

Honolulu, Hawaii

FEB 17 2009

RE: S.B. No. 470

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Transportation, International and Intergovernmental Affairs, to which was referred S.B. No. 470 entitled:

"A BILL FOR AN ACT RELATING TO LIQUOR,"

begs leave to report as follows:

The purpose of this measure is to make various administrative and technical amendments to chapters 231 and 281, Hawaii Revised Statutes, as they relate to liquor licenses.

Your Committee received testimony in support of this measure from the Departments of Liquor Control of the Counties of Hawaii, Kauai, and Maui and the City and County of Honolulu Liquor Commission. Copies of written testimony are available for review on the Legislature's website.

Among other things, this measure:

- (1) Enables the liquor control departments to extend relief to licensees who cannot obtain a tax clearance prior to license renewal or transfer;
- (2) Expands the use of fine moneys to include public liquor-related educational or enforcement programs, subject to a quantified annual limit;
- (3) Clarifies procedures relating to liquor license transfers, to more accurately reflect modern business enterprise organization; and



- (4) Extends the time within which a liquor commission may grant or refuse a liquor license application following public hearing.

Your Committee finds that the statutory amendments pursuant to this measure provide clarity and consistency and enhance the enforcement powers of the various county liquor commissions.

As affirmed by the record of votes of the members of your Committee on Transportation, International and Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 470 and recommends that it pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Transportation,
International and
Intergovernmental Affairs,




J. KALANI ENGLISH, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Transportation, International and Intergovernmental Affairs
TIA

Bill / Resolution No.:* SB 470	Committee Referral: TIA, CPN	Date: 2-11-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ENGLISH, J. Kalani (C)	✓			
GABBARD, Mike (VC)				✓
ESPERO, Will	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam				✓
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;">  </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

JAN 23 2009

A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1 SECTION 1. Section 91-9.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " [H] §91-9.5 [H] Notification of hearing; service. (a)
4 Unless otherwise provided by law, all parties shall be given
5 written notice of hearing by personal delivery or registered or
6 certified mail with return receipt requested at least fifteen
7 days before the hearing.

8 (b) Unless otherwise provided by law, if service by
9 personal service or registered or certified mail is not made
10 because of the refusal to accept service or the board or its
11 agents have been unable to ascertain the address of the party
12 after reasonable and diligent inquiry, the notice of hearing may
13 be given to the party by publication at least once in each of
14 two successive weeks in a newspaper of general circulation. The
15 last published notice shall appear at least fifteen days prior
16 to the date of the hearing."

17 SECTION 2. Section 231-28, Hawaii Revised Statutes, is
18 amended to read as follows:



1 "§231-28 Tax clearance before procuring liquor licenses.
2 No liquor licenses shall be issued or renewed unless the
3 applicant therefor shall present to the issuing agency, a
4 certificate signed by the director of taxation, showing that the
5 applicant does not owe the State any delinquent taxes,
6 penalties, or interest[-]; or that the applicant has entered
7 into and is complying with an installment plan agreement with
8 the department of taxation for the payment of delinquent taxes
9 in installments."

10 SECTION 3. Section 281-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "retail licensee" to read
12 as follows:

13 ""Retail licensee" means any licensee holding a class 2 or
14 class 4 through class [~~4~~] 16 license."

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

17 "§281-3 Illegal manufacture, importation, or sale of
18 liquor. It shall be unlawful for any person not having a valid
19 license to manufacture or sell any liquor except as otherwise
20 provided in this chapter; provided that the head of any family
21 may produce for family use and not for sale an amount of wine



1 not exceeding two hundred gallons a year, and an amount of beer
2 not exceeding one hundred gallons a year.

3 It shall also be unlawful for any person, not having a
4 valid wholesale license or a valid manufacturer's (including
5 rectifier's) license, to import any liquor from without the
6 State, except as otherwise provided in this chapter. Liquor
7 imported into this State shall come to rest at the warehouse of
8 the manufacturer (including rectifier) or the wholesaler
9 importing the liquor, shall be unloaded into such warehouse, and
10 shall be held in such warehouse for at least forty-eight hours
11 before further sale by such manufacturer (including rectifier)
12 or wholesaler.

