

SB2548

Measure Title: RELATING TO LIQUOR COMMISSIONS.

Report Title: Liquor Commission; Criminal History Record Checks

Description: Requires members of the county liquor commissions and liquor control adjudication boards to submit to annual criminal history record checks. Requires attorneys hired by the liquor commission or liquor control adjudication board to submit to annual criminal background checks. Removes the requirement that the liquor commission appoints and removes an administrator subject to the civil service laws. Makes final decisions by the liquor commission reviewable under chapter 91, Hawaii Revised Statutes.

Companion: [HB2413](#)

Package: None

Current Referral: CPH/JDC

Introducer(s): KEITH-AGARAN, BAKER, ENGLISH, GALUTERIA, INOUE, Kim

**LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU**

711 KAPIOLANI BOULEVARD, SUITE 600, HONOLULU, HAWAII 96813-5249
PHONE (808) 768-7300 or (808) 768-7333 • FAX (808) 768-7311
INTERNET ADDRESS: www.honolulu.gov/liq • E-MAIL: liquor@honolulu.gov

KIRK CALDWELL
MAYOR



February 20, 2018

The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice Chair
and Members of the Committee on Commerce,
Consumer Protection, and Health

The Honorable Brian T. Taniguchi, Chair
The Honorable Karl Rhoads, Vice Chair
And Members of the Committee on Judiciary

Hearing: Thursday, February 22, 2018
9:00 AM; Room 229

Position: Oppose SB 2548, Relating to Liquor Commissions

Dear Chairs Baker and Taniguchi, Vice Chairs Tokuda and Rhoads, and Members:

The Liquor Commission, City and County of Honolulu (Commission), respectfully opposes Senate Bill 2548, 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 Senate Bill 2548 as being an unwarranted or unnecessary addition to existing safeguards.

1. Annual Criminal History Record Checks for Commissioners.

Senate Bill 2548 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

JOSEPH V. O'DONNELL
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COMMISSIONER

FRANKLIN DON PACARRO, JR.
ADMINISTRATOR

ANNA C. HIRAI
ASSISTANT ADMINISTRATOR

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 Senate Bill 2548.

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

Senate Bill 2548 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 Senate Bill 2548, Relating to Liquor Commissions.

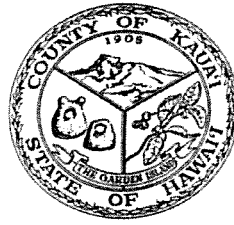
Respectfully submitted,



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, Līhu'e, Hawai'i 96766
TEL (808) 241-4966 FAX (808) 241-6585

February 20, 2018

The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice Chair
Committee on Commerce, Consumer Protection, and Health

The Honorable Brian T. Taniguchi, Chair
The Honorable Karl Rhoads, Vice Chair
Committee on Judiciary

Hearing: Thursday, February 22, 2018
9:00 a.m.; Room 229

Position: Oppose SB 2548, Relating to Liquor Commissions

Dear Chairs Baker and Taniguchi, Vice Chairs Tokuda and Rhoads and Members:

The Department of Liquor Control, County of Kauai, respectfully opposes Senate Bill 2548, Relating to Liquor Commissions.

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.

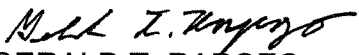
Regarding the removal of "subject to Chapter 76 language", Directors on Hawaii Island, Maui and Kauai are appointed by their respective commissions and serve at-will of their commission.

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

An Equal Opportunity Employer

The Department of Liquor Control, County of Kauai appreciates the opportunity to provide testimony on Senate Bill 2548, Relating to Liquor Commissions.

Respectfully Submitted,


GERALD T. RAPOZO
Director

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 20, 2018

The Honorable Brian T. Taniguchii, Chair
The Honorable Karl Rhoads, Vice Chair
and Members of the Committee on Consumer, Protection & Commerce
and Health

Hearing: Thursday, February 22, 2018
9:00 PM, Room 229

Position: Opposition to SB 2548, Relating to Liquor Commissions

Dear Chair Taniguchi, Vice Chair Rhoads, and Members:

I am Gerald Takase, Director of Liquor Control for the County of Hawai'i, and I am writing in opposition to SB2548 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 Brian T. Taniguchii, Chair
The Honorable Karl Rhoads, Vice Chair
and Members of the Committee on Commerce, Consumer Protection
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February 20, 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

SB-2548

Submitted on: 2/16/2018 3:27:19 PM

Testimony for CPH on 2/22/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments: