

SB 577



February 07, 2011

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair
Committee on Energy and Environment
Hawaii State Capitol, Room 225

RE: SB 577 – OPPOSE

Dear Chairman Gabbard, Vice Chairman English and Members of the Committee:

The Grocery Manufacturers Association¹ (GMA) and its more than three hundred members respectfully oppose SB 577, which would amend the existing beverage deposit law to include dietary supplement beverage containers because they do not have the same use as other covered products such as juice and soda and their inclusion would be unnecessarily prejudicial.

The United States Food and Drug Administration regulates nearly all aspects of nutritional supplements including the packaging through the implementation of Dietary Supplement Health and Education Act (DSHEA) of 1994. DSHEA defines a dietary supplement as a product taken by mouth that contains a "dietary ingredient" intended to supplement the diet. The "dietary ingredients" in these products may include: vitamins, minerals, herbs or other botanicals, amino acids,

¹ Based in Washington, D.C., the Grocery Manufacturers Association is the voice of more than 300 leading food, beverage and consumer product companies that sustain and enhance the quality of life for hundreds of millions of people in the United States and around the globe.

Founded in 1908, GMA is an active, vocal advocate for its member companies and a trusted source of information about the industry and the products consumers rely on and enjoy every day. The association and its member companies are committed to meeting the needs of consumers through product innovation, responsible business practices and effective public policy solutions developed through a genuine partnership with policymakers and other stakeholders.

In keeping with its founding principles, GMA helps its members produce safe products through a strong and ongoing commitment to scientific research, testing and evaluation and to providing consumers with the products, tools and information they need to achieve a healthy diet and an active lifestyle.

The food, beverage and consumer packaged goods industry in the United States generates sales of \$2.1 trillion annually, employs 14 million workers and contributes \$1 trillion in added value to the economy every year.

GROCERY MANUFACTURERS ASSOCIATION

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and substances such as enzymes, organ tissues, glandulars, and metabolites. Dietary supplements can also be extracts or concentrates, and may be found in many forms other than liquids such as tablets, capsules, softgels, gelcaps, bars, or powders. Whatever their form may be (solid, liquid, or other), DSHEA places dietary supplements in a special category under the general umbrella of "foods" and removing their exemption from the bottle deposit law is inconsistent with how they are treated under federal law. Also, their inclusion in the bottle deposit program would be inequitable and in some instances the equivalent of charging a redemption fee for the plastic packaging of a meal replacement bar.

For these reasons, GMA respectfully opposes SB 577.

Sincerely,

John Hewitt
Western Region Director
Grocery Manufacturers Association

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Expand deposit beverage container program

BILL NUMBER: SB 577

INTRODUCED BY: Tsutsui and 4 Democrats

BRIEF SUMMARY: Amends HRS section 342G-101 to amend the definition of “deposit beverage” to include containers of hard spirits and wine. Also repeals the exclusion for dietary supplements and milk and other dairy products. Also increases the size of the deposit beverage containers subject to the deposit beverage container program from 68 fluid ounces to 128 fluid ounces.

Requires the department of health to phase-in all requirements for the redemption of 128 fluid ounce deposit beverage containers beginning December 1, 2011, as follows: (1) from December 1, 2011, distributors of deposit beverage containers may begin marking 128 fluid ounce deposit beverage containers; (2) from December 1, 2011 until February 29, 2012, a deposit beverage container holding up to 128 fluid ounces may be redeemed under the deposit beverage container program without regard to whether the container bears the refund value of the container; (3) beginning March 1, 2012 every deposit beverage container holding up to 128 fluid ounces that is sold in the state shall be marked as required; and (4) beginning March 1, 2012 only deposit beverage containers meeting the labeling requirements of the deposit beverage program shall be eligible for redemption.

