

HB 1314, HD1, SD1

Measure Title: RELATING TO LIQUOR.

Report Title: Intoxicating Liquor; Beer Labeling; Hawaii Products

Description: Authorizes the department of agriculture to request the use of certain language on beer labels to convey the true place of production in cases where the labels tend to create the false impression that the beer was produced in Hawaii or a region of Hawaii. Authorizes the inclusion of the name of the bottler and place where the beer was bottled or canned on beer labels bearing any Hawaiian brand name or adjective, Hawaiian word or statement, design, or device for beer that is sold or distributed in the State. Effective July 1, 2112. (SD1)

Companion:

Package: None

Current Referral: PSM, CPN

Introducer(s): BROWER, EVANS, HANOHANO, MCDERMOTT, MIZUNO, SOUKI, THIELEN, WOODSON, Aquino, Awana, Belatti, Cabanilla, Cachola, Cheape, Hashem, Ichiyama, Johanson, Kobayashi, McKelvey, Morikawa, Nakashima, Nishimoto, Onishi, Oshiro, Rhoads, Saiki, Takumi, Tokioka, Ward, Yamashita



MAUI BREWING CO.

26 March 2013

State of Hawaii, Committee on Public Safety, Intergovernmental and Military Affairs
Rep. Will Espero, Chair, Rep. Rosalyn H. Baker, Vice Chair

Re: STRONG SUPPORT, HB1314, Relating to Liquor

Aloha,

I appreciate you taking the time to review this very important measure. My name is Garrett W. Marrero. I am the Founder of Maui Brewing Co. I started MBC in 2005 with my wife, Melanie, with the main goal of making authentic Hawaiian craft beer. Our first year we brewed approximately 320 barrels of beer in Lahaina, in 2012 we brewed over 19,000 barrels. We are Hawaii's largest craft brewery.

This bill will protect Hawaiian manufacturing and jobs in the State. Although there is an extremely high cost to produce in Hawaii we, as do many others, believe that a product marketed should be true to what it says it is. We have an enormous fan base here and abroad that support us for our innovation and further for our commitment to our local community.

Here is some very basic information on Maui Brewing Co.

- Maui Brewing Co. has over 60 employees currently (soon to be 120+)
- We provide family level wages, comprehensive healthcare, 401k with matching, and profit sharing
- A locally owned domestic corporation, established in 2005
- We are distributed in 11 States, 5 Countries, and growing fast
- We sold over 19,000 barrels of beer (over 250,000 case equivalents) across these markets, 100% of which was brewed in Hawaii. We will more than double this in 2014.
- Hawaii's first Regional Craft Brewery and a "Craft Brewer" by the Brewers Association definition.
- We are an innovating leader in renewable energy, our 105kw PV array is just a small piece.
- We host many events across the globe, actively bringing attention to Hawaii. We've been featured on many TV shows, magazines, newspapers, and the like.
- In progress on building new facility on Maui creating more than 80 jobs.

Maui Brewing Co. is a leader in supporting local agriculture and manufacturing. We primarily use locally raised vegetables and greens at our brewpub, we exclusively serve locally raised beef, we make our own root beer from local cane, honey and even big island vanilla. Many of our beer styles use local ingredients as well, Breadfruit, Guava, Mango, Tangerine, Ginger, Coffee, Chocolate, KonaRed coffee fruit and even Maui Onions to name just a few. We purchase 100% of our aluminum cans from Ball Corp, in Kapolei, where the cans are manufactured.

Although Malt and Hops must be shipped in, the same for nearly ALL breweries around the world, this in no way detracts from what makes an authentic Hawaiian beer. Our competitors, producing an overwhelming majority of their beer in the mainland, would have you believe that it is not environmentally responsible to brew locally and export. I'd ask, why then do they brew foreign and import to Hawaii? We have proven that responsible manufacturing can be successful in Hawaii. Further, we chose to can our beer as we can fit approximately 40% MORE cases of beer in a container than bottles, this is just one additional measure to reduce carbon footprint and

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increase sustainability. Due in no small part to our growth and commitment, our cardboard tray manufacturer has announced plans to build a new plant in Kapolei to bring jobs back to Hawaii.

