



TLC

THE LEGISLATIVE CENTER

1188 BISHOP STREET, SUITE 1003
HONOLULU, HAWAII 96813-3304
PHONE: (808) 537-4308 • FAX: (808) 533-2739

March 16, 2022

Testimony To: House Committee on Economic Development
Representative Sean Quinlan, Chair

Presented By: Tim Lyons, Legislative Liaison
Anheuser Busch Companies

Subject: S.B. 2331, – RELATING TO ALCOHOL
(Proposed SD 1)

Chair Quinlan and Members of the Committee:

I am Tim Lyons, Legislative Liaison for Anheuser Busch Companies and we are in opposition to this bill.

It is difficult to tell by just reading this bill however, its effect is to drastically lower the excise tax placed on what we call "booze coolers." These are liquor products that have juices and alcohol mixed together, pre-mixed cocktails, if you will, similar to a wine cooler, except it uses liquor. You may know them as Mike's Hard Lemonade or Sex on the Beach or a Bacardi Rum Punch.

What this bill is trying to tell you is that a cooler beverage is a cooler beverage. We disagree. We think that beer is beer and wine is wine and booze is booze. It was not the State of Hawaii but the federal government that originally came up with a tiered tax system which increases its taxes as the percent of alcohol rises. This was meant to place a higher tax on higher liquored drinks. What this bill really does is lower the tax on these "booze coolers" by 86%, from \$5.98 per wine gallon to \$.85 per wine gallon. To that decrease, we object as it is even lower than the beer tax rate!

We believe it was a good policy decision that both the federal government and the state government made when enacting liquor taxes, to provide for a higher tax for higher alcoholic drinks. It doesn't matter what the product is, a type of cooler or a mixed drink; what matters is that you are taking distilled liquor as a product and mixing it; to give that a lower tax rate is not appropriate.

The legal classification of alcoholic beverages by their product base is fundamental to liquor taxation. Alcoholic content has not been a factor in the laws governing the beverage alcohol industry in the United States, and if moderation and temperance are the goals, alcohol type, and not alcohol content, should continue to be the classification basis for determining taxes

Studies have shown that while beer ranges from 4.2-4.8% alcohol, wine ranges from .05% to 24% and distilled liquor goes from 40% to 151%. The cooler beverage tax rate

was allowed for lower alcoholic drinks and the Spirits Industry responded with a brand made with malt so they could get in this category. They do not need this tax reduction too.

Finally, we would be deviating from federal law which defines distilled spirits as including "all dilutions and mixtures thereof" (U.S.C. Title 27, Chapter 8, Subchapter I, Section 211. Miscellaneous Provisions, Definitions).

Based on the above, we do not support this bill as written but have attached a Proposed HD 1 that still clarifies the beer definition but omits the possibility that booze (spirit) coolers will be included.

Thank you.

A BILL FOR AN ACT

RELATING TO ALCOHOL.

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

SECTION 1. Section 244D-1, Hawaii Revised Statutes, is amended by amending the definition of "beer" to read as follows:

"Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the fermentation or any infusion or decoction of [~~barley,~~] malt, [~~hops, or any other similar product, or any combination thereof in water, and~~] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses. "Beer" includes ale, porter, brown, stout, lager beer, small beer, [~~and~~] strong beer, and alcoholic seltzer beverages, but does not include sake, known as Japanese rice wine, or cooler beverage."

SECTION 2. Section 281-1, Hawaii Revised Statutes, is amended by amending the definition of "beer" to read as follows:

"Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the alcoholic fermentation of any infusion or decoction of [~~barley or other grain,~~] malt, [~~and hops in water,~~] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2023.

Report Title:

Alcohol; Beer; Definition

Description:

Expands the definition of "beer" to specify an alcohol by volume of no less than 0.5 per cent. Takes effect 1/1/2023.

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

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Sean Quinlan, Chair;
The Honorable Daniel Holt, Vice Chair;
and Members of the House Committee on Economic Development

From: Isaac W. Choy, Director
Department of Taxation

Date: Wednesday, March 16, 2022
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 2331, Relating to Alcohol

The Department of Taxation (Department) offers the following comments on S.B. 2331 for the committee's consideration.

S.B. 2331 changes the definition of "beer" in the liquor tax law by amending section 244D-1, Hawaii Revised Statutes (HRS), to include alcoholic seltzer beverages and specify that beverages must contain no less than 0.5 per cent alcohol by volume to qualify as beer. The measure also expands the list of possible beer ingredients to include malt, grain of any kind, bran, glucose, sugar, molasses, and related substitutes. The measure is effective on January 1, 2023.

The Department is able to implement the measure as drafted. Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: LIQUOR, Broaden Beer Definition

BILL NUMBER: SB 2331

INTRODUCED BY: KEITH-AGARAN, Baker, Wakai

EXECUTIVE SUMMARY: Expands the definition of "beer" to specify an alcohol by volume of no less than 0.5 per cent and to include alcohol 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, to conform to the first sentence of the new definition. Does not expressly include alcoholic seltzer beverages within the definition of "beer" for regulatory purposes.

EFFECTIVE DATE: January 1, 2023.

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: 2/14/2022



STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
ON
SENATE BILL NO. 2331

March 16, 2022
10:00 a.m.
Room 312 and Videoconference

RELATING TO ALCOHOL

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2331 amends Section 244D-1, HRS, to include alcoholic seltzer beverages in the definition of "beer"; specify that beverages must contain no less than 0.5% alcohol by volume to qualify as beer; and expand the list of possible beer ingredients.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or

- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.

SB-2331

Submitted on: 3/14/2022 1:43:43 PM

Testimony for ECD on 3/16/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupalyk	Individual	Support	Written Testimony Only

Comments:

If the State of Hawai'i were to propose a future ban of alcohol sales in supermarkets, that choice would open the door to new businesses and jobs to open in a State controlled Beer Distributor. In Pennsylvania, the Commonwealth benefits a great deal from this arrangement, and small, local businesses flourish because of it.



March 15, 2022

LATE

Representative Sean Quinlan, Chair
Representative Daniel Holt, Vice Chair
Members of the House Committee on Economic Development

RE: **SB 2331 – Relating to Alcohol**
Hearing date: March 16, 2022 at 10:00 AM

Aloha Chair Quinlan, Vice Chair Holt and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of Anheuser-Busch providing comments and proposed amendments to SB 2331. Anheuser-Busch is one of America's best-loved breweries and has been one of the most popular brands for beer and other beverages in Hawaii for decades.

SB 2331 would expand the definition of "beer" in Section 244D-1, Hawaii Revised Statutes to specify an alcohol by volume of no less than 0.5%. The bill would expressly include "alcohol seltzer beverages" within the definition the definition of beer. The revised definition appears to potentially inadvertently include a spirits-based pre-mixed or "ready-to-drink" cocktail as a beer. By doing so, the state would be providing a tax cut for these ready-to-drink cocktails, which are currently taxed at a rate of \$5.98/gallon.

In order to ensure that tax rates for spirits of all kinds, including ready-to-drink spirits, are not inadvertently reduced, we propose the following amendments to Section 1:

""Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the fermentation or any infusion or decoction of [~~barley,~~] malt, [~~hops, or any other similar product, or any combination thereof in water, and~~] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses. "Beer" includes ale, porter, brown, stout, lager beer, small beer, [~~and~~] strong beer, and alcoholic seltzer beverages. [~~but~~] "Beer" does not include sake, known as Japanese rice wine, [~~or~~] cooler beverage, or any products of distillation, by whatever name known, which contain distilled spirits, alcoholic spirits or spirits."



I have also attached a draft HD1 version of SB 2331 with these amendments. Mahalo for your consideration.

Sincerely,

Kirk E. Kimmelshue
Region Vice President
State Government Affairs
Kirk.Kimmelshue@Anheuser-Busch.com
C: 530-570-1515

A BILL FOR AN ACT

RELATING TO ALCOHOL.

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

SECTION 1. Section 244D-1, Hawaii Revised Statutes, is amended by amending the definition of "beer" to read as follows:

""Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the fermentation or any infusion or decoction of [~~barley,~~] malt, [~~hops, or any other similar product, or any combination thereof in water, and~~] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses. "Beer" includes ale, porter, brown, stout, lager beer, small beer, [~~and~~] strong beer, and alcoholic seltzer beverages. [~~but~~] "Beer" does not include sake, known as Japanese rice wine, [~~or~~] cooler beverage, or any products of distillation, by whatever name known, which contain distilled spirits, alcoholic spirits or spirits."

SECTION 2. Section 281-1, Hawaii Revised Statutes, is amended by amending the definition of "beer" to read as follows:

""Beer" means any alcoholic beverage containing no less than 0.5 per cent alcohol by volume obtained by the alcoholic fermentation of any infusion or decoction of [~~barley or other grain,~~] malt, [~~and hops in water,~~] wholly or in part, or any substitute therefor, including grain of any kind, bran, glucose, sugar, or molasses."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2023.

INTRODUCED BY: _____

Report Title:

Alcohol; Beer; Definition

Description:

Expands the definition of "beer" to specify an alcohol by volume of no less than 0.5 per cent and to include alcohol seltzer beverages. Takes effect 1/1/2023.

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



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE HOUSE COMMITTEE ON
ECONOMIC DEVELOPMENT
HAWAII STATE CAPITOL, CONFERENCE ROOM 312
WEDNESDAY, MARCH 16, 2022 AT 10:00 A.M.**

To The Honorable Sean Quinlan, Chair
The Honorable Daniel Holt, Vice Chair
Members of the committee on Economic Development

SUPPORT SB2331 RELATING TO ALCOHOL

The Maui Chamber of Commerce **supports SB2331 (with comments)** which expands the definition of "beer" to specify an alcohol by volume of no less than 0.5 per cent and to include alcohol seltzer beverages.

The Chamber supports our local breweries and support their position on this bill: *"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."*

We 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."**

For these reasons we respectfully urge you to pass SB2331.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.