Makes conforming amendments to HRS sections 342G-81 and 342G-82.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The legislature by Act 176, SLH 2002, established a nonrefundable beverage container fee and a deposit on beverage containers that are sold in the state. The redemption program took effect on January 1, 2005. While this measure proposes to extend the deposit beverage container program to include bottles from hard spirits, wine and dietary supplements and dairy products up to 128 fluid ounces, a similar measure that expanded the deposit beverage container program to liquid dietary supplements was passed by the legislature during the 2010 session but was vetoed by the governor. The governor’s veto message stated that the measure was vetoed because: (1) there was no phase-in period to allow the industry to comply with July 1, 2010 effective date; (2) the fee increase would increase the cost of the dietary supplements “at a time when Hawaii families are still feeling the impacts of the recession and when it is important for Government to take steps to limit the cost of living increases imposed on our families”; and (3) the reverse vending machines do not accommodate energy drink and dietary supplement containers making it inconvenient for consumers to recycle those containers.

While the proposed measure would also extend the deposit beverage container fee to include hard spirits and wine containers, it should be remembered that wine and spirits are currently subject to the advanced fee disposal fee of 1.5 cents per glass container and the adoption of this measure will result in additional costs which will be passed on to the consumer. In addition, there are very few states that subject

containers of hard spirits and wine to a deposit fee program. If this measure were adopted, labeling of hard spirits and wine may have to be changed to comply with the deposit beverage container program and will result in higher costs to the consumers or certain products may not be available in Hawaii because the cost would be prohibitive to comply with this added regulation. It is doubtful that a bottler of such beverages would change its labeling of these products just for the state of Hawaii. Thus, if this measure were adopted, the cost of labeling would probably fall on the local distributors or wholesalers who would have to remove the bottles from their boxes of cases, apply the label and then re-box the bottles. Who will compensate the wholesaler for this additional labor cost?

If the intent of this proposal is to put wine and liquor beverages on par with convenience beverages, than it goes counter to the original intent of the beverage deposit program, that is to encourage those who consume convenience beverages to return the empty containers. Because local laws generally frown on the consumption of alcoholic beverages in public, these generally are not purchased for casual and convenient consumption and, therefore, the used containers are not usually found discarded in public areas as would soft drink and beer containers. Thus, this measure amounts to nothing more than a money grab and not a serious attempt to protect the environment.

That said, it should be noted that the nickel per container deposit program has been a miserable failure as evidenced by the large balances in the fund. Containers can still be found strewn in public places and the only members of the community that seem to go out of their way to retrieve these containers are the homeless. Meanwhile millions of dollars go wasting sitting in the state treasury, money that could and should be put back into the economy. If nothing else, consideration should be given to repealing the beverage deposit fee and seeking another means of educating the public to recycle all waste and not just beverage containers.

Digested 2/7/11

February 7, 2011

Via Facsimile and E-mail

Honorable Mike Gabbard, Chair
Honorable J. Kalani English, Vice Chair
Committee on Energy and Environment
Senate
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: S.B. No. 577 relating to Solid Waste Management

Dear Chair Gabbard, Vice Chair English, and Committee Members:

On behalf of the Hawaii Liquor Wholesalers Association ("HLWA"), we respectfully submit the following written testimony in opposition to S.B. No. 577, relating to solid waste management, which is to be heard by your Committee Energy and Environment on February 8, 2011. S.B. No. 577 would make wine and hard spirits subject to the deposit beverage container program. HLWA believes that S.B. No. 577 is inappropriate and unworkable for several reasons.

First, wine and spirits already are subject to the advanced disposal fee for glass containers under Part VII of Hawaii Revised Statutes ("HRS") chapter 342G. Specifically, HRS section 342G-82 already imposes an advanced disposal fee of one-and-one-half cents per glass container. Changing fee to, effectively, six cents per bottle, imposes more cost on the consumer.

Second, by statute, the advance deposit fees are to be used for glass incentive or "buy back" programs that provide a means of encouraging participation by the public or private collectors, and the paving of the equivalent of one mile of two lane asphalt roadway as part of a research and demonstration program utilizing glassphalt or glass within any other portion of the pavement section, or other demonstration projects approved by the Department of Health. In addition, county programs may include the collection and processing of glass containers, either through existing county agencies or through external contracts for services, subsidizing the transportation of processed material to off-island markets, the development of collection facilities or the provision of containers for glass recycling, or the incremental portions of multi-material programs, additional research and development programs, including grants to private sector entrepreneurs, especially those activities developing higher value uses for the material, and public education and awareness programs focusing on glass recovery, or the incremental portions of multi-material programs. In contrast the fees for deposit beverage program appear to be intended to be substantially to fund the program itself.

