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# A BILL FOR AN ACT

RELATING TO AMENDING OR REPEALING VARIOUS PROVISIONS OF CHAPTER 281, HAWAII REVISED STATUTES, INTOXICATING LIQUOR, FOR THE PURPOSE OF CLARIFYING LANGUAGE, CORRECTING ERRORS, AND DELETING UNNECESSARY AND OBSOLETE PROVISIONS.

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

1           SECTION 1. The legislature finds that it is often  
2 necessary to review the laws of Hawaii and to update statutes to  
3 accommodate new concepts and structures, to clarify language to  
4 recognize how various laws are being interpreted and applied,  
5 and to delete unnecessary and obsolete provisions of the law.

6           The purpose of this Act is to make revisions to chapter  
7 281, Hawaii Revised Statutes, to clarify provisions of the law  
8 based on how it is being interpreted and applied by the liquor  
9 commissions, to recognize the existence of new business  
10 structures, such as limited liability partnerships, and to  
11 propose changes to facilitate the effective administration and  
12 enforcement of the law by the liquor commissions.

13           SECTION 2. Section 281-1, Hawaii Revised Statutes, is  
14 amended by adding a new definition to be appropriately inserted  
15 and to read as follows:



1        "Partner" means a partner in a general partnership,  
2 limited partnership, or limited liability partnership."

3        SECTION 3. Section 281-4, Hawaii Revised Statutes, is  
4 amended to read as follows:

5        **"§281-4 Liquor consumption on unlicensed premises**

6 **prohibited, when.** (a) It shall be unlawful for any person who  
7 keeps or maintains any restaurant or other premises where food,  
8 beverages, or entertainment are [~~sold or~~] provided [~~for~~  
9 ~~compensation,~~], or brought in by patrons or guests, whether for  
10 compensation or not, or to which members of the public, or  
11 members of an organization, resort for food, refreshment, or  
12 entertainment, and who is not a licensee of the commission under  
13 this chapter, to promote, encourage, aid, or permit the  
14 consumption of liquor on the premises, except during the hours  
15 between which licensed premises of dispensers are permitted to  
16 be open for the transaction of business in the county where the  
17 premises are located.

18        (b) It shall be unlawful for any person who is present at  
19 any restaurant or other premises where food, beverages, or  
20 entertainment are sold [~~or~~], provided [~~for compensation~~], or  
21 brought in by patrons or guests, or to which members of the  
22 public, or members of an organization, resort for food,

1 refreshment, or entertainment, and which premises are not  
2 licensed by the commission under this chapter, to consume any  
3 liquor on the premises, except during the hours between which  
4 licensed premises of dispensers are permitted to be open for the  
5 transaction of business in the county where the premises are  
6 located.

7 (c) It shall be unlawful for any person who keeps or  
8 maintains any restaurant or other premises where food,  
9 beverages, or entertainment are [~~sold or~~] provided [~~for~~  
10 ~~compensation,~~] or brought in by patrons or guests, whether  
11 compensated or not, to sell or provide [~~any food~~] or [~~beverages~~]  
12 allow the consumption of liquor to or for any of the following  
13 persons knowing that such person has, or is about to obtain,  
14 liquor for consumption by the person on the premises, to wit:

- 15 (1) Any minor[~~τ~~];  
16 (2) Any person at the time under the influence of  
17 liquor[~~τ~~];  
18 (3) Any disorderly person[~~τ~~];  
19 (4) Any person known to be addicted to the excessive use  
20 of liquor[~~τ~~]; or  
21 (5) Any person, for consumption in any vehicle on the  
22 premises;



1 provided that the [~~sale of or the~~] providing of [~~food or~~  
 2 ~~beverages~~] liquor to or for a minor who has or is about to  
 3 obtain liquor for consumption by the minor on the premises or  
 4 allowing the consumption of liquor by a minor shall not be  
 5 deemed to be a violation of this subsection if, at the time, the  
 6 person [~~so selling or~~] providing [~~food~~] or [~~beverages~~] allowing  
 7 the consumption of liquor was misled by the appearance of the  
 8 minor and the attending circumstances into honestly believing  
 9 that such minor was of legal age and the person acted in good  
 10 faith, and it shall be incumbent upon the person to prove that  
 11 the person so acted in good faith.

12 (d) Within the meaning of this section, the word  
 13 "premises" includes any vessel as well as any place, with or  
 14 without a structure thereon, and the hours between which  
 15 licensed premises of dispensers are permitted to be open for the  
 16 transaction of business shall be deemed to be those during which  
 17 such dispensers are permitted to keep open their premises for  
 18 the sale, service, and consumption of liquor, or any of them."

19 SECTION 4. Section 281-17, Hawaii Revised Statutes, is  
 20 amended to read as follows:

21 "**§281-17 Jurisdiction and powers.** (a) The liquor  
 22 commission, within its own county, shall have the sole



1 jurisdiction, power, authority, and discretion, subject only to  
2 this chapter:

3 (1) To grant, refuse, suspend, and revoke any licenses for  
4 the manufacture, importation, and sale of liquors;

5 (2) To take appropriate action against a person who,  
6 directly or indirectly, manufactures, sells, or  
7 purchases any liquor without being authorized pursuant  
8 to this chapter; provided that in counties which have  
9 established by charter a liquor control adjudication  
10 board, the board shall have the jurisdiction, power,  
11 authority, and discretion to hear and determine  
12 administrative complaints of the director regarding  
13 violations of the liquor laws of the State or of the  
14 rules of the liquor commission, and impose penalties  
15 for violations thereof as may be provided by law;

16 (3) To control, supervise, and regulate the manufacture,  
17 importation, and sale of liquors by investigation,  
18 enforcement, and education; provided that [~~any~~  
19 ~~educational program shall be limited to licensees and~~  
20 ~~their employees and shall be financed through the~~  
21 ~~money collected from the assessment of fines against~~  
22 ~~licensees,]~~ moneys which are not received from license



1           fees may be used for education, enforcement, and  
2           programs to promote compliance with liquor laws  
3           pursuant to the rules of the commission;

4           (4) From time to time to make, amend, and repeal such  
5           rules, not inconsistent with this chapter, as in the  
6           judgment of the commission seem appropriate for  
7           carrying out this chapter and for the efficient  
8           administration thereof, and the proper conduct of the  
9           business of all licensees, including every matter or  
10          thing required to be done or which may be done with  
11          the approval or consent or by order or under the  
12          direction or supervision of or as prescribed by the  
13          commission; which rules, when adopted as provided in  
14          chapter 91 shall have the force and effect of law;

15          (5) Subject to chapter 76, to appoint and remove an  
16          administrator, who may also be appointed an  
17          investigator and who shall be responsible for the  
18          operations and activities of the staff. The  
19          administrator may hire and remove ~~hearings~~ hearings  
20          officers, investigators, and clerical or other  
21          assistants as its business may from time to time  
22          require, ~~to~~ prescribe their duties, and fix their



1 compensation; to engage the services of experts and  
2 persons engaged in the practice of a profession, if  
3 deemed expedient. Every investigator, within the  
4 scope of the investigator's duties, shall have the  
5 powers of a police officer;

6 (6) To limit the number of licenses of any class or kind  
7 within the county, or the number of licenses of any  
8 class or kind to do business in any given locality,  
9 when in the judgment of the commission such  
10 limitations are in the public interest;

11 (7) To prescribe the nature of the proof to be furnished,  
12 the notices to be given, and the conditions to be met  
13 or observed in case of the issuance of a duplicate  
14 license in place of one alleged to have been lost or  
15 destroyed, including a requirement of any indemnity  
16 deemed appropriate to the case;

17 (8) To fix the hours between which licensed premises of  
18 any class or classes may regularly be open for the  
19 transaction of business, which shall be uniform  
20 throughout the county as to each class respectively;

21 (9) To prescribe all forms to be used for the purposes of  
22 this chapter not otherwise provided for in this



1 chapter, and the character and manner of keeping of  
2 books, records, and accounts to be kept by licensees  
3 in any matter pertaining to their business;

4 (10) To investigate violations of this chapter, chapter  
5 244D and, notwithstanding any law to the contrary,  
6 violations of the [~~applicable~~] department of health's  
7 applicable allowable noise levels, through its  
8 investigators or otherwise, to include covert  
9 operations, and to report violations to the  
10 prosecuting officer for prosecution and, where  
11 appropriate, the director of taxation to hear and  
12 determine complaints against any licensee;

13 (11) To prescribe, by rule, the terms, conditions, and  
14 circumstances under which persons or any class of  
15 persons may be employed by holders of licenses;

16 (12) To prescribe, by rule, the term of any license or  
17 solicitor's and representative's permit authorized by  
18 this chapter, the annual or prorated amount, the  
19 manner of payment of fees for the licenses and  
20 permits, and the amount of filing fees; and



1 (13) To prescribe, by rule, the circumstances and penalty  
2 for the unauthorized manufacturing or selling of any  
3 liquor.

