



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of S.B. 549, SD1, HD1
RELATING TO HEALTHY BEVERAGES FOR CHILDREN.**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: March 28, 2019

Room Number: 329

- 1 **Fiscal Implications:** The Department of Health will support the implementation proposed in the
2 measure within the Governor's Executive Biennium Budget Request.
- 3 **Department Testimony:** The Department of Health supports Senate Bill 549, Senate Draft 1,
4 House Draft 1 (S.B. 549, SD1, HD1) requiring restaurants that sell children's meals that include
5 a beverage to make the default beverage a healthy beverage. The concept of this bill is based on
6 national recommendations for reducing the consumption of sugar sweetened beverages (SSBs).
7 The Division of Physical Activity, Nutrition, and Obesity (DNPAO) at the Centers for Disease
8 Control and Prevention (CDC) recommends decreasing SSBs as an evidence-based strategy for
9 preventing and reducing overweight and obesity. The 2015 Dietary Guidelines for Americans
10 also recommends reducing the intake of SSBs as a method to control calorie intake and manage
11 body weight. The Department supports S.B. 549, SD1, HD1 and suggests amending the
12 allowable beverages by limiting juice to 6 ounces based on the American Academy of Pediatrics
13 recommendations.¹ The intent of having a healthy beverage as a default option is to reduce the

¹ [Heyman, MB & Abrams, SA. Fruit Juice in Infants, Children, and Adolescents: Current Recommendations. Policy Statement, Organizational Principles to Guide and Define the Child Health Care System and/or Improve the Health of All Children, American Academy of Pediatrics. Pediatrics, Volume 139, No.6, June 2017, Downloaded 3-25-19.](#)

1 amount of sugar consumed by children. Large quantities of juice can contribute to excess sugar
2 in a child's diet, for example six fluid ounce of apple juice contains 4.2 teaspoons of sugar and
3 eight ounces contains 5.6 teaspoons.

4 Today in Hawaii, more than one in two adults² (57.6%) and over one in four high school
5 students³ (28.4%) are affected by overweight or obesity. The rate of adults with diabetes in
6 Hawaii is 10.5% and an additional 14.6% have been diagnosed with pre-diabetes.⁴ The
7 Department estimates that more than 1 in 2 adults have type 2 diabetes and pre-diabetes when
8 these numbers are adjusted for people who are undiagnosed. Hawaii spends an estimated \$470
9 million on obesity-related medical costs, and \$770 million on diabetes-related medical costs
10 annually.⁵ SSBs have been identified by numerous scientific studies as a major contributor to
11 our costly obesity epidemic.⁶ Additionally, drinking SSBs can significantly contribute to tooth
12 decay. SSB consumption is associated with nearly twice the risk of cavities in children.⁷ More
13 than seven out of ten Hawaii third-graders are affected by tooth decay and one in four have

² Hawaii Health Data Warehouse, Hawaii State Department of Health, Behavioral Risk Factor Surveillance System, 2016.

³ Hawaii Health Data Warehouse, Hawaii State Department of Health, Youth Risk Behavior Surveillance System, 2017.

⁴ Hawaii Health Data Warehouse, Hawaii State Department of Health, Behavioral Risk Factor Surveillance System, 2016.

⁵ Trogon, JG., Finkelstein, EA., Feagan, CW., & Cohen, JW. (2012). State- and payer-specific estimates of annual medical expenditures attributable to obesity. *Obesity*, 20(1): 214-220. doi: 10.1038/oby.2011.169.

⁶ Smith TA, Lin BH, Lee JY. Taxing caloric sweetened beverages: Potential effects on beverage consumption, calorie intake, and obesity. Washington, DC: Economic Research Service (ERS), US Department of Agriculture (USDA); 2010: ERR-100.

⁷ Sohn W, Burt BA, and Sowers MR. (2006). Carbonated soft drinks and dental caries in the primary dentition. *J Dent Res*, 85(3): 262-266.

1 untreated tooth decay.⁸ Hawaii also received a failing grade of “F” on three recent oral health
2 report cards by the Pew Center.⁹

3 Between 1977 and 2001, calorie intake from SSBs increased 135 percent for all age
4 groups.¹⁰ While overall SSB consumption has decreased in recent years, particularly among
5 children and adolescents, consumption rates remain high.¹¹ A recent survey conducted by the
6 Department found that over half of adolescents in Hawaii (56%) drink SSBs one or more times
7 per day and nearly all teens (94%) drink SSBs at least once a week.¹² A typical 20-ounce soda
8 contains 14 to 18 teaspoons of sugar and about 240 calories. In comparison, the American Heart
9 Association guideline for daily added sugars is no more than 6 teaspoons for women and
10 children, and no more than 9 teaspoons for men.¹³ A 2015 study found that healthy children’s
11 menu defaults resulted in healthier ordering patterns, without reducing revenue.¹⁴ This suggests

⁸ Hawaii State Department of Health. (2015 September 25). Hawaii oral health: Key Findings. Retrieved from https://health.hawaii.gov/about/files/2013/06/Key_Findings_wC.pdf.

⁹ Hawaii State Department of Health. (2016 August). Hawaii smiles 2015: The oral health of Hawaii’s children. Retrieved from <https://health.hawaii.gov/about/files/2013/06/Hawaii-Smiles-Report.pdf>.

