



Cindy Goldstein, PhD  
Executive Director  
Hawaiian Craft Brewers Guild  
98-814 C Kaonohi Street  
Aiea, HI 96701

<https://www.capitol.hawaii.gov/memberpage.aspx?member=mckelvey>

SB65 Relating to Intoxicating Liquor: Direct Shipment of Liquor  
Senate Committee on Commerce and Consumer Protection  
Friday February 5, 2021 at 9:30 a.m. Conference Room 229

Position: **Support**

Chair Senator Rosalyn Baker, Vice Chair Senator Stanley Chang, and members of the Committee on Commerce and Consumer Protection,

The Hawaiian Craft Brewers Guild is a nonprofit trade organization representing the interests of small craft breweries across the State of Hawaii. Our members are independent craft breweries producing 100% of their beer in Hawaii. The Hawaiian Craft Brewers Guild represents 18 small craft brewery businesses from across the state, almost all of the craft beer producers in Hawaii. Our members are united in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities.

The Hawaiian Craft Brewers Guild and our member breweries embrace the responsible consumption of alcohol.

#### Direct to consumer shipping

Craft beer manufacturers across the State of Hawaii have suffered economic challenges throughout the COVID-19 pandemic with reduced sales and income. Our Hawaiian Craft Brewers Guild members are seeking ways to improve their financial stability and direct to consumer shipping offers a chance to increase production and enter new markets by shipping directly to consumers over the age of 21 in other states and within the State of Hawaii.

It is necessary to allow brewpubs, small craft producer pubs, and other alcohol producers to obtain direct shipper permits because smaller producers usually do not have access to distributors that are interested in working with them. Wholesalers show little interest in expanding distribution opportunities for small craft breweries, especially for markets outside of the State of Hawaii. While wholesalers offer distribution for their large customers, smaller craft brewery brands often find it difficult to find a wholesaler that will work with them to secure shelf space in this highly competitive market. Wholesalers may not adequately represent the unique aspects of craft beer and alcohol made in Hawaii. Enacting this legislation would have significant beneficial impact for small independent craft breweries across Hawaii.

The State of Hawaii stands to gain additional tax revenue from this legislation. Direct to consumer shipping offers opportunities for Hawaii's craft beer manufacturers to increase their production to meet the demand for increased sales. This in turn increases beer excise and gallonage taxes, adding to alcohol tax revenue for the State of Hawaii. Reciprocity created

through this legislation facilitates market expansion into other states for Hawaii manufacturers. The reciprocity offered by direct shipping provides tax revenue to the State of Hawaii, with payment by beer and other liquor producers for product they may ship directly to our state.

Direct shipment of wine is already allowed. Adding language allowing export of craft beer and other liquor to other states and direct shipping between islands can be accomplished using a similar process to what is already in place for wine. It should not be a challenge or difficult for county liquor commissions to adopt rules and regulations set forth in this proposed legislation. Existing statute and liquor shipper permitting for wine for direct to consumer shipping offers a structure for permitting. Reciprocity with other states and out shipment created through this legislation facilitates market expansion for Hawaii producers. Adding language to existing statute benefits Hawaii craft beer and alcohol manufacturers, enabling increased production.

The ability of craft beer producers to access customers through direct shipping by permit helps meet current needs of Hawaii's craft beer and other liquor manufacturers struggling through the financial challenges brought about by COVID-19. Hawaii's independent craft beer manufacturers are a vibrant and innovative small business sector. This legislation would contribute to stabilization and continuation of the growth of these businesses.

We request the Senate Committee on Commerce and Consumer Protection pass this bill. Mahalo for considering our Hawaiian Craft Brewers Guild testimony in support of SB65.



Lanikai Brewing Company  
175 Hamakua Drive, Unit C  
Kailua, Hawaii 96734  
www.lanikaibrewing.com

SB65 Relating to Intoxicating Liquor: Direct Shipment of Liquor  
Senate Committee on Commerce and Consumer Protection  
Friday, February 5, 2021 at 9:30 a.m. Conf room 229

I am Steve Haumschild, CEO and founder of Lanikai Brewing Company located in Kailua Hawaii, with a second location being built in Haleiwa Hawaii. We are an independent craft brewery producing 100% of our beer in Hawaii. We are united with other members of the Hawaiian Craft Brewers Guild in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities.

I am a board member of the HCBG. Our brewery along with the other member breweries of the Hawaiian Craft Brewers Guild embrace the responsible consumption of alcohol.

Direct to consumer shipping is critical to breweries being able to survive the backlash of the pandemic. With greatly reduced sales on site due to Covid 19, our ability to generate revenue in a safe, socially distanced manner consistent with laws will be the key to survival for our brewery, therefore supporting local jobs. Our ability to ship within the State of Hawaii but ALSO to mainland locations allows us to explore expanded distribution and ultimately increase sales. Further, increased production equals increased sales and therefore increased total taxes.

Direct shipment of wine is already allowed. Adding language allowing export of craft beer and other liquor to other states and direct shipping between islands can be accomplished using a similar process to what is already in place for wine. Adding language to existing statute benefits our brewery and other Hawaii craft beer and alcohol manufacturers, enabling increased production.

Mahalo for considering our testimony in support of HB65.

