

JAN 18 2008

A BILL FOR AN ACT

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

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

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

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

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



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

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

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

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

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



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

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

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



1 provided that the [~~sale of or the~~] providing of [~~feed 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 [~~feed~~] 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



1 license fees, may be used for education, enforcement,
2 and 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 [~~hearing~~] 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 liquor
12 administrator, shall have the power to require the production
13 of, and to examine any books, papers, and records of any
14 licensee [~~which~~] that may pertain to the licensee's business
15 under the license or [~~which~~] that may pertain to a matter at a
16 hearing before the commission or board or to an investigation by
17 the commission or board[~~+~~]; provided that the commission or
18 board shall not be responsible for enforcing any conditions
19 arising from a contract or other agreement of the licensee
20 relating to the licensed 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 liquor
21 administrator.



1 Every witness attending or testifying at any hearing of the
2 commission or board in response to a subpoena issued by it or
3 the liquor administrator shall be paid as provided for in
4 section 621-7. If a witness is subpoenaed by direction of the
5 commission or board, the witness' fees shall be paid out of any
6 funds which may be set aside for the expenses of the commission
7 or board and, if the witness is subpoenaed on behalf of any
8 interested party, the witness' fees shall be paid by that
9 party."

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

12 "**§281-31 Licenses, classes.** (a) Licenses may be granted
13 by the liquor commission as provided in this section.

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



1 the commission. Of this class, there shall be the following
2 kinds:

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

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

19 (c) Class 2. Restaurant license.

20 (1) A license under this class shall authorize the
21 licensee to sell liquors specified in this subsection
22 for consumption on the premises; provided that a



1 restaurant licensee, with commission approval, may
2 provide off-premises catering of food and liquor;
3 provided further that the catering activity shall be
4 directly related to the licensee's operation as a
5 restaurant. A licensee under this class shall be
6 issued a license according to the category of
7 establishment the licensee owns or operates. The
8 categories of establishment 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 (2) If a licensee under class 2 desires to change the
15 category of establishment the licensee owns or
16 operates, the licensee shall apply for a new license
17 applicable to the category of the licensee's
18 establishment.

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

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

22 (B) Beer and wine; and



1 (C) Beer.

2 [Any] Notwithstanding section 281-57, the commission may approve
3 at one public hearing and without notice the change to a class 2
4 restaurant license of a licensee holding a [different class of]
5 class 5 dispenser license [on June 19, 1990, and who would
6 otherwise come within this class of license shall not be
7 required to apply for a new license.], who meets the
8 requirements of a class 2 license.

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



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

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

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



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

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

10 (f) Class 5. Dispensers' license.

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

- 18 (A) A standard bar;
19 (B) Premises in which a person performs or entertains
20 un clothed or in attire restricted to use by
21 entertainers pursuant to commission rules;



1 (C) Premises in which live entertainment or recorded
2 music is provided; provided that facilities for
3 dancing by the patrons may be permitted as
4 provided by commission rules; or

5 (D) Premises in which employees or entertainers are
6 compensated to sit with patrons, regardless of
7 whether the employees or entertainers are
8 consuming nonalcoholic beverages while in the
9 company of the patrons pursuant to commission
10 rules.

11 (2) If a licensee under class 5 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 5 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 (g) Class 6. Club license. A club license shall be
22 general only (but excluding alcohol) and shall authorize the



1 licensee to sell liquors to members of the club and to guests of
2 the club enjoying the privileges of membership, for consumption
3 only on the premises kept and operated by the club; provided
4 that the license shall also authorize any club member to keep in
5 the member's private locker on the premises a reasonable
6 quantity of liquor, if owned by the member, for the member's own
7 personal use and not to be sold and that may be consumed only on
8 the premises. A club licensee shall be authorized to host
9 charitable functions that are open to the general public only
10 pursuant to commission rules.

