

# **SB 490**

## **RELATING TO LIQUOR**

Defines alcohol impact area as a geographic area designated by a county due to the area having been adversely affected by chronic public inebriation or illegal activity associated with off-premises liquor sales or consumption. Provides a county with the authority to enact an ordinance to designate an alcohol impact area and a county liquor commission or liquor adjudication board with the authority to recognize an alcohol impact area. Requires a county to submit annual reports to a county liquor commission or liquor control adjudication board and requires a county liquor commission or adjudication board to conduct an assessment of an alcohol impact area once every five years.

PSM/JDL, WAM

**LIQUOR COMMISSION  
CITY AND COUNTY OF HONOLULU**

711 KAPIOLANI BOULEVARD, SUITE 600, HONOLULU, HAWAII 96813-5249  
PHONE (808) 768-7300 • FAX (808) 768-7311  
INTERNET ADDRESS: [www.honolulu.gov/liq](http://www.honolulu.gov/liq) • E-MAIL: [liquor@honolulu.gov](mailto:liquor@honolulu.gov)



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ASSISTANT ADMINISTRATOR

February 10, 2015

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

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Committee on Judiciary and Labor

**Hearing:** Thursday, February 12, 2015  
10:05 a.m.; Room 016

**Position:** Support Intent of SB 490, Relating to Liquor

Chair Espero, Vice Chair Baker, and Members:  
Chair Keith-Agaran, Vice Chair Shimabukuro, and Members:

The Liquor Commission, City and County of Honolulu (Commission), supports the intent of Senate Bill 490, Relating to Liquor. We understand that the Washington State Liquor Control Board has experienced success in using alcohol impact area (AIA) regulation in controlling chronic public inebriation and illegal activities linked to the off-premises sale or consumption of alcohol within specified geographic areas of the state of Washington that are less than the entire jurisdiction. If the proposed measure is passed out of this joint committee, we provide the below comments to facilitate further discussion of proposed implementation of AIA regulation by the county and county liquor commissions:

1. The proposed measure, which would add a new part to Chapter 281, Hawaii Revised Statutes (HRS), provides that following a minimum six-month mitigation period conducted by the county for a duly designated AIA, the county liquor commission may "recognize" the AIA, provided certain criteria are met. Proposed §281-A(b). Elsewhere, the proposed measure authorizes county liquor commissions to conduct other "recognition" activities such as product restriction. Proposed §281-B(e). We request clarification whether this recognition process must be done through formal rulemaking, or whether an alternative recognition process would be authorized (i.e., the "resolution" referenced in Proposed §281-C(b)).

2. The proposed measure provides that within a "recognized" AIA, the county liquor commission may impose restrictions or conditions with respect to the business operations of off-premises licensees. Proposed §281-B(a). We wish to advise that the Commission's regulatory action of this type typically is brought against individually named licensees, as opposed all licensees of a certain class residing in a designated geographical area. Restrictions or conditions against individual licensees are imposed by the Commission during a license application hearing, or through an Administrative Petition to Impose Restrictions or Conditions.

Committee on Public Safety, Intergovernmental and Military Affairs  
Committee on Judiciary and Labor  
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3. The proposed measure imposes specified county comment times before an off-premises license in an AIA is approved or renewed. Proposed §281-D. As maximum times for Commission action on a license application (§281-59(a)) or conditions that must be satisfied before a license can be renewed (§281-45(3), §281-61) are provided elsewhere in Chapter 281, HRS, conforming changes to these sections of the current law may be necessary for clarity.

4. For informational purposes only, if the Downtown/Chinatown area is being considered for AIA status, we wish to advise that the 96817 zip code area contains 55 active retail dealer (off-premises) liquor licenses.

The Liquor Commission supports the intent of Senate Bill 490, Relating to Liquor, and appreciates the opportunity to provide comments.

