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To: CPN Testimony
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LATE

The Departments of Liquor Control of the Counties of Hawaii, Kauai, and Maui and the City and County of Honolulu Liquor Commission apologize for this late submission; respectfully oppose SB 2545 SD1; and provide the proposed SD2 for the Committee on Commerce & Consumer Protection's consideration. The attached is the result of discussions among the four liquor control jurisdictions and Sen. Fukunaga's office in response to the amendments contained in the SD1. Thank you for the opportunity to provide this late testimony.

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§281-4 Liquor consumption on unlicensed premises prohibited, when. (a)

It shall be unlawful for any person who keeps or maintains any restaurant or other premises where food, beverages, or entertainment are provided, or brought in by patrons or guests, whether for compensation or not, or to which members of the public, or members of an organization, resort for food, refreshment, or entertainment, and who is not a licensee of the commission under this chapter, to promote, encourage, aid, or permit the consumption of liquor on the premises, except during the hours between 6:00 a.m. to 12:00 midnight [~~which licensed premises of dispensers are permitted to be open for the transaction of business in the county where the premises are located~~]. A premises which desires to operate after 12:00 midnight to 2:00 a.m. shall be required to obtain a class 17 liquor license and shall be subject to Chapter 281 and rules of the liquor commission during all hours of its operation except as otherwise provided by law.

(b) It shall be unlawful for any person who is present at any restaurant or other premises where food, beverages, or entertainment are sold, provided, or brought in by patrons or guests, or to which members of the public, or members of an organization, resort for food, refreshment, or entertainment, and which premises are not licensed by the commission under this chapter, to consume any liquor on the premises, except during the hours between which licensed premises of dispensers are permitted to be open for the transaction of business in the county where the premises are located.

(c) It shall be unlawful for any person who keeps or maintains any restaurant or other premises where food, beverages, or entertainment are provided, or brought in by patrons or guests, whether compensated or not, to sell or provide or allow the consumption of liquor to or for any of the following persons knowing that such person has, or is about to obtain, liquor for consumption by the person on the premises, to wit:

- (1) Any minor;
- (2) Any person at the time under the influence of liquor;
- (3) Any disorderly person;
- (4) Any person known to be addicted to the excessive use of liquor; or
- (5) Any person, for consumption in any vehicle on the premises;

provided that the providing of liquor to or for a minor who has or is about to obtain liquor for consumption by the minor on the premises or allowing the consumption of liquor by a minor shall not be deemed to be a violation of this subsection if, at the time, the person providing or allowing the consumption of liquor was misled by the appearance of the minor and the attending circumstances into honestly believing that such minor was of legal age and the person acted in good faith, and it shall be incumbent upon the person to prove that the person so acted in good faith.

(q) Class 17. Bring Your Own Beverage License.

- (1) A general license under this class shall authorize the license to permit patrons to bring their own liquors for consumption on the premises between the hours of 6:00 a.m. to 2:00 a.m. the following day. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:

(a) Premises in which recorded music and live entertainment, including karaoke, is provided.

Comment [J1]: Because this license does not charge per drink, therefore not subject to percentage fees, state taxes on liquor, they should be allowed to have a general license.

(b) Premises in which recorded music, live entertainment, including karaoke and dancing, is provided.

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

(3) A BYOB license shall not be subject to provisions of commission rules relating to percentage fees.

(q) (r) Restaurants, retailers, dispensers, clubs, cabarets, hotels, caterers, brewpubs, ~~and~~ condominium hotels and BYOB establishments licensed under class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, ~~and~~ class 15 and class 17 shall maintain at all times liquor liability insurance coverage in an amount of not less than \$1,000,000. Proof of coverage shall be kept on the premises and shall be made available for inspection by the commission at any time during the licensee's regular business hours. In the event of a licensee's failure to obtain or maintain the required coverage, the commission shall refuse to issue or renew a license, or shall suspend or terminate the license as appropriate. No license shall be granted, reinstated, or renewed until after the required insurance coverage is obtained.

Comment [J2]: I added this section because there are no "gross sales of liquor" for this license and I wanted to be clear that they are not subject to this section of our rules.

Comment [J3]: Senator Fukunaga. You asked if we wanted to delete class 4 from this section. We do NOT.

~~§281-61~~ **Renewals.** (a) Other than for good cause, the renewal of an existing license shall be granted upon the filing of an application; provided that if:

Comment [J4]: This section also needs amendment relating to insurance

- (1) Complaints from the public;
- (2) Reports from the commission's investigators; or
- (3) Adjudications of the commission or the liquor control adjudication board,

indicate that noise created by patrons departing from the premises disturbs residents on the street or of the neighborhood in which the premises are located, or that noise from the premises or adjacent related outdoor areas such as parking lots or lanais exceed standards contained in state or county noise codes or intrudes into nearby residential units, the commission may deny the renewal application or withhold the issuance of a renewed license until corrective measures meeting the commission's approval are taken.

(b) The commission or board, pursuant to section 281-17, at the time of renewal or at any time, may revoke, suspend, or place conditions or restrictions on any license issued under this chapter for the purpose of preventing activities within the licensed premises or adjacent areas that are potentially injurious to the health, safety, and welfare of the public and neighborhood including but not limited to criminal activity, notice to the licensee, and a hearing before the commission pursuant to chapter 91.

(c) The commission ~~or board~~ shall deny renewal of a class 2, class 4, class 5, class 6, class 11, class 12, class 13, class 14, ~~or~~ class 15 or class 17 license if the applicant for renewal fails to present proof of the liquor liability insurance required by section 281-31(q).

Comment [J5]: The Adjudication Boards in the counties of Maui and Hawai'i are not authorized to renew liquor licenses. Oahu and Kauai do not have Boards.