

**Bernard P. Carvalho, Jr.**  
Mayor

**Wallace G. Rezentes, Jr.**  
Managing Director



**Gerald T. Rapozo**  
Director

**DEPARTMENT OF LIQUOR CONTROL**  
**County of Kaua'i, State of Hawai'i**  
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February 27, 2017

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
Committee on Finance

**Hearing:** Tuesday, February 28, 2017  
11:00 a.m.; Room 308

**Position:** Strongly Support HB 1465 HD1, Relating to Liquor

Dear Chair Luke, Vice Chair Cullen and Members:

The Department of Liquor Control, County of Kauai, strongly supports and concurs with the Honolulu Liquor Commission on House Bill 1465 HD1 Relating to Liquor.

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 1465 HD1, Relating to Liquor.

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

Respectfully Submitted,

  
GERALD T. RAPOZO  
Director

**LIQUOR COMMISSION  
CITY AND COUNTY OF HONOLULU**

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ANNA C. HIRAI  
ASSISTANT ADMINISTRATOR

February 27, 2017

The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
and Members of the Committee on Finance

**Hearing:** Tuesday, February 28, 2017  
11:00 AM; Room 308

**Position:** Strongly Support HB 1465 HD1, Relating to Liquor

Dear Chair Luke, Vice Chair Cullen, and Members:

The Liquor Commission, City and County of Honolulu (Commission), appreciates the opportunity to provide testimony in strong support of House Bill 1465 HD1, Relating to Liquor.

House Bill 1465 HD1 proposes amendments to a number of sections of HRS Chapter 281, the positive benefits of which are summarized below. The Commission notes that the improved consistency and efficiency that will result from the proposed amendments will not impede or decrease regulatory oversight. Ultimately, all ownership, management, and status matters covered by the proposed amendments will remain subject to the Commission's "fit and proper person to hold a license" standard.

- Identifies entities that should be included as coming within the purview of liquor laws addressing license ownership and ownership changes, to wit:
  - Transfers of a partnership interest from a partner to the same partner's trust (Section 2.1, amending HRS Section 281-41(d)).
  - Identifying both types of limited liability companies (member-managed and manager-managed) (Section 2.1, amending HRS Section 281-41(e); Section 4, amending HRS Section 281-53).
- Provides consistency for a variety of notifications required of licensees so that all ownership or management changes have the same 30-day reporting deadline, to wit:
  - Changes to a partnership, limited partnership, limited liability partnership, or limited liability company (Section 2.1, amending HRS Section 281-41(e)).
  - Changes of 25% or more stock ownership (Section 2.2, amending HRS Section 281-41(i)).

- Changes to a corporation (Section 2.2, amending HRS Section 281-41(i)).
- Makes conforming revisions to sections of HRS Chapter 281 to align with changes made by Act 12, Session Laws of Hawaii 2016, to wit:
  - Conditions for license issuance as it pertains to publicly-traded companies (Section 3, amending HRS Section 281-45).
  - Criminal history record check for publicly-traded companies (Section 5, amending HRS Section 281-53.5).
- Clarifies requirements for the use of management agreements, which are increasingly used in modern business practice, to wit:
  - Specifies that use of management agreements need not be precedent to a license transfer, but imposes reasonable restrictions on their use (Section 2.2, amending HRS Section 281-41(h)).
- Recognizes "safekeeping" status as a legitimate alternative to license cancellation, to wit:
  - Close of business or loss of premises (Section 2.2, amending HRS Section 281-41(j)); Section 6, amending HRS Section 281-96).

With regard to the Section 2, subsection (1) added by the HD1, we respectfully suggest that language be inserted to specify that the prohibited influence by a non-primary decision-maker pertains to *unlawful activity* relating to the purchase and sale of alcohol. As written, the prohibition could be interpreted to prevent a non-primary decision-maker from providing proper and appropriate input regarding the purchase and sale of alcohol.

The Liquor Commission appreciates the opportunity to provide testimony on House Bill 1465 HD1, Relating to Liquor, and urges its passage. Should any refinement to House Bill 1465 HD1 be necessary, we submit that any revisions likely would be minor language changes and reasonably could be accommodated going forward.