4 (b) Subject only to this chapter, the commission or board  
5 and each member thereof shall have the same powers respecting  
6 the administering of oaths, compelling the attendance of  
7 witnesses and the production of documentary evidence, and  
8 examining the witnesses as are possessed by a circuit court,  
9 except that the commission or board and each member thereof  
10 shall not be bound by the strict legal rules of evidence. In  
11 addition, the commission or board, through its administrator,  
12 shall have the power to require the production of, and to  
13 examine any books, papers, and records of any licensee [~~which~~  
14 that may pertain to the licensee's business under the license or  
15 [~~which~~ that may pertain to a matter at a hearing before the  
16 commission or board or to an investigation by the commission or  
17 board[-]; provided that the commission or board shall not be  
18 responsible for enforcing any conditions arising from a contract  
19 or other agreement of the licensee relating to the licensed  
20 premises.

21 The exercise by the commission or board of the power,  
22 authority, and discretion vested in it pursuant to this chapter



1 shall be final and shall not be reviewable by or appealable to  
2 any court or tribunal, except as otherwise provided in this  
3 chapter or chapter 91."

4 SECTION 5. Section 281-17.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) Any such liquor license fees or any moneys collected  
7 or received by any liquor commission under this chapter may only  
8 be used for costs and expenses directly relating to operational  
9 and administrative costs actually incurred by the liquor  
10 commission collecting or receiving such liquor license fees or  
11 moneys. Such fees or moneys shall not be used for any costs or  
12 expenses other than those directly relating to its operation and  
13 administration~~[-]~~, except as otherwise provided by law."

14 SECTION 6. Section 281-21, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§281-21 Service of subpoenas by investigators, police  
17 officers, or other law enforcement officers; witnesses' fees.**

18 Any investigator, police officer, or other law enforcement  
19 officer may serve any subpoena issued by the liquor commission  
20 [~~or~~], liquor control adjudication board~~[-]~~, or administrator.

21 Every witness attending or testifying at any hearing of the  
22 commission or board in response to a subpoena issued by it or



1 the administrator shall be paid as provided for in section 621-  
2 7. If a witness is subpoenaed by direction of the commission,  
3 [~~or~~] board, or administrator, the witness' fees shall be paid  
4 out of any funds which may be set aside for the expenses of the  
5 commission or board and, if the witness is subpoenaed on behalf  
6 of any interested party, the witness' fees shall be paid by that  
7 party."

8 SECTION 7. Section 281-31, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§281-31 Licenses, classes.** (a) Licenses may be granted  
11 by the liquor commission as provided in this section.

12 (b) Class 1. Manufacturers' license. A license for the  
13 manufacture of liquor shall authorize the licensee to  
14 manufacture the liquor therein specified and to sell it at  
15 wholesale in original packages to any person who holds a license  
16 to resell it and to sell draught beer or wine manufactured from  
17 grapes or other fruits grown in the [~~State~~] state in any  
18 quantity to any person for private use and consumption. Under  
19 this license, no liquor shall be consumed on the premises except  
20 as authorized by the commission. Of this class, there shall be  
21 the following kinds:

22 (1) Beer;



- 1 (2) Wine;
- 2 (3) Alcohol; and
- 3 (4) Other specified liquor.

4 It shall be unlawful for any holder of a manufacturer's  
 5 license to have any interest whatsoever in the license or  
 6 licensed premises of any other licensee. This subsection shall  
 7 not prevent the holder of a [~~beer class~~] manufacturer's license  
 8 under this chapter or under the law of another jurisdiction from  
 9 maintaining any interest in the license or licensed premises of  
 10 a [~~beer and wine class~~] wholesale dealer licensee under this  
 11 chapter [~~whose wholesaling is limited to beer, other than direct~~  
 12 ~~ownership of a beer and wine class wholesale dealer's license,~~  
 13 ~~or direct ownership of a partnership share, one or more shares~~  
 14 ~~of stock, or similar proprietary stake in the holder of a beer~~  
 15 ~~and wine class wholesale dealer's license)].~~

16 (c) Class 2. Restaurant license.

17 (1) A license under this class shall authorize the  
 18 licensee to sell liquors specified in this subsection  
 19 for consumption on the premises; provided that a  
 20 restaurant licensee, with commission approval, may  
 21 provide off-premises catering[+] of food and liquor;  
 22 provided further that the catering activity shall be



1 directly related to the licensee's operation as a  
2 restaurant. A licensee under this class shall be  
3 issued a license according to the category of  
4 establishment the licensee owns or operates. The  
5 categories of establishment shall be as follows:

6 (A) A standard bar; or

7 (B) Premises in which live entertainment or recorded  
8 music is provided. Facilities for dancing by the  
9 patrons may be permitted as provided by  
10 commission rules.

11 (2) If a licensee under class 2 desires to change the  
12 category of establishment the licensee owns or  
13 operates, the licensee shall apply for a new license  
14 applicable to the category of the licensee's  
15 establishment.

16 (3) [~~For each category of class 2 licenses,~~] Of this  
17 class, there shall be the following kinds:

18 (A) General (includes all liquors except alcohol);

19 (B) Beer and wine; and

20 (C) Beer.

21 [~~Any~~] Notwithstanding section 281-57, the commission may approve  
22 at one public hearing and without notice the change to a class 2



1 restaurant license of a licensee holding a [~~different class of~~  
 2 class 5 dispenser license [~~on June 19, 1990, and who would~~  
 3 ~~otherwise come within this class of license shall not be~~  
 4 ~~required to apply for a new license.~~] who meets the requirements  
 5 of a class 2 license.

6 (d) Class 3. Wholesale dealers' license. A license for  
 7 the sale of liquors at wholesale shall authorize the licensee to  
 8 import and sell only to licensees or to others who are by law  
 9 authorized to resell but are not by law required to hold a  
 10 license, the liquors therein specified [~~in quantities not less~~  
 11 ~~than five gallons at one time if sold from or in bulk containers~~  
 12 ~~or not less than one gallon if bottled goods~~]; provided that  
 13 samples of liquor may be sold back to the manufacturer. [~~The~~  
 14 ~~license may authorize the licensee to sell draught beer in~~  
 15 ~~quantities not less than five gallons at one time to any person~~  
 16 ~~for private use and consumption if the licensee files an~~  
 17 ~~affidavit with the commission that there is not a class 4 retail~~  
 18 ~~dealers licensee available to sell the wholesalers brand of~~  
 19 ~~draught beer.~~] Under the license, no liquor shall be consumed  
 20 on the premises except as authorized by the commission. Of this  
 21 class, there shall be the following kinds:

22 (1) General (includes all liquors except alcohol);



1 (2) Beer and wine; and

2 (3) Alcohol.

3 If any wholesale dealer solicits or takes any orders in any  
4 county other than that where the dealer's place of business is  
5 located, the orders may be filled only by shipment direct from  
6 the county in which the wholesale dealer has the dealer's  
7 license. Nothing in this subsection shall prevent a wholesaler  
8 from selling liquors to post exchanges, [~~ships~~] ships' service  
9 stores, army or navy officers' clubs, or similar organizations  
10 located on army or navy reservations, or to any vessel other  
11 than vessels performing a regular water transportation service  
12 between any two or more ports in the [~~State,~~] state, or to  
13 aviation companies who operate an aerial transportation  
14 enterprise as a common carrier, under chapter 269, engaged in  
15 regular flight passenger services between any two or more  
16 airports in the [~~State~~] state for use on aircraft, or aviation  
17 companies engaged in transpacific flight operations for use on  
18 aircraft outside the jurisdiction of the State.

19 (e) Class 4. Retail dealers' license. A license to sell  
20 liquors at retail or to class 10 licenses shall authorize the  
21 licensee to sell the liquors therein specified in their original  
22 packages. Under the license, no liquor shall be consumed on the



1 premises except as authorized by the commission. Of this class,  
2 there shall be the following kinds:

3 (1) General (includes all liquors except alcohol);

4 (2) Beer and wine; and

5 (3) Alcohol.

