

Report Title:

Solid Waste Management; Beverage Container Bill

Description:

Imposes beverage container requirements and fees. Requires beverage distributors to register with the State. Establishes the beverage container deposit special fund. Provides for the redemption of empty beverage containers. Provides requirements for recycling facilities and redemption centers. (SD2)

HOUSE OF REPRESENTATIVES
TWENTY-FIRST LEGISLATURE,
2001

H.B. NO. 1256
H.D. 2

STATE OF HAWAII

S.D. 2

A BILL FOR AN ACT

RELATING TO SOLID WASTE MANAGEMENT.

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

SECTION 1. The legislature finds that recycling is an important element of an integrated solid waste management system, which can protect and preserve environmental resources and reduce economic costs to residents and businesses within the State. The legislature finds a need to expand participation in residential recycling programs and to minimize costs to those participating and to government. The purpose of this Act is to increase participation and recycling rates, provide a connection between manufacturing decisions and recycling program management, and reduce litter.

SECTION 2. Chapter 342G, Hawaii Revised Statutes, is amended by adding two new parts to be appropriately designated and to read as follows:

"PART A. BEVERAGE CONTAINER FEE

§342G-A Definitions. As used in this part and part B, unless the context requires otherwise:

"Beverage" means beer, ale, or other drink produced by fermenting malt, spirits, wine, wine coolers, tea, and coffee drinks regardless of dairy-derived product content, soda, or noncarbonated water, and all nonalcoholic drinks in liquid form and intended for internal human consumption, except for dairy-derived products.

The term "beverage" excludes the following:

(1) A liquid which is:

(A) A syrup;

(B) In a concentrated form; or

(C) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments;

(2) A liquid which is ingested in very small quantities and which is consumed for medicinal purposes only;

(3) A liquid which is designed and consumed only as a nutritional supplement and not as a beverage;

(4) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to the users;

(5) Products designed to be consumed in a frozen state;

(6) Instant drink powders; and

(7) Seafood, meat, or vegetable broths, or soups, but not juices.

"Beverage container" means the individual, separate, sealed glass, aluminum, plastic bottle, or can used for containing, at the time of sale to the consumer, one gallon (3.8 liters) or less of a beverage intended for use or consumption in this State.

"Beverage distributor" means a person who is a manufacturer of beverages in beverage containers in this State, or who imports and engages in the sale of filled beverage containers to a dealer or consumer. The term includes federal agencies and military distributors, but does not include airlines and shipping companies that merely transport beverage containers.

"Consumer" means a person who buys a beverage for use or consumption.

"Dealer" means a person who engages in the sale of beverages in beverage containers to a consumer for off-premises consumption in the State.

"Department" means the department of health.

"Import" means to buy, bring, or accept delivery of filled beverage containers from an address, supplier, or any entity outside of the State.

"Recyclable" means that the beverage container is made of one of the following materials: metal, glass, single layer polyethylene terephthalate, or high density polyethylene, that can be recovered from the waste stream and recycled in total or in part for the same or other uses.

§342G-B Beverage container requirements. Beginning October 1, 2003, no person may sell, distribute, collect, except for purposes of litter control, or redeem in this State, a beverage container that has not received approval from the director as a recyclable within the State in order to be distributed and collected at redemption operations in the State.

§342G-C Beverage container fee. (a) Beginning on October 1, 2002, every beverage distributor shall pay to the department a beverage container fee on each beverage container manufactured or imported into the State. The fee shall be imposed only once on the same beverage container. The fee shall be cents per beverage container.

(b) The beverage container fee shall not exceed cents per container for the first five years of operation of the beverage container deposit program as specified in part B.

(c) The department, with the assistance from the county solid waste agencies, shall:

(1) Evaluate the amount of beverage containers recovered during the first fifteen months of the fully implemented beverage container deposit program specified in part B; and

(2) Recommend to the legislature any modification in the fee structure to meet the beverage container deposit program funding requirements.

Thereafter, prior to the convening of the legislative session in each subsequent even-numbered year, the department, in coordination with the counties, shall report to the legislature on the effectiveness of the program and make appropriate recommendations for modification of the fee.

(c) No county shall impose or collect any assessment or fee on beverage containers for the same or similar purpose that is the subject of this chapter.

§342G-D Beverage distributors; registration, recordkeeping requirements.