Steve Haumschild



Benjamin Kopf  
Owner, Mahalo Aleworks  
30 Kupaoa St. #101  
Makawao, HI 96768

<https://www.capitol.hawaii.gov/memberpage.aspx?member=mckelvey>

SB65 Relating to Intoxicating Liquor: Direct Shipment of Liquor  
Senate Committee on Commerce and Consumer Protection  
Friday, February 5, 2021 at 9:30 a.m. Conf room 229

Position: **Support**

Chair Senator Rosalyn Baker, Vice Chair Senator Stanley Chang and members of the Committee on Commerce and Consumer Protection,

My name is Ben Kopf and I am the owner of Mahalo Aleworks, a new craft brewery located upcountry Maui. We are an independent craft brewery that has built a brand new brewery and taproom from the ground up, and are set to open in the next couple months. We will be producing 100% of our beer in Hawaii. We are united with other members of the Hawaiian Craft Brewers Guild in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities.

Our brewery, along with the other member breweries of the Hawaiian Craft Brewers Guild, embrace the responsible consumption of alcohol.

#### Direct to consumer shipping

We have been in full-time planning, permitting and construction of our brewery and taproom located upcountry Maui for over two and a half years, and are finally only a couple months from opening. We have suffered this past year through delay after delay due to COVID logistics and manufacturing issues and now after all of this, due to the COVID-19 restrictions that are in place on in-person establishments we do not even know what "open" is going to look like for us when we do finally get to open. As such, it is critical that we have every possible opportunity to sell our 100% made in Hawaii and 100% solar-powered beer.

We have suffered economic challenges throughout the COVID-19 pandemic along with other craft beer manufacturers across the State of Hawaii, which for us have manifested themselves through much longer construction times due to building material shortages and equipment manufacturing delays as previously mentioned. This has severely strained our finances as we have been pushed back from opening by nearly half a year from our original projected open date (which had already taken Hawaii time and logistics into consideration).

We along with other Hawaiian Craft Brewers Guild members are seeking ways to improve our financial stability and direct to consumer shipping offers a chance to increase production and enter new markets by shipping directly to consumers over the age of 21 in other states and within the State of Hawaii to neighbor islands. This is even more important in this current climate

of uncertainty caused by COVID. We are a 100% direct to consumer taproom brewery and our entire income relies on people coming into the taproom to purchase beer. As such, the ability to direct ship would at least help to alleviate the constraints placed on us by reduced capacity limits and reduced tourism etc.

It is necessary to allow brewpubs, small craft producer pubs, and other alcohol producers to obtain direct shipper permits because smaller producers usually do not have access to distributors that are interested in working with them. We are such a small volume of production that we have limited opportunity to have our product represented on any shelves other than our own. The craft beer we produce includes unique styles and tastes and wholesalers don't always take the time to learn about our products and brand. Enacting this legislation would have significant beneficial impact for our brewery and other small independent craft breweries across Hawaii.

The State of Hawaii stands to gain additional tax revenue from this legislation. Direct to consumer shipping offers opportunities for our brewery to increase production to meet the demand for increased sales. This in turn increases beer excise and gallonage taxes, adding to alcohol tax revenue for the State of Hawaii.

Direct shipment of wine is already allowed. Adding language allowing export of craft beer and other liquor to other states and direct shipping between islands can be accomplished using a similar process to what is already in place for wine. Adding language to existing statute benefits our brewery and other Hawaii craft beer and alcohol manufacturers, enabling increased production.

The ability of craft beer producers to access customers through direct shipping by permit helps meet our current needs as we struggle through the financial challenges brought about by COVID-19. Hawaii's independent craft beer manufacturers are a vibrant and innovative small business sector. This legislation would contribute to stabilization and continuation of the growth of our brewery business.

We request the Senate Committee on Commerce and Consumer Protection pass this bill. Mahalo for considering our testimony in support of SB65.

**SB-65**

Submitted on: 2/4/2021 8:23:02 AM

Testimony for CPN on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joe P. Lorenzen	Testifying for Waikiki Brewing Company	Support	No

Comments:

**WAIKIKI BREWING COMPANY**

Joe P. Lorenzen, Partner/Brewmaster

831 Queen St.

Honolulu, HI 96813

808-591-0387

[brewmaster@waikikibrewing.com](mailto:brewmaster@waikikibrewing.com)

HB263 Relating to Intoxicating Liquor: Direct Shipment of Liquor

Position: Support

My name is Joe Lorenzen. I live in Honolulu, on the island of Oahu, and I am a partner in and Brewmaster of Waikiki Brewing Company with business locations in Waikiki, Kaka'ako, and on Front Street in Lahaina, on Maui. Our brewery began with 15 employees in 2015, and now employs over 60 people.

We are strongly in support of SB65.

The wine industry in Hawaii already enjoys the ability to ship direct to consumers and we see no reason why other alcoholic beverage producers in Hawaii should not be afforded the same opportunity to reach customers and grow our sales.

Our industry is one of the only industries to grow manufacturing jobs in Hawaii in recent years, and we have been severely impacted by Covid-19 shutdowns and restrictions. Closures of restaurants, bars, and clubs (some permanently) have eliminated avenues for us to distribute our products, and there are many people who still feel safer at home or may have underlying conditions and do not want to visit the store or our breweries. This bill would allow us to reach those customers and attempt to maintain our businesses in these trying times.