11 The categories of establishment shall be as follows:

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

17 ~~[(h) Class 7. Vessel license. A general license may be~~
18 ~~granted to the owner of any vessel performing a regular water~~
19 ~~transportation passenger service between any two or more ports~~
20 ~~in the State for the sale of liquor (other than alcohol) on~~
21 ~~board the vessel while in the waters of the State; provided the~~
22 ~~sales are made only while the vessel is en route and only for~~

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

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

19 ~~(j)~~ (i) Class 9. Tour or cruise vessel license. A
20 general license may be granted to the owner of any tour or
21 cruise vessel for the sale of liquor (other than alcohol) on
22 board the vessel while in the waters of the State; provided that



1 sales be made only for consumption by passengers on board while
 2 the vessel is in operation outside the port or dock of any
 3 island of the State, unless otherwise approved by the county
 4 where the license has been issued. [~~If the vessel has a home~~
 5 ~~port in the State, the]~~ The license shall be issuable in the
 6 county wherein the home port is situated[~~, provided that if the~~
 7 ~~licensee's home port is not situated in this State, the license~~
 8 ~~shall be issuable in the city and county of Honolulu]~~. If, on
 9 any vessel for which no license has been obtained under this
 10 chapter, any liquor is sold or served within three miles of the
 11 shore of any island of the State, it shall constitute a
 12 violation of this chapter.

13 The categories of establishment shall be as follows:

14 (A) A standard bar; or

15 (B) Premises in which live entertainment or recorded
 16 music is provided. Facilities for dancing by the
 17 patrons may be permitted as provided by
 18 commission rules.

19 [~~(k)~~] (j) Class 10. Special license. A special license
 20 may be granted for the sale of liquor for a period not to exceed
 21 three days [~~on any occasion and under any conditions as may be~~
 22 ~~approved by the commission.] and pursuant to commission rule may~~



1 be approved by the administrator for fundraising events by
2 nonprofit organizations, political candidates, and political
3 parties; provided that any registered educational or charitable
4 nonprofit organization may sell liquors in their original
5 packages for off-premises consumption. Of this class, there
6 shall be the following kinds:

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

10 Under this license, the liquors therein specified shall be
11 consumed on the premises.

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



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

5 (2) A cabaret license that, pursuant to rules adopted by
6 the liquor commission, permits professional
7 entertainment by persons who perform or entertain
8 unclothed.

9 A cabaret license under paragraph (1) or (2) authorizing
10 professional entertainment by persons who perform or entertain
11 unclothed shall be transferable through June 30, 2000. A
12 cabaret license under paragraph (1) or (2) authorizing
13 professional entertainment by persons who perform or entertain
14 unclothed shall not be transferable after June 30, 2000, except
15 when the transferee obtains approval from the liquor commission,
16 and pursuant to rules adopted by the commission.

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

20 [~~(m)~~] (l) Class 12. Hotel license. A license to sell
21 liquor in a hotel shall authorize the licensee to provide
22 entertainment and dancing on the hotel premises and to sell all



1 liquors, except alcohol, for consumption on the premises;
2 provided that a hotel licensee, with commission approval, may
3 provide off-premises catering~~[7]~~ of food and liquor, if the
4 catering activity is directly related to the licensee's
5 ~~[operation as a hotel.]~~ food service.

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

10 Any licensee who would otherwise fall within the hotel
11 license class but holds a different class of license may be
12 required to apply for a hotel license.

13 If the licensee applies for a change of classification
14 prior to July 30, 1992, the licensee shall not be subject to the
15 requirements of sections 281-52, 281-54, and 281-57 through
16 281-59.

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



1 If a licensee holding a class 12 license on [+]May 1,
2 2007, [+] applies for a change to a class 15 license, the
3 respective liquor commission shall hold a public hearing upon
4 notice, and upon the day of hearing, or any adjournment thereof,
5 the liquor commission shall consider the application, accept all
6 written or oral testimony for or against the application, and
7 render its decision granting or refusing the application. If
8 the application is denied, the class 12 license shall continue
9 in effect in accordance with law.