(a) By July 1, 2002, all beverage distributors operating within the State shall register with the department, using forms prescribed by the department, and shall notify the department of any change in address or other information previously submitted. After July 1, 2002, any person who desires to conduct business in the State as a beverage distributor shall register with the department no later than one month prior to the commencement of the business.

(b) All beverage distributors shall maintain records reflecting the manufacture of their beverages in beverage containers as well as the importation and exportation of beverage containers. The records shall be made available, upon request, for inspection by the department; provided that any proprietary information obtained by the department shall be kept confidential and shall not be disclosed to any other person, except:

(1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision of this chapter or any rule adopted pursuant to this chapter; or

(2) Under an order issued by a court or administrative agency hearings officer.

§342G-E Deposit into beverage container deposit special fund; use of funds.

(a) There is established in the state treasury the beverage container deposit special fund, into which shall be deposited:

(1) All revenues generated from the beverage container fee as described under section 342G-C;

(2) All revenues generated from the beverage container deposit as described under section 342G-J; and

(3) All accrued interest from this fund.

(b) Moneys in the fund shall be used to reimburse refund values and pay handling fees to certified redemption operations as established under part B. The department may also use the money to:

(1) Fund administrative, audit, and compliance activities associated with collection and payment of the deposits and handling fees of the beverage container fee and deposit program;

(2) Conduct recycling education and demonstration projects;

(3) Promote recyclable market development activities;

(4) Support the handling and transportation of the beverage containers to end-markets;

(5) Hire personnel to oversee the implementation of the beverage container fee and deposit program, including permitting, certification, and enforcement activities; and

(6) Fund associated office expenses.

§342G-F Beverage container inventory report and payment. (a) Beginning October 1, 2050, payment of the beverage container fee shall be made monthly based on inventory reports of the beverage distributors. All beverage distributors shall submit to the department documentation in sufficient detail that identifies:

(1) The number of beverages in beverage containers manufactured in or imported to the State; and

(2) The number of these beverage containers exported out of the State during the reporting period.

(b) The amount due from beverage distributors shall be the net number of beverage containers imported or manufactured into the State (the total number of containers imported or manufactured less the total number of containers exported) multiplied by the beverage container fee of _____ cents. Payment shall be made by check or money order payable to the "Department of Health, State of

Hawaii". All inventory reports and payments shall be made no later than the fifteenth day of the month following the end of the previous month.

§342G-G Contract for administrative services. The department may contract the services of a third party to administer the beverage container fee program under this part.

PART B. BEVERAGE CONTAINER DEPOSIT

§342G-H Definitions. As used in this part, unless the context requires otherwise:

"Importer" means any person who buys, brings, or accepts delivery of beverages in containers from outside the State for sale or use within the State.

"Initiate a deposit" means to be the first person to charge a deposit on a specific beverage container.

"On-premises consumption" means beverages are consumed by a customer immediately and within the area under control of the establishment, including bars, restaurants, passenger ships, and airplanes.

"Person" means any individual, partnership, firm, association, public or private corporation, federal agency, the State or any of its political subdivisions, trust, estate, or any other legal entity.

"Private label beverages" means beverages purchased from a beverage manufacturer in beverage containers bearing a brand name or trademark, for sale at retail directly by the owner or licensee of that brand name or trademark; or through retail dealers affiliated with the owner or licensee by a cooperative or franchise agreement.

"Recycling facility" means all contiguous land and structures and other appurtenances, and improvements on the land used for the collection, separation, recovery, and sale of reuse of secondary resources that would otherwise be disposed of as municipal solid waste, and is an integral part of a manufacturing process aimed at producing a marketable product made of postconsumer material.

"Redeemer" means a person, other than a dealer or distributor, who demands the refund value in exchange for the empty beverage container.

"Redemption center" means an operation which is certified by the State and which accepts from consumers, and pays or provides the refund value for empty beverage containers intended to be recycled, and ensures that the empty beverage containers are properly recycled.

"Refillable beverage container" means any glass or plastic beverage container, or other beverage container, which ordinarily would be returned to the manufacturer to be refilled and resold.

"Reverse vending machine" means a mechanical device, which accepts one or more types of empty beverage containers and issues a cash refund or a redeemable credit slip with a value not less than the container's refund value. The refund value payments shall be aggregated and then paid if more than one container is redeemed in a single transaction.

§342G-I Rules; commencement. The department shall adopt rules pursuant to chapter 91 as may be necessary for the purposes of this part and part A. The rules shall be adopted on or before December 31, 2002. Full implementation of the beverage container deposit program shall commence no later than October 1, 2003.

§342G-J Initiation and application of deposits. (a) Every beverage container sold in this State shall have a refund value of not less than cents for a beverage container smaller than or equal to twenty-four fluid ounces, and not less than cents for a beverage container larger than twenty-four fluid ounces. Each such beverage container shall have the refund value clearly indicated on it as provided in section 342G-L.

(b) The refund value is the amount of the deposit required. Once an indication of refund has been applied to a beverage container, the deposit value on that beverage container may not be changed.

(c) The deposit on each filled beverage container shall be initiated by the beverage distributor, who manufactures or imports beverages in beverage containers, and paid to the State of Hawaii. The funds shall be deposited into the beverage container deposit special fund as described in section 342G-V.

(d) Beverage distributors who are required under subsection (c) to initiate a deposit shall also pay a beverage container fee and register with the State in accordance with part A.

§342G-K Sales of beverages in beverage containers. (a) Every beverage distributor who initiates a deposit shall charge their customers a deposit equal to the refund value for each beverage container sold in Hawaii.

(b) Each dealer shall charge the customer the beverage container deposit at the point of sale of the beverage excluding sales as defined as for on-premises consumption.

§342G-L Beverage container requirements. (a) Except as provided in subsection (b), every beverage container sold in this State shall clearly indicate

the refund value of the beverage container and the word "Hawaii" or the letters "HI". The names or letters representing the names of other states with comparable deposit legislation may also be included in the indication of refund value. Other indications may be required as specified in rules.

(b) Subsection (a) does not apply to any type of refillable glass beverage container which has a brand name permanently marked on it and which has the equivalent of a refund value of at least cents for beverage containers smaller than or equal to twenty-four fluid ounces, or at least cents for beverage containers larger than twenty-four fluid ounces prior to the effective date of this part.

§342G-M Redemption of empty beverage containers. (a) Except as provided in subsection (b), a dealer shall:

- (1) Operate a redemption center by accepting all types of empty beverage containers with a Hawaii refund value;
- (2) Pay to the redeemer the full refund value for all recyclable beverage containers which bear a valid Hawaii redemption value; and
- (3) Ensure each container collected is recycled, and forward such documentation necessary to support claims for payment as stated in section 342G-S, or rules adopted under this part.

(b) Subsection (a) shall not apply to any dealer:

- (1) Who is located within one mile of a certified redemption center that is operated independently from a dealer;
- (2) Who subcontracts with a certified redemption center for operation on the dealer's premises;
- (3) Whose sale of beverage containers are only via vending machines;
- (4) Whose store size is less than five thousand square feet of interior space;
- (5) Who can demonstrate physical hardship, or financial hardship, or both, based on specific criteria established in rules; or

(6) Who meet other criteria established by the director.

(c) All dealers, regardless of square footage, shall post a clear and conspicuous sign at each public entrance to the dealer's place of business, which specifies the name, address, and hours of operation of the closest redemption center locations.

(d) If there is no redemption center within a one-mile radius of a dealer due to the criteria described in subsection (b), then the respective county and the State shall determine the need for a redemption center in that area. If a redemption center is deemed necessary, then the county, with assistance from the State, shall establish the redemption center with funding from the beverage container deposit special fund.

§342G-N Redemption centers. (a) Any person may establish a redemption center and accept and redeem deposits on all types of empty beverage containers for which a deposit has been initiated. Any person who establishes a redemption center pursuant to this part shall be permitted in accordance with chapter 342H as a solid waste management facility and shall apply to the director in writing for certified redemption center status.

(b) Applications for certification as a redemption center shall be filed with the department of health on forms prescribed by the department.

(c) The State, at any time, may review certification of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center and to the dealers served by the redemption center, the State, after it has afforded the redemption center operator a hearing in accordance with chapter 91, may withdraw certification of the center if it finds that there has not been compliance with applicable laws, rules, permit conditions, or certification requirements.

(d) Redemption centers shall:

(1) Pay to the redeemer the full refund value for all beverage containers;

(2) Verify that all containers to be redeemed bear a valid Hawaii redemption value;

(3) Ensure each container collected is recycled through a contractual agreement with an out-of-state recycler or an in-state recycling facility permitted by the department; provided that this paragraph shall not

apply if the redemption center is operated by a recycler permitted by the department; and

(4) Forward such documentation necessary to support claims for payment as stated in section 342G-S.

