

JAN 22 2016

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# A BILL FOR AN ACT

RELATED TO RECYCLING.

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

1           SECTION 1.       The Office of the Auditor has found the  
2 state beverage container deposit program is poorly managed and  
3 susceptible to fraud. First, the provision of recycling services  
4 is a county function, therefore the beverage container deposit  
5 program should be administered by the counties. Second, the  
6 state lacks the resources to manage the program in key areas of  
7 oversight, inspections, and reporting. Redemption centers have  
8 refused to provide documentation for the amount of materials  
9 redeemed and related reimbursements requested. Auditors also  
10 discovered redemption centers operating without proper state  
11 certification. Local media reports reveal that tons of glass  
12 containers are not recycled due to the lack of reimbursement  
13 funding to offset processing costs. The legislature finds that  
14 the current recycling program is failing and should be replaced  
15 with a sustainable alternative.

16           SECTION 2.   Section 342G-81, Hawaii Revised Statutes, is  
17 repealed.



1                                   ~~["PART VII.] — GLASS CONTAINER RECOVERY~~

2  
3           ~~§342G-81 Definitions.~~ As used in this part, unless the  
4 context requires otherwise:

5           ~~"Deposit glass beverage container" means:~~

6           ~~(1) The individual, separate, sealed, glass container used~~  
7           ~~for containing, at the time of import, sixty-eight~~  
8           ~~fluid ounces or less of a beverage; or~~

9           ~~(2) The empty, individual, separate glass container that~~  
10           ~~will be filled with sixty-eight fluid ounces or less~~  
11           ~~of a beverage and sealed in this State, so that these~~  
12           ~~glass beverage containers will be subject to part~~  
13           ~~VIII.~~

14           ~~"Glass container importer" means any person who is engaged~~  
15           ~~in the manufacture of glass containers within the State or who~~  
16           ~~imports glass containers from outside the State for sale or use~~  
17           ~~within the State. The term includes federal agencies and~~  
18           ~~military distributors, but does not include airlines and~~  
19           ~~shipping companies that merely transport glass containers.~~

20           ~~"Glass incentive" means an incentive paid to licensed~~  
21           ~~recyclers for recycling glass containers. Such incentives may~~



1 ~~be structured to include the costs of collection and processing,~~  
2 ~~and a "buy back" incentive to increase participation by the~~  
3 ~~public and private haulers.~~

4 ~~"Classphalt" means an asphaltic concrete mixture utilizing~~  
5 ~~crushed glass, under controlled gradation conditions, as a~~  
6 ~~substitute for a percentage of the aggregate in the mix.~~

7 ~~"Glass recovery program" means a program for glass recovery~~  
8 ~~and reuse for purposes including but not limited to:~~

9 ~~(1) Glass container reuse or recycling whereby containers~~  
10 ~~are refilled, processed for shipment out of the State,~~  
11 ~~or crushed into aggregate substitute; and~~

12 ~~(2) Use in roadway materials or concrete as provided in~~  
13 ~~this part.~~

14 ~~"Import" means to buy, bring, or accept delivery of glass~~  
15 ~~containers from an address, supplier, or any entity outside of~~  
16 ~~the State of Hawaii." ]~~

17 SECTION 3. Section 342G-82, Hawaii Revised Statutes, is  
18 repealed.

19 [~~§342G-82 Advance disposal fee.~~ (a) Every glass  
20 container importer shall pay to the department an advance  
21 disposal fee. The fee shall be imposed only once on the same



1 ~~glass container and shall not be assessed on drinking glasses,~~  
2 ~~cups, bowls, plates, ashtrays, and similar tempered glass~~  
3 ~~containers. For the period beginning September 1, 1994, the fee~~  
4 ~~shall be one and one-half cents per glass container. Beginning~~  
5 ~~October 1, 2004, the glass advance disposal fee shall only apply~~  
6 ~~to glass containers that are not glass deposit beverage~~  
7 ~~containers.~~

8 ~~(b) The legislature shall have exclusive authority over~~  
9 ~~all matters subject to this chapter.~~

10 ~~(c) No county shall impose or collect any assessment or~~  
11 ~~fee on glass containers for the same or similar purpose that is~~  
12 ~~the subject of this chapter."~~

13 SECTION 4. Section 342G-83, Hawaii Revised Statutes, is  
14 repealed.

15 [~~§342G-83 Glass container importers; registration,~~  
16 ~~recordkeeping requirements.~~ (a) ~~By September 1, 1994, all~~  
17 ~~glass container importers operating within the State shall~~  
18 ~~register with the department, using forms prescribed by the~~  
19 ~~department, and shall notify the department of any change in~~  
20 ~~address. After September 1, 1994, any person who desires to~~  
21 ~~conduct business in this State as a glass container importer~~



1 ~~shall register with the department no later than one month prior~~  
2 ~~to the commencement of the business.~~

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

13 ~~(1) As may be reasonably required in an administrative or~~  
14 ~~judicial proceeding to enforce any provision of this~~  
15 ~~chapter or any rule adopted pursuant to this chapter,~~

16 ~~or~~

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

19 SECTION 5. Section 342G-84, Hawaii Revised Statutes, is  
20 repealed.



1       ~~["§342C-84 Deposit into environmental management special~~  
2 ~~fund; distribution to counties.~~ (a) Revenues generated from  
3 the advance disposal fee shall be deposited into a special  
4 account in the environmental management fund. Moneys from the  
5 special account shall be used to fund county glass recovery  
6 programs established in accordance with the requirements under  
7 section 342C-86; provided that no moneys shall be made available  
8 to a county unless the county has first submitted its formally  
9 adopted integrated solid waste management plan to the department  
10 for review. In the event of any surplus in the special account,  
11 the department shall recommend a reduction in the fee as deemed  
12 necessary.