Shipping ingredients in and beer out or vice versa can be an interesting discussion. We can ship one 40' container of ingredients and produce 4.6 containers worth of finished product. In prior opposing testimony the statement "there is no 'True Hawaiian Beer' has been made, because malt and hops must be shipped in and water isn't considered a "local" ingredient. They have said "we brew the water before we brew the beer" in regards to brewing on the mainland, this is done to make the water similar to the water in Hawaii. Again, if water is not a vital local ingredient, then why go through the effort? This is the proverbial "having cake and eating it too" argument. Additionally the more we produce here (sell locally or ship abroad) the more cans we buy from local labor, the more cardboard we'll buy from the new local plant, the more jobs we'll create to make, sell, deliver, maintain and etc. We accept that we may never be as big globally as Kona/CBA, and that is perfectly fine to us.

Nearly everything I mention above, although important and noble in its own right, DOES NOT MATTER in this debate. We are not very dissimilar. We are not here to debate who makes better beer, who supports the environment more, who has a bigger payroll, who pays more taxes, how big my PV array is versus yours. We are here today to debate Labeling. Simply put, should the label reflect the actual place of manufacturing. The media and others love to "brew" up a war, in our mind that is not what this is. This is about the facts behind a product's marketing giving consumers the right to choose based on accurate information and protecting products made locally in Hawaii.

We believe that the same protection offered to other Hawaiian products like coffee and koa, etc., be given to protect the appellation that is "Hawaii" or "Hawaiian", to all authentic local products, not just beer, but wine, spirits, and etc. We, as a State, are proud; This pride deserves to be protected against profiteering by marketers of products that merely "look" local.

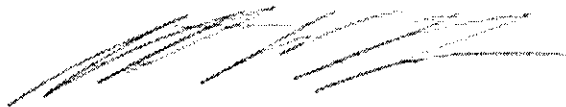
I would encourage you to also consider that some breweries that brew "Hawaiian Themed" beer in the mainland do in fact label the true origins. It is a good choice to demonstrate integrity and true origin and ultimately give the consumer a chance to vote with their dollars.

Keep in mind that the sole opposition to this bill, still has yet to outline "why" they oppose the bill. It is not a matter of "can" they put a statement of origin on the label, it is do they "want" to? We believe this is to conceal the truth behind the product image.

HB1314 protects consumers, small business, and manufacturing jobs in Hawaii by protecting the appellation that is "Hawaii".

In Craft Beer we share a belief that what we do is about integrity, innovation, and having a "sense of place". We want to protect our home, our State, and our economy from confusing marketing practices that serve to discount the value of true locally made products.

Mahalo,



Garrett W. Marrero

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Kauai Brewers LLC

I urge you to adopt HB1314.

We are in the process of starting a new brewpub on Kauai. More and more, our people want to know the origin of the food they are consuming. In the case of beer, I think they should be informed.

More and more, large breweries are hiding behind the image of craft beer. Part of that strategy is to deceive the consumer that the beer they are drinking came from a local brewery when in fact it did not.

The large breweries have many advantages. Just ask any Hawaiian craft brewer about the "bottle tax". Or why it costs more to ship empty bottles here from the mainland than it costs to ship bottles full of beer.

As Paul Gatza, director of the Brewers Association said in a recent article in New Brewer Magazine:

"There are many differences between craft brewers and large brewers."

"The differences start with the founders of the companies and their visions, a sense of creating a better world through the social interactions that happen around beer with character, and employing local people and being important community participants."

"The U.S. beer industry is witnessing a birth that started with early craft brewers and is now being led by beer drinkers as they seek out great beer from small and independent companies and become part of the success stories of these companies. The founders of craft breweries are still largely connected to their companies. Large brewers from a couple of centuries ago are so far removed from their founders' visions of why they started their companies that they have no direction other than corporate profits."

Respectfully submitted,

Jim Guerber
Kauai Brewers LLC

P.S. One more thing I would like to mention and it is very minor.... On page 14 line 13, In the brew pub section, it defines a "growler" as a glass container. I think the word "glass" should be removed since there are other materials that growlers are made of these days including stainless steel.



