

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The purpose of this Act is to encourage Hawaii  
2 citizens to make healthy decisions relating to the consumption  
3 of liquid beverages that are proven harmful to human health.

4 Specifically, this Act seeks to curb the consumption of  
5 alcohol by increasing the liquor tax. This Act also assesses a  
6 sugary beverage Healthy Hawaii fee on each sugary beverage in  
7 the State, in addition to the beverage container fee  
8 administered by the department of health.

9 PART I. INCREASING THE LIQUOR TAX

10 SECTION 2. 244D-4, Hawaii Revised Statutes, is amended by  
11 amending subsection (a) to read as follows:

12 "(a) Every person who sells or uses any liquor in the  
13 State not taxable under this chapter, in respect of the  
14 transaction by which the person or the person's vendor acquired  
15 the liquor, shall pay a gallonage tax which is hereby imposed at  
16 the following rates for the various liquor categories defined in  
17 section 244D-1:

18 [~~For the period July 1, 1997, to June 30, 1998, the tax~~

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1 ~~rate shall be:~~

- 2 ~~(1) \$5.92 per wine gallon on distilled spirits;~~
- 3 ~~(2) \$2.09 per wine gallon on sparkling wine;~~
- 4 ~~(3) \$1.36 per wine gallon on still wine;~~
- 5 ~~(4) \$0.84 per wine gallon on cooler beverages;~~
- 6 ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~
- 7 ~~(6) \$0.53 per wine gallon on draft beer;]~~

8 ~~[On July 1, 1998, and thereafter,]~~ For the period July 1,  
9 1998, to June 30, 2011, the tax rate shall be:

- 10 (1) \$5.98 per wine gallon on distilled spirits;
- 11 (2) \$2.12 per wine gallon on sparkling wine;
- 12 (3) \$1.38 per wine gallon on still wine;
- 13 (4) \$0.85 per wine gallon on cooler beverages;
- 14 (5) \$0.93 per wine gallon on beer other than draft beer;
- 15 (6) \$0.54 per wine gallon on draft beer;

16 On July 1, 2011, and thereafter, the tax rate shall be:

- 17 (1) \$8.97 per wine gallon on distilled spirits;
- 18 (2) \$3.18 per wine gallon on sparkling wine;
- 19 (3) \$2.07 per wine gallon on still wine;
- 20 (4) \$1.28 per wine gallon on cooler beverages;
- 21 (5) \$1.40 per wine gallon on beer other than draft beer;
- 22 (6) \$0.81 per wine gallon on draft beer;

1 and at a proportionate rate for any other quantity so sold or  
2 used."

3 PART II. HEALTHY HAWAII FEE

4 SECTION 3. Chapter 342G, Part VIII, Hawaii Revised  
5 Statutes, is amended by adding a new section to be appropriately  
6 designated and to read as follows:

7 "§342G- Sugary beverage Healthy Hawaii fee. (a)

8 Beginning July 1, 2011, in addition to amounts paid under  
9 section 342G-102, every deposit beverage distributor shall pay  
10 to the department a nonrefundable sugary beverage Healthy Hawaii  
11 fee on each deposit beverage container manufactured in or  
12 imported into the State containing a sugary beverage. The fee  
13 shall be imposed only once on the same deposit beverage  
14 container. The fee shall be in the following amounts:

15 (1) 10 cents per deposit beverage container less than or  
16 equal to 12 fluid ounces; and

17 (2) 25 cents per deposit beverage container more than 12  
18 fluid ounces.

19 (b) The sugary beverage Healthy Hawaii fee shall not apply  
20 to deposit beverage containers exported for sale outside of the  
21 State.

22 (c) No county shall impose or collect any assessment or

1 fee on deposit beverage containers for the same or similar  
2 purpose in this section.

3 (d) Amounts collected under this section shall be for the  
4 use of the State and shall be paid into the state treasury at  
5 such times as the director of finance shall direct."

6 SECTION 4. Section 342G-101, Hawaii Revised Statutes, is  
7 amended by adding a definition of "sugary beverage":

8 "Sugary beverage" means any soda, juice, or other non-  
9 alcoholic beverage that is sold in separate deposit beverage  
10 containers and the contents of which contain more than per  
11 cent sugar, including sweetened water, soda, sports drinks,  
12 energy drinks, colas, sweetened coffee or tea, and fruit or  
13 vegetable drinks containing less than seventy per cent natural  
14 fruit or vegetable juice. Sugary beverage does not include  
15 milk, milk products, milk substitutes, nutritional dietary  
16 supplements, oral rehydration solutions not marketed as sports  
17 or energy drinks, and infant formula."

