

JAN 25 2006

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



1 record of shares in a cooperative apartment situated
2 within a distance of one hundred feet from the nearest
3 point of the premises for which the license is asked.

4 Notice by mail may be addressed to the last known
5 address of the person concerned or to the address as
6 shown in the last tax return filed by the person or
7 the person's agent or representative;

- 8 (2) In counties with a population of two hundred-fifty
9 thousand or more, not less than two-thirds of the
10 registered voters residing within, and small
11 businesses situated within, a distance of five hundred
12 feet from the nearest point of the premises for which
13 the license is asked; provided that in meeting this
14 requirement, the applicant shall mail notices to not
15 less than three-fourths of the registered voters
16 residing within, and small businesses situated within,
17 a distance of one hundred feet from the nearest point
18 of the premises for which the license is asked. This
19 paragraph shall not apply to any applicant that is a
20 hotel as defined in section 486K-1, a restaurant, or a
21 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 shall
16 be made available within the same seven-day period with proof of
17 having mailed the notices), the applicant shall include both a
18 master list of one hundred per cent of addressees and addresses
19 required by paragraphs (1), (2), and (3), and another mailing
20 list consisting of the portion of addressees and their
21 respective addresses who were mailed the notice purposely needed
22 to meet the requirements of paragraphs (1), (2), and (3). The



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

14 SECTION 2. Section 281-59, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

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



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

- 8 (1) Registered voters for the area within five hundred
9 feet of the nearest point of the premises for which
10 the license is asked; or
- 11 (2) Owners and lessees of record of real estate and owners
12 of record of shares in a cooperative apartment within
13 five hundred feet of the nearest point of the premises
14 for which the license is asked;
- 15 have duly filed or caused to be filed their protests against the
16 granting of the license, or if there appears any other
17 disqualification under this chapter, the application shall be
18 refused. Otherwise, the commission may in its discretion grant
19 or refuse the same.

20 For purposes of defining "a majority of the owners and
21 lessees of record of real estate and owners of record of shares
22 in a cooperative apartment", each property counts only once. A



1 protest submitted by the majority of the co-owners or the
2 majority of the co-lessees of a property shall constitute a
3 protest by all the owners or lessees of record of that property.
4 Owners or lessees who own more than one property may count each
5 property."

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

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

9

INTRODUCED BY: 

SB. NO. 2552

Report Title:
Liquor Commission

Description:

Deems an application denied if the liquor commission does not make a decision granting or refusing the application.