Respectfully submitted,



FRANKLIN DON PACARRO, JR.  
Administrator

FDP:ACH

William P. Kenoi  
*Mayor*

Walter K.M. Lau  
*Managing Director*



Gerald A. Takase  
*Director*

## County of Hawai'i

### Department of Liquor Control

Hilo Lagoon Centre, 101 Aupuni Street, Unit 230, Hilo, Hawai'i 96720-4261  
(808) 961-8218 • After Hours (808)932-2939 • Fax (808) 961-8684  
E-Mail: cohdlc@hawaiiicounty.gov

February 11, 2015

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

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Committee on Judiciary and Labor

Hearing: Thursday, February 12, 2015  
10:05 a.m., Room 016

Position: Support Intent of SB 490, Relating to Liquor and Alcohol Impact Areas

Chair Espero, Vice Chair Baker, and Members:  
Chair Keith-Agaran, Vice Chair Shimabukuro, and Members:

The Department of Liquor Control of the County of Hawai'i supports the intent of SB 490, relating to Liquor. We understand that the legislation is modeled after the Washington State Liquor Control Board statute which has experienced success in using alcohol impact area (AIA) regulation in controlling public intoxication and illegal activities linked to the off-premises (retail stores) sale or consumption of alcohol within specified geographic areas of cities within the State of Washington. Assuming that this measure is passed out of committee, we provide the following comments on this matter:

1. The proposed measure has many required steps to implement such a matter, which may choose to act as an impediment to the actual use of the measure.
  - a. Things such as the restrictions as to alcohol content (5.7% for beer and 12% for wine) may render the measure ineffective, since not all alcohol containers are marked for alcohol content and many beers and wines fall below those limits that are contained in the bill.
  - b. The need for comment periods for new applications or renewals. Once an AIA is created, we fail to see the need to keep revisiting this question for all new applications or renewals. Once established, then all violating liquors should be banned and there will be no need to require the County to comment on each license. What is the outcome if they fail to comment on a license application or

renewal, would they then be allowed to sell? I think this would create an enforcement and equal protection nightmare if some are allowed to sell and others not based on receiving comments or not receiving comments.

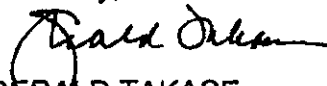
- c. Annual reporting requirements for the effectiveness of the AIA impact zone. Another statutory reporting requirement might be sufficient cause to never enact such legislation.

I would also like to report that the County of Hawai'i has used the Washington State Model to create a voluntary ban zone in the Kailua-Kona Village district which was plagued with a growing public intoxication problem and its attendant related problems. Working with the merchants in the area, we were able to get voluntary compliance for all retail merchants to stop selling high volume, low-priced beers and malt liquors (typically 40 oz. bottles, selling for less than \$3.00). The ban went into effect on January 1, 2014 and has been in effect for one year.

I would like to report the results as follows: Although there was some natural trepidation about limiting the sale of any item, after meeting with the merchants, they all understood the problem and were willing to give the sales ban a try. We evaluated the ban after 6 months and were pleased when police and the community associations noticed a marked improvement in the conditions within the Kailua-Kona Village area, as did merchants. There was a dramatic drop in public intoxication, loitering and vagrancy. In addition, the merchants and especially their employees were happy with the ban on the sales which helped eliminate problems with the vagrants in the stores. Furthermore, business and the surrounding areas are clearing up, leading to greater business for all merchants in the area, a phenomenon also experienced in Washington. While the program technically remains in a "trial" status, based on the results, we do not anticipate removing the ban. I have attached some of the sample correspondence that we used in leading up to this program.

Thus, the program does work, but with too many restrictions, requirements and reports, it may be doomed before it ever gets out of the gate. I would be happy to answer any questions on our implementation of the program.

Sincerely,



GERALD TAKASE  
Director

GT:de  
Encs.

William P. Kenoi  
*Mayor*

Walter K.M. Lau  
*Managing Director*



Gerald A. Takase  
*Director*

## County of Hawai'i

### Department of Liquor Control

Hilo Lagoon Centre, 101 Aupuni Street, Unit 230, Hilo, Hawai'i 96720-4261  
(808) 961-8218 • Fax (808) 961-8684

October 11, 2013

Kona Wine Market  
Kona Commons, Phase 1  
74-5450 Makala Boulevard, #104  
Kailua-Kona, Hawai'i 96740

Dear Licensee:

The Chronic Homeless Intervention and Rehabilitation Project (CHIRP) task force has been meeting to address the problems in the Kailua Village area, especially along Ali'i Drive. One of the initiatives that has been discussed is a ban of high volume, low priced alcohol, specifically 40 oz. beers and malt beverages, like Hurricane, Old English 800, Mickey's and Steel Reserve to name the more popular items.