13 It shall also be unlawful for any person to label,
14 designate, or sell any liquor using the word "Hawaii",
15 "Hawaiian", "Aloha State", "50th State", "Kauai", "Maui",
16 "Oahu", or "Honolulu" unless such liquor is wholly or partially
17 manufactured in the State, and all of the primary ingredients
18 are wholly rectified or combined in the State of Hawaii in
19 compliance with the [~~Bureau of Alcohol, Tobacco and Firearms~~]
20 Alcohol and Tobacco Tax and Trade Bureau standards.



1 A license shall constitute authority for the licensee to
2 sell only the liquor thereby authorized to be sold by the
3 licensee."

4 SECTION 5. Section 281-17, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The liquor commission, within its own county, shall
7 have the sole jurisdiction, power, authority, and discretion,
8 subject only to this chapter:

- 9 (1) To grant, refuse, suspend, and revoke any licenses for
10 the manufacture, importation, and sale of liquors;
- 11 (2) To take appropriate action against a person who,
12 directly or indirectly, manufactures, sells, or
13 purchases any liquor without being authorized pursuant
14 to this chapter; provided that in counties which have
15 established by charter a liquor control adjudication
16 board, the board shall have the jurisdiction, power,
17 authority, and discretion to hear and determine
18 administrative complaints of the director regarding
19 violations of the liquor laws of the State or of the
20 rules of the liquor commission, and impose penalties
21 for violations thereof as may be provided by law;



- 1 (3) To control, supervise, and regulate the manufacture,
2 importation, and sale of liquors by investigation,
3 enforcement, and education; provided that any
4 educational program shall be limited to the commission
5 staff, commissioners, or liquor control adjudication
6 board members, licensees and their employees and shall
7 be financed through the money collected from the
8 assessment of fines against licensees; provided that
9 fine moneys, not to exceed ten per cent a year of
10 fines accumulated, may be used to fund public liquor
11 related educational or enforcement programs;
- 12 (4) From time to time to make, amend, and repeal such
13 rules, not inconsistent with this chapter, as in the
14 judgment of the commission seem appropriate for
15 carrying out this chapter and for the efficient
16 administration thereof, and the proper conduct of the
17 business of all licensees, including every matter or
18 thing required to be done or which may be done with
19 the approval or consent or by order or under the
20 direction or supervision of or as prescribed by the
21 commission; which rules, when adopted as provided in
22 chapter 91 shall have the force and effect of law;



- 1 (5) Subject to chapter 76, to appoint and remove an
2 administrator, who may also be appointed an
3 investigator and who shall be responsible for the
4 operations and activities of the staff. The
5 administrator may hire and remove hearing officers,
6 investigators, and clerical or other assistants as its
7 business may from time to time require, to prescribe
8 their duties, and fix their compensation; to engage
9 the services of experts and persons engaged in the
10 practice of a profession, if deemed expedient. Every
11 investigator, within the scope of the investigator's
12 duties, shall have the powers of a police officer;
- 13 (6) To limit the number of licenses of any class or kind
14 within the county, or the number of licenses of any
15 class or kind to do business in any given locality,
16 when in the judgment of the commission such
17 limitations are in the public interest;
- 18 (7) To prescribe the nature of the proof to be furnished,
19 the notices to be given, and the conditions to be met
20 or observed in case of the issuance of a duplicate
21 license in place of one alleged to have been lost or



1 destroyed, including a requirement of any indemnity
2 deemed appropriate to the case;

3 (8) To fix the hours between which licensed premises of
4 any class or classes may regularly be open for the
5 transaction of business, which shall be uniform
6 throughout the county as to each class respectively;

7 (9) To prescribe all forms to be used for the purposes of
8 this chapter not otherwise provided for in this
9 chapter, and the character and manner of keeping of
10 books, records, and accounts to be kept by licensees
11 in any matter pertaining to their business;

12 (10) To investigate violations of this chapter, chapter
13 244D and, notwithstanding any law to the contrary,
14 violations of the applicable department of health's
15 allowable noise levels, through its investigators or
16 otherwise, to include covert operations, and to report
17 violations to the prosecuting officer for prosecution
18 and, where appropriate, the director of taxation to
19 hear and determine complaints against any licensee;

20 (11) To prescribe, by rule, the terms, conditions, and
21 circumstances under which persons or any class of
22 persons may be employed by holders of licenses;



- 1 (12) To prescribe, by rule, the term of any license or
2 solicitor's and representative's permit authorized by
3 this chapter, the annual or prorated amount, the
4 manner of payment of fees for the licenses and
5 permits, and the amount of filing fees; and
6 (13) To prescribe, by rule, the circumstances and penalty
7 for the unauthorized manufacturing or selling of any
8 liquor."

