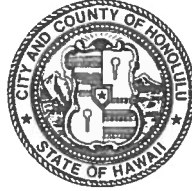


SB638

| | |
|-------------------|---|
| Measure Title: | RELATING TO LIQUOR. |
| Report Title: | Unlicensed Manufacture or Sale of Liquor; Penalty; Organized Crime; Racketeering Activity |
| Description: | Adds unlicensed sale of liquor as an offense for which property is subject to forfeiture and increases the grade of the offense to a class C felony. Provides an affirmative defense. Amends definitions of "organized crime" and "racketeering activity" to include the unlicensed sale of liquor. |
| Companion: | HB1210 |
| Package: | None |
| Current Referral: | CPH, JDC |
| Introducer(s): | MORIWAKI, S. Chang, Dela Cruz, Ihara, Inouye, Kanuha, Kidani, Kim, Riviere |

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.gov



KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
JONATHON GREMS
DEPUTY CHIEFS

OUR REFERENCE **WO-KK**

February 8, 2019

The Honorable Rosalyn H. Baker, Chair
and Members
Committee on Commerce, Consumer
Protection, and Health
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

Dear Chair Baker and Members:

SUBJECT: Senate Bill No. 638, Relating to Liquor

I am Walter Ozeki, Acting Major of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 638, Relating to Liquor.

The HPD has long recognized the problems created by persons or establishments that participate in the unlicensed manufacture or sale of liquor. The full impact of these problems extend far beyond just the obvious fact that they are able to operate unregulated with no concern or regard towards complying with regulations that govern the legal service of liquor. The bigger impact to the community results from the illegal activity and disruptive behavior that these establishments attract to our neighborhoods.

Unlicensed liquor sales encourage under aged consumption of liquor and provides an attractive venue for the distribution of other illegal substances and other illegal activity. Further impacts to our community include the accompanying noise, nuisance complaints, and other acts of violence and destruction resulting from unlicensed liquor sales.

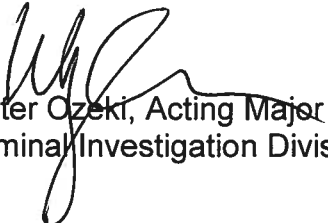
The Honorable Rosalyn H. Baker, Chair
and Members
February 8, 2019
Page 2

The classification of unlicensed manufacture or sale of liquor as a misdemeanor does little to deter this activity and provides little in the way of investigative tools available to police to combat this illegal activity. By reclassifying this offense to a Class C felony, including it as a covered offense for forfeiture purposes and by adding it to the class of organized criminal activities under Hawaii Revised Statute Chapter 842, you provide a true deterrence where the financial rewards no longer outweigh the potential risks and punishments associated with the commission of this offense.

The HPD urges you to support Senate Bill No. 638, Relating to Liquor.

Thank you for the opportunity to testify.

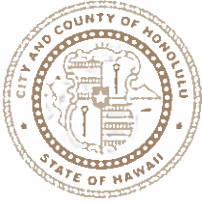
Sincerely,


Water Ozeki, Acting Major
Criminal Investigation Division

APPROVED:



Susan Ballard
Chief of Police



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

February 4, 2019

The Honorable Rosalyn Baker, Chair
The Honorable Stanley Chang, Vice Chair
And Members of the Committee on Commerce, Consumer Protection & Health
415 South Beretania Street, Conference Room 329
Honolulu, HI 96813

Subject: SB 638, Relating to Liquor
Hearing: Thursday, February 8, 2019, at 10:00 a.m.

This testimony is to convey my strong support for SB 638. The Honolulu City Council adopted Resolution 17-280, CD-1, which urged the Legislature to enact legislation found in SB 638. This measure helps address an ongoing community problem associated with the sale of liquor at "private" clubs that are not under the jurisdiction of the Liquor Commission. This measure increases the penalty for the unlicensed sale of liquor to a class C felony, and adds the unlicensed sale of liquor as an offense for which property is subject to forfeiture, includes unlicensed sale of liquor in the definitions of "organized crime" and "racketeering activity," and provides an affirmative defense.

