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Thomas Kerns  
President / Brewmaster  
Big Island Brewhaus

## COMMITTEE ON ECONOMIC DEVELOPMENT

Rep. Daniel Holt, Chair  
Rep. Rachele F. Lamosao, Vice Chair

HB 1259 Direct to Consumer Shipping of Alcohol  
Position: **Support**

Chair Representative Daniel Holt, Vice Chair Rep. Rachele F. Lamosao and members of the Committee on Economic Development,

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 Brewery Community 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 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.

The craft beer we produce includes unique styles and tastes and wholesalers don't always take the time to learn about our products and brands. 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.

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.

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 HB 1259.

Sincerely,  
Thomas Kerns  
President / Brewmaster  
Big Island Brewhaus



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

1 February 2023

RE: HB1259

Position: **SUPPORT**

Chair Holt, Vice Chair Lamosao, and members of committee,

I am Steve Haumschild, CEO and founder of Lanikai Brewing Company located in Kailua Hawaii. We are an independent craft brewery producing 100% of our beer in Hawaii. In addition, we also operate a Distillery (Lanikai Spirits) as well as operate or are building multiple restaurants throughout 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.

It is challenging for breweries in Hawaii to export our made in Hawaii products since shipping to the mainland and other markets requires cold transport, which is not available on small orders, only full container loads. This is significant since distributors in new markets want to see market penetration prior to ordering, especially in massive quantities like full container loads. This bill allows us to ship our beer and spirits direct to consumer in other states to allow us to slowly, efficiently and cost effectively build our distribution allowing for more export of our made in Hawaii products. Most states already allow direct to consumer shipping, however Hawaii only allows wine to be shipped directly. We request that all liquors be able to be distributed as well. This will not negatively impact any local distributor either since they do not operate in other states. This would be a hugely positive impact on our industry allowing all of us to grow and proudly share our products.

Mahalo for considering our testimony.

*Steven R Haumschild*

Steve Haumschild, MBA  
CEO & Brewmaster, Certified Cicerone®  
Lanikai Brewing Company,



February 2, 2023

House Committee on Economic Development  
HB1259 Relating to Direct Shipping of Liquor  
Wed, February 3<sup>rd</sup>, 2023 at 10am, Conference Room 423

Re: **IN SUPPORT OF HB1259**

Aloha Chair Representative Holt, Vice Chair Representative Lamosao, and members of the Committee,

My name is Garrett W. Marrero, I live in Kihei, HI. Maui Brewing Co. has locations on Maui in Lahaina and Kihei, and on Oahu in Waikiki and Kailua. We distribute across the Hawaii, 23 other States, and 4 countries. We began in 2005 with 26 team members and have added more than 400 team members across Hawaii. I was selected as the National Small Business-Person of the year in 2017 for my work at Maui Brewing Co.

I am writing on behalf of myself and our local family-operated business in support of **HB1259** which will expand the current direct shipping laws to include Hawaii's breweries and distilleries.

We appreciate the Legislature considering this bill as it has been widely supported in the past. Admittedly there had been light opposition from wholesalers but frankly their arguments in the past have been unfounded and I would dismiss these as "protectionist tactics". I add that we fully support the three-tier system so long as it is indeed fair, however this has not proven to be the case universally. We are simply looking to achieve fair and equitable direct shipping privileges and have equal footing, as it relates to shipping, as wine. There is no valid reason to allow some alcohol to ship and not others. Our State economy needs rebuilding and while we do not have many visitors, Hawaii's breweries and distilleries should be afforded the right to export their beverages to anyone across the United States.

Hawaii already has Direct Shipping laws allowing the direct shipping of wine by wineries. The system exists to allow reciprocity; eg allow wine in, allow wine out. Taxes must be paid, licenses issued, proper shipping rules ensuring proper age of recipient and etc. The majority of smaller breweries do not have access to distribution as they are often too small to attract a wholesaler partner. We feel that it is imperative to their survival that access be given to retail to consumers around the world. This serves to increase the viability of a small craft brewery and to increase Hawaiian exports bringing attention to the growing brewing scene in Hawai'i. In order to accomplish this, we feel that HRS 281-33.6 can expand upon its direct shipping rules to allow reciprocity for not just wine but beer and spirits as well. This would also achieve fairness and parity across the three categories of beverage alcohol. The local wineries and distilleries support this amendment.