6 (f) Class 5. Dispensers' license.

7 (1) A license under this class shall authorize the  
8 licensee to sell liquors specified in this subsection  
9 for consumption on the premises. A licensee under  
10 this class shall be issued a license according to the  
11 category of establishment the licensee owns or  
12 operates. The categories of establishments shall be  
13 as follows:

14 (A) A standard bar;

15 (B) Premises in which a person performs or entertains  
16 unclothed or in attire restricted to use by  
17 entertainers pursuant to commission rules;

18 (C) Premises in which live entertainment or recorded  
19 music is provided; provided that facilities for  
20 dancing by the patrons may be permitted as  
21 provided by commission rules; or





1 (D) Premises in which employees or entertainers are  
 2 compensated to sit with patrons, regardless of  
 3 whether the employees or entertainers are  
 4 consuming nonalcoholic beverages while in the  
 5 company of the patrons pursuant to commission  
 6 rules.

7 (2) If a licensee under class 5 desires to change the  
 8 category of establishment the licensee owns or  
 9 operates, the licensee shall apply for a new license  
 10 applicable to the category of the licensee's  
 11 establishment.

12 (3) [~~For each category of class 5 licenses,~~] Of this  
 13 class, there shall be the following kinds:

- 14 (A) General (includes all liquors except alcohol);
- 15 (B) Beer and wine; and
- 16 (C) Beer.

17 (g) Class 6. Club license. A club license shall be  
 18 general only (but excluding alcohol) and shall authorize the  
 19 licensee to sell liquors to members of the club and to guests of  
 20 the club enjoying the privileges of membership, for consumption  
 21 only on the premises kept and operated by the club; provided  
 22 that the license shall also authorize any club member to keep in



1 the member's private locker on the premises a reasonable  
2 quantity of liquor, if owned by the member, for the member's own  
3 personal use and not to be sold and that may be consumed only on  
4 the premises. A club licensee shall be authorized to host  
5 charitable functions that are open to the general public only  
6 pursuant to commission rules.

7 The categories of establishment shall be as follows:

8 (1) A standard bar; or

9 (2) Premises in which live entertainment or recorded music  
10 is provided. Facilities for dancing by the patrons  
11 may be permitted as provided by commission rules.

12 ~~[(h) Class 7. Vessel license. A general license may be~~  
13 ~~granted to the owner of any vessel performing a regular water~~  
14 ~~transportation passenger service between any two or more ports~~  
15 ~~in the State for the sale of liquor (other than alcohol) on~~  
16 ~~board the vessel while in the waters of the State; provided the~~  
17 ~~sales are made only while the vessel is en route and only for~~  
18 ~~consumption by passengers on board. If the vessel has a home~~  
19 ~~port in the State, the license shall be issuable in the county~~  
20 ~~in which the home port is situated; provided that if the~~  
21 ~~licensee's home port is not situated in this State, the license~~  
22 ~~shall be issuable in the city and county of Honolulu. If, on~~



1 ~~any vessel for which no license has been obtained under this~~  
2 ~~chapter, any liquor is sold or served within three miles of the~~  
3 ~~shore of any island of the State, it shall constitute a~~  
4 ~~violation of this chapter.~~

5 ~~(i)]~~ (h) Class 8. Transient vessel license. A general  
6 license may be granted to the owner of any vessel [~~that does not~~  
7 ~~fall within class 7]~~ for the sale of liquor (other than alcohol)  
8 on board the vessel while en route in any port of the [~~State.~~]  
9 state. Sales shall be made only for consumption by passengers  
10 and their guests on board the vessel. The license shall be  
11 issuable in each county where the sales are to be made; provided  
12 that the application for the license may be made by any agent  
13 representing the owner.

14 ~~(j)]~~ (i) Class 9. Tour or cruise vessel license. A  
15 general license may be granted to the owner of any tour or  
16 cruise vessel for the sale of liquor (other than alcohol) on  
17 board the vessel while in the waters of the [~~State.~~] state;  
18 provided that sales be made only for consumption by passengers  
19 on board while the vessel is in operation outside the port or  
20 dock of any island of the [~~State.~~] state, unless otherwise  
21 approved by the county where the license has been issued. [~~If~~  
22 ~~the vessel has a home port in the State, the]~~ The license shall



1 be issuable in the county wherein the home port is situated[+  
2 ~~provided that if the licensee's home port is not situated in~~  
3 ~~this State, the license shall be issuable in the city and county~~  
4 ~~of Honolulu]~~. If, on any vessel for which no license has been  
5 obtained under this chapter, any liquor is sold or served within  
6 three miles of the shore of any island of the [~~State,~~] state, it  
7 shall constitute a violation of this chapter.

8 The categories of establishment shall be as follows:

- 9 (1) A standard bar; or  
10 (2) Premises in which live entertainment or recorded music  
11 is provided. Facilities for dancing by the patrons  
12 may be permitted as provided by commission rules.

13 [~~(k)~~] (j) Class 10. Special license. A special license  
14 may be granted for the sale of liquor for a period not to exceed  
15 three days [~~on any occasion and under any conditions as may be~~  
16 ~~approved by the commission.~~] and pursuant to commission rule may  
17 be approved by the administrator for fundraising events by  
18 nonprofit organizations, political candidates, and political  
19 parties; provided that any registered educational or charitable  
20 nonprofit organization may sell liquors in their original  
21 packages for off-premises consumption. Of this class, there  
22 shall be the following kinds:



- 1 (1) General (includes all liquors except alcohol);
- 2 (2) Beer and wine; and
- 3 (3) Beer.

4 Under this license, the liquors therein specified shall be  
5 consumed on the premises.

6 ~~[(1)]~~ (k) Class 11. Cabaret license. A cabaret license  
7 shall be general only (but excluding alcohol) and shall  
8 authorize the sale of liquors for consumption on the premises.  
9 This license shall be issued only for premises where food is  
10 served, facilities for dancing by the patrons are provided,  
11 including a dance floor, and live or amplified recorded music or  
12 professional entertainment, except professional entertainment by  
13 a person who performs or entertains unclothed, is provided for  
14 the patrons; provided that professional entertainment by persons  
15 who perform or entertain unclothed shall be authorized by:

- 16 (1) A cabaret license for premises where professional  
17 entertainment by persons who perform or entertain  
18 unclothed was presented on a regular and consistent  
19 basis immediately prior to June 15, 1990; or
- 20 (2) A cabaret license that, pursuant to rules adopted by  
21 the liquor commission, permits professional



1 entertainment by persons who perform or entertain  
2 unclothed.

3 A cabaret license under paragraph (1) or (2) authorizing  
4 professional entertainment by persons who perform or entertain  
5 unclothed shall be transferable through June 30, 2000. A  
6 cabaret license under paragraph (1) or (2) authorizing  
7 professional entertainment by persons who perform or entertain  
8 unclothed shall not be transferable after June 30, 2000, except  
9 when the transferee obtains approval from the liquor commission,  
10 and pursuant to rules adopted by the commission.

11 Notwithstanding any rule of the liquor commission to the  
12 contrary, cabarets in resort areas may be opened for the  
13 transaction of business until 4 a.m. throughout the entire week.

14 [~~m~~] (1) Class 12. Hotel license. A license to sell  
15 liquor in a hotel shall authorize the licensee to provide  
16 entertainment and dancing on the hotel premises and to sell all  
17 liquors, except alcohol, for consumption on the premises;  
18 provided that a hotel licensee, with commission approval, may  
19 provide off-premises catering~~[7]~~ of food and liquor, if the  
20 catering activity is directly related to the licensee's  
21 [~~operation as a hotel.~~] food service.



1 Procedures such as room service, self-service (no-host),  
2 minibars or similar service in guest rooms, and service at  
3 [~~private~~] parties in areas that are the property of and  
4 contiguous to the hotel, are permitted with commission approval.

5 Any licensee who would otherwise fall within the hotel  
6 license class but holds a different class of license may be  
7 required to apply for a hotel license.

8 If the licensee applies for a change of classification  
9 prior to July 30, 1992, the licensee shall not be subject to the  
10 requirements of sections 281-52, 281-54, and 281-57 through  
11 281-59.

12 Any licensee holding a class 12 license on [+]May 1,  
13 2007, [+] and who would otherwise come within this class of  
14 license may apply to the liquor commission in which the licensee  
15 is seeking a change in liquor license for a change to a class 15  
16 license; provided that the licensee shall not be subject to the  
17 requirements of section 281-54 and sections 281-57 to 281-60.

