

JAN 28 2009

A BILL FOR AN ACT

RELATING TO SMOKING.

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

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

4 **"§281- Smoking establishment license fee.**

5 Notwithstanding sections 281-16 and 281-17.5, or any other law
6 to the contrary, beginning July 1, 2009, there shall be a
7 smoking establishment license fee for each holder of a
8 restaurant, dispensers', club, or cabaret license if the
9 establishment is a licensed smoking establishment as provided in
10 section 281-31. The smoking establishment license fee shall be
11 collected by the liquor commission for each county, and shall be
12 in addition to other fees required under this chapter. The fee
13 shall be as follows:

14 (1) \$1,000 for the following establishments in which
15 smoking is permitted: class 5 category A standard
16 bars, class 2 category C restaurants, and class 6
17 clubs;



1 (2) \$2,000 for the following establishments in which
2 smoking is permitted: class 5 category C and category
3 D licenses; and

4 (3) \$3,000 for the following establishments in which
5 smoking is permitted: class 11 cabarets and class 5
6 category B premises.

7 Fifty percent of the smoking establishment license fees
8 collected by each commission shall be deposited into the organ
9 and tissue donation special fund established under section 327-
10 24 Fifty percent of the smoking establishment license fees
11 collected by each commission shall be deposited into the Hawaii
12 tobacco prevention and control trust fund established under
13 section 328L-5. Each commission may retain a portion, not to
14 exceed ten per cent, of every smoking establishment license fee
15 collected that directly relates to actual costs and expenses of
16 operation and administration of the commission as set forth in
17 this chapter."

18 SECTION 2. Chapter 328J, Hawaii Revised Statutes, is
19 amended by adding two new sections to be appropriately
20 designated and to read as follows:

21 "§328J-A Smoking establishment employees; smoke hazard
22 acknowledgment form. All holders of a restaurant, dispensers',



1 club, or cabaret license under which smoking is permitted as
2 provided in section 281-31 are required to inform all employees
3 and prospective employees of the hazards of tobacco smoke. The
4 liquor commission for each county shall proscribe forms that
5 each smoking establishment license holder and each employee of a
6 smoking establishment license holder must sign to acknowledge
7 that the employee has been informed of the hazards of working in
8 a smoking establishment. Forms required under this section
9 shall be filed with the appropriate liquor commission.

10 §328J-B Smoking establishment signs. Notwithstanding any
11 other provision of this chapter, all holders of a restaurant,
12 dispensers', club, or cabaret license under which smoking is
13 permitted as provided in section 281-31 shall erect a sign no
14 smaller than eleven inches by seventeen inches in dimension,
15 which shall consist of block lettering at least one inch high,
16 with the exact design to be approved by the Hawaii Bar Owners
17 Association, and which shall state as follows: THIS IS A SMOKER
18 FRIENDLY BUSINESS . . . ENTER AT YOUR OWN RISK. All signs
19 required under this section shall be attached to the door of the
20 entrance of every smoking establishment in a clear and
21 conspicuous manner at all times."



1 SECTION 3. 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. Manufacturer 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
- 18 (4) Other specified liquor.

19 It shall be unlawful for any holder of a manufacturer
20 license to have any interest whatsoever in the license or
21 licensed premises of any other licensee. This subsection shall
22 not prevent the holder of a manufacturer license under this



1 chapter or under the law of another jurisdiction from
2 maintaining any interest in the license or licensed premises of
3 a wholesale dealer licensee under this chapter.

4 (c) Class 2. Restaurant license.

5 (1) A license under this class shall authorize the
6 licensee to sell liquor specified in this subsection
7 for consumption on the premises; provided that a
8 restaurant licensee, with commission approval, may
9 provide off-premises catering of food and liquor;
10 provided further that the catering activity shall be
11 directly related to the licensee's operation as a
12 restaurant. A licensee under this class shall be
13 issued a license according to the category of
14 establishment the licensee owns or operates. The
15 categories of establishment 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 (C) Establishments as described in (A) or (B) which
22 include an outside area in which smoking is



1 permitted pursuant to commission rules. Smoke
2 from these outside areas shall not infiltrate
3 into areas that are not designated for smoking.
4 A licensee under this category shall be issued a
5 license according to the category of
6 establishment the licensee owns or operates. A
7 smoking establishment license shall be granted
8 upon written request and remittance of the
9 smoking establishment license fee by the owner.