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

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



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



- 1 (5) May sell malt beverages manufactured on the licensee's
2 premises to consumers in brewery-sealed kegs and
3 growlers for off-premises consumption; provided that
4 for purposes of this paragraph, "growler" means a
5 glass container, not to exceed one half-gallon, which
6 ~~may~~ shall be securely sealed;
- 7 (6) May sell malt beverages manufactured on the licensee's
8 premises to consumers, in recyclable containers that
9 may be provided by the licensee or by the consumer,
10 not to exceed one gallon per container, which are
11 securely sealed on the licensee's premises, for off-
12 premises consumption;
- 13 (7) Shall comply with all regulations pertaining to class
14 4 retail licensees when engaging in the retail sale of
15 malt beverages; and
- 16 (8) May sell malt beverages manufactured on the licensee's
17 premises in brewery-sealed containers directly to
18 class 2 restaurant licensees, class 3 wholesale dealer
19 licensees, class 4 retail dealer licensees, class 5
20 dispensers' licensees, class 6 club licensees, class
21 ~~[7, 8, and 9 vessel licensees,]~~ 8 transient vessel
22 licensees, class 9 tour or cruise vessel licensees,



1 class 10 special licensees, class 11 cabaret
2 licensees, class 12 hotel licensees, class 13 caterer
3 licensees, and class 15 condominium hotel license,
4 pursuant to conditions imposed by county [~~planning and~~
5 ~~public works departments and~~] regulations governing
6 class 1 manufacturer's licensees and class 3 wholesale
7 dealers licensees[~~and~~

8 ~~(9) May conduct the activities described in paragraphs (1)~~
9 ~~through (8) at one location other than the licensee's~~
10 ~~premises; provided that the manufacturing takes place~~
11 ~~in Hawaii; and provided further the other location is~~
12 ~~properly licensed by the same ownership].~~

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



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

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

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

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

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



1 original container. This subsection applies only to a valid
2 holder of a class 2, class 6, class 11, class 12, class 14, or
3 class 15 license engaged in meal service.

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

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

8 "**§281-32 Licenses, temporary.** A temporary license of any
9 class and kind specified in section 281-31 may be granted under
10 the following conditions~~[]~~:

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

17 (2) The license of the same class, ~~[and]~~ kind, and
18 category then in effect for the premises shall be
19 surrendered in such manner and at such time as the
20 commission shall direct.

21 (3) The applicant for a temporary license shall have filed
22 with the commission an application for a license of



1 the same class, [~~and~~] kind, and category currently or
2 previously [~~then~~] in effect for the premises.

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

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

21 (6) A temporary license shall authorize the licensee to
22 purchase liquor only by payment in currency, check, or



1 certified check for the liquor before or at the time
2 of delivery of the liquor to the licensee[-], except
3 as otherwise provided by commission rule.

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

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

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

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

19 No liquor shall be sold or kept for sale at any club except
20 by the club itself pursuant to its license. If any liquor is
21 sold or kept on the club premises for sale or barter by any
22 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 majority
14 protests by owners or lessees or registered voters pursuant to
15 sections 281-39.5 and 281-59. Exceptions are class 5 and 11
16 licensees who must comply with the notice requirements as set
17 forth in [~~section~~] sections 281-57[-] to 281-60.

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



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

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

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

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



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

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



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

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

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



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

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



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

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



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

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

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

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



1 commission to be a fit and proper person to have a
2 license;

- 3 (2) To a corporation the officers and directors of which,
4 or any of them, would be disqualified under paragraph
5 (1) [~~of this section~~] from obtaining the license
6 individually, or a stockholder of which, owning or
7 controlling twenty-five per cent or more of the
8 outstanding capital stock or a stockholder of which,
9 owning or controlling twenty-five per cent or more of
10 the outstanding capital stock, or to a general
11 partnership, limited partnership, limited liability
12 partnership, or limited liability company whose
13 partner or member holding twenty-five per cent or more
14 interest of which, or any of them would be
15 disqualified under that paragraph from obtaining the
16 license individually;

- 17 (3) Unless the applicant for a license or a renewal of a
18 license, or in the case of a transfer of a license,
19 both the transferor and the transferee, present to the
20 issuing agency a signed certificate from the director
21 of taxation and from the Internal Revenue Service
22 showing that the applicant or the transferor and



