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# A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1           SECTION 1. Section 281-57, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3           "(c) Immediately upon the commission's fixing a day for  
4 the public hearing of the application, the applicant shall mail  
5 a notice setting forth the time and place of the hearing on the  
6 application to each of the following:

7           (1) Not less than two-thirds of the current owners and  
8 lessees of record of real estate and current owners of  
9 record of shares in a cooperative apartment or to  
10 those individuals on the list of owners as provided by  
11 the managing agent or governing body of the  
12 shareholders association situated within a distance of  
13 five hundred feet from the nearest point of the  
14 premises for which the license is asked to the nearest  
15 point of such real estate or cooperative apartment;  
16 provided that in meeting this requirement, the  
17 applicant shall mail a notice to not less than  
18 three-fourths of the current owners and lessees of



1 record of real estate and current owners of record of  
2 shares in a cooperative apartment situated within a  
3 distance of one hundred feet from the nearest point of  
4 the premises for which the license is asked. Notice  
5 by mail may be addressed to the last known address of  
6 the person concerned or to the address as shown in the  
7 last tax return filed by the person or the person's  
8 agent or representative;

- 9 (2) In counties with a population of two hundred-fifty  
10 thousand or more, not less than two-thirds of the  
11 registered voters residing within, and small  
12 businesses situated within, a distance of five hundred  
13 feet from the nearest point of the premises for which  
14 the license is asked; provided that in meeting this  
15 requirement, the applicant shall mail notices to not  
16 less than three-fourths of the registered voters  
17 residing within, and small businesses situated within,  
18 a distance of one hundred feet from the nearest point  
19 of the premises for which the license is asked. This  
20 paragraph shall not apply to any applicant that is a  
21 hotel as defined in section 486K-1, a restaurant, or a  
22 convenience store. A notice sent pursuant to this

1 paragraph shall be addressed to the "occupant" of the  
2 residential unit or small business; and

3 (3) For each condominium project and cooperative apartment  
4 within the five hundred-foot area, one notice of the  
5 hearing shall be sent by mail addressed "To the  
6 Residents, Care of the Manager", followed by the name  
7 and address of the condominium or cooperative  
8 apartment involved.

9 The notices required under this subsection shall be mailed at  
10 least forty-five days prior to the date set for the hearing. No  
11 promotional information shall be allowed on, or accompany the  
12 notice. Before the hearing, and within seven days of having  
13 mailed the notices, the applicant shall file with the commission  
14 an affidavit that the notices have been mailed in compliance  
15 with this subsection. In addition to the affidavit [-( )], which  
16 shall be made available within the same seven-day period with  
17 proof of having mailed the notices[+], the applicant shall  
18 include both a master list of one hundred per cent of addressees  
19 and addresses required by paragraphs (1), (2), and (3), and  
20 another mailing list consisting of the portion of addressees and  
21 their respective addresses who were mailed the notice purposely  
22 needed to meet the requirements of paragraphs (1), (2), and (3).

1 The affidavit, master list, and mailing list shall be made  
2 available within seven days [+(]of the mailing of the notice by  
3 the applicant[+)], by the commission for public review upon  
4 request. For purposes of this section "master list" means every  
5 owner and lessee who would otherwise be required to receive  
6 notice of the public hearing according to the requirement of  
7 paragraphs (1), (2), and (3), even if they were not actually  
8 included in the [~~two-third~~] two-thirds or three-fourths  
9 requirement [~~(as the case may be)~~] of paragraph (1) or (2), and  
10 every condominium project and cooperative apartment qualifying  
11 in paragraph (3). The commission shall cancel the hearing if  
12 not receiving the affidavit prior to the hearing or if  
13 discovering that the affidavit is false."

