



*Maui Hotel & Lodging*  
ASSOCIATION

Testimony of  
**Lisa H. Paulson**  
Executive Director  
Maui Hotel & Lodging Association  
on  
SB 278  
**Relating To Intoxicating Liquor**

**LATE**

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

**Tuesday, February 7, 2017, 1:20 pm**  
**Conference Room 229**

Dear Chair Nishihara, Vice Chair Wakai 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 is **in support** of SB 278, which exempts the appointment and removal of an administrator of a liquor commission from civil service laws and requires the appointment to be subject to the advice and consent of the legislative body of the county. Allows the commission to issue a temporary license when the applicant or the transferor or transferee, in the case of a transfer of a license, is actively challenging a tax assessment, penalty, or other proceeding that prevents the issuance of a signed certificate from the appropriate federal or state tax agency. Limits the criminal history record check requirements for applicants of liquor licenses who are corporations or other entity to those persons with management or operational authority over the liquor-related operations. Allows, rather than requires, any investigator or other employee of the liquor commission to be represented and defended in any criminal or civil cause of action arising out of an action done as part of the investigator's or other employee's duty by certain specified counsel.

MHLA supports this measure which seeks to update some of the existing liquor laws to allow businesses to seek their license renewals with greater ease. Currently, if a business is challenging a tax assessment they are not able to renew their liquor license. Additionally, criminal history checks have become more cumbersome now that hotels/businesses are owned by a consortium of owners some of which live in foreign countries. Further refinement of criminal history checks and fingerprinting are necessary as our business models evolve.

Thank you for the opportunity to testify.

**LATE**

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February 7, 2017

**VIA E-MAIL [SENNISHIHARA@CAPITOL.HAWAII.GOV AND  
PSMTESTIMONY@CAPITOL.HAWAII.GOV]**

Senator Clarence K. Nishihara  
Chair, Public Safety, Intergovernmental and Military Affairs Committee  
Hawaii State Legislature  
Hawaii State Capitol, Room 214  
415 South Beretania Street  
Honolulu, HI 96813

Re: SB 278 - Relating to Intoxicating Liquor

Dear Senator Nishihara:

Thank you for allowing me to testify on Senate Bill 278 - Relating to Intoxicating Liquor.

I am an attorney on Maui and as part of my practice, submit numerous liquor license applications for clients including local small restaurants and bars to national and international restaurants and hotels.

I appreciate the efforts of Senate Bill 278 to add Sec. 281-53.5(d) to clarify the requirements for when criminal history clearances need to be submitted for liquor license applications. However, I would submit that the provisions of subsection (2) relating to persons with "management or operational authority" may be overbroad, in that said language may be misconstrued and misinterpreted to include a licensee's general manager or other day-to-day management personnel that have no ownership interest. The same rationale goes to subsection (3) and the words "associated with the corporation."

Unfortunately, due to the possibility of such misinterpretation, exactly which individuals that need to obtain criminal history record checks needs to be specified. I have attached proposed language in this regard, together with a redline so that you can see the changes made.

Senator Clarence K. Nishihara  
February 7, 2017  
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Thank you for your time and consideration of this revision. I would be pleased to answer any questions you may have.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Craig G. Nakamura', with a long horizontal flourish extending to the right.

Craig G. Nakamura

CGN/jrc

Enclosures

cc: Gilbert Keith Agaran (via e-mail) [senkeithagaran@capitol.hawaii.gov](mailto:senkeithagaran@capitol.hawaii.gov)

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HRS 281-45

(d) For the purposes of this section, if an applicant is a corporation or other entity, only the following individual persons related to the applicant shall be subject to criminal history record checks pursuant to this section:

(i) If the applicant is a corporation, the officers, directors and stockholders holding 25% or more of the stock;

(ii) If the applicant is a partnership, all general partners, and all limited partners, if any, holding a 25% or more partnership interest;

(iii) If the applicant is a limited liability company, all managers and all members holding a 25% or more membership interest;

(iv) for any other entities, persons who hold at least twenty-five per cent ownership of the applicant's entity.

If the stockholder, partner, member, manager, or other person or entity holding 25% or more is a corporation, partnership, limited liability company or other entity, no criminal clearance shall be required for those entities or any officer, director, shareholder, partner, member or manager thereof.

HRS 281-45

(d) For the purposes of this section, if an applicant is a corporation or other entity, only the following individual persons related to the applicant shall be subject to criminal history record checks pursuant to this section:

~~(1) Persons who hold at least twenty-five per cent control over the corporation or other entity; and~~ (i) If the applicant is a corporation, the officers, directors and stockholders holding 25% or more of the stock;

~~(2) Individual persons with management or operational authority over liquor-related operations. The commission may request an applicant to disclose whether any other individuals associated with the corporation or other entity has been convicted of a felony." ii) If the applicant is a partnership, all general partners, and all limited partners, if any, holding a 25% or more partnership interest;~~

(iii) If the applicant is a limited liability company, all managers and all members holding a 25% or more membership interest;

(iv) for any other entities, persons who hold at least twenty-five per cent ownership of the applicant's entity.

If the stockholder, partner, member, manager, or other person or entity holding 25% or more is a corporation, partnership, limited liability company or other entity, no criminal clearance shall be required for those entities or any officer, director, shareholder, partner, member or manager thereof.

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