¹⁰ Nielsen SJ and Popkin BM. “Changes in Beverage Intake Between 1977 and 2001.” *American Journal of Preventive Medicine*, 27(3): 205-210, 205, 2004. Available at: www.cpc.unc.edu/projects/nutrans/publications/Beverage%20trends-BP-Samara%202004.pdf.

¹¹ Han E. and Powell LM. “Consumption Patterns of Sugar-Sweetened Beverages in the United States,” *Journal of the Academy of Nutrition and Dietetics*, 113 (1): 43-53, 2013. Available at: www.ncbi.nlm.nih.gov/pubmed/23260723.

¹² Hawaii State Department of Health. (2012, 2013, & 2017). Rethink Your Drink Adolescent Survey, 2012, 2013, & 2017 combined.

¹³ Johnson RK, Appel LJ, Brands, M., Howard, BV, Lefevre, M., Lustig, RH, Sacks, F, Steffen LM, Wylie-Rosett, J. “Dietary Sugars Intake and Cardiovascular Health,” *Circulation* 2009:1011-1020.

¹⁴ Anzman-Frasca, S. et. al. “Changes in children’s meal orders following healthy menu modifications at a regional US restaurant chain.” *Obesity*, April 28, 2015; 1055-1062.

1 that implementing healthy defaults in restaurants can improve child nutrition while ensuring that
2 restaurants remain competitive.¹⁵

3 Requiring retail food establishments to provide a healthy default beverage as a part of a
4 children's meal would encourage families to choose a healthy option when eating outside the
5 home. On average, children consume nearly twice as many calories from a restaurant meal (770)
6 as they do from a home cooked meal (420).¹⁶ Adding SSBs to these meals adds calories and
7 sugar that may contribute to obesity and health problems. Ensuring healthy default options in
8 children's meals is part of a comprehensive public health prevention strategy to reduce the risk
9 for obesity and type 2 diabetes in Hawaii's children.

10 Thank you for the opportunity to provide testimony.

11 **Offered Amendments:** The Department respectfully requests the following amendments:
12 Section 2, Chapter 321, Hawaii Revised Statutes, page 2, starting from line 6, §321- Default
13 beverages offered with children's meals.

14 (a) A restaurant that offers for sale a children's meal that
15 includes a beverage shall offer with the children's meal as a
16 default beverage one or more of the following:

17 (1) Water, sparkling water, or flavored water, with no

¹⁵ Anzman-Frasca, S. et. al. "Changes in children's meal orders following healthy menu modifications at a regional US restaurant chain." *Obesity*, April 28, 2015; 1055-1062.

¹⁶ Xoumas-Morse C., Rock CL., Sobo EJ., Neuhouser ML. "Children's Patterns of Macronutrient Intake and Associations with Restaurant and Home Eating." *J. Am Dietetic Assoc* 2001; 101:923-925.

1 added sugar, corn syrup, or other natural or
2 artificial sweeteners;

3 (2) Unflavored nonfat or low-fat (one per cent) dairy milk
4 or non-dairy beverage that is nutritionally equivalent
5 to fluid milk in a serving size of ~~six~~ eight fluid
6 ounces or less; or

7 (3) One hundred per cent fruit juice or vegetable juice in
8 a serving size of six fluid ounces or less.



March 26, 2019

House Committee on Consumer Protection and Commerce
SB 549 SD1 HD1 Relating to Healthy Beverages for Children

Chairperson Takumi and Committee Members:

The Hawaii Dental Hygienists' Association (HDHA) fully supports **SB 549 SD1 HD1**. We would like to congratulate you on your leadership in initiating this important discussion during this legislative session. Having one of the worst dental decay rates in the nation, Hawaii's children can only benefit from legislation such as this.

Tooth decay, like most other health problems starts with diet. Increased sugar exposure throughout the day cumulatively affects decay rates, so limiting sugar intake wherever possible can only benefit our keiki's overall oral health.

As the largest association representing Hawaii's licensed dental hygienists', HDHA strongly **supports SB 549 SD1 HD1** to address the prevention of dental disease among Hawaii's keiki.

Thank you for your consideration.

March 28, 2019

RE: Support of SB549 SD1 HD1 Relating to Healthy Beverages for Children

Aloha Chair Takumi, Vice-Chair Ichiyama, and Members of the Committee:

Thank you for the opportunity to testify in support of SB549 SD1 HD1, which will make the default beverage offering in keiki meals the healthy choice of either water, milk or a non-dairy milk alternative. We support this bill because it helps to achieve a healthier Hawaii.

This legislation is supported in the recently released policy recommendations statement from the American Academy of Pediatrics and the American Heart Association. The lead author, Dr. Natalie Muth, a practicing pediatrician and registered dietitian stated, "At the same time, pediatricians are diagnosing type 2 diabetes, fatty liver disease, and high cholesterol in our young patients. These are health problems that we rarely saw in children in the past. These are health problems associated with high sugar intake," Muth said.¹

"We have tried, and failed, to curb sugary drink intake through education and individual choices alone," she said. "Just like policy changes were necessary and effective in reducing consumption of tobacco and alcohol, we need policy changes that will help reduce sugary drink consumption in children and adolescents."

The statement calls for 6 specific policies to address the major health issues associated. One of the policies is to make healthy beverages, like milk and water, the default on children's menus. Typically, soda and sugar filled juices, like fruit punch are the default offering with a child's meal in a restaurant. Sugary drinks are the single largest source of added sugars in children's diets. By changing the dynamic and offering the healthy choice of water or milk as the initial option, we are helping families to more easily make the healthy choice.

Sugary drinks have been shown to be a major contributor to the obesity epidemic. Consuming just one sugary drink a day significantly increases a child's risk for type 2 diabetes, becoming overweight, tooth decay, as well as numerous other chronic diseases, which are linked to our escalating healthcare costs. Supporting healthy behaviors in our community benefits everyone.

¹ <https://www.cnn.com/2019/03/25/health/sodas-sugary-drinks-policy-statement-study/index.html>

Nationally, more than 12 million children are obese with that number only trending upward. In Hawaii, we can do better for our keiki. SB549 SD1 HD1 is the way can do that. It will support families who want healthy, happy lives for their children by providing the healthier choice first.

Thank you for this opportunity to testify in support of SB549 SD1 HD1.

Sincerely,

Peggy Mierzwa

Peggy Mierzwa
Blue Zones Project—Hawaii

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**American Heart Association testimony in SUPPORT of SB 549, SD1, HD1
“Relating to Healthy Beverages for Children”**

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The American Heart Association supports SB 549, SD1, HD1.

By reducing the marketing of unhealthy beverages to children by making the default beverage included in kid’s meals milk or water, SB 549, SD1, HD1 would mark the first substantial policy action taken in Hawaii to address overconsumption of sugar by Hawaii keiki.

Restaurants play a central role in the American diet as people increasingly consume more food away from home. The Rudd Center for Food Policy and Obesity reports that 89 percent of parents report making a purchase from a fast-food restaurant for their children in the previous week. Children now consume about 20 percent of their daily calories at fast food establishments and full-service restaurants. Children and teens who eat at restaurants drink more sodas and less milk than those who eat at home.

Sugary drinks, including soda, energy and sports drinks, and flavored waters, provide the single largest source of calories in the diets of American children. Each additional daily serving of a sugar-sweetened beverage increases a child’s chance of becoming obese by 60 percent. Sugary drinks are also associated with a greater risk of cardiovascular disease and high blood pressure in adolescents, dental cavities in children, and inadequate intake of vitamins and minerals.

An extra-small (ten-ounce, child-size) cola contains approximately 33 grams of added sugars, which exceeds the 25 grams of added sugars that the American Heart Association (AHA) has established as the daily upper limit for children and teenagers. The AHA recommends that children consume no more than eight ounces of sugary drinks per week; kid-sized beverages vary across restaurants, but are usually six to twelve ounces.

In 2009, the state medical cost attributable to obesity was \$470 million dollars, and this figure continues to rise. As many as 1 in 3 adults could have diabetes by 2050 if current trends continue. Without changes in this trajectory, Hawaii’s healthcare costs will be unsustainable for Hawaii’s businesses and families. Removing sugary drinks as the default from children’s menus can send a signal that they are not appropriate everyday beverages for children and help to establish a healthier next generation.

We urge you to support SB 549, SD1, HD1 and help to improve keiki’s health in Hawaii.

Respectfully submitted,

Donald B. Weisman
Hawaii Government Relations/Communications Director



**Written Testimony of
David Thorp
American Beverage Association**

**Before the House Committee on Consumer Protection & Commerce
Comments to Amend S.B. 549, SD 1 HD 1
Relating to Healthy Beverages for Children
March 28, 2019 – 2:00 p.m.**

Good afternoon Chair Takumi, Vice Chair Ichiyama and members of the committee. Thank you for the opportunity to comment on S.B. 549, SD 1 HD 1 – relating to healthy beverages for children.

I am David Thorp, senior director of government affairs for the American Beverage Association (ABA). The American Beverage Association is the trade association representing the non-alcoholic beverage industry.

Beverage industry’s local impact on Hawaii’s economy

The beverage industry is an important part of Hawaii’s economy – and one of the few remaining industries still manufacturing on the Islands. Unlike most consumer products, many of our beverages, aluminum cans and plastic bottles are manufactured and distributed in Hawaii by local workers.

Non-alcoholic beverage companies in Hawaii provide more than 1,050 good-paying jobs across our state. The industry helps to support thousands more workers in businesses that rely in part on beverage sales for their livelihoods and, such as grocery stores, restaurants and theaters.

ABA’s Default Beverages in Children’s Meals Policy

ABA and America’s leading beverage companies recognize that parents are more than capable of making the food and beverage choices that are best for their families. When it comes to their youngest children, we have repeatedly heard from parents that they believe that water, milk or juice are the best options. It should be up to a parent to decide if their child can have another kind of beverage as part of a meal or snack at home, or when they are out to eat.

This is why we are committed to working with our restaurant customers and policymakers across the country who are interested in adopting the following default beverages in children’s meals:

- Water – Water, sparkling water or flavored water, with no added natural or artificial sweeteners; and/or

- Milk – **Flavored or** unflavored nonfat or low-fat (1 percent) dairy milk or non-dairy beverage that is nutritionally equivalent to fluid milk (i.e. soy milk) in a serving size of **8 ounces or less**; and/or
- Juice – 100 percent fruit or vegetable juice, **or fruit and/or vegetable juice combined with water or carbonated water, with no added natural or artificial sweeteners, in a serving size of 8 ounces or less.**

This language is consistent with the “Smart Snacks in Schools” rule that was implemented by the United States Department of Agriculture as part of the “Healthy, Hunger-Free Kids Act of 2010.”

