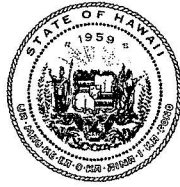


LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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**HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE AND
JUDICIARY
TESTIMONY REGARDING SB 470
RELATING TO LIQUOR**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: MARCH 16, 2009

TIME: 2PM

ROOM: 325

This measure, among other things, allows liquor licensees who have an agreement to repay delinquent taxes on a payment plan and who are complying, to apply for a liquor license, overriding AG Op. 95-1.

The Department of Taxation opposes the tax provision in this legislation.

PURPOSE OF TAX CLEARANCE IS TO ENSURE REVENUE STREAM—The Department understands that the current economy has slowed, which ultimately impacts taxpayers' ability to pay taxes. However, the Department cautions this Committee that this legislation defeats the purpose of the tax clearance predicate, which is to ensure all liquor sellers are current with their taxes to enjoy the benefit of the privilege to sell liquor. The Department is concerned with this measure and that it will no longer ensure a guaranteed flow of tax revenue as the licensee can extend their tax obligations over time and still obtain a temporary license if they enter a payment plan. However, simultaneously, the Department understands that it allows for a tax clearance to be issued in order for businesses to stay open, sell more liquor, generate more money, which will be used to ultimately pay their taxes owed.

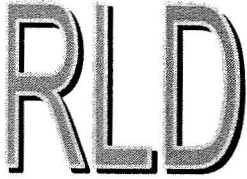
CONCERN OVER PRECEDENT FOR OTHER HIGH RISK INDUSTRIES—The Department cautions the Committee on this measure due to the precedent it could set with other regulated industries that require a tax clearance due to perceived high tax risk. Contracting, for example, is another industry that requires a tax clearance prior to license renewal. This industry is hurting equally due to the economic slowdown. The Committee should be cognizant of the precedent this legislation could set and be mindful that the effectiveness of the tax clearance in bringing in revenue would be eroded.

MAKE THE TAX CLEARANCE/PAYMENT PLAN PROVISION TEMPORARY—

The Department requests that the bill be amended to make the payment plan tax clearance provision temporary. If the intent of this measure is to allow taxpayers on a payment plan to continue operating due to the economic downturn, then this concession should be temporary. The Department requests that the bill be amended to provide the payment plan tax clearance provision for two years.

CLARIFY THAT TAXPAYER CANNOT BE IN DEFAULT—

The bill currently proposes to allow clearances where the taxpayer "complies." The bill should be amended to clarify that the taxpayer must not be in default on the terms of any agreement to get a clearance.



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March 16, 2009

To: **House Committee on Consumer Protection & Commerce**
Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

Committee on Judiciary
Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair

By: Richard C. Botti, Executive Director
Retail Liquor Dealers Association of Hawaii

Re: SB 470 RELATING TO LIQUOR

Chairs & Committee Members:

We oppose any approval to use penalty revenues against licensees for any purposes that would relate to social problems unrelated to the violation the licensee is being penalized for. We do not believe there is a nexus between violations by a liquor licensee and the intent of this measure. What we do suggest is that the law be change to allow all of the penalty revenues collected by fines of non-licensees violating liquor related laws to be use for the intended purpose of this measure.

What this measure would do is provide a funding mechanism by each County Liquor Commission where penalties would be assessed just to create funding to cover issues not related to the licensee. It would then benefit the Commissions to levy higher fines and more fines just to collect the money to fund the projects. Thus, what we are objecting to is the following language:

provided that fine moneys, not to exceed ten per cent a year of fines accumulated, may be used to fund public liquor related educational or enforcement programs;

(3) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education; provided that any educational program shall be limited to the commission staff, commissioners, or liquor control adjudication board members, licensees and their employees and shall be financed through the money collected from the assessment of fines against licensees; **provided that fine moneys, not to exceed ten per cent a year of fines accumulated, may be used to fund public liquor related educational or enforcement programs;**

We support the following language being added to subparagraph (3) under SECTIN 9 relating to:
"§281-45 No license issued, when. No license shall be issued under this chapter:

Under our current economic conditions, it is not wise to put a licensee out of business, since employees may be involved. It is better for the IRS and the DOT to negotiate terms for payment as indicated in this amendment.

**(3) Unless the applicant for a license or a renewal of a
2 license, or in the case of a transfer of a license,
3 both the transferor and the transferee, present to the
4 issuing agency a signed certificate from the director
5 of taxation and from the Internal Revenue Service
6 showing that the applicant or the transferor and
7 transferee do not owe the state or federal governments
8 any delinquent taxes, penalties, or interest; or that
9 the applicant, or in the case of a transfer of a
10 license, the transferor or transferee, has entered
11 into an installment plan agreement with the department
12 of taxation and the Internal Revenue Service for the
13 payment of delinquent taxes in installments and that
14 the applicant is or the transferor or transferee is,
15 in the case of a transfer of a license, complying with
16 the installment plan agreement; or**