18 SECTION 5. Section 237-24.75, is amended to read as  
19 follows:

20 **"§237-24.75 Additional exemptions.** In addition to the  
21 amounts exempt under section 237-24, this chapter shall not  
22 apply to:

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- 1           (1) Amounts received as a beverage container deposit or  
2           sugary beverage Healthy Hawaii fee collected under  
3           chapter 342G, part VIII;
- 4           (2) Amounts received by the operator of the Hawaii  
5           convention center for reimbursement of costs or  
6           advances made pursuant to a contract with the Hawaii  
7           tourism authority under section 201B-7[+]; and[+]  
8           [+](3) Amounts received[+] by a professional employment  
9           organization from a client company equal to amounts  
10          that are disbursed by the professional employment  
11          organization for employee wages, salaries, payroll  
12          taxes, insurance premiums, and benefits, including  
13          retirement, vacation, sick leave, health benefits, and  
14          similar employment benefits with respect to assigned  
15          employees at a client company; provided that this  
16          exemption shall not apply to a professional employment  
17          organization upon failure of the professional  
18          employment organization to collect, account for, and  
19          pay over any income tax withholding for assigned  
20          employees or any federal or state taxes for which the  
21          professional employment organization is responsible.  
22          As used in this paragraph, "professional employment

1 organization", "client company", and "assigned  
2 employee" shall have the meanings provided in section  
3 373K-1."

4 SECTION 6. Section 342G-101, Hawaii Revised Statutes, is  
5 amended by amending the definition of "beverage deposit  
6 container" to read as follows:

7 ""Deposit beverage container" means the individual,  
8 separate, sealed glass, polyethylene terephthalate, high density  
9 polyethylene, or metal container less than or equal to sixty-  
10 eight fluid [~~ounces,~~] ounces; provided that for purposes of the  
11 sugary beverage Healthy Hawaii fee under section 342G- , a  
12 deposit beverage container is of any size, used for containing,  
13 at the time of sale to the consumer, a deposit beverage intended  
14 for use or consumption in this State."

15 SECTION 7. Section 342G-105, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§342G-105 Deposit beverage container inventory report and**  
18 **payment.** (a) Payment of the deposit beverage container fee,  
19 the sugary beverage Healthy Hawaii fee, and deposits as  
20 described in section 342G-110 shall be made monthly based on  
21 inventory reports of the deposit beverage distributors. All  
22 deposit beverage distributors shall submit to the department

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1 documentation in sufficient detail that identifies the net  
2 number of deposit beverage containers sold, donated, or  
3 transferred, by container size and [~~type.~~] type, including the  
4 sugar content of sugary beverages.

5 (b) The amount due from deposit beverage distributors  
6 shall be the net number of deposit beverage containers sold,  
7 donated, or transferred multiplied by the sum of the prevailing  
8 deposit beverage container fee and the refund value of 5 cents.  
9 In addition, the amount due shall include a separately stated  
10 amount equal to the number of deposit beverage containers sold  
11 containing sugary beverages multiplied by the sugary beverage  
12 Healthy Hawaii fee amount for the appropriate beverage container  
13 size. Payment shall be made by check or money order payable to  
14 the "Department of Health, State of Hawaii". All inventory  
15 reports and payments shall be made no later than the fifteenth  
16 day of the month following the end of the payment period of the  
17 previous month."

18 SECTION 8. Section 342G-106, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§[+]§342G-106[+] **Contract for administrative services.**

21 The department may contract the services of a third party to

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1 administer the deposit beverage container program and the sugary  
2 beverage Healthy Hawaii fee under this part."

3 SECTION 9. Section 342G-107, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§342G-107[+] **Management and financial audit.** The  
6 auditor shall conduct a management and financial audit of the  
7 [~~program~~] programs under this part for fiscal years 2004-2005  
8 and 2005-2006, and for each fiscal year thereafter ending in an  
9 even-numbered year. The auditor shall submit the audit report,  
10 including the amount of unredeemed refund value and  
11 recommendations, to the legislature and the department no later  
12 than twenty days prior to the convening of [+]the[+] next  
13 regular session. The costs incurred by the auditor for the  
14 audit shall be reimbursed by the deposit beverage container  
15 program special fund. The auditor may contract the audit  
16 services of a third party to conduct the audit."

17 SECTION 10. Section 342G-110, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§342G-110[+] **Payment and application of deposits.**

20 (a) By January 1, 2005, every deposit beverage container sold  
21 in this State shall have a refund value of 5 cents. Each



1 container shall have the refund value clearly indicated on it as  
2 provided in section 342G-112.

3 (b) The refund value is the amount of the deposit  
4 required. Once a refund value has been applied to a deposit  
5 beverage container, the deposit on that container may not be  
6 changed and shall be paid to the State.

7 (c) The deposit on each filled deposit beverage container  
8 shall be paid by the deposit beverage distributor, who  
9 manufactures or imports beverages in deposit beverage  
10 containers. In addition, there shall be paid by the deposit  
11 beverage distributor on each deposit beverage container the  
12 sugary beverage Healthy Hawaii fee as required by section 342G-  
13 A. Payment and reporting of the deposits and fees shall be in  
14 accordance with section 342G-105. The deposits shall be  
15 deposited into the deposit beverage container deposit special  
16 fund as described in section 342G-104. The sugary beverage  
17 Healthy Hawaii fee shall be paid to the general fund as  
18 described in section 342G-A.

19 (d) Deposit beverage distributors who are required under  
20 subsection (c) to pay a deposit or sugary beverage Healthy  
21 Hawaii fee shall also pay a deposit beverage container fee and  
22 register with the State."