9 SECTION 6. Section 281-22, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) A commission employee may support, advocate, or aid
12 in the election or defeat of any candidate for public office, or
13 run for public office; provided the employee:

14 (1) Notifies the commission in writing of the employee's
15 intent to support, advocate, or aid in the election or
16 defeat of a candidate for public office; and

17 (2) If a candidate for public office, takes a leave of
18 absence in accordance with [~~chapter 79~~] section 78-23
19 for a period beginning prior to the initiation of
20 political activities related to the candidacy and
21 ending the day following the general election for the
22 office."

1 SECTION 7. Section 281-31, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (n) to read:

4 "(n) Class 14. Brewpub license. A brewpub licensee:

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

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

10 (3) May sell malt beverages manufactured by the licensee
11 in brewery-sealed packages to class 3 wholesale dealer
12 licensees pursuant to conditions imposed by the county
13 [~~planning and public works departments,~~] by ordinance
14 or rule;

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

20 (A) A standard bar; or

21 (B) Premises in which live entertainment or recorded
22 music is provided. Facilities for dancing by the



1 patrons may be permitted as provided by
2 commission rules;

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

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

15 (7) Shall comply with all regulations pertaining to class
16 4 retail dealer licensees when engaging in the retail
17 sale of malt beverages; and

18 (8) May sell malt beverages manufactured on the licensee's
19 premises in brewery-sealed containers directly to
20 class 2 restaurant licensees, class 3 wholesale dealer
21 licensees, class 4 retail dealer licensees, class 5
22 dispenser licensees, class 6 club licensees, class 8



1 transient vessel licensees, class 9 tour or cruise
2 vessel licensees, class 10 special licensees, class 11
3 cabaret licensees, class 12 hotel licensees, class 13
4 caterer licensees, and class 15 condominium hotel
5 licensees, pursuant to conditions imposed by county
6 regulations governing class 1 [+]manufacturer[+]
7 licensees and class 3 wholesale dealer licensees."

8 2. By amending subsection (p) to read:

9 "[+] (p) [+] Class 16. Winery license. A winery licensee:

- 10 (1) Shall manufacture not more than ten thousand barrels
11 of wine on the licensee's premises during the license
12 year;
- 13 (2) May sell wine manufactured on the licensee's premises
14 for consumption on the premises;
- 15 (3) May sell wine manufactured by the licensee in winery-
16 sealed packages to class 3 wholesale dealer licensees
17 pursuant to conditions imposed by the county [planning
18 and public works departments,] by ordinance or rule;
- 19 (4) May sell wine manufactured on the licensee's premises
20 to consumers in winery-sealed kegs and magnums for
21 off-premises consumption; provided that for purposes
22 of this paragraph, "magnum" means a glass container,



1 not to exceed one half-gallon, which may be securely
2 sealed;

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

9 (6) Shall comply with all rules pertaining to class 4
10 retail dealer licensees when engaging in the retail
11 sale of wine; and

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



1 planning and public works departments and rules
2 governing class 3 wholesale dealer licensees [~~7~~ and
3 ~~(8) May conduct the activities described in paragraphs (1)~~
4 ~~through (7) at locations other than the licensee's~~
5 ~~premises; provided that the manufacturing takes place~~
6 ~~in Hawaii; and provided further that the other~~
7 ~~locations are properly licensed by the same~~
8 ~~ownership]."~~

9 SECTION 8. Section 281-41, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§281-41 Transfer of licenses; notice of change in
12 officers, directors, and stockholders of corporate licenses,
13 partners of a partnership license, and members of a limited
14 liability company license; penalty. (a) No license issued
15 under this chapter to an original applicant or to any transferee
16 shall be transferable or be transferred within one year of the
17 issuance or transfer, except for good cause shown to the
18 satisfaction of the liquor commission. A transfer of license
19 shall be for the same class, kind, and category of license. No
20 license issued under this chapter shall be transferable or be
21 transferred except upon written application to the commission by
22 the proposed transferee, and after prior inspection of the



1 premises, reference to, and report by an inspector, and a public
2 hearing held by the commission not less than fourteen days after
3 one publication of notice thereof, but without sending notice of
4 the hearing by mail to persons being the owners or lessees of
5 real estate situated within the vicinity of the premises and
6 without the right to the owners or lessees to protest the
7 transfer of a license. Exceptions are class 5 and 11 licensees
8 who must comply with the [notiee] requirements as set forth in
9 ~~[section 281-57.]~~ sections 281-57 to 281-60.

10 ~~[(b) No class 5 or 12 license issued to a standard bar, as~~
11 ~~defined in section 281-1, shall be transferable to other than a~~
12 ~~standard bar and that such license shall be subject to~~
13 ~~revocation if the licensed premises is not retained as a~~
14 ~~standard bar except upon written application to the commission~~
15 ~~by the licensee or the proposed transferee, subject to sections~~
16 ~~281-51 to 281-60.~~

17 ~~(e)]~~ (b) A county may increase the requirements for
18 transfers of class 5, category ~~[+]~~ (1) ~~[+]~~ (B) and (D), and class
19 11 licenses by ordinance designating one or more areas within
20 the county as special liquor districts and specifying the
21 requirements applicable to transfers of any of these licenses
22 within each district.



1 ~~[(d)]~~ (c) For the purpose of this section, "special liquor
2 district" means an area designated by a county for restoration,
3 reservation, historic preservation, redevelopment, rejuvenation,
4 or residential protection, in which development is guided to
5 protect or enhance the physical and visual aspects of the area
6 for the benefit of the community as a whole.

7 ~~[(e)]~~ (d) Where a license is held by a partnership, the
8 commission may, notwithstanding this section, approve the
9 transfer of the [license] partnership interest upon the death or
10 withdrawal of a member of the partnership to any remaining
11 partner or partners without publication of notice ~~[and without]~~
12 at a public hearing.

13 ~~[(f)]~~ (e) Where a license is held by a partnership,
14 limited partnership, limited liability partnership, or a limited
15 liability company, the admission or withdrawal of a limited
16 partner, partner of a limited liability partnership, or a member
17 of the limited liability company shall not be deemed a transfer
18 of the license held by the partnership or limited liability
19 company, but the licensee shall, prior to such admission or
20 withdrawal, so notify the commission in writing, stating the
21 name of the partner, partners, member, or members who have
22 withdrawn, if such be the case, and the name, age, and place of



1 residence of the partner, partners, member, or members who have
2 been admitted, if that be the case. If the commission finds a
3 [limited] partner or a member to be an unfit or improper person
4 to hold a license in the [limited] partner's or member's own
5 right pursuant to section 281-45, it may revoke the license or
6 suspend the license of the partnership or the limited liability
7 company until the unfit or improper partner or member is removed
8 or replaced.

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

19 [~~(h)~~] (g) Upon the hearing, the commission shall consider
20 the application and any objections to the granting thereof and
21 hear the parties in interest. It shall inquire into the
22 propriety of each transfer and determine whether the proposed



1 transferee is a fit person to hold the license. It may approve
2 a transfer or refuse to approve a transfer and the refusal by
3 the commission to approve a transfer shall be final and
4 conclusive, unless an appeal is taken as provided in chapter 91.

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

12 ~~[(j)]~~ (i) If the licensee is a corporation, a change in
13 ownership of any outstanding capital stock shall not be deemed a
14 transfer of a license; provided that in the case of a change in
15 ownership of twenty-five per cent or more of the stock or in the
16 case of change in ownership of any number of shares of the stock
17 that results in the transferee thereof becoming the owner of
18 twenty-five per cent or more of the outstanding capital stock,
19 the corporate licensee shall, prior to the date of the transfer,
20 apply for and secure the approval of the transfer from the
21 commission in writing. If the commission finds that the
22 proposed transferee is an unfit or improper person to hold a