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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



1 nearest point of the premises for which the license is
2 asked to the nearest point of the church, chapel, or
3 school grounds;

4 (4) The number, position, and distance from the premises,
5 in respect of which a license is applied for, of any
6 other licensed premises of the same class in the
7 neighborhood;

8 (5) The number of licenses of the same class or kind
9 already issued and being lawfully exercised within the
10 county;

11 (6) Whether or not in the opinion of the investigator the
12 applicant is a fit and proper person to have a
13 license;

14 (7) Whether or not the applicant is for any reason
15 disqualified by this chapter from obtaining or
16 exercising a license; and whether or not the applicant
17 has complied with all the requirements of this chapter
18 relative to the making and filing of the applicant's
19 application;

20 (8) For the next application for a license that was
21 previously denied, refused, or withdrawn, evidence, to
22 be provided by the applicant, of a substantial change



1 in the circumstances that caused the previous denial,
2 refusal, or withdrawal; and

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

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

15 "(c) Immediately upon the commission's fixing a day for
16 the public hearing of the application, the applicant shall mail
17 a notice setting forth the time and place of the hearing on the
18 application to each of the following:

- 19 (1) Not less than two-thirds of the owners and lessees of
20 record of real estate and owners of record of shares
21 in a cooperative apartment or to those individuals on
22 the list of owners as provided by the managing agent



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

- 16 (2) In counties with a population of [~~two hundred fifty~~
17 ~~thousand~~] five hundred thousand or more, not less than
18 two-thirds of the registered voters residing within,
19 and small businesses situated within, a distance of
20 five hundred feet from the nearest point of the
21 premises for which the license is asked; provided that
22 in meeting this requirement, the applicant shall mail



1 notices to not less than three-fourths of the
2 registered voters residing within, and small
3 businesses situated within, a distance of one hundred
4 feet from the nearest point of the premises for which
5 the license is asked. This paragraph shall not apply
6 to ~~[any applicant that is a hotel as defined in~~
7 ~~section 486K-1, a condominium hotel, a restaurant, or~~
8 ~~a convenience store.] applications for class 2, class~~
9 ~~4, class 12, and class 15 licenses.~~ A notice sent
10 pursuant to this paragraph shall be addressed to the
11 "occupant" of the residential unit or small business;
12 and

- 13 (3) For each condominium project and cooperative apartment
14 within the five hundred-foot area, one notice of the
15 hearing shall be sent by mail addressed "To the
16 Residents, Care of the Manager", followed by the name
17 and address of the condominium or cooperative
18 apartment involved.

19 The notices required under this subsection shall be mailed at
20 least forty-five days prior to the date set for the hearing. No
21 promotional information shall be allowed on, or accompany the
22 notice. Before the hearing, and within seven business days of



1 having mailed the notices, the applicant shall file with the
2 commission an affidavit that the notices have been mailed in
3 compliance with this subsection. In addition to the affidavit
4 (which shall be made available within the same [~~seven-day~~] seven
5 business day period with proof of having mailed the notices),
6 the applicant shall include both a master list of one hundred
7 per cent of addressees and addresses required by paragraphs (1),
8 (2), and (3), and another mailing list consisting of the portion
9 of addressees and their respective addresses who were mailed the
10 notice purposely needed to meet the requirements of paragraphs
11 (1), (2), and (3). The affidavit, master list, and mailing list
12 shall be made available within seven business days (of the
13 mailing of the notice by the applicant) by the commission for
14 public review upon request. For purposes of this section,
15 "master list" means every owner and lessee who would otherwise
16 be required to receive notice of the public hearing according to
17 the requirement of paragraphs (1), (2), and (3), even if they
18 were not actually included in the two-third or three-fourths
19 requirement (as the case may be) of paragraph (1) or (2), and
20 every condominium project and cooperative apartment qualifying
21 in paragraph (3). [~~The commission shall cancel the hearing if~~
22 ~~not receiving the affidavit prior to the hearing or if~~



1 ~~discovering that the affidavit is false.]~~ When the requirements
2 of this section have not been met, the commission may cancel the
3 hearing or continue the public hearing subject to the provisions
4 of section 281-57 and this section.

