

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA  
DIRECTOR

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DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No. 647, H.D. 1, S.D. 1, Relating to Alcohol

**BEFORE THE:**

Senate Committee on Ways and Means; and Senate Committee on Judiciary

**DATE:** Thursday, April 6, 2023  
**TIME:** 10:46 a.m.  
**LOCATION:** State Capitol, Room 211

Chairs Rhoads and Dela Cruz, Vice-Chairs Gabbard and Keith-Agaran, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding H.B. 647, H.D. 1, S.D. 1, for your consideration.

H.B 647, H.D. 1, S.D. 1, creates a new liquor tax rate, effective July 1, 2023, of \$1.98 per wine gallon on "low alcohol by volume spirits beverages," which is defined as "any alcoholic beverage containing no more than 5 percent alcohol by volume and includes distilled spirits mixed with other ingredients, including both nonalcohol and alcohol components."

The measure also amends the definition of "beer" in sections 244D-1 and 281-1, Hawaii Revised Statutes (HRS), by (1) specifying that alcoholic beverages must contain no less than 0.5 percent alcohol by volume to qualify as "beer"; (2) expanding the list of possible beer ingredients to include malt, or any substitute, including grain of any kind, bran, glucose, sugar, molasses, and other fermentable sugar sources; and (3) excluding products of distillation that contain distilled spirits, alcoholic spirits, or spirits.

The measure has a defective effective date of June 30, 3000.

The Department appreciates that the Senate Committee on Commerce and

Department of Taxation Testimony  
H.B. 647, H.D. 1, S.D. 1  
April 6, 2023  
Page 2 of 2

Consumer Protection amended the definition of “beer” by deleting the specific reference to “alcoholic seltzer beverages,” as suggested by the Department.

Because this bill creates a new tax category, the Department will need time to update its forms, instructions, and computer system. Accordingly, the Department requests that page 2, line 13, of the bill is amended by replacing “July 1, 2023” with “January 1, 2024.” The Department further requests that the effective date of the measure, in section 5 of the bill, be amended to no earlier than January 1, 2024 and notes that the revenue impact from this measure remains indeterminate.

Thank you for the opportunity to provide comments on this measure.

**HB-647-SD-1**

Submitted on: 4/5/2023 10:26:20 AM

Testimony for JDC on 4/6/2023 10:46:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sam DeWitt	Testifying for Brewers Association	Oppose	Written Testimony Only

Comments:

Members of the Committee:

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 craft beer enthusiasts.

HB 647 contains a trojan horse, a taxpayer-funded giveaway to giant liquor conglomerates that will rob state coffers and enrich companies who don’t maintain a footprint in the Islands.

HB 647 was originally a good bill, with strong support from craft brewers seeking to further define “beer.” However, the bill has been hijacked through an amendment to give away taxpayer money to huge, multinational corporations in the form of a needless tax cut. If the language were to revert to the original, we would be in support of this legislation.

HB 647 has been promoted as a fair way to handle taxation of alcoholic beverages based on percentage of alcohol by volume, but the fact is these beverages still contain liquor as their base. These are less expensive to produce than beer or wine (which are both more time and labor intensive), and despite the higher tax rate, are the fastest-growing products in the alcoholic beverage space. This is a plain and simple money grab for big liquor on the backs of taxpayers.

These large conglomerates boast that their products “use real vodka/rum/tequila” as a marketing message, giving the appearance that they are premium products compared to malt-based seltzers. Yet despite using the marketing halo of liquor, their producers wish to dodge the appropriate liquor tax rate.

Perhaps the most offensive thing about this bill is how the liquor industry tried to sneak in a tax cut for themselves on a bill that was intended to further define “beer.” This sneak attack is unfortunately what we’ve come to expect from the liquor industry, especially as their legislative losses mount in other states where they’ve advocated lowering their own excise taxes. In 2022, they tried to lower their excise tax on canned cocktails in 12 states and failed in 11. In 2023, the state of Maryland commissioned a study of Michigan and Nebraska, two states where the taxes were lowered in 2021, and found that both states missed out on significant tax revenue, and that prices of these canned cocktails for the consumer didn’t fall, but rather increased. Also this year, Nebraska's department of revenue supported legislation to undo this harmful tax cut citing severe

revenue shortfalls; the effort wasn't passed, underscoring the difficulty with implementing a change like this, particularly without going through an entire hearing and legislative process.

