

JAN 21 2011

S.B. NO. 875

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# A BILL FOR AN ACT

RELATING TO RECYCLING.

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

1           SECTION 1. Section 36-27, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§36-27 Transfers from special funds for central service**  
4 **expenses.** (a) Except as provided in this section, and  
5 notwithstanding any other law to the contrary, from time to  
6 time, the director of finance, for the purpose of defraying the  
7 prorated estimate of central service expenses of government in  
8 relation to all special funds, except the:

- 9           (1) Special out-of-school time instructional program fund  
10           under section 302A-1310;
- 11           (2) School cafeteria special funds of the department of  
12           education;
- 13           (3) Special funds of the University of Hawaii;
- 14           (4) State educational facilities improvement special fund;
- 15           (5) Convention center enterprise special fund under  
16           section 201B-8;
- 17           (6) Special funds established by section 206E-6;
- 18           (7) Housing loan program revenue bond special fund;



- 1           (8)   Housing project bond special fund;
- 2           (9)   Aloha Tower fund created by section 206J-17;
- 3           (10)   Funds of the employees' retirement system created by
- 4                    section 88-109;
- 5           (11)   Unemployment compensation fund established under
- 6                    section 383-121;
- 7           (12)   Hawaii hurricane relief fund established under chapter
- 8                    431P;
- 9           (13)   Hawaii health systems corporation special funds and
- 10                   the subaccounts of its regional system boards;
- 11           (14)   Tourism special fund established under section 201B-
- 12                   11;
- 13           (15)   Universal service fund established under section 269-
- 14                   42;
- 15           (16)   Emergency and budget reserve fund under section 328L-
- 16                   3;
- 17           (17)   Public schools special fees and charges fund under
- 18                   section 302A-1130;
- 19           (18)   Sport fish special fund under section 187A-9.5;
- 20           ~~(19)   Glass advance disposal fee established by section~~
- 21                   ~~342C-82;~~



1       ~~(20)~~ (19) Center for nursing special fund under section  
2                   304A-2163;

3       ~~(21)~~ (20) Passenger facility charge special fund  
4                   established by section 261-5.5;

5       ~~(22)~~ (21) Court interpreting services revolving fund under  
6                   section 607-1.5;

7       ~~(23)~~ (22) Hawaii cancer research special fund;

8       ~~(24)~~ (23) Community health centers special fund;

9       ~~(25)~~ (24) Emergency medical services special fund;

10       ~~(26)~~ (25) Rental motor vehicle customer facility charge  
11                   special fund established under section 261-5.6; and

12       ~~(27)~~ (26) Shared services technology special fund under  
13                   section 27-43,

14 shall deduct five per cent of all receipts of all special funds,  
15 which deduction shall be transferred to the general fund of the  
16 State and become general realizations of the State. All  
17 officers of the State and other persons having power to allocate  
18 or disburse any special funds shall cooperate with the director  
19 in effecting these transfers. To determine the proper revenue  
20 base upon which the central service assessment is to be  
21 calculated, the director shall adopt rules pursuant to chapter  
22 91 for the purpose of suspending or limiting the application of



1 the central service assessment of any fund. No later than  
2 twenty days prior to the convening of each regular session of  
3 the legislature, the director shall report all central service  
4 assessments made during the preceding fiscal year.

5 (b) Notwithstanding any other law to the contrary, the  
6 director shall deposit per cent of all moneys collected  
7 pursuant to subsection (a) into the shared services technology  
8 special fund established pursuant to section 27-43."

