



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2022**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2382, RELATING TO CABARET LICENSES.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**DATE:** Wednesday, February 16, 2022      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 229, Via Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Jennifer D. Waihee-Polk or Bryan C. Yee, Deputy Attorneys General

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Chair Baker and Members of the Committee:

The Department of the Attorney General provides the following comments.

Senate Bill No. 2382 excludes from the counties' powers to issue cabaret licenses under section 281-31(k), Hawaii Revised Statutes, the power to issue cabaret licenses to premises located within the apartment mixed use subprecinct of the Waikiki special district of the City and County of Honolulu.

Article VIII, section 1, of the Constitution of the State of Hawaii requires the Legislature to confer powers upon counties only by general laws. The Hawaii Supreme Court in *Sierra Club v. Dep't of Transp.* stated:

In the context of Article [VIII], section 1, this court defined "general laws" as laws which apply uniformly throughout all political subdivisions of the State . . . A law may[, however,] apply to less than all of the political subdivisions and still be a general law, if it applies uniformly to a class of political subdivisions, which, considering the purpose of the legislation, are distinguished by sufficiently significant characteristics to make them a class by themselves.

*Sierra Club v. Dep't of Transp.*, 120 Hawai'i 181, 201, 202 P.3d 1226, 1246 (2009), as amended (May 13, 2009) (quoting *Bulgo v. County of Maui*, 50 Haw. 51, 53, 430 P.2d 321, 323 (1967)).

As the bill's limitation on the licensing powers applies specifically to a Honolulu

subprecinct, it applies to the City and County of Honolulu only, and not "uniformly throughout all political subdivisions of the State."

If the Committee wishes to better support the bill against a constitutional challenge, we recommend amending the bill to uniformly apply the exclusion to all county mixed use subprecincts with the particular characteristics of the Waikiki special district that significantly served as the basis for this bill. For example, the Committee may wish to change the wording on page 2, lines 15-17, as follows:

A cabaret license shall not be issued for any premises located within [~~the~~ an apartment mixed use subprecinct [~~of the Waikiki]~~ within a special improvement or special district[-] in which the economy is primarily based on tourism.

Thank you for the opportunity to present this testimony.