Big Liquor knows they cannot expect to pass this bill on its own, so they're tagging it on to a piece of legislation for a completely different segment of the alcoholic beverage industry, hoping to utilize the goodwill and reputation of craft brewers to get a tax cut only for themselves.

This is a bad, sneaky bill that Hawaii can't afford.

Please revert HB 647 bill back to its original language.

Thank you for your time and your service to Hawaii.

Sincerely,

Sam DeWitt  
Brewers Association  
sam@brewersassociation.org  
720.837.6935



April 5, 2023

TO: Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
Members of the Committee on Judiciary

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Members of the Committee on Ways & Means

RE: **OPPOSITION** TO HB 647, SD1, HD1 – RELATING TO ALCOHOL  
Hearing date – April 6, 2023 at 10:46 AM

Dear Chair Rhoads, Chair Dela Cruz and Members of the Committees:

Today, we write to oppose HB 647, a proposal to expand the definition of beer to include liquor-based products and to give a tax carve out to hard liquor. We represent brewers, beer importers, and wholesalers of all sizes in Hawaii. We produce and distribute beer products – as well as some of the country's leading liquor-based canned cocktails – across the state.

The beer industry supports a tax and regulatory framework that reflects that hard liquor, wine, and beer be treated as clearly distinct categories. Every state and the federal government have done this since the repeal of Prohibition in 1933, and it is vital to maintain these distinct categories due to the notable differences in these products and the way they are consumed.

HB 647 would take a group of liquor products and arbitrarily reclassify them as beer to reduce the tax rate. This change would blur the lines between distinctly different alcohol categories. Beer, wine, and hard liquor are not the same, and this legislation would send a confusing message to consumers.

Proposals like HB 647 were rejected in more than a dozen states during the 2021 and 2022 legislative sessions around the country. Already this year, similar legislation in multiple states has either failed or stalled out. Further, states that have passed proposals like HB 647 have seen negative consequences.

Two recent studies – one by the [Maryland Alcohol and Tobacco Commission \(ATC\)](#) and one by [Public Sector Consultants](#) – show that that these bills result in lost revenue for states and an increase in prices for consumers. Notably, consumers in Michigan saw a 44 percent increase in prices for hard liquor canned cocktails while consumers in Nebraska saw a shocking 65 percent increase in prices for hard liquor canned cocktails once their states passed legislation similar to HB 647. Further, these two studies found that Michigan and Nebraska lost out on a significant amount of tax revenue once these bills were enacted, with Michigan losing an estimated \$2.6 million and Nebraska losing an estimated \$1.8 million. Our own study using industry (IRI) data suggests that if this legislation were to pass, Hawaii would lose roughly \$10.7 million over 5 years.

It is worth noting, SB 717, another definition of beer proposal, is currently moving in the legislature. SB 717 has received unanimous support thus far and is a viable alternative to HB 647.

Liquor, wine, and beer are different types of alcohol, which is why we oppose HB 647 and encourage Hawaii to maintain clear distinctions between these three categories. Thank you for your consideration of our point of view.

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# A BILL FOR AN ACT

RELATING TO ALCOHOL.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Section 244D-1, Hawaii Revised Statutes, is amended by amending the definition of "beer" to read as follows:

"Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the fermentation or any infusion or decoction of [~~barley,~~] malt, [~~hops, or any other similar product, or any combination thereof in water,~~ and] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses. "Beer" includes ale, porter, brown, stout, lager beer, small beer, and strong beer [~~but~~]. "Beer" does not include sake, known as Japanese rice wine, [~~or~~] cooler beverage[-], or a product of distillation, by whatever name known, that contains distilled spirits, alcoholic spirits, or spirits."