5 (d) For purposes of this section, notice to one co-owner
6 and one co-lessee of real estate shall be sufficient notice to
7 all co-owners and all co-lessees of that real estate; and one
8 notice is sufficient to an owner or lessee of multiple parcels;
9 except that one notice shall be sent to each individual unit of
10 a cooperative apartment as provided in this section."

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

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



1 feet from the nearest point of the premises for which the
2 license is asked to the nearest point of such real estate or
3 cooperative apartment."

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

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

- 17 (1) Registered voters for the area within five hundred
18 feet of the nearest point of the premises for which
19 the license is asked; or
- 20 (2) Owners and lessees of record of real estate and owners
21 of record of shares in a cooperative apartment within



1 five hundred feet of the nearest point of the premises
2 for which the license is asked;
3 have duly filed or caused to be filed their protests against the
4 granting of the license, or if there appears any other
5 disqualification under this chapter, the application shall be
6 refused. Otherwise, the commission may in its discretion grant
7 or refuse the same.

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

17 (b) The liquor commission shall make available to the
18 applicant and any protester for review before the public
19 hearing, the protest list of those persons who filed a protest
20 or objection to the application; provided that the applicant
21 shall not use the protest list to attempt to influence in any
22 way any protester to withdraw the protest or objection. All



1 applicants and protesters may submit corrections, additions, and
2 subtractions to the master list and the protest list at the
3 public hearing[~~-~~] provided that additions or corrections to the
4 voter registration list shall be certified by the clerk of the
5 county. The liquor commission shall rule on proposed
6 corrections, additions, and subtractions and give reasons for
7 the ruling."

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

10 "**§281-61 Renewals.** (a) Other than for good cause, the
11 renewal of an existing license shall be granted upon the filing
12 of an application; provided that if:

- 13 (1) Complaints from the public;
14 (2) Reports from the commission's investigators; or
15 (3) Adjudications of the commission or the liquor control
16 adjudication board,

17 indicate that noise created by patrons departing from the
18 premises disturbs residents on the street or of the neighborhood
19 in which the premises are located, or that noise from the
20 premises or adjacent related outdoor areas [~~under the licensee's~~
21 ~~control~~] such as parking lots or lanais exceed standards
22 contained in state or county noise codes [~~and~~] or intrudes into



1 nearby residential units, the commission may deny the renewal
2 application or withhold the issuance of a renewed license until
3 corrective measures meeting the commission's approval are taken.

4 (b) The commission[7] or board, pursuant to section 281-
5 17, at the time of renewal or at any time, may revoke, suspend,
6 or place conditions or restrictions on any license issued under
7 this chapter for the purpose of preventing activities within the
8 licensed premises or adjacent areas [~~under the licensee's~~
9 ~~control~~] that are potentially injurious to the health, safety,
10 and welfare of the public and neighborhood including but not
11 limited to criminal activity, including assault, drug dealing,
12 drug use, or prostitution, upon [~~petition of the administrator~~
13 ~~of the appropriate county agency,~~] proper notice to the
14 licensee, and a hearing before the commission pursuant to
15 chapter 91."

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

18 **§281-62 Reduction or increase in area of licensed**
19 **premises.** The liquor commission may, in its discretion, permit
20 the reduction or the increase in the area of the licensed
21 premises of any licensee[7] without publication of notice at a
22 public hearing, provided that, where an increase in premises may



1 significantly impact the public, the commission may require
2 hearings pursuant to sections 281-39.5 and 281-57 to 281-60.
3 Whenever any reduction or increase is permitted, the same shall
4 be endorsed in some appropriate manner upon the license."

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

7 "**§281-78 Prohibitions.** (a) No person shall, except as
8 permitted in section 291-3.4, consume any liquor on any public
9 highway or any public sidewalk.