This bill would also provide an opportunity to reach mainland customers for those of us who do not have distribution to the mainland. For many smaller brewers, there is not enough production or economies of scale to distribute to the mainland. This bill would allow us to still be able to reach those fans of ours that do want to support us in their remote locations.

Thank you for the opportunity to provide testimony in support of SB65.

Sincerely,

Joe P. Lorenzen



# KAUAI ISLAND BREWING CO.

PORT ALLEN, HAWAII

February 3, 2021

SB65 Relating to Intoxicating Liquor: Direct Shipment of Liquor  
Senate Committee on Commerce and Consumer Protection  
Friday, February 5, 2021 at 9:30 a.m. Conf room 229

Position: **Support**

Chair Senator Rosalyn Baker, Vice Chair Senator Stanley Chang and members of the Committee on Commerce and Consumer Protection,

My name is Bret Larson, I am the owner, Kauai Island Brewing Company. We are located on the west side of Kauai in Eleele/Port Allen. We currently provide 11 full and part time jobs in Hawaii.

We are united with other members of the Hawaiian Craft Brewers Guild in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities.

I am a board member of the HCBG. Our brewery along with the other member breweries of the Hawaiian Craft Brewers Guild embrace the responsible consumption of alcohol.

## Direct to consumer shipping

I can't tell you the number of times I have had friends, family, and even strangers ask me from the mainland where I can get our beers. In running the brewpub, I've had hundreds of guests ask me if I could ship them our beers and unfortunately, I need to tell them "no". Some of them showed a bit of confusion when they tell me "I can get wine shipped to me but not beer?" I know if we were allowed Direct to consumer shipping, our sales would increase and as a result we would be able to hire additional staff (to handle the DTC sales and shipping) and the State would see additional revenue as a result of the increased sales.

We have suffered economic challenges throughout the COVID-19 pandemic along with other craft beer manufacturers across the State of Hawaii, with reduced sales and income. We along with other Hawaiian Craft Brewers Guild members are seeking ways to improve our financial stability and direct to consumer shipping offers a chance to increase production and enter new markets by shipping directly to consumers over the age of 21 in other states and within the State of Hawaii to neighbor islands.

It is necessary to allow brewpubs, small craft producer pubs, and other alcohol producers to obtain direct shipper permits because as a smaller producer we do not have access to distributors that are

Brewery Location: 4350 Waialo Rd, Port Allen, HI 96705

Mailing Address: PO Box 215, Eleele, HI 96705

[www.kauaiislandbrewing.com](http://www.kauaiislandbrewing.com)



interested in working with us. The craft beer we produce includes unique styles and tastes and wholesalers don't always take the time to learn about our products and brand. Enacting this legislation would have significant beneficial impact for our brewery and other small independent craft breweries across Hawaii.

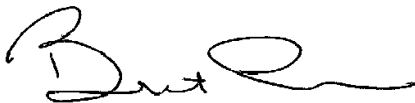
The State of Hawaii stands to gain additional tax revenue from this legislation. Direct to consumer shipping offers opportunities for our brewery to increase production to meet the demand for increased sales. This in turn increases beer excise and gallonage taxes, adding to alcohol tax revenue for the State of Hawaii. Seems like a win-win rule change.

Direct shipment of wine is already allowed. Adding language allowing export of craft beer and other liquor to other states and direct shipping between islands can be accomplished using a similar process to what is already in place for wine. Adding language to existing statute benefits our brewery and other Hawaii craft beer and alcohol manufacturers, enabling increased production.

The ability of craft beer producers to access customers through direct shipping by permit helps meet our current needs as we struggle through the financial challenges brought about by COVID-19. Hawaii's independent craft beer manufacturers are a vibrant and innovative small business sector. This legislation would contribute to stabilization and continuation of the growth of our brewery business.

We request the House Committee on Economic Development pass this bill. Mahalo for considering our testimony in support of SB65.

Mahalo for considering our testimony in support of SB65

A handwritten signature in black ink, appearing to read "Bret Larson". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Bret Larson  
Kauai Island Brewing Company, LLC.  
808-755-5926  
[bret@kauaiislandbrewing.com](mailto:bret@kauaiislandbrewing.com)



1050 Bishop St. PMB 235 | Honolulu, HI 96813  
P: 808-533-1292 | e: info@hawaiiifood.com

#### Executive Officers

**Joe Carter**, Coca-Cola Bottling of Hawaii, *Chair*  
**Charlie Gustafson**, Tamura Super Market, *Vice Chair*  
**Eddie Asato**, The Pint Size Corp., *Secretary/Treas.*  
**Lauren Zirbel**, HFIA, *Executive Director*  
**John Schlif**, Rainbow Sales and Marketing, *Advisor*  
**Stan Brown**, Acosta Sales & Marketing, *Advisor*  
**Paul Kosasa**, ABC Stores, *Advisor*  
**Derek Kurisu**, KTA Superstores, *Advisor*  
**Beau Oshiro**, C&S Wholesale Grocers, *Advisor*  
**Toby Taniguchi**, KTA Superstores, *Advisor*

---

TO:  
Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: February 5, 2021  
TIME: 9:30am  
PLACE: Via Videoconference

RE: SB65 Relating to Intoxicating Liquor

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in opposition to this measure. Current statute requires a license for direct shipment of wine but has no real way to monitor or track compliance. There are also problems with identifying unlicensed direct shipments. The expansion of direct shipping to allow all forms of liquor to be shipped directly will only exacerbate the issues currently limited to wine. Until we better understand and can better manage the direct shipment of wine, it is unwise to open direct shipment to other forms of alcohol.

