
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[~~er~~];
- 16 (2) Any person at the time under the influence of
- 17 liquor[~~er~~];
- 18 (3) Any disorderly person[~~er~~];
- 19 (4) Any person known to be addicted to the excessive use
- 20 of liquor[~~er~~]; 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 [~~in~~] en route within the
9 jurisdictional limits of the state and within any port of the
10 [~~State.~~] state. Sales shall be made only for consumption by
11 passengers and their guests on board the vessel. The license
12 shall be issuable in each county where the sales are to be made;
13 provided that the application for the license may be made by any
14 agent representing the owner.

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



1 ~~the vessel has a home port in the State, the] The license shall~~

2 be issuable in the county wherein the home port is situated[~~+~~

3 ~~provided that if the licensee's home port is not situated in~~

4 ~~this State, the license shall be issuable in the city and county~~

5 ~~of Honolulu].~~ If, on any vessel for which no license has been

6 obtained under this chapter, any liquor is sold or served within

7 three miles of the shore of any island of the [~~State,~~] state, it

8 shall constitute a violation of this chapter.

9 The categories of establishment shall be as follows:

10 (1) A standard bar; or

11 (2) Premises in which live entertainment or recorded music

12 is provided. Facilities for dancing by the patrons

13 may be permitted as provided by commission rules.

14 [~~+~~] (j) Class 10. Special license. A special license

15 may be granted for the sale of liquor for a period not to exceed

16 three days [~~on any occasion and under any conditions as may be~~

17 approved by the commission.] and pursuant to commission rule may

18 be approved by the administrator for fundraising events by

19 nonprofit organizations, political candidates, and political

20 parties; provided that any registered educational or charitable

21 nonprofit organization may sell liquors in their original



1 packages for off-premises consumption. Of this class, there
2 shall be the following kinds:

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

6 Under this license, the liquors therein specified shall be
7 consumed on the premises.

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

- 18 (1) A cabaret license for premises where professional
19 entertainment by persons who perform or entertain
20 unclothed was presented on a regular and consistent
21 basis immediately prior to June 15, 1990; or



1 (2) A cabaret license that, pursuant to rules adopted by
2 the liquor commission, permits professional
3 entertainment by persons who perform or entertain
4 unclothed.

5 A cabaret license under paragraph (1) or (2) authorizing
6 professional entertainment by persons who perform or entertain
7 unclothed shall be transferable through June 30, 2000. A
8 cabaret license under paragraph (1) or (2) authorizing
9 professional entertainment by persons who perform or entertain
10 unclothed shall not be transferable after June 30, 2000, except
11 when the transferee obtains approval from the liquor commission,
12 and pursuant to rules adopted by the commission.
13 Notwithstanding any rule of the liquor commission to the
14 contrary, cabarets in resort areas may be opened for the
15 transaction of business until 4 a.m. throughout the entire week.

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



1 catering activity is directly related to the licensee's
2 [~~operation as a hotel.~~] food service.

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

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

10 If the licensee applies for a change of classification
11 prior to July 30, 1992, the licensee shall not be subject to the
12 requirements of sections 281-52, 281-54, and 281-57 through
13 281-59.

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

20 If a licensee holding a class 12 license on [+]May 1,
21 2007, [+] applies for a change to a class 15 license, the
22 respective liquor commission shall hold a public hearing upon



1 notice, and upon the day of hearing, or any adjournment thereof,
2 the liquor commission shall consider the application, accept all
3 written or oral testimony for or against the application, and
4 render its decision granting or refusing the application. If
5 the application is denied, the class 12 license shall continue
6 in effect in accordance with law.

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

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

20 [~~o~~] (n) Class 14. Brewpub license. A brewpub licensee:



- 1 (1) Shall manufacture not more than ten thousand barrels
2 of malt beverages on the licensee's premises during
3 the license year;
- 4 (2) May sell malt beverages manufactured on the licensee's
5 premises for consumption on the premises;
- 6 (3) May sell malt beverages manufactured by the licensee
7 in brewery-sealed packages to class 3[7] wholesale
8 dealer licensees pursuant to conditions imposed by
9 county planning and public works departments;
- 10 (4) May sell intoxicating liquor, purchased from a class
11 1[7] manufacturer licensee, or a class 3[7] wholesale
12 dealer's licensee, to consumers for consumption on the
13 licensee's premises[~~; provided that the premises is~~
14 ~~owned and operated by the licensee]~~. The categories
15 of establishments shall be as follows:
- 16 (A) A standard bar; or
- 17 (B) Premises in which live entertainment or recorded
18 music is provided. Facilities for dancing by the
19 patrons may be permitted as provided by
20 commission rules;
- 21 (5) May sell malt beverages manufactured on the licensee's
22 premises to consumers in brewery-sealed kegs and



