



DEPARTMENT OF LIQUOR CONTROL
C O U N T Y O F M A U I

2145 KAOHU STREET, ROOM 105 • WAILUKU, MAUI, HAWAII 96793
PHONE (808) 243-7753 • FAX (808) 243-7558

DATE: February 28, 2011

TO: Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
State of Hawaii, House of Representatives
Committee on Judiciary

FROM: Franklyn L. Silva, Director

Re: HB1339 Relating to Liquor Commissions

The purpose of this testimony is to **oppose** HB1339 based on the following facts:

1. Department of Liquor Control ("Department") Rule 08-101-23(b) states that "An approved area for dancing shall have, when utilized, a minimum area of one hundred square feet, be a non-consumption area, and shall be clearly designated for dancing."
2. Licensees may choose not to have an approved dance area because they do not want dancing in their premises.
3. Department staff is not overzealous in their enforcement of this Rule. In at least the last twenty-eight years the Department has not filed a complaint against a licensee regarding this Rule.
4. The Department surveyed 230 licensees regarding this Rule. 7% of licensees responded that they have had problems with this Rule and 9% of licensees responded that they would like the rule amended.
5. After listening to public testimony and reviewing the results of the licensee survey the Liquor Control Commission voted not to amend their rules.
6. On March 27, 2009 the County of Maui prevailed in a lawsuit in which Second Circuit Court Judge E. Cardoza ruled that there is no constitutional right to engage in recreational dancing. In his ruling, Judge Cardoza cited numerous US Supreme Court and appellate court decisions holding that recreational dancing is not entitled to First Amendment protection.



Committee: Committee on Judiciary
Hearing Date/Time: Tuesday, March 1, 2011, 2:00 p.m.
Place: Room 325
Re: Testimony of the ACLU of Hawaii in Support of H.B. 1339,
Relating to Liquor Commissions

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 1339, Relating to Liquor Commissions, which would require county liquor commissions to adopt or amend rules regarding conduct of patrons and to define the term "dancing."

The ACLU of Hawaii has received a number of complaints about Maui's "Footloose" rule, Rule 08-101-23, which, among other things, prohibits dancing in bars and restaurants that serve alcohol, unless there is a designated dance floor in an area where alcohol isn't consumed. Patrons are not allowed to "dance" anywhere else in the bar or restaurant without bringing heavy fines on the bar/restaurant owner. The rule fails to define dancing and, as such, leaves patrons without any notice as to what movements would be considered "dancing."

The complaints we have received allege that Liquor Control officers are overzealous in their enforcement of these rules and that the Liquor Control Commission has been unresponsive and outright hostile to complaints. H.B. 1339 may help to resolve that conflict by requiring the Maui Liquor Control Commission to ensure that its rules protect the constitutional rights of Maui's residents and visitors. We urge you to support H.B. 1339.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

Thank you for this opportunity to testify.

Sincerely,
Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

To:

Judiciary Committee

RE: **HB 1339**

Hearing: March 1, 2011, 2pm

From: Ramoda Anand
1250 Olinda Rd.
Makawao, HI. 96768
(808) 2-5-2722
framodda@yahoo.com

I am writing in support of HB 1339, and its new paragraph, which states, "To prescribe, by rule, limitations on licensed premises regarding the expression and conduct of patrons therein; provided that the rules shall comply with constitutional provisions regarding government regulation of expression as though the rule was being directly enforced against patrons;", because we are counting on you to protect our first amendment rights and freedom of expression. The statute, as it is currently written, is antiquated at best, and does not protect my right to dance. I am hoping that you will support this bill, and protect my rights.

Mahalo,

Ramoda Anand
Makawao
Maui

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 1:33 PM
To: JUDtestimony
Cc: k3llybr0wn@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position:
Testifier will be present: No
Submitted by: kelly brown
Organization: Individual
Address:
Phone:
E-mail: k3llybr0wn@gmail.com
Submitted on: 2/27/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 9:34 PM
To: JUDtestimony
Cc: del@djdelso1.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Felipe Delgado Jr.
Organization: Individual
Address:
Phone:
E-mail: del@djdelso1.com
Submitted on: 2/26/2011

Comments:

I've been a DJ on both Oahu and Maui for over ten years. I still don't understand why you can drink and dance on Oahu, but not on Maui. Or why you're not allowed to dance outside of the dance floor. The county says it's a "safety issue", but again... why is it safe to drink and dance on Oahu, but not Maui? I hope that not only is this "dancing regulation" dropped, I also hope that many of these unnecessary rules and regulations are also dropped. Thank you.

