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GOVERNOR OF HAWAII



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In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

S.B. 577, RELATING TO SOLID WASTE MANAGEMENT

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health**

**February 8, 2011
3:00 P.M.**

1 **Department's Position:** The Department of Health supports this bill with serious reservations and
2 suggestions for changes.

3 **Fiscal Implications:** Unknown

4 **Purpose and Justification:** This bill proposes to modify the Deposit Beverage Container (DBC)
5 Program by:

- 6 1) Increasing the maximum size of deposit beverage containers from 64 fl. Oz. to 128 fl. Oz.;
- 7 2) including wines and hard spirits in the program;
- 8 3) eliminating the exemption for dietary supplements; and
- 9 4) eliminating the exemption for milk and other dairy derived products.

10 The department supports portions of this bill and respectfully suggests narrowing its focus. We
11 offer the following testimony on the individual components of the bill:

12 Eliminating the dietary supplements exclusion

13 The department supports this component of the bill as the dietary supplement issue is our
14 primary legislative focus with regard to the DBC program.

1 Dietary supplements were excluded at the start of the DBC Program along with drugs, medical
2 foods and infant formula because it was thought at that time that all of these products provided equal
3 medical value.

4 However, over time the Program has identified a class of products whose eligibility is not easily
5 determined because of a combination of beverage content and container labeling. The difficulty of the
6 situation is recognized in a U.S. Food and Drug Administration draft guidance document, issued in
7 December 2009, which cites the increasing trend in products which are labeled as supplements that may
8 in fact qualify, legally and functionally, as normal food products.

9 This makes it very difficult to make consistent eligibility determinations, and in some cases has
10 led to reversals of determinations by the DBC Program. These difficulties are frustrating to both the
11 deposit program and regulated distributors because of the disproportionate time and effort involved in
12 dealing with these products. The department believes that deleting the "dietary supplement" exemption
13 is the most efficient way of allowing more consistent eligibility determinations.

14 It should be clear that the exemption for drugs, medical food and infant formula remains in the
15 law. The department has no intention of modifying this exemption. The proposed change, if
16 implemented, is not intended to place a deposit on products that are specifically formulated and intended
17 to manage dietary deficiencies relating to a health condition.

18 Inclusion of wines and hard spirits

19 The department supports this component of the bill. We feel it appropriate to include wines and
20 hard spirits in the DBC program as container types in this class of beverages are synonymous with those
21 already covered by the program. We also feel that inclusion of these products in the DBC program will
22 likely enhance the recycling of the containers.

23 Increasing maximum deposit container size from 64 fl. Oz. To 128 fl. Oz.

24 The department opposes this component of the bill. From its beginnings, the DBC program has

1 focused on smaller, single serving sized containers with part of the reasoning being that many are
2 consumed away from the home, where recycling of those containers was less likely.

3 Increasing the upper limit to 128 fl. Oz. would bring gallon sized containers into the program.
4 Consumers buy gallon sized containers because they are more economical than the smaller single
5 serving sized containers. The larger containers are also more clearly sized for multiple servings.

6 The department feels that the current 64 fl. Oz. limit is the appropriate and practical upper limit
7 for coverage by the DBC program.

8 Eliminating the milk and dairy derived products exclusion

9 The DBC program opposes this component of the bill. Milk and dairy derived products have
10 also been exempt from the DBC program from its beginning.

11 The DBC program has always been focused on soft-drinks and alcoholic beverages. Milk and
12 other dairy derived products have been exempted because they are a critical nutritional component of a
13 healthy diet. The department maintains this position and opposes this effort to bring these products into
14 the DBC program.

15 Thank you for the opportunity to offer testimony on this measure.

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