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

19       ~~(c) No more than ten per cent, in the aggregate, of the~~  
20 ~~revenue collected in any one year may be used by the department~~  
21 ~~for administrative and educational purposes and to promote glass~~



1 ~~recovery, recycling, and reuse in Hawaii through research and~~  
2 ~~demonstration projects.~~

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

8 SECTION 6. Section 342G-85, Hawaii Revised Statutes, is  
9 repealed.

10 ~~["§342G-85 Container inventory report and payment. (a)~~  
11 ~~Payment of the advance glass disposal fee shall be made~~  
12 ~~quarterly based on inventory reports of the glass container~~  
13 ~~importers, except for those importers subject to subsection (c)~~  
14 ~~or (d). All glass container importers shall submit to the~~  
15 ~~department documentation in sufficient detail that identifies~~  
16 ~~the number of glass deposit beverage and glass non-deposit~~  
17 ~~beverage containers manufactured or imported to the State and~~  
18 ~~sold or distributed, by manufacturer or distributor, during the~~  
19 ~~calendar year.~~

20 ~~(b) Until September 30, 2004, the amount due from glass~~  
21 ~~container importers less glass containers exported for the~~



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

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





1 ~~containers within a one year period shall be exempt from payment~~  
2 ~~of the fee.~~

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

13 SECTION 7. Section 342G-86, Hawaii Revised Statutes, is  
14 repealed.

15 [~~§342G-86 County glass recovery programs; requirements.~~

16 ~~(a) All county glass recovery programs shall include:~~

17 ~~(1) Some form of glass incentive or "buy back" program~~  
18 ~~providing a means of encouraging participation by the~~  
19 ~~public or private collectors; and~~

20 ~~(2) The paving of the equivalent of one mile of two lane~~  
21 ~~asphalt roadway as part of a research and~~



1           ~~demonstration program utilizing glassphalt or glass~~  
2           ~~within any other portion of the pavement section; or~~  
3           ~~any other demonstration project as approved by the~~  
4           ~~department.~~

5           ~~(b) In addition, county programs may include but shall not~~  
6           ~~be limited to:~~

7           ~~(1) Funding of the collection and processing of glass~~  
8           ~~containers either through existing county agencies or~~  
9           ~~through external contracts for services;~~

10          ~~(2) Subsidizing the transportation [of] processed material~~  
11          ~~to off-island markets;~~

12          ~~(3) The development of collection facilities or the~~  
13          ~~provision of containers for glass recycling, or the~~  
14          ~~incremental portions of multi-material programs;~~

15          ~~(4) Additional research and development programs,~~  
16          ~~including grants to private sector entrepreneurs,~~  
17          ~~especially those activities developing higher value~~  
18          ~~uses for the material; and~~

19          ~~(5) Public education and awareness programs focusing on~~  
20          ~~glass recovery, or the incremental portions of multi-~~  
21          ~~material programs."~~



1 SECTION 8. Section 342G-87, Hawaii Revised Statutes, is  
2 repealed.

3 ["~~§342G-87~~—~~Contract for administrative services.~~ The  
4 department may contract the services of a third party to  
5 administer the advance disposal fee program under this part."

6 SECTION 8. Section 342G-101, Hawaii Revised Statutes, is  
7 repealed.

8 ["~~[PART VIII.]—DEPOSIT BEVERAGE CONTAINER PROGRAM~~

9 ~~§342G-101 Definitions.~~ As used in this part, unless the  
10 context requires otherwise:

11 "Auditor" means the office of the auditor.

12 "Commercial passenger vessel" means any domestic or  
13 foreign-flagged marine vessel or air carrier used primarily for  
14 transporting persons to, from, or within the State. The term  
15 does not include:

16 (1) Marine vessels authorized to carry fewer than fifty  
17 passengers; or

18 (2) Marine vessels for hire that do not provide overnight  
19 accommodations for at least fifty passengers,  
20 determined with reference to the number of lower



1           ~~berths and based on an average of two persons per~~  
2           ~~cabin.~~

3           ~~"Consumer" means a person who buys a beverage in a deposit~~  
4           ~~beverage container for use or consumption and pays the deposit.~~

5           ~~"Dealer" means a person who engages in the sale of~~  
6           ~~beverages in deposit beverage containers to a consumer for off-~~  
7           ~~premises consumption in the State.~~

8           ~~"Department" means the department of health.~~

9           ~~"Deposit beverage" [Definition effective until June 30,~~  
10           ~~2014. For definition effective July 1, 2014, see below.] means~~  
11           ~~beer, ale, or other drink produced by fermenting malt, mixed~~  
12           ~~spirits, mixed wine, tea and coffee drinks regardless of dairy-~~  
13           ~~derived product content, soda, or noncarbonated water, and all~~  
14           ~~nonalcoholic drinks in liquid form and intended for internal~~  
15           ~~human consumption that is contained in a deposit beverage~~  
16           ~~container.~~

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

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

19                   ~~(A) A syrup;~~

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



- 1           ~~(C) Typically added as a minor flavoring ingredient~~  
2           ~~in food or drink, such as extracts, cooking~~  
3           ~~additives, sauces, or condiments;~~
- 4           ~~(2) A liquid which is a drug, medical food or infant~~  
5           ~~formula as defined by the Federal Food, Drug, and~~  
6           ~~Cosmetic Act (21 U.S.C. §301 et seq.);~~
- 7           ~~(3) A liquid which is designed and consumed only as a~~  
8           ~~dietary supplement and not as a beverage as defined in~~  
9           ~~the Dietary Supplement Health and Education Act of~~  
10           ~~1994 (P.L. 103-417);~~
- 11           ~~(4) Products frozen at the time of sale to the consumer,~~  
12           ~~or, in the case of institutional users such as~~  
13           ~~hospitals and nursing homes, at the time of sale to~~  
14           ~~the users;~~
- 15           ~~(5) Products designed to be consumed in a frozen state;~~
- 16           ~~(6) Instant drink powders;~~
- 17           ~~(7) Seafood, meat, or vegetable broths, or soups, but not~~  
18           ~~juices; and~~
- 19           ~~(8) Milk and all other dairy-derived products, except tea~~  
20           ~~and coffee drinks with trace amounts of these~~  
21           ~~products.~~