18 If a licensee holding a class 12 license on [+]May 1,  
19 2007, [+] applies for a change to a class 15 license, the  
20 respective liquor commission shall hold a public hearing upon  
21 notice, and upon the day of hearing, or any adjournment thereof,  
22 the liquor commission shall consider the application, accept all



1 written or oral testimony for or against the application, and  
2 render its decision granting or refusing the application. If  
3 the application is denied, the class 12 license shall continue  
4 in effect in accordance with law.

5 [~~n~~] (m) Class 13. Caterer license. A general license  
6 may be granted to any [~~licensee~~] applicant who serves food as  
7 part of their operation for the sale of liquor (other than  
8 alcohol) while performing food catering functions[~~-~~] off the  
9 premises.

10 No catering service for the sale of liquor shall be  
11 performed off the licensee's premises, unless prior written  
12 notice of the service has been delivered to the office of the  
13 liquor commission of the county concerned. The notice shall  
14 state the date, time, and location of the proposed event and  
15 shall include a written statement signed by the owner or  
16 representative of the property that the function will be subject  
17 to the liquor laws and to inspection by investigators.

18 [~~o~~] (n) Class 14. Brewpub license. A brewpub licensee:  
19 (1) Shall manufacture not more than ten thousand barrels  
20 of malt beverages on the licensee's premises during  
21 the license year;





- 1           (2) May sell malt beverages manufactured on the licensee's
- 2                   premises for consumption on the premises;
- 3           (3) May sell malt beverages manufactured by the licensee
- 4                   in brewery-sealed packages to class 3[7] wholesale
- 5                   dealer licensees pursuant to conditions imposed by
- 6                   county planning and public works departments;
- 7           (4) May sell intoxicating liquor, purchased from a class
- 8                   1[7] manufacturer licensee, or a class 3[7] wholesale
- 9                   dealer's licensee, to consumers for consumption on the
- 10                  licensee's premises[7 ~~provided that the premises is~~
- 11                  ~~owned and operated by the licensee~~]. The categories
- 12                  of establishments shall be as follows:
- 13                   (A) A standard bar; or
- 14                   (B) Premises in which live entertainment or recorded
- 15                           music is provided. Facilities for dancing by the
- 16                           patrons may be permitted as provided by
- 17                           commission rules;
- 18           (5) May sell malt beverages manufactured on the licensee's
- 19                   premises to consumers in brewery-sealed kegs and
- 20                   growlers for off-premises consumption; provided that
- 21                   for purposes of this paragraph, "growler" means a

1 glass container, not to exceed one half-gallon, which  
2 [~~may~~] shall be securely sealed;

3 (6) May sell malt beverages manufactured on the licensee's  
4 premises to consumers, in recyclable containers that  
5 may be provided by the licensee or by the consumer,  
6 not to exceed one gallon per container, which are  
7 securely sealed on the licensee's premises, for off-  
8 premises consumption;

9 (7) Shall comply with all regulations pertaining to class  
10 4 retail licensees when engaging in the retail sale of  
11 malt beverages; and

12 (8) May sell malt beverages manufactured on the licensee's  
13 premises in brewery-sealed containers directly to  
14 class 2 restaurant licensees, class 3 wholesale dealer  
15 licensees, class 4 retail dealer licensees, class 5  
16 dispensers' licensees, class 6 club licensees, class  
17 [~~7, 8, and 9 vessel licensees,~~] 8 transient vessel  
18 licensees, class 9 tour or cruise vessel licensees,  
19 class 10 special licensees, class 11 cabaret  
20 licensees, class 12 hotel licensees, class 13 caterer  
21 licensees, and class 15 condominium hotel license,  
22 pursuant to conditions imposed by county [~~planning and~~



1 ~~public works departments and] regulations governing~~  
 2 ~~class 1 manufacturer's licensees and class 3 wholesale~~  
 3 ~~dealers licensees [7 and~~  
 4 ~~(9) May conduct the activities described in paragraphs (1)~~  
 5 ~~through (8) at one location other than the licensee's~~  
 6 ~~premises; provided that the manufacturing takes place~~  
 7 ~~in Hawaii; and provided further the other location is~~  
 8 ~~properly licensed by the same ownership].~~

9 [~~p~~] (o) Class 15. Condominium hotel license. A license  
 10 to sell liquor in a condominium hotel shall authorize the  
 11 licensee to provide entertainment and dancing on the condominium  
 12 hotel premises and to sell all liquors, except alcohol, for  
 13 consumption on the premises; provided that a condominium hotel  
 14 licensee, with commission approval, may provide off-premises  
 15 catering; provided further that the catering activity is  
 16 directly related to the licensee's operation as a condominium  
 17 hotel.

18 Procedures such as room service, self-service (no-host),  
 19 minibars or similar service in apartments, and service at  
 20 private parties in areas that are the property of and contiguous  
 21 to the condominium hotel, are permitted with commission  
 22 approval.



1 A condominium hotel licensee shall not sell liquor in the  
2 manner authorized by a class 4 retail dealer's license.

3 Any licensee who would otherwise fall within the  
4 condominium hotel license class but holds a different class of  
5 license may be required to apply for a condominium hotel  
6 license.

7 [~~(q)~~] (p) It shall be unlawful for any retail licensee,  
8 except a class 10 licensee, to purchase, acquire, or sell liquor  
9 from any person other than a wholesaler licensed pursuant to  
10 this chapter, except as otherwise provided in this section.

11 [~~(r)~~] (q) Any provision to the contrary notwithstanding,  
12 at the discretion of the county liquor commission, permission  
13 may be granted to a bona fide hotel, restaurant, or club  
14 licensed under class 2, class 6, class 11, class 12, class 14,  
15 or class 15 to allow a patron to remove from the licensed  
16 premises any portion of wine that was purchased for consumption  
17 with a meal; provided that it is recorked or resealed in its  
18 original container. This subsection applies only to a valid  
19 holder of a class 2, class 6, class 11, class 12, class 14, or  
20 class 15 license engaged in meal service.

21 [~~(s)~~] (r) Sections 281-57 to 281-60 shall not apply to  
22 classes [~~7~~] 8 through 10 and 13."



1 SECTION 8. Section 281-32, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§281-32 Licenses, temporary.** A temporary license of any  
4 class and kind specified in section 281-31 may be granted under  
5 the following conditions[-]:

- 6 (1) The premises shall have been operated under a license  
7 of the same class, [~~and~~] kind, and category issued by  
8 the liquor commission at least one year immediately  
9 prior to the date of filing of the application for a  
10 temporary license[-], except as otherwise approved by  
11 the commission;
- 12 (2) The license of the same class, [~~and~~] kind, and  
13 category then in effect for the premises shall be  
14 surrendered in such manner and at such time as the  
15 commission shall direct[-];
- 16 (3) The applicant for a temporary license shall have filed  
17 with the commission an application for a license of  
18 the same class, [~~and~~] kind, and category currently or  
19 previously [~~then~~] in effect for the premises[-];
- 20 (4) The application for a temporary license shall be  
21 accompanied by a license fee in such amount as may be  
22 prescribed by the commission. If the application is



1 denied or withdrawn, the fee which accompanied the  
2 application shall [~~be refunded in full.~~] become a  
3 realization of the county;

4 (5) A temporary license shall be for a period of not in  
5 excess of one hundred and twenty days. The license  
6 may be renewed at the discretion of the commission for  
7 not more than one additional [~~sixty-day~~] one hundred  
8 twenty-day period upon payment of such additional fee  
9 as may be prescribed by the commission and upon  
10 compliance with all conditions required in this  
11 section and section 281-31. When a temporary license  
12 has expired and no permanent license has been issued,  
13 the sale and service of liquor shall cease until the  
14 permanent license is issued; provided that, when  
15 applicable, the license shall be properly renewed;

16 (6) A temporary license shall authorize the licensee to  
17 purchase liquor only by payment in currency, check, or  
18 certified check for the liquor before or at the time  
19 of delivery of the liquor to the licensee[~~-~~], except  
20 as otherwise provided by commission rule; and



1 (7) Sections 281-52 and 281-54 and sections 281-56 to 281-  
2 61 shall not apply to any application for a temporary  
3 license."

4 SECTION 9. Section 281-35, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§281-35 Special conditions; club licenses.** No liquor  
7 shall be sold under a club license to any person not a member of  
8 the club nor a guest thereof enjoying the [~~privilege~~] privileges  
9 of membership, but a member or a guest enjoying the privileges  
10 of membership may purchase liquor for consumption on the  
11 premises by the person's own guests.

