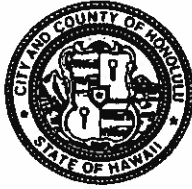


**LIQUOR COMMISSION  
CITY AND COUNTY OF HONOLULU**

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PHONE (808) 768-7300 or (808) 768-7333 • FAX (808) 768-7311  
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FRANKLIN DON PACARRO, JR.  
ADMINISTRATOR

ANNA C. HIRAI  
ASSISTANT ADMINISTRATOR

January 31, 2018

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
and Members of the Committee on Consumer Protection  
& Commerce

**Hearing:** Friday, February 2, 2018  
2:00 PM; Room 329

**Position:** Oppose HB 2413, Relating to Liquor Commissions

Dear Chair Takumi, Vice Chair Ichiyama, and Members:

The Liquor Commission, City and County of Honolulu (Commission), respectfully opposes House Bill 2413, Relating to Liquor Commissions.

The Commission fully supports legislation that increases agency accountability to and oversight by the public and our licensees whom we serve. However, the Commission opposes House Bill 2413 as being an unwarranted or unnecessary addition to existing safeguards.

1. Annual Criminal History Record Checks for Commissioners.

House Bill 2413 proposes amendments to four sections of the Hawaii Revised Statutes, as amended, to impose an annual criminal history record check on the five-member Commission. The Commission members are mayoral appointees, confirmed by council, and as such are already subjected to extensive "vetting" prior to nomination and confirmation. In order to ensure the City has the highest quality decision making body for liquor regulation, the appointees are usually business professionals, members of the Hawaii State Bar Association, or representatives of organized labor, many of whom would be individually obligated to disclose a negative impact to their professional life, and would feel a moral obligation to do the same. In the absence of evidence that any Commissioner in the Commission's history had a criminal history record incident that was undisclosed, and which compromised his or her ability as a Commission decision maker, the annual criminal history record check requirement is not justified, and is not required of any other board or commission in the City and County of Honolulu. A review of the types of individuals authorized to be "vetted" includes employees serving in sensitive work environments, law enforcement agents (including

Commission investigators), even officers and directors of financial institutions, but no board or commission member comparable to what is proposed in House Bill 2413.

2. Deletion of Chapter 76 Reference for Administrator Appointment/Removal.

House Bill 2413 proposes to amend Section 17(a)(5), Hawaii Revised Statutes, to exempt the appointment and removal of a liquor commission administrator from civil service law. The Commission opposes this proposed amendment as unnecessary. Effective July 1, 2011, a Honolulu City Council-initiated resolution culminated in an amendment to the Revised Charter of the City & County of Honolulu, which established the positions of Liquor Administrator and Assistant Administrator as civil service exempt.

3. Review of Commission Final Decision.

Similar to the comment regarding the administrator appointment and removal, the Commission opposes this proposed amendment as unnecessary. Section 91-14, Hawaii Revised Statutes, as amended, and HRS 281-92 both specifically provide that final decisions of the Commission are subject to judicial review in circuit court.

The Liquor Commission appreciates the opportunity to provide testimony on House Bill 2413, Relating to Liquor Commissions.

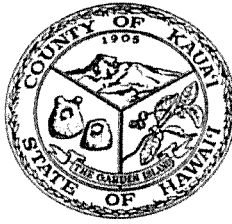
Respectfully submitted,



FRANKLIN DON PACARRO, JR.  
Administrator

FDP:ACH

**Bernard P. Carvalho Jr.**  
Mayor



**Gerald T. Rapozo**  
Director

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

**DEPARTMENT OF LIQUOR CONTROL**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 120, Lihu'e, Hawai'i 96766  
TEL (808) 241-4966 FAX (808) 241-6585

February 1, 2018

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
Committee on Consumer Protection & Commerce

**Hearing:** Friday, February 2, 2018  
2:00 p.m.; Room 329

**Position:** Oppose HB 2413, Relating to Liquor Commissions

Dear Chair Takumi, Vice Chair Ichiyama and Members:

The Department of Liquor Control, County of Kauai, respectfully opposes House Bill 2413, Relating to Liquor Commissions.

I concur with testimony submitted by both the Honolulu Liquor Commission and County of Hawaii, Department of Liquor Control. It appears that legislation proposed are in response to concerns arising from a certain jurisdiction. On Kauai, we have a sole Liquor Control Commission whose members are appointed by the Mayor and confirmed by the County Council. All vetting is conducted by our Boards & Commissions office. Requiring annual criminal background checks is unwarranted and would single out only liquor commission and liquor adjudication board members, as no other commission or board members in the State would be required to submit to the background checks.

Regarding the removal of "subject to Chapter 76 language", Directors on Hawaii Island, Maui and Kauai are appointed by their respective commissions and serve at-will of their commission.

Review under Chapter 91 is unnecessary as all actions taken by the commission are subject to review by their respective circuit court.

The Department of Liquor Control, County of Kauai appreciates the opportunity to provide testimony on House Bill 2413, Relating to Liquor Commissions.

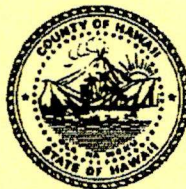
Respectfully Submitted,

  
GERALD T. RAPOZO  
Director

*An Equal Opportunity Employer*

Harry Kim  
Mayor

Wilfred M. Okabe  
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  
E-Mail: cohdlc@hawaiicounty.gov

February 1, 2018

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
and Members of the Committee on Consumer Protection & Commerce

Hearing: Friday, February 2, 2018  
2:00 PM, Room 329

Position: Opposition to HB 2413, Relating to Liquor Commissions

Dear Chair Takumi, Vice Chair Ichiyama, and Members:

I am Gerald Takase, Director of Liquor Control for the County of Hawai'i, and I am writing in opposition to HB2413 for the following reasons:

1. Liquor control has been delegated to the counties and these should really be home rule issues. Just because a single jurisdiction is having issues with how specific liquor laws are being interpreted and applied is no reason to implement statewide legislation.

2. Criminal background checks for commissions, adjudication board members, and retained attorneys is overbearing, overreaching and unreasonable. No other board or commission members are subjected to such scrutiny. Licensed attorneys are regulated by the Hawai'i Supreme Court and the Hawai'i State Bar Association and are required to report any criminal convictions to those licensing bodies.

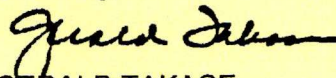
Requiring a criminal background check in order to obtain a liquor license is distinguishable from unreasonable annual background checks for the voluntary commissioners and board members. I understand the argument that the liquor licensees are required to undergo criminal background checks in order to obtain a license. Their initial background checks deal more with their ability to operate a regulated business that profits from the sale of alcohol.

3. Removal of "subject to Chapter 76 language." Directors are selected by their respective commissions, and except for just cause, serve as at-will appointees of their commissions.

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
and Members of the Committee on Consumer Protection & Commerce  
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February 1, 2018

4. Review under Chapter 91. This is unnecessary as all actions by the commissions and adjudication boards are subject to judicial review of an administrative action under Chapter 91, Hawai'i Revised Statutes, reviewable to the respective circuit courts.

Sincerely,



GERALD TAKASE  
Director

GT:de