SECTION 2. Section 281-1, Hawaii Revised Statutes, is amended by amending the definition of "beer" to read as follows:

"Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the [alcoholic] fermentation of any infusion or decoction of [~~barley or other grain,~~] malt, [~~and hops in water.~~] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses. "Beer" includes ale, porter, brown, stout, lager beer, small beer, and strong beer. "Beer" does not include sake, known as Japanese rice wine, cooler beverage, or a product of distillation, by whatever name known, that contains distilled spirits, alcoholic spirits, or spirits."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 30, 3000.

**Report Title:**

Alcohol; Beer; Liquor Tax; Liquor Law; Definition

**Description:**

Expands the definition of "beer" under the State's liquor tax and liquor regulatory laws, to specify that the term includes an alcohol by volume of no less than 0.5 per cent, but excludes certain other forms of distillation. Effective 6/30/3000. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



# CRAFT *Ohana*

April 5, 2023

Senate Committee on Judiciary  
Senate Committee on Ways and Means  
HB647 Relating to Alcohol

Re: **Critical amendment needed for HB647 HD1, SD1, Support on if changed to original bill, Oppose if not.**

Aloha Chair, Vice Chair and members of the Committees,

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 Hawaii, 19 other States, and 10 countries. We are a fairly large employer within the State and contribute immensely to Hawaii and its people.

I am writing on behalf of myself and our local family-operated business regarding **HB647 HD1** which initially was a simple bill that amends the definition of beer to align with the Federal definitions under Tax & Trade Bureau and the Internal Revenue Code.

**HB 647 must be returned to original form or deferred. This DID NOT START AS A TAX REDUCTION BILL. However special interests driven by the spirits and wholesalers associations added an amendment that lowers the liquor taxation on low abv spirits based beverages. We do not support giving tax cuts to this industry when they recently got a massive federal tax decrease and there is no relief given to other beverages such as wine and beer. Additionally the State was seeking to RAISE liquor taxes this session. This bill as it stands will reduce state revenues and not support lowering prices to consumers (see Maryland data). We stand with the beer coalition in support of the joint letter submitted.**

IF the bill would be amended to remove the tax decrease we would support this bill. For context, this was a simple definition bill to establish that seltzers made from fermented alcohol would be taxed as beer (as it true in the rest of the country) and clarify non-alcoholic beer alcohol content of .5% or less. Last session, erroneous testimony was given by DOTAX that stated a decrease in tax revenue would be seen due to "Seltzer being made from spirits". This is not accurate, seltzer can be made from a fermented base of malt or sugar, or from distilled spirits. "How it is made" and "what it is made from" would dictate how it is taxed. The fermented malt/sugar seltzers are classified as beer per Federal laws and in States that maintain laws current to the beverages being produced today. The distilled spirits based seltzers should be taxed as distilled spirits. This is consistent with HRS 244D.

Why is this important? The current definition of beer does not properly fit today's needs as new fermented beverages such as gluten-free beer, non-alcoholic beer, seltzers fermented from malt (FMBs) or sugar (FSBs) and more. These beverages are commonly accepted as beer by both the TTB and IRS under Federal rule as well as all other States. We need to bring Hawaii current with the rest of our country in definition of these beverages.

I would suggest an amendment to clarify "Seltzers where alcohol is obtained by the fermentation or any infusion or decoction of malt, wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses. And to remove the tax decrease added by special interest Liquor groups.

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**MAUI**  
HARD SELTZER

*Modern  
Times*  
BEER

**MAUI**  
BREWING CO


*Modern  
Times*  
COFFEE

**KUPU**  
— SPIRITS —

# CRAFT *Ohana*

Mahalo for your consideration. We urge you to pass this bill with amendments. Thank you for the opportunity to provide testimony on **HB647 HD1**.

Mahalo,

  
Garrett W. Marrero  
CEO/Founder

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**MAUI**  
HARD SELTZER

*Modern  
Times*  
BEER

**MAUI**  
BREWING CO

*Modern  
Times*  
COFFEE

**KUPU**  
— SPIRITS —



**Sally Jefferson**  
Director, Western States

THE SENATE  
THE THIRTY-SECOND LEGISLATURE  
REGULAR SESSION OF 2023

COMMITTEE ON JUDICIARY  
COMMITTEE ON WAYS AND MEANS

April 6, 2023

**Testimony in Opposition to HB 647 HD1 SD1**

Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Keith-Agaran and Members of the Committee:

Thank you for the opportunity to provide testimony in opposition to HB 647 SD1 RELATING TO ALCOHOL which would provide a substantial state tax break to “low alcohol by volume spirits beverage”. Wine Institute is a public policy association representing more than 1,000 California wineries and associate members. California wineries produce 90% of the wine produced in the United States and provide a significant portion of the wine sold in licensed establishments in Hawaii.

