

# SB644

**Measure Title:** RELATING TO LIQUOR TAX LAW.

**Report Title:** Liquor Tax; Small Breweries and Brewpubs

**Description:** Reduces the gallonage tax on the first 60,000 barrels of beer brewed or produced during a taxable year by a small brewery or brewpub in the State to \$0.23 per gallon of beer.

**Companion:**

**Package:** None

**Current Referral:** CPN, WAM



# THE LEGISLATIVE CENTER

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February 11, 2011

Testimony To: Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons, Legislative Liaison  
Anheuser Busch Companies

Subject: S.B. 644 – RELATING TO LIQUOR TAX LAW

Chair Baker 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.

# TAXBILLSERVICE

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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



Feb 8, 2011

Senator Rosalyn H. Baker, Chair  
415 S. Beretania Street  
Honolulu, HI 96813

Dear Senator Baker:

I am writing today to urge you to vote for the passage of SB644.

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 SB644.

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

Testimony for CPN 2/11/2011 8:30:00 AM SB644

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Rich Tucciarone  
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Submitted on: 2/10/2011

Comments:

Hawaii craft brewers are at a competitive disadvantage due to the remote geographical location and are among the highest taxed in the US, yet provide numerous jobs and positive economic impact to our state. The beer industry as a whole in Hawaii is responsible for more than 7,000 jobs, nearly \$200,000,000 in wages and nearly \$600,000,000 in output. Please support reducing the gallonage tax for these small businesses in Hawaii that make up a portion of the total beer industry in Hawaii by providing local jobs, paying taxes and adding value to our communities.

Mahalo nui loa,  
Rich Tucciarone