
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR VIOLATIONS INVOLVING MINORS.

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

1 SECTION 1. Section 281-101.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§281-101.5 Prohibitions involving minors; penalty.** (a)
4 ~~[No]~~ Any adult [shall provide or purchase] who provides or
5 purchases liquor for consumption or use by a person under
6 twenty-one years of age~~[-]~~ shall be guilty of the offense under
7 section 712-1250.5.

8 (b) No minor shall purchase liquor and no minor shall
9 consume or have liquor in the minor's possession or custody ~~[in~~
10 ~~any motor vehicle on a public highway or]~~ in any public place,
11 public gathering, or public amusement ~~[or]~~, at any public beach
12 or public park[+], or in any motor vehicle on a public highway;
13 provided that notwithstanding any other law to the contrary,
14 this subsection shall not apply to:

15 (1) Possession or custody of liquor by a minor in the
16 course of delivery, pursuant to the direction of the
17 minor's employer lawfully engaged in business
18 necessitating the delivery;



1 (2) Possession or custody of liquor by a minor in
2 connection with the minor's authorized participation
3 in religious ceremonies requiring the possession or
4 custody; or

5 (3) Any person between the ages of eighteen and twenty,
6 who is participating in a controlled purchase as part
7 of a law enforcement activity or a study authorized by
8 the department of health to determine the level of
9 incidence of liquor sales to minors.

10 (c) No minor shall falsify any identification or use any
11 false identification or identification of another person or of a
12 fictitious person for the purpose of buying or attempting to buy
13 liquor or for the purpose of obtaining employment to sell or
14 serve liquor on licensed premises.

15 (d) Any person under age eighteen who violates this
16 section shall be subject to the jurisdiction of the family
17 court. [~~Any person age eighteen or older who violates~~
18 ~~subsection (a) shall be guilty of a misdemeanor.~~] Any person
19 age eighteen to twenty-one who violates [~~subsections~~] subsection
20 (b) or (c) shall be guilty of a petty misdemeanor. The court
21 shall order that any person under twenty-one years of age found
22 to be in violation of this section shall have, in addition to

1 any other disposition or sentencing provision permitted by law,
2 the person's license to operate a motor vehicle, or the person's
3 ability to obtain a license to operate a motor vehicle,
4 suspended as follows:

5 (1) For licensed drivers, the driver's license shall be
6 suspended for not less than one hundred and eighty
7 days with exceptions to allow, at the discretion of
8 the sentencing court, driving to and from school,
9 school-sponsored activities, and employment;

10 (2) For persons with a provisional license, the
11 provisional license shall be suspended for not less
12 than one hundred and eighty days with exceptions to
13 allow, at the discretion of the sentencing court,
14 driving to and from school, school-sponsored
15 activities, and employment;

16 (3) For persons with an instruction permit, the
17 instruction permit shall be suspended for not less
18 than one hundred and eighty days with exceptions to
19 allow, at the discretion of the sentencing court,
20 driving to and from school, school-sponsored
21 activities, and employment; or

1 (4) For persons not licensed to drive, eligibility to
2 obtain a driver's license, provisional license, or
3 instruction permit shall be suspended until the age of
4 seventeen or for one hundred and eighty days, at the
5 discretion of the court; and
6 (5) Chapter 571 notwithstanding, in any case where a
7 person under the age of eighteen violates this
8 section, the family court judge may suspend the
9 driver's license, provisional license, or instruction
10 permit, or suspend the eligibility to obtain a
11 driver's license, provisional license, or instruction
12 permit in accordance with this section;
13 provided that the requirement to provide proof of financial
14 responsibility pursuant to section 287-20 shall not be based
15 upon a sentence imposed under paragraphs (1) and (2). In
16 addition, all persons whether or not licensed, found to be in
17 violation of this section shall be sentenced to seventy-five
18 hours of community service work, and an eight to twelve hour
19 program of alcohol education and counseling the costs of which
20 shall be borne by the offender or the offender's parent or
21 guardian."

1 SECTION 2. Section 712-1250.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§712-1250.5 Promoting intoxicating liquor to a [~~minor~~]
4 person under the age of twenty-one. (1) A person, including
5 any licensee as defined in section 281-1, commits the offense of
6 promoting intoxicating liquor to a [~~minor~~] person under the age
7 of twenty-one if [~~he~~] the person knowingly:

- 8 (a) Sells or offers for sale, influences the sale, serves,
9 delivers, or gives to a person intoxicating liquor,
10 and the person receiving the intoxicating liquor is a
11 [~~minor; or~~] person under the age of twenty-one; or
12 (b) Permits a person to possess intoxicating liquor while
13 on property under his control, and the person
14 possessing the intoxicating liquor is a [~~minor.~~]
15 person under the age of twenty-one.

16 (2) It is a defense to a prosecution for promoting
17 intoxicating liquor to a [~~minor that:~~] person under the age of
18 twenty-one that:

- 19 (a) The intoxicating liquor provided to the [~~minor~~] person
20 under the age of twenty-one was an ingredient in a
21 medicine prescribed by a licensed physician for



1 medical treatment of the [~~minor~~] person under the age
2 of twenty-one; [~~or~~]

3 (b) The intoxicating liquor was provided to the [~~minor~~]
4 person under the age of twenty-one as part of a
5 ceremony of a recognized religion; [~~or~~]

6 (c) The defendant provided the intoxicating liquor to the
7 [~~minor~~] person under the age of twenty-one with the
8 belief, which was reasonable under the circumstances,
9 that the [~~minor~~] person under the age of twenty-one
10 had attained the age of twenty-one; [~~or~~]

11 (d) The defendant provided the intoxicating liquor to the
12 [~~minor~~] person under the age of twenty-one with the
13 express consent of the parent or legal guardian and
14 with the belief, which was reasonable under the
15 circumstances, that the [~~minor~~] person under the age
16 of twenty-one would not consume any portion of the
17 substance; [~~or~~]

18 (e) The defendant provided the intoxicating liquor to the
19 [~~minor~~] person under the age of twenty-one with the
20 express consent of the parent or legal guardian and
21 with the belief, which was reasonable under the
22 circumstances, that the [~~minor~~] person under the age



1 of twenty-one would consume the substance only in the
2 presence of the parent or legal guardian; or

3 (f) The intoxicating liquor was possessed by the [~~minor~~]
4 person under the age of twenty-one to be sold or
5 served as allowed by law.

6 (3) The fact that a person engaged in the conduct
7 specified by this section is prima facie evidence that the
8 person engaged in that conduct with knowledge of the character,
9 nature, and quantity of the intoxicating liquor possessed,
10 distributed, or sold.

11 The fact that the defendant distributed or sold
12 intoxicating liquor to a [~~minor~~] person under the age of twenty-
13 one is prima facie evidence that the defendant knew the
14 transferee was a [~~minor~~] person under the age of twenty-one,
15 except as provided in subsection (2)(c).

16 [~~(4) For the purposes of this section, "minor" means any~~
17 ~~person below the age of twenty-one years.~~]

18 [~~(5)~~] (4) Promoting intoxicating liquor to a [~~minor~~]
19 person under the age of twenty-one is a misdemeanor."

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

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. This Act shall take effect on January 1, 2007.

Report Title:

Liquor to a Minor

Description:

Requires judges to suspend for 180 days the driver's licenses of licensed drivers under the age of 21 when the drivers have been convicted of illegal possession of liquor and if the defendant does not yet have driver's license, to postpone eligibility until the defendant is 17 years of age or for 180 days, whichever period is longer. Allows a judge the discretion to permit limited driving for those with a suspended license for employment or educational purposes. (CD1)

