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## A BILL FOR AN ACT

RELATING TO CHAPTER 328J, HAWAII REVISED STATUTES.

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

1           SECTION 1. Section 328J-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~§~~328J-3~~§~~ Prohibition in enclosed or partially  
4 enclosed places open to the public. Smoking shall be prohibited  
5 in all enclosed or partially enclosed areas open to the public,  
6 including but not limited to the following places:

7           (1) Airports and public transportation facilities and  
8 vehicles, including buses and taxicabs, under the  
9 authority of the State or county, and ticket,  
10 boarding, and waiting areas of public transit depots,  
11 including airports from curb to cabin and including  
12 all areas within and immediately in front of and  
13 adjacent to passenger terminals and pick-up areas,  
14 throughout the airport facility, and up to the  
15 passenger loading gates of all state airports;

16           (2) Aquariums, galleries, libraries, and museums;

17           (3) Areas available to and customarily used by the general  
18 public, including but not limited to restrooms,



1 lobbies, reception areas, hallways, and other common  
2 areas, in businesses and nonprofit entities patronized  
3 by the public, including but not limited to  
4 professional offices, banks, laundromats, hotels, and  
5 motels;

6 (4) Bars[?] that do not post signs pursuant to section  
7 328J-9(b) and do not hold a dispenser or cabaret  
8 license pursuant to section 281-31;

9 (5) Bowling alleys;

10 (6) Convention facilities;

11 (7) Educational facilities, both public and private;

12 (8) Elevators;

13 (9) Facilities primarily used for exhibiting a motion  
14 picture, stage, drama, lecture, musical recital, or  
15 other similar performance, except when part of the  
16 performance;

17 (10) Health care facilities;

18 (11) Hotel and motel lobbies, meeting rooms, and banquet  
19 facilities;

20 (12) Licensed child care and adult day care facilities;

21 (13) Lobbies, hallways, and other common areas in apartment  
22 buildings, condominiums, retirement facilities,



- 1 nursing homes, multifamily dwellings, and other  
2 multiple-unit residential facilities;
- 3 (14) Nightclubs[+] that do not post signs pursuant to  
4 section 328J-9(b) and do not hold a dispenser or  
5 cabaret license pursuant to section 281-31;
- 6 (15) Polling places;
- 7 (16) Restaurants;
- 8 (17) Retail stores;
- 9 (18) Rooms, chambers, places of meeting or public assembly  
10 under the control of an agency, board, commission,  
11 committee or council of the State or county, to the  
12 extent the place is subject to the jurisdiction of the  
13 State or county;
- 14 (19) Service lines; and
- 15 (20) Shopping malls."

16 SECTION 2. 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) The premises of establishments that post signs  
14 pursuant to section 328J-9(b) and hold a dispenser or  
15 cabaret license pursuant to section 281-31."

16 SECTION 3. Section 328J-8, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "[+]§328J-8[+] Declaration of establishment as nonsmoking.

19 (a) Notwithstanding any other provision of this chapter, an  
20 owner, operator, manager, or other person in control of an  
21 establishment, facility, or outdoor area may declare that an

1 entire establishment, facility, or outdoor area or any part  
2 thereof as a place where smoking is prohibited.

3 (b) Smoking shall be prohibited in any place in which a  
4 sign conforming to the requirements of section [~~328J-9~~]  
5 328J-9(a) is posted."

6 SECTION 4. Section 328J-9, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[~~+~~]~~§~~**328J-9**[~~+~~] **Signs.** (a) Clearly legible signs that  
9 include the words "Smoking Prohibited by Law" with letters of  
10 not less than one inch in height or the international "No  
11 Smoking" symbol, consisting of a pictorial representation of a  
12 burning cigarette enclosed in a red circle with a red bar across  
13 it, shall be clearly and conspicuously posted in and at the  
14 entrance to every place open to the public and place of  
15 employment where smoking is prohibited by this chapter by the  
16 owner, operator, manager, or other person in control of that  
17 place.

18 (b) Clearly legible signs that include the words "Smoking  
19 Permitted" with letters of not less than one inch in height or  
20 the international "Smoking Permitted" symbol, consisting of a  
21 pictorial representation of a burning cigarette enclosed in a  
22 green circle, shall be clearly and conspicuously posted at the



1 entrance to and inside every establishment that holds a  
2 dispenser or cabaret liquor license and at which the owner,  
3 operator, manager, or other person in control of that place  
4 elects to permit smoking in all or part of the premises."

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

7 "[+]§328J-15[+] **County ordinances.** (a) Nothing in this  
8 chapter shall be construed to supersede or in any manner affect  
9 a county smoking ordinance[; ~~provided that the ordinance~~] that  
10 is at least as protective of the rights of nonsmokers as this  
11 chapter[-]; provided that no county ordinance shall prohibit or  
12 impede smoking on the premises of establishments that meet the  
13 exemption requirements of section 328J-7(8).

14 (b) Nothing in this chapter shall prohibit a county from  
15 enacting ordinances more stringent than this chapter[-];  
16 provided that no county ordinance shall more stringently  
17 restrict or prohibit smoking on the premises of establishments  
18 that meet the exemption requirements of section 328J-7(8)."

19 SECTION 6 Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on January 1, 2013.

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INTRODUCED BY:

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JAN 20 2012





**Report Title:**

Smoking; Bars; Night-Clubs; Liquor license

**Description:**

Permits bars and nightclubs with liquor licenses to allow smoking by posting "smoking permitted" signs and provides that no county ordinance shall prohibit or restrict smoking in these establishments. Effective 1/1/13.

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

