

JAN 17 2008

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# A BILL FOR AN ACT

RELATING TO LIQUOR LICENSES.

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

1 SECTION 1. Section 281-31, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§281-31 Licenses, classes. (a) Licenses may be granted  
4 by the liquor commission as provided in this section.

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

- 15 (1) Beer;
- 16 (2) Wine;
- 17 (3) Alcohol; and



1           (4) Other specified liquor.

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

14           (c) Class 2. Restaurant license.

15           (1) A license under this class shall authorize the  
16 licensee to sell liquors specified in this subsection  
17 for consumption on the premises; provided that a  
18 restaurant licensee, with commission approval, may  
19 provide off-premises catering; provided further that  
20 the catering activity shall be directly related to the  
21 licensee's operation as a restaurant. A licensee  
22 under this class shall be issued a license according



1 to the category of establishment the licensee owns or  
2 operates. The categories of establishment shall be as  
3 follows:

4 (A) A standard bar; or

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

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

14 (3) For each category of class 2 licenses, there shall be  
15 the following kinds:

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

17 (B) Beer and wine; and

18 (C) Beer.

19 Any licensee holding a different class of license on June 19,  
20 1990, and who would otherwise come within this class of license  
21 shall not be required to apply for a new license.



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

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

21 If any wholesale dealer solicits or takes any orders in any  
22 county other than that where the dealer's place of business is



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

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

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



- 1           (3) Alcohol.
- 2           (f) Class 5. Dispensers' license.
- 3           (1) A license under this class shall authorize the
- 4           licensee to sell liquors specified in this subsection
- 5           for consumption on the premises. A licensee under
- 6           this class shall be issued a license according to the
- 7           category of establishment the licensee owns or
- 8           operates. The categories of establishments shall be
- 9           as follows:
- 10          (A) A standard bar;
- 11          (B) Premises in which a person performs or entertains
- 12             unclothed or in attire restricted to use by
- 13             entertainers pursuant to commission rules;
- 14          (C) Premises in which live entertainment or recorded
- 15             music is provided; provided that facilities for
- 16             dancing by the patrons may be permitted as
- 17             provided by commission rules; or
- 18          (D) Premises in which employees or entertainers are
- 19             compensated to sit with patrons, regardless of
- 20             whether the employees or entertainers are
- 21             consuming nonalcoholic beverages while in the



1                    company of the patrons pursuant to commission  
2                    rules.

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

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

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

11            (B)    Beer and wine; and

12            (C)    Beer.

13            (g)    Class 6. Club license. A club license shall be  
14                    general only (but excluding alcohol) and shall authorize the  
15                    licensee to sell liquors to members of the club and to guests of  
16                    the club enjoying the privileges of membership, for consumption  
17                    only on the premises kept and operated by the club; provided  
18                    that the license shall also authorize any club member to keep in  
19                    the member's private locker on the premises a reasonable  
20                    quantity of liquor, if owned by the member, for the member's own  
21                    personal use and not to be sold and that may be consumed only on  
22                    the premises.



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

16 (i) Class 8. Transient vessel license. A general license  
17 may be granted to the owner of any vessel that does not fall  
18 within class 7 for the sale of [~~liquor~~] liquors (other than  
19 alcohol) on board the vessel while in any port of the State.  
20 Sales shall be made only for consumption by passengers and their  
21 guests on board the vessel. The license shall be issuable in  
22 each county where the sales are to be made; provided that the





1 application for the license may be made by any agent  
2 representing the owner.

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

18 (k) Class 10. Special license. A special license may be  
19 granted for the sale of [~~liquor~~] liquors for a period not to  
20 exceed three days on any occasion and under any conditions as  
21 may be approved by the commission. Of this class, there shall  
22 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 premises where professional  
17 entertainment by persons who perform or entertain  
18 unclothed was presented on a regular and consistent  
19 basis immediately prior to June 15, 1990; or

20           (2) A cabaret license that, pursuant to rules adopted by  
21 the liquor commission, permits professional



1 entertainment by persons who perform or entertain  
2 unclothed.

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

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

14 (m) Class 12. Hotel license. A license to sell [~~liquor~~  
15 liquors] in a hotel shall authorize the licensee to provide  
16 entertainment and dancing on the hotel premises and to sell all  
17 liquors, except alcohol, for consumption on the premises;  
18 provided that a hotel licensee, with commission approval, may  
19 provide off-premises catering, if 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  
9 281-59.

10 Any licensee holding a class 12 license on [+]May 1,  
11 2007, [+] and who would otherwise come within this class of  
12 license may apply to the liquor commission in which the licensee  
13 is seeking a change in liquor license for a change to a class 15  
14 license; provided that the licensee shall not be subject to the  
15 requirements of section 281-54 and sections 281-57 to 281-60.

16 If a licensee holding a class 12 license on [+]May 1,  
17 2007, [+] applies for a change to a class 15 license, the  
18 respective liquor commission shall hold a public hearing upon  
19 notice, and upon the day of hearing, or any adjournment thereof,  
20 the liquor commission shall consider the application, accept all  
21 written or oral testimony for or against the application, and  
22 render its decision granting or refusing the application. If



1 the application is denied, the class 12 license shall continue  
2 in effect in accordance with law.

3 (n) Class 13. Caterer license. A general license may be  
4 granted to any licensee who serves food as part of their  
5 operation for the sale of [~~liquor~~] liquors (other than alcohol)  
6 while performing food catering functions.

