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# A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. Article VIII, section 2 of the Hawaii  
2 constitution states, in relevant part, that:

3 "Each political subdivision shall have the power to  
4 frame and adopt a charter for its own self-government  
5 within such limits and under such procedures as may be  
6 provided by general law.

7 \* \* \*

8 Charter provisions with respect to a political  
9 subdivision's executive, legislative and administrative  
10 structure and organization shall be superior to statutory  
11 provisions, subject to the authority of the legislature to  
12 enact general laws allocating and reallocating powers and  
13 functions."

14 The purpose of this Act is to allow the counties the  
15 authority to determine appropriate appointment and removal  
16 procedures for county liquor administrators pursuant to each  
17 county's charter. The legislature finds that the grant of such  
18 authority is within the purview of the counties' executive and



1 administrative structure and organization, and is therefore  
2 supported by and consistent with the principle of county  
3 self-governance established in article VIII, section 2 of the  
4 Hawaii constitution.

5 SECTION 2. Section 281-11.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§281-11.5 Liquor commission, liquor administrator, and**  
8 **board attorney.** (a) The liquor commission or liquor control  
9 adjudication board may hire attorneys to assist it in carrying  
10 out its administrative functions under this chapter. The  
11 assistance may include providing legal advice and prosecuting  
12 and defending legal claims under this chapter or arising in  
13 connection with this chapter.

14 (b) Subject to chapter 76, a liquor administrator shall be  
15 appointed and may be removed by the liquor commission or liquor  
16 control adjudication board, or as prescribed by the charter of  
17 each county; provided that the liquor administrator may be  
18 removed by the county mayor notwithstanding charter provisions.  
19 The administrator may also be appointed as an investigator, and  
20 shall be responsible for the operations and activities of the  
21 staff. The administrator may:

- 1        (1) Hire and remove hearing officers, other investigators,  
2        and clerical and other assistants as the liquor  
3        commission's business may from time to time require,  
4        and may prescribe their duties and fix their  
5        compensation; provided that every investigator, within  
6        the scope of the investigator's duties, shall have the  
7        powers of a police officer; and  
8        (2) Engage the services of experts and persons engaged in  
9        the practice of a profession, if deemed expedient."

10        SECTION 3. Section 281-17, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

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

- 15        (1) To grant, refuse, suspend, and revoke any licenses for  
16        the manufacture, importation, and sale of liquors;  
17        (2) To take appropriate action against a person who,  
18        directly or indirectly, manufactures, sells, or  
19        purchases any liquor without being authorized pursuant  
20        to this chapter; provided that in counties which have  
21        established by charter a liquor control adjudication  
22        board, the board shall have the jurisdiction, power,

1 authority, and discretion to hear and determine  
2 administrative complaints of the director regarding  
3 violations of the liquor laws of the State or of the  
4 rules of the liquor commission, and impose penalties  
5 for violations thereof as may be provided by law;

6 (3) To control, supervise, and regulate the manufacture,  
7 importation, and sale of liquors by investigation,  
8 enforcement, and education; provided that any  
9 educational program shall be limited to the commission  
10 staff, commissioners, liquor control adjudication  
11 board members, licensees and their employees and shall  
12 be financed through the money collected from the  
13 assessment of fines against licensees; provided that  
14 fine moneys, not to exceed ten per cent a year of  
15 fines accumulated, may be used to fund public liquor  
16 related educational or enforcement programs;

17 (4) From time to time to make, amend, and repeal such  
18 rules, not inconsistent with this chapter, as in the  
19 judgment of the commission seem appropriate for  
20 carrying out this chapter and for the efficient  
21 administration thereof, and the proper conduct of the  
22 business of all licensees, including every matter or



1 thing required to be done or which may be done with  
2 the approval or consent or by order or under the  
3 direction or supervision of or as prescribed by the  
4 commission; which rules, when adopted as provided in  
5 chapter 91 shall have the force and effect of law;

6 ~~[-(5) Subject to chapter 76, to appoint and remove an  
7 administrator, who may also be appointed an  
8 investigator and who shall be responsible for the  
9 operations and activities of the staff. The  
10 administrator may hire and remove hearing officers,  
11 investigators, and clerical or other assistants as its  
12 business may from time to time require, to prescribe  
13 their duties, and fix their compensation; to engage  
14 the services of experts and persons engaged in the  
15 practice of a profession, if deemed expedient. Every  
16 investigator, within the scope of the investigator's  
17 duties, shall have the powers of a police officer;~~

18 ~~[-(6)]~~ (5) To limit the number of licenses of any class or  
19 kind within the county, or the number of licenses of  
20 any class or kind to do business in any given  
21 locality, when in the judgment of the commission such  
22 limitations are in the public interest;



1       ~~[(7)]~~ (6) To prescribe the nature of the proof to be  
2               furnished, the notices to be given, and the conditions  
3               to be met or observed in case of the issuance of a  
4               duplicate license in place of one alleged to have been  
5               lost or destroyed, including a requirement of any  
6               indemnity deemed appropriate to the case;

7       ~~[(8)]~~ (7) To fix the hours between which licensed premises  
8               of any class or classes may regularly be open for the  
9               transaction of business, which shall be uniform  
10              throughout the county as to each class respectively;

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

16       ~~[(10)]~~ (9) To investigate violations of this chapter,  
17              chapter 244D and, notwithstanding any law to the  
18              contrary, violations of the applicable department of  
19              health's allowable noise levels, through its  
20              investigators or otherwise, to include covert  
21              operations, and to report violations to the  
22              prosecuting officer for prosecution and, where



1 appropriate, the director of taxation to hear and  
2 determine complaints against any licensee;  
3 ~~[-(11)-]~~ (10) To prescribe, by rule, the terms, conditions,  
4 and circumstances under which persons or any class of  
5 persons may be employed by holders of licenses;  
6 ~~[-(12)-]~~ (11) To prescribe, by rule, the term of any license  
7 or solicitor's and representative's permit authorized  
8 by this chapter, the annual or prorated amount, the  
9 manner of payment of fees for the licenses and  
10 permits, and the amount of filing fees; and  
11 ~~[-(13)-]~~ (12) To prescribe, by rule, the circumstances and  
12 penalty for the unauthorized manufacturing or selling  
13 of any liquor."

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

16 SECTION 5. This Act shall take effect upon its approval.  
17

**Report Title:**

Intoxicating Liquor; Liquor Administrator

**Description:**

Clarifies that liquor administrator may be appointed and removed by the liquor commission, liquor adjudication board, or as prescribed by charter. Authorizes mayor to remove county liquor administrator.

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