9 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§237-24.75 Additional exemptions.** In addition to the  
12 amounts exempt under section 237-24, this chapter shall not  
13 apply to:

14 [~~(1)~~] ~~Amounts received as a beverage container deposit~~  
15 ~~collected under chapter 342G, part VIII;~~

16 ~~(2)]~~ (1) Amounts received by the operator of the Hawaii  
17 convention center for reimbursement of costs or  
18 advances made pursuant to a contract with the Hawaii  
19 tourism authority under section 201B-7[+]; and[+]

20 ~~+(3)]~~ (2) Amounts received[+] by a professional employment  
21 organization from a client company equal to amounts  
22 that are disbursed by the professional employment



1 organization for employee wages, salaries, payroll  
2 taxes, insurance premiums, and benefits, including  
3 retirement, vacation, sick leave, health benefits, and  
4 similar employment benefits with respect to assigned  
5 employees at a client company; provided that this  
6 exemption shall not apply to a professional employment  
7 organization upon failure of the professional  
8 employment organization to collect, account for, and  
9 pay over any income tax withholding for assigned  
10 employees or any federal or state taxes for which the  
11 professional employment organization is responsible.

12 As used in this paragraph, "professional employment  
13 organization", "client company", and "assigned  
14 employee" shall have the meanings provided in section  
15 373K-1."

16 SECTION 3. Section 342G-1, Hawaii Revised Statutes, is  
17 amended by deleting the definition of "deposit beverage".

18 [~~"Deposit beverage" means beer, ale, or other drink  
19 produced by fermenting malt, mixed spirits, mixed wine, tea and  
20 coffee drinks regardless of dairy-derived product content, soda,  
21 or noncarbonated water, and all nonalcoholic drinks in liquid~~



1 ~~form and intended for internal human consumption that is~~  
2 ~~contained in a deposit beverage container.~~

3 ~~The term "deposit beverage" excludes the following:~~

4 ~~(1) A liquid which is:~~

5 ~~(A) A syrup;~~

6 ~~(B) In a concentrated form; or~~

7 ~~(C) Typically added as a minor flavoring ingredient~~  
8 ~~in food or drink, such as extracts, cooking~~  
9 ~~additives, sauces, or condiments;~~

10 ~~(2) A liquid which is ingested in very small quantities~~  
11 ~~and which is consumed for medicinal purposes only;~~

12 ~~(3) A liquid which is designed and consumed only as a~~  
13 ~~nutritional supplement as defined in the Dietary~~  
14 ~~Supplement Health and Education Act of 1994 (P.L. 103-~~  
15 ~~417) and not as a beverage;~~

16 ~~(4) Products frozen at the time of sale to the consumer,~~  
17 ~~or, in the case of institutional users such as~~  
18 ~~hospitals and nursing homes, at the time of sale to~~  
19 ~~the users;~~

20 ~~(5) Products designed to be consumed in a frozen state;~~

21 ~~(6) Instant drink powders;~~



- 1       ~~(7) Seafood, meat, or vegetable broths, or soups, but not~~  
2       ~~juices; and~~
- 3       ~~(8) Milk and all other dairy derived products, except tea~~  
4       ~~and coffee drinks with trace amounts of these~~  
5       ~~products." ]~~

6           SECTION 4. Section 342G-81, Hawaii Revised Statutes, is  
7 amended by deleting the definition of "deposit glass beverage  
8 container".

9           ~~["Deposit glass beverage container" means:~~

- 10       ~~(1) The individual, separate, sealed, glass container used~~  
11       ~~for containing, at the time of import, sixty-four~~  
12       ~~ounces or less of a beverage; or~~
- 13       ~~(2) The empty, individual, separate glass container that~~  
14       ~~will be filled with sixty-four ounces or less of a~~  
15       ~~beverage and sealed in this State, so that these glass~~  
16       ~~beverage containers will be subject to [part VIII]."~~

17           SECTION 5. Section 342G-82, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19           "(a) Every glass container importer shall pay to the  
20 department an advance disposal fee. The fee shall be imposed  
21 only once on the same glass container and shall not be assessed  
22 on drinking glasses, cups, bowls, plates, ashtrays, and similar



1 tempered glass containers. For the period beginning September  
2 1, 1994, the fee shall be one and one-half cents per glass  
3 container. [~~Beginning October 1, 2004, the glass advance~~  
4 ~~disposal fee shall only apply to glass containers that are not~~  
5 ~~glass deposit beverage containers.]"~~