Currently, under Hawaii Revised Statutes section 281-101 the penalty for the unlicensed manufacture or sale of liquor is a fine of not more than \$2,000, imprisonment for not more than one year, or both. This penalty has reportedly been described as "a slap on the wrist" and "merely a cost of doing business" for businesses illegally selling liquor without a proper license from the Honolulu Liquor Commission.

The amendments in this bill give the law "teeth," providing stiffer penalties and creating more of a deterrent against operating without any oversight or regulation from the Liquor Commission. At the same time, it provides for an affirmative defense for those operating in good faith and reasonable belief that their actions were in accordance with the law.

Thank you for allowing me the opportunity to submit testimony. For the foregoing reasons, I respectfully request your passage of SB 638.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brandon Elefante", is written over a circular stamp or seal.

Brandon Elefante
Councilmember, District 8



DEPARTMENT OF LIQUOR CONTROL
THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

GERALD T. RAPOZO
DIRECTOR

February 5, 2019

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

Hearing: Friday, February 8, 2019
10:00 a.m.; Room 229

Position: Support to SB 638 Relating to Liquor

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

The Department of Liquor Control, County of Kauai, appreciates the opportunity to submit testimony in support of the above-referenced measure.

Although the County of Kauai does not have the types of problems that the City & County have in regards to the illegal sale of liquor at non-licensed establishments, we do support enhancing laws that deter the illegal manufacture and sale of liquor.

We also support of the addition of unlicensed sale of liquor to the covered offenses subject to forfeiture, and to the definitions of "organized crime" and "racketeering activity" as it provides law enforcement with another tool to prosecute these illegal activities.

Thank-you for the opportunity to submit testimony on this matter.

Respectfully Submitted,


GERALD T. RAPOZO
Director



LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU

711 KAPIOLANI BOULEVARD, SUITE 600, HONOLULU, HAWAII 96813-5249
PHONE (808) 768-7300 or (808) 768-7333 • FAX (808) 768-7311
INTERNET ADDRESS: www.honolulu.gov/liq • E-MAIL: liquor@honolulu.gov



KIRK CALDWELL
MAYOR

JOSEPH V. O'DONNELL
CHAIRMAN

NARSI A. GANABAN
CO-VICE CHAIR

MALAMA MINN
CO-VICE CHAIR

DARREN Y. T. LEE
COMMISSIONER

DUANE R. MIYASHIRO
COMMISSIONER

FRANKLIN DON PACARRO, JR.
ADMINISTRATOR

ANNA C. HIRAI
ASSISTANT ADMINISTRATOR

February 6, 2019

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

State Senate
State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

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

SUBJECT: Senate Bill 638
Relating to Liquor

The Liquor Commission, City and County of Honolulu, (Commission), appreciates the opportunity to submit testimony in **strong support** of the above-referenced measure. Currently, there are businesses in Honolulu County that operate after-hours clubs and sell liquor without a license. Our experience has shown that businesses who sell liquor illegally are also conducting other illegal activities. By increasing the penalties to a felony, the proposed measure will deter the illegal sale of liquor, with a corresponding deterrence to other related and undesirable activities.

We are in strong support of this bill as it will not penalize an unwitting server or an owner who inadvertently was late in its license renewal. Instead, it will address the growing problem of illicit businesses operating outside of the established liquor laws and becoming a blight on the surrounding communities.

We also are in strong support of the addition of unlicensed sale of liquor to the covered offenses subject to forfeiture, and to the definitions of "Organized crime" and "Racketeering activity" because it provides law enforcement with another tool to prosecute these types of activities.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in blue ink, appearing to read "Franklin Don Pacarro, Jr.", written over a white background.

