill is to eliminate the exemption for dietary
5 supplements from the DBC Program.

6 Dietary supplements were excluded at the start of the DBC Program along with drugs, medical
7 foods and infant formula because it was thought at that time that all of these products provided equal
8 medical value.

9 However, over time the Program has identified a class of products whose eligibility is not easily
10 determined because of a combination of beverage content and container labeling. The difficulty of the
11 situation is recognized in a U.S. Food and Drug Administration draft guidance document, issued in
12 December 2009, which cites the increasing trend in products which are labeled as supplements that may
13 in fact qualify, legally and functionally, as normal food products.

14 This makes it very difficult to make consistent eligibility determinations, and in some cases has
15 led to reversals of determinations by the DBC Program. These difficulties are frustrating to both the

1 deposit program and regulated distributors because of the disproportionate time and effort involved in
2 dealing with these products. The department believes that deleting the "dietary supplement" exemption
3 is the most efficient way of allowing more consistent eligibility determinations.

4 It should be clear that the exemption for drugs, medical food and infant formula remains in the
5 law. The department has no intention of modifying this exemption. The proposed change, if
6 implemented, is not intended to place a deposit on products that are specifically formulated and intended
7 to manage dietary deficiencies relating to a health condition.

8 Thank you for the opportunity to testify on this measure.

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