

JAN 26 2011

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 sustaining high
2 container redemption levels in the deposit beverage container
3 program depends on conveniently located redemption centers for
4 customers. To date, there have been many challenges to locating
5 independently operated redemption centers within a two-mile
6 radius of retail dealers and providing more convenient locations
7 in rural areas.

8 The legislature further finds retail dealers in other
9 states with similar redemption programs are also required to be
10 redemption centers. However, in the past, the legislature has
11 recognized that many retail dealers in Hawaii have limited
12 retail space in their establishments and that their floor space
13 is extremely valuable. Therefore, the high cost of doing
14 business in Hawaii may be prohibitive to establishing redemption
15 areas within smaller retail establishments.

16 The purpose of this Act is to increase convenience for
17 consumers and facilitate participation in the deposit beverage
18 container program by requiring certain retail dealers with more



1 than seventy-five thousand square feet of interior space to
2 operate redemption centers if the State's deposit container
3 redemption rate drops below an average of seventy-five per cent
4 for eight consecutive quarters. However, if the State's deposit
5 container redemption rate reaches or exceeds an average of
6 seventy-five per cent for eight consecutive quarters, then the
7 governor is authorized to suspend the redemption center
8 requirements.

9 SECTION 2. Section 342G-113, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§342G-113 Redemption of empty deposit beverage**

12 **containers.** (a) Except as provided in subsection (b), a dealer
13 shall:

- 14 (1) Operate a redemption center by July 1, 2005, and shall
15 accept all types of empty deposit beverage containers
16 with a Hawaii refund value;
- 17 (2) Pay to the redeemer the full refund value for all
18 deposit beverage containers that bear a valid Hawaii
19 refund value; and
- 20 (3) Ensure each deposit beverage container collected is
21 recycled, and forward documentation necessary to
22 support claims for payment [~~as stated in~~] in



1 accordance with section 342G-119 or rules adopted
2 under this part.

3 (b) Subsection (a) shall not apply to any dealer:

4 (1) Who is located in a high density population area as
5 defined by the director in rules, and within two miles
6 of a certified redemption center that is operated
7 independently of a dealer;

8 (2) Who is located in a rural area as defined by rule;

9 (3) Who subcontracts with a certified redemption center to
10 be operated on the dealer's premises;

11 (4) Whose sales of deposit beverage containers are only
12 via vending machines;

13 (5) Whose place of business is less than five thousand
14 square feet of interior space;

15 (6) Who can demonstrate physical or financial hardship, or
16 both, based on specific criteria established by rule;
17 or

18 (7) Who meets other criteria established by the
19 director[-];

20 provided that for large dealers, as defined in subsection (i),
21 the exemptions described in paragraphs (1), (2), and (7) shall
22 be subject to subsections (f) and (g). Notwithstanding



1 paragraphs (1) and (2), the director may allow the placement of
2 redemption centers at greater than prescribed distances to
3 accommodate geographical features while ensuring adequate
4 consumer convenience.

5 (c) Regardless of the square footage of a dealer's place
6 of business, dealers who are not redemption centers shall post a
7 clear and conspicuous sign at the primary public entrance of the
8 dealer's place of business that specifies the name, address, and
9 hours of operation of the closest redemption center locations.

10 (d) If there is no redemption center within the two-mile
11 radius of a dealer due to the criteria described in subsection
12 (b), then the respective county and the State shall determine
13 the need for a redemption center in that area. If a redemption
14 center is deemed necessary, then the State, with assistance from
15 the county, shall establish the redemption center with funding
16 from the deposit beverage container deposit special fund.

17 (e) Businesses that sell deposit beverages for on-premises
18 consumption, such as hotels, bars, and restaurants, shall
19 collect used deposit beverage containers from the patron and
20 either use a certified redemption center for the collection of
21 containers or become a certified redemption center.



