

JAN 23 2008

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

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

3 "§281-78 Prohibitions. (a) No person shall ~~[r]~~ consume,
4 except as permitted in section 291-3.4, ~~[consume]~~ any liquor on
5 any public highway ~~[or any]~~, public sidewalk~~[r]~~, or any common
6 area of any public housing, housing complex, or housing project
7 governed by chapter 356D.

8 (b) At no time under any circumstances shall any licensee
9 or its employee:

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

12 (A) Any minor;

13 (B) Any person at the time under the influence of
14 liquor;

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



1 (D) Any person for consumption in any vehicle that is
2 licensed to travel on public highways;
3 provided that the consumption or sale of liquor to a
4 minor shall not be deemed to be a violation of this
5 subsection if, in making the sale or allowing the
6 consumption of any liquor by a minor, the licensee was
7 misled by the appearance of the minor and the
8 attending circumstances into honestly believing that
9 the minor was of legal age and the licensee acted in
10 good faith; and provided further that it shall be
11 incumbent upon the licensee to prove that the licensee
12 so acted in good faith;

13 (2) Permit any liquor to be consumed on the premises of
14 the licensee or on any premises connected therewith,
15 whether there purchased or not, except as permitted by
16 the terms of its license;

17 (3) Permit any liquor to be sold or served by any person
18 eighteen to twenty years of age except in licensed
19 establishments where selling or serving the
20 intoxicating liquor is part of the minor's employment,
21 and where there is proper supervision of these minor



1 employees to ensure that the minors shall not consume
2 the intoxicating liquor;

3 (4) Permit any liquor to be sold or served by any person
4 below the age of eighteen years upon any licensed
5 premises, except in individually specified licensed
6 establishments found to be otherwise suitable by the
7 liquor commission in which an approved program of job
8 training and employment for dining room waiters and
9 waitresses is being conducted in cooperation with the
10 University of Hawaii, the state community college
11 system, or a federally sponsored personnel development
12 and training program, under arrangements that ensure
13 proper control and supervision of employees;

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

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

20 (7) Sell any draught beer unless upon the faucet, spigot,
21 or outlet wherefrom the beer is drawn there is
22 attached a clear and legible notice, placard, or



1 marker which in the English language indicates and
2 declares the name or brand adopted by the manufacturer
3 of the draught beer, so situated as to be clearly
4 legible for a distance of at least ten feet from the
5 spigot, faucet, or outlet, to a purchaser with normal
6 vision;

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

13 (c) Notwithstanding any law to the contrary, nothing in
14 this section shall prohibit law enforcement officers from
15 entering any common areas of any public housing, housing
16 complex, or housing project governed by chapter 356D to enforce
17 the provisions of this section."

18 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§281-101.5 Prohibitions involving minors; penalty. (a)

21 Any adult who provides or purchases liquor for consumption or



1 use by a person under twenty-one years of age shall be guilty of
2 the offense under section 712-1250.5.

3 (b) No minor shall consume or purchase liquor and no minor
4 shall consume or have liquor in the minor's possession or
5 custody in any public place, public gathering, or public
6 amusement, at any public beach or public park, or in any motor
7 vehicle on a public highway; provided that notwithstanding any
8 other law to the contrary, this subsection shall not apply to:

9 (1) Possession or custody of liquor by a minor in the
10 course of delivery, pursuant to the direction of the
11 minor's employer lawfully engaged in business
12 necessitating the delivery;

13 (2) Possession, custody, or consumption of liquor by a
14 minor in connection with the minor's authorized
15 participation in religious ceremonies requiring such
16 possession, custody, or consumption; or

17 (3) Any person between the ages of eighteen and twenty,
18 who is participating in a controlled purchase as part
19 of a law enforcement activity or a study authorized by
20 the department of health to determine the level of
21 incidence of liquor sales to minors.



1 (c) No minor shall falsify any identification or use any
2 false identification or identification of another person or of a
3 fictitious person for the purpose of buying or attempting to buy
4 liquor or for the purpose of obtaining employment to sell or
5 serve liquor on licensed premises.

6 (d) Any person under age eighteen who violates this
7 section shall be subject to the jurisdiction of the family
8 court. Any person age eighteen to twenty-one who violates
9 subsection (b) or (c) shall be guilty of a petty misdemeanor.
10 The court shall order that any person under twenty-one years of
11 age found to be in violation of this section shall have, in
12 addition to any other disposition or sentencing provision
13 permitted by law, the person's license to operate a motor
14 vehicle, or the person's ability to obtain a license to operate
15 a motor vehicle, suspended as follows:

16 (1) For licensed drivers, the driver's license shall be
17 suspended for not less than one hundred and eighty
18 days with exceptions to allow, at the discretion of
19 the sentencing court, driving to and from school,
20 school-sponsored activities, and employment;

21 (2) For persons with a provisional license, the
22 provisional license shall be suspended for not less



1 than one hundred and eighty days with exceptions to
2 allow, at the discretion of the sentencing court,
3 driving to and from school, school-sponsored
4 activities, and employment;

5 (3) For persons with an instruction permit, the
6 instruction permit shall be suspended for not less
7 than one hundred and eighty days with exceptions to
8 allow, at the discretion of the sentencing court,
9 driving to and from school, school-sponsored
10 activities, and employment; or

11 (4) For persons not licensed to drive, eligibility to
12 obtain a driver's license, provisional license, or
13 instruction permit shall be suspended until the age of
14 seventeen or for one hundred and eighty days, at the
15 discretion of the court; and

16 (5) Chapter 571 notwithstanding, in any case where a
17 person under the age of eighteen violates this
18 section, the family court judge may suspend the
19 driver's license, provisional license, or instruction
20 permit, or suspend the eligibility to obtain a
21 driver's license, provisional license, or instruction
22 permit in accordance with this section;



1 provided that the requirement to provide proof of financial
2 responsibility pursuant to section 287-20 shall not be based
3 upon a sentence imposed under paragraphs (1) and (2). In
4 addition, all persons whether or not licensed, found to be in
5 violation of this section shall be sentenced to seventy-five
6 hours of community service work, and an eight to twelve hour
7 program of alcohol education and counseling the costs of which
8 shall be borne by the offender or the offender's parent or
9 guardian.

10 (e) As used in this section, "consume" or "consumption"
11 includes the ingestion of liquor.

12 (f) Notwithstanding any law to the contrary, all common
13 areas of any public housing, housing complex, or housing project
14 governed by chapter 356D shall be considered a "public place"
15 for the purposes of this section.

16 (g) Notwithstanding any law to the contrary, nothing in
17 this section shall prohibit law enforcement officers from
18 entering any common areas of any public housing, housing
19 complex, or housing project governed by chapter 356D to enforce
20 the provisions of this section."



S.B. NO. 3159

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Shiranne Chun Oalland*

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Report Title:

Public Housing; Law Enforcement; Alcohol

Description:

Includes common areas of housing projects governed by chapter 356D, Hawaii Revised Statutes, for purposes of prohibiting the drinking of alcoholic beverages under section 281-78, Hawaii Revised Statutes. Includes common areas of housing projects governed by chapter 356D, Hawaii Revised Statutes, as a "public place" for purposes of section 281-101.5, Hawaii Revised Statutes. Specifies that law enforcement officers may enter housing projects governed by chapter 356D, Hawaii Revised Statutes, in order to enforce laws concerning consuming alcohol in public places, as well as minors and alcohol.