1 license in the proposed transferee's own right pursuant to
2 section 281-45, it shall not approve the proposed transfer. If
3 any transfer is made without the prior approval of the
4 commission, the commission may in its discretion revoke or
5 suspend the license until it determines that the transferee is a
6 fit and proper person, and if the commission finds that the
7 transferee is not a fit and proper person, until a retransfer or
8 new transfer of the capital stock is made to a fit and proper
9 person pursuant to section 281-45. In addition, the corporate
10 licensee shall, within thirty days from the date of election of
11 any officer or director, notify the commission in writing of the
12 name, age, and place of residence of the officer or director.
13 If the commission finds the transferee, officer, or director an
14 unfit or improper person to hold a license in the transferee's,
15 officer's, or director's own right pursuant to section 281-45,
16 it may in its discretion revoke the license or suspend the
17 license until a retransfer or new transfer of the capital stock
18 is effected to a fit or proper person pursuant to section 281-45
19 or until the unfit or improper transferee, officer, or director
20 is removed or replaced by a fit and proper person pursuant to
21 section 281-45.



1 [~~(k)~~] (j) If a licensee closes out the business for which
2 the license is held, during the term for which the license was
3 issued, the licensee shall, within five days from the date of
4 closing the same, give the commission written notice thereof and
5 surrender the licensee's license for cancellation.

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

16 As used in this subsection, "entity" means a corporation,
17 partnership, limited partnership, limited liability partnership,
18 or limited liability company."

19 SECTION 9. Section 281-45, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§281-45 No license issued, when. No license shall be
22 issued under this chapter:



- 1 (1) To any minor or to any person who has been convicted
2 of a felony and not pardoned (except that the
3 commission may grant a license under this chapter to a
4 corporation that has been convicted of a felony where
5 the commission finds that the organization's officers
6 and shareholders of twenty-five per cent or more of
7 outstanding stock are fit and proper persons to have a
8 license), or to any other person not deemed by the
9 commission to be a fit and proper person to have a
10 license;
- 11 (2) To a corporation the officers and directors of which,
12 or any of them, would be disqualified under paragraph
13 (1) from obtaining the license individually, or a
14 stockholder of which, owning or controlling twenty-
15 five per cent or more of the outstanding capital
16 stock, or to a general partnership, limited
17 partnership, limited liability partnership, or limited
18 liability company whose partner or member holding
19 twenty-five per cent or more interest of which, or any
20 of them would be disqualified under paragraph (1) from
21 obtaining the license individually;



- 1 (3) Unless the applicant for a license or a renewal of a
2 license, or in the case of a transfer of a license,
3 both the transferor and the transferee, present to the
4 issuing agency a signed certificate from the director
5 of taxation and from the Internal Revenue Service
6 showing that the applicant or the transferor and
7 transferee do not owe the state or federal governments
8 any delinquent taxes, penalties, or interest; or that
9 the applicant, or in the case of a transfer of a
10 license, the transferor or transferee, has entered
11 into an installment plan agreement with the department
12 of taxation and the Internal Revenue Service for the
13 payment of delinquent taxes in installments and that
14 the applicant is or the transferor or transferee is,
15 in the case of a transfer of a license, complying with
16 the installment plan agreement; or
- 17 (4) To any applicant who has had any liquor license
18 revoked less than two years previous to the date of
19 the application for any like or other license under
20 this chapter."

21 SECTION 10. Section 281-57, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



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

5 (1) Not less than two-thirds of the owners and lessees of
6 record of real estate and owners of record of shares
7 in a cooperative apartment or to those individuals on
8 the list of owners as provided by the managing agent
9 or governing body of the shareholders association
10 situated within a distance of five hundred feet from
11 the nearest point of the premises for which the
12 license is asked to the nearest point of such real
13 estate or cooperative apartment; provided that in
14 meeting this requirement, the applicant shall mail a
15 notice to not less than three-fourths of the owners
16 and lessees of record of real estate and owners of
17 record of shares in a cooperative apartment situated
18 within a distance of one hundred feet from the nearest
19 point of the premises for which the license is asked.
20 Notice by mail may be addressed to the last known
21 address of the person concerned or to the address as
22 shown in the [~~last tax return filed by~~] current real



1 property tax record of the person or the person's
2 agent or representative;