(e) Redemption centers' redemption areas shall be maintained in full compliance with applicable laws and with the orders and rules of the department of health.

§342G-O Reverse vending machine requirements. Reverse vending machines may be used by redemption centers to satisfy the requirements of section 342G-M; provided that the reverse vending machine shall accept any type of empty recyclable beverage container and pay out appropriate refunds for those containers that bear a valid Hawaii redemption value. If the reverse vending machine is unable to read the Hawaii refund value, then the department may specify a delayed date in which the reverse vending machines may be used. The reverse vending machine shall be routinely serviced to ensure proper operation and continuous acceptance of containers and payment of refunds.

§342G-P Refusal of acceptance of a beverage container. Redemption centers may refuse to accept any broken bottle, corroded or dismembered can, or any beverage container which:

- (1) Contains a free flowing liquid;
- (2) Does not properly indicate a refund value; or
- (3) Contains a significant amount of foreign material.

§342G-Q Handling fees and redemption values. (a) The State shall pay to each redemption center a handling fee of not less than _____ cents for each empty recyclable beverage container redeemed by a consumer and transported out-of-state for recycling or received by a department-permitted recycler. The handling fee shall be paid in addition to the redemption value of each such empty beverage container. The department may choose to pay the handling fee and redemption value on the basis of the total weight of the beverage containers received by material type and the average weight of each container type. Such conversions shall be defined in rules.

(b) A handling fee and redemption value may only be paid once for each container redeemed by a consumer and claimed by a redemption center.

§342G-R Distributor recordkeeping and payment requirements. Each distributor who initiates a deposit on a beverage container shall maintain a record of all deposits initiated and paid to the State. Each such distributor shall maintain this information according to generally accepted accounting principles and shall

provide monthly reports of this information to the director no later than the fifteenth day of the month following the month covered within the report. The monthly report shall contain at a minimum:

- (1) The quantity of distributed containers;
- (2) The amount of deposit by container size and type;
and
- (3) Any other information required by the director.

Payment of the deposits shall be submitted with the monthly reports.

§342G-S Redemption center reporting. A redemption center shall prepare and maintain records, which reflect:

- (1) The transactions made;
- (2) The amount, type, and sizes of containers accepted and rejected;
- (3) Refunds paid out;
- (4) The amount and weight of each type of containers transported out-of-state, or to a department-permitted recycler; and
- (5) Any other information required by the department.

§342G-T Recycling facility reporting. Recycling facilities, in addition to any requirements under chapter 342H, shall prepare or maintain the documents involving empty beverage containers, as required by the department.

§342G-U Audit authority. The records of the beverage distributor, dealer, redemption center, and recycling facility shall be made available, upon request, for inspection by the department or a duly authorized agent of the department. Any proprietary information obtained by the department shall be kept confidential and shall not be disclosed to any other person, except:

- (1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision of this chapter or any rule adopted pursuant to this chapter; or
- (2) Under an order issued by a court or administrative agency hearings officer.

§342G-V Deposit into beverage container deposit special fund. Revenues generated from the beverage container deposit shall be deposited into the beverage container deposit special fund as specified under section 342G-E. Moneys in the fund shall be used in accordance with section 342G-E.

§342G-W General prohibition. All contracts or agreements entered into between or among persons subject to this part shall be consistent with this part and any implementing rules. No such contract or agreement may be designed to hinder or frustrate the purpose or intent of this part."

SECTION 3. Section 342G-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Beverage" means beer, ale, or other drink produced by fermenting malt, spirits, wine, wine coolers, tea, and coffee drinks regardless of dairy-derived product content, soda, or noncarbonated water, and all nonalcoholic drinks in liquid form and intended for internal human consumption, except for dairy-derived products.

The term "beverage" excludes the following:

(1) A liquid which is:

(A) A syrup;

(B) In a concentrated form; or

(C) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments;

(2) A liquid which is ingested in very small quantities and which is consumed for medicinal purposes only;

(3) A liquid which is designed and consumed only as a nutritional supplement and not as a beverage;

(4) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to the users;

(5) Products designed to be consumed in a frozen state;

(6) Instant drink powders; and

(7) Seafood, meat, or vegetable broths, or soups, but not juices."

SECTION 4. Section 342G-81, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Glass beverage container" means:

(1) The individual, separate, sealed, glass container used for containing, at the time of import, one gallon or less of a beverage; or

(2) The empty, individual, separate glass container that will be filled with one gallon or less of a beverage and sealed in this State, such that these glass beverage containers are subject to parts A and B."

