

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

PART I

SECTION 1. The legislature finds that under the current definition of "cooler beverage" the tax rate applied is only applicable to wine or beer based beverages. This application results in beverages that are spirits based being taxed as distilled spirits. As a result, if a local distiller wants to make a ready to drink "cooler beverage" that contains one ounce of a distilled spirit and eleven ounces of another consumable liquid, then it is taxed as if the entire contents are alcohol. Despite the growing number of local distilleries, the tax treatment may be the primary reason there are no locally produced ready to drink spirits-based beverages. Currently, there are several companies on the mainland exporting small volumes of cocktails in cans or bottles but there is no local option.

The purpose of this part is to amend the definition of "cooler beverage" to include beverages that contain distilled



1 spirits and blending materials to encourage local distilleries  
2 to produce ready to drink beverages that contain distilled  
3 spirits.

4 SECTION 2. Section 244D-1, Hawaii Revised Statutes, is  
5 amended by amending the definition of "cooler beverage" to read  
6 as follows:

7 "Cooler beverage" means either a:

8 (1) Wine cooler containing wine and more than fifteen per  
9 cent added natural or artificial blending material,  
10 such as fruit juices, flavors, flavorings, or  
11 adjuncts, water (plain, carbonated, or sparkling),  
12 colorings, or preservatives, and that contains less  
13 than seven per cent of alcohol by volume; ~~[or]~~

14 (2) Malt beverage cooler containing beer and added natural  
15 or artificial blending material, such as fruit juices,  
16 flavors, flavorings, colorings, or preservatives, and  
17 that contains less than seven per cent of alcohol by  
18 volume ~~[or]~~; or

19 (3) Spirit beverage cooler containing distilled spirits  
20 and added natural or artificial blending material,  
21 such as fruit juices, flavors, flavorings, colorings,



1           or preservatives, and that contains less than twelve  
2           per cent of alcohol by volume."

3                               PART II

4           SECTION 3. The legislature finds that the current taxation  
5 scheme on beer is confusing and burdensome. Unlike other  
6 alcoholic beverages, a lower tax rate is imposed on draft beer,  
7 which is statutorily defined as beer in an individual container  
8 of seven gallons or larger. However, the container size  
9 requirement does not align with industry practices. Many beer  
10 sellers, including many local small brewers, dispense what is  
11 commonly referred to as draft beer from containers smaller than  
12 seven gallons.

13           The legislature further finds that the higher tax rate  
14 applied to non-draft beer discourages the business of local  
15 brewers, who may not be able to distribute in larger containers  
16 or who may benefit from individually packaging their beer.

17           The purpose of this part is to eliminate the tax disparity  
18 between beer dispensed from containers of seven gallons or more  
19 and beer in all other packaging.

20           SECTION 4. Section 244D-1, Hawaii Revised Statutes, is  
21 amended as follows:



1           1. By amending the definition of "distilled spirits" to  
2 read:

3           ""Distilled spirits" means an alcoholic beverage obtained  
4 by the distillation of fermented agricultural products, and  
5 includes alcohol for beverage use, spirits of wine, whiskey,  
6 rum, brandy, and gin, including all dilutions and mixtures  
7 thereof, but does not include beer, [~~draft beer,~~] cooler  
8 beverage, or wine."

9           2. By amending the definition of "liquor" to read:

10          ""Liquor" has the same meaning as set forth in section 281-  
11 1 and includes alcohol, and the liquor categories: beer, [~~draft~~  
12 ~~beer,~~] cooler beverage, distilled spirits, and wine."

13          3. By repealing the definition of "draft beer".

14          [~~""Draft beer" means beer in an individual container of~~  
15 ~~seven gallons or more."}]~~

16          SECTION 5. Section 244D-4, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18          "(a) Every person who sells or uses any liquor in the  
19 State not taxable under this chapter, in respect of the  
20 transaction by which the person or the person's vendor acquired  
21 the liquor, shall pay a gallonage tax which is hereby imposed at



1 the following rates for the various liquor categories defined in  
2 section 244D-1:

3 For the period July 1, 1997, to June 30, 1998, the tax rate  
4 shall be:

- 5 (1) \$5.92 per wine gallon on distilled spirits;
- 6 (2) \$2.09 per wine gallon on sparkling wine;
- 7 (3) \$1.36 per wine gallon on still wine;
- 8 (4) \$0.84 per wine gallon on cooler beverages;
- 9 (5) \$0.92 per wine gallon on beer other than draft beer;
- 10 (6) \$0.53 per wine gallon on draft beer;

11 ~~[On]~~ For the period July 1, 1998, [and thereafter,] to  
12 June 30, 2018, the tax rate shall be:

- 13 (1) \$5.98 per wine gallon on distilled spirits;
- 14 (2) \$2.12 per wine gallon on sparkling wine;
- 15 (3) \$1.38 per wine gallon on still wine;
- 16 (4) \$0.85 per wine gallon on cooler beverages;
- 17 (5) \$0.93 per wine gallon on beer other than draft beer;
- 18 (6) \$0.54 per wine gallon on draft beer;

19 On July 1, 2018, and thereafter, the tax rate shall be:

- 20 (1) \$5.98 per wine gallon on distilled spirits;
- 21 (2) \$2.12 per wine gallon on sparkling wine;



# S.B. NO. 2712

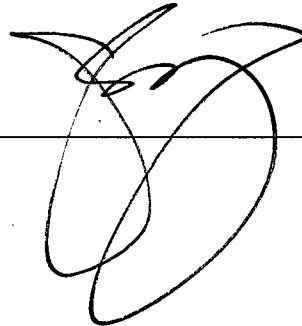
1        (3)    \$1.38 per wine gallon on still wine;  
2        (4)    85 cents per wine gallon on cooler beverages; and  
3        (5)    54 cents per wine gallon on beer;  
4 and at a proportionate rate for any other quantity so sold or  
5 used."

## PART III

7        SECTION 6. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9        SECTION 7. This Act shall take effect on July 1, 2018.

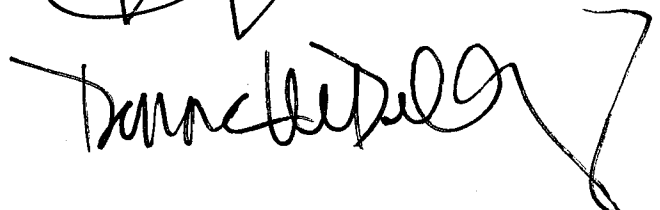
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INTRODUCED BY: \_\_\_\_\_



Clarence A. Michiko



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# S.B. NO. 2712

**Report Title:**

Beer; Draft Beer; Liquor Tax; Intoxicating Alcohol; Distilled Spirits; Cooler Beverage; Local Distilleries

**Description:**

Includes distilled beverages containing spirits and added blending materials that contain less than twelve per cent of alcohol by volume in the cooler beverage definition. Deletes definition of draft beer. Applies the tax rate on draft beer to all beer.

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