1 SECTION 11. Section 342G-111, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§342G-111 Sales of beverages in deposit beverage**

4 **containers; distributor report; fee and deposit payment.** (a)

5 By January 1, 2005, every deposit beverage distributor who pays  
6 a deposit to the department shall charge the dealer or consumer  
7 a deposit equal to the refund value for each deposit beverage  
8 container sold in Hawaii. In addition, every deposit beverage  
9 distributor shall charge the dealer or consumer a sugary  
10 beverage Healthy Hawaii fee as provided in section 342G-A. The  
11 deposit charge and sugary beverage Healthy Hawaii fee may appear  
12 as a separate line item on the invoice.

13 (b) Each dealer shall charge the consumer the deposit  
14 beverage container deposit at the point of sale of the beverage,  
15 excluding sales for on-premises consumption. In addition, each  
16 dealer shall charge the consumer a sugary beverage Healthy  
17 Hawaii fee as provided in section 342G-A. The deposit charge  
18 and sugary beverage Healthy Hawaii fee may appear as a separate  
19 line item on the invoice.

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

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

6 (d) Payment of the deposit beverage container fee and  
7 deposits, in addition to the sugary beverage Healthy Hawaii fee,  
8 as described in section 342G-110 shall be made monthly based on  
9 reports of the deposit beverage distributors under subsection  
10 (c).

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

17 (f) The amount due from a deposit beverage distributor  
18 shall be the net number of deposit beverage containers sold  
19 multiplied by the sum of the prevailing deposit beverage  
20 container fee and the deposit value of 5 cents. In addition,  
21 the amount due shall include a separately stated amount equal to  
22 number of deposit beverage containers sold containing sugary

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1 beverages multiplied by the sugary beverage Healthy Hawaii fee  
2 amount for the appropriate beverage container size. Payment  
3 shall be made by check or money order payable to the "Department  
4 of Health, State of Hawaii". All reports and payments shall be  
5 made no later than the fifteenth day of the month following the  
6 end of the previous payment period

7 (g) The department may allow dealers to charge customers  
8 the refund value beginning November 1, 2004; provided that the  
9 deposit beverage containers are clearly marked with the refund  
10 value and the deposit beverage distributor has paid the refund  
11 value on each container to the department. The dealer shall  
12 inform customers that the deposits paid prior to January 1,  
13 2005, shall not be redeemable until January 1, 2005."

14 SECTION 12. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 13. This Act shall take effect on July 1, 2011.

17

18

INTRODUCED BY:



19

BY REQUEST

SB. NO. 1289

**Report Title:**

Fees and Taxes; Safety and Health

**Description:**

Promotes safety and health in Hawaii through increases in the liquor tax and by assessing a new sugary beverage fee.

JUSTIFICATION SHEET

DEPARTMENT: Governor.

TITLE: A BILL FOR AN ACT RELATING TO HEALTH.

PURPOSE: To increase the liquor tax and to assess a sugary beverage fee.

MEANS: Add a new section to chapter 342G, Hawaii Revised Statutes (HRS); amend sections 237-24.75, 244D-4(a), 342G-101, 342G-105, 342G-106, 342G-107, 342G-110, and 342G-111.

JUSTIFICATION: The purpose of this measure is to encourage Hawaii citizens to make healthy decisions relating to the consumption of liquid beverages that are proven harmful to human health.

Every year, the health of hundreds, if not thousands, of Hawaii residents is impacted due to overconsumption of alcohol and sugary beverages. Diseases that stem from overconsumption of alcohol and sugary beverages include alcoholism, liver disease, diabetes, among other chronic conditions.

INCREASE IN THE LIQUOR TAX

This measure increases the liquor tax by fifty percent. The liquor tax has not been increased in 1998. By increasing the liquor tax, the increase in cost is likely to lead to lower demand and less consumption.

SUGARY BEVERAGE HEALTHY HAWAII FEE

This measure also assesses a nonrefundable "Sugary Drink Healthy Hawaii Fee" on all bottled drinks subject to the Hawaii bottle deposit fee, which contain a certain amount of sugar.

Several states and cities in recent years have considered imposing a soda tax on sugary drinks to curb obesity and other health-related problems that stem directly from diets high in sugar and other refined sweeteners.

Studies shed light on staggering statistics of sugar use in America. According to one proponent of a soda tax, approximately one-third of American children are obese and their obesity is linked to consumption of sugary beverages.

This measure assesses a fee of ten cents per container for sugary beverages of twelve ounces or less. Twenty-five cents per container is assessed for sugary beverages of more than twelve ounces.

The Sugary Beverage Healthy Hawaii fee will be administered by the Department of Health in association with the current beverage container deposit program.

Impact on the public: Taxpayers who consume alcohol and sugary beverages will experience an increase in the price of these items. Lower consumption of these substances is anticipated.

Impact on the department and other agencies: The Department of Taxation is responsible for administering the liquor tax increase. The Department of Health is responsible for administering the Sugary Beverage Healthy Hawaii fee.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION:

OTHER AFFECTED

AGENCIES: Department of Health; Department of  
Taxation.

EFFECTIVE DATE: July 1, 2011.