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

15 (3) Notwithstanding subsection (2), a smoking
16 establishment license may be canceled at the owner's
17 request at any time, and the owner shall be issued a
18 new license under category A or B under which smoking
19 is not permitted. The owner shall not have to reapply
20 for a license, and any subsequent fees for a smoking
21 establishment license shall be forfeit.



1 [~~3~~] (4) Of this class, there shall be the following

2 kinds:

3 (A) General (includes all liquor except alcohol);

4 (B) Beer and wine; and

5 (C) Beer.

6 Notwithstanding section 281-57, the commission may approve at
7 one public hearing and without notice the change to a class 2
8 restaurant license of a licensee holding a class 5 dispenser
9 license who meets the requirements of a class 2 license.

10 (d) Class 3. Wholesale dealer license. A license for the
11 sale of liquor at wholesale shall authorize the licensee to
12 import and sell only to licensees, or to others who are by law
13 authorized to resell but are not by law required to hold a
14 license, the liquor therein specified; provided that samples of
15 liquor may be sold back to the manufacturer. Under the license,
16 no liquor shall be consumed on the premises except as authorized
17 by the commission. Of this class, there shall be the following
18 kinds:

19 (1) General (includes all liquor except alcohol);

20 (2) Beer and wine; and

21 (3) Alcohol.



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

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



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



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

4 (E) Establishments as described in (A), (B), (C), or
5 (D) in which smoking is permitted pursuant to
6 commission rules. A license under this category
7 shall authorize the licensee to sell liquor for
8 consumption in enclosed premises in which
9 smoking, as defined in section 328J-1, is
10 allowed. Smoke from these premises shall not
11 infiltrate into areas that are not designated for
12 smoking. A licensee under this category shall be
13 issued a license according to the category of
14 establishment the licensee owns or operates. A
15 smoking establishment license shall be granted
16 upon written request and remittance of the
17 smoking establishment license fee by the owner.

18 (2) If a licensee under class 5 desires to change the
19 category of establishment the licensee owns or
20 operates, the licensee shall apply for a new license
21 applicable to the category of the licensee's
22 establishment.



1 (3) Notwithstanding subsection (2), a smoking
2 establishment license may be canceled at the owner's
3 request at any time, and the owner shall be issued a
4 new license under category A, B, C, or D under which
5 smoking is not permitted. The owner shall not have to
6 reapply for a license, and any subsequent fees for a
7 smoking establishment license shall be forfeit.

8 [~~3~~] (4) Of this class, there shall be the following
9 kinds:

- 10 (A) General (includes all liquor 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 liquor 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. A club licensee shall be authorized to host



1 charitable functions that are open to the general public only
2 pursuant to commission rules.

3 The categories of establishment shall be as follows:

4 (1) A standard bar; or

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

8 Holders of a club license may provide areas in which
9 smoking is permitted as provided by commission rules. Smoke
10 from these areas shall not infiltrate into areas that are not
11 designated for smoking. The license shall be granted upon
12 written request and remittance of the smoking establishment
13 license fee by the owner. A smoking establishment license may
14 be canceled at the owner's request at any time, and the owner
15 shall be issued a new club license under which smoking is not
16 permitted. The owner shall not have to reapply for a license,
17 and any subsequent fees for a smoking establishment license
18 shall be forfeit.

19

20 (h) Class 8. Transient vessel license. A general license
21 may be granted to the owner of any vessel for the sale of liquor
22 (other than alcohol) on board the vessel while en route within



1 the jurisdictional limits of the State and within any port of
2 the State. Sales shall be made only for consumption by
3 passengers and their guests on board the vessel. The license
4 shall be issuable in each county where the sales are to be made;
5 provided that the application for the license may be made by any
6 agent representing the owner.

7 (i) Class 9. Tour or cruise vessel license. A general
8 license may be granted to the owner of any tour or cruise vessel
9 for the sale of liquor (other than alcohol) on board the vessel
10 while in the waters of the State; provided that sales be made
11 only for consumption by passengers on board while the vessel is
12 in operation outside the port or dock of any island of the
13 State, unless otherwise approved by the county where the license
14 has been issued. The license shall be issuable in the county
15 wherein the home port is situated. If, on any vessel for which
16 no license has been obtained under this chapter, any liquor is
17 sold or served within three miles of the shore of any island of
18 the State, it shall constitute a violation of this chapter.

