

# HB 1314, HD1

MEASURE TITLE

RELATING TO LIQUOR

DESCRIPTION:

Establishes a new class liquor license for distillery pubs. Requires beer whose labels convey the impression that the beer was produced in the State to indicate otherwise if the beer was not produced in the State. Effective July 1, 2112. (HB1314 HD1)

March 10, 2013

Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair  
Committee on Public Safety, Intergovernmental and Military Affairs

Hearing: Tuesday March 12, 2013  
2:45pm; room 224

**Position: providing testimony in favor of HB 1314 HD1 Relating to Liquor, suggesting amendments**

As President of Island Distillers, I thank you for the opportunity to provide testimony. Due to previous commitments, I will be off island and unable to attend the hearing in person.

The original purpose of HB1314 HD1 is to amend language in the Hawaii Revised Statutes to allow for an additional class of liquor license, the distillery pub.

This would be similar to a brewpub license, but with distilled spirits instead of beer.

There are brewpubs currently operating in all 4 counties, supporting employment, small business, and the visitor industry, as well as providing unique food and beverage choices. The distillery pub would be similarly beneficial, with the added benefit of supporting diversified agriculture by using Hawaii grown crops as ingredients.

I support this bill with suggestions for two revisions that:

- 1) correct a mathematical calculation error in the original draft
- 2) correct a contradiction in language between classes of license

The mathematical error occurred when calculating the maximum allowable production of the distillery pub license, which is intended to be the equivalent amount of alcohol as the existing brewpub license. An incorrect equivalence of '12 oz of beer = 1 oz of distilled beverage' was mistakenly used instead of the correct equivalence of '12 oz of beer = 1.5 oz of distilled beverage'.

Correcting this would change the annual maximum production of the distillery pub license to 116,000 gallons from the 77,000 gallons as currently written; 116,000 gallons of 40% spirits being the alcohol volume equivalent of 30,000 barrels (930,000 gallons) of 5% beer, which is the current brewpub annual maximum. To correct this, I respectfully request the following revision:

> At page 20, lines 5-7, change "seventy-seven" to "one hundred sixteen" so that it reads as follows:

(1) Shall manufacture not more than one hundred sixteen thousand gallons of distilled beverages on the licensee's premises during the license year;

Correcting this inadvertent calculation error will place the distillery pub license on par with the brewpub license in regards to maximum allowable alcohol production, which is the original intent. It is fair and equitable for a distillery pub to be allowed to produce the same amount of alcohol beverages as a brewpub.

In regards to correcting a contradiction,

the existing 281-31 (n)(4) states that brewpubs "May sell intoxicating liquor purchased from a class 1 manufacturer licensee or a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises.",

yet 281-31 (p)(7) states that winery licensees "May sell wine manufactured on the licensee's premises in winery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispenser licensees, class 6 club licensees, class 8 transient vessel licensees, class 9 tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, class 13 caterer licensees, **class 14 brewpub licensees**, and class 15 condominium hotel licensees". [emphasis added]

This is contradictory because the former restricts brewpubs to purchasing only from class 1 manufacturer licensees and class 3 wholesale dealer licensees, while the latter allows brewpubs to purchase from winery licensees, just like all other retailers may do.

This contradiction in the existing law arose because the brewpub license preceded the creation of the winery license by a number of years. When the brewpub license was created, only class 1 manufacturers and class 3 wholesalers existed as sources of purchase for the brewpub licensee. When the winery license was subsequently created, it is clear from the language that it was intended for class 16 brewpubs to be able to purchase directly from winery licensees, just as all other retailer licensees may do. Thus the restrictions on purchase in 281-31(n)(4) should have been expanded to include the class 16 winery license, but apparently this was overlooked, creating the current legal contradiction. Because the class 14 brewpub license was used as a template for the proposed class 18 distillery pub license in HB 1314 HD1, this contradiction is also present.

To correct these contradictions in HB 1314 HD1, I respectfully suggest the following revisions:

>At page 13, lines 21-22, and page 14, lines 1-2, add "a class 16 winery license, or a class 18 distillery pub license" so that it reads as follows:

(4) May sell intoxicating liquor purchased from a class 1 manufacturer licensee, ~~or a class 3 wholesale dealer licensee~~, a class 16 winery licensee, or a class 18 distillery pub licensee to consumers for consumption on the licensee's premises.

