
From: Tina Desuacido [tina500@juno.com]
Sent: Wednesday, February 09, 2011 9:28 AM
To: ERBtestimony
Subject: Tax Foundation Testimony
Attachments: h0365-11.pdf

TRANSMISSION OF TESTIMONY

DATE: Wednesday, February 9, 2011
TO: House Committee on Economic Revitalization & Business
FROM: Tax Foundation of Hawaii

Total Pages 1

FOR: Rep. Angus McKelvey, Chair
Testifier: Lowell L. Kalapa, President - Tax Foundation of Hawaii

(Mr. Kalapa will not appear in person at the hearing.)

Date of Hearing - Thursday, February 10, 2011

Position: Comments

Time of Hearing - 8:00 am

HB 365 - Relating to Liquor Tax Law (1 page)

Number of copies - 4

Thank you.

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: LIQUOR, Small breweries and brewpubs

BILL NUMBER: SB 644; HB 365 (Identical)

INTRODUCED BY: SB by Baker; HB by McKelvey and 2 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 244D to provide that a small brewery or brewpub that produces beer in the state shall be subject to a gallonage tax of \$0.23 per gallon of beer on the first 60,000 barrels of beer brewed or produced during a taxable year; beer produced after the first 60,000 barrels shall be taxed under HRS 244D-4(a).

Defines "small brewery or brewpub" as a brewery or brewpub that brews or produces not more than two million barrels of beer per taxable year.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: Currently, beer is subject to a state tax of \$0.93 cents per wine gallon while draft beer is subject to a tax of \$0.54. At the federal level, beer is subject to a tax of \$18 per barrel. Brewers who produce less than two million barrels are subject to a tax of \$7 on the first 60,000 barrels and \$18 after the first 60,000 barrels.

While the proposed measure would establish a reduced rate of \$0.23 per gallon for the first 60,000 barrels of beer brewed or produced in the state by a small brewery or brewpub annually, it would grant a preferential reduced rate of beer produced locally as compared to beer that is imported. If nothing else, lawmakers should secure a legal opinion as to the constitutionality of conferring a preferential rate for brewers located "in the state."

Digested 2/3/11



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February 10, 2011

Testimony To: House Committee on Economic Revitalization & Business
Representative Angus L.K. McKelvey, Chair

Presented By: Tim Lyons, Legislative Liaison
Anheuser Busch Companies

Subject: H.B. 365 – RELATING TO LIQUOR TAX LAW

Chair McKelvey and Members of the Committee:

I am Tim Lyons, Legislative Liaison for Anheuser Busch Companies and we do not support this bill.

Since the liquor taxes are already based on a per barrel produced as an excise tax, the more barrels one produces, the heavier the tax load and while we would agree that the tax load is substantial it nevertheless is proportioned to the amount that you produce. We find that a lowering of the tax rate based on a lower total overall production is highly discriminatory. We would also refer to the Committee to the "Bacchus Imports" case which ruled that even though Hawaii was trying to encourage the production of locally produced products, the court found that its purpose was improper.

Based on that we cannot recommend passage of this bill.

Thank you.



Feb 8, 2011

Representative Angus L.K. McKelvey, Chair
415 S. Beretania Street
Honolulu, HI 96813

Representative McKelvey:

I am writing today to urge you to vote for the passage of HB365.

Our state already boasts the highest excise tax rate on beer for small manufactures (less than 60,000 Barrels or 1,860,000 gallons produced). In fact, it is 260% higher than the national average. Alaska has a higher rate – but provides a tax incentive to in-state production of 68% lower tax rate on the first 60,000 barrels of production. We believe it is time for Hawai'i Craft Brewers to be allowed to compete on a more level playing field. Creating a Hawai'i small brewer tax provision that lowers the current tax for beer produced in Hawai'i to .23 cents per gallon will help us grow and create additional jobs here in Hawai'i.

We, along with other local breweries, asked for a two tiered tax structure last year in testimony to the senate. The federal government recognized decades ago the competitive advantage that large brewers have and supported, against great opposition at the time, a tax discount for small breweries for their first 60,000 barrels of production. This structure was approved by the federal government in 1977 and then reaffirmed and expanded in 1991. Once that happened, an explosion of breweries started to compete with the large players in our industry. 15 other states have already implemented a two tiered tax structure that closely resembles the federal discount on tax. This law was designed to help small brewers compete and create jobs in the US. It has worked exceptionally well on the mainland US in which the industry has grown from 49 breweries in 1977 (the year that the discount was introduced) to over 1500 today.

Compare that massive growth in small breweries to the situation in Hawai'i. Hawai'i has fewer breweries today than it did 10 years ago. The cost of brewing in Hawai'i is more expensive than anywhere else in the US. Our costs are 40% higher than producing beer on the mainland and shipping it into Hawai'i.

The largest Hawai'i based brewer produces the majority of their beer in Oregon and ships it to Hawai'i. Is this how Hawai'i wants to be known – as the state that imports everything? We at Hawai'i Nui Brewing believe that employing local workers and creating opportunities in the state is vitally important.



Hawai'i Nui Brewing.

275 East Kawili Street, Hilo, Hawai'i. 96740 808.934.8211-tel 808.961.9621-fax



Hawai'i Nui Brewing, the only bottler of beer in Hawai'i, moved our bottling operations back to Hawai'i two years ago. By doing that, we were able to create many jobs and generate additional tax revenue for the State of Hawai'i.