SECTION 5. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

"§36-27 Transfers from special funds for central service expenses. Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

(1) Special summer school and intersession fund under section 302A-1310;

(2) School cafeteria special funds of the department of education;

(3) Special funds of the University of Hawaii;

(4) State educational facilities improvement special fund;

(5) Convention center capital and operations special fund under section 206X-10.5;

(6) Special funds established by section 206E-6;

(7) Housing loan program revenue bond special fund;

(8) Housing project bond special fund;

- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees' retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;
- (16) Hawaii health systems corporation special funds;
- (17) Boiler and elevator safety revolving fund established under section 397-5.5;
- (18) Tourism special fund established under section 201B-11;
- (19) Department of commerce and consumer affairs' special funds;
- (20) Compliance resolution fund established under section 26-9;
- (21) Universal service fund established under chapter 269;
- (22) Integrated tax information management systems special fund under section 231-3.2;
- (23) Insurance regulation fund under section 431:2-215;
- (24) Hawaii tobacco settlement special fund under section 328L-2;

(25) Emergency budget and reserve fund under section 328L-3;

(26) Probation services special fund under section 706-649; ~~and~~

(27) High technology special fund under section 206M-15.5; and

(28) Beverage container deposit special fund under section 342G-E;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 6. Section 342G-71, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§342G-71]]~~ **Penalties.** Any person who violates any provision of this chapter or any rule adopted pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be ~~[considered a civil action.]~~ made through field citations or administrative, civil, or criminal actions."

SECTION 7. Section 342G-72, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§342G-72]]~~ **Enforcement.** ~~[The department of health shall enforce this chapter.]~~ (a) If the director determines that any person has violated or is violating any provision of this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit or certification issued pursuant to this chapter, the director may do any one or more of the following:

(1) Issue a field citation assessing an administrative penalty and ordering immediate corrective action or within a specified time;

(2) Issue an order assessing an administrative penalty for any past or current violation;

(3) Require compliance immediately or within a specified time; and

(4) Commence a civil action in circuit court in which the violation occurred or where the person resides or maintains the person's principal place of business for appropriate relief, including a temporary, preliminary, or permanent injunction, the imposition and collection of civil penalties, or other relief.

(b) Any order issued pursuant to this section may include a suspension, modification, or revocation of a certification issued under this chapter, and shall state with reasonable specificity the nature of the violation.

(c) Any order issued under this chapter shall become final, unless not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of.

(d) Any hearing conducted under this section shall be conducted as a contested case under chapter 91. If after a hearing held pursuant to this section, the director finds that a violation or violations have occurred, the director shall:

(1) Affirm or modify any penalties imposed or shall modify or affirm the order previously issued; or

(2) Issue an appropriate order or orders for the prevention, abatement, or control of the violation involved, or for the taking of such other corrective action as may be appropriate.

If, after a hearing on an order or penalty contained in a notice, the director finds that no violation has occurred or is occurring, the director shall rescind the order or penalty. Any order issued after hearing may prescribe the date or dates by

which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation.

(e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to collect the administrative penalty which shall be a government realization. In any proceeding to collect the administrative penalty imposed, the director need only show that:

(1) Notice was given;

(2) A hearing was held or the time granted for requesting a hearing expired without a request for a hearing;

(3) The administrative penalty was imposed; and

(4) The penalty remains unpaid.

(f) In connection with any hearing held pursuant to this section, the director shall have the power to subpoena the attendance of witnesses and the production of evidence on behalf of all parties."

SECTION 8. Section 342G-82, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§342G-82]]~~ Advance disposal fee. (a) Every glass container importer shall pay to the department an advance disposal fee. The fee shall be imposed only once on the same glass container and shall not be assessed on drinking glasses, cups, bowls, plates, ashtrays, and similar tempered glass containers. For the period September 1, 1994, to ~~[September 1, 1996,]~~ September 30, 2001, the fee shall be one and one-half cents per glass container. ~~[Thereafter, the fee shall be set by the legislature at a rate the legislature determines will permit funding of county glass recovery programs as required to achieve the following glass recovery program goals:~~

~~(1) Twenty-five per cent by the end of 1996;~~

~~(2) Fifty per cent by the end of 1998; and~~

~~(3) By the end of 2000 and thereafter, the maximum amount practicable considering the economic and environmental benefits to be realized.~~

~~(b) In January 1995, the department, with assistance from the county solid waste divisions, shall evaluate the amount of glass recovered during the first fifteen~~

~~months of the program and recommend to the legislature any modification in the fee structure to meet county glass recovery program funding requirements. Thereafter, prior to the convening of the legislative session in each subsequent even-numbered year, the department of health, in coordination with the counties, shall report to the legislature on the effectiveness of the program and make appropriate recommendations for modification of the fee.]~~ Beginning October 1, 2001, the fee shall be 2 cents per container. Beginning October 1, 2002, the glass advance disposal fee of 2 cents per container shall only apply to glass containers that are not glass beverage containers.