19 The categories of establishment shall be as follows:

20 (1) A standard bar; or



1 (2) Premises in which live entertainment or recorded music
2 is provided. Facilities for dancing by the patrons
3 may be permitted as provided by commission rules.

4 (j) Class 10. Special license. A special license may be
5 granted for the sale of liquor for a period not to exceed three
6 days and pursuant to commission rule may be approved by the
7 administrator for fundraising events by nonprofit organizations,
8 political candidates, and political parties; provided that any
9 registered educational or charitable nonprofit organization may
10 sell liquors in their original packages for off-premises
11 consumption. Of this class, there shall be the following kinds:

- 12 (1) General (includes all liquor except alcohol);
- 13 (2) Beer and wine; and
- 14 (3) Beer.

15 Under this license, the liquor therein specified shall be
16 consumed on the premises.

17 (k) Class 11. Cabaret license. A cabaret license shall
18 be general only (but excluding alcohol) and shall authorize the
19 sale of liquor for consumption on the premises. This license
20 shall be issued only for premises where food is served,
21 facilities for dancing by the patrons are provided, including a
22 dance floor, and live or amplified recorded music or



1 professional entertainment, except professional entertainment by
2 a person who performs or entertains unclothed, is provided for
3 the patrons; provided that professional entertainment by persons
4 who perform or entertain unclothed shall be authorized by:

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

9 (2) A cabaret license that, pursuant to rules adopted by
10 the liquor commission, permits professional
11 entertainment by persons who perform or entertain
12 unclothed.

13 A cabaret license under paragraph (1) or (2) authorizing
14 professional entertainment by persons who perform or entertain
15 unclothed shall be transferable through June 30, 2000. A
16 cabaret license under paragraph (1) or (2) authorizing
17 professional entertainment by persons who perform or entertain
18 unclothed shall not be transferable after June 30, 2000, except
19 when the transferee obtains approval from the liquor commission,
20 and pursuant to rules adopted by the commission.
21 Notwithstanding any rule of the liquor commission to the



1 contrary, cabarets in resort areas may be opened for the
2 transaction of business until 4 a.m. throughout the entire week.

3 Holders of a cabaret license may provide areas in which
4 smoking is permitted as provided by commission rules. Smoke
5 from these areas shall not infiltrate into areas that are not
6 designated for smoking. The license shall be granted upon
7 written request and remittance of the smoking establishment
8 license fee by the owner. Notwithstanding any other provision
9 herein, a smoking establishment license may be canceled at the
10 owner's request at any time, and the owner shall be issued a new
11 cabaret license under which smoking is not permitted. The owner
12 shall not have to reapply for a license, and any subsequent fees
13 for a smoking establishment license shall be forfeit.

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

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



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

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

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

10 Any licensee holding a class 12 license on May 1, 2007, and
11 who would otherwise come within this class of license may apply
12 to the liquor commission in which the licensee is seeking a
13 change in liquor license for a change to a class 15 license;
14 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, 2007,
17 applies for a change to a class 15 license, the respective
18 liquor commission shall hold a public hearing upon notice, and
19 upon the day of hearing, or any adjournment thereof, the liquor
20 commission shall consider the application, accept all written or
21 oral testimony for or against the application, and render its
22 decision granting or refusing the application. If the



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

3 (m) Class 13. Caterer license. A general license may be
4 granted to any applicant who serves food as part of their
5 operation for the sale of liquor (other than alcohol) while
6 performing food catering functions off the premises.

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 (n) 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 wholesale dealer



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

3 (4) May sell intoxicating liquor, purchased from a class 1
4 manufacturer licensee, or a class 3 wholesale dealer
5 licensee, to consumers for consumption on the
6 licensee's premises. The categories of establishments
7 shall be as follows:

8 (A) A standard bar; or

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

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

19 (6) May sell malt beverages manufactured on the licensee's
20 premises to consumers, in recyclable containers that
21 may be provided by the licensee or by the consumer,
22 not to exceed one gallon per container, which are



1 securely sealed on the licensee's premises, for off-
2 premises consumption;

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

6 (8) May sell malt beverages manufactured on the licensee's
7 premises in brewery-sealed containers directly to
8 class 2 restaurant licensees, class 3 wholesale dealer
9 licensees, class 4 retail dealer licensees, class 5
10 dispenser licensees, class 6 club licensees, class 8
11 transient vessel licensees, class 9 tour or cruise
12 vessel licensees, class 10 special licensees, class 11
13 cabaret licensees, class 12 hotel licensees, class 13
14 caterer licensees, and class 15 condominium hotel
15 licensees, pursuant to conditions imposed by county
16 regulations governing class 1 [~~manufacturer~~] licensees
17 and class 3 wholesale dealer licensees.

