
A BILL FOR AN ACT

RELATING TO SMOKING.

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

1 SECTION 1. Chapter 328J, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "§328J-A Smoking permit; application; renewal; compliance.

5 (a) No bar or establishment subject to section 328J-3(4), shall
6 permit smoking on its premises without a smoking permit issued
7 pursuant to rules adopted by the department.

8 (b) Each initial permit application under this section
9 shall be accompanied by a fee of \$ for a smoking permit
10 valid for one year. For renewal of a permit, each applicant
11 shall pay a fee of \$ per year. Initial permit
12 application and renewal fees may be increased by not more than
13 \$ per year. All smoking permits shall expire on December
14 31 of each year. The application for a permit renewal shall be
15 submitted to the department in writing on or before December 31
16 annually.

17 (c) The smoking permit application and renewal form shall
18 include the applicant's name, address, and the proposed



1 locations on the applicant's premises where smoking shall be
2 allowed. Each form shall be signed by the applicant and by the
3 issuing authority. One copy of the initial smoking permit and
4 any subsequent renewal application forms shall be retained by
5 the department as a permanent official record.

6 (d) The department shall conduct site inspections and
7 monitoring to ensure compliance with the terms of smoking
8 permits and this chapter.

9 (e) The department shall suspend, refuse to renew,
10 reinstate, or restore, or deny any permit or application if the
11 department discovers through its inspection that the bar or
12 establishment has failed to comply with the terms of its permit
13 or this chapter.

14 (f) No later than January 1, 2011, the director shall
15 adopt rules pursuant to chapter 91 to effectuate the purposes of
16 this section, including:

17 (1) Preparing any forms that may be necessary;

18 (2) Establishing schedules and conditions for site
19 inspections and monitoring; and

20 (3) Providing for the issuance of permits.

21 §328J-B Smoking permit compliance special fund. (a)

22 There is established in the state treasure treasury the smoking



1 permit compliance monitoring fund, into which shall be
2 deposited:

3 (1) Smoking permit application fees;

4 (2) Smoking permit renewal fees;

5 (3) All accrued interest from the fund; and

6 (4) Appropriations made by the legislature.

7 (b) Moneys in the smoking permit compliance special fund
8 shall be used to:

9 (1) Fund administrative, inspection, and compliance
10 activities associated with smoking permits; and

11 (2) Fund associated office expenses.

12 §328J-C Employees; acknowledgment form. Each employee of
13 a bar or other establishment that elects to allow smoking
14 pursuant to section 328J-3(4) on the entire premises or in a
15 separately enclosed or partially enclosed designated area shall
16 sign a standardized acknowledgment form, to be developed by the
17 department, that affirms the employee's knowledge and acceptance
18 of the health risks and potential adverse consequences of
19 inhaling secondhand smoke within the bar, regardless of whether
20 the employee works in the smoking or non-smoking area of the
21 bar."



1 SECTION 2. Section 328J-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "bar" to read as follows:

3 "Bar" means an establishment [~~that is devoted to the~~
4 whose primary business is the serving of alcoholic beverages for
5 consumption by guests on the premises regardless of whether food
6 is served, including but not limited to standalone bars or bars
7 that share the premises with another business such as a
8 restaurant, taverns, cocktail lounges, and cabarets, including
9 outdoor areas of bars."

10 SECTION 3. Section 328J-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~328J-3 [~~§~~] Prohibition in enclosed or partially
13 enclosed places open to the public. Smoking shall be prohibited
14 in all enclosed or partially enclosed areas open to the public,
15 including but not limited to the following places:

- 16 (1) Airports and public transportation facilities and
17 vehicles, including buses and taxicabs, under the
18 authority of the State or county, and ticket,
19 boarding, and waiting areas of public transit depots,
20 including airports from curb to cabin and including
21 all areas within and immediately in front of and
22 adjacent to passenger terminals and pick-up areas,