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Honorable J. Kalani English, Vice Chair
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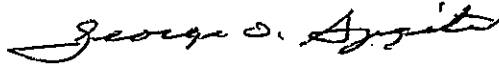
We also note that one of the primary goals of bottle bills is the reduction of litter; however, to our knowledge glass and spirit bottles are not significant sources of litter and including wine and spirit bottles in the bottle bill would have only a marginal impact with respect to litter.

Finally, very few other U.S. jurisdictions impose deposit requirements on wine and spirits, meaning that wine and spirit makers and distributors would need to change their labels to accommodate the requirement of a tiny minority of jurisdictions. For example, California does not include wine and spirits in its deposit program. Imposing this requirement may result in certain products becoming unavailable in the Hawaii market because the cost of changing the labels may exceed the return from Hawaii's relatively small market.

For the foregoing reasons, we respectfully oppose S.B. No. 577. Thank you for your consideration of the foregoing.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION



GOODSILL ANDERSON QUINN & STIFEL

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MEMORANDUM

TO: Senator Mike Gabbard
Chair, Committee on Energy and Environment
Hawaii State Capitol, Room 201
Via Email: ENETestimony@Capitol.hawaii.gov

FROM: Mihoko E. Ito

DATE: February 7, 2011

RE: **S.B. 577 – Relating to Solid Waste Management**
Hearing: Tuesday, February 8, 2011 at 3:00 p.m.

Dear Chair Gabbard and Members of the Committee on Energy and Environment:

I am Mihoko Ito, appearing on behalf of the Distilled Spirits Council of the United States (“DISCUS”). DISCUS is a national trade association representing producers and marketers of distilled spirits sold in the United States.

DISCUS opposes S.B. 577, which expands the deposit beverage container program to include wine and spirits, and removes these glass beverage containers from the glass advanced disposal fee program.

Distilled spirits are already assessed significant taxes and fees in Hawai‘i, including a one and one and a half cent advance disposal fee per glass container. For a typical bottle of distilled spirits sold here, 25% percent of the retail price goes to pay State and local taxes and fees. When factoring in federal requirements, 51% of the purchase price of each bottle of distilled spirits goes toward taxes and fees.

In addition, the logistical complexity and added costs of including wine and distilled spirits in a deposit beverage container program are significant. labels for each bottle would need to be changed and these goods would need to be assessed even higher prices. This is why the vast majority of states with “bottle bills”—including California—*do not* include wine and distilled spirits.

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Given the fact that glass bottles for wine and spirits are not a significant part of Hawai'i's litter, the current system—assessing an advance disposal fee to handle glass containers—is working. Hawai'i Revised Statutes §342G-84, states that all revenues generated from advance disposal fees are deposited into a special account in the environmental management fund. These moneys are used to fund county glass recovery programs, essentially *already* performing the intended function of S.B. 577, which is to prevent litter caused by wine and spirits bottles.

Because the volume of wine and spirits bottles is small compared to other bottles already captured by the program, to remove these bottles from the advanced disposal fee program and instead place them in the deposit beverage container program would incur additional administrative costs for the state, and in the end, possibly outweigh the benefits. There is a very limited market here for recycled glass. Once collected, much of the glass would have to be shipped away to the mainland.

For the reasons stated above, we respectfully ask that you hold S.B. 577.



WINE INSTITUTE

KATIE JACOY
WESTERN COUNSEL

TO: Senate Committee on Energy
Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice- Chair

DATE: February 8, 3:00pm
Conference Room 225

RE: Opposition to SB 577
RELATING TO SOLID WASTE MANAGEMENT.

The Honorable Mike Gabbard, Chair and Members of the Committee:

I am Katie Jacoy, Western Council for the Wine Institute.

Wine Institute, representing 923 California wineries of all sizes, opposes including wine bottles in the Hawaii Deposit Beverage Container Program as proposed in SB 577. Wine Institute (WI), like Hawaii, is committed to environmental stewardship. Through our Sustainable Winegrowing Program, we provide California vintners and growers with information on how to conserve natural resources, protect the environment and enhance relationships with employees, neighbors and local communities. WI, therefore, supports efficient and cost-effective mechanisms to increase the recycling of wine bottles. To that end, we believe that resources in Hawaii would be better dedicated to a comprehensive curbside recycling program than expanding the bottle bill to include wine bottles.