1       ~~"Deposit beverage" [Definition effective July 1, 2014. For~~  
2 ~~definition effective until June 30, 2014, see above.] means~~  
3 ~~beer, ale, or other drink produced by fermenting malt, mixed~~  
4 ~~spirits, mixed wine, tea and coffee drinks regardless of dairy-~~  
5 ~~derived product content, soda, or noncarbonated water, and all~~  
6 ~~nonalcoholic drinks in liquid form and intended for internal~~  
7 ~~human consumption that is contained in a deposit beverage~~  
8 ~~container.~~

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

10       ~~(1) A liquid that is:~~

11           ~~(A) A syrup;~~

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

13           ~~(C) Typically added as a minor flavoring ingredient~~  
14           ~~in food or drink, such as extracts, cooking~~  
15           ~~additives, sauces, or condiments;~~

16       ~~(2) A liquid that is a drug, medical food, or infant~~  
17       ~~formula as defined by the Federal Food, Drug, and~~  
18       ~~Cosmetic Act (21 U.S.C. §301 et seq.);~~

19       ~~(3) A single serving of one ounce or less of a dietary~~  
20       ~~supplement as defined in the Dietary Supplement Health~~  
21       ~~and Education Act of 1994 (P.L. 103-417);~~



- 1       ~~(4) A liquid that the department finds to be the sole item~~
- 2           ~~of a meal or diet;~~
- 3       ~~(5) Products frozen at the time of sale to the consumer,~~
- 4           ~~or, in the case of institutional users such as~~
- 5           ~~hospitals and nursing homes, at the time of sale to~~
- 6           ~~the users;~~
- 7       ~~(6) Products designed to be consumed in a frozen state;~~
- 8       ~~(7) Instant drink powders;~~
- 9       ~~(8) Seafood, meat, or vegetable broths, or soups, but not~~
- 10           ~~juices; and~~
- 11       ~~(9) Milk and all other dairy-derived products, except tea~~
- 12           ~~and coffee drinks with trace amounts of these~~
- 13           ~~products.~~

14       ~~"Deposit beverage container" means the individual,~~

15 ~~separate, sealed glass, polyethylene terephthalate, high density~~

16 ~~polyethylene, or metal container less than or equal to sixty-~~

17 ~~eight fluid ounces, used for containing, at the time of sale to~~

18 ~~the consumer, a deposit beverage intended for use or consumption~~

19 ~~in this State.~~

20       ~~"Deposit beverage distributor" means a person who is a~~

21 ~~manufacturer of beverages in deposit beverage containers in this~~



1 ~~State, or who imports and engages in the sale of filled deposit~~  
2 ~~beverage containers to a dealer or consumer. The term includes~~  
3 ~~federal agencies and military distributors, but does not include~~  
4 ~~airlines and shipping companies that merely transport deposit~~  
5 ~~beverage containers.~~

6 ~~"Import" means to buy, bring, or accept delivery of deposit~~  
7 ~~beverage containers from an address, supplier, or any entity~~  
8 ~~outside of the State.~~

9 ~~"Importer" means any person who buys, brings, or accepts~~  
10 ~~delivery of deposit beverage containers from outside the State~~  
11 ~~for sale or use within the State.~~

12 ~~"On-premises consumption" means the consuming of deposit~~  
13 ~~beverages by a patron immediately and within the area under~~  
14 ~~control of the establishment, including bars, restaurants,~~  
15 ~~passenger ships, and airplanes.~~

16 ~~"Patron" means a person who buys a beverage in a deposit~~  
17 ~~beverage container for use or consumption and does not pay the~~  
18 ~~deposit.~~

19 ~~"Person" means individual, partnership, firm, association,~~  
20 ~~public or private corporation, federal agency, the State or any~~





1 ~~of its political subdivisions, trust, estate, or any other legal~~  
2 ~~entity.~~

3 ~~"Recycling facility" means all contiguous land and~~  
4 ~~structures and other appurtenances, and improvements on the land~~  
5 ~~used for the collection, separation, recovery, and sale [or]~~  
6 ~~reuse of secondary resources that would otherwise be disposed of~~  
7 ~~as municipal solid waste, and is an integral part of a~~  
8 ~~manufacturing process aimed at producing a marketable product~~  
9 ~~made of postconsumer material.~~

10 ~~"Redeemer" means a person, other than a dealer or~~  
11 ~~distributor, who demands the refund value in exchange for the~~  
12 ~~empty deposit beverage container.~~

13 ~~"Redemption center" means an operation which accepts from~~  
14 ~~consumers and provides the refund value for empty deposit~~  
15 ~~beverage containers intended to be recycled and ensures that the~~  
16 ~~empty deposit beverage containers are properly recycled.~~

17 ~~"Redemption rate" means the percentage of deposit beverage~~  
18 ~~containers redeemed over a reporting period. The percentage is~~  
19 ~~calculated by dividing the number of deposit beverage containers~~  
20 ~~redeemed by the number of deposit beverage containers sold and~~  
21 ~~then multiplying that number by one hundred.~~