March 28, 2013

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice Chair
Committee on Commerce and Consumer Protection

RE: HB1314 HD1 SD1 RELATING TO LIQUOR : OPPOSITION

Dear Chair Baker, Vice Chair Galuteria and distinguished members of the Committee on Commerce and Consumer Protection:

My name is Mattson Davis and I'm the President of Kona Brewing Company and live in Kailua-Kona, HI. I OPPOSE HB1314 HD1 SD1.

In 1997 I was asked to move and manage a small struggling brewery in Kailua-Kona. The Kona Brewing Co. My job was to run the brewery, open a restaurant/pub and get the company profitable and sustainable. Annual sales were less than \$1M.

The first thing I realized was the fragile nature of the islands environment and the extreme cost of manufacturing in Hawaii. This has challenged our exceptional team of employees for over 19 years and they've done well, supported by the community and the consumer- local and visiting. We've created a successful and stainable business model that respects Hawaii; it's residents and the visitors.

Beer; brand names. The Tax Trade Bureau of the Federal government requires that a brewer either put his primary place of business or the locations where the beer is produced. In 2012 we modified our label to list all 4 locations where we brew instead of the primary place of business. Our goal was to be transparent and make all the labels the same – The label of ours that's been called out -found in Texas - was changed in March of 2012 with the rest of them.

Beer; name and address of bottler. Our beer is not brewed by any other bottler- we own all the breweries where are beer is brewed- Kona, HI- Woodinville, WA- Portland, OR- Portsmouth, NH.

Beer; appellation of origin. Beer is made from Malt, Hops, Yeast and Water, with water being the largest part in VOLUME and less than 1% the COST. In Hawaii- all Malt, Hops and Yeast are imported. Water is not, however it's a very limited resource – The USDA has declared many areas of Hawaii to be in a DROUGHT- Water isn't considered a Agricultural Product in the State of Hawaii and doesn't qualify as a Local Product .

By Volume	Approximate %	By Cost	Approximate %
Water	93	Water	1
Ethanol	4		
Complex carbs (unfermentables)	3		
Protein	0.5		
Hops Extract	0.0026		
Yeast	<.001	Yeast	4
		Malt	82
		Hops	13

We use many Hawaiian grown items to enhance our specialty beers: Lilikoi, Cacao, Vanilla, Ginger, Coffee (7,000 lbs last year) and Citrus to name a few- but these are less than .2% of the total ingredients used to make beer.

Electricity is what's left- - 90% of which in Hawaii is made from fossil fuels – oil that that- shipped in.

How does this comprise being an appellation like Napa, Sonoma, Bordeaux or Parma?

I believe that the Attorney Generals office has several concerns with this part of the bill as well.

Some Facts about Kona Brewing Co:

Our Company:

- Kona Brewing Co. was established in HI in 1994
- We are a Hawaiian LLC - our headquarters is in Kailua-Kona, HI.
- Kona Brewing Co has 175 employees in Hawaii
- Our annual payroll was \$4.4M in 2012 up 23% from 2010.
- Annual Sales in Hawaii in 2012 were over \$ 24M
- Our Hawaii Beer Excise tax in 2012 was over \$1.1M up 27% vs. 2010

Our Commitment:

- We are leaders in sustainability- one of the first companies in HI to have a Sustainability Coordinator in 2005.
- In 2010 we installed a 229kw solar system that provides our brewery and pub in Kona with 50% of our power needs.
- We divert over 80% of our total waste-