Curbside is the ideal recycling method for wine bottles, since pick-up is at home where the product is primarily consumed. Wine bottles are heavy, breakable, and take up limited household storage space, so they are NOT well suited for recycling programs that require the consumer to return them to a retail location or redemption center.

A comprehensive curbside recycling program would likely be more effective in increasing the recycling rate for wine bottles, rather than simply putting a "fee" on every bottle. A deposit fee is essentially a tax increase. SB 577 would add a \$.05 deposit fee for every wine bottle, which just increases the price for wine. In addition, the high cost of complying with the law (explained below) would also be passed along to Hawaii wine consumers.

By including wine bottles in the Hawaii deposit beverage container law, it will cost Hawaii consumers more than \$7.5 million dollars to raise about \$200,000 in revenue. This just doesn't make sense!

Wine Institute estimates that including wine bottles in Hawaii's bottle redemption law will cost in excess of \$7.5 million for wineries and even more for Hawaii consumers. Wineries pass along

these costs to consumers, which are marked-up as the wine moves from winery to wholesaler to retailer.

- ✓ Maine & Iowa are the only two states that include wine bottles in their redemption laws. In those states, wholesalers open each case and place the state specific redemption sticker on each bottle before it goes to the retailers. Wineries pay them to perform that function. One large California winery reports paying 34 cents per bottle for this work in Maine.
- ✓ To demonstrate the magnitude of the costs, 21,917,640 bottles of wine were consumed in Hawaii in 2008. The estimated cost to wineries, and therefore Hawaii consumers, to comply with the bottle redemption law would be \$7,451,998 (using 34 cents per bottle).

Wine Institute estimates that the state will only raise about \$200,000 in revenue.

- ✓ The 2009 Wine Handbook table "Consumption of Total Wine Ranked by State 2007-2008" reported that 1,826,470 9-liter cases of wine were consumed in Hawaii in 2008.
- ✓ This is equal to 21,917,640 wine bottles (1,826,470 x 12 per case) making the estimated deposits collected \$1,095,882 (21,917,640 x \$.05). (We did not include the additional penny that is currently charged per bottle because it is our understanding that this money is used for bottle handling costs.)
- ✓ Assuming an 80% redemption rate (Hawaii's Deposit Beverage Container redemption rate as of November 2009), the state Deposit Beverage Container fund will gain only an estimated \$219,176 from unredeemed deposits on the remaining 20% of the wine bottles.

Hawaii wine consumers already pay one of the highest prices in the United States for their wine.

The price of wine for Hawaii consumers is already increased by excise tax (eighth highest in the country), general excise tax of 4.17% (or 4.712% for the City and County of Honolulu), and the higher transportation costs to ship wine to Hawaii. We urge you not to add more costs that will just result in higher prices for consumers.

Wine bottles do not typically create a litter problem and are more likely recycled at curbside. So we urge you NOT to add wine bottles to Hawaii's Deposit Beverage Container Program, which will just make wine more costly in Hawaii.

Thank you for allowing me to provide testimony on this matter.



CONSERVATION COUNCIL FOR HAWAII

Testimony Submitted to the Senate Committee on Energy and Environment

Hearing: Tuesday, February 8, 2011

3 p.m.

Room 225

Support for SB 577 Relating to the Deposit Beverage Container Program

Aloha. The Conservation Council for Hawai'i supports SB 577, which the exemption for dietary supplements from the deposit beverage container program. Increasing the types of beverage containers that can be collected for a refund will help reduce the number of containers in landfills, on land, and in the water. We are not sure why dietary supplements were exempted from the program to begin with; like other beverage containers, they contribute to the waste stream. Any reduction in beverage containers in the waste stream, especially plastic ones, will help protect marine life.

Thank you for the opportunity to testify. Please pass SB 577 out of your committee.

Marjorie Ziegler



Hawai'i's Voice for Wildlife – *Ko Leo Hawai'i no na holoholona lohiu*

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