3 (2) In counties with a population of five hundred thousand
4 or more, not less than two-thirds of the registered
5 voters residing within, and small businesses situated
6 within, a distance of five hundred feet from the
7 nearest point of the premises for which the license is
8 asked; provided that in meeting this requirement, the
9 applicant shall mail notices to not less than three-
10 fourths of the registered voters residing within, and
11 small businesses situated within, a distance of one
12 hundred feet from the nearest point of the premises
13 for which the license is asked. This paragraph shall
14 not apply to applications for class 2, class 4, class
15 12, and class 15 licenses. A notice sent pursuant to
16 this paragraph shall be addressed to the "occupant" of
17 the residential unit or small business; and

18 (3) For each condominium project and cooperative apartment
19 within the five hundred-foot area, one notice of the
20 hearing shall be sent by mail addressed "To the
21 Residents, Care of the Manager", followed by the name



1 and address of the condominium or cooperative
2 apartment involved.

3 The notices required under this subsection shall be mailed at
4 least forty-five days prior to the date set for the hearing. No
5 promotional information shall be allowed on, or accompany the
6 notice. Before the hearing, and within seven business days of
7 having mailed the notices, the applicant shall file with the
8 commission an affidavit that the notices have been mailed in
9 compliance with this subsection. In addition to the affidavit
10 (which shall be made available within the same seven-business-
11 day period with proof of having mailed the notices), the
12 applicant shall include both a master list of one hundred per
13 cent of addressees and addresses required by paragraphs (1),
14 (2), and (3), and another mailing list consisting of the portion
15 of addressees and their respective addresses who were mailed the
16 notice purposely needed to meet the requirements of paragraphs
17 (1), (2), and (3). The affidavit, master list, and mailing list
18 shall be made available within seven business days (of the
19 mailing of the notice by the applicant) by the commission for
20 public review upon request. For purposes of this section,
21 "master list" means every owner and lessee who would otherwise
22 be required to receive notice of the public hearing according to



1 the requirement of paragraphs (1), (2), and (3), even if they
2 were not actually included in the two-third or three-fourths
3 requirement (as the case may be) of paragraph (1) or (2), and
4 every condominium project and cooperative apartment qualifying
5 in paragraph (3). When the requirements of this section have
6 not been met, the commission may cancel the hearing or continue
7 the public hearing subject to the provisions of [f]this
8 section[+]."

9 SECTION 11. Section 281-59, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Upon the day of hearing, or any adjournment thereof,
12 the liquor commission shall consider the application and any
13 protests and objections to the granting thereof, and hear the
14 parties in interest. The liquor commission shall accept all
15 written or oral testimony for or against the application whether
16 the application is denied, refused, or withdrawn. Within
17 [~~fifteen~~] ninety days after the hearing, or within [~~thirty~~] one
18 hundred twenty days thereafter if in its discretion the
19 commission extends the [~~fifteen~~] ninety days to [~~thirty~~] one
20 hundred twenty days, and gives public notice of same, the
21 commission shall give its decision granting or refusing the
22 application; provided that if a majority of the:



1 (1) Registered voters for the area within five hundred
2 feet of the nearest point of the premises for which
3 the license is asked; or

4 (2) Owners and lessees of record of real estate and owners
5 of record of shares in a cooperative apartment within
6 five hundred feet of the nearest point of the premises
7 for which the license is asked,

8 have duly filed or caused to be filed their protests against the
9 granting of the license, or if there appears any other
10 disqualification under this chapter, the application shall be
11 refused. Otherwise, the commission may in its discretion grant
12 or refuse the same.

13 For purposes of defining "a majority of the owners and
14 lessees of record of real estate and owners of record of shares
15 in a cooperative apartment", each property counts only once;
16 provided that roadways shall not be included. A protest
17 submitted by the majority of the co-owners or the majority of
18 the co-lessees of a property shall constitute a protest by all
19 the owners or lessees of record of that property. A protest
20 filed by owners or lessees who own more than one property shall
21 be counted for each property."