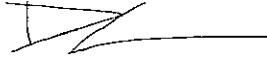
>At page 20, lines 11-14, add "a class 14 brewpub licensee, or a class 16 winery licensee" so that it reads as follows:

(3) May sell intoxicating liquor purchased from a class 1 manufacturer licensee, a class 3 wholesale dealer licensee, a class 14 brewpub licensee, or a class 16 winery licensee to consumers for consumption on the licensee's premises.

Correcting these contradictions will provide brewpub licensees and distillery pub licensees with the exact same ability to purchase directly from winery licensees, brewpub licensees, and distillery pub licensees that all other retailer licensees enjoy. This is fair, provides all retailer licensees with the same purchase abilities, and reflects the intent of these newer license classes.

Thank you for the opportunity to provide testimony on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Flintstone', with a horizontal line extending to the right.

Dave Flintstone  
President  
Island Distillers Inc.  
220 Puuhale Rd. #B3  
Honolulu HI 96819  
ph. 808-492-4632



March 11 2013

Representative Angus L.K. McKelvey, Chair  
Representative Derek S.K. Kawakami, Vice Chair  
Committee on Consumer Protection & Commerce  
House of Representatives  
State Capital  
415 South Beretania  
Honolulu, HI 96813

**SUBJECT: Support for House Bill 1314, Relating to Liquor**

Dear Chair and Committee Members:

We are providing testimony in support of House Bill 1314, which establishes a new class liquor license for distillery pubs and requires beer whose labels convey the impression that the beer was produced in the State to indicate otherwise if the beer was not produced in the State.

We support all aspects of House Bill 1314 and specifically the labeling conveyance because, as an owner of a Brewery in the State of Hawaii, we are very loyal to all things made in Hawaii and proud that we can contribute to our community with a superior product with which we have a tremendous pride in the making. We try very hard to maintain the long heritage of Beer, brewed solely in Hawaii.

We believe this bill will help protect business owners such as ours who are trying to compete in a tough market and level the playing field from others who manufacture products on the mainland where costs of doing business are less expensive and yet label them as if they were manufactured in Hawaii. It's not fair to hardworking business owners who are trying to compete and consumers who want to support local businesses.

As a business owner and one who wishes to manufacture locally made products, bearing the increased cost of manufacturing in Hawaii, we do not appreciate products made out of state, falsely labeling and advertising their products as locally made so they are exempt from these costs..

If you buy one of our beers, you'll know it's made locally right out of our Brewery. But without this Bill, as a consumer, I would have no idea if the product I am purchasing was truly made in Hawaii. This bill is all about truth in advertising. Let the consumer know exactly where the product they are purchasing is made. If not in Hawaii, give them the information to allow them to decide. My guess is that they might make a different choice and pick a local Hawaii made product

We ask you to pass House Bill 1314. Thank you for your consideration in support of this bill.

Sincerely,

Bret Larson  
President/CEO, Kauai Island Brewing Company, LLC.  
[bret@kauaiislandbrewing.com](mailto:bret@kauaiislandbrewing.com)



**Thomas Kerns**  
**Big Island Brewhaus**  
**64-1066 Mamalahoa Hwy.**  
**Kamuela, Big Island**  
**Hawaii, 96743**  
**[BigIslandBrewhaus@Yahoo.com](mailto:BigIslandBrewhaus@Yahoo.com)**  
**808-276-3301**

Aloha Honorable Legislators,

I am writing in support of HB 1314; a bill that deems to take confusion out of the marketplace of beer industry labeling. We feel that if a beer is to be considered "Hawaiian" that it must indeed be brewed and packaged 100% in the State of Hawaii. The common practice of brewing elsewhere by a brewer of Hawaiian origin or otherwise and then labeling said beer without indication of actual origin of manufacture can and does promote confusion to consumers as to its actual origin. Consumers actually value locally made products for several reasons including: supporting local businesses and families, quality and freshness versus a product made more than 2,000 miles away and then shipped potentially compromising quality or character of a food or agricultural product. The challenge is similar with other agricultural as well as locally made products.

The value of creating a product locally using many local resources including but not limited to water, power, shipping, agriculture, and other related Hawaiian businesses costs more and yet supports the State's economy in a broad way. A company that is allowed to create a product posing as locally made when not in fact made locally can save the inherent higher costs of local production while selling a product that is actually not "Hawaiian" and does not support the economy of the State in the same manner a locally brewed beer does. A label requiring actual origin of brewing/production and packaging should be required to help preserve the appellation of "Made in Hawaii" and encourage a quality based Hawaiian brewing industry to continue to flourish. Craft beer consumers are discriminating enough to want to read the labels for this type of information. If "truthful origin labeling" is not required integrity suffers and consumers will be denied access to truthful, valuable information about the product.

