

**HB 2239,**

**SD1**

**Testimony**

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:  
GARY M. SLOVIN  
ANNE T. HORIUCHI  
MIHOKO E. ITO  
CHRISTINA ZAHARA NOH

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET  
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196  
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880  
info@goodsill.com • www.goodsill.com

INTERNET:  
gslovin@goodsill.com  
ahoriuchi@goodsill.com  
meito@goodsill.com  
cnoh@goodsill.com

**MEMORANDUM**

**TO:** Senator Donna Mercado Kim  
Chair, Committee on Ways and Means  
**VIA EMAIL: WAMTestimony@Capitol.hawaii.gov**

**FROM:** Gary M. Slovin/Mihoko E. Ito

**DATE:** March 30, 2010

**RE: H.B. 2239, S.D.1 – Relating to The Deposit Beverage Container Program  
Decision Making: Wednesday, March 31, 2010 at 9:30 a.m.**

---

Dear Chair Kim and Members of the Committee:

On behalf of the **Distilled Spirits Council of the United States** (“**DISCUS**”), a national trade association representing producers and marketers of distilled spirits sold in the United States, we submit the following comments.

**DISCUS opposes H.B. 2239 SD1**, to the extent that this measure seeks to include hard spirits and wine containers in the definition of “deposit beverage.”

Distilled spirits are already assessed significant taxes and fees in Hawai‘i, including a one and one half cent advance disposal fee per glass container. For a typical bottle of distilled spirits sold here, 25% percent of the retail price goes to pay State and local taxes and fees. When factoring in federal requirements, 51% of the purchase price of each bottle of distilled spirits goes toward taxes and fees.

As noted, in addition to the taxes assessed on distilled spirits, glass bottles including distilled spirits are already assessed an advance disposal handling fee. The revenues generated from these advance disposal fees are deposited into a special account in the environmental management fund (per Hawai‘i Revised Statutes §342G-84). These moneys are used to fund county glass recovery programs, thus *already* performing the intended function of H.B. 2239, S.D.1, which is to prevent litter caused by wine and spirits bottles.

March 30, 2010

Page 2

Including wine and distilled spirits to the deposit beverage container program will create added logistics and costs, and will not be worth the revenue it might generate. Labels for each bottle would need to be changed and these goods would need to be assessed higher prices. This is why the vast majority of states with “bottle bills”—including California—*do not* include wine and distilled spirits.

For these reasons, we respectfully ask that the Committee hold H.B. 2239, S.D.1.

Thank you for the opportunity to submit comments regarding this measure.



## HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1188 Bishop St., Suite 608, Honolulu, Hawaii 96813  
Phone (808)533-1292 - Fax (808)599-2606 - Email: hawaiifoodind@aol.com

Wednesday March 31, 2010 @ 9:30 a.m. in CR 211

To: Senate Committee on Ways & Means  
Senator Mike Doonna Mercado Kim, Chair  
Senator Shan S. Tsutsui, Vice Chair

By: Richard C. Botti, President  
Lauren Zirbel, government Relations

### HB 2239 SD1 RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM

Chairs & Committee Members:

The Hawaii Food Industry Association opposes this bill.

We oppose this measure, as it merely addresses the symptom rather than the problem.

Glass has little value, but is necessary for packaging. Thus we can't ban glass. Spending millions of dollars to collect glass to recycle is not only cost ineffective, it does not make sense, since there is so much of it, and it has little recycling value. In fact, we believe it to have a negative value, based on our experience with it over the past fifteen years when the first glass ADF (Advance Disposal Fee) came into existence in Hawaii at the initiation of the Hawaii Food Industry Association. It cost too much to collect, too much to ship, and in essence, it is only good for creating low paying jobs. Anything we have to ship back to the Mainland other than aluminum is wasting resources.

We need to get glass out of the waste stream, and we need to use it in Hawaii for a useful purpose. We believe the answer to pulverize glass for use as sand locally, in both construction and to replenish our beach sand being lost via erosion.

We have identified the problem, and a need. Next comes to how to collect glass, make it back into sand, and replenish one of our most valuable resources, the beaches. To accomplish this, we don't have to re-invent the wheel. It is being done in Florida. What we do have to do is re-invent how we collect the glass. Our recommendations are as follows;

- Remove glass from the Beverage Deposit law, and require all glass to once again come under the glass ADF. It is currently 1.5 cents per unit;
- Re-allocate this money to each County as it now is, but require each county to collect glass separately from the waste stream (The Big Island already does this);
- Create a reasonable penalty for disposing of glass with other refuse to encourage

consumers to separate their glass for proper disposal;  
and

- Use the Florida Broward County Office of Integrated Waste Management's Beach Renourishment Pre-Feasibility Study as a starting point to design the Hawaii Beach Renourishment Program.