Testimony for HB1339 on 3/1/2011 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, February 28, 2011 11:28 AM

To: JUDtestimony

Cc: findmaya72@yahoo.com

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: jennifer DiSanto

Organization: Individual

Address:

Phone:

E-mail: findmaya72@yahoo.com

Submitted on: 2/28/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 25, 2011 6:00 PM
To: JUDtestimony
Cc: aaronsjackson@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: comments only
Testifier will be present: No
Submitted by: aaron jackson
Organization: Individual
Address:
Phone:
E-mail: aaronsjackson@gmail.com
Submitted on: 2/25/2011

Comments:

my name is aaron jackson. i am resident of maui. i think people should be allowed to dance in public and private businesses without being interfered with as long as they are being safe. I don't think the liqueur commission should be in charge of policing dancing. i think another commission should be created to monitor and police dancing in maui county.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 4:44 PM
To: JUDtestimony
Cc: kathy@islandtravelgoods.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Kathy Jones
Organization:
Address:
Phone:
E-mail: kathy@islandtravelgoods.com
Submitted on: 2/26/2011

Comments:

Dance is communication, non-verbal communication and spans many cultures. It cannot be forbidden to communicate non-verbally. Pictures tell a story and so does dance. Please make it legal to communicate in every fashion.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 10:59 AM
To: JUDtestimony
Cc: waymandance@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM
Attachments: dance rights.rtf

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: jeff wayman
Organization: Individual
Address:
Phone:
E-mail: waymandance@gmail.com
Submitted on: 2/26/2011

Comments:

Seems clear that our rights are consistently being removed. Fear seems to be a strong motivating factor. When it comes down to being told how we can or can't move our bodies to music, it seems the ultimate affront to freedom. It makes me think about moving out of the USA...but not for the reasons so many corporations are. Please stand up for the dignity of being able to move about freely. Thankyou.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 1:24 PM
To: JUDtestimony
Cc: anthony@mauidanceadvocates.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Anthony Simmons
Organization: Maui Dance Advocates
Address:
Phone:
E-mail: anthony@mauidanceadvocates.com
Submitted on: 2/27/2011

Comments:

Aloha,

I feel we have the right to make conscious movements, if those movements do not harm anyone else. Flailing about in a restaurant or bar off the dance floor may be a safety issue, but as a free individual I should be allowed to moderately move my body, by bobbing my head, tapping my toe or shaking my hips. Do I need a permit to Hula? Is this form of communication not protected by the constitution?

Please support HB 1339 and our right to walk and stand rhythmically.

Mahalo,

Anthony Simmons

Testimony in favor of the change for dance policy in Hawaii

My name is Barbara Simmons of 244 Feld Avenue in Battle Creek, Michigan. My husband and I come to Hawaii every five years to celebrate our anniversaries. We were very dismayed to learn of the "no-dancing unless on the dance floor" issue. Hawaii is known for its hula dancing and to be a relaxed, "hang-loose" vacation spot, yet there are laws on the books about not being able to respond to music when it is played?

We want the changes to pass so we can enjoy not only the physical beauty of your state, but also the rich musical heritage that you have. We want to be able to move to that music and to let the artists know that their music is appreciated by those present.

Sincerely,

Barbara Simmons

simmons8937@yahoo.com

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 1:22 PM
To: JUDtestimony
Cc: dolphinfriendjen@verizon.net
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Jen Ward
Organization: Individual
Address:
Phone:
E-mail: dolphinfriendjen@verizon.net
Submitted on: 2/26/2011

Comments:

I was shocked when I visited my friend on Maui Oct 2010 that dancing was NOT allowed in all venues!! I thought she was joking. This is absurd, should not be controlled, if music is playing one should be able to move their feet, shake their body, dance and be joyful!!! Stop making it about money and who has a "dance" license and move into the 21st century!