Franklin Don Pacarro, Jr.
Administrator

FDPjr:PHN:ACH

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

Feb. 7, 2019

Via Email

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

Re: SB 1460 Relating to Intoxicating Liquor
Hearing Date: February 8, 2019

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

The Hawaii Liquor Wholesalers Association (“HLWA”) respectfully submits the following written testimony in **support** of SB 1460 Relating to Intoxicating Liquor.

Direct shipment of wine from wine producers outside each county to consumers within the county has been allowed by HRS Section 281-33.6, under the pretext that small local wineries were not able to find licensed wholesalers to distribute their wine for them outside of their county. A consequence of this direct shipment law is that wine producers outside the state are allowed to direct ship to consumers within the state.

Other states that allow direct shipment have found, through carrier reporting, that large amounts of liquor have been shipped into their states without payment of liquor, excise and income taxes, resulting in loss of tax revenue to the states.

This bill would require the carriers of liquor to report the amount of statewide liquor being shipped and shipper information to the liquor commissions who can determine and analyze the shipments made to each county and confirm whether the shipper has complied with the requirements to obtain a direct shipper permit, including payment of all taxes.

To make it clear that reporting would be on a statewide basis, the phrase “made statewide” can be inserted into new Section 281- (a)(1) as follows:

(1) The known wine, beer, alcohol, or other liquor shipments made statewide containing the name of the express carrier company, common or contract carrier, or other person making the report;

(Underscoring added.)

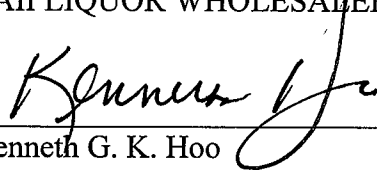
Illegal shipments of liquor hurt Hawaii's economy and result in loss of income and jobs to local residents. It is unfair competition.

Based on the above, we respectfully support SB1460. Thank you for your consideration of the foregoing.

Very truly yours,

HAWAII LIQUOR WHOLESALERS ASSOCIATION

By: _____


Kenneth G. K. Hoo
Its Secretary

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



DWIGHT K. NADAMOTO
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY

LATE

**THE HONORABLE ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH
Thirtieth State Legislature
Regular Session of 2019
State of Hawai'i**

February 8, 2019

RE: S.B. 638; RELATING TO LIQUOR.

Chair Baker, Vice-Chair Chang, members of the Senate Committee on Commerce, Consumer Protection, and Health, the Department of the Prosecuting Attorney, City and County of Honolulu (“Department”), submits the following testimony in support of S.B. 638, with suggested amendments.

The purpose of S.B. 638 is to: increase the penalty for selling liquor without a license; add an affirmative defense; and add unlicensed sale of liquor to the offenses eligible for civil asset forfeiture.

Every day, the Department prosecutes a myriad of criminal offenses that were caused or exacerbated by the consumption of liquor. Given the many dangers associated with liquor consumption, the Department strongly believes that all liquor sales (and manufacturing) should be carefully licensed and monitored. Gone unchecked, unlicensed liquor establishments are a lightning rod for over-consumption, violence and other illegal activity, posing a serious danger to anyone present at these establishments, as well as to the general public.

Raising the offense of unlicensed sale of liquor from a misdemeanor to a C felony would better reflect the seriousness of this offense, and significantly strengthen the manner in which these offenses are addressed by law enforcement and our courts. That said, we do have two suggested amendments:

- Because all elements of the offense would have to be proven—beyond a reasonable doubt—to have been done intentionally, knowingly or recklessly (i.e. not just negligently or by accident), we believe the affirmative defense [page 3, lines 16-19], is unnecessary and potentially confusing, and it should be removed.

- If unlicensed sale of liquor is added to the list of offenses eligible for civil asset forfeiture, it may be wise to add unlicensed manufacturing of liquor as well. While the two enterprises are often related, much of the equipment used for unlicensed manufacturing is typically not involved in (and thus not subject to forfeiture via the offense of) unlicensed sales.

For all of the foregoing reasons, the Department of the Prosecuting Attorney, City and County of Honolulu supports the passage of S.B. 638. Thank you for the opportunity to testify on this matter.