Thank you for the opportunity to testify.



Katie Jacoy  
Western Counsel  
**Wine Institute**  
[kjacoy@wineinstitute.org](mailto:kjacoy@wineinstitute.org)  
360-790-5729

THE HOUSE OF REPRESENTATIVE  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2021

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**Testimony in Opposition to SB 65**

Chair Baker, Vice-Chair Chang and Members of the Committee:

Thank you for the opportunity to provide testimony on SB 65 RELATING TO INTOXICATING LIQUOR. Wine Institute, a public policy association representing 1,000 California wineries of all sizes and associate members, submits the following comments in opposition to SB 65.

While we appreciate the desire of manufacturers of spirits and beer to obtain a direct-to-consumer shipping privilege, we respectfully ask that any new privilege for other liquor manufacturers be placed in a separate statute, or that provisions impacting the wine industry be restored.

Wineries of all sizes and in all 50 states have greatly benefited from the passage of direct-to-consumer shipping laws. Direct-to-consumer (DTC) wine shipping is legal in 46 states and has been occurring safely for more than 30 years. It is a lifeline for wineries in the global pandemic with wine DTC sales hitting new highs in 2020.

1) **We are concerned that the case limits set in statute have been deleted from SB 65.** In 2006, we successfully worked with the Hawaii legislature and various stakeholders to negotiate and pass the current DTC statute (HRS Sec. 281-33.6). As with all legislation, there were compromises, including the case limit of “no more than six nine liter cases of wine per household.” While we are supportive of increasing the case limit for wine in the statute, we oppose removing it entirely because it would result in county-by-county adoption of case limits via regulation. Having various case limits per County would make compliance incredibly difficult for wineries.

2) **We are also concerned by the addition of the following reciprocal shipping language:**

“(f) The holder of a direct liquor shipper permit may ship to and from any county or state where properly licensed and shall ensure that all reciprocal shipping license requirements are met in the receiving county or state.”

In 2005, The US Supreme Court ruled in Granholm that states couldn’t discriminate between in-state and out-of-state wineries in direct-to consumer wine shipment, putting in question the constitutionality of the reciprocal statutes. Justice Anthony Kennedy, in crafting the majority opinion, wrote that states should not be compelled to negotiate with each other regarding favored or disfavored status. “Laws of the type at issue in the instant [Michigan and New York] cases contradict these principles. They deprive citizens of their right to have access to the markets of other States on equal terms. The perceived

necessity for reciprocal sale privileges risks generating the trade rivalries and animosities, the alliances and exclusivity, that the Constitution and, in particular, the Commerce Clause were designed to avoid. State laws that protect local wineries have led to the enactment of statutes under which some States condition the right of out-of-state wineries to make direct wine sales to in-state consumers on a reciprocal right in the shipping State. California, for example, passed a reciprocity law in 1986, retreating from the State's previous regime that allowed unfettered direct shipments from out-of-state wineries. . . .Prior to 1986, all but three States prohibited direct shipments of wine. The obvious aim of the California statute was to open the interstate direct-shipping market for the State's many wineries."

While the Granholm decision did not directly apply to reciprocity statutes, it was generally believed by legal experts that Justice Kennedy was sending a signal that reciprocal shipping laws could be challenged because they created different rules for wineries based on their location. And legislatures in the 14 reciprocal shipping states agreed, changing reciprocal shipping laws to permit systems, including Hawaii in 2006. So, to avoid litigation over this issue, we respectfully request that this reciprocal language NOT be applied to direct shipping for wine.

Thank you for the opportunity to testify.



February 2, 2021

Dear Honorable Chair:

Kōloa Rum Company produces rum and related products on Kauaʻi using locally grown sugarcane and other ingredients. We employ forty (40) employees, and our products are distributed and sold across the mainland U.S. and several international markets. Along with the other distilleries in Hawaiʻi, Kōloa Rum Company has been hard hit by the effects of the pandemic. Since March 18, 2020, our revenues generated in Hawaiʻi are down 81% and we currently have 12 employees on furlough status. Our Tasting Room & Company Store typically generates 27% of our Hawaiʻi revenue; however, it has been closed this past year due to the pandemic and revenue is down 92%. SB65 and HB263 would amend the current law and permit direct-to-consumer sales and shipment of beverage alcohol to and from the state of Hawaiʻi. This would allow us to satisfy unmet customer demand, recapture lost revenue, and reemploy furloughed employees.

Modern-day consumers want enhanced convenience when it comes to purchasing their favorite products and the rapidly changing world of commerce must adapt to meet consumer demand. Direct-to-consumer shipping has, will, and should continue to serve as an additional market access channel to the traditional three-tier system of alcohol beverage distribution. In the last fifteen years, the number of distilleries nationwide has increased from 70 to over 1,500 and there are now 12 licensed distilleries in Hawaiʻi. Increasingly, consumers want to have access to the new and exciting spirits products that often may not be available in their state and direct-to-consumer can effectively complement the three-tier system. Ironically, direct-to-consumer shipping of wines has been widely available for nearly twenty-five years.