- By using bulk grain instead of bagged- we are saving 2 Olympic size swimming pools of trash.
 - In 2012 we won the Hawaii Green Business.
 - Our Kona Pub is a 4 Star Green Restaurant Association and our Pub on Oahu is 3 star- the only 2 GRA restaurants in the state.
 - We were the first commercial business on the west side of Hawaii to have recycle pick up
 - We support numerous Hawaiian Environmental Organizations like- Malama Muanalua, Surf Rider, Kokua Foundation, Duke Kahanamoku Foundation and many many more.... Donating over \$300K in 2012. We believe in paying forward.
 - We founded the Kona Brewers Festival to celebrate our anniversary in 1995 and have raised over \$600K, this years event sold out in 72 hours and is estimated to raise over \$100K for educational and environmental causes.
 - Through our manufacturing practices we save over 2.5 million car miles a year.
-
- Our Journey:
 - We are now distributed in 35 states and 15 countries.
 - We've grown to be a top 10 national craft brewer- by comparison- Sam Adams is #1
 - We are the leader in craft beer sales in Hawaii-
 - We promote Hawaii everywhere we're sold- I just returned from a 14 day 5 state tour where I had 27 media interviews-
 - As of last week we've brewed over 140,000 bbls (2,000,000 cases) of beer in Kona, HI.
 - We glorify Hawaii wherever we go. In January we captured 368 MILLION IMPRESSIONS through the introduction of our product in the Midwest.

Question- why is this bill written for beer only? Why not wine and spirits or the rest of the market? Do you recognize the fragile balance of Hawaii's environment? Is manufacturing an industry we want to encourage with our limited resources and high cost of shipping?

This is merely competition manipulating the legislature to gain a competitive advantage.

Sincerely,

Mattson C. Davis
President
Kona Brewing Co.



March 26, 2013

Representative Angus L.K. McKelvey, Chair
Representative Derek S.K. Kawakami, Vice Chair
Committee on Consumer Protection & Commerce
House of Representatives
State Capital
415 South Beretania
Honolulu, HI 96813

SUBJECT: Strong Support for House Bill 1314, Relating to Liquor

Dear Chair and Committee Members:

We are providing testimony in support of House Bill 1314, which establishes a new class liquor license for distillery pubs and requires beer whose labels convey the impression that the beer was produced in the State to indicate otherwise if the beer was not produced in the State.

The labeling aspect of this bill isn't a beef between Maui Brewing Company and Kona Brewing Company as some would have you believe. While Kona Brewing Company may have changed its labeling practices, there are other breweries right on their heels who are currently brewing on the mainland while claiming their beers are distinctly Hawaiian made. Why, you might ask yourself, would these companies who may have a presence in Hawaii, grow their business at mainland facilities, rather than to grow their existing facilities in Hawaii? It's about the bottom line; profit. For those that have a presence in Hawaii, it's more profitable to use other facilities on the mainland which have excess capacity than to invest in growing their existing facilities in Hawaii.

The fact is, we know world wide, there is a huge love and attraction for Hawaii; people love everything about it, the romance, the lush tropics, exotic vegetation, beautiful blue oceans, and the generous warmth of its people. The long history of Hawaiian made films, such as *From Here to Eternity*, *South Pacific*, and *Blue Hawaii*, have given people a romantic passion for Hawaii and all things made in Hawaii. Having Hawaii or Hawaiian names on labels sells more beer both on the mainland and Hawaii. That is a pure and simple fact.

We believe it is possible to grow our business's here in Hawaii to meet the demand for our products while maintaining a profitable business. Our focus and philosophy, along with a select few brewers, is to manufacture 100% of our products right here in Hawaii. To invest in it's people, land, and facilities. To keep people here in Hawaii employed.

We ask you to pass House Bill 1314. Thank you for your consideration in support of this bill.

Sincerely,

Bret Larson
President/CEO, Kauai Island Brewing Company, LLC.
bret@kauaiislandbrewing.com
808-755-5926



Hawaii's Highest Brewery - 2764' above the Sea

Thomas Kerns
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Aloha Honorable Legislators,

I am writing in support of HB 1314; a bill that deems to take confusion out of the marketplace of beer industry labeling. We feel that if a beer is to be considered "Hawaiian" that it must indeed be brewed and packaged 100% in the State of Hawaii. The common practice of brewing elsewhere by a brewer of Hawaiian origin or otherwise and then labeling said beer without indication of actual origin of manufacture can and does promote confusion to consumers as to its actual origin. Consumers actually value locally made products for several reasons including: supporting local businesses and families, quality and freshness versus a product made more than 2,000 miles away and then shipped potentially compromising quality or character of a food or agricultural product. The challenge is similar with other agricultural as well as locally made products.

