

JAN 22 2007

A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1 SECTION 1. Chapter 281, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§281- Special conditions; condominium hotel licenses.

5 A condominium hotel operator shall submit to the commission
6 information on the initial application for registration of the
7 condominium hotel operation approved by the real estate
8 commission pursuant to section 467-30; thereafter, the
9 condominium hotel operator shall maintain for inspection by any
10 investigator of the commission information on the apartments
11 registered pursuant to section 467-30 being utilized as part of
12 the condominium hotel."

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:

16 "Condominium hotel" means an establishment consisting of
17 one or more buildings which includes:



1 (1) Apartments as defined in section 514B-3, and subject
2 to chapter 514B, which are used to provide transient
3 lodging for periods of less than thirty days under a
4 written contract with the owner or owners of each
5 apartment under the condominium hotel operation;

6 (2) Apartments owned by the condominium hotel operator
7 providing transient lodging for periods of less than
8 thirty days which are offered for adequate pay to
9 transient guests; and

10 (3) A suitable and adequate kitchen and dining room, where
11 meals are regularly prepared and served to guests and
12 other customers."

13 SECTION 3. Section 281-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "premises" to read as
15 follows:

16 ""Premises" or "licensed premises" means the building and
17 property that houses the establishment for which a license has
18 been or is proposed to be issued; provided that in the case of
19 class 12 hotel license, "premises" includes the hotel premises;
20 provided that in the case of a class 15 condominium hotel
21 license, "premises" includes apartments which are used to
22 provide transient lodging for periods of less than thirty days



1 under a written contract with the owner or owners of each
2 apartment under the condominium hotel operation; and provided
3 further that if an establishment is in a retail shopping complex
4 the businesses of which have formed a merchants association,
5 "premises" means the establishment. As used in this definition,
6 "establishment" means a single physical location where the
7 selling of liquor takes place."

8 SECTION 4. 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' licenses. 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 in any quantity to any
18 person for private use and consumption. Under this license, no
19 liquor shall be consumed on the premises except as authorized by
20 the commission. Of this class, there shall be the following
21 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 licenses.

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; provided further that
22 the catering activity shall be directly related to the



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

6 (A) A standard bar; or

7 (B) A premises in which live entertainment or
8 recorded music is provided. Facilities for
9 dancing by the patrons may be permitted as
10 provided by 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 there shall be
17 the following kinds:

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

19 (B) Beer and wine; and

20 (C) Beer.



1 Any licensee holding a different class of license on June
2 19, 1990, and who would otherwise come within this class of
3 license shall not be required to apply for a new license.

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

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



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

17 (e) Class 4. Retail dealers' licenses. A license to sell
18 liquors at retail or to class 10 licenses shall authorize the
19 licensee to sell the liquors therein specified in their original
20 packages. Under the license no liquor shall be consumed on the
21 premises except as authorized by the commission. Of this class,
22 there shall be the following kinds:



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

4 (f) Class 5. Dispensers' licenses.

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

12 (A) A standard bar;

13 (B) A premise in which a person performs or
14 entertains unclothed or in attire restricted to
15 use by entertainers pursuant to commission rules;

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

20 (D) A premise in which employees or entertainers are
21 compensated to sit with patrons, regardless of
22 whether the employees or entertainers are



1 consuming nonalcoholic beverages while in the
2 company of the patrons pursuant to commission
3 rules.

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

9 (3) For each category of class 5 licenses there shall be
10 the following kinds:

- 11 (A) General (includes all liquors except alcohol);
- 12 (B) Beer and wine; and
- 13 (C) Beer.

14 (g) Class 6. Club licenses. A club license shall be
15 general only (but excluding alcohol) and shall authorize the
16 licensee to sell liquors to members of the club and to guests of
17 the club enjoying the privileges of membership, for consumption
18 only on the premises kept and operated by the club; provided
19 that the license shall also authorize any club member to keep in
20 the member's private locker on the premises a reasonable
21 quantity of liquor, if owned by the member, for the member's own



1 personal use and not to be sold and that may be consumed only on
2 the premises.