**PREMIUM HAWAIIAN RUM**

KOLOA RUM CORP (808) 332-9333 FAX (808) 332-7650  
2-2741 KAUMUALIʻI HIGHWAY, SUITE C, KALAHEO, KAUAʻI, HAWAIʻI 96741  
WWW.KOLOARUM.COM

Kōloa Rum Company believes that SB65 and HB263 meets the needs of our local Hawai`i distilleries regarding direct-to-consumer shipping, which include:

- Treat All Alcohol Products Equally

It is a scientific fact that “alcohol is alcohol is alcohol” regardless of the form in which it is consumed. SB65 and HB263 provide the opportunity for beer, wine and spirits producers to equally direct ship their products to consumers under comparable terms.

- Avoid Commerce Clause Issues

In the *Granholm v. Heald*, 544 U.S. 460 (2005) case, the United States Supreme Court found that a state must treat in- and out-of-state wine producers equally to avoid violating the dormant Constitutional Commerce Clause. To paraphrase *Granholm*, rights granted to in-state producers must also be extended to out-of-state producers. And, in the June 2019 decision, *Tenn. Wine & Spirits Retailers Association v Thomas* (No. 18-96), the Court made clear that *Granholm* continues to be good law and that states have a high burden to justify measures that discriminate against out-of-state alcohol beverage producers or products.

- Product Integrity Considerations

Maintaining a regulatory framework assuring product integrity within the direct-to-consumer marketplace can be achieved by limiting direct shipment licenses to brand owners or authorized representatives.

- Maintain State Tax Collections

Broadly, a state should be kept whole regarding tax collections if a sale is made in that state. It must also be recognized that Court decisions have established that sales and excise taxes will be paid to the state where the product is delivered. The state of Hawaii will realize new tax revenue when a resident purchases a product via direct shipment from an out-of-state distillery, but products shipped from Hawaii to out-of-state consumers should not be subjected to double or burdensome taxation.

- Safeguard Against Underage Purchases

To prevent the illegal access of spirits by underage residents, and direct-to-consumer shipments should be conspicuously labeled with the words “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.”

We believe SB65 and HB263 conform broadly to the above suggested recommendations and Kōloa Rum Company supports this legislation which will be to benefit of Hawai`i consumers and businesses.

Mahalo for your consideration.

Aloha,

A handwritten signature in blue ink, appearing to read "Bob Gunter". The signature is stylized and cursive.

Bob Gunter  
President & CEO  
Kōloa Rum Company  
(808) 332-9333



64-1066 Mamalahoa Highway  
Kamuela, Hawaii, 96743

T 808-887-1717  
F 808-885-0653  
BigIslandBrewHaus@Yahoo.Com

[BigIslandBrewHaus.Com](http://BigIslandBrewHaus.Com)

Thomas Kerns  
President / Brewmaster  
Big Island Brewhaus

<https://www.capitol.hawaii.gov/memberpage.aspx?member=mckelvey>

SB65 Relating to Intoxicating Liquor: Direct Shipment of Liquor  
Senate Committee on Commerce and Consumer Protection  
Friday, February 5, 2021 at 9:30 a.m. Conf room 229

Position: **Support**

Chair Senator Rosalyn Baker, Vice Chair Senator Stanley Chang and members of the Committee on Commerce and Consumer Protection,

My name is Thomas Kerns and I am the owner and brewmaster of Big Island Brewhaus. We are an independent craft brewery producing 100% of our beer in Hawaii. We are united with other members of the Hawaiian Craft Brewers Guild in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities.

Our brewery along with the other member breweries of the Hawaiian Craft Brewers Guild embrace the responsible consumption of alcohol.

#### Direct to consumer shipping

We have suffered economic challenges throughout the COVID-19 pandemic along with other craft beer manufacturers across the State of Hawaii, with reduced sales and income. We along with other Hawaiian Craft Brewers Guild members are seeking ways to improve our financial stability and direct to consumer shipping offers a chance to increase production and enter new markets by shipping directly to consumers over the age of 21 in other states and within the State of Hawaii to neighbor islands.

It is necessary to allow brewpubs, small craft producer pubs, and other alcohol producers to obtain direct shipper permits because smaller producers usually do not have access to distributors that are interested in working with them. We have experienced out of state wholesalers showing little interest in expanding distribution opportunities for small craft breweries like ours, especially for markets outside of the State of Hawaii. The craft beer we produce includes unique styles and tastes and wholesalers don't always take the time to learn about our products and brand. Enacting this legislation would have significant beneficial impact for our brewery and other small independent craft breweries across Hawaii.



Direct shipment of wine is already allowed. Adding language allowing export of craft beer and other liquor to other states and direct shipping between islands can be accomplished using a similar process to what is already in place for wine. Adding language to existing statute benefits our brewery and other Hawaii craft beer and alcohol manufacturers, enabling increased production.

The ability of craft beer producers to access customers through direct shipping by permit helps meet our current needs as we struggle through the financial challenges brought about by COVID-19. Hawaii's independent craft beer manufacturers are a vibrant and innovative small business sector. This legislation would contribute to stabilization and continuation of the growth of our brewery business.

Breweries are experiencing a substantial economic hit from COVID-19 and need this legislation for economic relief.

