

JAN 25 2010

S.B. NO. 2794

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 two new sections to be appropriately
3 designated and to read as follows:

4 "§328J-A Smoking establishment permit; fee. (a)
5 Notwithstanding sections 328J-3, 328J-4, and 328J-14, or any
6 other law to the contrary, beginning July 1, 2010, the
7 department of taxation shall allow for the issuance of smoking
8 establishment permits.

9 (b) There shall be a smoking establishment permit fee for
10 each holder of a dispensers', club, or cabaret license under
11 chapter 281, if the establishment is a permitted smoking
12 establishment. The smoking establishment permit fee shall be
13 collected by the department of taxation, and shall be in
14 addition to other fees required.

15 (c) The smoking establishment permit fee shall run on a
16 fiscal yearly basis which corresponds to the established fiscal
17 year of the applicable county liquor commission, and shall not



1 be pro-ratable. Smoking establishment permits shall be
2 available only as follows:

3 (1) \$1,000 for class 5 category A standard bars and class
4 6 clubs as described in section 281-31 in which
5 smoking is permitted;

6 (2) \$2,000 for class 5 category C and category D premises
7 as described in section 281-31 in which smoking is
8 permitted; and

9 (3) \$3,000 for class 11 cabarets and class 5 category B
10 premises as described in section 281-31 in which
11 smoking is permitted.

12 (d) The smoking establishment permit fees collected by the
13 department of taxation shall be deposited into the Hawaii organ
14 and tissue education special fund established under section 327-
15 24. The department of taxation may retain a portion, not to
16 exceed ten per cent, of every smoking establishment permit fee
17 collected that is directly related to actual costs and expenses
18 of processing and administration of the fee as set forth in this
19 chapter. The department of health shall remit moneys collected
20 under this section and placed into the Hawaii organ and tissue
21 education special fund to the Organ Donor Center of Hawaii on a
22 yearly basis.



1 (e) Notwithstanding any other provision herein, a smoking
2 establishment permit may be canceled at the permit holder's
3 written request at any time, and any subsequent fees for a
4 smoking establishment permit shall be forfeit.

5 §328J-B Smoking establishment signs. Notwithstanding any
6 other provision of this chapter, all holders of a smoking
7 establishment permit shall erect a sign no smaller than eight
8 and one half inches by eleven inches in dimension, which shall
9 consist of block lettering at least one inch high, or the
10 internationally recognized symbol of a green circle encasing a
11 lit cigarette and which shall state as follows: THIS IS A SMOKER
12 FRIENDLY BUSINESS . . . PERMITTED BY LAW. All signs required
13 under this section shall be posted in and at every entrance of
14 every permitted smoking establishment in a clear and conspicuous
15 manner at all times."

16 SECTION 2. Section 327-24, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~§~~§327-24[~~§~~] Hawaii organ and tissue education special
19 fund. There is established in the state treasury the Hawaii
20 organ and tissue education special fund. Moneys collected under
21 [~~section~~] sections 286-109.7 and 328J-A shall be deposited into
22 the fund. The fund shall be administered and distributed by the



1 department of health and shall be used exclusively for public
2 education programs and activities on organ, tissue, and eye
3 donation[-]; provided that moneys collected under section 328J-A
4 by the department of taxation and deposited into the fund shall
5 be distributed yearly to the Organ Donor Center of Hawaii by the
6 department of health."

7 SECTION 3. Section 328J-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "Bar" to read as follows:

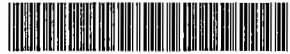
9 "Bar" means an establishment that is devoted to the
10 serving of alcoholic beverages for consumption by guests on the
11 premises regardless of whether food is served, including but not
12 limited to taverns, cocktail lounges, and cabarets, including
13 outdoor areas of bars[-]; provided that establishments with a
14 valid smoking establishment permit issued under section 328J-A
15 shall not be included."

16 SECTION 4. Section 328J-7, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§328J-7 **Exceptions.** Notwithstanding any other provision
19 of this chapter to the contrary, the following areas shall be
20 exempt from the provisions of sections 328J-3, 328J-4, and
21 328J-5:



- 1 (1) Private residences, except when used as a licensed
2 child care, adult day care, or health care facility;
- 3 (2) Hotel and motel rooms that are rented to guests and
4 are designated as smoking rooms; provided that not
5 more than twenty per cent of rooms rented to guests in
6 a hotel or motel may be so designated. All smoking
7 rooms on the same floor shall be contiguous and smoke
8 from these rooms shall not infiltrate into areas where
9 smoking is prohibited under this chapter. The status
10 of rooms as smoking or nonsmoking may not be changed,
11 except to add additional nonsmoking rooms;
- 12 (3) Retail tobacco stores; provided that smoke from these
13 places shall not infiltrate into areas where smoking
14 is prohibited under this chapter;
- 15 (4) Private and semiprivate rooms in nursing homes and
16 long-term care facilities that are occupied by one or
17 more persons, all of whom are smokers and have
18 requested in writing to be placed in a room where
19 smoking is permitted; provided that smoke from these
20 places shall not infiltrate into areas where smoking
21 is prohibited under this chapter;



- 1 (5) Outdoor areas of places of employment except those
- 2 covered by the provisions of sections 328J-3 and
- 3 328J-5;
- 4 (6) All areas covered by this chapter when smoking is part
- 5 of a production being filmed; [~~and~~]
- 6 (7) State correctional facilities; provided that smoking
- 7 shall only be authorized for employees and volunteers
- 8 of a correctional facility in an area outside the
- 9 secure confines of a correctional facility restricted
- 10 from access by inmates or detainees that has been
- 11 designated by the warden of a correctional
- 12 facility[~~-~~]; and
- 13 (8) Establishments possessing a valid smoking
- 14 establishment permit under section 328J-A."

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

17 " [~~§~~]**328J-15** [~~§~~] **County ordinances.** (a) Nothing in this
18 chapter shall be construed to supersede or in any manner affect
19 a county smoking ordinance; provided that the ordinance is at
20 least as protective of the rights of nonsmokers as this
21 chapter[~~-~~]; except that no county shall strictly prohibit any



1 establishment listed in section 328J-A from operating with a
2 valid smoking establishment permit.

3 (b) Nothing in this chapter shall prohibit a county from
4 enacting ordinances more stringent than this chapter[-]; except
5 that no county shall strictly prohibit any establishment listed
6 in section 328J-A from operating with a valid smoking
7 establishment permit."

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2010.

11

INTRODUCED BY:

[Handwritten signatures: Dennis J. ...]
[Handwritten signature: Mike Gable]
[Handwritten signature: ...]
[Handwritten signature: Will Zeno]



Report Title:

Smoking; Smoking Exemption; Organ Donation

Description:

Allows smoking in properly permitted liquor establishments not to include restaurants. Requires collection of smoking establishment permit fee with proceeds to go towards organ donation education.

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