As it has been recently amended in the SD1, we are opposed to this legislation which sharply reduces the gallonage tax rate for spirit-based ready to drink products (RTDs) based entirely on alcohol by volume (ABV), without any regard to the method of production and raw material used. If the Legislature wishes to consider reducing taxes on alcohol beverages, it should evaluate the tax rates on all alcohol categories rather than solely providing a special tax break to the fastest growing segment of spirits products.

Wine and distilled spirits are very different beverages in many ways, which is why state and federal excise taxes have treated them differently since the end of prohibition. The federal government (and most states including Hawaii) have controlled and taxed wine, beer and spirits based on two factors: 1) the license of the producer and its raw material (e.g., wineries fermenting grapes, breweries brewing grains and distilleries distilling other natural products), and 2) the ABV of the finished product. The federal government continues to regulate the producer, formula, labeling and containers of all alcohol, and it continues to charge federal excise tax rates based on

both factors including taxing spirit RTDs at the same level as distilled spirits, just as most states do as well.

While proponents of these types of bills claim this proposal would benefit Hawaii consumers, recent research has shown the contrary. As shown in the graph below, Public Sector Consultants, a nonpartisan public policy firm, analyzed pricing trends of hard liquor based ready to drink products from 2017-2022 in Michigan and Nebraska to determine if claims of consumer price reductions were accurate after tax reforms in those states. According to their analysis and findings prices **jumped 44%** in Michigan and **65%** in Nebraska. These increases far outpaced inflation and the rapid overall increase in the consumer price index. Despite these claims, consumers are not benefitting from lower prices in either state since taxes were reduced on RTDs.

Given our serious concerns, we respectfully urge you to defer action on this legislation. Thank you for the opportunity to comment on HB 647 HD1 SD1.

### Hard liquor based Ready-to-drink Four-week per Unit Prices, 2017-2022



Source: IRI Multi-Outlet (MULO) and PSC analysis

Public Sector Consultants (PSC) released an examination of spirit-based RTDs and their pricing trends from 2017-2022.12 PSC examined RTD pricing before and after the alcohol excise tax changes in Michigan and Nebraska. The chart above shows prices across the board have remained relatively similar since 2017 even after the alcohol excise tax was lowered in Michigan and Nebraska.

Hard Liquor-based Ready-to-drink Pricing Trends, 2017-2022 – Public Sector Consultants  
Ready-to-Drink Alcohol Tax Report, Maryland Alcohol and Tobacco Commission

**HB-647-SD-1**

Submitted on: 4/5/2023 1:44:26 PM

Testimony for JDC on 4/6/2023 10:46:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Steve Haumschild	Testifying for Lanikai Brewing Company	Oppose	Written Testimony Only

Comments:

Aloha,

We oppose the bill as written and would consider supporting pending language edits.



Pacific Business Advocates LLC  
P.O. Box 11351  
Honolulu, HI 96828  
Info@Pacifcadvocates.com

## COMMITTEE ON JUDICIARY/ COMMITTEE ON WAYS AND MEANS

Thursday, April 6, 2023, 10:46 AM  
Conference Room 211 & Videoconference

April 5, 2023

Aloha Chair Rhoads, Chair Dela Cruz, and members of the committees:

Pacific Business Advocates LLC **supports HB647 HD1 SD1** which establishes a definition of "low alcohol by volume spirits beverage"; establishes a tax on low alcohol by volume sprits beverages at a rate of \$1.98 per wine gallon; and expands the definition of "beer" under the State's liquor tax and liquor regulatory laws, to specify that the term includes an alcohol by volume of no less than 0.5 per cent, but excludes certain other forms of distillation.

Currently, spirits based low-proof, ready-to-drink beverages are taxed at a rate of \$5.98 a gallon or more than 6 times higher than malt beverages and beer with similar alcohol by volume (please see exhibit A).