6 SECTION 6. Section 342G-83, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8 "(b) All glass container importers shall maintain records  
9 reflecting the manufacture of their glass containers as well as  
10 the importation and exportation of products packaged in glass.  
11 [~~The records shall identify the type (glass deposit beverage~~  
12 ~~container or non-deposit beverage glass container) and quantity~~  
13 ~~of each type of glass container.] The records shall be made  
14 available, upon request, for inspection by the department;  
15 provided that any proprietary information obtained by the  
16 department shall be kept confidential, and shall not be  
17 disclosed to any other person except:~~

18 (1) As may be reasonably required in an administrative or  
19 judicial proceeding to enforce any provision of this  
20 chapter or any rule adopted pursuant to this chapter;  
21 or





1           (2) Under an order issued by a court or administrative  
2           agency hearing officer."

3           SECTION 7. Section 342G-84, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§342G-84 Deposit into environmental management special**  
6 **fund; distribution to counties.** (a) Revenues generated from  
7 the advance disposal fee shall be deposited into a special  
8 account in the environmental management fund. Moneys from the  
9 special account shall be used to fund county glass recovery  
10 programs established in accordance with the requirements under  
11 section 342G-86; provided that no moneys shall be made available  
12 to a county unless the county has first submitted its formally  
13 adopted integrated solid waste management plan to the department  
14 for review. In the event of any surplus in the special account,  
15 the department shall recommend a reduction in the fee as deemed  
16 necessary.

17           (b) The department shall distribute the moneys contained  
18 in the special account to the counties in proportion to the  
19 amount of glass imported into each county based on the county's  
20 de facto population. The distribution shall be in the form of  
21 direct contracts with the department as permitted under chapters  
22 103 and 103D or transfer of funds from the department.



1 (c) No more than ten per cent, in the aggregate, of the  
2 revenue collected in any one year may be used by the department  
3 for administrative and educational purposes and to promote glass  
4 recovery, recycling, and reuse in Hawaii through research and  
5 demonstration projects.

6 [~~(d) All moneys distributed to the counties under~~  
7 ~~subsection (b), and not used by the counties as specified in~~  
8 ~~section 342G-86, shall be returned to the State for deposit into~~  
9 ~~the environmental management special fund at the end of each~~  
10 ~~annual contract period.]"~~

11 SECTION 8. Section 342G-85, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§342G-85 Container inventory report and payment.** (a)

14 Payment of the advance glass disposal fee shall be made  
15 quarterly based on inventory reports of the glass container  
16 importers, except for those importers subject to subsection (c)  
17 or (d). All glass container importers shall submit to the  
18 department documentation in sufficient detail that identifies  
19 the number of glass [~~deposit beverage and glass non-deposit~~  
20 ~~beverage]~~ containers manufactured or imported to the State and  
21 sold or distributed, by manufacturer or distributor, during the  
22 calendar year.



1       (b) [~~Until September 30, 2004, the~~] The amount due from  
2 glass container importers less glass containers exported for the  
3 calendar year shall be the sum equal to the number of glass  
4 containers provided in subsection (a) multiplied by the advance  
5 disposal fee specified in section 342G-82. [~~Beginning October~~  
6 ~~1, 2004, the amount due from glass container importers shall be~~  
7 ~~the sum equal to the number of non-deposit beverage glass~~  
8 ~~containers provided in subsection (a), less non-deposit beverage~~  
9 ~~glass containers exported, and multiplied by the advance~~  
10 ~~disposal fee.~~] Payment shall be made by check or money order  
11 payable to the "Department of Health, State of Hawaii". All  
12 subsequent inventory reports and payments shall be made not  
13 later than the fifteenth day of the month following the end of  
14 the previous calendar quarter, except for those importers  
15 subject to subsection (d).