Please help protect consumers from misleading labels and require a beer label to state the actual origin of brewing on the label. People have the right to the truth.

Thank-you for your support,  
Sincerely,

**Thomas Kerns**  
**Big Island Brewhaus**  
**64-1066 Mamalahoa Hwy.**  
**Kamuela, Big Island**  
**Hawaii, 96743**  
**[BigIslandBrewhaus@Yahoo.com](mailto:BigIslandBrewhaus@Yahoo.com)**  
**808-276-3301**

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**From:** Vicky Uchiyama [VUchiyama@m4law.com]  
**Sent:** Monday, March 11, 2013 1:34 PM  
**To:** PSMTestimony  
**Subject:** Hawaii Liquor Wholesalers Association Testimony to HB 1314 HD1  
**Attachments:** Hawaii Liquor Wholesalers Association Testimony to HB 1314 HD1.pdf

TO: Senate Committee Senate Committee on Public Safety, Intergovernmental and Military Affairs

Attached is written testimony submitted by Hawaii Liquor Wholesalers Association dated March 11, 2013 regarding House Bill No. 1314 HD 1 scheduled for hearing on Tuesday, March 12, 2013 at 2:45 p.m.



Hawaii Liquor Wholesalers Association  
222 South Vineyard Street, Suite 401  
Honolulu, HI 96813-2453  
(808) 531-4551

March 11, 2013

Via Email: PSMtestimony@capitol.hawaii.gov

Senator Will Espero  
Senator Rosalyn H. Baker  
Senate Committee on Public Safety,  
Intergovernmental and Military Affairs  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Re: House Bill No. 1314 HD 1 relating to liquor

Dear Chair Espero, Vice Chair Baker and Committee Members:

On behalf of the Hawai'i Liquor Wholesalers Association ("HLWA"), we submit the following testimony on House Bill No. 1314 HD 1 relating to liquor, which is scheduled to be heard by your Committee on Public Safety, Intergovernmental and Military Affairs on Tuesday, March 12, 2013.

House Bill No. 1314 HD 1 proposes to establish a new class of Liquor Commission licensee for distillery pubs.

HLWA does not object to the creation of a new licensee category of distillery pubs, as long as the exemption for distillery pubs and brew pubs to not purchase liquor from licensed wholesalers is limited to liquor that the pubs manufacture themselves. The exemption should not apply to liquor that the pubs do not manufacture. If brewpub and distillery pub licensees are permitted to purchase directly from other manufacturers, these brewpub and distillery pub licensees will obtain an unfair competitive advantage *vis a vis* other retail licensees, who are required to purchase from licensed wholesalers.

Specifically, if this Committee intends to move House Bill No. 1314 HD 1 forward, we respectfully suggest the following revisions in Section 2 of the bill:

- At page 13, lines 21-22, delete "a class 1 manufacturer licensee or", so that the first sentence of Section 281-31(n)(4) relating to brewpubs provides as follows:
  - (4) May sell intoxicating liquor purchased from [~~a class 1 manufacturer licensee or~~] a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises.

Senator Will Espero  
Senator Rosalyn H. Baker  
Senate Committee on Public Safety,  
Intergovernmental and Military Affairs  
March 11, 2013  
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- At page 20, lines 11-12, delete “a class 1 manufacturer licensee or”, so that the first sentence of new Section 281-31(r)(3) relating to distillery pubs provides as follows:

(3) May sell intoxicating liquor purchased from a class 3 wholesale dealer licensee to consumers for consumption on the licensee's premises.

Deleting the ability of existing brewpub licensees and the new proposed distillery pub licensees to purchase liquor directly from other manufacturers for consumption on their premises would not prevent brewpub and distillery pub licensees from selling their own products directly to consumers on their premises, which presumably is the intent of the brew pub and distillery pub licensing. Brew pubs and distillery pub licensees, however, would be required to purchase products manufactured by other manufacturers from licensed wholesalers, as generally is required of all other retail liquor licensees.

The purpose of the proposed revisions is to maintain the integrity of the three tier liquor distribution system and to prevent brewpub and distillery pub licensees from having a competitive advantage over other retail licensees with respect to products that the brewpubs and distillery pub licensees do not manufacture. We do not believe that the intent of brewpub or distillery pub licensing is or should be to create such an unfair advantage and we therefore support amendment of House Bill No. 1314 HD 1 as set forth above if the Committee advances this measure.

Thank you for your consideration.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION

