



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of SB2726 SD1
RELATING TO THE DEPOSIT BEVERAGE CONTAINER FEE**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Hearing Date: 2/19/2020 Room Number: 229

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities if inflation and handling fee payments outpace the amount of container fees
4 collected.

5 **Department Testimony:** The Department supports SB2726 SD1 to adjust the deposit beverage
6 handling fee annually by the percentage that the current Consumer Price Index (CPI) for All
7 Urban Consumers in the Honolulu area exceeds the previous year's CPI for All Urban
8 Consumers as published by the federal Bureau of Labor Statistics. Rising costs in the State can
9 outpace inflation at the federal level and accounting for this difference may assist the Department
10 in effectively implementing the Deposit Beverage Container Program.

11 The Department is currently updating its handling fee for State Fiscal Year 2021, and the
12 Department's contractor has already been instructed to incorporate the CPI variance, in addition
13 to other factors like labor, transportation, and healthcare costs.

14 **Offered Amendments:** None.

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



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. 2726 S.D. 1, RELATING TO THE DEPOSIT BEVERAGE CONTAINER FEE.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Wednesday, February 19, 2020 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Written Testimony Only

Chair Baker and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill provides for the adjustment of the handling fee under section 342G-117, Hawaii Revised Statutes (HRS), instead of the adjustment to the deposit beverage container fee under section 342G-102, HRS, that was proposed in the bill as introduced. The bill's title, however, is "RELATING TO THE DEPOSIT BEVERAGE CONTAINER FEE." Since the substance of the bill is not related to its title, the bill appears to violate article III, section 14 of the Hawaii Constitution, which provides in part that, "[e]ach law shall embrace but one subject, which shall be expressed in its title."

Based on this constitutional issue, we suggest that the bill be held unless it is amended to address deposit beverage container fees.

Thank you for the opportunity to provide this testimony.



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

Executive Officers

Joe Carter, Coca-Cola Bottling of Hawaii, *Chair*
Charlie Gustafson, Tamura Super Market, *Vice Chair*
Eddie Asato, The Pint Size Corp., *Secretary/Treas.*
Lauren Zirbel, HFIA, *Executive Director*
John Schlif, Rainbow Sales and Marketing, *Advisor*
Stan Brown, Acosta Sales & Marketing, *Advisor*
Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Beau Oshiro, C&S Wholesale Grocers, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*

TO:

Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: February 19, 2020
TIME: 10am
PLACE: Conference Room 211

RE: SB2726 SD1 Relating to the Deposit Beverage Container Fee

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is opposed to this bill because we believe it is necessary to fix the glaring and substantial problems with the HI5 program before asking consumers to contribute even more of their hard-earned money into this program.

This program has failed multiple audits to an alarming degree. We encourage legislators to read the auditor's summary and full report here:

<https://auditor.hawaii.gov/summary/report-no-19-08-financial-and-program-audit-of-the-department-of-healths-deposit-beverage-container-program-june-30-2018/>

Auditor's Report No. 13-08, November 2013 states that, "the program paid out \$28 million more in handling fees than it collected in container fees." Auditor's Report No. 15-02, April 2015 states that, "In FY2014, the program paid \$2.8 million in deposit refunds for approximately 3.5 million pounds of recycled materials that it could not account for."

In the most recent Auditor's Report No. 19-08, March 2019 it states that:

“On October 2, 2018, KMH's staff auditor redeemed glass bottles, which the redemption center determined weighed 5.1 pounds. The staff auditor was paid \$0.61. However, after the visit, 32.8 pounds of aluminum cans and 12.8 pounds of plastic containers were added to the cash receipt log, adding \$52.48 and \$16.83 respectively to the total. As a result, instead of \$0.61, the redemption center requested and was reimbursed \$69.31 by the State. Two days later, on October 4, 2018, the staff auditor redeemed plastic containers, which the redemption center determined weighed three pounds. The staff auditor was paid \$3.95, but 6.9 pounds of aluminum cans were added to the cash receipt log, which added \$11.04 to the total. The redemption center was reimbursed \$14.99 instead of \$3.95.”

Before we ask consumers to contribute more money towards this regressive fee system, we must be able to reasonably assure consumers that these issues have been resolved. If we do not, we are simply throwing more money into a bottomless bucket.

Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Index Deposit Beverage Container Handling Fee

BILL NUMBER: SB 2726, SD-1

INTRODUCED BY: Senate Committee on Agriculture and Environment

EXECUTIVE SUMMARY: Annually adjusts the deposit beverage container handling fee based upon percentage changes in the Consumer Price Index for the Honolulu area.

SYNOPSIS: Amends section 342G-117, HRS, to provide that beginning on August 1, 2021, and every August 1 thereafter, the deposit beverage container fee shall be changed by the percentage, if any, by which the Consumer Price Index for All Urban Consumers in the Honolulu area published by the Bureau of Labor Statistics of the federal Department of Labor for that calendar year exceeds the Consumer Price Index for All Urban Consumers for the prior calendar year.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This bill ties increases in the container fee to an index, just like how tax brackets at the federal level are indexed. The trouble is that the deposit beverage handling fee is one cent now, and it would have to go up 100% to get to the next cent. That would take some time. The chart on the next page, from the U.S. Bureau of Labor Statistics, shows that the year-over-year changes to the CPI-U index are typically in the -2.5% to 5% range. It may make sense for retailers or recycling companies that handle thousands of bottles a day to compute the fee to several decimal places, but that would make no sense as applied to the typical retail consumer.

Rather than worry about tiny fractions of a cent, it may make sense to focus attention on the operation of the program and preventing fraud, waste, and abuse as has been documented in the State Auditor's Report Nos. 15-02, 17-02, 19-08, and several others. The Auditor's Summary of Findings in its latest report states:

This is the seventh biennial financial and program audit of the Program since its inception. As in the prior years' audits, we have found that the Program has failed to develop and execute procedures to verify the accuracy and completeness of data used to prepare the required forms that determine:

1. Deposits and container fees paid to the Program by the distributors
2. Deposits and handling fees paid to the redemption centers

Because procedures were not developed and executed to verify the accuracy of critical self-reported data, the Program has essentially relied upon and accepted that cash receipts from the distributors and payments made to redemption centers were accurate and complete.

Due to this failure of the Program to validate the accuracy and completeness of critical data, our testing has found inaccuracies and possible fraudulent reporting in the data used in the aforementioned calculations. Our testing revealed the following:

1. There were differences noted between the amounts reported on the Monthly Distribution Report Form and the distributor's supporting records
2. There potentially exists fraudulent overpayments of deposit refund reimbursements to redemption centers

Given the discrepancies noted in the prior years' audits and the discrepancies noted above and considering the limited sample testing performed, there are concerns as to whether the amounts being remitted by the distributors or amounts paid to the redemption centers are appropriate.

State Auditor's Report No. 19-08, p. 15.

Also, there may be a title problem with the current draft. The committee report states that the bill as introduced indexed the deposit beverage container fee (the refundable 5 cents) as described in HRS section 342G-102, but the real intent was to index the deposit beverage container program handling fee (the nonrefundable 1 cent) described in HRS section 342G-117. The title of the bill, however, is "A Bill for an Act Relating to the Deposit Beverage Container Fee."

Digested 2/16/2020



To
Senate Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Wednesday, February 19, 2020; 10:00 am
Conference Room 229

From: Bruce Iverson, Director of Marketing and Development,
Reynolds Recycling, Inc.

Testimony in Support of **SB2726 S.D.1** Relating to Deposit Beverage Container Fee

Reynolds Recycling, as Hawaii's largest bottle and can recycler, **supports the intent of SB 2726 S.D.1**

This bill would help support the Recyclers with an increase in the handling fee amounts they are paid by the state as they do the actual work of recycling within the state. The Handling Fee is what the recyclers depend upon to pay for the recycling infrastructure

The Handling Fee, started in 2005, was not adjusted (except for Glass) until 2019. That adjustment was based on a two-year study which was not implemented for another year, so the data was already 3 years old when the increase in handling fees went into effect. While handling fees stayed stagnant business costs increase yearly, this discrepancy forced recycling companies to cut costs by reducing locations, and amounted to an almost 40% drop in the number of recycling locations available to the public. Fewer recycling locations caused residents to have to travel further, creating longer wait times, greater employee burnout, and ultimately causing lower recycling rates.

Examining the Handling Fee on an annual basis would keep the recycling industry strong and enable them to continue to operate a recycling network that adequately services the public throughout the state. Convenience is one of the major reasons people decide to recycle or not.

Because of the above we **support the intent of SB 2726 S.D.1.**



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

**Before the Senate Committee on Commerce, Consumer Protection, and Health
Opposition to S.B. 2726, SD 1 – Relating to the Deposit Beverage Container Fee
February 19, 2020**

Good morning Chair Baker, Vice Chair Chang and members of the committee. Thank you for the opportunity to comment in opposition to S.B. 2726, SD 1 – relating to the deposit beverage container fee.

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 nearly 1,200 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.

Overview of the Deposit and Redemption Process

- The HI-5 program requires deposit beverage distributors to pay a 5-cent “deposit” and 1-cent non-refundable “container fee” to the HI-5 program;
- In turn, distributors shall pass on the 6-cent costs to dealers or consumers;
- The 1-cent “container fee” helps to provide Program operational support, Program administration, and redemption center handling fees;
- Consumers or redeemers turn in empty containers to redemption centers and can only claim the 5-cent “deposit” amount (the 1-cent “container fee” is non-refundable to consumers);
- Redemption centers then deliver containers to recycling facilities and obtain reimbursement for the 5-cent “deposit” and also an additional “handling fee” on a sliding scale rate for aluminum, glass, plastic and bi-metal containers as well different rates depending on the Island.
- In addition to receiving the “handling fee” per container, redemption centers also keep the value of the commodities which is a significant source of revenue for aluminum and PET.

