

JAN 21 2011

S.B. NO. 740

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. The Legislature finds that section
2 281-78(b)(1)(A), Hawaii Revised Statutes, has been interpreted
3 by at least one county liquor commission to result in strict
4 liability for liquor licensees who do not catch minors consuming
5 alcohol on their licensed premises, even if the licensed
6 premises is a large public facility (e.g., the Waikiki Shell,
7 Neal S. Blaisdell Center Arena, and Aloha Stadium) and the
8 county liquor commission has approved the licensee's security
9 plans for preventing minors from consuming alcohol on the
10 licensed premises.

11 The purpose of this Act is to establish that a licensee who
12 serves alcohol in a large public facility, receives the
13 appropriate county liquor commission's approval of the
14 licensee's security plans for preventing minors from consuming
15 alcohol on the licensed premises, and implements said plan in
16 good faith, shall not be deemed to be in violation of section
17 281-78(b)(1)(A), Hawaii Revised Statutes.



1 SECTION 2. Section 281-78, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§281-78 Prohibitions. (a) No person shall consume any
4 liquor on any:

- 5 (1) Public highway, except as permitted in section
6 291-3.4;
- 7 (2) Public sidewalk, including any sidewalk within a
8 public housing project as defined in section 356D-1 or
9 356D-91; or
- 10 (3) Common area of a public housing project as defined in
11 section 356D-1 or 356D-91. For purposes of this
12 paragraph, "common area" means roofs, halls,
13 corridors, lobbies, stairs, stairways, fire escapes,
14 entrances and [f]exits[+] of the building or
15 buildings, basements, yards, gardens, recreational
16 facilities, parking areas, storage spaces, and other
17 parts of the project normally in common use or other
18 areas designated by the Hawaii public housing
19 authority.

20 (b) At no time under any circumstances shall any licensee
21 or its employee:



1 (1) Sell, serve, or furnish any liquor to, or allow the
2 consumption of any liquor by:
3 (A) Any minor;
4 (B) Any person at the time under the influence of
5 liquor;
6 (C) Any person known to the licensee to be addicted
7 to the excessive use of intoxicating liquor; or
8 (D) Any person for consumption in any vehicle that is
9 licensed to travel on public highways;
10 provided that the consumption or sale of liquor to a
11 minor shall not be deemed to be a violation of this
12 subsection if, in making the sale or allowing the
13 consumption of any liquor by a minor, the licensee was
14 misled by the appearance of the minor and the
15 attending circumstances into honestly believing that
16 the minor was of legal age and the licensee acted in
17 good faith; [~~and~~] provided further that it shall be
18 incumbent upon the licensee to prove that the licensee
19 so acted in good faith; and provided further that the
20 consumption of liquor by a minor shall not be deemed
21 to be a violation of this subsection if a licensee who
22 serves alcohol in a large public facility receives the



1 appropriate county liquor commission's approval of the
2 licensee's security plans for preventing minors from
3 consuming alcohol on the licensed premises, and the
4 licensee implements that plan in good faith;

5 (2) Permit any liquor to be consumed on the premises of
6 the licensee or on any premises connected therewith,
7 whether there purchased or not, except as permitted by
8 the terms of its license;

9 (3) Permit any liquor to be sold or served by any person
10 eighteen to twenty years of age except in licensed
11 establishments where selling or serving the
12 intoxicating liquor is part of the minor's employment,
13 and where there is proper supervision of these minor
14 employees to ensure that the minors shall not consume
15 the intoxicating liquor;

16 (4) Permit any liquor to be sold or served by any person
17 below the age of eighteen years upon any licensed
18 premises, except in individually specified licensed
19 establishments found to be otherwise suitable by the
20 liquor commission in which an approved program of job
21 training and employment for dining room waiters and
22 waitresses is being conducted in cooperation with the



1 University of Hawaii, the state community college
2 system, or a federally sponsored personnel development
3 and training program, under arrangements that ensure
4 proper control and supervision of employees;

5 (5) Knowingly permit any person under the influence of
6 liquor or disorderly person to be or remain in or on
7 the licensed premises;

8 (6) Fail immediately to prevent or suppress any violent,
9 quarrelsome, disorderly, lewd, immoral, or unlawful
10 conduct of any person on the premises;

11 (7) Sell any draught beer unless upon the faucet, spigot,
12 or outlet wherefrom the beer is drawn there is
13 attached a clear and legible notice, placard, or
14 marker which in the English language indicates and
15 declares the name or brand adopted by the manufacturer
16 of the draught beer, so situated as to be clearly
17 legible for a distance of at least ten feet from the
18 spigot, faucet, or outlet, to a purchaser with normal
19 vision; and

20 (8) Receive from a person, as payment or as a
21 consideration for liquor, any personal or household
22 goods, including clothing and food, or any implements



1 of trade. Any person violating this paragraph shall
2 be guilty of a misdemeanor and upon conviction shall
3 be punished as provided in section 281-102."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: Will Enger
Franzanne Chun Oalland
Mater



Report Title:

Intoxicating Liquor; Liquor Commission; Liquor Licensees
Security Plans

Description:

Exempts liquor licensees from certain violations when licensees have a security plan approved by the liquor commission to prevent minors from consuming alcohol on the licensee's premises and the licensee acts in good faith in implementing that plan.

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