Respectfully submitted,

  
FRANKLIN DON PACARRO, JR.  
Administrator

FDP:ACH



# Maui Hotel & Lodging

ASSOCIATION

Testimony of

**Lisa H. Paulson**

Executive Director

Maui Hotel & Lodging Association

on

HB1465 HD1

**Relating To Liquor**

COMMITTEE ON FINANCE

**Tuesday, February 28, 2017, 11am**

**Conference Room 308**

Dear Chair Luke, Vice Chair Cullen and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 175 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

**MHLA supports HB1465 HD1**, which amends statutory language on liquor license application and operating procedures for clarity.

The Bill proposes amendments to several sections of HRS Chapter 281 that 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.

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 to undergo the criminal clearance and personal history process is redundant and unnecessary for these companies and their solely owned entities, especially when just a select few directly supervise the liquor sale and purchase.

Thank you for the opportunity to testify.

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

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February 27, 2017

Via Facsimile (808) 586-8459

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
House Committee on Finance  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: H.B. No. 1465 relating to Liquor – **LETTER OF SUPPORT**  
Hearing Date: February 28, 2017, 11:00 a.m. Conference Room 308

Dear Chair Luke, Vice Chair Cullen and Committee Members:

This letter is in **support** of H.B. No. 1465, which would amend the liquor license procedures to allow publicly owned companies, and entities they own, to provide information for only those officers designated as primary decision makers regarding the purchase and sale of liquor. Last year HB 2422 passed and was signed into law as Act 12, but there was a question as to whether another section of Chapter 281 should have been amended as well. This HB 1465 addresses that question by amending Chapter 281-45(2) to be consistent with the changes made by Act 12.

In addition, the Bill contains clean-up language to allow the Commissions to expeditiously address the withdrawal of a partner or manager of an LLC, or address the situation when a partner or member passes away. Chapter 281-41(d) allows for ease of transfer of an interest for estate planning purposes or upon death, withdrawal, without such having to go through the formal transfer of liquor license application process. In this case the license remains with the same entity, and the same partners are still in control.

For Chapter 281-41(e), any change of a principal of the partnership, or limited liability company which holds the license should not be considered a transfer, since the entity that holds the license remains the same. Any new principal would have to be reported to the commission and the commission can still require additional information as needed of the new individual.

The proposed changes to Chapter 281-41(i) allow for corporations to notify the Commission within thirty (30) days of any change in ownership of twenty-five percent (25%), rather than prior to the change which reflects the factual reality of today's stock market transactions.

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
February 27, 2017  
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Chapter 281-96 provides further flexibility of the Commission to hold a license in safekeeping rather than cancel it.

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.

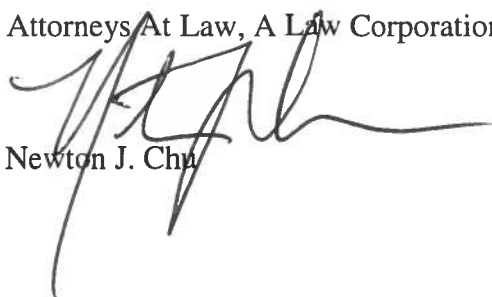
This bill would streamline the liquor license application process for publicly owned companies which typically have a multitude of officers and directors, by title, even though only a select few are involved in the purchase, sale and service aspect of the liquor licensee's business. Requiring all officers, e.g. whether first, second, third, executive, senior, or assistant vice presidents, to undergo the criminal clearance and personal history process is unduly 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 ensuring that ex-felons are not involved in the sale of liquor in Hawaii, 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 business world where companies often issue nonvoting stock or other nonvoting equity instruments to finance their 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.

Finally, the provisions for the withdrawal of partners or members reduces procedures that are unnecessary and where the current law does not provide for the business realities of the situation. For the foregoing reasons, I respectively support H.B. No. 1465. Thank you for your consideration of the foregoing.

Very truly yours,

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

  
Newton J. Chu