1. Direct to Consumer shipping offers an opportunity for Hawaii's craft beer manufacturers to directly increase revenue and improve their bottom line at a time when these businesses are struggling to remain open due to the impacts of COVID-19.
2. COVID-19 has severely challenged the economic viability of craft beer producers across the State of Hawaii. Passing this bill now is especially crucial as Hawaii craft beer manufacturers struggle to stay in business and recover from COVID related revenue losses.
3. The ability of a liquor producer to access more customers through direct shipping helps address current economic hardship and promotes opportunities for expanded production and sales to neighbor islands and new markets across the US.

Direct to Consumer shipping benefits small independent craft beer businesses across the State of Hawaii.

1. While liquor sales have shown overall increases during the pandemic, this is not the case for many of Hawaii's small independent craft breweries. Our small brewery businesses typically derive a higher percent of their overall revenue from sales at their brewpubs and tap rooms compared to other alcohol manufacturers.
2. It is necessary to allow brewpubs, small craft producer pubs, and other liquor producers to obtain direct shipper permits because wholesalers may not want to sell or represent smaller brands.
3. Small scale producers usually don't find distributors interested in offering access for distribution within Hawaii where shelf space is highly competitive, and for export of their products out of state.
4. Wholesalers may not adequately represent the unique aspects of craft beer and other brands of liquor made in Hawaii by small independent producers.

Direct to Consumer shipping offers opportunities for breweries to increase production and as a result, increased tax revenue for the State of Hawaii.

1. Direct to Consumer shipping will allow Hawaii's craft beer manufacturers to increase their production to meet the demand for increased out of state sales. This in turn increases beer excise and gallonage taxes, adding to alcohol tax revenue for the State of Hawaii.
2. Rules already exist for "direct to consumer" shipping of wine, with a structure and guidelines for permitting and taxation that could be applied to direct shipping of beer and other liquor.

3. Reciprocity created with other states through this legislation facilitates market expansion for Hawaii producers with out-shipments to other states. The reciprocity offered by "direct to consumer" shipping provides tax revenue to the State of Hawaii paid by the beer and other liquor businesses for product they may ship directly to our state.

We request the House Committee on Economic development pass this bill. Mahalo for considering our testimony in support of SB65.

Sincerely,

Thomas Kerns  
President / Brewmaster  
Big Island Brewhaus

Kauai Beer Company  
Justin Guerber  
Head Brewer  
4265 Rice St  
Lihue, HI 96766  
[justin@kauaibeer.com](mailto:justin@kauaibeer.com)



SB65 Relating to Intoxicating Liquor: Direct Shipment of Liquor  
Senate Committee on Commerce and Consumer Protection  
Friday, February 5, 2021 at 9:30 a.m. Conf room 229

Position: **Support**

Chair Senator Rosalyn Baker, Vice Chair Senator Stanley Chang and members of the Committee on Commerce and Consumer Protection,

My name is Justin Guerber and I am the Head Brewer of Kauai Beer Company. We are an independent craft brewery producing 100% of our beer in Hawaii. We are united with other members of the Hawaiian Craft Brewers Guild in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities. Our brewery along with the other member breweries of the Hawaiian Craft Brewers Guild embrace the responsible consumption of alcohol.

Direct to consumer shipping

We at the Kauai Beer Company have just started to do limited bottling as an avenue to generate some of the lost revenue due to COVID-19. Thus far it has been popular, and we have generated a lot of interest online through social media and word of mouth. We are getting many requests to ship our beer both to outer islands, and out of state. As a small brewery, finding distribution off Kauai is difficult, and at least for us, does not make financial sense.

Shipping directly to customers would be immensely helpful in bringing our production levels and revenue back to sustainable levels. Expanding our market and reach also promotes Hawaii brands inside the state, as well as on the mainland. As our brewpub is limited in seating now due to COVID-19 restrictions, any additional products that we can sell off-premises helps.

I also feel confident that were we able to ship directly, we could hire at least 2 additional employees right away as packaging bottles will require more labor that we currently do not have.

## Background

We have suffered economic challenges throughout the COVID-19 pandemic along with other craft beer manufacturers across the State of Hawaii, with reduced sales and income. We along with other Hawaiian Craft Brewers Guild members are seeking ways to improve our financial stability and direct to consumer shipping offers a chance to increase production and enter new markets by shipping directly to consumers over the age of 21 in other states and within the State of Hawaii to neighbor islands.

It is necessary to allow brewpubs, small craft producer pubs, and other alcohol producers to obtain direct shipper permits because smaller producers usually do not have access to distributors that are interested in working with them. The craft beer we produce includes unique styles and tastes and wholesalers don't always take the time to learn about our products and brand. Enacting this legislation would have significant beneficial impact for our brewery and other small independent craft breweries across Hawaii.

The State of Hawaii stands to gain additional tax revenue from this legislation. Direct to consumer shipping offers opportunities for our brewery to increase production to meet the demand for increased sales. This in turn increases beer excise and gallonage taxes, adding to alcohol tax revenue for the State of Hawaii.

Direct shipment of wine is already allowed. Adding language allowing export of craft beer and other liquor to other states and direct shipping between islands can be accomplished using a similar process to what is already in place for wine. Adding language to existing statute benefits our brewery and other Hawaii craft beer and alcohol manufacturers, enabling increased production.

The ability of craft beer producers to access customers through direct shipping by permit helps meet our current needs as we struggle through the financial challenges brought about by COVID-19. Hawaii's independent craft beer manufacturers are a vibrant and innovative small business sector. This legislation would contribute to stabilization and continuation of the growth of our brewery business.

We request the House Committee on Economic development pass this bill. Mahalo for considering our testimony in support of HB263.



P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

February 5, 2021

HEARING BEFORE THE  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

**TESTIMONY ON SB 65**  
RELATING TO INTOXICATING LIQUOR

Conference Room 312  
9:30 AM

Aloha Chair Baker, Vice Chair Chang, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

**The Hawaii Farm Bureau supports SB 65**, which allows direct shipment of all forms of liquor, rather than just wine, by certain licensees.

The strength of Hawaii's economy is dependent upon a diversity in commerce that is resilient to economic downturns and aggressive in creating new growth opportunities.

A major weakness in agriculture is our lack of value-added production. Our over-dependence on the sale of fresh goods makes us especially vulnerable to weather, pest outbreaks, and pandemics while strict quarantine measures and transportation costs of heavy goods make exports difficult. This measure creates incentives for value-added manufacturing of alcohol spirits using Hawaii grown crops.

We have seen a rise in local crops being used to create locally distilled spirits such as sugarcane by Ko Hana Rum and Koloa Rum, sweet potato by Hawaiian Shochu Company, and pineapple by Pau Vodka. Our locally produced craft brews often include Hawaii grown agricultural ingredients, creating new and unique beer styles.

These products are popular with both Hawaii residents and visitors and should have the same ability as wineries to directly ship their products to consumers. Products like these can help with agricultural expansion and supports our State's policy to increase agriculture production.

**LATE**

**SB-65**

Submitted on: 2/4/2021 12:25:24 PM

Testimony for CPN on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marsha Hansen	Testifying for Maui Brewing Company craft beverages	Support	No

Comments:

This will help our business given that we've lost revenue and production due to the pandemic. The ability to direct ship our beverages to consumers will keep us competitive with mainland producers, and keep people from drinking/driving to pick up beverages. Wineries have been doing this for years.

**HAWAII LIQUOR WHOLESALERS ASSOCIATION  
FIVE WATERFRONT PLAZA  
500 ALA MOANA BLVD STE 400  
HONOLULU, Hawaii 96813**

February 4, 2021

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair  
Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Re: SB 65 Relating to Intoxicating Liquor  
Hearing Date: February 5, 2021

Dear Chair Baker, Vice Chair Chang, and Committee Members:

The Hawaii Liquor Wholesalers Association respectfully submits the following written testimony in **opposition** to SB 65 Relating to Intoxicating Liquor.

Section 2 would amend HRS Section 281-33.6 to allow direct shipment of *any* liquor from outside each county to persons within the county. Expanding direct shipment to other liquor will result in bad consequences.

Direct shipment of any liquor will increase underage access with numerous oversight issues regarding liability of the producers and shippers. Out of State shippers have no local ties to the community and would feel less responsible for sales to minors. The current three-tier liquor distribution system is intended to protect consumers and has worked to help prevent of sales to minors and ensure the integrity of the liquor distribution.

Allowing direct shipment to Hawaii residents would create marketplace disruption and the possibility of monopolies formed by the largest spirits producers. This will have a negative impact on local manufacturers, wholesalers, retailers, restaurants, bars and related businesses and will result in loss of income and jobs to Hawaii residents. Local craft distilling and brewing have been able to flourish because of the three-tier system which has prevented monopolies by large producers who can dominate online advertising space.

There has been no accounting of the current volume of directly shipped wine and whether the proper general excise and liquor taxes are being paid. The justification for directly shipped wine was to help small local wineries sell their product. There is no similar justification here. Before any consideration is given to expanding direct shipment to other liquor, an audit should be conducted to determine whether the current direct ship program is working and whether the State is receiving all the taxes that should be paid on the direct shipments. Other states have found that direct ship programs have resulted in large amounts of illegal wine delivered to the state without payment of taxes or proper licensing. The impact to Hawaii's economy is significant where nonpayment of taxes and fees allows out of state shippers to undercut local suppliers and

businesses. Hawaii risks the loss of millions of tax and license dollars and loss of jobs every year from illegal direct shipments.

The current three-tier system has worked for many years. It would be a mistake to change it by allowing direct shipment of any liquor.

Based on the above, we respectfully oppose SB 65. Thank you for your consideration of the foregoing.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION

By:   
\_\_\_\_\_  
Kenneth G. K. Hoo  
Its Secretary





February 2, 2021

Hon. Rosalyn H. Baker, Chair  
Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol, Room 230  
Honolulu, Hawaii

Dear Senator Baker:

This letter is submitted on behalf of the Distilled Spirits Council of the United States (DISCUS), a national trade association representing producers and marketers of distilled spirits and importers of wines sold in the United States, regarding SB 65. As you know, this legislation would amend the current law allowing the direct-to-consumer shipment of beverage alcohol to and from the state of Hawaii.

Modern-day consumers want enhanced convenience when it comes to purchasing their favorite products and the rapidly changing world of commerce must adapt to meet consumer demand. Direct-to-consumer shipping has, will, and should continue to serve as an additional market access channel to the traditional three-tier system of alcohol beverage distribution. In the last fifteen years, the number of distilleries has increased from 70 to over 1,500 and there are now over 6,000 distilled spirits products in the marketplace. Increasingly, consumers want to have access to the new and exciting spirits products that often may not be available in their state and direct-to-consumer can be a complement to the three-tier system. Direct-to-consumer wine shipping has been available for nearly twenty-five years.

The Distilled Spirits Council believes that SB 65 generally meets the broad recommendations that we have previously made regarding direct-to-consumer shipping, which are:

- **Treat All Alcohol Products Equally**  
It is a scientific fact that “alcohol is alcohol is alcohol” regardless of the form in which it is consumed. HB 415 provides the opportunity for beer, wine and spirits producers to equally direct ship their products to consumers under comparable terms.
- **Avoid Commerce Clause Issues**  
In the *Granholm v. Heald*, 544 U.S. 460 (2005) case, the United States Supreme Court found that a state must treat in- and out-of-state wine producers equally to avoid violating the dormant Constitutional Commerce Clause. To paraphrase

Granholm, rights granted to in-state producers must also be extended to out-of-state producers. And, in the June 2019 decision, *Tenn. Wine & Spirits Retailers Ass'n. v Thomas* (No. 18-96), the Court made clear that Granholm continues to be good law and that states have a high burden to justify measures that discriminate against out-of-state alcohol beverage producers or products.

- **Product Integrity Considerations**  
Maintaining a regulatory framework assuring product integrity within the direct-to-consumer marketplace can be achieved by limiting direct shipment licenses to brand owners or authorized representatives.
- **Maintain State Tax Collections**  
Broadly, a state should be kept whole regarding tax collections if a sale is made in that state. It must also be recognized that Court decisions have established that sales and excise taxes will be paid to the state where the product is delivered. The state of Hawaii will realize new tax revenue when a resident purchases a product via direct shipment from an out-of-state distillery but products shipped from Hawaii to out-of-state consumers should not be subjected to double or burdensome taxation.
- **Safeguard Against Underage Purchases**  
To prevent the illegal access of spirits by underage residents, and direct-to-consumer shipments should be conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."

We believe SB 65 conforms broadly to the above suggested recommendations and we are happy to support this legislation and urge your support for Hawaii consumers and businesses.

Should you have any questions or if you would like to discuss this in more detail, please do not hesitate to contact me by email at [adam.smith@distilledspirits.org](mailto:adam.smith@distilledspirits.org) or by telephone at (916) 833-5112. Thank you for your consideration of our views.

Sincerely,

Adam Smith  
Vice President  
Distilled Spirits Council

**SB-65**

Submitted on: 2/3/2021 2:23:21 PM

Testimony for CPN on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Russell Adkins	Individual	Support	No

Comments:

This bill makes sense to allow for a diversified revenue stream to local businesses and to expand the income tax base for the State of Hawaii.

**SB-65**

Submitted on: 2/1/2021 9:08:12 PM

Testimony for CPN on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joshua DeMello	Individual	Support	No

Comments:

Please support this bill that levels the playing field for all of HAWAII's craft producers. This bill allows for everyone to take advantage of the opportunity that was provided for wineries. In light of the COVID pandemic, the Senate should be looking at ways to allow HAWAII's homegrown businesses to continue to operate and provide for the people of Hawaii. mahalo!

Supportive Kaneohe resident

**SB-65**

Submitted on: 2/1/2021 5:07:30 PM

Testimony for CPN on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeff Stevens	Individual	Support	No

Comments:

This would make the tax more fair.

**LATE**

**SB-65**

Submitted on: 2/4/2021 12:40:32 PM

Testimony for CPN on 2/5/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lilah Inaba	Individual	Support	No

Comments:

I think this would be advantageous to all concerned. Small craft producers should see a increase

in sales hence keeping their doors open and people employed. During this time innovated ideas

are a must and this is a step forward for this market.



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**LATE**

**HEARING BEFORE THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229  
FRIDAY, FEBRUARY 5, 2021 AT 9:30 A.M.**

To The Honorable Rosalyn H. Baker, Chair;  
The Honorable Stanley Chang, Vice Chair; and  
Members of the Committee on Commerce and Consumer Protection,

**SUPPORT SB65 RELATING TO INTOXICATING LIQUOR**

My name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment. I am writing to share our support of SB65.

We supported a similar bill back in 2019 and feel this is more important now as local alcohol manufacturers, like all businesses, have been hit hard by COVID-19.

The law should be fair and equitable for all alcohol manufacturers and this bill seeks to address the current inequality that only allows for wine to be shipped directly. Direct shipping allows smaller brewers and liquor producers, who may not be able to go through a distributor, to share their products with other states, do market testing and promotes Hawaii-made products. It gives them the chance to compete in the national market, which is significantly more difficult now as the pandemic has caused the cancellation of trade shows and conventions where they often showcase their products and issues traveling to meet with buyers. We saw the impact of this firsthand as local alcohol manufacturers chose not to participate in our 2020 Hawaiian Airlines Made in Maui County Festival as it was held virtually, and they could not direct ship their products to customers.

This is one clear cut way you can support local manufacturing businesses.

Mahalo for the opportunity to provide testimony and we 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.