Additionally there is already a full system outlined in HRS, DOTAX and the various County Liquor Department rules for shipping wine and therefore would be simple to add the other beverages to this system. I would encourage Hawai'i to promote this system as it directly promotes real

Handcrafted Ales & Lagers Brewed with Aloha  
605 Lipoa Parkway, Kihei, HI 96753  
808.213.3002

Hawaiian products and grants access to the world markets while also creating an increased revenue stream for the State.

Thank you for the opportunity to offer these comments in support of the passage of **HB1259**, a commonsense bill that supports the burgeoning craft beverage industry in Hawai'i.

Sincerely,

A handwritten signature in black ink, appearing to read 'Garrett W. Marrero', written over a horizontal line.

Garrett W. Marrero  
CEO/Founder

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

February 2, 2023

Representative Daniel Holt, Chair  
Representative Rachele F. Lamosao, Vice Chair  
House Committee on  
Economic Development  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Re: HB 1259 Relating to Direct Shipment of Liquor  
Hearing Date: February 3, 2023

Dear Chair Holt, Vice Chair Lamosao, and Committee Members:

The Hawaii Liquor Wholesalers Association respectfully submits the following written testimony in **opposition** to HB 1259.

Section 2 would amend HRS Chapter 281 to allow direct shipment of unlimited amounts of **any beer or distilled** spirits to persons within the county from any producer located in another county or another state. Direct shipment bypasses the current three tier system of alcohol distribution which has successfully kept the public safe while maintaining rigorous regulatory standards. Changing the system by allowing out of state and in state producers to ship beer and distilled spirits directly to consumers will have adverse consequences.

**Increased Underage Access and Counterfeit**

First, direct shipment will allow minors easy access to beer and spirits. States that have allowed direct shipment found that there is little or no oversight of the final delivery of the product. In a recent survey of American mothers, 91% agreed that preventing underage drinking is important to consider when making new laws and regulations, and 72% were concerned that direct to consumer liquor shipping will increase underage access to alcohol. Direct shipment also increases the likelihood of counterfeit or adulterated product making its way to consumers. Out of the county and out of state shippers have no ties to the local county community and would feel less responsible for sales to minors and for any liability for underage drinking or counterfeit product. Direct shipments will create numerous oversight issues regarding liability of the producers and shippers. The current three-tier liquor distribution system is intended to protect consumers and has worked to help prevent sales to minors and ensure the integrity of the liquor distribution.

**Market Domination**

Allowing direct shipment to Hawaii residents would create marketplace disruption and

the possibility of market domination by the largest beer and spirits producers, whose scale allows them to ship most efficiently. The current three-tier system of manufacturers, distributors, and retailers has successfully prevented market domination helping lead to a boom in craft distilling and a diverse marketplace. Direct shipments will make market domination easier because big players can dominate the online advertising space and in-person large event advertising. Market domination will only hurt local manufacturers, wholesalers, and related business, which will result in loss of sales and jobs to Hawaii residents.

### **State Tax Loss**

States that allow direct shipment of wine have found problems in the States' ability to collect taxes. For example, Virginia found that nearly 40% of all shipments were unlicensed and thus nontaxed. Illinois projected a tax loss as high as \$20 million per year due to illegal shipments. 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. For example, a survey of carrier shipment reporting data in Illinois showed in one month alone there were almost 85,000 unlicensed alcohol shipments. 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 HB 1259. Thank you for your consideration of the foregoing.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION

By   
Kenneth G. K. Hoo  
Its Secretary



Sally Jefferson  
Director, Western States  
**Wine Institute**  
[sjefferson@wineinstitute.org](mailto:sjefferson@wineinstitute.org)  
917-543-2678

THE HOUSE OF REPRESENTATIVE  
THE THIRTY-THIRD LEGISLATURE  
REGULAR SESSION OF 2023

COMMITTEE ON ECONOMIC DEVELOPMENT

**Testimony in Opposition to HB 1259**

Chair Holt, Vice-Chair Lamosao and Members of the Committee:

Thank you for the opportunity to provide testimony on HB 1259 RELATING TO DIRECT SHIPMENT OF 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 HB 1259.

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 47 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 HB 1259.** 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 share our concerns with HB 1259 as currently drafted.