1 growlers for off-premises consumption; provided that
2 for purposes of this paragraph, "growler" means a
3 glass container, not to exceed one half-gallon, which
4 ~~may~~ shall be securely sealed;

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

11 (7) Shall comply with all regulations pertaining to class
12 4 retail licensees when engaging in the retail sale of
13 malt beverages; and

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



1 licenses, and class 15 condominium hotel license,
2 pursuant to conditions imposed by county [~~planning and~~
3 ~~public works departments and~~] regulations governing
4 class 1 manufacturer's licensees and class 3 wholesale
5 dealers licensees [~~and~~
6 ~~(9) May conduct the activities described in paragraphs (1)~~
7 ~~through (8) at one location other than the licensee's~~
8 ~~premises; provided that the manufacturing takes place~~
9 ~~in Hawaii; and provided further the other location is~~
10 ~~properly licensed by the same ownership].~~

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

20 Procedures such as room service, self-service (no-host),
21 minibars or similar service in apartments, and service at
22 private parties in areas that are the property of and contiguous



1 to the condominium hotel, are permitted with commission
2 approval.

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

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

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

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



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

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

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

8 (1) The premises shall have been operated under a license
9 of the same class, [~~and~~] kind, and category issued by
10 the liquor commission at least one year immediately
11 prior to the date of filing of the application for a
12 temporary license[~~-~~], except as otherwise approved by
13 the commission;

14 (2) The license of the same class, [~~and~~] kind, and
15 category then in effect for the premises shall be
16 surrendered in such manner and at such time as the
17 commission shall direct[~~-~~];

18 (3) The applicant for a temporary license shall have filed
19 with the commission an application for a license of
20 the same class, [~~and~~] kind, and category currently or
21 previously [~~then~~] in effect for the premises[~~-~~];

1 (4) The application for a temporary license shall be
2 accompanied by a license fee in such amount as may be
3 prescribed by the commission. If the application is
4 denied or withdrawn, the fee which accompanied the
5 application shall [~~be refunded in full.~~] become a
6 realization of the county;

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

19 (6) A temporary license shall authorize the licensee to
20 purchase liquor only by payment in currency, check, or
21 certified check for the liquor before or at the time

1 of delivery of the liquor to the licensee[-], except
2 as otherwise provided by commission rule; and

3 (7) Sections 281-52 and 281-54 and sections 281-56 to 281-
4 61 shall not apply to any application for a temporary
5 license."

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

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

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

18 No liquor shall be sold or kept for sale at any club except
19 by the club itself pursuant to its license. If any liquor is
20 sold or kept on the club premises for sale or barter by any
21 member, employee, or person other than the club itself, the club



1 shall be deemed to be selling without a license [~~whether it~~
2 ~~holds its own license or not~~]."

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

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

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

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



1 issuance or transfer, except for good cause shown to the
2 satisfaction of the liquor commission. Transfers shall be for
3 the same class, kind, and category of license then in effect.
4 No license issued under this chapter shall be transferable or be
5 transferred except upon written application to the commission by
6 the proposed transferee, and after prior inspection of the
7 premises, reference to, and report by an inspector, and a public
8 hearing held by the commission not less than fourteen days after
9 one publication of notice thereof, but without sending notice of
10 the hearing by mail to persons being the owners or lessees of
11 real estate situated within the vicinity of the premises and
12 without the right to [~~the owners or lessees to protest the~~
13 ~~transfer of a license.~~] automatic refusal based on protests by
14 40 per cent of owners and lessees, or registered voters pursuant
15 to section 281-39.5, or the majority of owners and lessees, or
16 registered voters pursuant to section 281-59. Exceptions are
17 class 5 and 11 licensees who must comply with the [~~notice~~]
18 requirements as set forth in [~~section 281-57.~~] sections 281-51
19 to 281-60.

