



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

WRITTEN
TESTIMONY ONLY

**Testimony COMMENTING on SB0180 SD1
RELATING TO DEPOSIT BEVERAGE CONTAINERS**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 2/26/2021

Room Number: Via Videoconference

1 **Fiscal Implications:** This measure will 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 the Department establishes additional redemption centers funded by the
4 Deposit Beverage Container (DBC) Special Fund. The DBC Special Fund may also be
5 significantly impacted if inflation or handling fee payments outpace the amount of deposit
6 beverage container fees collected.

7 **Department Testimony:** SB0180 SD1 amends Hawaii Revised Statutes (HRS) Section 342G-
8 113, subsections (b)(1) and (d), to reduce the high-density population area dealer exemption
9 from two miles to one mile of a certified redemption center, and for the Department to partner
10 with the respective County to establish certified redemption centers, if necessary. This will
11 potentially reduce the distance between certified redemption centers and may increase the
12 number of certified redemption centers, making it more convenient for the public to participate
13 in the recycling program.

14 SB0180 SD1 also amends HRS Section 342G-117, subsections (b) and (c), to annually
15 adjust the deposit beverage container handling fee by the applicable percentage change in the
16 Consumer Price Index (CPI) for All Urban Consumers in the Honolulu area published by the
17 federal Bureau of Labor Statistics.

18 In March 2020 the Department reviewed and updated its DBC handling fees for Fiscal
19 Year (FY) 2021. This update incorporated the CPI, in addition to other factors like wages,

1 transportation, and healthcare costs, into a final handling fee determination. The handling fee for
2 aluminum increased by 10.68%, the glass handling fee increased by 11.75%, the plastic handling
3 fee increased by 10.69%, and the bi-metal handling fee increased by 10.68%. In 2020, shipping
4 costs to the neighbor islands increased significantly, in part due to the pandemic. Using the
5 previous year's CPI may not capture these fluctuations in operating costs.

6 The Department estimates that implementing a mandated annual increase in the handling
7 fee will lead to expenses outpacing revenue. The Department's handling fee consultants estimate
8 that by FY24 the Department will dip into its reserves, and soon thereafter the Department may
9 need financial assistance by Legislative appropriation, or increases to the one-cent container fees,
10 to accommodate the mandatory annual handling fee increase while continuing to refund
11 consumers for their recycling efforts.

12 **Offered Amendments:** None.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Indexes deposit beverage handling fee for inflation

BILL NUMBER: SB 180, SD1

INTRODUCED BY: Senate Committee on Agriculture and Environment

EXECUTIVE SUMMARY: Exempts a beverage dealer who is in a high-density population area from operating a redemption center if the dealer is located within one mile of a certified redemption center operated independently of the dealer. Requires the department of health to annually adjust the handling fees for the deposit beverage container program to an amount not less than the handling fee in the prior calendar year as adjusted by percentage changes in the Consumer Price Index for the Honolulu area. Takes effect on 7/1/2024.

SYNOPSIS: Amends section 342G-113, HRS, to exempt a beverage dealer in a high-density population area from operating a redemption center if there is already a certified redemption center within one mile of the dealer's location. (The existing law exempts a dealer if there is a certified redemption center within two miles.)

Amends section 342G-117, HRS, to index the handling fee to the Consumer Price Index for All Urban Consumers (CPI-U) in the Honolulu area.

Makes other technical and conforming amendments.

EFFECTIVE DATE: 7/1/2024.

STAFF COMMENTS: This bill ties increases in the container fee to an index, just like how tax brackets at the federal level are indexed. Data from the U.S. Bureau of Labor Statistics show 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 or mom-and-pop retailer.

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.

More should be done to prevent illegal diversion or waste of money in this program before more hard-earned taxpayer dollars are thrown at it.

Digested 2/24//2021



**Written Testimony of
David Thorp, American Beverage Association
Before the Senate Committee on Ways & Means
Opposition to S.B. 180, SD 1 – Relating to Deposit Beverage Containers
February 26, 2021**

Good morning Chair Dela Cruz, Vice Chair Keith-Agaran and members of the committee. Thank you for the opportunity to comment in opposition to S.B. 180, SD 1. I am David Thorp, senior director of government affairs for the American Beverage Association (ABA). ABA is the trade association representing the non-alcoholic beverage industry.

S.B. 180, SD 1 seeks to REQUIRE an annual increase the HI-5 program’s handling fee according to the Consumer Price Index (CPI).

An automatic annual handling fee is neither warranted nor justified:

1. Honolulu County handling fees increased by 50% - 75% in July 2019;
2. Handling fees increased by an additional 10.7% - 11.8% in July 2020;
3. Handling fees for 2019 and 2020 went up so much because the calculations ignore the substantial scrap revenue of aluminum and plastics;
4. Redemption center audits detail major concerns about fraud;
5. DOH is already authorized to annually *evaluate* the handling fees.

1. Honolulu County handling fees increased by 50% - 75% in July 2019:

- a. Aluminum: Increased 50% from 2-cents to 3-cents per container;
- b. Plastic: Increased 75% from 2-cents to 3.5-cents per container;
- c. Glass: Increased 75% from 4-cents to 7-cents per container

2. Honolulu County handling fees increased by an additional 10.7%-11.8% in July 2020:

- a. Aluminum: Increase 10.7% from 3-cents to 3.3-cents per container;
- b. Plastic: Increase 10.7% from 3.5-cents to 3.9-cents per container;
- c. Glass: Increase 11.8% from 7-cents to 7.8-cents per container

3. Handling fees are higher because scrap revenue of aluminum and plastics is ignored in handling fee calculations:

- a. 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. While the scrap value of aluminum and PET do fluctuate because they are

commodities, aluminum can be worth about \$900 per ton and PET can be worth about \$200 per ton, which is revenue that goes directly to redemption centers.

- b. Crowe, LLP evaluated the handling fee for the Dept. of Health. The initial handling fee study results were modified to exclude the scrap value of aluminum and plastic from the handling fee calculation, which resulted in higher handling fees than are justified:

*“Crowe and the DOH ultimately decided to remove the scrap revenue per container from the handling fee calculation...**The result is that handling fees are higher than they would have been** had DOH utilized the equation on the prior page [including the scrap value].”*

<https://health.hawaii.gov/hi5/files/2019/06/Hawaii-Handling-Fee-Summary.pdf>

4. Redemption Center Audits Detail Major Concerns About Fraud

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:**

- 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.*

5. DOH Is Already Authorized to Evaluate Handling Fee

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.

For the above reasons, ABA respectfully requests that this bill be held.

Sincerely,
David Thorp

LATE



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

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TO:

Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 26, 2021
TIME: 9:30am
PLACE: Via Videoconference

RE: SB180 SD1 Relating to Deposit Beverage Containers

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 in opposition to this measure. We believe that prior to making any changes to the handling fee it is necessary to fix the existing problems with the HI5 program. Increasing the handling fee means asking consumers to contribute even more of their hard-earned money into the State's recycling system, which is an unfair request given the systemic problems that persist in the State's current recycling programs.

Unfortunately, the HI5 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." These issues, identified years ago, have not been addressed.

We also oppose language in the measure that would change the redemption center exemption distance for a retailer in a high-density area from 2 miles to 1 mile. The bill does not provide reasons for why this change would be necessary or beneficial. Forcing retailers in our urban core to give up space to be used as a redemption center when there are already plenty of other redemption centers close by is not the right choice. Forcing this change on our local businesses can mean having to eliminate parking for customers or making other changes that adversely impact businesses and consumers.

It is also important to note that most retailers do not control the space in which they operate their stores. Landlords have strict rules about what types of behavior is allowed on their property. In many cases landlords do not sanction the collection of bottles or other waste in large quantities inside or outside the premise of a retail location because of sanitation issues.

We ask that his measure be held, and we thank you for the opportunity to testify.