February 1st, 2023

**RE: HB1259**

**Position: SUPPORT**

Aloha Chair Holt, Vice Chair Lamosao, and members of committee,

My name is Naehalani Breeland and I am the President and Co-Founder of Ola Brew. Ola Brew is a Hawai'i Island community and employee owned brewery -over 2800 community owners, with two taprooms, one in Hilo and one in Kona. Our mission is to encourage growth in Hawai'i's agricultural economy by purchasing local ingredients and incorporating them into our specialty brews. Since opening our doors in Dec. 2017, Ola Brew has purchased over \$1.6M of local agriculture that has increased annual revenues of over 70 farmers. We also have recently begun production and development on our 'Okolehao distillery at the former Wainaku Executive center located right on Hilo Bay, and are looking forward to the incredible agricultural opportunities we see with the production of this spirit.

As a local beer, cider, seltzer and soon to be spirits producer, direct-to-consumer has its benefits to our small businesses, but also to the overall economic growth we can generate here in Hawai'i through exports. We often talk about the importance of exporting crops and value added goods from Hawai'i to other desired locations, and that should not exclude beers and spirits.

As a state we have also discussed the importance of diversifying our revenue streams to not be as reliant on tourism industry. Passing this bill could only generate additional revenue to businesses and therefore more tax dollars to the state, but we would also be creating the potential for lasting engagement from tourists that enjoy our products that they did while they visit Hawai'i. As a local producer, we get countless requests from visitors who tasted our product on their vacation in our taprooms or from local retailers who can't find it in their local grocery. With the ability to ship direct to these lovers of our products, we would not only be able to appease the requests of potential life long customers, but also vet new potential areas of distribution.

Direct to consumer of all liquors is a common practice in multiple states throughout continental US who have vetted the best practices for compliance etc. We could very well lean on those regulations as well as our own vetted practices to ensure we remain within the standard compliance. Passing this bill has the potential to encourage the growth of our fledgling craft beverage industry to have the opportunity to share our unique and quality products on the world stage.

Thank you so much for your time and consideration of this testimony

Me ka ha'aha'a,

Naehalani Breeland  
President - Ola Brew Co  
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**HB-1259**

Submitted on: 2/2/2023 1:40:35 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Connor Kirby	Kuleana Rum Works	Support	Written Testimony Only

Comments:

I am Connor Kirby, Quality Assurance Manager of Kuleana Rum Works located in Kohala, Hawai‘i. We are an independent distillery producing rum from kō (Hawaiian heirloom sugarcane). In addition, we also operate the Kuleana Rum Shack. We are united with other members of the Hawaiian Craft Brewers Guild and craft distillers in our pursuit to promote economic activity and growth for Hawaii’s beer and spirits manufacturers and enhance opportunities in our communities.

It is challenging for breweries and distilleries in Hawaii to export our made-in-Hawaii products since shipping to the mainland and other markets requires cold transport, which is not available on small orders, only full container loads. This is significant since distributors in new markets want to see market penetration prior to ordering, especially in massive quantities like full container loads. This bill allows us to ship our beer and spirits direct to consumer in other states to allow us to slowly, efficiently and cost effectively build our distribution allowing for more export of our made in Hawaii products. Most states already allow direct to consumer shipping, however Hawaii only allows wine to be shipped directly. We request that all liquors be able to be distributed as well. This will not negatively impact any local distributor either since they do not operate in other states. This would be a hugely positive impact on our industry allowing all of us to grow and proudly share our products.

Mahalo for considering our testimony.

**LATE**

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



HB1259 Relating to Direct Shipping of Liquor  
House Committee on Economic Development  
Friday, February 3, 2023 at 10:00 a.m. Conf room 423

Position: **Support**

Chair Representative Daniel Holt, Vice Chair Representative Rachele F. Lamosao, and members of the House committee on Economic Development,

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 feel that shipping our beer directly to consumers would allow us to grow our business, as we would be able to sell our products to customers that we are otherwise unable to reach. Currently we only have limited distribution on Kauai, and at our current level, it does not make financial sense to pursue distribution in the rest of the state. Direct to consumer shipping would allow us to sell more of our beer and grow our production levels in a more organic manner. I anticipate we would need to hire additional staff immediately if HB1259 were to pass.

We request the House Committee on Economic development pass this bill. Mahalo for considering our testimony in support of HB1259.