1       ~~"Refillable beverage container" means any deposit beverage~~  
2       ~~container which ordinarily would be returned to the manufacturer~~  
3       ~~to be refilled and resold.~~

4       ~~"Reverse vending machine" means a mechanical device, which~~  
5       ~~accepts one or more types of empty deposit beverage containers~~  
6       ~~and issues a redeemable credit slip with a value not less than~~  
7       ~~the container's refund value. The refund value payments shall~~  
8       ~~be aggregated and then paid if more than one container is~~  
9       ~~redeemed in a single transaction."]~~

10       SECTION 9. Section 342G-101.5, Hawaii Revised Statutes, is  
11       repealed.

12       ["~~§342G-101.5~~—~~Commercial passenger vessels; exemption.~~

13       ~~(a) Notwithstanding any other provision of this part, this part~~  
14       ~~shall not apply to a deposit beverage container that is sold or~~  
15       ~~delivered to an entity operating a commercial passenger vessel~~  
16       ~~when the deposit beverage container is intended for use and~~  
17       ~~consumption on the commercial passenger vessel. The entity~~  
18       ~~operating the commercial passenger vessel shall be exempt from~~  
19       ~~this part only if it has a deposit beverage container recycling~~  
20       ~~plan prescribed or approved by the department.~~



1       ~~(b) Recycling plans shall be submitted to the department~~  
2       ~~and shall include the name and address of the recycling facility~~  
3       ~~that is accepting the empty deposit beverage containers.~~

4       ~~(c) Deposit beverage containers covered under this~~  
5       ~~exemption shall not be redeemed for the refund value or handling~~  
6       ~~fee."~~

7       "       SECTION 10. Section 342G-102, Hawaii Revised Statutes, is  
8       repealed.

9       ~~["§342G-102 Deposit beverage container fee. (a)~~  
10       ~~Beginning on October 1, 2002, every deposit beverage distributor~~  
11       ~~shall pay to the department a deposit beverage container fee on~~  
12       ~~each polyethylene terephthalate, high density polyethylene, or~~  
13       ~~metal deposit beverage container manufactured in or imported~~  
14       ~~into the State. The fee shall be imposed only once on the same~~  
15       ~~deposit beverage container. The fee shall be 0.5 cents per~~  
16       ~~deposit beverage container.~~

17       ~~(b) Beginning on October 1, 2004, every deposit beverage~~  
18       ~~distributor shall pay to the department a deposit beverage~~  
19       ~~container fee on each deposit beverage container manufactured in~~  
20       ~~or imported into the State. The deposit beverage container fee~~  
21       ~~shall not apply to deposit beverage containers exported for sale~~



1 ~~outside of the State. The fee shall be imposed only once on the~~  
2 ~~same deposit beverage container. The fee shall be 1 cent per~~  
3 ~~deposit beverage container.~~

4 ~~(c) No county shall impose or collect any assessment or~~  
5 ~~fee on deposit beverage containers for the same or similar~~  
6 ~~purpose that is the subject of this chapter.~~

7 ~~(d) Beginning January 1, 2005, and every August 1~~  
8 ~~thereafter, the department shall notify deposit beverage~~  
9 ~~distributors in writing of the amount of the deposit beverage~~  
10 ~~container fee. The effective date of changes to the fee amount~~  
11 ~~shall be September 1. The fee shall be based on the redemption~~  
12 ~~rate calculated annually based on the redemption rate~~  
13 ~~information submitted to the department for the previous period~~  
14 ~~of July 1 through June 30. The fee amount shall be as follows:~~

15 ~~(1) If the redemption rate is seventy per cent or less: 1~~  
16 ~~cent per container; and~~

17 ~~(2) If the redemption rate is greater than seventy per~~  
18 ~~cent: 1.5 cents per container.~~

19 ~~(e) The director may temporarily suspend an automatic~~  
20 ~~increase of the deposit beverage container fee if, after~~  
21 ~~consultation with the auditor, it is determined that the deposit~~



1 ~~beverage container deposit special fund contains sufficient~~  
2 ~~funds for the purposes of section 342G-104(b)."~~

3 SECTION 11. Section 342G-103, Hawaii Revised Statutes, is  
4 repealed.

5 ["~~§342G-103~~—~~Deposit beverage distributors; registration,~~  
6 ~~recordkeeping requirements.~~—(a) By September 1, 2002, all  
7 ~~deposit beverage distributors operating within the State shall~~  
8 ~~register with the department, using forms prescribed by the~~  
9 ~~department, and shall notify the department of any change in~~  
10 ~~address or other information previously submitted. After~~  
11 ~~September 1, 2002, any person who desires to conduct business in~~  
12 ~~the State as a deposit beverage distributor shall register with~~  
13 ~~the department no later than one month prior to the commencement~~  
14 ~~of the business.~~

15 (b) ~~All deposit beverage distributors shall maintain~~  
16 ~~records reflecting the manufacture of their beverages in deposit~~  
17 ~~beverage containers as well as the importation and exportation~~  
18 ~~of deposit beverage containers. The records shall be made~~  
19 ~~available, upon request, for inspection by the department,~~  
20 ~~provided that any proprietary information obtained by the~~



1 ~~department shall be kept confidential and shall not be disclosed~~  
2 ~~to any other person, except:~~

3 ~~(1) As may be reasonably required in an administrative or~~  
4 ~~judicial proceeding to enforce any provision of this~~  
5 ~~chapter or any rule adopted pursuant to this chapter;~~  
6 ~~or~~

7 ~~(2) Under an order issued by a court or administrative~~  
8 ~~agency hearings officer."~~