- 1 throughout the airport facility, and up to the
2 passenger loading gates of all state airports;
- 3 (2) Aquariums, galleries, libraries, and museums;
- 4 (3) Areas available to and customarily used by the general
5 public, including but not limited to restrooms,
6 lobbies, reception areas, hallways, and other common
7 areas, in businesses and nonprofit entities patronized
8 by the public, including but not limited to
9 professional offices, banks, laundromats, hotels, and
10 motels;
- 11 (4) Bars; provided that a bar that is issued a permit
12 pursuant to section 328J-A, including a standalone bar
13 or a bar that shares the premises with another
14 business such as a restaurant, may elect to allow
15 smoking on its premises:
- 16 (A) A standalone bar that does not share its premises
17 with another business such as a restaurant, may
18 designate:
- 19 (i) The entire premises; or
- 20 (ii) A separately enclosed or partially enclosed
21 area of the premises,



1 where smoking is allowed; provided that the bar
2 shall ensure that smoke from any designated
3 smoking area does not infiltrate into areas where
4 smoking is prohibited;

5 (B) A bar that shares its premises with another
6 business, such as a restaurant, may designate:

7 (i) The entire area of the premises occupied by
8 the bar; or

9 (ii) A separately enclosed or partially enclosed
10 area of a portion of the premises occupied
11 by the bar,

12 where smoking is allowed; provided that the bar
13 shall ensure that smoke from any designated
14 smoking area does not infiltrate into areas where
15 smoking is prohibited;

16 (C) The bar clearly and conspicuously posts clearly
17 legible signs that include the words "Smoking
18 Allowed Anywhere on the Premises" or "Smoking
19 Allowed in Designated Smoking Area Only", as
20 appropriate, with letters not less than one inch
21 in height in and at the entrance to the bar;

22 (5) Bowling alleys;



- 1 (6) Convention facilities;
- 2 (7) Educational facilities, both public and private;
- 3 (8) Elevators;
- 4 (9) Facilities primarily used for exhibiting a motion
5 picture, stage, drama, lecture, musical recital, or
6 other similar performance, except when part of the
7 performance;
- 8 (10) Health care facilities;
- 9 (11) Hotel and motel lobbies, meeting rooms, and banquet
10 facilities;
- 11 (12) Licensed child care and adult day care facilities;
- 12 (13) Lobbies, hallways, and other common areas in apartment
13 buildings, condominiums, retirement facilities,
14 nursing homes, multifamily dwellings, and other
15 multiple-unit residential facilities;
- 16 (14) Nightclubs;
- 17 (15) Polling places;
- 18 (16) Restaurants;
- 19 (17) Retail stores;
- 20 (18) Rooms, chambers, places of meeting or public assembly
21 under the control of an agency, board, commission,
22 committee or council of the State or county, to the



1 extent the place is subject to the jurisdiction of the
2 State or county;
3 (19) Service lines; and
4 (20) Shopping malls."

5 SECTION 4. Section 328J-15, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§328J-15[+] County ordinances. (a) Nothing in this
8 chapter shall be construed to supersede or in any manner affect
9 a county smoking ordinance; provided that the ordinance is at
10 least as protective of the rights of nonsmokers as this
11 chapter[-], except that no county shall prohibit smoking within
12 an establishment that has a valid smoking permit pursuant to
13 328J-A.

14 (b) Nothing in this chapter shall prohibit a county from
15 enacting ordinances more stringent than this chapter[-], except
16 that no county shall prohibit smoking within an establishment
17 that has a valid smoking permit pursuant to 328J-A."

18 SECTION 5. In codifying the new sections added by section
19 1 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

4

INTRODUCED BY: Deany Coffman

JAN 26 2010



Report Title:

Smoking; Bars; Restaurants; Employee Acknowledgment

Description:

Clarifies definition of bar to include standalone bars and bars that share premises with another business such as a restaurant. Allows bars to allow smoking on entire premises or in separately enclosed or partially enclosed designated areas by posting signs. Establishes smoking permit program and smoking permit special fund. Requires employees of bars where smoking is allowed to sign a standardized DOH-developed acknowledgment form affirming the employee's knowledge and acceptance of risks and potential adverse consequences of inhaling secondhand smoke. Requires the director of health to adopt rules by 1/1/11.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

