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# A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to encourage Hawaii  
2 citizens to make healthy decisions relating to the consumption  
3 of liquid beverages that are proven harmful to human health.

4           Specifically, this Act assesses a sugary beverage healthy  
5 Hawaii fee on each deposit beverage container manufactured in or  
6 imported into the State that contains a sugary beverage, in  
7 addition to the deposit beverage container fee imposed pursuant  
8 to section 342G-102, Hawaii Revised Statutes, and administered  
9 by the department of health.

10           SECTION 2. Chapter 342G, part VIII, Hawaii Revised  
11 Statutes, is amended by adding a new section to be appropriately  
12 designated and to read as follows:

13           "§342G-           Sugary beverage healthy Hawaii fee. (a)  
14 Beginning July 1, 2011, in addition to amounts paid under  
15 section 342G-102, every deposit beverage distributor shall pay  
16 to the department a nonrefundable sugary beverage healthy Hawaii  
17 fee on each deposit beverage container manufactured in or  
18 imported into the State containing a sugary beverage. The fee



1 shall be imposed only once on the same deposit beverage  
2 container. The fee shall be in the following amounts:

3 (1) 10 cents per deposit beverage container less than or  
4 equal to 12 fluid ounces; and

5 (2) 25 cents per deposit beverage container more than 12  
6 fluid ounces.

7 (b) The sugary beverage healthy Hawaii fee shall not apply  
8 to deposit beverage containers exported for sale outside of the  
9 State.

10 (c) No county shall impose or collect any assessment or  
11 fee on deposit beverage containers for the same or similar  
12 purpose in this section.

13 (d) Amounts collected under this section shall be for the  
14 use of the State and shall be paid into the state treasury at  
15 such times as the director of finance shall direct."

16 SECTION 3. Section 237-24.75, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§237-24.75 Additional exemptions.** In addition to the  
19 amounts exempt under section 237-24, this chapter shall not  
20 apply to:



- 1           (1) Amounts received as a beverage container deposit or  
2           sugary beverage healthy Hawaii fee collected under  
3           chapter 342G, part VIII;
- 4           (2) Amounts received by the operator of the Hawaii  
5           convention center for reimbursement of costs or  
6           advances made pursuant to a contract with the Hawaii  
7           tourism authority under section 201B-7[+]; and[+]  
8        +] (3) Amounts received[+] by a professional employment  
9           organization from a client company equal to amounts  
10          that are disbursed by the professional employment  
11          organization for employee wages, salaries, payroll  
12          taxes, insurance premiums, and benefits, including  
13          retirement, vacation, sick leave, health benefits, and  
14          similar employment benefits with respect to assigned  
15          employees at a client company; provided that this  
16          exemption shall not apply to a professional employment  
17          organization upon failure of the professional  
18          employment organization to collect, account for, and  
19          pay over any income tax withholding for assigned  
20          employees or any federal or state taxes for which the  
21          professional employment organization is responsible.  
22          As used in this paragraph, "professional employment



1 organization", "client company", and "assigned  
2 employee" shall have the meanings provided in section  
3 373K-1."

4 SECTION 4. Section 342G-101, Hawaii Revised Statutes, is  
5 amended as follows:

6 1. By adding a new definition to be appropriately inserted  
7 and to read:

8 "Sugary beverage" means any soda, juice, or other non-  
9 alcoholic beverage that is sold in separate deposit beverage  
10 containers and the contents of which contain more than per  
11 cent sugar, including sweetened water, soda, sports drinks,  
12 energy drinks, colas, sweetened coffee or tea, and fruit or  
13 vegetable drinks containing less than seventy per cent natural  
14 fruit or vegetable juice. The term "sugary beverage" does not  
15 include milk, milk products, milk substitutes, nutritional  
16 dietary supplements, oral rehydration solutions not marketed as  
17 sports or energy drinks, and infant formula."

18 2. By amending the definition of "deposit beverage  
19 container" to read:

20 "Deposit beverage container" means the individual,  
21 separate, sealed glass, polyethylene terephthalate, high density  
22 polyethylene, or metal container less than or equal to sixty-



1 eight fluid ounces[7]; provided that for purposes of the sugary  
2 beverage healthy Hawaii fee under section 342G- , a deposit  
3 beverage container is of any size, used for containing, at the  
4 time of sale to the consumer, a deposit beverage intended for  
5 use or consumption in this State."

6 SECTION 5. Section 342G-105, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§342G-105 Deposit beverage container inventory report and**  
9 **payment.** (a) Payment of the deposit beverage container fee,  
10 the sugary beverage healthy Hawaii fee, and deposits as  
11 described in section 342G-110 shall be made monthly based on  
12 inventory reports of the deposit beverage distributors. All  
13 deposit beverage distributors shall submit to the department  
14 documentation in sufficient detail that identifies the net  
15 number of deposit beverage containers sold, donated, or  
16 transferred, by container size and type[7], including the sugar  
17 content of sugary beverages.

18 (b) The amount due from deposit beverage distributors  
19 shall be the net number of deposit beverage containers sold,  
20 donated, or transferred multiplied by the sum of the prevailing  
21 deposit beverage container fee and the refund value of 5 cents.  
22 In addition, the amount due shall include a separately stated



1 amount equal to the number of deposit beverage containers sold  
2 containing sugary beverages multiplied by the sugary beverage  
3 healthy Hawaii fee amount for the appropriate beverage container  
4 size. Payment shall be made by check or money order payable to  
5 the "Department of Health, State of Hawaii". All inventory  
6 reports and payments shall be made no later than the fifteenth  
7 day of the month following the end of the payment period of the  
8 previous month."

9 SECTION 6. Section 342G-106, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[+]§342G-106[+] **Contract for administrative services.**

12 The department may contract the services of a third party to  
13 administer the deposit beverage container program and the sugary  
14 beverage healthy Hawaii fee under this part."

15 SECTION 7. Section 342G-107, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[+]§342G-107[+] **Management and financial audit.** The  
18 auditor shall conduct a management and financial audit of the  
19 [~~program~~] programs under this part for fiscal years 2004-2005  
20 and 2005-2006, and for each fiscal year thereafter ending in an  
21 even-numbered year. The auditor shall submit the audit report,  
22 including the amount of unredeemed refund value and



1 recommendations, to the legislature and the department no later  
2 than twenty days prior to the convening of [+]the[+] next  
3 regular session. The costs incurred by the auditor for the  
4 audit shall be reimbursed by the deposit beverage container  
5 program special fund. The auditor may contract the audit  
6 services of a third party to conduct the audit."

7 SECTION 8. Section 342G-110, Hawaii Revised Statutes, is  
8 amended by amending subsections (c) and (d) to read as follows:

9 "(c) The deposit on each filled deposit beverage container  
10 shall be paid by the deposit beverage distributor, who  
11 manufactures or imports beverages in deposit beverage  
12 containers. In addition, there shall be paid by the deposit  
13 beverage distributor on each deposit beverage container the  
14 sugary beverage healthy Hawaii fee as required by section  
15 342G-\_\_\_\_\_. Payment and reporting of the deposits shall be in  
16 accordance with section 342G-105. The deposits shall be  
17 deposited into the deposit beverage container deposit special  
18 fund as [~~described~~] provided in section 342G-104. The sugary  
19 beverage healthy Hawaii fee shall be paid to the general fund as  
20 provided in section 342G-\_\_\_\_\_.

21 (d) Deposit beverage distributors who are required under  
22 subsection (c) to pay a deposit or sugary beverage healthy



1 Hawaii fee shall also pay a deposit beverage container fee and  
2 register with the State."

3 SECTION 9. Section 342G-111, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsections (a), (b), (c), and (d) to read:

6 "(a) By January 1, 2005, every deposit beverage  
7 distributor who pays a deposit to the department shall charge  
8 the dealer or consumer a deposit equal to the refund value for  
9 each deposit beverage container sold in Hawaii. In addition,  
10 every deposit beverage distributor shall charge the dealer or  
11 consumer a sugary beverage healthy Hawaii fee as provided in  
12 section 342G- . The deposit charge and sugary beverage  
13 healthy Hawaii fee may appear as a separate line item on the  
14 invoice.

15 (b) Each dealer shall charge the consumer the deposit  
16 beverage container deposit at the point of sale of the beverage,  
17 excluding sales for on-premises consumption. In addition, each  
18 dealer shall charge the consumer a sugary beverage healthy  
19 Hawaii fee as provided in section 342G- . The deposit charge  
20 and sugary beverage healthy Hawaii fee may appear as a separate  
21 line item on the invoice.





1 (c) Each deposit beverage distributor shall generate and  
2 submit to the department a monthly report on the net number of  
3 deposit beverage containers sold, donated, or transferred by  
4 container size and type[-], including the sugar content of  
5 sugary beverages. All information contained in the reports,  
6 including confidential commercial and financial information,  
7 shall be treated as confidential and protected to the extent  
8 allowed by state law.

9 (d) Payment of the deposit beverage container fee and  
10 deposits, in addition to the sugary beverage healthy Hawaii fee,  
11 as described in section 342G-110 shall be made monthly based on  
12 reports of the deposit beverage distributors under subsection  
13 (c)."

14 2. By amending subsection (f) to read:

15 "(f) The amount due from a deposit beverage distributor  
16 shall be the net number of deposit beverage containers sold  
17 multiplied by the sum of the prevailing deposit beverage  
18 container fee and the deposit value of 5 cents. In addition,  
19 the amount due shall include a separately stated amount equal to  
20 the number of deposit beverage containers sold containing sugary  
21 beverages multiplied by the sugary beverage healthy Hawaii fee  
22 amount for the appropriate beverage container size. Payment



1 shall be made by check or money order payable to the "Department  
2 of Health, State of Hawaii". All reports and payments shall be  
3 made no later than the fifteenth day of the month following the  
4 end of the previous payment period."

5 SECTION 10. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 11. This Act shall take effect on July 1, 2011.

8

INTRODUCED BY: \_\_\_\_\_

*Calvin L. King*  
BY REQUEST

JAN 25 2011



**Report Title:**

Fees and Taxes; Safety and Health

**Description:**

Promotes safety and health in Hawaii by assessing a new sugary beverage fee.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

