

S.B. NO. 2824

JAN 25 2012

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 purpose of this Act is to include energy
2 and dietary supplement beverage containers in the deposit
3 beverage container program.

4 SECTION 2. Section 342G-101, Hawaii Revised Statutes, is
5 amended by amending the definition of "deposit beverage" to read
6 as follows:

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

13 The term "deposit beverage" excludes the following:

14 (1) A liquid [~~which~~] that is:

15 (A) A syrup;

16 (B) In a concentrated form; or

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- 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~~] that is a drug, medical food, or
5 infant formula as defined by the Federal Food, Drug,
6 and Cosmetic Act (21 U.S.C. §301 et seq.);
- 7 ~~[(3) A liquid which is designed and consumed only as a
8 dietary supplement and not as a beverage as defined in
9 the Dietary Supplement Health and Education Act of
10 1994 (P.L. 103-417);~~
- 11 ~~[(4)]~~ (3) Products frozen at the time of sale to the
12 consumer, or, in the case of institutional users such
13 as hospitals and nursing homes, at the time of sale to
14 the users;
- 15 ~~[(5)]~~ (4) Products designed to be consumed in a frozen
16 state;
- 17 ~~[(6)]~~ (5) Instant drink powders;
- 18 ~~[(7)]~~ (6) Seafood, meat, or vegetable broths, or soups, but
19 not juices; and
- 20 ~~[(8)]~~ (7) Milk and all other dairy-derived products, except
21 tea and coffee drinks with trace amounts of these
22 products."

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1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on January 1, 2013.
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INTRODUCED BY: 

7

BY REQUEST

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Report Title:

Deposit Beverage Container Program; Dietary Supplements

Description:

Removes the exemption for dietary supplements from the deposit beverage container program.

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

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.

PURPOSE: Delete the dietary supplement exemption.

MEANS: Amend sections 342G-1 and 342G-101, Hawaii Revised Statutes.

JUSTIFICATION: Dietary supplements were excluded at the inception of the DBC program along with drugs, medical foods, and infant formula because it was thought that these products provided equal medical value.

The beverage market has evolved over the years to the point where many drinks that are marketed as "energy drinks" qualify as dietary supplements. There are also numerous examples of drinks that fall into a gray area - meaning they fit some of the characteristics of a dietary supplement, while not meeting others. This makes it very difficult for the deposit program to make consistent eligibility determinations. In some cases it has led to reversals of determinations. We further note that many of the energy drinks, although labeled as "dietary supplements" are marketed in a manner similar to regular soft drinks.

Deleting the "dietary supplement" exemption will allow more consistent eligibility determinations that affect both the public and regulated distributors.

The exemption for drugs, medical foods, and infant formula would remain in effect under this proposal.

Impact on the public: Beverages that were previously exempt from the DBC program would be brought into the program and be subject

to the 5 cent deposit and 1 cent container fee charges.

Impact on the department and other agencies:
None.

GENERAL FUND: No general fund impact.

OTHER FUNDS: Rough estimates of \$2,500,000 to \$3,000,000 in new revenue into the Deposit Beverage Container Deposit Special Fund.

PPBS PROGRAM
DESIGNATION: HTH-840/FJ.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: January 1, 2013.