
A BILL FOR AN ACT

RELATING TO SMOKING.

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

1 SECTION 1. Since its inception, the Hawaii smoke-free
2 ordinance has protected the health and welfare of the public by
3 reducing the exposure to the danger of secondhand smoke.

4 Enforcement of the law has been nonexistent due to the lack
5 of funds and personnel. Although a majority of establishments
6 across the State have complied with the law, there are a few
7 that continue to allow smoking on their premises without fear of
8 negative consequences.

9 The intent of this Act is to introduce a way to fund an
10 enforcement system by allowing business owners to purchase
11 smoking permits provided that certain preventative measures
12 including air filtration and circulation devices are installed
13 to mitigate the impact of secondhand smoke.

14 SECTION 2. Chapter 328J, Hawaii Revised Statutes, is
15 amended by adding two new sections to be appropriately
16 designated and to read as follows:

17 "§328J-A Smoking permit; application; renewal; compliance.

18 (a) No establishment subject to section 328J-3 shall permit



1 smoking on its premises without a smoking permit issued pursuant
2 to rules adopted by the department.

3 (b) Each initial permit or permit renewal application
4 under this section shall be accompanied by a permit or permit
5 renewal fee, to be determined by the department in accordance
6 with rules adopted pursuant to chapter 91, for a smoking permit
7 or permit renewal valid for one year. All smoking permits shall
8 expire on December 31 of each year. The application for a
9 permit renewal shall be submitted to the department in writing
10 on or before December 31 annually.

11 (c) The department shall prescribe the information to be
12 contained in the application and renewal forms. Each form shall
13 be signed by the applicant. One copy of the initial smoking
14 permit and any subsequent renewal application forms shall be
15 retained by the department as a permanent official record.

16 (d) The department shall conduct site inspections and
17 monitoring of permitted establishments and shall deny, suspend,
18 or refuse to renew, reinstate, or restore, any permit or
19 application if the establishment has failed to comply with the
20 terms of its permit or any provision of this chapter or rule
21 adopted hereunder.



1 (e) No later than October 1, 2011, the director shall
2 adopt rules pursuant to chapter 91 to effectuate the purposes of
3 this section, including:

- 4 (1) Preparing any forms that may be necessary;
5 (2) Establishing standards and specifications for required
6 air circulation and filtration systems and equipment;
7 (3) Establishing schedules and conditions for site
8 inspections and monitoring; and
9 (4) Providing for the issuance of permits to commence on
10 January 1, 2012.

11 §328J-B Smoking permit compliance monitoring special fund.

12 (a) There is established in the state treasury the smoking
13 permit compliance monitoring special fund, into which shall be
14 deposited:

- 15 (1) Smoking permit application fees;
16 (2) Smoking permit renewal fees;
17 (3) All accrued interest from the fund; and
18 (4) Appropriations made by the legislature.

19 (b) Moneys in the smoking permit compliance monitoring
20 special fund shall be used to fund administrative, inspection,
21 and compliance activities associated with smoking permits."



1 SECTION 3. 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~~] whose
4 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 stand alone bars or bars
7 that share the premises with another business, such as
8 restaurants, taverns, cocktail lounges, and cabarets, including
9 outdoor areas of bars."

10 SECTION 4. 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. (a) Smoking shall be
14 prohibited in all enclosed or partially enclosed areas open to
15 the public, 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 provided that an airport may be issued a permit
4 pursuant to section 328J-A and may elect to allow
5 smoking on its premises in a designated area;
6 (2) Aquariums, galleries, libraries, and museums;
7 (3) Areas available to and customarily used by the general
8 public, including but not limited to restrooms,
9 lobbies, reception areas, hallways, and other common
10 areas, in businesses and nonprofit entities patronized
11 by the public, including but not limited to
12 professional offices, banks, laundromats, hotels, and
13 motels;
14 (4) Bars; provided that a bar may be issued a permit
15 pursuant to section 328J-A and may elect to allow
16 smoking on its premises; provided further that:
17 (A) A stand alone bar that does not share its
18 premises with another business may designate:
19 (i) The entire premises; or
20 (ii) A separately enclosed or partially enclosed
21 area of the premises
22 where smoking is allowed; and



- 1 (B) A bar that shares its premises with another
2 business may designate:
3 (i) The entire area of the premises occupied by
4 the bar; or
5 (ii) A separately enclosed or partially enclosed
6 area of a portion of the premises occupied
7 by the bar
8 where smoking is allowed;
9 (5) Bowling alleys; provided that a bowling alley may be
10 issued a permit pursuant to section 328J-A and may
11 elect to allow smoking on its premises in a designated
12 area;
13 (6) Convention facilities;
14 (7) Educational facilities, both public and private;
15 (8) Elevators;
16 (9) Facilities primarily used for exhibiting a motion
17 picture, stage, drama, lecture, musical recital, or
18 other similar performance, except when part of the
19 performance;
20 (10) Health care facilities;
21 (11) Hotel and motel lobbies, meeting rooms, and banquet
22 facilities;



- 1 (12) Licensed child care and adult day care facilities;
- 2 (13) Lobbies, hallways, and other common areas in apartment
- 3 buildings, condominiums, retirement facilities,
- 4 nursing homes, multifamily dwellings, and other
- 5 multiple-unit residential facilities;
- 6 (14) Nightclubs; provided that a nightclub may be issued a
- 7 permit pursuant to section 328J-A and may elect to
- 8 allow smoking on its premises in a designated area;
- 9 (15) Polling places;
- 10 (16) Restaurants;
- 11 (17) Retail stores;
- 12 (18) Rooms, chambers, places of meeting or public assembly
- 13 under the control of an agency, board, commission,
- 14 committee or council of the State or county, to the
- 15 extent the place is subject to the jurisdiction of the
- 16 State or county;
- 17 (19) Service lines; and
- 18 (20) Shopping malls.

19 (b) An establishment listed in subsection (a) that is
20 issued a smoking permit pursuant to section 328J-A shall install
21 and use air circulation and filtration systems and equipment
22 that meet the requirements adopted by rule and shall ensure that



1 smoke from any designated smoking area is vented to the outdoors
2 and does not infiltrate into areas of the establishment where
3 smoking is prohibited.

4 (c) An establishment listed in subsection (a) that is
5 issued a smoking permit pursuant to section 328J-A shall clearly
6 and conspicuously post clearly legible signs that include the
7 words "Smoking Allowed in Designated Smoking Area Only", as
8 appropriate, with letters not less than one inch in height at
9 the entrance to and inside of the establishment."

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

12 "[+]§328J-15[+] County ordinances. (a) Nothing in this
13 chapter shall be construed to supersede or in any manner affect
14 a county smoking ordinance; provided that the ordinance is at
15 least as protective of the rights of nonsmokers as this
16 chapter[-], except that no county shall prohibit smoking within
17 an establishment that has a valid smoking permit pursuant to
18 328J-A.

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



1 SECTION 6. In codifying the new sections added by section
2 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect upon its approval.

8

INTRODUCED BY: Denny Coffman

JAN 25 2011



Report Title:

Smoking; Permits

Description:

Establishes smoking permit program and smoking permit compliance monitoring special fund. Authorizes specified establishments to receive a permit to allow smoking in designated areas. Requires the director of health to adopt rules by 10/1/11, and to begin issuing smoking permits by 1/1/12.

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

