



HB2422 HD1

Measure Title: RELATING TO LIQUOR.

Report Title: Liquor License; Liquor Commission

Description:

Amends liquor license application and operating procedures to allow publicly-traded companies, or entities ultimately solely owned by a publicly-traded company, to provide information for only those officers designated as primary decisionmakers regarding the purchase and sale of liquor and clarifies that the requirement of prior approval from a county liquor commission regarding a change in ownership of at least twenty-five percent of a corporation's outstanding capital stock applies only to voting stock. Allows the applicant for a liquor license or renewal, or both the transferor and transferee in the case of a liquor license transfer, to present a tax clearance certificate from the Department of Taxation and the Internal Revenue Service evidencing that the applicant, transferor, and transferee do not owe the State or federal government any delinquent taxes, penalties, or interest. (HB2422 HD1)

Companion:

Package: None

Current Referral: PSM, CPH

Introducer(s): TSUJI, MIZUNO, Evans, Nakashima

**LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU**

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ADMINISTRATOR

ANNA C. HIRAI
ASSISTANT ADMINISTRATOR

March 14, 2016

Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair
Committee on Public Safety, Intergovernmental,
and Military Affairs

Hearing: Tuesday, March 15, 2016
1:20 P.M.; Room 229

Position: Providing Comments on HB 2422 HD1, Relating to Liquor

Dear Chair Nishihara, Vice Chair Espero, and Members:

The Liquor Commission, City and County of Honolulu (Commission), appreciates the opportunity to provide comments on House Bill 2422 HD1, Relating to Liquor.

The proposed measure would amend three (3) sections of Chapter 281, Hawaii Revised Statutes (HRS), to clarify procedures applicable to a narrow category of licensee or liquor license applicant, and to make the license application and renewal process more efficient for applicants and licensees. The Commission feels that the proposed amendments **provide clarification and efficiencies without impeding or decreasing the quality of our regulatory oversight**. Specifics follow:

1. Section 1 would amend HRS 281-41(i) to specify that changes in outstanding *voting* capital stock is the appropriate type of capital stock that would determine whether a change in ownership of stock requires that the licensee get *pre-approval* of the change from the Commission. As corporate ownership structures frequently contain classes of stock that are *non-voting*, it is reasonable from a regulatory standpoint to only consider changes in *voting* stock, as only the voting stock classes can effect changes in a corporation's corporate behavior.
2. Section 2 would amend HRS 281-45(3) to authorize the county liquor commissions to accept an alternative compliance certificate approved by the Department of Taxation (DoTax) in satisfaction of the tax clearance requirement. This alternative clearance certification will provide compliance assurance equal to the tax clearances issued by DoTax and the IRS, while making for a more efficient license renewal process for all licensees, and particularly for those neighbor island licensees who do not have access to a local tax office.

3. Section 3 would amend HRS 281-53(1) to specify that if a licensee or liquor license applicant is a publicly-traded company, or an entity that is ultimately solely owned by a publicly-traded company, that only those officers designated as the primary decisionmakers regarding the licensee's or applicant's liquor sales and service activities need to be identified and submit personal history information for applications, renewals, and transfers. Section 1 makes a conforming amendment to HRS 281-41(i).

For the past ten years, licensees and applicants who meet this publicly-traded criteria have requested the same relief as that described in House Bill 2422, and the Commission routinely has granted this relief. The Section 1 and 2 amendments would eliminate this extra step. The reasons expressed for granting the relief are as follows:

(a) Publicly-traded companies are subject to oversight from the Securities & Exchange Commission, which imposes corporate governance, disclosure, and accountability requirements far more extensive than that imposed by the Commission.

(b) Publicly-traded companies frequently have corporate officers that number in the dozens, many of whom have no knowledge of or responsibility for liquor sales and service activities taking place in the City and County of Honolulu. Identifying and reviewing personal history information from those with no knowledge of or responsibility for liquor sales and service activities taking place in the City and County of Honolulu does not further regulatory oversight over the licensee or the applicant.

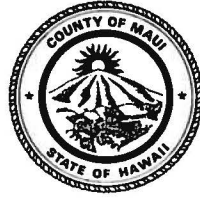
(c) In a similar vein, requiring the identification and personal history information from those with no knowledge of or responsibility for liquor sales and service activities taking place in the City and County of Honolulu is burdensome for both the licensee or the applicant and Commission staff, without a corresponding improvement in regulatory oversight.

Thank you for the opportunity to testify.

Respectfully submitted,

fa
Franklin Don Pacarro, Jr.
FRANKLIN DON PACARRO, JR.
Administrator

ALAN M. ARAKAWA
MAYOR



DIRECTOR

TRACI FUJITA VILLAROSA
DEPUTY DIRECTOR

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

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March 14, 2016

Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair
Committee on Public Safety, Intergovernmental, and Military Affairs

Hearing: Tuesday, March 15, 2016
1:20 pm; Room 229

Position: Providing Comments on HB 2422 HD1, Relating to Liquor

Dear Chair Nishihara, Vice Chair Espero, and Members:

The County of Maui, Department of Liquor Control, joins in the comments provided by the Liquor Commission, City and County of Honolulu. The proposed amendments would provide much needed clarification and improve efficiency in our regulatory oversight.

Thank you for the opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Traci Fujita Villarosa". The signature is stylized with a large loop at the beginning and a long horizontal stroke at the end.

Traci Fujita Villarosa, Esq.
Deputy Director

Bernard P. Carvalho, Jr.
Mayor

Nadine K. Nakamura
Managing Director



Gerald T. Rapozo
Director

DEPARTMENT OF LIQUOR CONTROL
County of Kaua'i, State of Hawai'i
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March 14, 2016

Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair
Committee on Public Safety, Intergovernmental and Military Affairs

Hearing: Tuesday, March 15, 2016
1:20 p.m.; Room 229

Position: Support HB 2422 HD1 Relating to Liquor

Dear Chair Nishihara, Vice Chair Espero and Members:

The Department of Liquor Control, County of Kauai, supports House Bill 2422 HD1 relating to Liquor Licenses.

The bill as written clarifies the requirements in the liquor license application process and makes the process more efficient for both applicants and commission and doesn't diminish the oversight in the process.

The Department of Liquor Control, County of Kauai urges you to support House Bill 2422 HD1, Relating to liquor licenses.

Thank-you for the opportunity to testify on this matter.

Respectfully Submitted,


GERALD T. RAPOZO
Director



Executive Officers:
Derek Kurisu, KTA Superstores - Chairperson
John Erickson, Young's Market Company – Vice Chair
Bob Stout, Times Supermarkets – Secretary/Treasurer
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
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TO: COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, & MILITARY AFFAIRS
Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Tuesday, March 15, 2016
TIME: 1:20 p.m.
PLACE: Conference Room 229

RE: HB2422, HD1

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

We support this measure. In addition to being practical, it increases accountability and helps to simplify a cumbersome process. Since many companies, both here and on the mainland, have multiple owners and numerous locations, it makes sense that the executive responsible for the corporation should be able sign for transfers.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [PSMTestimony](#)
Cc: lho@hawaiipublicpolicy.com
Subject: Submitted testimony for HB2422 on Mar 15, 2016 13:20PM
Date: Monday, March 14, 2016 9:57:02 PM

HB2422

Submitted on: 3/14/2016

Testimony for PSM on Mar 15, 2016 13:20PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Gutierrez	Times Supermarkets	Support	No

Comments: Times Supermarket is based on Oahu and operates 26 stores with locations in Maui, Kauai and Oahu. We support this measure as it is a good step towards facilitating expeditious liquor licensing.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



Time: 1:20 p.m.

Date: March 15, 2016

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

Location: Capitol Room 229

Bill: HB 2422, HD1 Relating to Liquor

Aloha Chair Nishihara, Vice Chair Espero and members of the Committee:

On behalf of Kona Brewing Company, we are writing to support HB 2422, HD1, relating to liquor. This bill would amend liquor license application and operating procedures. We believe that this bill is an important step toward ensuring adequate and efficient administration of the application process.