1 SECTION 12. Section 281-85, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) It shall be unlawful for any person acting as agent
4 or representative of a nonresident principal or for any licensee
5 directly or indirectly, or through any subsidiary or affiliate,
6 to give any premium or free goods of intoxicating liquor or
7 other merchandise in connection with the sale of any
8 intoxicating liquor; or to [~~give~~] offer or to provide any
9 premium or free goods of intoxicating liquor in connection with
10 the sale of other merchandise."

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

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

14

INTRODUCED BY: 



Report Title:

Liquor Licenses

Description:

Makes various administrative, technical amendments to the liquor license and liquor tax laws.



Senate Committee on Commerce and Consumer Protection
Senate Conference Room 229
Hawaii State Capitol

Committee Chairman Rosalyn H. Baker Vice Chair David Y. Ige & Committee Members,

I am in support of SB470.

The proposed bill is the result of a comprehensive review of Chapter 281 conducted by the four county liquor control departments, including its commissions and adjudication boards and industry representatives.

It's passage will:

- Enable the liquor control departments to extend relief to licensees who cannot obtain a tax clearance prior to license renewal or transfer.
- Expand the use of fine moneys to include public liquor-related educational or enforcement programs, subject to a quantified annual limit.
- Clarify procedures relating to liquor license transfers, to more accurately reflect modern business enterprise organization.
- Extend the time within which a liquor commission may grant or refuse a liquor license application following public hearing.

I ask that you vote in favor of this bill.

Respectfully,

Niki Doyle
General Manager
Hard Rock Café
Honolulu_gm@hardrock.com

Eric Arquero

From: Thomas Jones [tomjones@reihawaii.com]
Sent: Saturday, February 28, 2009 2:28 PM
To: CPN Testimony
Subject: March 3 Hearing Room 229 9:30 AM - In Support of SB 470

*

*Senate Committee on Commerce and Consumer Protection Senate Conference Room 229 Hawaii State Capitol

Committee Chairman Rosalyn H. Baker Vice Chair David Y. Ige & Committee Members,

I am in support of SB470.

*

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- * Clarify procedures relating to liquor license transfers, to more accurately reflect modern business enterprise organization.
- * Extend the time within which a liquor commission may grant or refuse a liquor license application following public hearing.

I ask that you vote in favor of this bill.

Respectfully,

<enter your name, title, company>

--

Thomas H Jones

President & CO-Owner

REI Food Service, LLC

d.b.a. Gyotaku Japanese Restaurants

Subject Line: March 3 Hearing Room 229 9:30 AM - In Support of SB 470

Senate Committee on Commerce and Consumer Protection
Senate Conference Room 229
Hawaii State Capitol

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- Extend the time within which a liquor commission may grant or refuse a liquor license application following public hearing.

I ask that you vote in favor of this bill.

Respectfully,

Gary Manago
President
Sergio's LLC

Eric Arquero

From: Bill Tobin [billt@tikisgrill.com]
Sent: Monday, March 02, 2009 4:09 PM
To: CPN Testimony
Subject: March 3 Hearing Room 229 9:30 AM - In Support of SB 470

Senate Committee on Commerce and Consumer
Protection
Senate Conference Room 229
Hawaii State Capitol

Committee Chairman Rosalyn H. Baker Vice Chair
David Y. Ige & Committee Members,

I am in support of SB470.

As a entrepreneur and business owner with over 150 employees, this bill, if enacted, could be the difference of being able to survive one of the toughest years in all of my experience in the food and beverage industry. I am not exaggerating by saying that need for this legislation is crucial and immediate, for my business as well as many others in Hawaii. The proposed bill is the result of a comprehensive review of Chapter 281 conducted by the four county liquor control departments, including its commissions and adjudication boards and industry representatives.

It's passage will:

- Enable the liquor control departments to extend relief to licensees who cannot obtain a tax clearance prior to license renewal or transfer.
- Expand the use of fine moneys to include public liquor-related educational or enforcement programs, subject to a quantified annual limit.
- Clarify procedures relating to liquor license transfers, to more accurately reflect modern business enterprise organization.
- Extend the time within which a liquor commission may grant or refuse a liquor license application following public hearing.

If you would like to speak to me personally regarding this legislation, please email me at bill@tikisgrill.com or call my cell phone at 371-3440.

I ask that you vote in favor of this bill.

Respectfully,

Bill Tobin
Owner
Tiki's Grill & Bar
Waikiki