12 The liquor commission may by [~~regulations~~] rule require the  
13 keeping and posting of lists of the members of a club, and the  
14 keeping and production of records as to membership and the  
15 registration of guests enjoying the privileges of membership.

16 No liquor shall be sold or kept for sale at any club except  
17 by the club itself pursuant to its license. If any liquor is  
18 sold or kept on the club premises for sale or barter by any  
19 member, employee, or person other than the club itself, the club  
20 shall be deemed to be selling without a license [~~whether it~~  
21 ~~holds its own license or not~~]."

1 SECTION 10. Section 281-39, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Except for a condominium hotel operator under a class  
4 15 license, no change of premises under any issued license shall  
5 be allowed unless the doing of business on the new premises is  
6 authorized in the same manner as provided by this chapter for  
7 approval of any original premises; provided that the holder of  
8 any manufacturer's license or a wholesale dealer's license  
9 issued by the commission of any county may, through authorized  
10 solicitors or representatives, solicit and take orders for  
11 direct shipment [~~for~~] of liquor in permitted quantities in any  
12 other county."

13 SECTION 11. Section 281-41, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§281-41 Transfer of licenses; notice of change in**  
16 **officers, directors, and stockholders of corporate licenses,**  
17 **partners of a partnership license, and members of a limited**  
18 **liability company license; penalty.** (a) No license issued  
19 under this chapter to an original applicant or to any transferee  
20 shall be transferable or be transferred within one year of the  
21 issuance or transfer, except for good cause shown to the  
22 satisfaction of the liquor commission. Transfers shall be for





1 the same class, kind, and category of license then in effect.  
2 No license issued under this chapter shall be transferable or be  
3 transferred except upon written application to the commission by  
4 the proposed transferee, and after prior inspection of the  
5 premises, reference to, and report by an inspector, and a public  
6 hearing held by the commission not less than fourteen days after  
7 one publication of notice thereof, but without sending notice of  
8 the hearing by mail to persons being the owners or lessees of  
9 real estate situated within the vicinity of the premises and  
10 without the right to [~~the owners or lessees to protest the~~  
11 ~~transfer of a license.~~] automatic refusal based on protests by  
12 40 per cent of owners, lessees, or registered voters pursuant to  
13 section 281-39.5, or the majority of owners, lessees, or  
14 registered voters pursuant to section 281-59. Exceptions are  
15 class 5 and 11 licensees who must comply with the notice  
16 requirements as set forth in [~~section~~] sections 281-57[-] to  
17 281-60.

18 [~~(b) No class 5 or 12 license issued to a standard bar, as~~  
19 ~~defined in section 281-1, shall be transferable to other than a~~  
20 ~~standard bar and that such license shall be subject to~~  
21 ~~revocation if the licensed premises is not retained as a~~  
22 ~~standard bar except upon written application to the commission~~



1 ~~by the licensee or the proposed transferee, subject to sections~~  
2 ~~281-51 to 281-60.~~

3 ~~(e)]~~ (b) A county may increase the requirements for  
4 transfers of class 5, category ~~[+]~~ (1) ~~[+]~~ (B) and (D), and class  
5 11 licenses by ordinance designating one or more areas within  
6 the county as special liquor districts and specifying the  
7 requirements applicable to transfers of any of these licenses  
8 within each district.

9 ~~[(d)]~~ (c) For the purpose of this section, "special liquor  
10 district" means an area designated by a county for restoration,  
11 reservation, historic preservation, redevelopment, rejuvenation,  
12 or residential protection, in which development is guided to  
13 protect or enhance the physical and visual aspects of the area  
14 for the benefit of the community as a whole.

15 ~~[(e)]~~ (d) Where a license is held by a partnership, the  
16 commission may, notwithstanding this section, approve the  
17 transfer of the [license] partnership interest upon the death or  
18 withdrawal of a member of the partnership to any remaining  
19 partner or partners or to a new partner or partners without  
20 publication of notice ~~[and without]~~ at a public hearing. Prior  
21 to the admission or withdrawal of a partner or partners, the  
22 licensee shall so notify the commission in writing, stating the



1 name, age, and place of residence of the partner or partners who  
2 have withdrawn or been admitted, as the case may be. If the  
3 commission finds a partner to be an unfit or improper person to  
4 hold a license in the partner's own right pursuant to section  
5 281-45, it may deny the admission of the partner or partners.

6       ~~[+f)]~~ (e) Where a license is held by a limited  
7 partnership, limited liability partnership, or a limited  
8 liability company, the admission or withdrawal of a partner,  
9 limited partner, partner of a limited liability partnership, or  
10 a member of the limited liability company shall not be deemed a  
11 transfer of the license held by the partnership or limited  
12 liability company, but the licensee shall, prior to such  
13 admission or withdrawal, so notify the commission in writing,  
14 stating the name of the partner, partners, member, or members  
15 who have withdrawn, if such be the case, and the name, age, and  
16 place of residence of the partner, partners, member, or members  
17 who have been admitted, if that be the case. If the commission  
18 finds a [~~limited~~] partner or a member to be an unfit or improper  
19 person to hold a license in the [~~limited~~] partner's or member's  
20 own right pursuant to section 281-45, it may [~~revoke the license~~  
21 ~~or suspend the license of the partnership or the limited~~  
22 ~~liability company until the unfit or improper partner or member~~



1 ~~is removed or replaced.]~~ deny the admission of the general or  
2 limited partner of a limited partnership, limited liability  
3 partnership, or member of a limited liability company.

4       ~~(g)~~ (f) Except as otherwise provided in this section,  
5 the same procedure shall be followed in regard to the transfer  
6 of a license as is prescribed by this chapter for obtaining a  
7 license. Sections 281-51 to 281-60, except where inconsistent  
8 with any provision hereof, are hereby made applicable to such  
9 transfers. The word "applicant", as used in such sections,  
10 shall include each such proposed transferee, and the words,  
11 "application for a license or for the renewal of a license", as  
12 used in such sections, shall include an application for the  
13 transfer of a license.

14       ~~(h)~~ (g) Upon the hearing, the commission shall consider  
15 the application and any objections to the granting thereof and  
16 hear the parties in interest. It shall inquire into the  
17 propriety of each transfer and determine whether the proposed  
18 transferee is a fit and proper person to hold the license. It  
19 may approve a transfer or refuse to approve a transfer and the  
20 refusal by the commission to approve a transfer shall be final  
21 and conclusive, unless an appeal is taken as provided in chapter  
22 91.



1           ~~[(i)]~~ (h) If any licensee without such approval transfers  
2 to any other person the licensee's business for which the  
3 licensee's license was issued, either openly or under any  
4 undisclosed arrangement, whereby any person, other than the  
5 licensee, comes into possession or control of the business or  
6 takes in any partner or associate, the commission may in its  
7 discretion suspend or cancel the license.

8           ~~[(j)]~~ (i) If the licensee is a corporation, a change in  
9 ownership of any outstanding capital stock shall not be deemed a  
10 transfer of a license; provided that in the case of a change in  
11 ownership of twenty-five per cent or more of the stock or in the  
12 case of change in ownership of any number of shares of the stock  
13 that results in the transferee thereof becoming the owner of  
14 twenty-five per cent or more of the outstanding capital stock,  
15 the corporate licensee shall, prior to the date of the transfer,  
16 apply for and secure the approval of the transfer from the  
17 commission in writing. If the commission finds that the  
18 proposed transferee is an unfit or improper person to hold a  
19 license in the proposed transferee's own right pursuant to  
20 section 281-45, it shall not approve the proposed transfer. If  
21 any transfer is made without the prior approval of the  
22 commission, the commission may in its discretion revoke or



1 suspend the license until it determines that the transferee is a  
2 fit and proper person, and if the commission finds that the  
3 transferee is not a fit and proper person, until a retransfer or  
4 new transfer of the capital stock is made to a fit and proper  
5 person pursuant to section 281-45. In addition, the corporate  
6 licensee shall, within thirty days from the date of election of  
7 any officer or director, notify the commission in writing of the  
8 name, age, and place of residence of the officer or director.  
9 If the commission finds the transferee, officer, or director an  
10 unfit or improper person to hold a license in the transferee's,  
11 officer's, or director's own right pursuant to section 281-45,  
12 it may in its discretion revoke the license or suspend the  
13 license until a retransfer or new transfer of the capital stock  
14 is effected to a fit or proper person pursuant to section 281-45  
15 or until the unfit or improper transferee, officer, or director  
16 is removed or replaced by a fit and proper person pursuant to  
17 section 281-45.