Kona Brewing Company runs its flagship brewery in Kailua-Kona on Hawaii's Big Island, which produces more than 12,000 barrels of beer annually and is complimented by pubs on 'Oahu and Hawaii islands. Kona Brewing Company was started by a father and son team who had a dream to create fresh, local island brews made with spirit, passion, and quality. It recently announced that it will expand its brewery operations in Hawaii to include a new state-of-the-art, 30,000 square-foot brewery, increasing annual production capacity to 100,000 barrels per year. Kona Brewing Company is an integral part of its community, and thus feels passionate about giving back to its community.

Thank you for the opportunity to testify.

Sincerely,

Andy Thomas
President
Kona Brewing Company

**TORKILDSON, KATZ, MOORE,
HETHERINGTON & HARRIS**

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NEWTON J. CHU
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March 11, 2016

Via Facsimile

Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
Hawaii State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: H.B. No. 2422 relating to Liquor

Dear Chair Nishihara, Vice Chair Espero, and Committee Members:

This letter is in support of H.B. No. 2422, which would amend the liquor license procedures to allow publicly owned companies, and entities they solely own, to provide information for only those officers designated as primary decision makers regarding the purchase and sale of liquor. This bill also would clarify that only a transfer of twenty-five per cent or more of outstanding voting capital stock would require a corporation to secure the approval of the transfer.

As a practicing attorney, I represent numerous publicly and privately owned companies in connection with liquor issues in all counties and believe this bill would benefit the application process in each county.

This bill would streamline the liquor license application process for publicly owned companies which typically have a multitude of officers and directors, by title, even though only a select few are involved in the purchase, sale and service aspect of the liquor licensee's business. Requiring all officers, e.g. whether first, second, third, executive, senior, or assistant vice presidents, to undergo the criminal clearance and personal history process has been burdensome, redundant, and unnecessary for these companies and their solely owned entities, when just a select few directly supervise the liquor sale and purchase. This bill would create a more business friendly environment, without jeopardizing the original purpose of vetting officers and directors, since it would only apply to publicly owned companies, who are already subject to strict regulation and oversight by the Securities and Exchange Commission and other government agencies.

The amendment to require only a transfer of twenty-five per cent or more of outstanding voting capital stock to secure the approval of the transfer reflects the realities of the modern

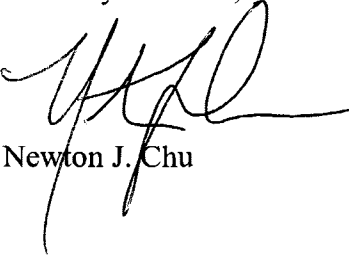
Senator Clarence K. Nishihara, Chair
March 11, 2016
Page 2

business world where companies often issue nonvoting stock or other nonvoting equity instruments to finance its operations. The vetting of stockholders who control the company, because of their voting rights, would continue. This would allow corporations to obtain financing and other capitalization faster and more efficiently.

For the foregoing reason, I respectfully support H.B. No. 2422. Thank you for your consideration of the foregoing.

Very truly yours,

TORKILDSON, KATZ, MOORE,
HETHERINGTON & HARRIS
Attorneys At Law, A Law Corporation

A handwritten signature in black ink, appearing to read 'N. Chu', written over the printed name below.

Newton J. Chu

**TORKILDSON, KATZ, MOORE,
HETHERINGTON & HARRIS**

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VAUGHN G.T. COOK
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March 11, 2016

Via Facsimile

Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
Hawaii State Capitol
415 South King Street
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As a practicing attorney, I have processed numerous liquor license applications for publicly and privately owned companies in counties and believe this bill would benefit the application process in each county.

This bill would streamline the liquor license application process for publicly owned companies which typically have a multitude of officers and directors, by title, even though only a select few are involved in the purchase, sale and service aspect of the liquor licensee's business. Requiring all officers, e.g. whether first, second, third, executive, senior, or assistant vice presidents, to undergo the criminal clearance and personal history process has been burdensome, redundant, and unnecessary for these companies and their solely owned entities, when just a select few directly supervise the liquor sale and purchase. This bill would create a more business friendly environment, without jeopardizing the original purpose of vetting officers and directors, since it would only apply to publicly owned companies, who are already subject to strict regulation and oversight by the Securities and Exchange Commission and other government agencies.

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Senator Clarence K. Nishihara, Chair
March 11, 2016
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HETHERINGTON & HARRIS
Attorneys At Law, A Law Corporation



Vaughn G.T. Cook