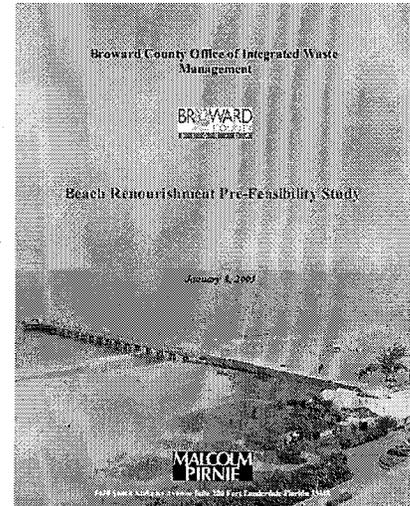
Important issues that should be addressed are:

- Glass will have to be separated by color in order to match the beach requirement, as discussed in the Broward County Study. This can be done up front, or through a MRF (Material Recovery Facility), or by consumers, which would be far less expensive on the system;
- The option of convincing the Professional Golf Assn. (PGA) to allow sand made from glass to be used in sand traps as another alternative.

Glass has no BTU rating as you can see by the charts to the right. Since it will not create energy, it does not belong in the waste stream. It does not burn in HPOWER, and in fact is a negative, because it can melt onto the walls, requiring sandblasting to remove it. It is being suggested that we will be mining our landfills in future years, thus the less glass in our landfills will increase the value of the Btu recovery for use in generating energy.

So, here is a blueprint for solving the environmental problems created by spent glass, while controlling costs, and addressing our beach erosion issue. This is why we oppose HB 2239. It addresses the symptom of one challenge, while we are looking at addressing three issues:

- Land Fills becoming landfills;
- Increasing the value of landfills as a future source of energy by removing as much glass as possible;
- Glass having little value as a recyclable product;
- Waste to Energy plants can't burn glass; and
- Solving our beach erosion problem.



The Energy Values Of Different Materials When Incinerated\*

| Material                 | **BTU per pound |
|--------------------------|-----------------|
| Plastics                 | 11,000 - 20,000 |
| Rubber                   | 10,000          |
| Newspaper                | 8,000           |
| Corrugated Boxes (paper) | 7,000           |
| Yard Wastes              | 3,000           |
| Food Wastes              | 2,000           |
| Average for MSW          | 4,500 - 4,800   |



\*Source: Council on Plastics and Packaging in the Environment

\*\*BTU stands for British Therand is defined as the amount of heat re-

| Material                 | Btu/(pound) |
|--------------------------|-------------|
| Plastics                 |             |
| PET                      | 10,900      |
| HDPE                     | 19,900      |
| Other Plastic Containers | 16,400      |
| Other Plastics           | 17,900      |
| Rubber                   | 12,800      |
| Newspaper                | 8,000       |
| Corrugated Boxes         | 7,000       |
| Textiles                 | 9,400       |
| Wood                     | 7,300       |
| Average for MSW          | 5,900       |
| Yard Waste               | 2,900       |
| Food Waste               | 2,900       |
| Common Fuels             |             |
| Fuel Oil                 | 20,900      |
| Western Coal             | 9,600       |

March 29, 2010

Via Facsimile

Senator Donna Mercado Kim, Chair  
Senator Shan S. Tsutsui, Vice Chair  
Committee on Ways and Means  
State Senate  
State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Re: H.B. No. 2239 S.D. 1 relating to the Deposit Beverage Container Program

Dear Chair Kim, Vice Chair Tsutsui and Committee Members:

The Hawaii Liquor Wholesalers Association ("HLWA"), respectfully submits the following written testimony in opposition to H.B. No. 2239 S.D.1, relating to the deposit beverage container program, which is scheduled for decision making by your Committee on Ways and Means on Wednesday, March 31, 2010. H.B. No. 2239 S.D.1 would make wine and hard spirits subject to the deposit beverage container program. HLWA believes that H.B. No. 2239 S.D.1 is inappropriate and unworkable for several reasons.

First, wine and spirits already are subject to the advanced disposal fee for glass containers under Part VII of Hawaii Revised Statutes ("HRS") chapter 342G. Specifically, HRS section 342G-82 already imposes an advanced disposal fee of one-and-one-half cents per glass container. Changing fee to, effectively, six cents per bottle, imposes more cost on the consumer.

Second, by statute, the advance deposit fees are to be used for glass incentive or "buy back" programs that provide a means of encouraging participation by the public or private collectors, and the paving of the equivalent of one mile of two lane asphalt roadway as part of a research and demonstration program utilizing glassphalt or glass within any other portion of the pavement section, or other demonstration projects approved by the Department of Health. In addition, county programs may include the collection and processing of glass containers, either through existing county agencies or through external contracts for services, subsidizing the transportation of processed material to off-island markets, the development of collection facilities or the provision of containers for glass recycling, or the incremental portions of multi-material programs, additional research and development programs, including grants to private sector entrepreneurs, especially those activities developing higher value uses for the material, and public education and awareness programs focusing on glass recovery, or the incremental portions of multi-material programs. In contrast the fees for deposit beverage program appear to be intended to be substantially to fund the program itself.