9 SECTION 12. Section 342G-104, Hawaii Revised Statutes, is  
10 repealed.

11 [~~§342G-104 Deposit into deposit beverage container~~  
12 ~~deposit special fund; use of funds.~~ (a) ~~There is established~~  
13 ~~in the state treasury the deposit beverage container deposit~~  
14 ~~special fund, into which shall be deposited:~~

15 ~~(1) All revenues generated from the deposit beverage~~  
16 ~~container fee as described under sections 342G-102 and~~  
17 ~~342G-105;~~

18 ~~(2) All revenues generated from the deposit beverage~~  
19 ~~container deposit as described under sections 342G-105~~  
20 ~~and 342G-110; and~~

21 ~~(3) All accrued interest from the fund.~~



1       ~~(b) Moneys in the deposit beverage container deposit~~  
2 ~~special fund shall be used to reimburse refund values and pay~~  
3 ~~handling fees to redemption centers. The department may also~~  
4 ~~use the money to:~~

5       ~~(1) Fund administrative, audit, and compliance activities~~  
6       ~~associated with collection and payment of the deposits~~  
7       ~~and handling fees of the deposit beverage container~~  
8       ~~program;~~

9       ~~(2) Conduct recycling education and demonstration~~  
10       ~~projects;~~

11       ~~(3) Promote recyclable market development activities;~~

12       ~~(4) Support the handling and transportation of the deposit~~  
13       ~~beverage containers to end markets;~~

14       ~~(5) Hire personnel to oversee the implementation of the~~  
15       ~~deposit beverage container program, including~~  
16       ~~permitting and enforcement activities; and~~

17       ~~(6) Fund associated office expenses.~~

18       ~~(c) Any funds that accumulate in the deposit beverage~~  
19 ~~container deposit special fund shall be retained in the fund~~  
20 ~~unless determined by the legislature to be in excess.~~

21       "



1 SECTION 13. Section 342G-105, Hawaii Revised Statutes, is  
2 repealed.

3 ~~["§342G-105 Deposit beverage container inventory report~~  
4 ~~and payment. (a) Payment of the deposit beverage container fee~~  
5 ~~and deposits as described in section 342G-110 shall be made~~  
6 ~~monthly based on inventory reports of the deposit beverage~~  
7 ~~distributors. All deposit beverage distributors shall submit to~~  
8 ~~the department documentation in sufficient detail that~~  
9 ~~identifies the net number of deposit beverage containers sold,~~  
10 ~~donated, or transferred, by container size and type.~~

11 ~~(b) The amount due from deposit beverage distributors~~  
12 ~~shall be the net number of deposit beverage containers sold,~~  
13 ~~donated, or transferred multiplied by the sum of the prevailing~~  
14 ~~deposit beverage container fee and the refund value of 5 cents.~~  
15 ~~Payment shall be made by check or money order payable to the~~  
16 ~~"Department of Health, State of Hawaii". All inventory reports~~  
17 ~~and payments shall be made no later than the fifteenth day of~~  
18 ~~the month following the end of the payment period of the~~  
19 ~~previous month."~~

20 SECTION 14. Section 342G-106, Hawaii Revised Statutes, is  
21 repealed.





1           [" ~~§342G-106~~ ~~—Contract for administrative services.~~ The  
2 department may contract the services of a third party to  
3 administer the deposit beverage container program under this  
4 part."

5           SECTION 15. Section 342G-107, Hawaii Revised Statutes, is  
6 repealed.

7           [" ~~§342G-107~~ ~~—Management and financial audit.~~ The auditor  
8 shall conduct a management and financial audit of the program  
9 for fiscal years 2004-2005 and 2005-2006, and for each fiscal  
10 year thereafter ending in an even-numbered year. The auditor  
11 shall submit the audit report, including the amount of  
12 unredeemed refund value and recommendations, to the legislature  
13 and the department no later than twenty days prior to the  
14 convening of [the] next regular session. The costs incurred by  
15 the auditor for the audit shall be reimbursed by the deposit  
16 beverage container program special fund. The auditor may  
17 contract the audit services of a third party to conduct the  
18 audit."

19           SECTION 16. Section 342G-109, Hawaii Revised Statutes, is  
20 repealed.



1           [" ~~§342G-109~~ ~~Rules; commencement.~~ The department may  
2   adopt rules pursuant to chapter 91 as may be necessary for the  
3   purposes of this part. Full implementation of the deposit  
4   beverage container deposit program shall commence no later than  
5   January 1, 2005."

6           SECTION 17. Section 342G-110, Hawaii Revised Statutes, is  
7   repealed.

8           [" ~~§342G-110~~ ~~Payment and application of deposits.~~ (a)  
9   By January 1, 2005, every deposit beverage container sold in  
10   this State shall have a refund value of 5 cents. Each container  
11   shall have the refund value clearly indicated on it as provided  
12   in section 342G-112.

13           ~~(b) The refund value is the amount of the deposit~~  
14   ~~required. Once a refund value has been applied to a deposit~~  
15   ~~beverage container, the deposit on that container may not be~~  
16   ~~changed and shall be paid to the State.~~

17           ~~(c) The deposit on each filled deposit beverage container~~  
18   ~~shall be paid by the deposit beverage distributor, who~~  
19   ~~manufactures or imports beverages in deposit beverage~~  
20   ~~containers. Payment and reporting of the deposits shall be in~~  
21   ~~accordance with section 342G-105. The deposits shall be~~



1 ~~deposited into the deposit beverage container deposit special~~  
2 ~~fund as described in section 342G-104.~~

3 ~~(d) Deposit beverage distributors who are required under~~  
4 ~~subsection (c) to pay a deposit shall also pay a deposit~~  
5 ~~beverage container fee and register with the State."~~

6 SECTION 18. Section 342G-111, Hawaii Revised Statutes, is  
7 repealed.

8 ~~["§342G-111 Sales of beverages in deposit beverage~~  
9 ~~containers; distributor report; fee and deposit payment. (a)~~

10 ~~By January 1, 2005, every deposit beverage distributor who pays~~  
11 ~~a deposit to the department shall charge the dealer or consumer~~  
12 ~~a deposit equal to the refund value for each deposit beverage~~  
13 ~~container sold in Hawaii. The deposit charge may appear as a~~  
14 ~~separate line item on the invoice.~~

15 ~~(b) Each dealer shall charge the consumer the deposit~~  
16 ~~beverage container deposit at the point of sale of the beverage,~~  
17 ~~excluding sales for on-premises consumption. The deposit charge~~  
18 ~~may appear as a separate line item on the invoice.~~

19 ~~(c) Each deposit beverage distributor shall generate and~~  
20 ~~submit to the department a monthly report on the net number of~~  
21 ~~deposit beverage containers sold, donated, or transferred by~~



1 ~~container size and type. All information contained in the~~  
2 ~~reports, including confidential commercial and financial~~  
3 ~~information, shall be treated as confidential and protected to~~  
4 ~~the extent allowed by state law.~~

5 ~~(d) Payment of the deposit beverage container fee and~~  
6 ~~deposits as described in section 342G-110 shall be made monthly~~  
7 ~~based on reports of the deposit beverage distributors under~~  
8 ~~subsection (c).~~

9 ~~(e) Beginning January 1, 2005, a deposit beverage~~  
10 ~~distributor who annually imports or manufactures one hundred~~  
11 ~~thousand or fewer deposit beverage containers may submit reports~~  
12 ~~and payments required under subsections (c) and (d) on a semi-~~  
13 ~~annual basis; provided that the semi-annual report and payment~~  
14 ~~period shall end on June 30 and December 31 of each year.~~

15 ~~(f) The amount due from a deposit beverage distributor~~  
16 ~~shall be the net number of deposit beverage containers sold~~  
17 ~~multiplied by the sum of the prevailing deposit beverage~~  
18 ~~container fee and the deposit value of 5 cents. Payment shall~~  
19 ~~be made by check or money order payable to the "Department of~~  
20 ~~Health, State of Hawaii". All reports and payments shall be~~



1 ~~made no later than the fifteenth day of the month following the~~  
2 ~~end of the previous payment period.~~

3 ~~(g) The department may allow dealers to charge customers~~  
4 ~~the refund value beginning November 1, 2004; provided that the~~  
5 ~~deposit beverage containers are clearly marked with the refund~~  
6 ~~value and the deposit beverage distributor has paid the refund~~  
7 ~~value on each container to the department. The dealer shall~~  
8 ~~inform customers that the deposits paid prior to January 1,~~  
9 ~~2005, shall not be redeemable until January 1, 2005."~~

10 SECTION 19. Section 342G-112; Hawaii Revised Statutes, is  
11 repealed.

12 ~~["§342G-112 Deposit beverage container requirements. (a)~~  
13 ~~Except as provided in subsection (b), every deposit beverage~~  
14 ~~container sold in the State shall clearly indicate the refund~~  
15 ~~value of the container and the word "Hawaii" or the letters~~  
16 ~~"HI". The names or letters representing the names of other~~  
17 ~~states with comparable deposit legislation may also be included~~  
18 ~~in the indication of refund value. The refund value on every~~  
19 ~~deposit beverage container shall be clearly, prominently, and~~  
20 ~~indelibly marked by painting, printing, scratch embossing,~~  
21 ~~raised letter embossing, or securely affixed stickers and shall~~



1 ~~be affixed on the top or side of the container in letters at~~  
2 ~~least one eighth inch in size.~~

3 ~~(b) Subsection (a) shall not apply to any type of~~  
4 ~~refillable glass deposit beverage container that has a brand~~  
5 ~~name permanently marked on it and that has the equivalent of a~~  
6 ~~refund value of at least 5 cents, which is paid upon receipt of~~  
7 ~~the container by a dealer or deposit beverage distributor.~~

8 ~~(c) Containers that do not meet the definition of a~~  
9 ~~deposit beverage container, as specified in section 342G-101,~~  
10 ~~shall not indicate "Hawaii" or "HI" on the container." ]~~

11 " SECTION 20. Section 342G-113, Hawaii Revised Statutes, is  
12 repealed.

13 [~~§342G-113 Redemption of empty deposit beverage~~  
14 ~~containers.~~ (a) ~~Except as provided in subsection (b), a dealer~~  
15 ~~shall:~~

16 ~~(1) Operate a redemption center by July 1, 2005, and shall~~  
17 ~~accept all types of empty deposit beverage containers~~  
18 ~~with a Hawaii refund value;~~

19 ~~(2) Pay to the redeemer the full refund value for all~~  
20 ~~deposit beverage containers that bear a valid Hawaii~~  
21 ~~refund value; and~~



- 1       ~~(3) Ensure each deposit beverage container collected is~~  
2       ~~recycled, and forward documentation necessary to~~  
3       ~~support claims for payment as stated in section 342C-~~  
4       ~~119 or rules adopted under this part.~~
- 5       ~~(b) Subsection (a) shall not apply to any dealer:~~
- 6       ~~(1) Who is located in a high density population area as~~  
7       ~~defined by the director in rules, and within two miles~~  
8       ~~of a certified redemption center that is operated~~  
9       ~~independently of a dealer;~~
- 10       ~~(2) Who is located in a rural area as defined by rule;~~
- 11       ~~(3) Who subcontracts with a certified redemption center to~~  
12       ~~be operated on the dealer's premises;~~
- 13       ~~(4) Whose sales of deposit beverage containers are only~~  
14       ~~via vending machines;~~
- 15       ~~(5) Whose place of business is less than five thousand~~  
16       ~~square feet of interior space;~~
- 17       ~~(6) Who can demonstrate physical or financial hardship, or~~  
18       ~~both, based on specific criteria established by rule;~~  
19       ~~or~~
- 20       ~~(7) Who meets other criteria established by the director.~~



1 Notwithstanding paragraphs (1) and (2), the director may allow  
2 the placement of redemption centers at greater than prescribed  
3 distances to accommodate geographical features while ensuring  
4 adequate consumer convenience.