18 (o) Class 15. Condominium hotel license. A license to
19 sell liquor in a condominium hotel shall authorize the licensee
20 to provide entertainment and dancing on the condominium hotel
21 premises and to sell all liquor, except alcohol, for consumption
22 on the premises; provided that a condominium hotel licensee,



1 with commission approval, may provide off-premises catering;
2 provided further that the catering activity is directly related
3 to the licensee's operation as a condominium hotel.

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

9 A condominium hotel licensee shall not sell liquor in the
10 manner authorized by a class 4 retail [~~dealer~~] license.

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

15 [~~(p)~~] Class 16. Winery license. A winery licensee:

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

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

21 (3) May sell wine manufactured by the licensee in winery-
22 sealed packages to class 3 wholesale dealer licensees



- 1 pursuant to conditions imposed by county planning and
2 public works departments;
- 3 (4) May sell wine manufactured on the licensee's premises
4 to consumers in winery-sealed kegs and magnums for
5 off-premises consumption; provided that for purposes
6 of this paragraph, "magnum" means a glass container,
7 not to exceed one half-gallon, which may be securely
8 sealed;
- 9 (5) May sell wine manufactured on the licensee's premises
10 to consumers, in recyclable containers that may be
11 provided by the licensee or by the consumer, not to
12 exceed one gallon per container, which are securely
13 sealed on the licensee's premises, for off-premises
14 consumption;
- 15 (6) Shall comply with all rules pertaining to class 4
16 retail dealer licensees when engaging in the retail
17 sale of wine;
- 18 (7) May sell wine manufactured on the licensee's premises
19 in winery-sealed containers directly to class 2
20 restaurant licensees, class 3 wholesale dealer
21 licensees, class 4 retail dealer licensees, class 5
22 dispenser licensees, class 6 club licensees, class 7



1 vessel licensees, class 8 transient vessel licensees,
 2 class 9 tour or cruise vessel licensees, class 10
 3 special licensees, class 11 cabaret licensees, class
 4 12 hotel licensees, class 13 caterer licensees, class
 5 14 brewpub licensees, and class 15 condominium hotel
 6 licensees, pursuant to conditions imposed by county
 7 planning and public works departments and rules
 8 governing class 3 wholesale dealer licensees; and

9 (8) May conduct the activities described in paragraphs (1)
 10 through (7) at locations other than the licensee's
 11 premises; provided that the manufacturing takes place
 12 in Hawaii; and provided further that the other
 13 locations are properly licensed by the same ownership.

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

18 [~~(h)~~] Any provision to the contrary notwithstanding, at the
 19 discretion of the county liquor commission, permission may be
 20 granted to a bona fide hotel, restaurant, or club licensed under
 21 class 2, class 6, class 11, class 12, class 14, class 15, or
 22 class 16 to allow a patron to remove from the licensed premises



1 any portion of wine that was purchased for consumption with a
2 meal; provided that it is recorked or resealed in its original
3 container. This subsection applies only to a valid holder of a
4 class 2, class 6, class 11, class 12, class 14, class 15, or
5 class 16 license engaged in meal service.

6 SECTION 4. Section 327-24, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§327-24 Hawaii organ and tissue education special fund.**

9 There is established in the state treasury the Hawaii Organ and
10 Tissue Education Special fund. Moneys collected under [~~section~~]
11 sections 286-109.7 and 281- shall be deposited into the fund.
12 The fund shall be administered and distributed by the department
13 of health and shall be used exclusively for public education
14 programs and activities on organ, tissue, and eye donation."

15 SECTION 5. Section 328J-1, Hawaii Revised Statutes, is
16 amended by amending the definitions of "Bar" and "Restaurant" to
17 read as follows:

18 ""Bar" means an establishment that is devoted to the
19 serving of alcoholic beverages for consumption by guests on the
20 premises regardless of whether food is served, including but not
21 limited to taverns, cocktail lounges, and cabarets, including
22 outdoor areas of bars[-]; provided that establishments with a



1 smoking establishment license issued under section 281-31 shall
2 not be included.