Senator Donna Mercado Kim, Chair  
Senator Shan S. Tsutsui, Vice Chair  
Committee on Ways and Means  
March 29, 2010  
Page 2 of 2

We also note that one of the primary goals of bottle bills is the reduction of litter; however, to our knowledge glass and spirit bottles are not significant sources of litter and including wine and spirit bottles in the bottle bill would have only a marginal impact with respect to litter.

Finally, very few other U.S. jurisdictions impose deposit requirements on wine and spirits, meaning that wine and spirit makers and distributors would need to change their labels to accommodate the requirement of a tiny minority of jurisdictions. For example, California does not include wine and spirits in its deposit program. Imposing this requirement may result in certain products becoming unavailable in the Hawaii market because the cost of changing the labels may exceed the return from Hawaii's relatively small market. Requiring distributors to bear the cost of "Hi5" stickers would be very expensive and burdensome and would result in raising wine and hard spirit costs to the industry and the public.

For the foregoing reasons, we respectively oppose H.B. No. 2239 S.D.1. Thank you for your consideration of the foregoing.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION



By Warren Shon  
Its Vice President



# WINE INSTITUTE

KATIE JACOY  
WESTERN COUNSEL

March 31, 2010

**TO:** Senate Ways and Means Committee  
Senator Donna Kim, Chair  
Senator Shan S. Tsutsui, Vice Chair

**FROM:** Katie Jacoy  
Wine Institute

**DATE:** Wednesday, March 31, 2010  
Conference Room 211  
9:30 a.m.

**RE:** HB 2239, SD1, Relating to the Deposit Beverage Container Program

Chair Kim and Members of the Committee:

Wine Institute, representing 920 California wineries of all sizes, opposes including wine bottles in the Hawaii Deposit Beverage Container Program as proposed in HB2239, SD1. Wine Institute (WI), like Hawaii, is committed to environmental stewardship. Through our Sustainable Winegrowing Program, we provide California vintners and growers with information on how to conserve natural resources, protect the environment and enhance relationships with employees, neighbors and local communities. WI, therefore, supports efficient and cost-effective mechanisms to increase the recycling of wine bottles. To that end, we believe that resources in Hawaii would be better dedicated to a comprehensive curbside recycling program than expanding the bottle bill to include wine bottles.

Curbside is the ideal recycling method for wine bottles, since pick-up is where the product is primarily consumed – at home. Wine bottles are heavy, breakable, and take up limited household storage space, so they are not well suited for recycling programs that require the consumer to return them to a retail location or redemption center.

A comprehensive curbside recycling program would likely be more effective in increasing the recycling rate for wine bottles, rather than simply putting a “fee” on every bottle. A deposit fee is essentially a tax increase. HB2239, SD1, would add a \$.05 deposit fee for every wine bottle, which just increases the price for wine.

**By including wine bottles in the Hawaii deposit beverage container law, it will cost Hawaii consumers more than \$7.5 million dollars to raise about \$200,000 in revenue. This just doesn't make sense!**

Wine Institute estimates that including wine bottles in Hawaii's bottle redemption law will cost in excess of \$7.5 million for wineries and even more for Hawaii consumers. Wineries pass along these costs to consumers, which are marked-up as the wine moves from winery to wholesaler to retailer.

- ✓ Maine & Iowa are the only two states that include wine bottles in their redemption laws. In those states, wholesalers open each case and place the state specific redemption sticker on each bottle before it goes to the retailers. Wineries pay them to perform that function. One large California winery reports paying 34 cents per bottle for this work in Maine.
- ✓ To demonstrate the magnitude of the costs, 21,917,640 bottles of wine were consumed in Hawaii in 2008. The estimated cost to wineries, and therefore Hawaii consumers, to comply with the bottle redemption law would be \$7,451,998 (using 34 cents per bottle).

**Wine Institute estimates that the state will only raise about \$200,000 in revenue.**

- ✓ The 2009 Wine Handbook table "Consumption of Total Wine Ranked by State 2007-2008" reported that 1,826,470 9-liter cases of wine were consumed in Hawaii in 2008.
- ✓ This is equal to 21,917,640 wine bottles (1,826,470 x 12 per case) making the estimated deposits collected \$1,095,882 (21,917,640 x \$.05). (We did not include the additional penny that is currently charged per bottle because it is our understanding that this money is used for bottle handling costs.)
- ✓ Assuming an 80% redemption rate (Hawaii's Deposit Beverage Container redemption rate as of November 2009), the state Deposit Beverage Container fund will gain only an estimated \$219,176 from unredeemed deposits on the remaining 20% of the wine bottles.

**Hawaii wine consumers already pay one of the highest prices in the United States for their wine.**

The price of wine for Hawaii consumers is already increased by excise tax (eighth highest in the country), general excise tax of 4.17% (or 4.712% for the City and County of Honolulu), and the higher transportation costs to ship wine to Hawaii. We urge you not to add more costs that will just result in higher prices for consumers.

Wine bottles do not typically create a litter problem and are more likely recycled at curbside. So we urge you NOT to add wine bottles to Hawaii's Deposit Beverage Container Program, which will just make wine more costly in Hawaii.

Thank you for allowing me to provide testimony on this matter.