

# SB2613

Measure Title: RELATING TO INTOXICATING LIQUOR.

Report Title: Liquor License; Restaurant Licenses; New Licenses;  
Transfer of License; Liquor Commission

Description: Authorizes the liquor commission to issue a new restaurant liquor license prior to the restaurant commencing operation. Requires an applicant for a new class 2 restaurant liquor license to include a certification that the applicant intends and shall derive no less than thirty per cent of the establishment's gross revenue from the sale of foods. Clarifies that a class 2 restaurant liquor license is transferrable, provided that the transferee certifies that the transferee intends and shall derive no less than thirty per cent of the establishment's gross revenue from the sale of foods.

Companion: [HB2291](#)

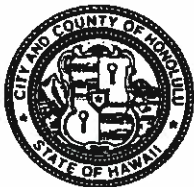
Package: None

Current  
Referral: CPH

Introducer(s): KEITH-AGARAN, BAKER, DELA CRUZ, ENGLISH,  
GALUTERIA

**LIQUOR COMMISSION  
CITY AND COUNTY OF HONOLULU**

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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

**Hearing:** Thursday, February 22, 2018  
9:30 AM; Room 229

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


Dear Chair Baker, Vice Chair Tokuda, and Members:

The Liquor Commission, City and County of Honolulu (Commission), appreciates the opportunity to submit testimony providing comments on Senate Bill 2613, 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, Relating to Intoxicating Liquor.

Respectfully submitted,



FRANKLIN DON PACARRO, JR.  
Administrator

FDP:ACH

# Merchant ♦ Horowitz

A LIMITED LIABILITY LAW COMPANY

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February 19, 2018

## VIA Electronic Submission

Senate Committee on Commerce, Consumer Protection, and Health

Senator Rosalyn H. Baker, Chair  
Senate District 6  
Hawaii State Capitol, Room 230

Senator Jill N. Tokuda, Vice Chair  
Senate District 24  
Hawaii State Capitol, Room 202

Re: In Support of SB 2613 and SB 2945

Senators Baker and Tokuda:

I am writing in support of SB 2613 and SB 2945. 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.

SB 2613: 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.

SB 2945. There have been numerous instances where certain Departments have rejected tax clearance certificates, and thus refused to renew or grant licenses, when the licensee is on an agreed payment plan for taxes. A tax payment plan that has been accepted by the relevant taxing authority is a binding agreement, and so long as payments are made as agreed, there is no default and the taxpayer is in compliance. In the case of a payment agreement, the taxing authorities will issue clearances noting that the taxpayer is on an agreed payment plan. A payment plan that is to the satisfaction of the taxing authority should also be accepted by the County liquor departments. Currently certain departments do not accept such approvals.

Very truly yours,

Peter A. Horovitz



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE  
ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229  
THURSDAY, FEBRUARY 22, 2018 AT 9:30 A.M.**

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

**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.