1 (f) Publication by the governor of a first notice of
2 unavailability of exemptions for large dealers. If the
3 statewide redemption rate for deposit beverage containers for
4 the preceding eight quarters, as reported to the governor by the
5 department of health, falls below seventy-five per cent, the
6 governor shall publish a notice statewide, in accordance with
7 section 1-28.5, which shall:

8 (1) Suspend for large dealers the exemptions described in
9 subsection (b) (1), (2), and (7), thereby requiring
10 large dealers, who otherwise would have qualified
11 under any of those exemptions, to operate a redemption
12 center in compliance with subsection (a) within one
13 year from the date of publication of the governor's
14 first notice; and

15 (2) Suspend the department of health's reporting
16 requirements under subsection (h) for three years.

17 Upon the expiration of the three-year period under paragraph
18 (2), the department of health shall automatically recommence
19 reporting to the governor as required under subsection (h).

20 Thereafter, if the statewide redemption rate for deposit
21 beverage containers for the preceding eight quarters, as
22 reported to the governor by the department of health, increases



1 to at least seventy-five per cent, the governor, by publication
2 of a notice statewide in accordance with section 1-28.5, may
3 reinstate for large dealers the exemptions under subsection
4 (b) (1), (2), and (7), thereby allowing large dealers who qualify
5 for any of those exemptions to be exempt from operating a
6 redemption center.

7 (g) Publication by the governor of a second or subsequent
8 notice of unavailability of exemptions for large dealers. After
9 any reinstatement of the exemptions under subsection (b) (1), (2),
10 and (7), if the statewide redemption rate for deposit beverage
11 containers for the preceding eight quarters, as reported to the
12 governor by the department of health, falls below seventy-five
13 per cent, the governor shall publish a notice statewide, in
14 accordance with section 1-28.5, which shall:

15 (1) Suspend for large dealers the exemptions described in
16 subsection (b) (1), (2), and (7), thereby requiring
17 large dealers, who otherwise would have qualified for
18 any of those exemptions, to operate a redemption
19 center in compliance with subsection (a) within six
20 months from the date of publication of the governor's
21 notice; and



1 (2) Suspend the department of health's reporting
2 requirements under subsection (h) for 2.5 years.
3 Upon the expiration of the 2.5-year period under paragraph (2),
4 the department of health shall automatically recommence
5 reporting to the governor as required under subsection (h).
6 Thereafter, if the statewide redemption rate for deposit
7 beverage containers for the preceding eight quarters, as
8 reported to the governor by the department of health, increases
9 to at least seventy-five per cent, the governor, by publication
10 of a notice statewide in accordance with section 1-28.5, may
11 reinstate for large dealers the exemptions under subsection
12 (b) (1), (2), and (7), thereby allowing large dealers who qualify
13 under any of those exemptions to be exempt from operating a
14 redemption center.

15 (h) Unless the department of health's duty to report the
16 statewide rate of redemption has been suspended by subsection
17 (f) or (g), the department of health shall:

18 (1) Determine, within days of the end of each quarter,
19 the average statewide redemption rate for deposit
20 beverage containers for the preceding eight quarters;
21 and



1 (2) Report that average statewide redemption rate to the
 2 governor, within days after the end of the
 3 quarter, by indicating whether the statewide
 4 redemption rate is below, at, or above seventy-five
 5 per cent.

6 (i) For purposes of this section, "large dealer" shall
 7 mean any dealer having greater than seventy-five thousand square
 8 feet of interior space."

9 SECTION 3. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Deposit Beverage Container Program; HI-5; Large Dealer;
Redemption Center

Description:

Requires certain retail dealers with more than seventy-five thousand square feet of interior space to operate redemption centers within one year of a governor's publication of a notice declaring that the statewide redemption rate for the preceding eight quarters has fallen below 75%. If the redemption rate falls below 75% in subsequent measurement periods, then larger retailers are required to resume operating redemption centers within six months of the governor's publication notice.

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