20 [~~(b) No class 5 or 12 license issued to a standard bar, as~~
21 ~~defined in section 281-1, shall be transferable to other than a~~
22 ~~standard bar and that such license shall be subject to~~



1 ~~revocation if the licensed premises is not retained as a~~
2 ~~standard bar except upon written application to the commission~~
3 ~~by the licensee or the proposed transferee, subject to sections~~
4 ~~281-51 to 281-60.~~

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

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

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



1 to the admission or withdrawal of a partner or partners, the
 2 licensee shall so notify the commission in writing, stating the
 3 name, age, and place of residence of the partner or partners who
 4 have withdrawn or been admitted, as the case may be. If the
 5 commission finds a partner to be an unfit or improper person to
 6 hold a license in the partner's own right pursuant to section
 7 281-45, it may revoke or suspend the license of the partnership
 8 until the unfit or improper partner is removed and replaced.

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



1 own right pursuant to section 281-45, it may revoke [~~the~~
2 ~~license~~] or suspend the license of the partnership or the
3 limited liability company until the unfit or improper partner or
4 member is removed or replaced.

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

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



1 and conclusive, unless an appeal is taken as provided in chapter
2 91.

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

10 [~~(j)~~] (i) If the licensee is a corporation, a change in
11 ownership of any outstanding capital stock shall not be deemed a
12 transfer of a license; provided that in the case of a change in
13 ownership of twenty-five per cent or more of the stock or in the
14 case of change in ownership of any number of shares of the stock
15 that results in the transferee thereof becoming the owner of
16 twenty-five per cent or more of the outstanding capital stock,
17 the corporate licensee shall, prior to the date of the transfer,
18 apply for and secure the approval of the transfer from the
19 commission in writing. If the commission finds that the
20 proposed transferee is an unfit or improper person to hold a
21 license in the proposed transferee's own right pursuant to
22 section 281-45, it shall not approve the proposed transfer. If



1 any transfer is made without the prior approval of the
2 commission, the commission may in its discretion revoke or
3 suspend the license until it determines that the transferee is a
4 fit and proper person, and if the commission finds that the
5 transferee is not a fit and proper person, until a retransfer or
6 new transfer of the capital stock is made to a fit and proper
7 person pursuant to section 281-45. In addition, the corporate
8 licensee shall, within thirty days from the date of election of
9 any officer or director, notify the commission in writing of the
10 name, age, and place of residence of the officer or director.
11 If the commission finds the transferee, officer, or director an
12 unfit or improper person to hold a license in the transferee's,
13 officer's, or director's own right pursuant to section 281-45,
14 it may in its discretion revoke the license or suspend the
15 license until a retransfer or new transfer of the capital stock
16 is effected to a fit or proper person pursuant to section 281-45
17 or until the unfit or improper transferee, officer, or director
18 is removed or replaced by a fit and proper person pursuant to
19 section 281-45.

20 [~~(k)~~] (j) If a licensee closes out the business for which
21 the license is held, during the term for which the license was
22 issued, the licensee shall, within five days from the date of



1 closing the same, give the commission written notice thereof and
2 surrender the licensee's license for cancellation.

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

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

15 "**§281-45 No license issued, when.** No license shall be
16 issued under this chapter:

17 (1) To any minor or to any person who has been convicted
18 of a felony and not pardoned (except that the
19 commission may grant a license under this chapter to a
20 corporation that has been convicted of a felony where
21 the commission finds that the organization's officers
22 and shareholders of twenty-five per cent or more of



1 outstanding stock are fit and proper persons to have a
2 license), or to any other person not deemed by the
3 commission to be a fit and proper person to have a
4 license;

5 (2) To a corporation the officers and directors of which,
6 or any of them, would be disqualified under paragraph
7 (1) [~~of this section~~] from obtaining the license
8 individually, or a stockholder of which, owning or
9 controlling twenty-five per cent or more of the
10 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 (1) from obtaining
16 the 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~~] five hundred thousand or more, not less than
11 two-thirds of the registered voters residing within,
12 and small businesses situated within, a distance of
13 five hundred feet from the nearest point of the
14 premises for which the license is asked; provided that
15 in meeting this requirement, the applicant shall mail
16 notices to not less than three-fourths of the
17 registered voters residing within, and small
18 businesses situated within, a distance of one hundred
19 feet from the nearest point of the premises for which
20 the license is asked. This paragraph shall not apply
21 to [~~any applicant that is a hotel as defined in~~
22 ~~section 486K-1, a condominium hotel, a restaurant, or~~



