

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

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

BEFORE THE:

House Committee on Finance

DATE: Tuesday, February 28, 2023

TIME: 1:30 p.m.

LOCATION: State Capitol, Room 308

Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee:

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

H.B 647, H.D. 1, amends the definition of “beer” in sections 244D-1 and 281-1, Hawaii Revised Statutes, to include “alcoholic seltzer beverages” and specify that alcoholic beverages must contain no less than 0.5 per cent alcohol by volume to qualify as “beer.” The measure expands the list of possible beer ingredients to include malt, grain of any kind, bran, glucose, sugar, molasses, and related substitutes. The measure excludes from the definition of beer, products that are the result of a distillation process. The measure has a defective effective on June 30, 3000.

The Department notes that the specific reference to “alcoholic seltzer beverages” within the definition of “beer” may create ambiguity, as the term “alcoholic seltzer beverages” is not defined within the bill and there appears to be different methods by which alcoholic seltzer beverages may be produced. For example, the bill defines “beer” as including “alcoholic seltzer beverages,” but as excluding “a product of distillation . . . that contains distilled spirits, alcoholic spirits, or spirits.” This may cause ambiguity as to whether an alcoholic seltzer beverage that contains distilled spirits will be taxed as a beer or as a distilled spirit.

Department of Taxation Testimony
H.B. 647, H.D. 1
February 28, 2023
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To avoid ambiguity, the Department suggests deleting the term “alcoholic seltzer beverages” from the bill. Alternatively, the term “alcoholic seltzer beverages” should be defined by clearly identifying the process by which alcoholic seltzer beverages are made and whether they include beverages that contain distilled spirits.

The Department further notes that it is able to implement the measure with a July 1, 2023 effective date and that the revenue impact from this measure is indeterminate.

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

HB-647-HD-1

Submitted on: 2/26/2023 9:06:47 AM

Testimony for FIN on 2/28/2023 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Steve Haumschild	Lanikai brewing Company	Support	Remotely Via Zoom

Comments:

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. 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.

This bill mostly modernizes definitions that are currently in place at the Federal level for the TTB Alcohol, and Tobacco Tax and Trade Bureau to include fermented seltzers in its definition. It allows local producers to continue to develop made in Hawaii products for sale and distribution consistent with State and Federal law without inconsistencies.

Mahalo for considering our testimony.

CRAFT *Ohana*

February 26, 2023

House Committee on Finance
HB647 Relating to Alcohol
February 28th, 2023 at 1:30pm

Re: **IN SUPPORT OF HB647 HD1**

Aloha Chair Representative Yamashita, Vice Chair Senator Kitagawa, 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 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 in support of **HB647 HD1** which amends the definition of beer to align with the Federal definitions under Tax & Trade Bureau and the Internal Revenue Code. I would like to point out that there are 2 identical House bills on this topic.

This is NOT A TAX REDUCTION BILL AND WILL NOT CHANGE TAX RATES IN ANY WAY. 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.

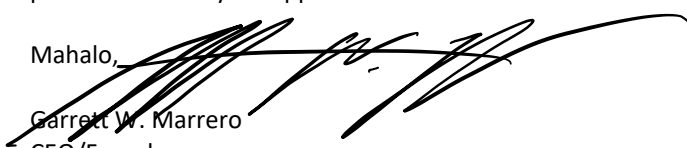
Why is this important? The current definition of beer does not properly fit today's needs as new fermented beverages such as gluten-free beer, non-alcoholic beer, seltzers fermented from malt (FMBs) or sugar (FSBs) and more. These beverages are commonly accepted as beer by both the TTB and IRS under 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."

In the end, the growth of local producers will lead to increased revenues to the State.

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

Mahalo,


Garrett W. Marrero
CEO/Founder

MAUI
HARD SELTZER

*Modern
Times*
BEER

MAUI
BREWING CO

*Modern
Times*
COFFEE

KUPU
— SPIRITS —

HB-647-HD-1

Submitted on: 2/26/2023 10:15:26 PM

Testimony for FIN on 2/28/2023 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Geoffrey Seideman	Honolulu BeerWorks	Support	Written Testimony Only

Comments:

SUPPORT



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Thomas Kerns
President / Brewmaster
Big Island Brewhaus

COMMITTEE ON FINANCE

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Rep. Bertrand Kobayashi	Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, February 28, 2023
TIME: 1:30 p.m.
PLACE: VIA VIDEOCONFERENCE
Conference Room 308
State Capitol
415 South Beretania Street

HB 647-HD1

Position: **Support with suggested changes**

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 Hawaii 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.

Definition of Beer:

The current definition of beer is archaic and does not represent the nature of what beer is in the current marketplace. The current HRS 281-1 definition of beer is a historic definition that includes traditional basic ingredients used in earlier years of beer manufacturing throughout the US. The definition does not reflect the expansion of the craft beer manufacturing sector. Hawaii's definition is not the same as the

federal definition which also includes a broader range of substitutes or additions to malted barley and fermentable sugar sources. Craft beer brewers across the USA have created a wider range of beer styles with a variety of additional ingredients in their recipes including other types of grains as base ingredients, other fermentable sugar sources, and brewed hard seltzers.

This legislation better aligns the terminology used to define “beer” to more closely follow the definition used for “beer” under the Internal Revenue Code of 1986 (IRC) and federal TTB regulations. The majority of hard seltzer is produced from either a brewed malt base or a brewed sugar base, which is then fermented. Under federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations, both malt-based and sugar-based hard seltzers are considered “beer”. Both malt and sugar based hard seltzers are federally taxed as “beer”. Under Hawaii statute HRS 281-1 “Beer” is obtained by the alcoholic fermentation of barley or other grain, malt, and hops. The current HRS 281-1 definition is limited in scope when compared with the federal TTB definition and Internal Revenue Code.

Modifying the definition of beer to better reflect the expansion of craft brewing ingredients and styles promotes opportunities for us to increase craft beer production in Hawaii. Fermented hard seltzers are an additional popular beverage that breweries can include as a new product to add another source of revenue and local manufacturing.

Additional beer excise tax revenue and gallonage taxes may result over time for the State of Hawaii from increased craft beer and hard seltzer production and sales by Hawaii’s manufacturers. Updating the definition of beer presents opportunities for our brewery to manufacture additional products and increase sales to meet the demand for new beer styles. This will potentially add to alcohol tax revenue for the State of Hawaii.

I do support the bill as is with changes to the following lines: On page 1 in lines 7 & 8 and on page 2 in lines 4 & 5 & 6 of the bill it reads: “*wholly or in part, or any substitute therefore, including grain of any kind, bran, glucose, sugar, or molasses.*” **I suggest an edit to the wording to include “or other fermentable sugar source”**. This would allow brewers to use a sugar source that could be sourced locally or elsewhere and derived from an unspecified sugar source as long as it is a fermentable sugar – thus not limiting sources to a contemporary list but opening possibilities for future creativity. There exists the historic and contemporary practice in brewing beer of using various fermentable sugar sources to create unique beers which take on a unique character from using a given fermentable sugar source in brewing beer. This will also allow Hawaii agricultural development of various local sugar sources to be used in manufacturing in Hawaii.

I request the House Committee on Consumer Protection and Commerce to pass this bill with my suggested changes. Mahalo for considering my testimony in support of HB 647.

Sincerely,

Thomas Kerns
President / Brewmaster
Big Island Brewhaus



info@beerlabhi.com
www.beerlabhi.com

Nicolas Wong

President
3266 Kalua PL
Honolulu, HI 96816

HB 647HD1– 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 and alcohol seltzer beverages

Tuesday, February 28, 2023, 1:30pm Conference room 308

Rep. Kyle T. Yamashita, Chair, Rep. Lisa Kitagawa, Vice Chair and members of the House Committee on Finance

SUPPORT

My name is Nicolas Wong and I am the owner of Beer Lab HI. 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.

I am also a board member of the Hawaii Restaurant Association.

Expansion of the definition of beer

This bill will expand the definition of beer and allow local manufacturers to create a greater array of products and allow those manufacturers an already established avenue to pay the required taxes on those products.

From personal experience the production of seltzer and other alcoholic beverages are very similar and by expanding the definition (and not creating a new one) it streamlines the tax reporting of these products and reduces confusion. While allowing a greater possibility for business expansion.

Kauai Beer Company
Justin Guerber
Head Brewer
4265 Rice St
Lihue, HI 96766
justin@kauaibeer.com



Committee On Finance
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair

DATE: Tuesday, February 28, 2023
TIME: 1:30 p.m.
PLACE: VIA VIDEOCONFERENCE
Conference Room 308
State Capitol
415 South Beretania Street

HB647 HD1
Position: **Support**

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.

Definition of Beer

We feel that this bill would bring the state definition of beer more in line with the federal definition by the TTB. The new definition would allow us to pursue more product variations and utilize more Hawaii-grown agriculture in our products.

Mahalo for considering our testimony in support of HB647 HD1

HB-647-HD-1

Submitted on: 2/27/2023 12:24:55 PM

Testimony for FIN on 2/28/2023 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Ben Kopf	Mahalo Aleworks	Support	Written Testimony Only

Comments:

We, in independent craft brewery on Maui, support this bill.

HB-647-HD-1

Submitted on: 2/27/2023 4:20:50 PM

Testimony for FIN on 2/28/2023 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Joshua Kopp	Hana Koa Brewing Co.	Support	Remotely Via Zoom

Comments:

The language presented in HB647 would allow for the expansion of available products to produce for businesses holding the Class 14 Liquor License. This would include gluten free options such as gluten free beer and hard seltzer. Considering the continuously changing market preference, it is important for businesses to have a leg to pivot on. The passing of this bill would be monumental to the majority of Hawaii breweries holding this license type. Greater revenue for businesses and more tax revenue for the state would be a positive change overall. We are a creative industry. The more products we have available to produce locally, the more jobs we can fill, the more positive community change we can facilitate, and ultimately the more we can enrich local business sustainability.

Thank you for your consideration.

Joshua Kopp

Head Brewer

Hana Koa Brewing Co.

Cindy Goldstein, PhD
98-814 C Kaonohi St
Aiea, HI 96701

HB647_HD1 Expanding the Definition of Beer
House Committee on Finance
Tues, Feb 28 at 1:30 pm Rm 308

Chair Kyle Yamashita, Vice Chair Lisa Kitagawa, and members of the Finance Committee

Position: Support

My name is Cindy Goldstein and my testimony is in support of HB647_HD1 to amend the definition of beer.

The current definition is not well aligned with the expansion of craft brewing to include other fermentable sugars and other grains such as gluten free grain. The additional flexibility offered by this bill, to substitute fermentable sugars and grains can help increase revenue and improve the bottom line for craft breweries at a time when these businesses are still recovering from the impacts of COVID-19. Updating the definition of beer to better reflect the expansion of craft brewing ingredients and styles offers Hawaii craft breweries an opportunity to expand production and marketing of a wider variety of unique craft beers and alcohol seltzers. A broader definition of beer will foster the creation of new and unique styles that are well suited for incorporating Hawaii grown fruits, herbs, coffee, and other locally sourced agricultural ingredients to create value added products that support Hawaii's farmers and agriculture.

Thank you for the opportunity to provide support for HB647_HD1 before the House Committee on Finance.