10 (b) At no time under any circumstances shall any licensee
11 or its employee:

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

14 (A) Any minor;

15 (B) Any person at the time under the influence of
16 liquor;

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

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

21 provided that the consumption or sale of liquor to a

22 minor shall not be deemed to be a violation of this



1 subsection if, in making the sale or allowing the
2 consumption of any liquor by a minor, the licensee was
3 misled by the appearance of the minor and the
4 attending circumstances into honestly believing that
5 the minor was of legal age and the licensee acted in
6 good faith; and provided further that it shall be
7 incumbent upon the licensee to prove that the licensee
8 so acted in good faith;

9 (2) Permit any liquor to be consumed on the premises of
10 the licensee or on any premises connected therewith,
11 whether there purchased or not, except as permitted by
12 the terms of its license;

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

20 (4) Permit any liquor to be sold or served by any person
21 below the age of eighteen years upon any licensed
22 premises, except in individually specified licensed



1 establishments found to be otherwise suitable by the
2 liquor commission in which an approved program of job
3 training and employment for dining room waiters and
4 waitresses is being conducted in cooperation with the
5 University of Hawaii, the [~~state~~] community college
6 system, or a federally sponsored personnel development
7 and training program, under arrangements that ensure
8 proper control and supervision of employees;

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

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

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



1 spigot, faucet, or outlet, to a purchaser with normal
2 vision; or

3 (8) Receive from a person, as payment or as a
4 consideration for liquor, any personal or household
5 goods, including clothing and food, or any implements
6 of trade. Any person violating this paragraph shall
7 be guilty of a misdemeanor and upon conviction shall
8 be punished as provided in section 281-102.

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

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

14 **"§281-91 Revocation or suspension of license; hearing.**

15 The liquor commission or liquor control adjudication board may
16 revoke any license at any time issued, or suspend the right of
17 the licensee to use the licensee's license, or assess and
18 collect a [~~penalty,~~] fine, or reprimand the licensee, either for
19 the violation of any condition of the license or of any
20 provisions of this chapter or of any rule or regulation
21 applicable thereto, or upon the conviction in a court of law of
22 the licensee of any violation of this chapter or of any other



1 law relative to the licensee's license or the proper exercise
2 thereof, or of any violation of law in any other respect on
3 account whereof the commission or board may deem the licensee to
4 be an unfit or improper person to hold a license, or for any
5 other cause deemed sufficient by the commission or board.

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

15 At the hearing, before final action is taken by the
16 commission or board, the licensee shall be entitled to be heard
17 in person or through counsel and shall be given a full and fair
18 opportunity to present any facts showing that the alleged cause
19 or causes for the proposed action do not exist, or any reasons
20 why no [~~penalty~~] fine should be imposed. The testimony taken at
21 the hearing shall be under oath and recorded stenographically,
22 or by machine, but the parties shall not be bound by the strict



1 rules of evidence; certified copies of any transcript and of any
2 other record made of or at the hearing shall be furnished to the
3 licensee upon the licensee's request and at the licensee's
4 expense.

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

17 Whenever the service of any order or notice shall be
18 required by this section, the service shall be made in the
19 following manner: in the case of any violation based upon the
20 personal observation of any investigator, a written notice of
21 the violation shall be given to the licensee or the licensee's
22 registered manager in active charge of the premises, or by



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

17 SECTION 23. Section 281-32.3, Hawaii Revised Statutes, is
18 repealed.

19 [~~"§281-32.3 One-day special licenses for fundraising~~
20 ~~events.~~ Notwithstanding any other section of this chapter to
21 the contrary, the commission shall adopt rules to streamline
22 procedures including the waiving of hearings, fees, notarization



1 ~~of documents, submission of floor plans, and other requirements,~~
2 ~~to provide for the issuance of special licenses for the sale of~~
3 ~~liquor for a period not to exceed one day, for classes of~~
4 ~~fundraising events by nonprofit organizations established by the~~
5 ~~commission. The commission shall also adopt rules to facilitate~~
6 ~~the issuance of such licenses through the mail.~~

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

12 SECTION 24. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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

15

INTRODUCED BY: Russell Kolb B/R



Report Title:

Liquor Law; Technical Changes

Description:

Amends sections of chapter 281 to update the liquor laws.

