

STAND. COM. REP. NO.

328

Honolulu, Hawaii

FEB 15 2013

RE: S.B. No. 1261
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1261 entitled:

"A BILL FOR AN ACT RELATING TO LIQUOR TAX LAW,"

begs leave to report as follows:

The purpose and intent of this measure is to apply a reduced gallonage tax on the first sixty thousand barrels of beer brewed or produced per year by a small brewery or brewpub in the State.

Your Committee received testimony in support of this measure from Maui Brewing Co. Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

Your Committee finds that Hawaii's local brewers, those brewers that brew one hundred percent of their product in Hawaii, account for less than two percent of all beer sold in Hawaii. Your Committee further finds that the extremely high cost of production and manufacturing, in comparison to production and manufacturing on the mainland, has made it increasingly difficult for local Hawaii brewers to grow and remain competitive.

Your Committee additionally finds that this measure will support the growing craft beverage industry in Hawaii, promote manufacturing jobs, and encourage the growth of small businesses. A lower gallonage tax on small breweries and brewpubs will reduce the tax bill for small breweries and brewpubs, while also creating an incentive for these companies to grow their companies locally

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and become more competitive with brewers on the mainland. Other states with thriving craft beverage industries, including Oregon, Colorado, and Washington, have had success with reduced gallonage tax rates and subsequent job growth. Your Committee also finds that this measure should be viewed as an investment for job creation and promotion of manufacturing in Hawaii.

Your Committee has heard the concerns that this measure will impose additional administrative costs on the Department of Taxation. The modified tax treatment proposed by this measure will require the Department of Taxation to distinguish between small and large brewers, closely track the amounts of beer brewed, and apply two rates of tax to some brewers. Your Committee concludes that amendments to this measure are necessary to place the lower tax rate within the existing liquor tax structure. This will maintain the current structure and operation of the liquor tax and avoid additional administrative burdens on the Department of Taxation.

Your Committee also concludes that amendments to the definition of "small brewery or brewpub" are necessary to clarify that the lower tax rate will apply only to a "small brewery or brewpub", which is defined as a brewery or brewery pub that brews or produces sixty thousand barrels of beer or less per taxable year. These amendments are necessary to avoid two rates of tax on some brewers and any potential Commerce Clause issues.

Accordingly, your Committee has amended this measure by:

- (1) Amending the definition of "small brewery or brewpub";
- (2) Establishing a tax rate within the existing liquor tax structure under section 244D-4(a), Hawaii Revised Statutes, of twenty-three cents per wine gallon on draft beer and beer other than draft beer that is brewed or produced by a small brewery or brewpub, rather than creating a new section related to tax and small breweries and brewpubs in chapter 244D, Hawaii Revised Statutes, and making conforming amendments; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to



this report, your Committee is in accord with the intent and purpose of S.B. No. 1261, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1261, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 1261	Committee Referral: CPN, WAM	Date: 2/12/13
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The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
TANIGUCHI, Brian T.	✓			
WAKAI, Glenn	✓			
SLOM, Sam				✓
TOTAL	6			1

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:

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*Only one measure per Record of Votes