America's beverage companies have long believed it is important to listen to and support parents. That's why we implemented national School Beverage Guidelines almost a decade ago to remove full-calorie beverages from schools and why our member companies don't market to children under the age of 12. These actions keep parents in the driver's seat to decide what's best for their children.

Conclusion

The American Beverage Association and its member companies are committed to offering our consumers choices and we would fully support this legislation with the following amendments:

1. Add “**flavored**” milk;
2. Allow up to an **8-ounce** serving size of milk;
3. Clarify the 100 percent fruit or vegetable juice category to include the following additional language:

or fruit and/or vegetable juice combined with water or carbonated water, with no added natural or artificial sweeteners, in a serving size of 8 ounces or less.

This additional language is consistent with the science-based nutrition standards for beverages laid out in the Smart Snacks in Schools Rules. It's important to have consistent standards for the benefit of parents and to avoid the confusion and frustration from a patchwork of policies.

Sincerely,
David Thorp



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To: Rep. Roy Takumi, Chair
Rep. Linda ichiyamai, Vice Chair
Members of the Committee on Consumer Protection & Commerce

From: Victor Lim, Legislative Lead
Hawaii Restaurant Association

Subj: SB 549 SD1 HD 1Relating to Healthy Beverages for Children

Date: March 25, 2019

We at the Hawaii Restaurant Association representing over 3,600 restaurants will like to share with this committee the following comments.

Major brands like McDonald's, Wendy's, Subway, and Burger King have all stopped offering soda as the default beverage for children's meals since 2015.

At McDonald's, our default beverages for Happy Meals are 1 % low fat white milk, fat free-chocolate milk, or organic apple juice at 8 ounces or less. At Zippy's, the default children's meal drink is milk while at Big City Diner, it is zero sugar Vitamin Water for lunch and dinner.

We would like to request that you change on page 2 to be in line with USDA Smart Snacks in School Guidelines, on Default Beverages

(2) Flavored or unflavored non fat or low fat (one per cent) dairy milk or non-dairy beverage that is nutritionally equivalent to fluid milk in a serving size of eight ounces or less; or

(3) one hundred per cent fruit juice or vegetable juice or fruit or vegetable juice combined with water or carbonated water in a serving size of eight ounces or less.

Clarifications to the definition of fruit or vegetable juice at the top of page 3 as follows

"Fruit juice or vegetable juice" means any liquid consisting of one hundred percent fruit juice or vegetable juice with no added sugar, corn syrup, or natural or artificial sweeteners.

Thank you for giving us this opportunity to share our points.



March 25, 2019

To: Chair Takumi
Vice Chair Ichiyama
House Committee on Consumer Protection & Commerce

Re: **Support for SB549 SD1 HD1**

Aloha Chair Takumi, Vice Chair Ichiyama, and members of the House Committee on Consumer Protection & Commerce:

Thank you for your dedication to our community and for this opportunity to provide testimony in **support of SB549 SD1 HD1**. Kaho'omiki, the Hawai'i Council on Physical Activity and Nutrition, is a local non-profit organization that supports and encourages lifelong healthy lifestyles through physical activity and good nutrition.

Sugary soft drinks are the single largest source of excess sugar in the American diet, accounting for nearly half of the added sugars consumed.¹ Excess consumption of sugar-sweetened beverages is also associated with other adverse health consequences, such as type 2 diabetes, heart disease, non-alcoholic liver disease, and tooth decay.² This policy aims to reduce the consumption of sugar-sweetened beverages in children, as drinking just one sugary drink a day increases a child's likelihood of being overweight by 55%.³ In 2018, California became the first state to pass healthy-by-default kids' meal laws, following positive results from city-enacted healthy-by-default bills in Davis, Stockton, Cathedral City, Perris, Daly City, Long Beach, and Berkeley.⁴

Thank you for joining us in the fight against childhood obesity, and for this opportunity to testify in support of **SB549 SD1 HD1**.

Sincerely,



Colby Takeda
President, Kaho'omiki

¹ Vos, M. B., Kaar, J. L., Welsh, J. A., Van Horn, L. V., Feig, D. I., Anderson, C. A. M., ... Johnson, R. K. (2017). Added Sugars and Cardiovascular Disease Risk in Children A Scientific Statement from the American Heart Association. *Circulation*, 135(19), E1017–E1034.

² CDC. (2018, October 23). *Sugar Sweetened Beverage Intake*.

³ Cofer, F. G., Morgan, J., DeLaRosa, R., Lev-Twombly, K., & Showalter, K. (2018). SB 1192 Healthy-By-Default Kids' Meal Beverages.

⁴ Public Health Advocates. (2018). *California adopts first state-wide Healthy-by-Default Kids' Meals Drink law*.



**Testimony to the House Committee on Consumer Protection and Commerce
Thursday, March 28, 2019; 2:00 p.m.
State Capitol, Conference Room 329**

RE: SUPPORTING SENATE BILL NO. 0549, HOUSE DRAFT 1, RELATING TO HEALTHY BEVERAGES FOR CHILDREN.

Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** Senate Bill No. 0549, House Draft 1, RELATING TO HEALTHY BEVERAGES FOR CHILDREN.