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

15 (o) Class 14. Brewpub license. A brewpub licensee:

16 (1) Shall manufacture not more than ten thousand barrels  
17 of malt beverages on the licensee's premises during  
18 the license year;

19 (2) May sell malt beverages manufactured on the licensee's  
20 premises for consumption on the premises;

21 (3) May sell malt beverages manufactured by the licensee  
22 in brewery-sealed packages to class 3[7] wholesale



1 dealer licensees pursuant to conditions imposed by  
2 county planning and public works departments;

3 (4) May sell intoxicating liquor, purchased from a  
4 class 1[7] manufacturer licensee, or a class 3[7]  
5 wholesale dealer's licensee, to consumers for  
6 consumption on the licensee's premises; provided that  
7 the premises is owned and operated by the licensee.  
8 The categories of establishments shall be as follows:

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

14 (5) May sell malt beverages manufactured on the licensee's  
15 premises to consumers in brewery-sealed kegs and  
16 growlers for off-premises consumption; provided that  
17 for purposes of this paragraph, "growler" means a  
18 glass container, not to exceed one half-gallon, which  
19 may be securely sealed;

20 (6) May sell malt beverages manufactured on the licensee's  
21 premises to consumers, in recyclable containers that  
22 may be provided by the licensee or by the consumer,



- 1 not to exceed one gallon per container, which are  
2 securely sealed on the licensee's premises, for off-  
3 premises consumption;
- 4 (7) Shall comply with all regulations pertaining to  
5 class 4 retail dealer licensees when engaging in the  
6 retail sale of malt beverages;
- 7 (8) May sell malt beverages manufactured on the licensee's  
8 premises in brewery-sealed containers directly to  
9 class 2 restaurant licensees, class 3 wholesale dealer  
10 licensees, class 4 retail dealer licensees, class 5  
11 dispensers' licensees, class 6 club licensees, class  
12 7 [~~7, 8, and 9~~] vessel licensees, class 8 transient  
13 vessel licensees, class 9 tour or cruise vessel  
14 licensees, class 10 special licensees, class 11  
15 cabaret licensees, class 12 hotel licensees, class 13  
16 caterer licensees, and class 15 condominium hotel  
17 [~~licensee~~] licensees, pursuant to conditions imposed  
18 by county planning and public works departments and  
19 regulations governing class 3 wholesale dealers  
20 licensees; and
- 21 (9) May conduct the activities described in paragraphs (1)  
22 through (8) at one location other than the licensee's



1 premises; provided that the manufacturing takes place  
2 in Hawaii; and provided further the other location is  
3 properly licensed by the same ownership.

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

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

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

20 (q) Class 16. Winery license. A winery licensee:





- 1        (1) Shall manufacture not more than ten thousand barrels  
2        of wine on the licensee's premises during the license  
3        year;
- 4        (2) May sell wine manufactured on the licensee's premises  
5        for consumption on the premises;
- 6        (3) May sell wine manufactured by the licensee in winery-  
7        sealed packages to class 3 wholesale dealer licensees  
8        pursuant to conditions imposed by county planning and  
9        public works departments;
- 10       (4) May sell intoxicating liquor, purchased from a class 1  
11       manufacturer licensee, or a class 3 wholesale dealer's  
12       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 wine manufactured on the licensee's premises  
22       to consumers in winery-sealed kegs and magnums for



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

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

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

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



1           14 brewpub licensees, and class 15 condominium hotel  
2           licensees, pursuant to conditions imposed by county  
3           planning and public works departments and regulations  
4           governing class 3 wholesale dealers licensees; and  
5       (9) May conduct the activities described in paragraphs (1)  
6           through (8) at locations other than the licensee's  
7           premises; provided that the manufacturing takes place  
8           in Hawaii; and provided further the other locations  
9           are properly licensed by the same ownership.

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

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



1 12, class 14, [~~e~~] class 15, or class 16 license engaged in meal  
2 service.

3 [~~s~~] (t) Sections 281-57 to 281-60 shall not apply to  
4 classes 7 through 10 and 13."

5 SECTION 2. Section 281-33.6, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) Any person holding:

9 (1) A general excise tax license from the department of  
10 taxation; and

11 (2) Either:

12 (A) A class 1 or class 16 license to manufacture wine  
13 under section 281-31; or

14 (B) A license to manufacture wine issued by another  
15 state,

16 may pay any applicable fees and obtain a direct wine shipper  
17 permit from the liquor commission of the county to which the  
18 wine will be shipped authorizing the holder to directly ship  
19 wine to persons in the county pursuant to this section."

20 2. By amending subsection (c) to read:

21 "(c) The holder of a license to manufacture wine issued by  
22 another state may annually renew a direct wine shipper permit by



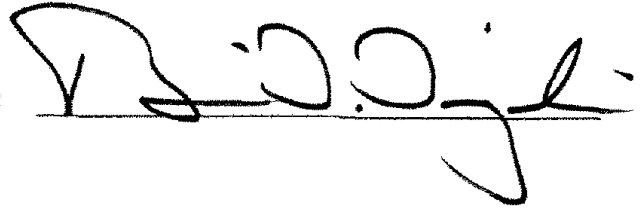
1 providing the liquor commission that issued the permit with a  
2 copy of the license and paying all required fees. The holder of  
3 a class 1 or class 16 license to manufacture wine under section  
4 281-31 may renew a direct wine shipper permit concurrently with  
5 the class 1 license by complying with all applicable laws and  
6 paying all required fees."

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

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

10

INTRODUCED BY:



**Report Title:**

Liquor Licenses; Winery

**Description:**

Establishes winery class of liquor license. Authorizes wineries to sell wine for consumption off-premises.

