

Honolulu, Hawaii

APR 26 2013

RE: S.B. No. 1133
S.D. 2
H.D. 2
C.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1133, S.D. 2, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to repeal the dietary supplement beverage container exemption for the deposit beverage container program but exempt containers of liquid deemed to be the sole item of a meal or diet.

Your Committee on Conference finds that along with milk, drugs, medical foods, and infant formula, dietary supplements have been excluded from the deposit beverage container program. Hawaii statute cites federal Food and Drug Administration regulations in defining "dietary supplement". However, the Food and Drug Administration does not vigorously regulate the dietary supplement



industry. This approach gives manufacturers nearly free reign to unilaterally define a product as a dietary supplement or not.

Your Committee on Conference further finds that the ambiguity of regulations for dietary supplements makes it difficult for the deposit beverage container program to make consistent eligibility determinations on potential dietary supplements for Hawaii's program. These difficulties are frustrating to the deposit beverage container program and beverage distributors because of the disproportionate time and effort involved in making a proper determination. Removing the "dietary supplement" exemption will facilitate more consistent eligibility determinations.

Your Committee on Conference has amended this measure by:

- (1) Amending the dietary supplement exemption, rather than repealing it, to exempt a single serving of one ounce or less of a dietary supplement, as defined in the Dietary Supplement Health and Education Act of 1994 (P.L. 103-417);
- (2) Clarifying that a liquid that is deemed to be the sole item of a meal or diet is exempt if the Department of Health deems the liquid to be the sole item of a meal or diet; and
- (3) Making technical, nonsubstantive amendments for the purpose of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1133, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1133, S.D. 2, H.D. 2, C.D. 1.

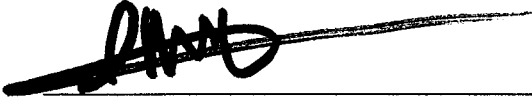


Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE



CHRIS LEE, Co-Chair

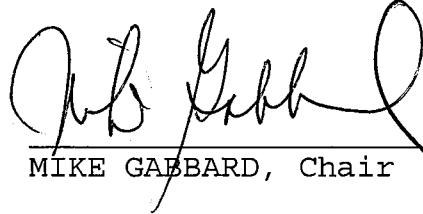


ANGUS L.K. MCKELVEY, Co-Chair



NICOLE E. LOWEN, Co-Chair

ON THE PART OF THE SENATE



MIKE GABBARD, Chair



SUZANNE CHUN OAKLAND, Co-Chair



Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 1133, SD 2, HD 2	Date/Time: 4-24-13 10:40 AM
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
GABBARD, Mike, Chr.	✓				LEE, Chris, Co-Chr.	✓			
CHUN OAKLAND, Suzanne, Co-Chr.	✓				MCKELVEY, Angus L.K., Co-Chr.	✓			
IHARA, Les, Jr.	✓				LOWEN, Nicole E., Co-Chr.	✓			
KEITH-AGARAN, Gilbert S.C.				✓	KAWAKAMI, Derek S.K.	✓			
RUDERMAN, Russell E.	✓				THIELEN, Cynthia	✓			
TOTAL	4			1	TOTAL	5			

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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