



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**  
**HB 902, RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM**

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

**January 31, 2013**  
**8:30 am**

1 **Department's Position:** The Department of Health strongly supports this measure.

2 **Fiscal Implications:** Undetermined.

3 **Purpose and Justification:** This bill proposes to eliminate the exemption for dietary supplements from  
4 the Deposit Beverage Container (DBC) Program.

5 Dietary supplements have been excluded from the DBC Program, along with milk, drugs,  
6 medical foods and infant formula, since its inception. Statute cites federal Food and Drug  
7 Administration (FDA) regulations in defining "dietary supplement." However, the department has since  
8 learned that the FDA does not vigorously regulate the dietary supplement industry. Its loose approach  
9 gives manufacturers nearly free reign to unilaterally define a product as a dietary supplement or not.

10 The ambiguity this creates makes it very difficult for the DBC Program to make consistent  
11 eligibility determinations on potential dietary supplements for Hawaii's program. These difficulties are  
12 frustrating to both the deposit program and beverage distributors because of the disproportionate time  
13 and effort involved in making a proper determination. The department believes that deleting the  
14 "dietary supplement" exemption is the most efficient way of allowing more consistent eligibility

1 determinations.

2           It should be clear that the exemption for drugs, medical food and infant formula remains in the law.

3 The department has no intention of modifying this exemption.

4           Our goal is to create social and physical environments that promote and support good health for all.

5 Thank you for the opportunity to testify on this measure.

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## HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1050 Bishop St. Box 235  
Honolulu, HI 96813  
Fax : 808-791-0702  
Telephone : 808-533-1292

DATE: Thursday, January 31, 2013

PLACE: Conference Room 325

TIME: 8:30 a.m.

TO: COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Rep. Chris Lee, Chair; Rep. Cynthia Thielen, Vice Chair

FROM: Hawaii Food Industry Association: Lauren Zirbel, Executive Director

### **RE: HB 902 RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM**

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

Chair & Committee Members:

The Hawaii Food Industry Association respectfully opposes this bill.

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, 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, soft gels, gel caps, bars, or powders. Whatever their form may be (solid, liquid, or other), OSHEA 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.

Mahalo for the opportunity to provide this testimony.



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 [hawaii.chapter@sierraclub.org](mailto:hawaii.chapter@sierraclub.org)

## HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

January 31, 2013, 8:30 A.M.  
(Testimony is 1 page long)

### TESTIMONY IN SUPPORT OF HB 902

Aloha Chair Lee and Members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* HB 902. This measure establishes closes a loophole in the tremendously successful deposit beverage container program.

Hawaii's bottle law has proven to be an overwhelming success for Hawaii's environment, with *over 930 million bottles and cans diverted from Hawaii's landfills annually*. Beyond waste diversion, our recycling law reduces litter, creates jobs, and provides opportunities for churches, charities, and schools to fundraise. The recycling program proves that a little change can make a big difference.

Despite its success with redeeming over four billion beverage containers, *the bottle law can be improved*. Some drinks are utilizing a loophole -- a "dietary supplement" exemption -- in order to evade complying with our beverage container (HI-5) law. There is no logical basis to exempt these beverages from our incredibly successful recycling program and to allow certain distributors to have an advantage in the marketplace.

If we want to move Hawaii to a sustainable future and help solve our growing landfill crisis, we need to start taking the "small changes" necessary to eliminate our problems. Including dietary containers would be a start.

Mahalo for the opportunity to testify.

**thielen3 - Charles**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 28, 2013 8:54 PM  
**To:** EEPtestimony  
**Cc:** alohashellservice@hawaii.rr.com  
**Subject:** Submitted testimony for HB902 on Jan 31, 2013 08:30AM

**HB902**

Submitted on: 1/28/2013

Testimony for EEP on Jan 31, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul Hanada	Individual	Support	No

Comments: Please support this bill. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**thielen3 - Charles**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 29, 2013 3:06 PM  
**To:** EEPtestimony  
**Cc:** mz@conservehi.org  
**Subject:** \*Submitted testimony for HB902 on Jan 31, 2013 08:30AM\*

**HB902**

Submitted on: 1/29/2013

Testimony for EEP on Jan 31, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marjorie Ziegler	Conservation Council for Hawai'i	Support	No

Comments:

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**thielen3 - Charles**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, January 30, 2013 7:51 AM  
**To:** EEPtestimony  
**Cc:** observing@starband.net  
**Subject:** Submitted testimony for HB902 on Jan 31, 2013 08:30AM

**HB902**

Submitted on: 1/30/2013

Testimony for EEP on Jan 31, 2013 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary McClung	Individual	Oppose	No

Comments: If I understand this, I think we would be the only state to require deposits on dietary supplements. That seems unrealistic.

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