3 "Restaurant" means an eating establishment, including but
4 not limited to coffee shops, cafeterias, sandwich stands, and
5 private and public school cafeterias, which gives or offers for
6 sale food to the public, guests, or employees, as well as
7 kitchens and catering facilities in which food is prepared on
8 the premises for serving elsewhere[-]; provided that outdoor
9 areas of establishments operating with a smoking establishment
10 license issued under section 281-31 shall not be included. The
11 term "restaurant" includes a bar area within the restaurant and
12 is limited to the outdoor areas of restaurants."

13 SECTION 6. Section 328J-7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§328J-7[+] **Exceptions.** Notwithstanding any other
16 provision of this chapter to the contrary, the following areas
17 shall be exempt from the provisions of sections 328J-3, 328J-4,
18 and 328J-5:

19 (1) Private residences, except when used as a licensed
20 child care, adult day care, or health care facility;

21 (2) Hotel and motel rooms that are rented to guests and
22 are designated as smoking rooms; provided that not



1 more than twenty per cent of rooms rented to guests in
2 a hotel or motel may be so designated. All smoking
3 rooms on the same floor shall be contiguous and smoke
4 from these rooms shall not infiltrate into areas where
5 smoking is prohibited under this chapter. The status
6 of rooms as smoking or nonsmoking may not be changed,
7 except to add additional nonsmoking rooms;

8 (3) Retail tobacco stores; provided that smoke from these
9 places shall not infiltrate into areas where smoking
10 is prohibited under this chapter;

11 (4) Establishments in which smoking is permitted pursuant
12 to a smoking establishment license issued under
13 section 281-31;

14 [~~4~~] (5) Private and semiprivate rooms in nursing homes
15 and long-term care facilities that are occupied by one
16 or more persons, all of whom are smokers and have
17 requested in writing to be placed in a room where
18 smoking is permitted; provided that smoke from these
19 places shall not infiltrate into areas where smoking
20 is prohibited under this chapter;



1 ~~[(5)]~~ (6) Outdoor areas of places of employment except
2 those covered by the provisions of sections 328J-3 and
3 328J-5;

4 ~~[(6)]~~ (7) All areas covered by this chapter when smoking is
5 part of a production being filmed; and

6 ~~[(7)]~~ (8) State correctional facilities."

7 SECTION 7. Section 328L-5, Hawaii Revised Statutes, is
8 amended by amending subsection (e) to read as follows:

9 "(e) The assets of the Hawaii tobacco prevention and
10 control trust fund shall consist of:

- 11 (1) Moneys appropriated under section 328L-2(b)(3);
12 (2) Moneys appropriated to the Hawaii tobacco prevention
13 and control trust fund by the state, county, or
14 federal government;

15 (3) Moneys collected from the smoking establishment
16 license fee under section 281- ;

17 ~~[(3)]~~ (4) Private contributions of cash or property; and

18 ~~[(4)]~~ (5) Income and capital gains earned by the trust
19 fund."

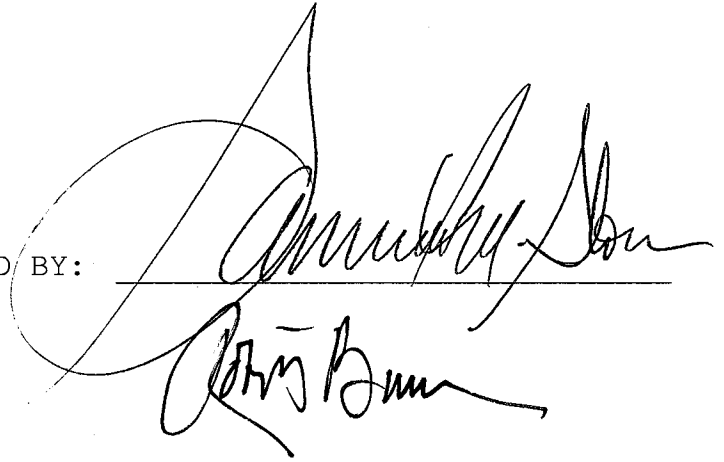
20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 9. This Act shall take effect on July 1, 2009.



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2
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INTRODUCED BY:


Anthony Brown

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Report Title:

Smoking

Description:

Allows smoking in properly licensed establishments. Requires collection of smoking establishment licensing fee with proceeds to go towards organ donation education and tobacco education.