5 ~~(c) Regardless of the square footage of a dealer's place  
6 of business, dealers who are not redemption centers shall post a  
7 clear and conspicuous sign at the primary public entrance of the  
8 dealer's place of business that specifies the name, address, and  
9 hours of operation of the closest redemption center locations.~~

10 ~~(d) If there is no redemption center within the two-mile  
11 radius of a dealer due to the criteria described in subsection  
12 (b), then the respective county and the State shall determine  
13 the need for a redemption center in that area. If a redemption  
14 center is deemed necessary, then the State, with assistance from  
15 the county, shall establish the redemption center with funding  
16 from the deposit beverage container deposit special fund.~~

17 ~~(e) Businesses that sell deposit beverages for on-premises  
18 consumption, such as hotels, bars, and restaurants, shall  
19 collect used deposit beverage containers from the patron and  
20 either use a certified redemption center for the collection of  
21 containers or become a certified redemption center."~~





1 SECTION 21. Section 342G-114, Hawaii Revised Statutes, is  
2 repealed.

3 [~~§342G-114 Redemption centers.~~ (a) ~~Prior to operation,~~  
4 ~~redemption centers shall be certified by the department.~~

5 ~~(b) Applications for certification as a redemption center~~  
6 ~~shall be filed with the department on forms prescribed by the~~  
7 ~~department.~~

8 ~~(c) The department, at any time, may review the~~  
9 ~~certification of a redemption center. After written notice to~~  
10 ~~the person responsible for the establishment and operation of~~  
11 ~~the redemption center and to the dealers served by the~~  
12 ~~redemption center, the department, after it has afforded the~~  
13 ~~redemption center operator a hearing in accordance with chapter~~  
14 ~~91, may withdraw the certification of the center if it finds~~  
15 ~~that there has not been compliance with applicable laws, rules,~~  
16 ~~permit conditions, or certification requirements.~~

17 ~~(d) Redemption centers shall:~~

18 ~~(1) Accept all types of empty deposit beverage containers~~  
19 ~~for which a deposit has been paid;~~

20 ~~(2) Verify that all containers to be redeemed bear a valid~~  
21 ~~Hawaii refund value;~~



- 1       ~~(3) Pay to the redeemer the full refund value in either~~  
2       ~~cash or a redeemable voucher for all deposit beverage~~  
3       ~~containers, except as provided in section 342C-116;~~
- 4       ~~(4) Ensure each deposit beverage container collected is~~  
5       ~~recycled through a contractual agreement with an out-~~  
6       ~~of-state recycler or an in-state recycling facility~~  
7       ~~permitted by the department; provided that this~~  
8       ~~paragraph shall not apply if the redemption center is~~  
9       ~~operated by a recycler permitted by the department;~~
- 10       ~~(5) Remain open at least thirty hours per week in high~~  
11       ~~density population areas, of which at least five hours~~  
12       ~~shall be on Saturday or Sunday; and~~
- 13       ~~(6) Forward the documentation necessary to support claims~~  
14       ~~for payment as stated in section 342C-119.~~
- 15       ~~(e) Redemption centers' redemption areas shall be~~  
16       ~~maintained in full compliance with applicable laws and with the~~  
17       ~~orders and rules of the department, including permitting~~  
18       ~~requirements, if deemed necessary, under chapter 342H.~~
- 19       ~~(f) The department shall develop procedures to facilitate~~  
20       ~~the exchange of information between deposit beverage container~~  
21       ~~manufacturers, distributors, and retailers and certified~~



1 ~~redemption centers, including but not limited to universal~~  
2 ~~product code information for reverse vending machine purposes.~~  
3 ~~The procedures developed by the department shall allow for a~~  
4 ~~reasonable time period between the introduction of a new deposit~~  
5 ~~beverage product and the deadline for submitting universal~~  
6 ~~product code information to certified redemption centers~~  
7 ~~operating reverse vending machines."~~

8 SECTION 21. Section 342G-115, Hawaii Revised Statutes, is  
9 repealed.

10 [~~"§342G-115 Reverse vending machine requirements. Reverse~~  
11 ~~vending machines may be used by redemption centers to satisfy~~  
12 ~~the requirements of section 342G-113. Reverse vending machines~~  
13 ~~shall accept any type of empty deposit beverage container and~~  
14 ~~pay out the full refund value in either cash or a redeemable~~  
15 ~~voucher for those containers that bear a valid Hawaii refund~~  
16 ~~value. If the reverse vending machine is unable to read the~~  
17 ~~barcode then the reverse vending machine shall reject the~~  
18 ~~container. The reverse vending machine shall be routinely~~  
19 ~~serviced to ensure proper operation and continuous acceptance of~~  
20 ~~empty deposit beverage containers and payment of the refund~~  
21 ~~value."~~]



1 " SECTION 22. Section 342G-116, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§342G-116 Refusal of refund value payment for a deposit  
4 beverage container. Redemption centers shall refuse to pay the  
5 refund value on any broken, corroded, or dismembered deposit  
6 beverage container, or any deposit beverage container that:~~

