

# SB 1261

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

Introducer(s): BAKER, KEITH-AGARAN, RUDERMAN, Kahele, Wakai

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/28/2013	S	Referred to CPN, WAM.
1/29/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-06-13 9:00AM in conference room 229.

**NEIL ABERCROMBIE**  
GOVERNOR

**SHAN TSUTSUI**  
LT. GOVERNOR



**FREDERICK D. PABLO**  
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**DEPARTMENT OF TAXATION**

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To: The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Monday, February 6, 2013

Time: 9:00 a.m.

Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 1261 Relating to Liquor Tax Law

The Department appreciates the intent of S.B.1261 and provides the following information and comments for your consideration.

S.B. 1261 applies a reduced gallonage tax on the first 60,000 gallons of beer brewed per year by a small brewery.

The bill will impose additional administration costs on the Department. The modified treatment will require the Department to distinguish between small and large brewers, to track amounts brewed very closely, and to apply two rates of tax to some brewers. This will place additional strain on limited Department resources and add significant complication to an otherwise straightforward tax.

Thank you for the opportunity to provide comments.



# MAUI BREWING CO.

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February 9, 2013

State of Hawaii  
Senator Rosalyn Baker, Chair

Re: Testimony in Strong Support of 1261

Aloha Ladies and Gentlemen of the Committee:

I am writing to you in strong support of SB1261 with amendments. We support the changes proposed by the Department of Tax as it simplifies the language and administration of this legislation.

I support this measure as it allows for the creation of a Small Brewers Tax provision which exists currently under federal law. The truly "Local" brewers, brewers that brew 100% of our product in Hawaii with local labor, myself at Maui Brewing Co. and our bretheren at Hawaii Nui Brewing Co. in Hilo, Kauai Brewing on Kauai, and Big Island Brewhaus on Hawaii stand united on this cause. The passage of this provision will allow for job creation, reinvestment in our communities, and allow us to be competitive with large breweries from the mainland where costs of production almost half as much.

Collectively, Hawaii's local brewers account for less than 2% of beer sold in Hawaii, approximately 620,000 gallons versus the 31,000,000 gallons imported into the State. The tax provision as proposed results in a very small, almost insignificant decrease in the amount collected by State taxes. We really need to view this as an investment in job creation and supporting Hawaii manufacturing. At the same time, the resulting increases in production volume and removing burden from unemployment will result in a net gain to the State.

In 2005 when I started Maui Brewing Co. I did so with the vision of producing the highest quality ales and lagers available in the State, and doing so with a strong commitment to always brewing in Hawaii. At that time most so-called "Hawaiian" beers were being brewed in the mainland and shipped to Hawaii; it was my goal to bring truth and authenticity to Hawaiian Beer. We have stayed true to our vision and have brought attention to craft beer in Hawaii for the first time in history. We have won more awards at all levels of competition for our beers than any other brewery in the State. We are proud that in the craft brewing community around the world the name "Maui Brewing Co." is synonymous with world-class beer of a truly local Hawaiian origin. It has become increasingly difficult to grow and remain competitive with the extremely high cost of production in Hawaii relative to our mainland counterparts, this compiled with the highest taxes in the Nation result in a disincentive to manufacturing in the State and a complete lack of competitive capability. One look at the store shelves will show you that our true Hawaiian beers are the most expensive beers on the shelf. Unfortunately this keeps them out of the reach of the average hawaiian family. This is a sad state of affairs.

Maui Brewing Co. is Hawaii's largest craft brewery, we are also the only brewery canning our beer in the State. We purchase our cans from a local Ball Corporation plant in Kapolei further supporting local labor. Bottles are not made in Hawaii and we, as do many others, believe the can is better for beer. One reason for our growth is we have begun to sell our beer in the mainland and international markets. I am often asked why my beers sell for the same price, and in some instances cheaper, on the west coast than in Hawaii, as exported beer should be more expensive. Sadly, the state taxation in Hawaii is so high that I can ship my beer AND pay taxes to the Western States for less than just the tax in Hawaii. For example, CA is approx \$.45 per case versus Hawaii at \$2.09 per case.

This disincentive to local sales has encouraged an outward migration of jobs, taxes, and manufacturing. We want to be encouraged to sell and brew our products in Hawaii, and the support of our government officials with a decrease in tax for in-state produced product is the only way. We are not asking to pay the lowest tax, but a tax

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competitive to other States. It is time to create a small brewers tax provision that will allow us to bring back and create more jobs through growth. We believe in a strong Hawaii, this starts with small businesses which are the backbone of any strong community.

Maui Brewing Co. currently employs 62 employees in the State. These employees live in Hawaii, raise their children here, pay taxes, and contribute to the community. Forty-one employees are full-time employees with family-level wages, insurance benefits including health (medical, drug, dental, vision and preventative care), life insurance, and 401(k). We currently match contributions to 401(k), and we have implemented a profit sharing plan as we believe in employee appreciation; we simply would not be where we are without our staff.

We need to create a Small Brewers classification in order to support the growing craft beverage industry in Hawaii. In speaking with others in our local industry, we collectively agree that the small brewers tax provision we are seeking would be utilized by us all to invest in new equipment and people in order to continue growing our companies locally. This would serve to bring local jobs to market and help get workers looking for jobs off unemployment and government assistance. Our growth would allow us to actually pay more in taxes as a result of increasing sales.

The Craft Brewing industry has proven a direct correlation of lower taxation and an increase in jobs and economic activity. Take note of the many States, CA, CO, WA, OR, AK that have thriving craft beverage industry, even Federally a bill is in progress to support a Small Brewers Tax Provision and stimulate the industry. You can look at the brewing industry by State relative to the tax rates charged and will see the direct positive impact. Growth of our industry in Hawaii means more jobs and more diversification in job opportunities. SB 1261 provides a way to immediately support the industry.

The small brewers tax provision proposed under SB1261 helps put Hawaii on a solid foundation and on track to a healthy and prosperous future. I respectfully request your support of SB1261 in the creation of a Small Brewers Tax provision to decrease the tax to .23 cents per gallon for brewers under 60,000 barrels.

In reviewing testimony, there have only been supportive testimony and "comments" regarding the bill. I believe the "comments" have all been addressed with the amendments and this should give you the confidence to pass this bill. It is good for business and great for Hawaii.

Thank your for your time, please feel free to call me with any questions.

Mahalo,



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# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: LIQUOR, Small breweries and brewpubs

BILL NUMBER: SB 1261; HB 1123 (Identical)

INTRODUCED BY: SB by Baker, Keith-Agaran, Ruderman and 2 Democrats; HB by McKelvey, Brower, Evans, Kawakami 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, 2013

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 for 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 2/4/12