1 ~~a convenience store.]~~ applications for class 2, class
2 4, class 12, and class 15 licenses. A notice sent
3 pursuant to this paragraph shall be addressed to the
4 "occupant" of the residential unit or small business;
5 and

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

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



1 paragraphs (1), (2), and (3), and another mailing list
2 consisting of the portion of addressees and their respective
3 addresses who were mailed the notice purposely needed to meet
4 the requirements of paragraphs (1), (2), and (3). The
5 affidavit, master list, and mailing list shall be made available
6 within seven business days (of the mailing of the notice by the
7 applicant) by the commission for public review upon request.
8 For purposes of this section, "master list" means every owner
9 and lessee who would otherwise be required to receive notice of
10 the public hearing according to the requirement of paragraphs
11 (1), (2), and (3), even if they were not actually included in
12 the two-third or three-fourths requirement (as the case may be)
13 of paragraph (1) or (2), and every condominium project and
14 cooperative apartment qualifying in paragraph (3). [~~The~~
15 ~~commission shall cancel the hearing if not receiving the~~
16 ~~affidavit prior to the hearing or if discovering that the~~
17 ~~affidavit is false.] When the requirements of this section have
18 not been met, the commission may cancel the hearing or continue
19 the public hearing subject to the provisions of section 281-57
20 and this section.~~

21 (d) For purposes of this section, notice to one co-owner
22 and one co-lessee of real estate shall be sufficient notice to



1 all co-owners and all co-lessees of that real estate; and one
2 notice is sufficient to an owner or lessee of multiple parcels;
3 except that one notice shall be sent to each individual unit of
4 a cooperative apartment as provided in this section."

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

7 "**§281-58 Protests.** Protests against the granting of a
8 license may be filed by any person. Protests against the
9 granting of a license upon such application, which qualifies for
10 an automatic refusal pursuant to section 281-39.5 or 281-59, may
11 be so filed by any registered voter for the area within five
12 hundred feet of the nearest point at which the applicant
13 proposes to establish or continue the applicant's business under
14 the license applied for, or by any owner or lessee of record of
15 real estate or by any owner of record of a share in a
16 cooperative apartment situated within a distance of five hundred
17 feet from the nearest point of the premises for which the
18 license is asked to the nearest point of such real estate or
19 cooperative apartment."

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



1 "(a) Upon the day of hearing, or any adjournment thereof,
2 the liquor commission shall consider the application and any
3 protests and objections to the granting thereof, and hear the
4 parties in interest. The liquor commission shall accept all
5 written or oral testimony for or against the application whether
6 the application is denied, refused, or withdrawn. Within
7 fifteen days after the hearing, or within thirty days thereafter
8 if in its discretion the commission extends the fifteen days to
9 thirty days, and gives public notice of same, the commission
10 shall give its decision granting or refusing the application;
11 provided that if a majority of the:

- 12 (1) Registered voters for the area within five hundred
13 feet of the nearest point of the premises for which
14 the license is asked; or
- 15 (2) Owners and lessees of record of real estate and owners
16 of record of shares in a cooperative apartment within
17 five hundred feet of the nearest point of the premises
18 for which the license is asked[+],
19 have duly filed or caused to be filed their protests against the
20 granting of the license, or if there appears any other
21 disqualification under this chapter, the application shall be

1 refused. Otherwise, the commission may in its discretion grant
2 or refuse the same.

3 For purposes of defining "a majority of the owners and
4 lessees of record of real estate and owners of record of shares
5 in a cooperative apartment", each property counts only once~~[-]~~;
6 provided that roadways shall not be included. A protest
7 submitted by the majority of the co-owners or the majority of
8 the co-lessees of a property shall constitute a protest by all
9 the owners or lessees of record of that property. [~~Owners~~] A
10 protest filed by owners or lessees who own more than one
11 property [~~may count~~] shall be counted for each property.

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



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

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

5 "**§281-61 Renewals.** (a) Other than for good cause, the
6 renewal of an existing license shall be granted upon the filing
7 of an application; provided that if:

- 8 (1) Complaints from the public;
- 9 (2) Reports from the commission's investigators; or
- 10 (3) Adjudications of the commission or the liquor control
11 adjudication board,

12 indicate that noise created by patrons departing from the
13 premises disturbs residents on the street or of the neighborhood
14 in which the premises are located, or that noise from the
15 premises or adjacent related outdoor areas [~~under the licensee's~~
16 ~~control~~] such as parking lots or lanais exceed standards
17 contained in state or county noise codes [~~and~~] or intrudes into
18 nearby residential units, the commission may deny the renewal
19 application or withhold the issuance of a renewed license until
20 corrective measures meeting the commission's approval are taken.

21 (b) The commission[~~r~~] or board, pursuant to section 281-
22 17, at the time of renewal or at any time, may revoke, suspend,

1 or place conditions or restrictions on any license issued under
2 this chapter for the purpose of preventing activities within the
3 licensed premises or adjacent areas [~~under the licensee's~~
4 ~~control~~] that are potentially injurious to the health, safety,
5 and welfare of the public and neighborhood including but not
6 limited to criminal activity, including assault, drug dealing,
7 drug use, or prostitution, upon [~~petition of the administrator~~
8 ~~of the appropriate county agency,~~] proper notice to the
9 licensee, and a hearing before the commission pursuant to
10 chapter 91."

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

13 **§281-62 Reduction or increase in area of licensed**
14 **premises.** The liquor commission may, in its discretion, permit
15 the reduction or the increase in the area of the licensed
16 premises of any licensee[~~-~~] without publication of notice at a
17 public hearing; provided that, where an increase in premises may
18 significantly impact the public, the commission may require
19 hearings pursuant to sections 281-39.5 and 281-57 to 281-60.
20 Whenever any reduction or increase is permitted, the same shall
21 be endorsed in some appropriate manner upon the license."



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

3 **"§281-78 Prohibitions.** (a) No person shall, except as
4 permitted in section 291-3.4, consume any liquor on any public
5 highway or any public sidewalk.

6 (b) At no time under any circumstances shall any licensee
7 or its employee:

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

10 (A) Any minor;

11 (B) Any person at the time under the influence of
12 liquor;

13 (C) Any person known to the licensee to be addicted
14 to the excessive use of intoxicating liquor; or

15 (D) Any person for consumption in any vehicle that is
16 licensed to travel on public highways;

17 provided that the consumption or sale of liquor to a
18 minor shall not be deemed to be a violation of this

19 subsection if, in making the sale or allowing the
20 consumption of any liquor by a minor, the licensee was

21 misled by the appearance of the minor and the

22 attending circumstances into honestly believing that



1 the minor was of legal age and the licensee acted in
2 good faith; and provided further that it shall be
3 incumbent upon the licensee to prove that the licensee
4 so acted in good faith;

5 (2) Permit any liquor to be consumed on the premises of
6 the licensee or on any premises connected therewith,
7 whether there purchased or not, except as permitted by
8 the terms of its license;

9 (3) Permit any liquor to be sold or served by any person
10 eighteen to twenty years of age except in licensed
11 establishments where selling or serving the
12 intoxicating liquor is part of the minor's employment,
13 and where there is proper supervision of these minor
14 employees to ensure that the minors shall not consume
15 the intoxicating liquor;

16 (4) Permit any liquor to be sold or served by any person
17 below the age of eighteen years upon any licensed
18 premises, except in individually specified licensed
19 establishments found to be otherwise suitable by the
20 liquor commission in which an approved program of job
21 training and employment for dining room waiters and
22 waitresses is being conducted in cooperation with the



1 University of Hawaii, the [~~state~~] community college
2 system, or a federally sponsored personnel development
3 and training program, under arrangements that ensure
4 proper control and supervision of employees;

5 (5) Knowingly permit any person under the influence of
6 liquor or disorderly person to be or remain in or on
7 the licensed premises;

8 (6) Fail immediately to prevent or suppress any violent,
9 quarrelsome, disorderly, lewd, immoral, or unlawful
10 conduct of any person on the premises;