The bill, as received by your Committee, would:

- (1) Require restaurants that sell a children's meal that includes a beverage to make the default beverage offered with the children's meal either:
 - (A) Water, sparkling water, or flavored water, with no added sugar, corn syrup, or other natural or artificial sweeteners;
 - (B) Unflavored nonfat or low-fat (one percent) dairy milk or non-dairy beverage that is nutritionally equivalent to fluid milk in a serving size of six ounces or less; or
 - (C) One hundred percent fruit juice or vegetable juice;
- (2) Clarify that the foregoing not prohibit a restaurant from selling, or a customer from purchasing, an alternative to the default beverage if requested by the purchaser of the children's meal.
- (3) Require the Department of Health (DOH) to adopt rules;
- (4) Be silent on whether a violation of new section would constitute a violation of Section 321-20, Hawaii Revised Statutes (HRS);

Testimony on Senate Bill No. 0549, House Draft 1

Thursday, March 28, 2019; 2:00 p.m.

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- (5) Define the terms, "Children's meal", "Default beverage", "One hundred per cent fruit juice or vegetable juice", and "Restaurant"; and
- (6) Take effect on January 1, 2020.

Federally Qualified Health Centers (FQHCs) provide desperately needed medical services at the frontlines in rural communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of health.

As a member of the Obesity Prevention Task Force, the HPCA joins the Hawaii Public Health Institute and other advocates in support of efforts to reduce the consumption of sugar in the marketplace.

From a technical standpoint, it is unclear how this bill will be enforced. According to House Standing Committee Report No. 1699, the House Committee on Health reported that it amended the bill by:

*". . . **Removing the Department of Health's authority to impose fines on restaurants that violate the requirement to serve a healthy default beverage for children's meals; . . .**" [Emphasis added.]*

As such, the Committee removed language from page 3, lines 3 through 6 of Senate Bill No. 549, Senate Draft 1, that would have allowed DOH to impose the fines provided in Section 321-20, HRS, if DOH determines that any restaurant has violated or is violating any provision of the proposed new section.

We had earlier noted that this language could raise constitutional questions concerning vagueness.

However, by deleting this language without making a corresponding amendment to Section 321-20, HRS, the new section would apparently create a status offense that would require the DOH to fine every violating restaurant.

We also caution this Committee that the fine authorized under Section 321-20, HRS, is the same fine that is applied for violations of restaurant health inspections, and that it would appear that the \$1,000 per day per violation ceiling that would be applicable to the proposed new section, is the same as the maximum fine that may be levied for the most egregious violations of the Food Safety Code.

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We believe that this was merely a technical oversight and can be corrected by including language in the proposed new section that ". . . for violations of this section, section 321-20 shall not apply. . .", and by placing language in Section 321-20, HRS, that ". . . this section shall not apply to section 321-"

While the HPCA wholeheartedly supports measures that will reduce the consumption of sugar in the marketplace, we do not want to unintentionally harm any business or the public in the process.

It is in the spirit of collaboration that we share these observations in the hopes that these issues can be rectified so that real, meaningful reforms can be implemented.

For your information and files, attached please find a copy of HRS §321-20 (penalty provision), and HAR §11-50-14 (Food Safety Code).

In advance, thank you for your consideration of our testimony.

attachments

[§321-20] Remedies. Notwithstanding other penalties, the director may enforce this chapter in either administrative or judicial proceedings:

(1) **Administrative.** If the director determines that any person is violating any provision of this chapter, any rule adopted thereunder, or any variance or exemption or waiver issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay an administrative penalty not to exceed \$1,000 for each day of violation, correct the violation at the alleged violator's own expense, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon such request the director shall specify a time and place for the alleged violator to appear. When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within twenty-four hours after service of the order. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind the order as appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this subsection.

Factors to be considered in imposing the administrative penalty include the nature and history of the violation and any prior violation and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty and the burden of proof to the contrary is on the violator. In any judicial proceeding to enforce the administrative penalty imposed pursuant to this chapter, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing had expired without such a request, the administrative penalty imposed, and that the penalty imposed remains unsatisfied.

This section does not supersede specific administrative penalties provided elsewhere.

(2) **Judicial.** The director may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of any order issued or rule adopted pursuant to this chapter, in addition to any other remedy or penalty provided for under this chapter. [L 1985, c 84, §1]

[PREVIOUS](#)

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§11-50-13

or control public health hazards or nuisance.
[Eff 2/24/2014; am and comp SEP 01 2017]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-14 Penalties and remedies. Any person who violates any provision of this chapter or an order of the director thereunder, shall be subject to a fine as provided in section 321-20, HRS. Each and every violation is a separate offense. [Eff 2/24/2014; am and comp SEP 01 2017]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-15 Severability. If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of the provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby. [Eff 2/24/2014; comp SEP 01 2017]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-16 to 11-50-19 (Reserved).

SUBCHAPTER 2

PERSONNEL

§11-50-20 Supervision. (a) Except as specified in subsection (b), the owner or operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

(b) In a food establishment with two or more separately permitted departments that are the legal responsibility of the same owner or operator and that are located on the same premises, the owner or operator may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises.

(c) Food protection certification.

SB-549-HD-1

Submitted on: 3/27/2019 1:34:14 PM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Chun	American Cancer Society Cancer Action Network	Support	No

Comments:



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En Young, MBA
Sansei, Lanai

Date: March 27, 2019

To: Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair
Members of the Consumer Protection & Commerce Committee

Re: Strong Support for SB549 SD1 HD1, Relating to Healthy
Beverages for Children

Hrg: March 28, 2019 at 2:00pm at Conference Room 329

The Obesity Prevention Task Force of the Hawai'i Public Health Instituteⁱ is in **Strong Support of SB549 SD1 HD1**, which promotes healthy beverage options by making the default beverage offered in restaurants with children's meals a healthy drink. HIPHI defers to the Department of Health on the definition of "restaurants."

Offered Amendment

The Obesity Prevention Task Force respectfully offers the following recommendation: (1) provide a serving size limit for 100% fruit or vegetable juice to six ounces or less and (2) to change the non-dairy beverage that is nutritionally equivalent to fluid milk in a serving size of from six ounces to eight ounces.

Offering healthy beverages as the default option helps to keep our keiki healthy

Restaurants that offer children's menus typically serve refillable sugary drinks like sodas and fruit punch with their advertised kids' meals. Sugary drinks are the single largest source of added sugars in our kids' diets, making up half of all sugars consumed. This measure helps to support parents in keeping their kids' healthy. Instead of getting a sugary drink without asking for one, kids will have the opportunity to start their meal with a healthy beverage, such as water or milk. In a poll by Ward Research for HIPHIⁱⁱ, 77% of registered voters supported a policy to make kids' meals automatically come with a healthy beverage. Support was even higher among parents, at 82%. With more and more families grabbing a meal on the run or dining out, making the healthy choice can often be challenging. That's why it's so important that restaurants and food establishments serve as venues to promote healthy beverage options as part of the bundled kids' meal.

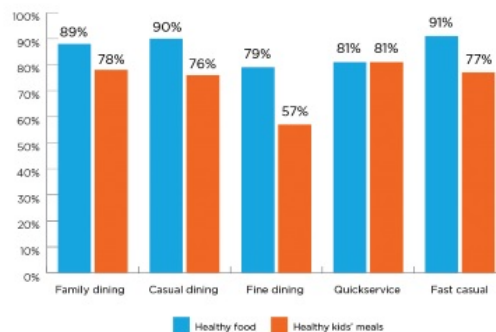
SSBs contribute to a poor diet and are associated with obesity, type 2 diabetes, and tooth decay

Sugar-sweetened beverages have become a staple item in our diet, primarily because they are inexpensive and heavily marketed, especially to kids. SSBs do not deliver any nutrition and studies have shown that consumption of SSBs is associated with obesity, type 2 diabetes, cardiovascular disease, and tooth decay. Drinking just one 8-oz sugary drink per day increases a child's odds of becoming obese by 60%.

Although many chain restaurants have removed soda and sugary drinks from their menus, soft drinks are still the most common kids' meal beverage. In a 2017 analysis from the Center for Science in the Public Interest of the 50 top restaurant chainsⁱⁱⁱ, CSPI found that 38 had designated children's menus that included beverages. Of those, 74 percent included sugary drinks (soda, lemonade, sugar-sweetened juice drinks, and other beverages with added sugars) on their kids' menus. 65 percent included juice, 69 percent offered low-fat or fat-free milk, 40 percent offered high-fat (whole or 2 percent) milk, and 13 percent offered bottled water or seltzer (with no added sweeteners).

According to a survey done in 2017 by the National Restaurant Association, 70% of consumers say that they would be more likely to visit a restaurant that offers healthful options^{iv}. In addition, majority of restaurant operators believe that healthful menu options will be more popular in the future. The trend has started with a few large chains and it is time for all restaurants to help our keiki and offer healthier beverage choices.

Percent of restaurant operators, by type of operation, who believe healthy food or healthy kids' meals will get more popular on menus in the future



Source: National Restaurant Association, 2017 Food and Menu Trends Survey

An educational campaign must be accompanied by policy change

This measure benefits public health by making the healthy choice the easy choice. Parents simply want more healthy choices for their kids and to cut down on those familiar requests for sugary drinks. "Healthy-by-default" makes it easier for parents to provide a healthy beverage for their kids and gives us an opportunity to engage restaurants, community groups and the

public around the importance of offering healthy beverage options to young children. It's a step in the right direction.

HIPHI is willing and able to partner with the State Department of Health to educate the public on the implementation of this law. The culture of sugary drinks leads to poor health. California including thirteen jurisdictions have already enacted healthy by default beverage legislation.

SB549 SD1 HD1 is an important step in the right direction and helps parents and kids make healthy decisions about what to drink. We respectfully ask you pass this measure out of committee.

Mahalo,



Jessica Yamauchi, MA
Executive Director

ⁱ Created by the legislature in 2012, the Obesity Prevention Task Force is comprised of over 60 statewide organizations, and works to make recommendations to reshape Hawai'i's school, work, community, and health care environments, making healthier lifestyles obtainable for all Hawai'i residents. The Hawai'i Public Health Institute (HIPHI) convenes the Task Force and supports and promotes policy efforts to create a healthy Hawai'i.

Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ This study by Ward Research, Inc. summarizes findings from a phone survey among n=812 Hawaii registered voters (maximum sampling error +/-3.3%), conducted between November 5 - 30 2018.

