

EXECUTIVE ORDER NO. 25-04

(Guidance Regarding Deposit Beverage Container Distributor Independent Audits)

WHEREAS, the Hawai'i Department of Health administers the Deposit Beverage Container Program (DBC Program) to increase participation in recycling and to reduce litter; and

WHEREAS, the DBC Program establishes a 5-cent deposit and 1-cent container fee that manufacturers and distributors deposit, and ultimately consumers pay when they purchase bottled beverages. Consumers may then receive the 5-cent deposit back when they recycle empty containers in compliance with part VIII of chapter 342G, Hawaii Revised Statutes (HRS); and

WHEREAS, under section 342G-101, HRS, Deposit Beverage Distributors are persons who manufacture beverages in deposit beverage containers in this State, or who import and engage in the sale of filled deposit beverage containers to a dealer or consumer; and

WHEREAS, pursuant to section 342G-121.5(c)(2), HRS, every Deposit Beverage Distributor is required to obtain independent audits for years ending in an odd number; and

WHEREAS, the Hawaii Department of Health has set a deadline of September 30, 2025, for Deposit Beverage Distributors to submit these independent audits to the DBC Program for the calendar year 2025; and

WHEREAS, pursuant to section 342G-72(a), HRS, the Director of Health has discretion to determine violations of chapter 342G, HRS; and

WHEREAS, the Department of Health and its DBC Program have limited resources to enforce minor violations of part VIII of chapter 342G, HRS, concerning all Deposit Beverage Distributors; and

WHEREAS, a Deposit Beverage Distributor who does not obtain an independent audit for calendar year 2025 is not, in itself, committing a significant violation of part VIII of chapter 342G, HRS; and

WHEREAS, the independent audit requirement of section 342G-121.5(c)(2), HRS, has caused some Deposit Beverage Distributors financial hardship and the DBC Program to be administratively overburdened.

NOW, THEREFORE, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, pursuant to my executive authority under Art. V, sections 5 and 6 of the Constitution of the State of Hawai'i, the provisions of chapter 342G of the Hawaii Revised Statutes, and all other applicable authority, do hereby order effective immediately:

1. The Director of Health shall not exercise his discretionary authority, nor limited enforcement resources, to enforce the independent audit requirement of section 342G-121.5(c)(2), HRS, on Deposit Beverage Distributors for calendar year 2025.
2. Deposit Beverage Distributors who have already completed the independent audit requirement of section 342G-121.5(c)(2), HRS, for calendar year 2025 may submit those audits to the DBC Program if they so choose, and the Department of Health may accept those audits toward meeting an independent audit requirement for 2027.

3. Nothing in this Executive Order shall preclude the Department of Health and its DBC Program from investigating and enforcing any other violation of chapter 342G, HRS, where such investigation and enforcement otherwise serve an important state interest.

IT IS FURTHER ORDERED that this Executive Order shall take effect immediately and remain in force unless modified or rescinded by a subsequent Executive Order.

DONE at the State Capitol, in the City and County of Honolulu, this 10th day of September, 2025



JOSH GREEN, M.D.
Governor of Hawai'i

APPROVED AS TO FORM:

Anne E. Lopez

ANNE E. LOPEZ
Attorney General