18 [~~(k)~~] (j) If a licensee closes out the business for which  
19 the license is held, during the term for which the license was  
20 issued, the licensee shall, within five days from the date of  
21 closing the same, give the commission written notice thereof and  
22 surrender the licensee's license for cancellation.



1       (k) The conversion of an entity into any other form of  
2 entity and the merger of any entity with any other entity shall  
3 not be deemed a transfer of the license; provided that the  
4 licensee, prior to the date of the conversion or merger, shall  
5 apply for and secure the approval of the commission without any  
6 requirement for publication of notice. The foregoing shall not  
7 preclude compliance with subsection (d) upon a change in any of  
8 the partners or members, or with subsection (i) upon a change in  
9 any of the shareholders, officers, or directors of any entity  
10 occurring concurrently with a conversion or merger."

11       SECTION 12. Section 281-45, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       "**§281-45 No license issued, when.** No license shall be  
14 issued under this chapter:

15       (1) To any minor or to any person who has been convicted  
16 of a felony and not pardoned (except that the  
17 commission may grant a license under this chapter to a  
18 corporation that has been convicted of a felony where  
19 the commission finds that the organization's officers  
20 and shareholders of twenty-five per cent or more of  
21 outstanding stock are fit and proper persons to have a  
22 license), or to any other person not deemed by the

- 1           commission to be a fit and proper person to have a  
2           license;
- 3           (2) To a corporation the officers and directors of which,  
4           or any of them, would be disqualified under paragraph  
5           (1) [~~of this section~~] from obtaining the license  
6           individually, or a stockholder of which, owning or  
7           controlling twenty-five per cent or more of the  
8           outstanding capital stock or a stockholder of which,  
9           owning or controlling twenty-five per cent or more of  
10          the outstanding capital stock, or to a general  
11          partnership, limited partnership, limited liability  
12          partnership, or limited liability company whose  
13          partner or member holding twenty-five per cent or more  
14          interest of which, or any of them would be  
15          disqualified under that paragraph from obtaining the  
16          license individually;
- 17          (3) Unless the applicant for a license or a renewal of a  
18          license, or in the case of a transfer of a license,  
19          both the transferor and the transferee, present to the  
20          issuing agency a signed certificate from the director  
21          of taxation and from the Internal Revenue Service  
22          showing that the applicant or the transferor and





1 transferee do not owe the state or federal governments  
2 any delinquent taxes, penalties, or interest; or  
3 (4) To any applicant who has had any liquor license  
4 revoked less than two years previous to the date of  
5 the application for any like or other license under  
6 this chapter."

7 SECTION 13. Section 281-52, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§281-52 Public hearing.** No license shall be granted  
10 except after a public hearing by the liquor commission upon  
11 notice as prescribed in this chapter; provided that [~~section~~]  
12 sections 281-57 to 281-60 shall not apply to the holder of a  
13 restaurant general license, a wholesale general license, [~~or~~] a  
14 retail general license, or a dispenser's general license, who  
15 applies for a different kind of license within the class of the  
16 holder's existing license, on the same premises, or to the  
17 holder of a cabaret license who applies for a dispenser license  
18 of any kind, on the same premises, or to the holder of a  
19 dispenser's beer and wine license who applies for dispenser's  
20 beer license, on the same premises, or to a licensee whose  
21 licensed premises have been demolished and replaced by another  
22 building on the same premises and who applies for the same or



1 lesser kind of the same class of liquor license previously held  
2 by the licensee on said premises."

3 SECTION 14. Section 281-53, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§281-53 Application; penalty for false statements.** Every  
6 application for a license or for the renewal of a license or for  
7 the transfer of a license shall be in writing, signed and,  
8 except for the renewal of a license, verified by the oath of the  
9 applicant, or in the case of a corporation or unincorporated  
10 association by the proper officer or officers thereof, or if a  
11 partnership by a general partner thereof, or if a limited  
12 liability partnership by a partner thereof, or if a limited  
13 liability company by a member thereof, made before any official  
14 authorized by law to administer oaths, and shall be addressed to  
15 the liquor commission, and set forth:

16 (1) The full name, age, and place of residence of the  
17 applicant; if a copartnership, the names, ages, and  
18 respective places of residence of all the partners; if  
19 a limited liability company, its full name and the  
20 names of all its members; if a corporation or joint-  
21 stock company, its full name and the names of its  
22 officers and directors, and the names of all



1 stockholders owning twenty-five per cent or more of  
2 the outstanding capital stock; and if any other  
3 association of individuals, the names, ages, and  
4 respective places of residence of its officers and the  
5 number of its members;

6 (2) A particular description of the place or premises  
7 where the proposed license is to be exercised, so that  
8 the exact location and extent thereof may be clearly  
9 and definitely determined therefrom;

10 (3) The class and kind of license applied for; and

11 (4) Any other matter or information pertinent to the  
12 subject matter which may be required by the rules [~~and~~  
13 ~~regulations~~] of the commission.

14 If any false statement is knowingly made in any application  
15 which is verified by oath, the applicant, and in the case of the  
16 application being made by a corporation, limited liability  
17 company, association, or club, the persons signing the  
18 application, shall be guilty of perjury, and shall be subject to  
19 the penalties prescribed by law for such offense. If any false  
20 statement is knowingly made in any application which is not  
21 verified by oath, the person or persons signing the application



1 shall be guilty of a misdemeanor and upon conviction thereof  
2 shall be punished as in section 281-102 provided."

3 SECTION 15. Section 281-56, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) On every application referred to the investigator  
6 under section 281-55, the investigator shall report in writing  
7 to the liquor commission and, if the application is for a  
8 license of any class other than [~~class 7,~~] class 8, [~~or~~] class  
9 9, or class 10, such report shall [~~show~~] include:

10 (1) A description of the premises intended to become the  
11 licensed premises, and the equipment and surrounding  
12 conditions, including the relationship to surrounding  
13 residences which may share a common boundary or a  
14 common structure with the premises proposed for  
15 licensing;

16 (2) If the application is made by a person who has held a  
17 prior license for the same or any other premises  
18 within two years past, a statement as to the manner in  
19 which the premises have been operated and the business  
20 conducted under the previous license;

21 (3) The locality of any church, chapel, or school, if any,  
22 within a distance of five hundred feet from the



- 1 nearest point of the premises for which the license is  
2 asked to the nearest point of the church, chapel, or  
3 school grounds;
- 4 (4) The number, position, and distance from the premises,  
5 in respect of which a license is applied for, of any  
6 other licensed premises of the same class in the  
7 neighborhood;
- 8 (5) The number of licenses of the same class or kind  
9 already issued and being lawfully exercised within the  
10 county;
- 11 (6) Whether or not in the opinion of the investigator the  
12 applicant is a fit and proper person to have a  
13 license;
- 14 (7) Whether or not the applicant is for any reason  
15 disqualified by this chapter from obtaining or  
16 exercising a license; and whether or not the applicant  
17 has complied with all the requirements of this chapter  
18 relative to the making and filing of the applicant's  
19 application;
- 20 (8) For the next application for a license that was  
21 previously denied, refused, or withdrawn, evidence, to  
22 be provided by the applicant, of a substantial change



1 in the circumstances that caused the previous denial,  
2 refusal, or withdrawal; and  
3 (9) Any and all other matters and things, [~~which~~] that in  
4 the judgment of the investigator pertain to or affect  
5 the matter of the application, or the issuance or the  
6 exercise of the license applied for; provided that  
7 when the license application is for premises within a  
8 county [~~encompassing~~] with a population of [~~500,000~~]  
9 five hundred thousand residents or more, the report  
10 shall specify the possible adverse effects the  
11 premises, after licensing, may have on the surrounding  
12 community."

13 SECTION 16. Section 281-57, Hawaii Revised Statutes, is  
14 amended by amending subsections (b), (c), and (d) to read as  
15 follows:

16 "(b) If no preliminary hearing is had or if the  
17 application is not denied upon a preliminary hearing, the  
18 commission shall fix a day for the public hearing of the  
19 application (other than an application for an alcohol license or  
20 a license in classes [~~7~~] 8 to 10 and 13) and shall give public  
21 notice of the hearing at least once in each of two consecutive  
22 weeks, in the county, the date of the hearing to be not less



1 than forty-five days after the first notice. The notice shall  
2 require that all protests or objections against the issuance of  
3 the license applied for shall be filed with the administrator of  
4 the commission at or before the time of hearing. Before giving  
5 the notice the commission shall collect from the applicant the  
6 cost of giving the public notice or require a deposit to cover  
7 the same.