The dramatic difference in products with the same amount of alcohol by volume creates an unfair marketplace. Local distilleries produce and market low abv distilled spirits in Hawaii. This measure, unamended, would support their businesses and produce a more hospitable market for them to grow. The proposed rate is still significantly higher than the beer rate — more than twice as high but does provide these abv products with a "fairer opportunity" to compete.

In 25 states, these low alcohol spirit-based products are taxed at a lower rate than compared to "full proof spirits" which are generally 40% ABV. We are also seeing several states contemplate similar legislation to this bill. Please find in exhibit B a short list of States that have addressed this competitive fairness issue.

It is for these reasons that we respectfully request you **pass HB647 HD1 SD1 as is**. If you have any questions, please contact me at your convenience. Mahalo for your time and consideration.

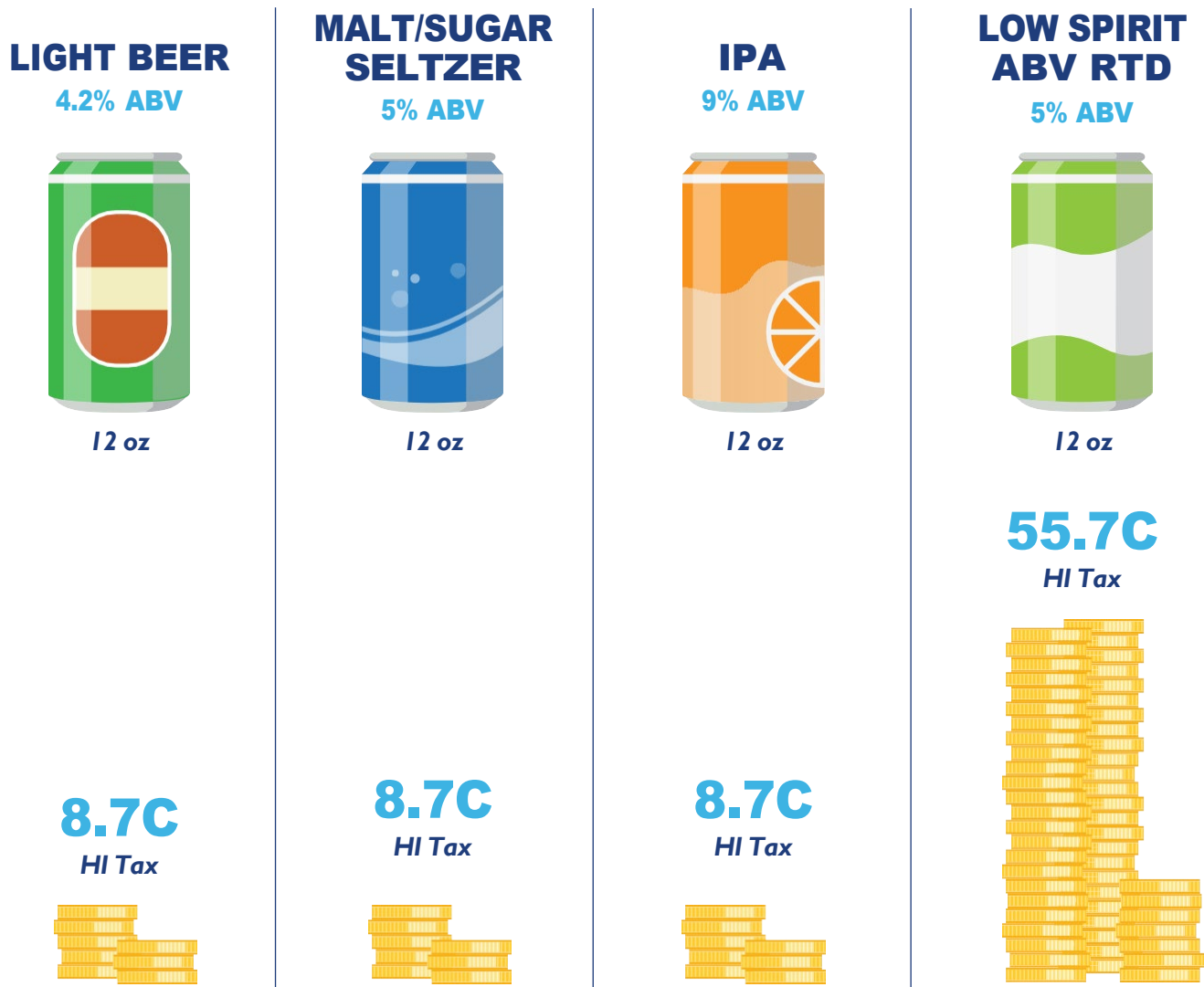
Respectfully,

Emmanuel Zibakalam

Principal, Pacific Business Advocates LLC

# Hawaii Low Spirit Alcohol by Volume (ABV) RTD Tax Rate

The Hawaii tax rate of low spirit ABV spirit-based RTDs is more than **6 TIMES** the rate of like ABV malt beverages and seltzers



Such a dramatic difference in alcohol taxes among beverages with similar alcohol by volume creates an **unfair competitive marketplace.**

Source: Hawaii alcohol beverage tax rates - \$5.98 per wine gallon for distilled spirits. .93 per wine gallon for beer, other than draft beer

## Exhibit B

### 25 States Have Low-Spirit Tax Rates

*These Lower Rates Create a Fairer Competitive Landscape for Spirits RTDs*

LICENSE STATE EXCISE TAXES (Dollars Per Gallon)					
	Beer	Wine	Low Spirit	"Full" Spirit	Legal Citation
Alaska	\$1.07	\$2.50	\$2.50 (ABV<=21%)	\$12.80	Alaska Stat.43.60.010
Arkansas	\$0.23	\$0.75	\$1.00 (5%<ABW<21%) \$0.50 (ABW<=5%)	\$2.50	Ark. Code § 3-7-104
Connecticut	\$0.23	\$0.79	\$2.71 (ABV<=7%)	\$5.94	Conn. Gen. Stat. § 12-435
Delaware	\$0.26	\$1.63	\$3.00 (ABV<=25%)	\$4.50	Del. Code tit. 4, § 581
Florida	\$0.48	\$2.25	\$2.25 (ABV<17.259%)	\$6.50	Fla. Stat. §§ 565.12 & 564.06(1)
Illinois	\$0.23	\$1.39	\$1.39 (ABV<20%)	\$8.55	235 ILCS 5/8-1; Department of Revenue Excise Tax Rates
Indiana	\$0.12	\$0.47	\$0.47 (ABV<=15%)	\$2.68	IC §§ 7.1-4-4-1 & 7.1-4-4-2
Kentucky	\$0.08	\$0.50	\$0.25 (ABV<=6%)	\$1.92	Ky. Rev. Stat. § 243.720(a) & (b)
Louisiana	\$0.40	\$0.76	\$0.40 (ABV<=6%)	\$3.03	La. Rev. Stat. §§ 26-341, 26-342, 25-345, 26-354(D), & 26-241(1)
Massachusetts	\$0.11	\$0.55	\$1.10 (ABV<=15%)	\$4.05	Mass. Gen. L. Ch. 138, § 21
Nebraska	\$0.31	\$0.95	\$0.95 (ABV<=12.5%)	\$3.75	Neb. Rev. Stat. 53-160 & L.B. 274 (2021)
Nevada	\$0.16	\$0.70	\$1.30 (14%<ABV<=22%) \$0.70 (ABV<=14%)	\$3.60	NRS 369.330
New York	\$0.14	\$0.30	\$2.54 (ABV<=24%)	\$6.44	N.Y. [Tax] Law § 424
Rhode Island	\$0.11	\$1.40	\$1.10 (ABV<=15%)	\$5.40	R.I. Gen. Laws § 3-10-1
South Dakota	\$0.27	\$0.93	\$0.93 (ABV<12%)	\$3.93	S.D. code § 35-5-3
Tennessee	\$1.29	\$1.21	\$1.10 (ABV<=7%)	\$4.40	Tenn. Code §§ 57-3-302(b) & 57-3-303(l)

CONTROL STATE EXCISE TAXES (Dollars Per Gallon)					
	Beer	Wine	Low Spirit	"Full" Spirit*	Legal Citation
Idaho	\$0.15	\$0.45	\$0.45 (ABV<=14%)	\$10.90	Idaho Code §§ 23-1303(1)(i) & 23-1319); & Idaho Admin. Code 35.01.09.11
Iowa	\$0.19	\$1.75	\$0.19 (ABV<=15%)**	\$13.02	Iowa Code §§ 123.3(7) & (11) & 123.136; & ABD website at Canned Cocktails
Maine	\$0.35	\$0.60	\$1.24 (ABV<=8%)	\$11.96	28-A M.R.S.A. §§ 2(16-A) & (31), 13 & 1652
Michigan	\$0.20	\$0.51	\$1.14 (ABV<=13.5%)***	\$11.94	Mich. Code §§ 436.1109(7) & 436.1301(4)
Mississippi	\$0.43	n.a.	\$0.43 (ABW<=6%)	\$8.10	H.B.1091 (2021) (at Miss. Code §§ 27-71-307, 67-1-5 & 67-3-3)
New Hampshire	\$0.30	n.a.	\$0.30 (ABV<=6%)****	n.a.	N.H. Rev. Stat. §§ 175:1 & 178:26
Ohio	\$0.18	\$0.32	\$1.20 (ABV<=21%)	\$9.83	Ohio Rev. Code §§ 4301.01(B)(4) & (5) & 4301.43(C)
Vermont	\$0.27	\$0.55	\$1.10 (ABV<=12%)*****	\$7.68	Act No. 177 (H.730)
Virginia	\$0.26	\$1.51	\$1.51 (ABV<=7.5%)	\$19.89	Va. Code §§ 4.1-100 & 4.1-234(A)

\*For control states, which do not have traditional spirits excise taxes, the Distilled Spirits Council of the United States approximates "implied excise tax" by comparing a state's revenue from spirits sales to typical revenue for wholesalers and/or retailers in license states.

\*\*In Iowa, to benefit from the low-spirit rate, products over 6.25% ABV must be sold in metal cans.

\*\*\*In Michigan, to benefit from the low-spirit rate, products over 10% ABV must be sold in non-reclosable metal cans no larger than 24 ounces.

\*\*\*\*In New Hampshire, products with ABV between 6% and 8% in containers no larger than 16 ounces may be eligible for a reduced tax rate of 5% of the wholesale price.

\*\*\*\*\*In Vermont, to benefit from the low-spirit rate, products must be sold in containers no larger than 24 ounces.





## **COMMITTEE ON JUDICIARY**

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

## **COMMITTEE ON WAYS AND MEANS**

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Thursday, April 6, 2023, 10:46 AM  
Conference Room 211 & Videoconference  
415 South Beretania Street

### **Testimony in support of HB647 HD1 SD1**

Good morning, Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

My Name is Dwayne Kratt. I offer testimony on behalf of Johnson Brothers of Hawaii. Johnson Brothers of Hawaii has been in operation in Hawaii since 1988. We employ more than 150 team members with distribution facilities on Oahu, Maui, Kauai, and the Big Island. These locations also serve our customers on the islands of Molokai and Lanai. Additionally, our state-of-the-art Hawaii headquarters is in Kapolei.

The amended version of HB647, HB647 HD SD1, would reform the tax rate on low-proof spirit-based alcohol beverages so that the tax rate is fairer and more equitable when compared to like products with similar levels of alcohol. This amendment is narrowly written as it would only lower the tax on these spirit-based products that are 5% ABV or less.

Currently, spirits based low-proof, ready-to-drink beverages are taxed at a rate of \$5.98 a gallon or more than 6 times higher than malt beverages with similar alcohol by volume or ABV which is taxed at .98 per gallon.

This dramatic tax difference on products with roughly the same amount of alcohol by volume creates an unfair marketplace especially when these products generally compete against malt or sugar-based seltzers that are taxed at the much lower beer rate.

In response, this legislation creates a new spirit-based category for alcohol beverages containing spirits at 5% ABV or less. The tax rate for these products will be 1.98 cents per gallon for products containing 5% ABV or less. The new tax rate for these products will still be

significantly higher than malt or sugar-based alcohol beverages – more than 2 times higher – but it does provide these products with a "fairer opportunity" to compete.

**Do we believe this legislation will cost Hawaii tax revenue?**

No, we don't. First, the narrow definition of legislation at 5% ABV is limiting in that it will not capture many spirit-based RTDs that range from more than 5% ABV up to 12.5%. Second, and more significant, sales of these spirit based RTDs compete against much lower taxed malt or sugar-based seltzers. Finally, because these products are sold at a price premium to malt or sugar-based seltzers, we believe increment sales taxes will be generated through the sale of these products. Bottom line, this amendment will not cause a net decrease in alcohol excise taxes or sales taxes generated by sales of these products and in fact, it is quite possible there will be a modest increase in total alcohol beverage excise tax and sales tax generation.

**Is this proposal outside the norm of what other states are doing?**

The answer to this question is also no. In 25 states, these low alcohol spirit-based products are taxed at a lower rate than compared to "full proof spirits" which are generally 40% ABV. We are also seeing several states contemplate similar legislation to this bill.

**But what about spirits always being taxed at a higher rate than malt beverages?**

While in a vacuum there is truth to this sentiment as the original "thought leaders" who shaped Post Prohibition America certainly advocated for higher taxes on spirits versus malt beverages. However, the rationale behind this policy preference was driven by the fact that distilled spirits contain more alcohol by volume (ABV) than malt beverages. In fact, it is fair to assume that these policy makers would have proposed a lower tax rate for low ABV spirits if these products were in existence at that time as they also advocated for higher tax rates for higher ABV "strong beer" (See Toward Liquor Control – Suggested Method of Computation of Liquor Taxes – Illustrative Rates Per Gallon)

**Bottom line is alcohol is alcohol — it doesn't matter if the alcohol is derived from brewing, fermentation, or distilling.**

The common metric here is alcohol by volume. When the ABV is roughly the same, it doesn't matter if the product is a beer, a wine, or a spirit. Anyone who suggests otherwise is incorrect. In conclusion, we are simply asking for more equitable treatment for similar products.

It is for these reasons that we ask you to **pass HB647 HD1 SD1 as is**. Thank you for your consideration.

Dwayne Kratt

Johnson Brothers of Hawaii, Inc.

Kōloa Rum Company  
3-2087 Kaumualii Highway  
Lihue, HI 96766

**COMMITTEE ON JUDICIARY**

Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

**COMMITTEE ON WAYS AND MEANS**

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Thursday, April 6, 2023  
Conference Room 211 & Videoconference  
415 South Beretania Street

Aloha Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

Kōloa Rum Company would like to offer its testimony in **support of HB647 HD1 SD1, as is**, which establishes a definition of "low alcohol by volume spirits beverage"; establishes a tax on low alcohol by volume sprits beverages at a rate of \$1.98 per wine gallon; and expands the definition of "beer" under the State's liquor tax and liquor regulatory laws, to specify that the term includes an alcohol by volume of no less than 0.5 per cent, but excludes certain other forms of distillation.

Kōloa Rum Company is a single-batch, craft distiller and bottler of premium Hawaiian rums. We have been serving “The Spirit of Aloha” to the world since the very first batch of Kōloa Rum was distilled and bottled in 2009. Crafted from pure cane sugar and rainwater from Mount Wai‘ale‘ale, our products are a testament to the long and colorful history of commercial sugar production in Hawai‘i and the abundant natural resources that make Kaua‘i – The Garden Isle!

Kōloa Rum Company was founded to create superior Hawaiian rums and ready-to-drink cocktails using locally-sourced ingredients. In doing so, the Company provides meaningful employment opportunities for the people of Kaua‘i, while diversifying our local economy and preserving important agricultural land.

HB647 HD SD1 will help create a fairer tax environment in Hawaii, specifically for low abv beverages. We would like to thank the Hawaii State Legislature for considering this measure which will help create a more equitable market for local producers like us.

It is for these reasons that we request you **pass HB647 HD1 SD1, as is**.

Sincerely,

Bob Gunter  
President & CEO  
Kōloa Rum Company