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**HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING SB 470
RELATING TO LIQUOR**

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

DATE: APRIL 2, 2009

TIME: 2:00PM

ROOM: 308

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.



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

S.B. NO. 470, RELATING TO LIQUOR.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, April 2, 2009 TIME: 2:00 PM

LOCATION: State Capitol, Room 308

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Margaret S. Ahn, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General provides the following comment regarding this bill's title.

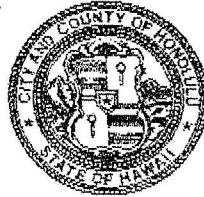
Article III, section 14, of the Hawaii State Constitution provides that each law shall embrace but one subject, which shall be expressed in its title. This bill titled "Relating to Liquor," could be challenged on the grounds that its title is too narrow to encompass section 1 of the bill, which amends section 91-9.5, Hawaii Revised Statutes, regarding notification of all administrative hearings under the Hawaii Administrative Procedure Act.

If this bill is passed, we respectfully recommend that section 1 of the bill be deleted.

LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



April 1, 2009

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Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice-Chair
Committee on Finance

Hearing: Thursday, April 2, 2009
2:00 pm; Room 308

Position: Support SB470 Relating to Liquor

The Departments of Liquor Control of the Counties of Hawaii, Kauai, and Maui and the City and County of Honolulu Liquor Commission strongly support SB470 and urge its passage.

SB470 continues the progress begun with Act 168, Session Laws of Hawaii 2008 (HB2253 HD2 SD1 CD1) to clarify and expand provisions of law to improve certain practices and procedures relating to liquor licensing, industry practices, and the adjudication process. Among other things, the proposed bill will accomplish the following objectives:

- Enable the liquor control departments to extend relief to licensees who cannot obtain a tax clearance prior to license renewal or transfer.
- Expand the use of fine moneys to include public liquor-related educational or enforcement programs, subject to a quantified annual limit.
- Clarify procedures relating to liquor license transfers, to more accurately reflect modern business enterprise organization.
- Extend the time within which a liquor commission may grant or refuse a liquor license application following public hearing.

The proposed bill is the result of a comprehensive review of Chapter 281 conducted by the four county liquor control departments, including its commissions and adjudication boards and industry representatives. This process was begun at the 2007 Annual Liquor Conference, and continued at the 2008 Conference and through meetings with various industry groups. We submit that the proposed bill will improve liquor regulation with negligible negative impact to licensees.

The Committees on Transportation, International & Intergovernmental Affairs; Commerce &

Consumer Protection; and the Joint Committees on Consumer Protection & Commerce and Judiciary have passed SB470 unamended.

We strongly support SB470 and respectfully request your favorable action on this important matter.

Janice Pakele, Director
County of Hawaii

Eric Honma, Director
County of Kauai

Franklyn Silva, Director
County of Maui

Anna Cathia
-fa Dewey H. Kim, Jr., Administrator
City and County of Honolulu Liquor Commission