8 (c) Immediately upon the commission's fixing a day for the  
9 public hearing of the application, the applicant shall mail a  
10 notice setting forth the time and place of the hearing on the  
11 application to each of the following:

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



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





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

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

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



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

15 (d) For purposes of this section, notice to one co-owner  
16 and one co-lessee of real estate shall be sufficient notice to  
17 all co-owners and all co-lessees of that real estate; except  
18 that one notice shall be sent to each individual unit of a  
19 cooperative apartment as provided in this section.

20 "(c) Immediately upon the commission's fixing a day for the  
21 public hearing of the application, the applicant shall mail a



1 notice setting forth the time and place of the hearing on the  
2 application to each of the following:

3 (1) Not less than two-thirds of the owners and lessees of  
4 record of real estate and owners of record of shares  
5 in a cooperative apartment or to those individuals on  
6 the list of owners as provided by the managing agent  
7 or governing body of the shareholders association  
8 situated within a distance of five hundred feet from  
9 the nearest point of the premises for which the  
10 license is asked to the nearest point of such real  
11 estate or cooperative apartment; provided that in  
12 meeting this requirement, the applicant shall mail a  
13 notice to not less than three-fourths of the owners  
14 and lessees of record of real estate and owners of  
15 record of shares in a cooperative apartment situated  
16 within a distance of one hundred feet from the nearest  
17 point of the premises for which the license is asked.  
18 Notice by mail may be addressed to the last known  
19 address of the person concerned or to the address as  
20 shown in the last tax return filed by the person or  
21 the person's agent or representative;



- 1           (2) In counties with a population of [~~two hundred fifty~~  
2           ~~thousand~~] five hundred thousand or more, not less than  
3           two-thirds of the registered voters residing within,  
4           and small businesses situated within, a distance of  
5           five hundred feet from the nearest point of the  
6           premises for which the license is asked; provided that  
7           in meeting this requirement, the applicant shall mail  
8           notices to not less than three-fourths of the  
9           registered voters residing within, and small  
10          businesses situated within, a distance of one hundred  
11          feet from the nearest point of the premises for which  
12          the license is asked. This paragraph shall not apply  
13          to [~~any applicant that is a hotel as defined in~~  
14          ~~section 486K-1, a condominium hotel, a restaurant, or~~  
15          ~~a convenience store.~~] applications for class 2, class  
16          4, class 12, and class 15 licenses. A notice sent  
17          pursuant to this paragraph shall be addressed to the  
18          "occupant" of the residential unit or small business;  
19          and
- 20          (3) For each condominium project and cooperative apartment  
21          within the five hundred-foot area, one notice of the  
22          hearing shall be sent by mail addressed "To the



1 Residents, Care of the Manager", followed by the name  
2 and address of the condominium or cooperative  
3 apartment involved.

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



1 be required to receive notice of the public hearing according to  
2 the requirement of paragraphs (1), (2), and (3), even if they  
3 were not actually included in the two-third or three-fourths  
4 requirement (as the case may be) of paragraph (1) or (2), and  
5 every condominium project and cooperative apartment qualifying  
6 in paragraph (3). ~~[The commission shall cancel the hearing if  
7 not receiving the affidavit prior to the hearing or if  
8 discovering that the affidavit is false.]~~ When the requirements  
9 of this section have not been met, the commission may cancel the  
10 hearing or continue the public hearing subject to the provisions  
11 of section 281-57 and this section.

12 (d) For purposes of this section, notice to one co-owner  
13 and one co-lessee of real estate shall be sufficient notice to  
14 all co-owners and all co-lessees of that real estate; and one  
15 notice is sufficient to an owner or lessee of multiple parcels;  
16 except that one notice shall be sent to each individual unit of  
17 a cooperative apartment as provided in this section."

18 SECTION 17. Section 281-58, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§281-58 Protests.** Protests against the granting of a  
21 license may be filed by any person. Protests against the  
22 granting of a license upon such application, which qualifies for



1 an automatic refusal pursuant to section 281-39.5 or 281-59, may  
2 be so filed by any registered voter for the area within five  
3 hundred feet of the nearest point at which the applicant  
4 proposes to establish or continue the applicant's business under  
5 the license applied for, or by any owner or lessee of record of  
6 real estate or by any owner of record of a share in a  
7 cooperative apartment situated within a distance of five hundred  
8 feet from the nearest point of the premises for which the  
9 license is asked to the nearest point of such real estate or  
10 cooperative apartment."

11 SECTION 18. Section 281-59, Hawaii Revised Statutes, is  
12 amended amending subsections (a) and (b) to read as follows:

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



1 shall give its decision granting or refusing the application;  
2 provided that if a majority of the:

3 (1) Registered voters for the area within five hundred  
4 feet of the nearest point of the premises for which  
5 the license is asked; or

6 (2) Owners and lessees of record of real estate and owners  
7 of record of shares in a cooperative apartment within  
8 five hundred feet of the nearest point of the premises  
9 for which the license is asked[+],

10 have duly filed or caused to be filed their protests against the  
11 granting of the license, or if there appears any other  
12 disqualification under this chapter, the application shall be  
13 refused. Otherwise, the commission may in its discretion grant  
14 or refuse the same.

15 For purposes of defining "a majority of the owners and  
16 lessees of record of real estate and owners of record of shares  
17 in a cooperative apartment", each property counts only once[-];  
18 provided that roadways shall not be included. A protest  
19 submitted by the majority of the co-owners or the majority of  
20 the co-lessees of a property shall constitute a protest by all  
21 the owners or lessees of record of that property. [~~Owners~~] A





1 protest filed by owners or lessees who own more than one  
2 property [~~may count~~] shall be counted for each property.

3 (b) The liquor commission shall make available to the  
4 applicant and any protester for review before the public  
5 hearing, the protest list of those persons who filed a protest  
6 or objection to the application; provided that the applicant  
7 shall not use the protest list to attempt to influence in any  
8 way any protester to withdraw the protest or objection. All  
9 applicants and protesters may submit corrections, additions, and  
10 subtractions to the master list and the protest list at the  
11 public hearing[-]; provided that additions or corrections to the  
12 voter registration list shall be certified by the clerk of the  
13 county. The liquor commission shall rule on proposed  
14 corrections, additions, and subtractions and give reasons for  
15 the ruling."

16 SECTION 19. Section 281-61, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§281-61 **Renewals.** (a) Other than for good cause, the  
19 renewal of an existing license shall be granted upon the filing  
20 of an application; provided that if:

21 (1) Complaints from the public;

22 (2) Reports from the commission's investigators; or



1           (3) Adjudications of the commission or the liquor control  
2           adjudication board,  
3 indicate that noise created by patrons departing from the  
4 premises disturbs residents on the street or of the neighborhood  
5 in which the premises are located, or that noise from the  
6 premises or adjacent related outdoor areas [~~under the licensee's~~  
7 ~~control~~] such as parking lots or lanais exceed standards  
8 contained in state or county noise codes [~~and~~] or intrudes into  
9 nearby residential units, the commission may deny the renewal  
10 application or withhold the issuance of a renewed license until  
11 corrective measures meeting the commission's approval are taken.

12           (b) The commission[~~7~~] or board, pursuant to section 281-  
13 17, at the time of renewal or at any time, may revoke, suspend,  
14 or place conditions or restrictions on any license issued under  
15 this chapter for the purpose of preventing activities within the  
16 licensed premises or adjacent areas [~~under the licensee's~~  
17 ~~control~~] that are potentially injurious to the health, safety,  
18 and welfare of the public and neighborhood including but not  
19 limited to criminal activity, including assault, drug dealing,  
20 drug use, or prostitution, upon [~~petition of the administrator~~  
21 ~~of the appropriate county agency,~~] proper notice to the



1 licensee, and a hearing before the commission pursuant to  
2 chapter 91."

3 SECTION 20. Section 281-62, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **§281-62 Reduction or increase in area of licensed**

6 **premises.** The liquor commission may, in its discretion, permit  
7 the reduction or the increase in the area of the licensed  
8 premises of any licensee[-] without publication of notice at a  
9 public hearing; provided that, where an increase in premises may  
10 significantly impact the public, the commission may require  
11 hearings pursuant to sections 281-39.5 and 281-57 to 281-60.