14 SECTION 2. Section 281-59, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§281-59 Hearing; rehearing.** (a) Upon the day of hearing,  
17 or any adjournment thereof, the liquor commission shall consider  
18 the application and any protests and objections to the granting  
19 thereof, and hear the parties in interest. The liquor  
20 commission shall accept all written or oral testimony for or  
21 against the application whether the application is denied,  
22 refused, or withdrawn. Within [~~fifteen~~] thirty days after the

1 hearing, or within [~~thirty~~] forty-five days thereafter if in its  
2 discretion the commission extends the [~~fifteen~~] thirty days to  
3 [~~thirty~~] forty-five days, and gives public notice of same, the  
4 commission shall give its decision granting or refusing the  
5 application; provided that [~~if a majority of the:~~]  
6 notwithstanding section 91-13.5, if the commission does not make  
7 a decision granting or refusing the application, the application  
8 shall be deemed denied. If a majority of the:

9 (1) Registered voters for the area within five hundred  
10 feet of the nearest point of the premises for which  
11 the license is asked; provided that after the  
12 commission receives a copy of the list of registered  
13 voters, the commission may remove a name from its copy  
14 of the list, after confirming a lack of residency of a  
15 voter in the area, for purposes of this subsection and  
16 in accordance with procedures adopted by the  
17 commission pursuant to administrative rule; or

18 (2) Owners and lessees of record of real estate and owners  
19 of record of shares in a cooperative apartment within  
20 five hundred feet of the nearest point of the premises  
21 for which the license is asked;



1 have duly filed or caused to be filed their protests against the  
2 granting of the license, or if there appears any other  
3 disqualification under this chapter, the application shall be  
4 refused. Otherwise, the commission may in its discretion grant  
5 or refuse the same.

6 For purposes of [~~defining~~<sup>u</sup>] determining a majority of the  
7 owners and lessees of record of real estate and owners of record  
8 of shares in a cooperative apartment [<sup>u</sup>], each property counts  
9 only once. A protest submitted by the majority of the co-owners  
10 or the majority of the co-lessees of a property shall constitute  
11 a protest by all the owners or lessees of record of that  
12 property. Owners or lessees who own more than one property may  
13 count each property.

14 (b) The liquor commission shall make available to the  
15 applicant and any protester for review before the public  
16 hearing, the protest list of those persons who filed a protest  
17 or objection to the application; provided that the applicant  
18 shall not use the protest list to attempt to influence in any  
19 way any protester to withdraw the protest or objection. All  
20 applicants and protesters may submit corrections, additions, and  
21 subtractions to the master list and the protest list at the  
22 public hearing. The liquor commission shall rule on proposed

1 corrections, additions, and subtractions and give reasons for  
2 the ruling.

3 (c) The commission may also, with like discretion:

4 (1) Grant a license to one person in preference to  
5 another, without reference to any priority in the  
6 order of filing of the applications; and

7 (2) Of its own motion, or on the suggestion of any member,  
8 or of the investigator take notice of any matter or  
9 thing which in the opinion of a majority of its  
10 members would be a sufficient objection to the  
11 granting of a license; but in such case if the  
12 objection is one to which the applicant should be  
13 given a reasonable time to answer, a continuance may  
14 be granted in the discretion of the commission;

15 provided that in any case where any person affected by such  
16 decision petitions the commission for a rehearing of the  
17 application and on oath alleges facts and grounds for  
18 consideration which were not formerly presented or considered,  
19 or any other matter of fact which in the judgment of the  
20 commission seems sufficient to warrant a rehearing, such  
21 rehearing may be granted by the commission in its discretion  
22 upon the publication of notice of rehearing at least seven days

1 before the date of the rehearing. When a rehearing is allowed  
2 notice shall be given to the applicant and to the applicant's  
3 opponents, by publication or otherwise as the commission shall  
4 direct.

5 (d) Any hearing or rehearing of an application shall be  
6 conducted as a public hearing; provided that it shall not be a  
7 contested case and shall not be subject to the provisions of  
8 chapter 91."

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

11 SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Liquor Commission

**Description:**

Authorizes the liquor commission to extend the time from 30 days to 45 days for giving a decision to grant or refuse an application. Allows commission to remove names from registered voter list for lack of residency. Deems an application denied if the commission does not make a decision granting or refusing an application. Exempts hearings from chapter 91. (SD1)