This proposal is modeled after a Washington State initiative which banned these types of alcohols from the downtown Seattle core in an effort to clean up the area, which was being overrun by homeless, drunks and vagrants. After about 2 years since its implementation, the State has reported remarkable results in dealing with the problems, most of which are no longer existent. The result has been a resurgence of business in the area and many new businesses to the area. While in and of itself it may not be the magic bullet to solve this problem, it is a tool to start to tackle this problem.

In anticipation of some action of this sort moving forward, I wanted to allow you as the licensees most affected by this proposed move to share with me your thoughts and concerns about the implementation of such a ban. I would probably look at including the retailers in the area from the old industrial area (Kaiwi St.), out to Crossroads, up to KMart, then around to Safeway, Walmart and the whole downtown Kailua Village area out to Lunapule Street or what I would consider walking distance from Kailua Village. I have included you in this mailing as I have identified you as one of the affected licensees.

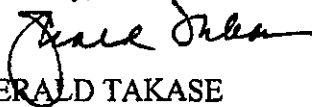
By way of history or comparison, in speaking with our Washington State counterparts, they faced resistance to the proposal initially, but after it took effect and some time was given to resolve the problem, and this is only one prong in a multi-pronged approach, the end results were

positive for the licensees in the area. The amount of homeless and public intoxication in the area dropped dramatically. These same stores actually experienced an increase in revenues as they were able to concentrate on higher-end sales and not worry as much about the problems with the vagrants. Foot traffic in the area picked up as the area cleaned up, resulting in more sales and an influx of new businesses, which further increased the business in the area.

The initiative is just a proposal at this point, but I wanted to alert you as to what may happen and to allow you the opportunity to weigh in on the proposal. My feeling at this point is that if it is implemented, we would make it mandatory in this district to remove any competitive advantage by someone choosing not to participate, if it were voluntary.

I would like to get feedback from all of you as I know this will affect your business, but hopefully in a positive way. Please write or call me at the above address and phone number or you can e-mail me at [gtakase@co.hawaii.hi.us](mailto:gtakase@co.hawaii.hi.us). Thank you for your consideration and as always, if there is anything we can help you with, please let us know.

Sincerely,



GERALD TAKASE  
Director

GT:de

William P. Kenoi  
Mayor

Walter K.M. Lau  
Managing Director



Gerald A. Takase  
Director

## County of Hawai'i

### Department of Liquor Control

Hilo Lagoon Centre, 101 Aupuni Street, Unit 230, Hilo, Hawai'i 96720-4261  
(808) 961-8218 • Fax (808) 961-8684

November 25, 2013

Kona Wine Market  
Kona Commons, Phase 1  
74-5450 Makala Boulevard, #104  
Kailua-Kona, Hawai'i 96740

Dear Kailua Village Licensees:

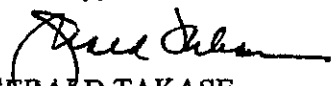
I would like to thank all of you for understanding some of the problems that face Kailua Village and agreeing to do your part to hopefully be part of the solution.

In conjunction with the initiative endorsed by the Chronic Homeless Intervention and Rehabilitation Project (CHIRP), all licensees in the Kailua Village District (which we have defined as the area on the north side from Crossroads, up to KMart, across to Safeway/Walmart, the Downtown Kailua Village area, and out to Lunapule Street on the south, which we have defined as a reasonable walking distance from Kailua Village) have agreed to stop the sale of high volume, low priced beers and malt liquors. We would like to implement the suspension of sales of these types of alcoholic beverages starting January 1, 2014.

As you recall, this program is being modeled after one initiated by the Washington Liquor Control Board. Seattle liquor businesses have been reporting increased profits after the ban, due to increased sales and more traffic once the area was cleaned up. Hopefully Kailua Village will experience a similar result. In conjunction with the police and other agencies, we will monitor the impact of this initiative to determine its success.

The investigators and I are willing to meet with you if you have any questions about which products are covered. Please feel free to call me at (808)961-8218, and best wishes for a Happy and Prosperous 2014.

Sincerely,

  
GERALD TAKASE  
Director

GT:de





Katie Jacoy  
Western Counsel  
31 West Road N  
Tacoma, WA 98406  
[www.wineinstitute.org](http://www.wineinstitute.org)  
[kjacoy@wineinstitute.org](mailto:kjacoy@wineinstitute.org)  
360-790-5729

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND  
MILITARY AFFAIRS

SENATE COMMITTEE ON JUDICIARY AND LABOR

Thursday, 12, 2015, 10:05 a.m.