12 Whenever any reduction or increase is permitted, the same shall  
13 be endorsed in some appropriate manner upon the license."

14 SECTION 21. Section 281-78, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§281-78 Prohibitions.** (a) No person shall, except as  
17 permitted in section 291-3.4, consume any liquor on any public  
18 highway or any public sidewalk.

19 (b) At no time under any circumstances shall any licensee  
20 or its employee:

21 (1) Sell, serve, or furnish any liquor to, or allow the  
22 consumption of any liquor by:



- 1 (A) Any minor;
- 2 (B) Any person at the time under the influence of  
3 liquor;
- 4 (C) Any person known to the licensee to be addicted  
5 to the excessive use of intoxicating liquor; or
- 6 (D) Any person for consumption in any vehicle that is  
7 licensed to travel on public highways;
- 8 provided that the consumption or sale of liquor to a  
9 minor shall not be deemed to be a violation of this  
10 subsection if, in making the sale or allowing the  
11 consumption of any liquor by a minor, the licensee was  
12 misled by the appearance of the minor and the  
13 attending circumstances into honestly believing that  
14 the minor was of legal age and the licensee acted in  
15 good faith; and provided further that it shall be  
16 incumbent upon the licensee to prove that the licensee  
17 so acted in good faith;
- 18 (2) Permit any liquor to be consumed on the premises of  
19 the licensee or on any premises connected therewith,  
20 whether there purchased or not, except as permitted by  
21 the terms of its license;



- 1           (3) Permit any liquor to be sold or served by any person  
2                   eighteen to twenty years of age except in licensed  
3                   establishments where selling or serving the  
4                   intoxicating liquor is part of the minor's employment,  
5                   and where there is proper supervision of these minor  
6                   employees to ensure that the minors shall not consume  
7                   the intoxicating liquor;
- 8           (4) Permit any liquor to be sold or served by any person  
9                   below the age of eighteen years upon any licensed  
10                  premises, except in individually specified licensed  
11                  establishments found to be otherwise suitable by the  
12                  liquor commission in which an approved program of job  
13                  training and employment for dining room waiters and  
14                  waitresses is being conducted in cooperation with the  
15                  University of Hawaii, the [~~state~~] community college  
16                  system, or a federally sponsored personnel development  
17                  and training program, under arrangements that ensure  
18                  proper control and supervision of employees;
- 19           (5) Knowingly permit any person under the influence of  
20                  liquor or disorderly person to be or remain in or on  
21                  the licensed premises;

- 1 (6) Fail immediately to prevent or suppress any violent,  
2 quarrelsome, disorderly, lewd, immoral, or unlawful  
3 conduct of any person on the premises;
- 4 (7) Sell any draught beer unless upon the faucet, spigot,  
5 or outlet wherefrom the beer is drawn there is  
6 attached a clear and legible notice, placard, or  
7 marker which in the English language indicates and  
8 declares the name or brand adopted by the manufacturer  
9 of the draught beer, so situated as to be clearly  
10 legible for a distance of at least ten feet from the  
11 spigot, faucet, or outlet, to a purchaser with normal  
12 vision; or
- 13 (8) Receive from a person, as payment or as a  
14 consideration for liquor, any personal or household  
15 goods, including clothing and food, or any implements  
16 of trade. Any person violating this paragraph shall  
17 be guilty of a misdemeanor and upon conviction shall  
18 be punished as provided in section 281-102.
- 19 (c) It shall be unlawful for any person to sell  
20 intoxicating liquor in any form other than for consumption as a  
21 beverage."



1 SECTION 22. Section 281-91, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§281-91 Revocation or suspension of license; hearing.**

4 The liquor commission or liquor control adjudication board may  
5 revoke any license at any time issued, or suspend the right of  
6 the licensee to use the licensee's license, or assess and  
7 collect a [~~penalty,~~] fine, or reprimand the licensee, either for  
8 the violation of any condition of the license or of any  
9 provisions of this chapter or of any rule [~~or regulation~~]  
10 applicable thereto, or upon the conviction in a court of law of  
11 the licensee of any violation of this chapter or of any other  
12 law relative to the licensee's license or the proper exercise  
13 thereof, or of any violation of law in any other respect on  
14 account whereof the commission or board may deem the licensee to  
15 be an unfit or improper person to hold a license, or for any  
16 other cause deemed sufficient by the commission or board.

17 In every case where it is proposed to revoke or suspend the  
18 exercise of any license or assess and collect a [~~penalty~~] fine  
19 for any cause other than a conviction at law of the licensee as  
20 above specified, the licensee shall be entitled to notice and  
21 hearing in conformity with chapter 91, the notice to be given at  
22 least five days before the hearing, except that any special



1 license shall be subject to summary revocation for any violation  
2 of or evidence of intent to violate the proper exercise thereof,  
3 without hearing before the commission or board.

4 At the hearing, before final action is taken by the  
5 commission or board, the licensee shall be entitled to be heard  
6 in person or through counsel and shall be given a full and fair  
7 opportunity to present any facts showing that the alleged cause  
8 or causes for the proposed action do not exist, or any reasons  
9 why no [~~penalty~~] fine should be imposed. The testimony taken at  
10 the hearing shall be under oath and recorded stenographically,  
11 or by machine, but the parties shall not be bound by the strict  
12 rules of evidence; certified copies of any transcript and of any  
13 other record made of or at the hearing shall be furnished to the  
14 licensee upon the licensee's request and at the licensee's  
15 expense.

16 Any order of revocation, suspension, fine, or reprimand  
17 imposed by the commission or board upon the licensee shall be in  
18 addition to any penalty that might be imposed upon the licensee  
19 upon the licensee's conviction [~~at~~] in a court of law for any  
20 violation of this chapter. The liquor commission or liquor  
21 control adjudication board may subject the licensee to both the  
22 fine assessed and suspension of the license. No licensee shall





1 be subject to both the [~~penalty~~] fine assessed and collected by  
2 the commission or board and to revocation [~~or suspension~~] of  
3 license. The amount of [~~penalty~~] fine assessed and collected by  
4 the commission or board from any licensee for any particular  
5 offense shall not exceed the sum of [~~\$2,000.~~] \$5,000.

6 Whenever the service of any order or notice shall be  
7 required by this section, the service shall be made in the  
8 following manner: in the case of any violation based upon the  
9 personal observation of any investigator, a written notice of  
10 the violation shall be given to the licensee or the licensee's  
11 registered manager in active charge of the premises, or by  
12 serving a certified copy of the notice or order upon the holder  
13 of the license wherever the holder may be found in the circuit  
14 wherein the holder is licensed, or, if the holder cannot be  
15 found after diligent search, by leaving a certified copy thereof  
16 at the holder's dwelling house or usual place of abode with some  
17 person of suitable age and discretion residing therein; and if  
18 the holder of the license cannot be found after diligent search,  
19 and service cannot be made, then service may be made by posting  
20 a certified copy of the notice or order in a conspicuous place  
21 on the licensed premises and depositing another certified copy  
22 thereof in the certified mail of the United States post office,



1 postage prepaid, addressed to the holder of the license at the  
2 holder's last known residence address; provided that in the case  
3 of a partnership, corporation, unincorporated association, or  
4 limited liability company, service may be made upon any partner,  
5 officer, or member thereof."

6 SECTION 23. Section 281-32.3, Hawaii Revised Statutes, is  
7 repealed.

8 [~~"§281-32.3 One-day special licenses for fundraising~~  
9 ~~events.~~ Notwithstanding any other section of this chapter to  
10 the contrary, the commission shall adopt rules to streamline  
11 procedures including the waiving of hearings, fees, notarization  
12 of documents, submission of floor plans, and other requirements,  
13 to provide for the issuance of special licenses for the sale of  
14 liquor for a period not to exceed one day, for classes of  
15 fundraising events by nonprofit organizations established by the  
16 commission. The commission shall also adopt rules to facilitate  
17 the issuance of such licenses through the mail.

18 Any registered educational or charitable nonprofit  
19 organization may sell liquors in their original packages for  
20 off-premises consumption for fundraising events allowed in this  
21 section, in accordance with rules adopted by the commission  
22 pursuant to chapter 91." ]



1 SECTION 24. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 25. This Act shall take effect upon its approval.



**Report Title:**

Liquor Law; Technical Changes

**Description:**

Amends sections of chapter 281 to update the liquor laws.  
(HB2253 HD1)

HB2253 HD1 HMS 2008-1671