Fix the HI-5 Program Before Pouring More Public Money into the Program

The State Auditor's biennial audit of the HI-5 program continually calls for improving efficiencies of the program, including the need to address the potential for millions of dollars in annual redemption center fraud. Before more public money is poured into the program, improving the efficiencies and oversight of the HI-5 program need to be undertaken.

Redemption Center Audits Detail Major Concerns

- The state Department of Health ultimately paid \$543,374 for audits of its beverage container redemption centers that were "of little value,"...
- In 2013, the state audit showed the HI-5 redemption program paid out \$6.2 million in deposit funds between fiscal 2010 to 2012 for nearly 7.5 million pounds of material that could not be accounted for.

Higher Handling Fees Would Siphon from HI-5 Program Fund Balance and Could Require Increased Costs to Consumers

If the handling fees do increase it would likely lead to more redemption centers opening, more redemption returns, and lower volumes at existing centers (which drives up their cost starting the vicious cycle all over again).

The HI-5 program fund could likely not withstand higher handling fees and a higher redemption rate. The result would be the need for the legislature to approve a tax increase on consumers by increasing the deposit or deposit container fee by 50% - 100%.

DOH Already Authorized to Evaluate Handling Fee

One-size Fits All Automatic Annual Increased Handling Fee Is Not the Solution

Hawai'i Revised Statutes, Chapter 342G-177 states that the department shall evaluate the handling fee at least once a year. This annual evaluation is able take into account the variety of factors impacting the HI-5 program, both globally and locally.

Not all redemption centers are the same. There is a wide degree of variability among redemption center operations and locations: urban versus rural; Oahu versus neighbor island; processor versus non-processor, multiple sites versus single location; stand-alone redemption center versus part of other business activity, etc.

No business, government or entity should automatically receive an annual funding increase.

Sincerely,
David Thorp

SB-2726-SD-1

Submitted on: 2/17/2020 1:02:22 PM

Testimony for CPH on 2/19/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support SB2726. The beverage container program is vital to Hawaii's environment.

Thank you for your time and the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei, Maui

SB-2726-SD-1

Submitted on: 2/16/2020 2:17:06 PM

Testimony for CPH on 2/19/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Oppose	No

Comments:

After reading the testimonies it appears the special fund already is in excess. The 2019 special fund account ledger should be transparent. An estimated assessment at the least should be available.

If there is a \$42 million dollar surplus what do you need more? Can the public see your budget for 2020?

342G-104 Deposit into deposit beverage container deposit special fund; use of funds.
(c) Any funds that accumulate in the deposit beverage container deposit special fund shall be retained in the fund unless determined by the legislature to be in excess.

HAS EXCESS BEEN DEFINED?

Here are two testimonies that speak a lot about why this should be opposed:

Testimony of Tax Foundation of Hawaii:

The Auditor's Summary of Findings in its latest report states:

This is the seventh biennial financial and program audit of the Program since its inception. As in the prior years' audits, we have found that the **Program has failed to develop and execute procedures to verify the accuracy and completeness of data used to prepare the required forms that determine:**

- 1. Deposits and container fees paid to the Program by the distributors**
- 2. Deposits and handling fees paid to the redemption centers**

Because procedures were not developed and executed to verify the accuracy of critical self-reported data, the Program has essentially relied upon and accepted that cash receipts from the distributors and payments made to redemption centers were accurate and complete possible fraudulent reporting in the data used in the aforementioned calculations. Our testing revealed the following:

1. There were differences noted between the amounts reported on the Monthly Distribution Report Form and the distributor's supporting records

2. There potentially exists fraudulent overpayments of deposit refund reimbursements to redemption centers.

Given the discrepancies noted in the prior years' audits and the discrepancies noted above and considering the limited sample testing performed, there are concerns as to whether the amounts being remitted by the distributors or amounts paid to the redemption centers are appropriate.

State Auditor's Report No. 19-08, p. 15.

American Beverage Association testifies that:

HI-5 Program Equity: \$41.9 Million

In FY 2018, the Program had revenues of \$24.6 million and expenditures of \$17.5 million, resulting in a \$7.1 million increase in fund balance to \$37.7 million at June 30, 2018.

The Program's container deposit liability increased to \$1.9 million at June 30, 2018. To refund deposits and to pay for other liabilities and expenses, the Program had \$41.9 million in equity in cash and cash equivalents and investments in State Treasury at June 30, 2018.

Financial and Program Audit of the Department of Health's Deposit Beverage Container Program, June 30, 2018.

Increasing HI-5 Container Fee is Unnecessary and Harmful to Consumers

The HI-5 program has nearly \$42 million in equity as of June 30, 2018. The State Auditor's biennial audit of the HI-5 program continually calls for improving efficiencies of the program, including the potential for millions of dollars in annual redemption fraud.

Before consumers are asked to pay even more for their beverages into a program that has a nearly \$42 million balance, improving the efficiencies and oversight of the HI-5 program need to be undertaken.