**Testimony in Opposition to SB 490 Relating to Liquor**

Dear Chair Espero, Chair Keith-Agaran and Members of the Joint Committee:

Wine Institute ("WI"), a public policy organization representing 813 California wineries of all sizes, **opposes** SB 490, which allows the counties to enact ordinances to designate alcohol impact areas ("AIA") and county liquor commissions to recognize alcohol impact areas..

Creating AIAs across Hawaii with various product restrictions is not an effective way to address the problems associated with chronic public inebriation, or achieve safer and more livable communities.

WI recognizes that alcohol is a unique product and if used irresponsibly, can cause harm. While the vast majority of consumers enjoy alcohol beverages responsibly, some do abuse the products and can become addicted. Alcohol addiction is a disease, leading to public health and safety challenges when abused by chronic public inebriates. This disease and the challenges it can bring; however, are best addressed as a public health issue, and not by banning alcohol products.

**Washington Experience.** This bill appears to be modeled after a Washington regulation, which permits cities to request the Washington State Liquor Control Board (WSLCB) to recognize AIAs and impose product restrictions within AIAs. The experience in Washington has been mixed. Cities have reported a drop in the harmful activity relating to chronic public inebriants immediately after an AIA is formed; however, typically the negative impacts have shifted to adjacent neighborhoods and communities. Chronic public inebriates travel outside the AIA boundary to find their drink of choice. This has led to adjacent communities also implementing AIAs.

In addition, the positive immediate impacts of an AIA are often not sustainable. In Washington, AIAs have originated in downtown areas, which are also the places where public health services are typically offered. So, chronic public inebriates often return to these areas to take advantage of public services despite the product bans.

**Rulemaking and Evidentiary Issues.** It is unclear in the bill if the county liquor commission or liquor adjudication board will conduct a rulemaking process to recognize an AIA. Given the gravity of banning products, it is critical for any process to include ample opportunity for liquor retailers, wholesalers and manufactures to participate. As drafted, there is no mechanism for liquor stakeholders to request removal of a product from the banned list or repeal of an AIA. It is important to remember that many consumers who enjoy the products that may be listed are not chronic inebriants, they simply choose them because of their taste or their relative cost, so taking away their drinks of choice must only be done as a last resort.

The bill is also unclear regarding how much evidence would be required to prove that a specific product is reasonably linked to problems associated with chronic public inebriation or illegal activity. Clear standards are necessary, and counties should be required to make all evidence linking products to problems available to the public to see if such standards are met.

**Standard Wine Should Not Be Restricted.** SB 490 provides that wine products may be restricted if they have a minimum alcohol content of 12% by volume. Most of the red table wines produced in California have alcohol by volume above 12% and therefore, could be subject to restrictions. These products are generally not consumed by chronic public inebriates and should not be restricted. Those people living within the impacted area consuming wine responsibly at home should not see their wine choices limited.

No standard wine products have been banned in Washington. In the eight (8) mandatory AIAs in Washington, only fortified wine products (wines with spirits added) have been restricted, and no AIAs have banned standard table wine:

- Seattle (three AIAs) – 8 fortified wine products listed
- Tacoma (two AIAs) – 5 fortified wine products listed (all these are on the Seattle list)
- Spokane (two AIA) – No wine products listed
- Olympia (one AIA) – No wine products listed

It should also be noted that, in comparison to high alcohol malt beverages, fortified wine has not been seen to be a significant contributor to the problems associated with alcohol abuse.

**Banning Products Is Ineffective.** There are unintended consequences of banning legal alcohol beverage products, including that it will simply push problem drinkers outside the AIA boundaries to purchase the banned products or to satisfy their addiction with substitute products.

The disease of alcoholism and its impacts on communities cannot be cured simply by banning a select group of products sold by a limited number of retail outlets. Unless alcoholism is addressed through treatment programs, chronic public inebriates will continue to drink. If certain products are not available, they will unfortunately substitute others to abuse.

Ultimately, alcohol bans negatively impact the vast majority of consumers, especially those on limited incomes, who purchase wine products and consume them responsibly at home.

For the above reasons, we respectfully oppose this measure and ask that it be held.

Thank you for the opportunity to testify on this measure.