**LATE**

**LATE**

**HB-1259**

Submitted on: 2/3/2023 9:36:52 AM  
Testimony for ECD on 2/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sam DeWitt	Brewers Association	Support	Written Testimony Only

Comments:

Good morning, Mr. Chair and members of the committee. For the record, my name is Sam DeWitt, State Government Affairs Manager for the Brewers Association, a 501 C 6 national trade association dedicated to promoting and protecting America’s craft brewers, their beers, and the growing community of enthusiastic craft beer drinkers. I’m testifying today in support of HB 1259, a bill that will allow brewers in the islands to grow their market and their businesses by reaching more consumers where they are. This bill is good for small craft beer businesses, good for consumers, good for state governments. I urge a yes vote.

Consumers want more variety, from more producers, whether those products are from in state or out of state. Hawaii is one of many states where direct to consumer shipping of wine is permitted, but shipping of beer is not. We can fix this oversight with the passage of HB 1259.

We understand that beer is a socially sensitive product, so DtC shipping legislation must incorporate appropriate, proven safeguards, the kind which are already in place for wine shipments. These include regulatory oversight in the form of licenses that must be renewed, guardrails to avoid abuse like mandatory ID checks and conspicuous packaging, as well as mechanisms to protect state revenues. HB 1259 checks all these boxes.

In the two decades since wine shipping became widespread in Hawaii and elsewhere, underage consumption has continued the downward trend that began in the 1990s. Legal drinking age customers should be able to purchase the beers they want from the brewers they love who can supply them in a regulated and responsible manner.

I urge a yes vote on HB 1259. Thank you for your time and for your service.

**HB-1259**

Submitted on: 2/2/2023 10:03:30 AM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Steve Jefferson	Individual	Support	Written Testimony Only

Comments:

I am Steve Jefferson, CEO and founder of Kuleana Rum Works located in Kohala, Hawai'i. We are an independent distillery producing rum from kō (Hawaiian heirloom sugarcane). In addition, we also operate the Kuleana Rum Shack. We are united with other members of the Hawaiian Craft Brewers Guild and craft distillers in our pursuit to promote economic activity and growth for Hawaii's beer and spirits manufacturers and enhance opportunities in our communities.

It is challenging for breweries and distilleries in Hawaii to export our made-in-Hawaii products since shipping to the mainland and other markets requires cold transport, which is not available on small orders, only full container loads. This is significant since distributors in new markets want to see market penetration prior to ordering, especially in massive quantities like full container loads. This bill allows us to ship our beer and spirits direct to consumer in other states to allow us to slowly, efficiently and cost effectively build our distribution allowing for more export of our made in Hawaii products. Most states already allow direct to consumer shipping, however Hawaii only allows wine to be shipped directly. We request that all liquors be able to be distributed as well. This will not negatively impact any local distributor either since they do not operate in other states. This would be a hugely positive impact on our industry allowing all of us to grow and proudly share our products.

Mahalo for considering our testimony.

**HB-1259**

Submitted on: 2/2/2023 1:45:28 PM

Testimony for ECD on 2/3/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Christopher Schlarb	Individual	Support	Written Testimony Only

Comments: I am Christopher Schlarb one of the founders of Kuleana Rum Works located in Kohala, Hawai'i. We are an independent distillery producing rum from kō (Hawaiian heirloom sugarcane). In addition, we also operate the Kuleana Rum Shack. We are united with other members of the Hawaiian Craft Brewers Guild and craft distillers in our pursuit to promote economic activity and growth for Hawaii's beer and spirits manufacturers and enhance opportunities in our communities. It is challenging for breweries and distilleries in Hawaii to export our made-in-Hawaii products since shipping to the mainland and other markets requires cold transport, which is not available on small orders, only full container loads. This is significant since distributors in new markets want to see market penetration prior to ordering, especially in massive quantities like full container loads. This bill allows us to ship our beer and spirits direct to consumer in other states to allow us to slowly, efficiently and cost effectively build our distribution allowing for more export of our made in Hawaii products. Most states already allow direct to consumer shipping, however Hawaii only allows wine to be shipped directly. We request that all liquors be able to be distributed as well. This will not negatively impact any local distributor either since they do not operate in other states. This would be a hugely positive impact on our industry allowing all of us to grow and proudly share our products. Mahalo nui for considering my testimony.