- 7 ~~(1) Contains a free flowing liquid;~~  
8 ~~(2) Does not properly indicate a refund value;~~  
9 ~~(3) Contains a significant amount of foreign material; or~~  
10 ~~(4) Exhibits characteristics of having been previously  
11 processed and baled."]~~

12 SECTION 23. Section 342G-117, Hawaii Revised Statutes, is  
13 repealed.

14 [~~"§342G-117 Handling fees and refund values for certified  
15 redemption centers. (a) The department shall pay to each  
16 certified redemption center a handling fee of not less than the  
17 prevailing deposit beverage container fee for each deposit  
18 beverage container redeemed by a consumer that is:~~

- 19 ~~(1) Transported out of state;~~  
20 ~~(2) Received by an approved in-state company for an  
21 approved end use for recycling; or~~



1       ~~(3) Received by a department permitted recycling facility;~~  
2       ~~provided that the deposit beverage container is physically~~  
3       ~~received by the redemption center.~~

4       ~~(b) The department shall evaluate the handling fee at~~  
5       ~~least once per year. If the department changes the amount of~~  
6       ~~the handling fee, the department shall publish notice of the~~  
7       ~~change within thirty days of its determination.~~

8       ~~(c) The handling fee shall be paid in addition to the~~  
9       ~~refund value of each empty deposit beverage container. Payments~~  
10       ~~for handling fees shall be based on redemption center reports~~  
11       ~~submitted to the department; provided that there is no~~  
12       ~~discrepancy in the reports. The department may choose to pay~~  
13       ~~the handling fee and refund value on the basis of the total~~  
14       ~~weight of the containers received by material type and the~~  
15       ~~average weight of each container type; provided that the deposit~~  
16       ~~beverage container is physically received by the redemption~~  
17       ~~center.~~

18       ~~(d) A handling fee and refund value may only be paid once~~  
19       ~~for each container redeemed by a consumer and claimed by a~~  
20       ~~redemption center in accordance with section 342G-119."~~



1 SECTION 24. Section 342G-119, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§342G-119 Redemption center reporting.~~ The department  
4 shall pay certified redemption centers handling fees and refund  
5 values as described in section 342G-117, based on collection  
6 reports submitted by the redemption centers. All redemption  
7 centers shall submit to the department the following information  
8 on forms prescribed by the department, which information shall  
9 include at a minimum:

- 10 (1) ~~The number or weight of deposit beverage containers of~~  
11 ~~each material type accepted at the redemption center~~  
12 ~~for the reporting period;~~
- 13 (2) ~~The amount of refunds paid out by material type;~~
- 14 (3) ~~The number or weight of deposit beverage containers of~~  
15 ~~each material type transported out-of-state or to a~~  
16 ~~permitted recycling facility; and~~
- 17 (4) ~~Copies of out-of-state transport and weight receipts~~  
18 ~~or acceptance receipts from permitted recycling~~  
19 ~~facilities. If the redemption center and the~~  
20 ~~recycling facility are the same entity, copies of out-~~  
21 ~~of-state transport and weight receipts, or~~



1           ~~documentation of end use accepted by the department,~~  
2           ~~shall also be included.~~

3   ~~The requests for payment shall be no less than two times per~~  
4   ~~month." ]~~

5   "       SECTION 25.   Section 342G-120, Hawaii Revised Statutes, is  
6   repealed.

7           ~~" [ §342G-120 ] — Recycling facility reporting. — Recycling~~  
8   ~~facilities, in addition to any requirements under chapter 342H,~~  
9   ~~shall prepare or maintain the documents involving empty beverage~~  
10   ~~containers, as required by the department." ]~~

11         SECTION 26.   Section 342G-121, Hawaii Revised Statutes, is  
12   repealed.

13           ~~" [ §342G-121 ] — Audit authority. — The records of the deposit~~  
14   ~~beverage distributor, dealer, redemption center, and recycling~~  
15   ~~facility shall be made available, upon request, for inspection~~  
16   ~~by the department, a duly authorized agent of the department, or~~  
17   ~~the auditor. Any proprietary information obtained by them shall~~  
18   ~~be kept confidential and shall not be disclosed to any other~~  
19   ~~person, except:~~

20           ~~(1) As may be reasonably required in an administrative or~~  
21           ~~judicial proceeding to enforce any provision of this~~



1           ~~chapter or any rule adopted pursuant to this chapter,~~  
2           ~~or~~  
3           ~~(2) Under an order issued by a court or administrative~~  
4           ~~agency hearings officer. "~~

5           SECTION 27. Section 342G-122, Hawaii Revised Statutes, is  
6           repealed.

7           ~~[" [§342G-122] — **Advisory committee.** The department shall~~  
8           ~~convene an advisory committee to assist it in developing any~~  
9           ~~rules needed to implement this chapter. The department shall~~  
10           ~~select members of the committee so as to obtain input on the~~  
11           ~~state level as well as assess the impact on each individual~~  
12           ~~county, consumers, recyclers, and the beverage industry.~~  
13           ~~Members of the committee shall be appointed by the director and~~  
14           ~~shall serve at the director's pleasure. A simple majority of~~  
15           ~~the committee members shall constitute a quorum for the purposes~~  
16           ~~of recommending rules and providing input to the director."~~

17           SECTION 28. Statutory material to be repealed is bracketed  
18           and stricken.

19           SECTION 29. This Act shall take effect upon its approval.

20

21





# S.B. NO. 2714

INTRODUCED BY:

*Amundin, Dan*  
*Francine G. Joyce*



# S.B. NO. 2714

**Report Title:**

Repeal of State Recycling Program

**Description:**

Repeal of failing recycling program to allow for exploration of sustainable alternatives.

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