3 (h) Class 7. Vessel licenses. A general license may be
4 granted to the owner of any vessel performing a regular water
5 transportation passenger service between any two or more ports
6 in the State for the sale of liquor (other than alcohol) on
7 board the vessel while in the waters of the State; provided the
8 sales are made only while the vessel is en route and only for
9 consumption by passengers on board. If the vessel has a home
10 port in the State, the license shall be issuable in the county
11 in which the home port is situated; provided that if the
12 licensee's home port is not situated in this State, the license
13 shall be issuable in the city and county of Honolulu. If, on
14 any vessel for which no license has been obtained under this
15 chapter, any liquor is sold or served within three miles of the
16 shore of any island of the State, it shall constitute a
17 violation of this chapter.

18 (i) Class 8. Transient vessel licenses. A general
19 license may be granted to the owner of any vessel that does not
20 fall within class 7 for the sale of liquor (other than alcohol)
21 on board the vessel while in any port of the State. Sales shall
22 be made only for consumption by passengers and their guests on



1 board the vessel. The license shall be issuable in each county
2 where the sales are to be made; provided that the application
3 for the license may be made by any agent representing the owner.

4 (j) Class 9. Tour or cruise vessel licenses. A general
5 license may be granted to the owner of any tour or cruise vessel
6 for the sale of liquor (other than alcohol) on board the vessel
7 while in the waters of the State; provided that sales be made
8 only for consumption by passengers on board while the vessel is
9 in operation outside the port or dock of any island of the
10 State, unless otherwise approved by the county where the license
11 has been issued. If the vessel has a home port in the State,
12 the license shall be issuable in the county wherein the home
13 port is situated; provided that if the licensee's home port is
14 not situated in this State, the license shall be issuable in the
15 city and county of Honolulu. If, on any vessel for which no
16 license has been obtained under this chapter, any liquor is sold
17 or served within three miles of the shore of any island of the
18 State, it shall constitute a violation of this chapter.

19 (k) Class 10. Special. A special license may be granted
20 for the sale of liquor for a period not to exceed three days on
21 any occasion and under any conditions as may be approved by the
22 commission. Of this class, there 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) Class 11. Cabaret license. A cabaret license shall
7 be general only (but excluding alcohol) and shall authorize the
8 sale of liquors for consumption on the premises. This license
9 shall be issued only for premises where food is served,
10 facilities for dancing by the patrons are provided, including a
11 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 a premise 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;

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) Class 12. Hotel licenses. A license to sell liquor
15 in a hotel shall authorize the licensee to provide entertainment
16 and dancing on the hotel premises and to sell all liquors,
17 except alcohol, for consumption on the premises; provided that a
18 hotel licensee, with commission approval, may provide off-
19 premises catering; provided that the catering activity is
20 directly related to the licensee's operation as a hotel.

21 Procedures such as room service, self-service (no-host),
22 minibars or similar service in guest rooms and service at



1 private parties in areas that are the property of and contiguous
2 to the hotel, are permitted with commission approval.

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

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

10 (n) Class 13. Caterer license. A general license may be
11 granted to any licensee who serves food as part of their
12 operation for the sale of liquor (other than alcohol) while
13 performing food catering functions.

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

22 (o) Class 14. Brewpub licenses. 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, 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, manufacturer licensee, or a class 3, 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 of
15 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, that
4 may 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, that 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;

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, transient vessel
20 licensees, tour or cruise vessel licensees, class 10
21 special licensees, class 11 cabaret licensees, class
22 12 hotel licensees, and class 13 caterer licensees,



1 pursuant to conditions imposed by county planning and
2 public works departments and regulations governing
3 class 3 wholesale dealers licensees; 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) Class 15. Condominium hotel licenses. A license to
10 sell liquor in a condominium hotel shall authorize the licensee
11 to provide entertainment and dancing on the condominium hotel
12 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 that the catering activity is directly
16 related to the licensee's operation as a condominium hotel.

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

21 A condominium hotel licensee shall not sell liquor in the
22 manner authorized by a class 4 retail dealers' license.



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

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

~~(r)~~ (s) Sections 281-57 to 281-61 shall not apply to classes 7 through 10 and 13."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY: *R. D. J. L.*



Report Title:

Liquor Licenses

Description:

Establishes a condominium hotel class of liquor license.