11 (7) Sell any draught beer unless upon the faucet, spigot,
12 or outlet wherefrom the beer is drawn there is
13 attached a clear and legible notice, placard, or
14 marker which in the English language indicates and
15 declares the name or brand adopted by the manufacturer
16 of the draught beer, so situated as to be clearly
17 legible for a distance of at least ten feet from the
18 spigot, faucet, or outlet, to a purchaser with normal
19 vision; or

20 (8) Receive from a person, as payment or as a
21 consideration for liquor, any personal or household
22 goods, including clothing and food, or any implements



1 of trade. Any person violating this paragraph shall
2 be guilty of a misdemeanor and upon conviction shall
3 be punished as provided in section 281-102.

4 (c) It shall be unlawful for any person to sell
5 intoxicating liquor in any form other than for consumption as a
6 beverage."

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

9 **"§281-91 Revocation or suspension of license; hearing.**

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



1 In every case where it is proposed to revoke or suspend the
2 exercise of any license or assess and collect a [~~penalty~~] fine
3 for any cause other than a conviction at law of the licensee as
4 above specified, the licensee shall be entitled to notice and
5 hearing in conformity with chapter 91, the notice to be given at
6 least five days before the hearing, except that any special
7 license shall be subject to summary revocation for any violation
8 of or evidence of intent to violate the proper exercise thereof,
9 without hearing before the commission or board.

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



1 Any order of revocation, suspension, fine, or reprimand
2 imposed by the commission or board upon the licensee shall be in
3 addition to any penalty that might be imposed upon the licensee
4 upon the licensee's conviction [~~at~~] in a court of law for any
5 violation of this chapter. The liquor commission or liquor
6 control adjudication board may subject the licensee to both the
7 fine assessed and suspension of the license. No licensee shall
8 be subject to both the [~~penalty~~] fine assessed and collected by
9 the commission or board and to revocation [~~or suspension~~] of
10 license. The amount of [~~penalty~~] fine assessed and collected by
11 the commission or board from any licensee for any particular
12 offense shall not exceed the sum of [~~\$2,000.~~] \$5,000.

13 Whenever the service of any order or notice shall be
14 required by this section, the service shall be made in the
15 following manner: in the case of any violation based upon the
16 personal observation of any investigator, a written notice of
17 the violation shall be given to the licensee or the licensee's
18 registered manager in active charge of the premises, or by
19 serving a certified copy of the notice or order upon the holder
20 of the license wherever the holder may be found in the circuit
21 wherein the holder is licensed, or, if the holder cannot be
22 found after diligent search, by leaving a certified copy thereof



1 at the holder's dwelling house or usual place of abode with some
2 person of suitable age and discretion residing therein; and if
3 the holder of the license cannot be found after diligent search,
4 and service cannot be made, then service may be made by posting
5 a certified copy of the notice or order in a conspicuous place
6 on the licensed premises and depositing another certified copy
7 thereof in the certified mail of the United States post office,
8 postage prepaid, addressed to the holder of the license at the
9 holder's last known residence address; provided that in the case
10 of a partnership, corporation, unincorporated association, or
11 limited liability company, service may be made upon any partner,
12 officer, or member thereof."

13 SECTION 23. Section 281-32.3, Hawaii Revised Statutes, is
14 repealed.

15 [~~§281-32.3 One-day special licenses for fundraising~~
16 ~~events.~~ Notwithstanding any other section of this chapter to
17 the contrary, the commission shall adopt rules to streamline
18 procedures including the waiving of hearings, fees, notarization
19 of documents, submission of floor plans, and other requirements,
20 to provide for the issuance of special licenses for the sale of
21 liquor for a period not to exceed one day, for classes of
22 fundraising events by nonprofit organizations established by the



1 ~~commission. The commission shall also adopt rules to facilitate~~
2 ~~the issuance of such licenses through the mail.~~

3 ~~Any registered educational or charitable nonprofit~~
4 ~~organization may sell liquors in their original packages for~~
5 ~~off premises consumption for fundraising events allowed in this~~
6 ~~section, in accordance with rules adopted by the commission~~
7 ~~pursuant to chapter 91."]~~

8 SECTION 24. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 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 HD2)

HB2253 HD2 HMS 2008-2356