Hawai'i imported almost 1,000,000 Barrels of malt beverages (31,000,000 gallons) into Hawai'i in 2009. Total production, in the state of Hawai'i that same year, was less than 30,000 BBL's (930,000 gallons). Total production in Hawai'i was 3% of total consumption for the year with 97% imported into Hawai'i!

A reduction in the beer tax to .23 cents per gallon for beer produced in the state of Hawai'i would help our industry to be more competitive with beer produced out of state. Local craft brewers pay a variety of in-state taxes and additional costs that out-of-state manufacturers do not have to pay because they produce their products elsewhere.

We create jobs in Hawai'i, out-of-state producers do not. 100% of Hawai'i Nui Brewing employees live in Hawai'i, pay taxes, raise their children and support the local economy. Not one of the major beer manufacturers produces their beer in Hawai'i.

A vote to decrease taxes for the small brewers in Hawai'i is long overdue and is very much needed. I look forward to the opportunity to further discuss the details of what other states have already enacted to ensure the viability of their craft beer industries.

I humbly request that we follow the lead of The Federal Government (TTB) and 15 other states (Alaska, Iowa, Kentucky, Michigan, Minnesota, Montana, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, Texas, Washington, Wisconsin and Wyoming) and create a two-tiered structure that puts Hawai'i first.

Please vote for the passage of HB 365.

Mahalo for your continued support,

Keith Kinsey
Founder / President
Hawai'i Nui Brewing
Hilo, Hawai'i



Hawai'i Nui Brewing.



275 East Kawili Street, Hilo, Hawai'i. 96740 808.934.8211-tel 808.961.9621-fax



February 8, 2011

The Honorable Angus L.K. McKelvey, Chair
The Honorable Isaac Choy, Vice-Chair, and Members
Committee on Economic Revitalization and Business
Hawaii State House of Representatives
Hawaii State Capitol
415 S. Beretania Street, Room 427
Honolulu, HI 96813

SUBJECT: Support for House Bill 365, Relating to Liquor Law Tax

Dear Chair McKelvey, Vice-Chair Choy and Committee Members:

I am Andy Baker, Founder and Vice-President of Sales, Hawaii Nui Brewing, headquartered in Hilo. I am providing testimony in support of House Bill 365, which would provide a separate tax rate for small brewers in the state of Hawaii.

Hawaii Nui Brewing is the only brewer and bottler of beers in the state of Hawaii. Along with Maui Brewing Company and brew pubs located on several islands, we provide both visiting and kama'aina beer consumers authentic, locally brewed craft beers in a variety of styles. Several other brands with Hawaiian names and/or Hawaiian-sounding brand names that were once produced in Hawaii have long moved their production – and jobs – to mainland brewing facilities.

Passage of House Bill 365 would provide an immediate stimulus for a local industry that has struggled through the economic downturn and falling visitor numbers to the state. A lower tax rate solely on beer that is produced in the state would immediately create jobs at Hawaii Nui Brewing. The company would be in a more competitive position with brands imported into Hawaii. We would be able to sell more beer locally, creating the necessary capital to branch into new markets on the mainland and Asia thus becoming a beer exporter.

Our local brewery competes in the craft beer segment, which typically provides the wholesaler and retailer enhanced profit margins with a premium-priced product. However, in Hawaii this formula is the inverse. While we have some of the highest Price-to-Wholesaler levels, beer produced in Hawaii provides the wholesaler some of the lowest profit margins of their portfolios. This provides the wholesaler a huge disincentive to sell locally produced products but rather concentrate their sales efforts on brands



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imported to the state. As a result, consumers in Hawaii pay \$1 to \$2 more for locally produced beer, than brands imported to Hawaii from Oregon, California or Washington.

House Bill 365 would provide for more in-state production. Both the Kona Brewing and the venerable Primo brands are produced in Oregon, a state with one of the lowest tax rates on beer in the nation. Kona Brewing moved its production to the mainland in the late 1990s and has gone onto become the 21st largest brewery (in terms of sales volume) in the United States and is now owned by Craft Brewers Alliance. Primo, which ceased any local production in November 2010, is owned by Pabst the third largest American brewer.

In the same time period that these brands moved production to the mainland and have prospered, local breweries and brewpubs such as Alii Brewing, Tradewinds Brewing, Koolau Brewing, Whalers Brewpub, Hop Tomato Brewpub, Brew Moon and Molokai Brewing have all gone out of business, while beer sales and imports to Hawaii have increased.

Since we are small brewers, by nature we market our products not by the thousands of impressions that we make, but rather by the number of hands that we shake on a daily basis. Our marketing efforts are typically tied to non-profit fundraising events and numerous community activities. **"We Do Well by Doing Good"** is a mantra we live by and will grow by. Passage of House Bill 365 will allow us to increase our community activities and corporate giving, filling in voids as public funding become difficult in today's economy. This legislation will allow us to grow and we grow by helping the communities that we sell our beer to.

I ask you to pass House Bill 365 with strengthened language to ensure that any and all tax benefits are strictly realized by beer produced within the state of Hawaii and not by companies domiciled in Hawaii.

Mahalo for your consideration of this bill

Andy Baker
Founder/Vice-President of Sales
Hawaii Nui Brewing
Hilo, Hawaii