16       (c) [~~Until September 30, 2004, a~~] A glass container  
17 importer who imports fewer than five thousand glass containers  
18 within a one-year period shall be exempt from payment of the  
19 fee. Any empty, imported glass container designed to hold not  
20 more than two and one-half fluid ounces of a product meant for  
21 human consumption shall be exempt from the fee. [~~Beginning~~  
22 ~~October 1, 2004, a glass container importer who imports or~~



1 ~~manufactures in the State fewer [than] five thousand non-deposit~~  
2 ~~beverage glass containers within a one-year period shall be~~  
3 ~~exempt from payment of the fee.]~~

4 (d) ~~[Until September 30, 2004, a]~~ A glass container  
5 importer who imports five thousand or more glass containers, but  
6 less than or equal to one hundred thousand glass containers,  
7 shall be permitted to provide a report and payment of the fee  
8 annually, rather than quarterly. ~~[Beginning October 1, 2004, a~~  
9 ~~glass container importer who imports or manufactures in the~~  
10 ~~State five thousand or more non-deposit beverage glass~~  
11 ~~containers, but less than or equal to one hundred thousand non-~~  
12 ~~deposit beverage glass containers, shall be permitted to provide~~  
13 ~~a report and payment of the fee annually, rather than~~  
14 ~~quarterly.]"~~

15 SECTION 9. Section 445-231, Hawaii Revised Statutes, is  
16 amended by amending the definition of "beer keg" to read as  
17 follows:

18 ""Beer keg" means a metal container used to hold five  
19 gallons or more of liquid that is stamped, engraved, stenciled,  
20 or otherwise marked with the name of a brewery manufacturer[+  
21 ~~provided that a deposit beverage container, as defined under~~  
22 ~~section 342C-101, shall not be considered a beer keg]."~~



1 SECTION 10. Section 708-835.8, Hawaii Revised Statutes, is  
2 amended by amending subsection (2) to read as follows:

3 "(2) For the purposes of this section, "beer keg" means a  
4 metal container used to hold five gallons or more of liquid that  
5 is stamped, engraved, stenciled, or otherwise marked with the  
6 name of a brewery manufacturer[; ~~provided that a deposit~~  
7 ~~beverage container, as defined under section 342G-101, shall not~~  
8 ~~be considered a beer keg]."~~

9 SECTION 11. Section 235-18, Hawaii Revised Statutes, is  
10 repealed.

11 [~~§235-18 Deposit beverage container deposit exemption.~~  
12 ~~This chapter shall not apply to amounts received as a deposit~~  
13 ~~beverage container deposit collected under part VIII of chapter~~  
14 ~~342G.-"]~~

15 SECTION 12. Part VIII of chapter 342G, Hawaii Revised  
16 Statutes, is repealed.

17 SECTION 13. All moneys collected pursuant to part VIII of  
18 chapter 342G, Hawaii Revised Statutes, deposited into the  
19 deposit beverage container deposit special fund established  
20 under section 342G-104, Hawaii Revised Statutes, and remaining  
21 unencumbered on balance in that special fund shall lapse to the  
22 credit of the general fund on July 1, 2011.

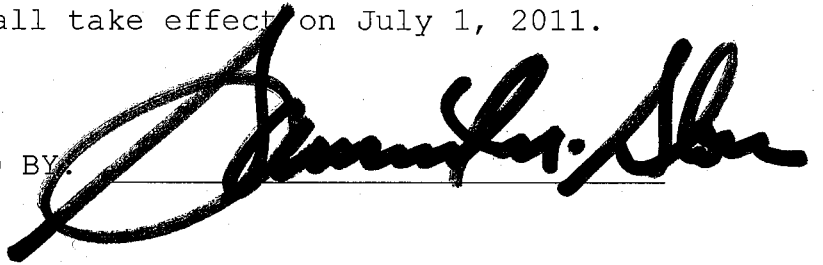


1 SECTION 14. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 15. This Act shall take effect on July 1, 2011.

4

INTRODUCED BY

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**Report Title:**

Deposit Beverage Container Program; Repeal; Environmental Management Special Fund; Counties

**Description:**

Repeals the deposit beverage container program and requires that all moneys collected under the program lapse into the general fund. Repeals the requirement that counties return unused monies distributed by the State for glass recovery programs if not used by the end of each annual contract period.

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

