

**LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU**

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April 2, 2018

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

Hearing: Tuesday, April 3, 2018
10:30 AM; Room 308

Position: Comments on SB 2613 HD1, Relating to Intoxicating Liquor

Dear Chair Luke, Vice Chair Cullen, and Members:

The Liquor Commission, City and County of Honolulu (Commission), appreciates the opportunity to submit testimony providing comments on Senate Bill 2613 HD1, Relating to Intoxicating Liquor. The Commission fully supports legislation that provides flexibility for Restaurant class applicants and licensees but also gives reasonable oversight to regulators in addressing class and compliance requirements.

In its August 28, 2014 administrative rule amendments, the Commission expressly provided applicants with the ability to apply for a Restaurant class license prior to commencing operations. This ability was conditioned upon the submission of a business plan that demonstrated the applicant's ability to meet the minimum food sales requirement. Transfers of Restaurant licenses were similarly permitted, provided the transferor could establish compliance with the minimum food sales requirement during the year prior to the transfer. In each case, gross liquor sales reporting and periodic audits monitor that compliance with the minimum food sales requirement continues to be met. Therefore, the proposed measure would affirm the Restaurant license capability currently in place for City and County of Honolulu applicants.

The Liquor Commission appreciates the opportunity to provide testimony on Senate Bill 2613 HD1, Relating to Intoxicating Liquor.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Franklin Don Pacarro, Jr.", is written over a faint, larger version of the signature.

FRANKLIN DON PACARRO, JR.
Administrator

FDP:ACH

Merchant Horovitz & TILLEY

David B. Merchant
Peter A. Horovitz
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March 30, 2018

VIA Electronic Submission

House Committee on Finance

Representative Sylvia Luke, Chair
House District 25
Hawaii State Capitol, Room 306

Representative Ty J.K. Cullen, Vice Chair
House District 39
Hawaii State Capitol, Room 316

Re: In Support of SB 2613

Representatives Luke and Cullen:

I am writing in support of SB 2613. In my practice I represent numerous licensees ranging from hotel/resort operators, restaurants, bars, and retail stores. While the bulk of my licensees are within Maui County, we do represent licensees on all islands.

Certain departments do not allow new licensees to apply directly for a restaurant license, and also do not allow holders of restaurant licenses to transfer those licenses. Rather, they require an application for a dispenser general license that can only be upgraded after one year. We believe this is a misreading of current law, but nonetheless it causes significant practical challenges that have severe financial impacts. As such, the law merits clarification.

A restaurant license requires that the operator generate 30% of its revenues from food service. It also allows, among other things, for an operator to offer catering service and to allow minors on premises who are not accompanied by a parent or guardian. The latter is a significant benefit for establishments located in malls, near beaches, or practically anywhere minors might be without a parent. By denying the ability to transfer a restaurant license, long-established operators who may wish to sell their business will lose significant value – it would be as if the pizza place next to the movie theater could no longer sell kids a slice of pizza before they went to the movies. Further, a new applicant should be allowed to directly

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apply for a restaurant license if their business plan indicates that the requisite portion of their sales will be from food service. In both instances, the County departments retain the ability to downgrade a license if the licensee ultimately does not meet the food-sales threshold.

I would also request that you make the measure immediately effective as opposed to July 1, 2050.

I urge you to approve SB 2613 with the above noted modification as to effective date.

Very truly yours,

Peter A. Horovitz

LATE

SB-2613-HD-1

Submitted on: 4/3/2018 8:20:47 AM

Testimony for FIN on 4/3/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Arthur Vento	Maui Arts & Cultural Center	Support	No

Comments:

April 3, 2018

Representative Sylvia Luke - Chair – Chair - House Committee on Finance

Representative Ty Cullen - Vice Chair -Chair House Committee on Finance

Re: Support of SB 2613 Relating to Intoxicating Liquor – Transfer of Restaurant License

Dear Representative Sylvia Luke- Chair, Representative Ty Cullen - Vice Chair and Committee Members,

The Maui Arts & Cultural Center is one of the many institutions in Maui County that is directly and negatively affected by the local interpretation that does not allow holders of restaurant licenses to transfer a restaurant license to another entity. In our example, the operation would be on the exact same property, operating the exact same business. Under the current interpretation, MACC would need to apply for a dispenser general license for one year and then be eligible for a restaurant license should we continue to meet the standard requirement that 30% of our food and beverage revenue be from the sale of food. We have met this requirement for each of the 24 years the MACC has been in operation. In the meantime, the Maui Arts & Cultural Center would not be permitted to allow minors on the premises for the one year we would be forced to become a dispenser general license holder, while not be able to transfer our restaurant license. **A full year of no children’s programing and no keiki allowed on premises is a price too high to pay for the community of Maui. SB2613 would clarify what other jurisdictions in Hawaii are already doing and therefore eliminate this obstruction, thus allowing business to continue as usual at the Maui Arts & Cultural Center where children and adults totaled 250,000 people last year at over 1700 events. We urge your support of SB 2613. It will also help the MACC continue to be the economic engine that it has become, infusing 7.55 million dollars last year into the Hawaii economy.**

Mahalo nui loa for your consideration,

Art Vento

President & CEO

Maui Arts & Cultural Center



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
TUESDAY, APRIL 3, 2018 AT 10:30 A.M.**

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

TESTIMONY IN SUPPORT OF SB 2613 RELATING TO INTOXICATING LIQUOR

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce. I am writing share our support of SB 2613.

We support this bill as we feel it will be very beneficial to restaurants. By allowing restaurants to get their liquor licenses prior to the opening, it will help the owners with their planning and provide assurances for the operation as they move forward with opening a new restaurant or selling their existing restaurant. We appreciate the opportunity to help them get started sooner.

We appreciate the opportunity to testify on this matter and ask that this bill be passed.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

LATE

SB-2613-HD-1

Submitted on: 4/3/2018 8:53:45 AM

Testimony for FIN on 4/3/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David M Jorgensen	Takitani Agaran & Jorgensen and numerous clients	Support	No

Comments:

As an attorney who works with many clients buying or selling restaurants, it has always been possible for a liquor licensee to (and the rules of the Maui Liquor Commission permitted them to) transfer a "restaurant" license to a buyer of the business. Recently a new interpretation of the rule has caused the Liquor Department to require that the transferee have operated the business for one year in the licensed premises and have derived 30 percent of their revenue from the sales of food before they could apply for the transfer. This is a factual impossibility. This amendment would solve this problem and at the same time address the concerns of the Department by requiring the certification by the transferee that they will derive no less than 30% of their gross revenues from the sale of food. This amendment would also make it possible for the applicant for a new (not a transferred) license to obtain a restaurant license by providing the same certification, an option that would be very good for business with little downside to the public or the Department. Thank you for your support of this bill.