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ISAAC W. CHOY
DIRECTOR OF TAXATION

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To: The Honorable Aaron Ling Johanson, Chair;
The Honorable Lisa Kitagawa, Vice Chair;
and Members of the House Committee on Consumer Protection & Commerce

From: Isaac W. Choy, Director
Department of Taxation

Date: February 25, 2021
Time: 2:00 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 593, H.D. 1, Relating to Alcohol

The Department of Taxation (Department) offers the following comments regarding H.B. 593, H.D. 1, for your consideration.

H.B. 593, H.D. 1, amends the definition of "beer" in section 244D-1, Hawaii Revised Statutes, by expanding it to include alcoholic seltzer beverages. The measure has a defective effective date of July 1, 2050.

The Department notes that it can administer this measure as written, but requests an effective date of no earlier than January 1, 2022 to allow time to make amendments to its forms, instructions, and computer system.

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



info@beerlabhi.com
www.beerlabhi.com

Nicolas Wong

President
3266 Kalua PL
Honolulu, HI 96816

HB593_HD1 Relating to Intoxicating Liquor : Definition of Beer
House Committee on Consumer Protection and Commerce
Thursday February 25, 2021 at 2:00 p.m. Conference Rm 329

Position: **Support**

Chair Representative Aaron Ling Johanson, Vice Chair Representative Lisa Kitagawa, and members of the committee on Consumer Protection and Commerce,

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.

Updating Definition of Beer

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 sugars. Craft beer brewers across the US 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 sugars, 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.



info@beerlabhi.com
www.beerlabhi.com

While liquor sales have shown overall increases during the pandemic, this is not the case for our brewery and many of Hawaii's other small independent craft breweries. Small brewery businesses typically derive a higher percent of overall revenue from sales of a range of unique beer styles at our brewpubs and tap rooms compared to other alcohol manufacturers. Updating the definition of beer can provide economic relief for Hawaii's craft beer manufacturers as we continue to diversify the brewing ingredients we use, and types of beer produced.

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.

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.

A broader definition of beer helps create new and unique styles that are well suited for the inclusion of agricultural products grown in Hawaii. A modified definition of beer inspires producers to incorporate additional Hawaii grown fruits, herbs, coffee, cacao, and other locally sourced agricultural ingredients. We seek out local agricultural ingredients to create value added products that support Hawaii's farmers and statewide agriculture.

The additional flexibility to add and substitute grains and fermentable sugars can help increase revenue and improve the bottom line for our craft brewery at a time when we struggle to remain open due to the impacts of COVID-19.

We request the House Committee on Consumer Protection and Commerce pass this bill. Mahalo for considering this testimony in support of HB593_HD1.



Geoffrey Seideman
Honolulu Beerworks
328 Cooke St. Honolulu

HB593_HD1 Relating to Intoxicating Liquor : Definition of Beer
House Committee on Consumer Protection and Commerce
Thursday February 25, 2021 at 2:00 p.m. Conference Rm 329

Position: **Support**

Chair Representative Aaron Ling Johanson, Vice Chair Representative Lisa Kitagawa, and members of the committee on Consumer Protection and Commerce,

My name is Geoffrey Seideman and I am the Owner and Brewer of Honolulu Beerworks in Kakaako. 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.

As with all things we need to adapt and adjust with the times. The current definition of beer in Hawaii does not reflect the federal definition, and the adjustment that has been made federally due to new styles, products, techniques, ingredients etc.. By modifying the definition of beer will allow our brewery to increase the styles and products that we are able to produce here in Hawaii. This will create more opportunities for our brewery and to increase sales.

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.

The additional flexibility to add and substitute grains and fermentable sugars can help increase revenue and improve the bottom line for our craft brewery at a time when we struggle to remain open due to the impacts of COVID-19.

We request the House Committee on Consumer Protection and Commerce pass this bill. Mahalo for considering this testimony in support of HB593_HD1.



MAUI BREWING CO

February 23, 2021

House Committee on Consumer Protection & Commerce

HB593 HD1 Relating to Alcohol

February 25th, 2021

Re: **IN SUPPORT OF HB593 HD1**

Aloha Chair Representative Johanson, Vice Chair Representative Kitagawa, and members of the Committee,

My name is Garrett W. Marrero. 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 13 countries. We began in 2005 with 26 team members and have added more than 700 to our team pre-COVID of course. 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 **HB593 HD1** which amends the definition of beer to align with the Federal definitions under Tax & Trade Bureau and the Internal Revenue Code.

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 49 other States. We need to bring Hawaii up to par with the rest of our country in definition of these beverages.

There are significant benefits to Hawaii's local producers:

1. COVID-19 has severely challenged the economic viability of craft beer producers across the State of Hawaii. Passing this bill now is especially crucial as Hawaii craft beer manufacturers find ways to be proactive to stay in business and recover from COVID related revenue losses.
2. The additional flexibility 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 struggling to remain open due to the impacts of COVID-19.
3. While liquor sales have shown overall increases during the pandemic, this is not the case for Hawaii's small independent craft breweries. Small brewery businesses typically derive a higher percent of their overall revenue from sales of a range of unique beer styles at their brewpubs and tap rooms compared to other alcohol manufacturers.
4. The bill to update the definition of beer can provide economic relief for Hawaii's craft beer manufacturers as they continue to diversify the brewing ingredients they use and types of beer they produce.

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. Thank you for the opportunity to provide testimony in support of **HB593 HD1**.

Mahalo,

Garrett W. Marrero
CEO/Founder

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



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

HB593_HD1 Relating to Intoxicating Liquor : Definition of Beer
House Committee on Consumer Protection and Commerce
Thursday February 25, 2021 at 2:00 p.m. Conference Rm 329

Position: **SUPPORT**

Chair Representative Aaron Ling Johanson, Vice Chair Representative Lisa Kitagawa,
and members of the committee on Consumer Protection and Commerce,

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.

HRS 281-1 Currently defines beer in a more historical way and does not include with the Federal Alcohol Tobacco and Trade Bureau (TTB) regulations which allow for both malt and sugar based hard seltzers federally taxed as beer. HRS 281-1 currently defines beer as grain, malt and hops. The addition of sugar based hard seltzers consistent with federal regulations, allows our local manufacturers to meet current demands of the market with lower calorie and gluten free products. This also allows local manufactures to grow their product line, further creating more revenue and therefore tax revenue for the State of Hawaii.

Mahalo for considering our testimony in support of HB 593 HD1

Steve Haumschild, MBA

Steven R Haumschild

CEO & Brewmaster

Certified Cicerone®

Lanikai Brewing Company, Island Inspired™ Craft Beer

Brewery @ 175-C Hamakua Dr, Kailua, HI 96734

Tap & Barrel @ 167 Hamakua Dr, Kailua, HI 96734 everyday 11a-10p

***Coming soon Distillery and Brewpub North Shore of Oahu

Lanikai Brewing Company, Island Inspired™ Craft Beer
Brewery @ 175-C Hamakua Dr, Kailua, HI 96734
Tap & Barrel @ 167 Hamakua Dr, Kailua, HI 96734 M-F 4p-10p, S-S 11a-10p
FB: Lanikai Brewing Company, Instagram: @lanikaibrewing

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FB: Lanikai Brewing Company, Instagram: @lanikaibrewing



Cindy Goldstein, PhD
Hawaiian Craft Brewers Guild
98-814 C Kaonohi Street
Aiea, HI 96701

HB593_HD1 Relating to Intoxicating Liquor : Definition of Beer
House Committee on Consumer Protection and Commerce
Thursday February 25, 2021 at 2:00 p.m. Conference Rm 329

Position: **Support**

Chair Representative Aaron Ling Johanson, Vice Chair Representative Lisa Kitagawa, and members of the committee on Consumer Protection and Commerce,

The Hawaiian Craft Brewers Guild is a nonprofit trade organization representing the interests of small craft breweries across the State of Hawaii. Our members are independent craft breweries producing 100% of their beer in Hawaii. The Hawaiian Craft Brewers Guild represents 18 small craft brewery businesses from across the state, almost all of the craft beer producers in Hawaii. Our members are united in our pursuit to promote economic activity and growth for Hawaii's beer manufacturers and enhance opportunities in our communities.

The Hawaiian Craft Brewers Guild and our member breweries embrace the responsible consumption of alcohol.

Updating Definition of Beer

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 sugars. Craft beer brewers across the US 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 sugars, 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".

The Internal Revenue Code, IRC, regulates excise tax on beer, and defines “beer” as fermented beverages from malt or a substitute of malt. 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.

While liquor sales have shown overall increases during the pandemic, this is not the case for Hawaii’s small independent craft breweries. Small brewery businesses typically derive a higher percent of their overall revenue from sales of a range of unique beer styles at their brewpubs and tap rooms compared to other alcohol manufacturers. This bill to update the definition of beer can provide economic relief for Hawaii’s craft beer manufacturers as they continue to diversify the brewing ingredients they use and types of beer they produce.

Modifying the definition of beer to better reflect the expansion of craft brewing ingredients and styles promotes opportunities for increased craft brewery 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.

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 Hawaii’s craft beer manufacturers to increase production to meet the demand for new beer styles. This will potentially add to alcohol tax revenue for the State of Hawaii.

A broader definition of beer will foster the creation of new and unique styles that are well suited for the inclusion of agricultural products grown in Hawaii. A modified definition of beer inspires producers to incorporate additional Hawaii grown fruits, herbs, coffee, cacao, and other locally sourced agricultural ingredients. Hawaiian Craft Brewers Guild members seek out local agricultural ingredients to create value added products that support Hawaii’s farmers and statewide agriculture.

The additional flexibility to add and substitute grains and fermentable sugars can help increase revenue and improve the bottom line for craft breweries at a time when these businesses are struggling to remain open due to the impacts of COVID-19.

We request the House Committee on Consumer Protection and Commerce pass this bill. Mahalo for considering our Hawaiian Craft Brewers Guild testimony in support of HB593_HD1.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: LIQUOR, Broaden Beer Definition

BILL NUMBER: HB 593, HD1

INTRODUCED BY: House Committee on Economic Development

EXECUTIVE SUMMARY: Expands the definition of "beer" to specify an alcohol by volume of no less than 0.5 percent and to include alcoholic seltzer beverages.

SYNOPSIS: Amends section 244D-1, HRS, to include alcoholic seltzer beverages within the definition of "beer" for liquor tax purposes.

Amends section 281-1, HRS, but does not include alcoholic seltzer beverages within the definition of "beer" for regulatory purposes.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: The apparent purpose of the bill is to allow seltzer beverages to qualify for the lower tax rate (\$0.85 per wine gallon) for "cooler beverages," which are now applicable to wine- or beer-based beverages, as opposed to the higher tax rate (\$5.98 per wine gallon) on distilled spirits.

Section 5052(a) of the Internal Revenue Code defines beer for purposes of the federal gallonage tax on alcoholic beverages:

For purposes of this chapter (except when used with reference to distilling or distilling material) the term beer means beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

The regulations of the Alcohol and Tobacco Tax and Trade Bureau interpreting this law state that a substitute for malt is limited to rice, grain of any kind, bran, glucose, sugar, and molasses. 27 C.F.R. section 25.15(a). That regulation also states that honey, fruit, fruit juice, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer.

The definition of beer contained in the bill appears to be consistent with the federal definition; however, the bill mentions alcoholic seltzer beverages, which are not mentioned in the federal Code or regulations; and the existing law unchanged by the bill excludes sake, which the federal definition includes.

Digested 2/23/2021