ⁱⁱⁱ Center for Science in the Public Interest, Slow Drip: Soda Declining on Kids' Menus, from <https://cspinet.org/news/slow-drip-soda-declining-kids'-menus-20170724>

^{iv} National Restaurant Association. Healthy foods drive dining choices, July 25, 2017 from https://www.restaurant.org/Articles/News/Batch2_201901/State-of-the-Industry-Healthy-foods-drive-dining-c

List of Testifiers in Strong Support of SB 549 SD1/HD1, Relating to Healthy Beverages for Children

Michelle Gray	Leila Ventar
Tenaya Jackman	Patricia Blair
Ota Ropa	Shelly Ogata
Michael Kellar	Shay Chan Hodges
Camille Chong	Shani Gacayan
Pualei Kaohelaulii	Suzanne Fields
Melissa Rodrigues	Patricia ornellas
Laurel Leslie	M. Cayton
Christopher La Chica	Lauren Loor
Ronald Kuriki	Bryan Mih
Normand Dufresne	Patricia Fleck
Kimberly Gay	Joseph Kaholokula
Diane Omura	Shayda Marciel
Cristeta Ancog	Aly Hite

Dear House Committee on Consumer Protection and Commerce,

The Honorable Roy Takumi, Chair

The Honorable Linda Ichiyama, Vice Chair Members of the House Committee on Consumer Protection and Commerce

Hrg: March 28, 2019 at 2:00 PM at Capitol Room 329

I strongly support SB549 SD1 HD1, which promotes healthy beverage options by making the default beverage offered in restaurants with children's meals a healthy drink.

This bill will help support families by providing more healthy choices for kids. Instead of getting a sugary drink by default, the meal will come with water, milk or 100% fruit juice or vegetable juice. Sugary drinks are the single largest source of added sugars in our kids' diets, making up half of all sugars consumed. Soda and fruit punch are already too high in sugar for kids, yet it is usually the default beverage served with children's meals. Consuming just one sugary drink a day significantly increases a child's risk to type 2 diabetes, becoming overweight, and developing tooth decay. It is never too early for children to practice healthy eating habits such as eating well and exercising regularly. Food establishments are an ideal venue for children to practice these healthy habits and to make it easy for families to make the healthy choice.

Our keiki are sweet enough. This is a step in the right direction to support parents' efforts to protect their children's health. I strongly support SB549 SD1 HD1 and respectfully ask you to pass this out of committee.

SB-549-HD-1

Submitted on: 3/27/2019 9:58:04 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carol R. Ignacio	Individual	Support	No

Comments:

Aloha kakou,

The passage of SB549 is critical to the health of our keiki. Please pass SB549. Mahalo

Carol R. Ignacio

District 1

SB-549-HD-1

Submitted on: 3/23/2019 11:12:37 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keikilani Uehara	Individual	Support	No

Comments:

SB-549-HD-1

Submitted on: 3/23/2019 8:55:06 PM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Prestler Chang	Individual	Support	No

Comments:

My name is Jessica Chang. I am a mother of two young children and a registered dental hygienist. I grew up here and have come to know the relationship between sugar sweetened beverages and early childhood caries (AKA cavities). I was a volunteer screener for the 2018 CDC program, collecting oral health data from children in the head start programs (average age 3). The incidence of childhood caries here is both alarming and heart breaking; the worst in the nation. With the absence of fluoridated water, poor attention to hygiene, and high sugar consumption I've seen young children with rampant caries (decay on every tooth). It is of major concern because tooth decay is an active disease that affects the entire body.

If we want change, we should support legislative measures like SB549. There's really no benefit in serving children sugar sweetened beverages by default. Furthermore passing this measure should spark thought about overall dietary decisions.

Thank you for your considerations,
Jessica Chang, RDH BA

SB-549-HD-1

Submitted on: 3/24/2019 9:56:49 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaimana Brummel	Individual	Support	No

Comments:

SB-549-HD-1

Submitted on: 3/25/2019 7:27:06 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Hayashi	Individual	Support	No

Comments:

SB-549-HD-1

Submitted on: 3/25/2019 8:56:57 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Molly Mamaril	Individual	Support	No

Comments:

SB-549-HD-1

Submitted on: 3/25/2019 10:00:44 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cyrus Howe	Individual	Support	No

Comments:

SB-549-HD-1

Submitted on: 3/25/2019 11:42:24 AM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carissa Holley	Individual	Support	No

Comments:

Strongly supporting the healthy default beverages bill. I am a mother of 2 keiki, and feel like I'm fighting a social norm of sugar-sweetened beverages. Passing this bill would send a powerful message to keiki that health, our bodies, and what we put in our bodies, is held high. Please pass this bill.

SB-549-HD-1

Submitted on: 3/25/2019 6:00:55 PM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Colleen Inouye	Individual	Support	No

Comments:

Chair Takumi and Vice-Chair Ichiyama and Members of the Committee on Consumer Protection and Commerce,

I strongly support SB549 SD1 HD1. This bill allows for healthy beverages as a default option in restaurants when children/parents order kid meals.

In 2017 the adult obesity in Hawaii was 23.8%. This was an increase from 2000 when it was 15.7%. For 10-17 year-olds the obesity rate in 2017 was 14%. In 2016 it was 11%. This increase is just over one year! Yes, we could just tell obese patients to lose weight; however, any one of us knows how difficult losing weight is. **We need to make patient choice easier and healthier.** Obese children are more likely to become obese adults. On Maui, the Community Health Needs Assessment showed that 24.3% of adults are obese with half being Native Hawaiian and the next vulnerable group being Filipino. We need to stop the progression to obesity early and protect our vulnerable population groups. Obesity is the root cause of diabetes, heart disease, and cancer. If you do not stop the road to obesity early, you will pay for these chronic conditions later.