~~(e)~~ (b) The legislature shall have exclusive authority over all matters subject to this chapter.

~~(d)~~ (c) No county shall impose or collect any assessment or fee on glass containers for the same or similar purpose that is ~~[[the]]~~ subject of this chapter."

SECTION 9. Section 342G-83, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) All glass container importers shall maintain records reflecting the manufacture of their glass containers as well as the importation and exportation of products packaged in glass. The records shall identify the type (glass beverage container or non-beverage glass container) and quantity of each type of glass container. The records shall be made available, upon request, for inspection by the department; provided that any proprietary information obtained by the department shall be kept confidential, and shall not be disclosed to any other person except:

(1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision of this chapter or any rule adopted pursuant to this chapter; or

(2) Under an order issued by a court or administrative agency hearing officer."

SECTION 10. Section 342G-85, Hawaii Revised Statutes, is amended to read as follows:

"§342G-85 Container inventory report and payment. (a) Payment of the advance glass disposal fee shall be made quarterly based on inventory reports of the glass container importers, except for those importers subject to subsection (c) or (d). All glass container importers shall submit to the department documentation in sufficient detail that identifies the number of glass beverage and glass non-beverage containers manufactured or imported to the State and sold or distributed, by manufacturer or distributor, during the calendar year.

(b) ~~[The]~~ Until September 30, 2002, the amount due from glass container importers less glass containers exported for the calendar year shall be the sum equal to the number of glass containers provided in subsection (a) multiplied by the advance disposal fee [of 1.5 cents.] specified in section 342G-82. Beginning October 1, 2002, the amount due from glass container importers shall be the sum equal to the number of non-beverage glass containers provided in subsection (a), less non-beverage glass containers exported, and multiplied by the advance disposal fee of 2 cents. Payment shall be made by check or money order payable to the "Department of Health, State of Hawaii". All subsequent inventory reports and payments shall be made not later than the fifteenth day of the month following the end of the previous calendar quarter, except for those importers subject to subsection (d).

(c) ~~[A]~~ Until September 30, 2002, a glass container importer who imports fewer than five thousand glass containers within a one-year period shall be exempt from payment of the fee. [Any empty, imported glass container designed to hold not more than two and one-half fluid ounces of a product meant for human consumption shall be exempt from the fee.] Beginning October 1, 2002, a glass container importer who imports or manufactures in the State fewer than five thousand non-beverage glass containers within a one-year period shall be exempt from payment of the fee.

(d) ~~[A]~~ Until September 30, 2002, a glass container importer who imports five thousand or more glass containers, but less than or equal to one hundred thousand glass containers, shall be permitted to provide a report and payment of the fee annually, rather than quarterly. Beginning October 1, 2002, a glass container importer who imports or manufactures in the State five thousand or more non-beverage glass containers, but less than or equal to one hundred thousand non-beverage glass containers, shall be permitted to provide a report and payment of the fee annually, rather than quarterly."

SECTION 11. Section 342G-86, Hawaii Revised Statutes, is amended to read as follows:

"(a) All county glass recovery programs shall include:

(1) Some form of glass incentive or "buy back" program providing a means of encouraging participation by the public or private collectors; and

(2) The paving [during each of the first two years] 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 any other

demonstration project as approved by the department."

SECTION 12. Section 342G-88, Hawaii Revised Statutes, is repealed.

~~["**§342G-88 Penalties.** Any person who violates any provision of this part, or any rule adopted thereunder, shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered an administrative action."]~~

SECTION 13. Section 342G-89, Hawaii Revised Statutes, is repealed.

~~["**§342G-89 Enforcement.** The department of health shall enforce this part."]~~

SECTION 14. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

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

SECTION 16. This Act shall take effect on July 1, 2050; provided that amendments made to section 36-27, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 31, 2003, pursuant to section 9 of Act 142, Session Laws of Hawaii 1998.