

# SB 24

RELATING TO THE ENVIRONMENT.

Amends the definition of "deposit beverage" to make dietary supplements that contain caffeine or carbonated water subject to the deposit beverage container program.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.  
DIRECTOR OF HEALTH

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

In reply, please refer to:  
File:

**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT**

**S.B. 24, RELATING TO THE ENVIRONMENT**

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

**January 31, 2013  
2:45 p.m.**

1 **Department's Position:** The Department of Health respectfully opposes this measure

2 **Fiscal Implications:** Undetermined

3 **Purpose and Justification:** This measure proposes to modify the existing exemption for dietary  
4 supplements from the Deposit Beverage Container (DBC) Program by excluding deposit beverages that  
5 contain caffeine or carbonated water. The department appreciates the effort to address this issue, but  
6 respectfully opposes this measure. Instead of this bill, we urge the legislature to adopt the  
7 administration bill, SB 1133.

8 This proposal, if adopted, may further complicate the administration of the DBC Program.  
9 Creating a carve-out for beverages containing caffeine or carbonated water within the existing  
10 exemption will increase the complexity of the determination process.

11 The issue arises from the federal Food and Drug Administration's (FDA) supervision of dietary  
12 supplements. Because DBC statute references the FDA's definition of dietary supplements, we are  
13 reliant on FDA's regulation of these products. Experience has shown that the FDA is lax in regulating  
14 dietary supplement product determinations. Manufacturers now can unilaterally determine that their  
15 own products qualify as dietary supplements and are therefore exempt from the HI-5 Program.

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1           This situation has created inconsistent dietary supplement labeling among similar products made  
2 by different manufacturers. DBC staff, as well as manufacturer representatives, spends an inordinate  
3 amount of time to resolve these situations. Completely eliminating the exemption as proposed in the  
4 administration bill, SB 1133, will streamline the determination process for these products and bring  
5 predictability for both DBC staff and deposit beverage manufacturers.

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

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**SB24**

Submitted on: 1/29/2013

Testimony for ENE on Jan 31, 2013 14:45PM in Conference Room 225

<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:



## HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

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DATE: Thursday, January 31, 2013

PLACE: Conference Room 225

TIME: 2:45 P.m.

TO: COMMITTEE ON ENERGY AND ENVIRONMENT

Sen. Mike Gabbard, Chair; Sen. Russell E. Ruderman, Vice Chair

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

**RE: SB 24 RELATING TO THE ENVIRONMENT & SB 1133 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 SB 24 and SB 1133.

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.

**SB24**

Submitted on: 1/28/2013

Testimony for ENE on Jan 31, 2013 14:45PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nancy Davlantes	Individual	Support	No

Comments:

**SB24**

Submitted on: 1/28/2013

Testimony for ENE on Jan 31, 2013 14:45PM in Conference Room 225

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

Comments: Please support SB24. Thank you.