Again I strongly support SB549 SD1 HD1 and respectfully ask that you support and pass it, too.

Sincerely,

Colleen F Inouye MD MMM CPE FAAPL FACOG Jefferson Univ Population Health

SB-549-HD-1

Submitted on: 3/25/2019 10:14:48 PM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kirstin Kahaloa	Individual	Support	No

Comments:

Aloha! Please support!!! This is so very important for the health of our keiki and families. Mahalo for your support of healthy beverages as the default for keiki meals.

Date: March 25, 2019

To: The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

Re: **Strong Support of SB549 SD1 HD1**, Relating to Healthy Beverages for Children

Hrg: March 28, 2019 at 2:00 PM in Capitol Room 329

Aloha House Committee on Consumer Protection & Commerce,

As a parent, member of the community and health professional, I am writing in **strong support of SB549 SD1 HD1**, which requires restaurants that sell children's meals that include a beverage to make the default beverage a healthful beverage.

Sugary drinks are the single largest source of added sugars in our kids' diets, making up half of all sugars consumed.

This bill supports families by making healthful beverage choices for kids easy. Instead of getting a sugary drink by default, children's meals will come with water, milk or 100% fruit juice or vegetable juice.

Soda and fruit punch are already too high in sugar for kids, yet are usually the default beverage served with children's meals. Consuming just one sugary drink daily significantly increases a child's risk to type 2 diabetes, becoming overweight, and developing tooth decay.

It is never too early for children to practice healthful habits such as eating well and exercising regularly. Food establishments are an ideal venue for children to practice healthful eating habits and to make it easy for families to make healthful choices.

Our keiki are sweet enough. This is a step in the right direction to support parents' efforts to protect and support their children's health.

I **strongly support SB549 SD1 HD1** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

SB-549-HD-1

Submitted on: 3/26/2019 2:08:53 PM

Testimony for CPC on 3/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laksmi M Abraham	Individual	Support	No

Comments:

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LJ Duenas
Hawaii Director
American Diabetes Association

March 27, 2019

Rep. Roy Takumi, Chair
Rep. Linda Ichiyama, Vice Chair
Committee on Consumer Protection and Commerce
House of Representatives

RE: TESTIMONY IN SUPPORT OF SB 549

The American Diabetes Association (Association) supports legislative bills intended to promote type 2 diabetes prevention and persuade strategies to improve health outcomes. We encourage you and your committee to support such measures.

Today, 21 people in Hawaii will be diagnosed with diabetes, 8,000 yearly! This disease is one of the most serious, common, and costly diseases in the United States; costing us over \$322 billion annually. Sugary drinks can significantly increase a person's risk for chronic diseases such as type 2 diabetes, obesity and heart disease; they (sugary drinks) are the single largest source of added sugars in our kids' diets, making up half of all sugars consumed. Efforts are needed to bring awareness to health issues associated with excessive sugar consumption, and policies to help discourage such behaviors.

The Association supports SB 549 which promotes healthy meal options by making the default beverage offered in children's meals a healthy drink and we ask you to pass this out of committee. We believe SB 549 will reduce consumption of sugary drinks, effectuate changes, and improve the health outcomes of our keiki. Help us make the healthy choice the easy choice.

On behalf of the American Diabetes Association and those we serve, we ask for your support of this bill.

Warmest aloha,



LJ Duenas, Hawaii Director
American Diabetes Association



21 people
are diagnosed with
diabetes every day
in Hawaii

March 27, 2019

To: Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair
House Committees on Consumer Protection and Commerce

LATE

From: Laura Nevitt, Policy Director
Hawaii Children's Action Network

Re: **S.B. 549, SD1, HD1– RELATING TO HEALTHY BEVERAGES FOR CHILDREN Hawaii**
State Capitol, Room 329, March 28, 2019, 2:00 PM

HCAN is committed to improving lives and being a strong voice advocating for Hawai'i's children. We SUPPORT S.B. 549, SD1, HD1 , which would requires restaurants that sell children's meals that include a beverage to make the default beverage a healthy beverage.

* Sugary drinks are the single largest source of added sugars in our kids' diets, making up half of all sugars consumed. Soda is already too high in sugar for kids, yet it is usually the default beverage served with children's meals. Consuming just one sugary drink a day significantly increases a child's risk to type 2 diabetes, becoming overweight, and developing tooth decay. With restaurants and fast-food establishments becoming a convenient and popular option for many families, dining out options can affect a child's diet, making this policy particularly effective in improving children's health

* SB549 will help support families by providing more healthy choices for kids. Instead of getting a sugary drink by default, the meal will come with water or milk. It is never too early for children to practice healthy eating habits such as eating well and exercising regularly. Food establishments are an ideal venue for children to practice these healthy habits and to make it easy for families to make the healthy choice.

* Passage of SB549 will make Hawai'i the second healthy by default state, after California. Our keiki are sweet enough. This is a step in the right direction to support parents' efforts to protect their children's health.

For these reasons, HCAN asks that you pass S.B 549, SD1, HD1.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education.