The value of creating a product locally using many local resources including but not limited to water, power, shipping, agriculture, and other related Hawaiian businesses costs more and yet supports the State's economy in a broad way. A company that is allowed to create a product posing as locally made when not in fact made locally can save the inherent higher costs of local production while selling a product that is actually not "Hawaiian" and does not support the economy of the State in the same manner a locally brewed beer does. A label requiring actual origin of brewing/production and packaging should be required to help preserve the appellation of "Made in Hawaii" and encourage a quality based Hawaiian brewing industry to continue to flourish. Craft beer consumers are discriminating enough to want to read the labels for this type of information. If "truthful origin labeling" is not required integrity suffers and consumers will be denied access to truthful, valuable information about the product.

It has been said that this issue is fueled partially by jealousy between larger well established breweries and smaller, newer breweries. I believe this is completely inaccurate. The small craft breweries of Hawaii are very proud of their ability to be creative within their growing communities -- deciding to produce beer outside of Hawaii goes against the core values of being locally produced high quality craft beer with a real sense of place. The Hawaiian Craft Brewers Guild mandates that members produce 100% of their beer within the State of Hawaii and all members embrace this to further the tenants of integrity, quality, and a real sense of place for locally produced craft beer.

Please help protect consumers from misleading labels and require a beer label to state the actual origin of brewing on the label. People have the right to the truth.

Thank-you for your support,
Sincerely,

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March 28, 2013

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice Chair
Committee on Commerce and Consumer Protection
Hawaii State capitol, Room 229
Honolulu, HI 96813

RE: HB1314 HD1 SD1 – OPPOSE

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

While there is certainly a state interest for any state to want to promote itself and its products, it is a slippery slope that can quickly lead to violations of the Commerce Clause of the US Constitution if the uniqueness claimed is not sufficient. And while we would all like to advance the cause of our beloved state, it is even more problematic when we try to choose between this thing and that thing, both being "local."

Beer is a commodity, a food if you will, made in vats through a process known as brewing, that has existed since the dawn of civilization. The ingredients for it have been known since then, and they have been and are, pretty much, the same. The real art in brewing beer is not in the ingredients or where it is brewed, but in the execution of the process.

To say that a Hawaii beer which is brewed in Kona, Hawaii, is less of a Hawaii beer, and ought to be labeled differently, than one that is brewed to virtually the exact same specifications in Maui, Hawaii, is a very difficult proposition to make. Especially when the Kona beer has been made in Hawaii longer and more of it has been sold. The relative newcomer, Maui Brewing Company, in this case, is simply seeking a marketing advantage and there is nothing wrong with that.

However, when it brings its marketing schemes to the state legislature and attempts to make them law, then that is going too far. It analogizes beer to wine, saying that throughout the world that wines have been afforded a higher labeling status, and therefore beers ought to be similarly treated. But beer is not wine. The relationship of weather, climate, sunlight, soils, elevation, and a myriad of other variables go into making wines. Wines are derived from grapes and the cultivation of those fruits is, in itself a science and an art.

Beer is made from a recipe that includes water, hops and barley, and is made in stainless steel vats. The real genius involved in beer making is the brewmaster, not the substance, per se. It might make sense to

Senator Rosalyn H. Baker, Chair
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say that this beer was brewed by "Bob The Brewmaster" because his genius defined the process. Where the beer is made is, in a beer sense, less of a factor than who made it.

Labeling beer differently, one "local" and the other not, when one is made in on the Island of Maui and the other brewed eighty miles away, on the Island of Hawaii, in Kona, and both are made from the same basic ingredients which have been used in the process since the dawn of civilization, is splitting some very fine beers local beers.

Maui Brewing Company says that Kona Brewing Company ought to disclose on it's label that it's beer is made in Kona and also in three mainland jurisdictions. Kona Brewing Company already does that.

Please defer this legislation as not being in the overall best policy direction for Hawaii business.

Respectfully Submitted,

John H. Radcliffe