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 12:23 PM
To: JUDtestimony
Cc: wolf@goodfoot.net
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: David Wolfberg
Organization: Individual
Address:
Phone:
E-mail: wolf@goodfoot.net
Submitted on: 2/27/2011

Comments:

I am a full time musician on Maui. Passing this bill will help me to make a better living.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 10:38 PM
To: JUDtestimony
Cc: paulandrew808@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Paul Andrew
Organization: Individual
Address:
Phone:
E-mail: paulandrew808@gmail.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 2:39 PM
To: JUDtestimony
Cc: Jcbowersox2002@live.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: James bowersox
Organization: Individual
Address:
Phone:
E-mail: Jcbowersox2002@live.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 11:13 PM
To: JUDtestimony
Cc: cari.boyer@hotmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Cari Boyer
Organization: Individual
Address:
Phone:
E-mail: cari.boyer@hotmail.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 1:22 AM
To: JUDtestimony
Cc: ross.buffomante@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: ross buffomante
Organization: Individual
Address:
Phone:
E-mail: ross.buffomante@gmail.com
Submitted on: 2/27/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 10:37 PM
To: JUDtestimony
Cc: coridayton@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Cori Dayton
Organization: Individual
Address:
Phone:
E-mail: coridayton@gmail.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 11:16 AM
To: JUDtestimony
Cc: craigonmaui@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: craig eckert
Organization: Individual
Address:
Phone:
E-mail: craigonmaui@gmail.com
Submitted on: 2/26/2011

Comments:
i have personally seen the LC abuse these laws...

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 6:57 PM
To: JUDtestimony
Cc: gaiawse@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Gaia Giakali
Organization: Individual
Address:
Phone:
E-mail: gaiawse@gmail.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 10:19 PM
To: JUDtestimony
Cc: sarah@gontoski.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Sarah Gontoski
Organization: Individual
Address:
Phone:
E-mail: sarah@gontoski.com
Submitted on: 2/27/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 1:46 PM
To: JUDtestimony
Cc: Jinx975@msn.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Lisa Henderson
Organization: Individual
Address:
Phone:
E-mail: Jinx975@msn.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 2:45 PM
To: JUDtestimony
Cc: keegal42@hotmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Keegan House
Organization: Individual
Address:
Phone:
E-mail: keegal42@hotmail.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 12:03 PM
To: JUDtestimony
Cc: antquintal@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Antoinette Quintal
Organization: Individual
Address:
Phone:
E-mail: antquintal@gmail.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 2:33 PM
To: JUDtestimony
Cc: dj_decka@yahoo.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Evan Ratkowski
Organization: Individual
Address:
Phone:
E-mail: dj_decka@yahoo.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 10:54 AM
To: JUDtestimony
Cc: jdreiss2002@yahoo.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: jeff reiss
Organization: Individual
Address:
Phone:
E-mail: jdreiss2002@yahoo.com
Submitted on: 2/26/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 26, 2011 10:40 PM
To: JUDtestimony
Cc: skeesmith@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Erin Smith
Organization: Individual
Address:
Phone:
E-mail: skeesmith@gmail.com
Submitted on: 2/26/2011

Comments:

We should be allowed to dance much more freely on Maui! Oahu does just great, and they allow dancing, not just in a square taped off on the floor. Let's get with the rest of the state and support this bill!

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 8:50 AM
To: JUDtestimony
Cc: trisha.smith.24@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: trisha smith
Organization: Individual
Address:
Phone:
E-mail: trisha.smith.24@gmail.com
Submitted on: 2/27/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 27, 2011 12:32 PM
To: JUDtestimony
Cc: jswacina@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Jennifer Swacina
Organization: Individual
Address:
Phone:
E-mail: jswacina@gmail.com
Submitted on: 2/27/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 28, 2011 6:48 PM
To: JUDtestimony
Cc: nini1992@aol.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: regina fernicola
Organization: Individual
Address:
Phone:
E-mail: nini1992@aol.com
Submitted on: 2/28/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 28, 2011 9:58 PM
To: JUDtestimony
Cc: Shootsshoots@gmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Mary Bailey
Organization: Individual
Address:
Phone:
E-mail: Shootsshoots@gmail.com
Submitted on: 2/28/2011

Comments:

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 01, 2011 7:36 AM
To: JUDtestimony
Cc: J.m.paradiso@hotmail.com
Subject: Testimony for HB1339 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB1339

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Juliette paradiso
Organization: Individual
Address:
Phone:
E-mail: J.m.paradiso@hotmail.com
Submitted on: 3/1/2011

Comments: