
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. Chapter 328J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§328J- Establishments at which smoking is permitted.**

5 (a) Every establishment identified in section 328J-3(b) shall
6 comply with the requirements of section 328J-3(c) prior to
7 permitting smoking within its premises.

8 (b) The department shall adopt rules under chapter 91 to
9 effectuate this section."

10 SECTION 2. 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,



1 boarding, and waiting areas of public transit depots,
2 including airports from curb to cabin and including
3 all areas within and immediately in front of and
4 adjacent to passenger terminals and pick-up areas,
5 throughout the airport facility, and up to the
6 passenger loading gates of all state airports;

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

8 (3) Areas available to and customarily used by the general
9 public, including but not limited to restrooms,
10 lobbies, reception areas, hallways, and other common
11 areas, in businesses and nonprofit entities patronized
12 by the public, including but not limited to
13 professional offices, banks, laundromats, hotels, and
14 motels;

15 (4) Bars;

16 (5) Bowling alleys;

17 (6) Convention facilities;

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

19 (8) Elevators;

20 (9) Facilities primarily used for exhibiting a motion
21 picture, stage, drama, lecture, musical recital, or



- 1 other similar performance, except when part of the
- 2 performance;
- 3 (10) Health care facilities;
- 4 (11) Hotel and motel lobbies, meeting rooms, and banquet
- 5 facilities;
- 6 (12) Licensed child care and adult day care facilities;
- 7 (13) Lobbies, hallways, and other common areas in apartment
- 8 buildings, condominiums, retirement facilities,
- 9 nursing homes, multifamily dwellings, and other
- 10 multiple-unit residential facilities;
- 11 (14) Nightclubs;
- 12 (15) Polling places;
- 13 (16) Restaurants;
- 14 (17) Retail stores;
- 15 (18) Rooms, chambers, places of meeting or public assembly
- 16 under the control of an agency, board, commission,
- 17 committee or council of the State or county, to the
- 18 extent the place is subject to the jurisdiction of the
- 19 State or county;
- 20 (19) Service lines; and
- 21 (20) Shopping malls.



1 (b) Notwithstanding subsection (a), smoking shall be
2 permitted in the following places in any county with a
3 population of at least seven hundred thousand:

4 (1) Bars that post signs pursuant to section 328J-9(b) and
5 that hold a dispenser or cabaret license pursuant to
6 section 281-31; and

7 (2) Nightclubs that post signs pursuant to section 328J-
8 9(b) and that hold a dispenser or cabaret license
9 pursuant to section 281-31;

10 (c) The places identified in subsections (b)(1) and (b)(2)
11 shall:

12 (1) Obtain a license from the department; and

13 (2) Provide an adequate area within their premises in
14 which smoking is prohibited,

15 pursuant to section 328J- ."

16 SECTION 3. 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 identified in section
- 14 328J-3(b) that comply with section 328J-3(c)."

15 SECTION 4. Section 328J-8, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "[+]§328J-8[+] Declaration of establishment as nonsmoking.

18 (a) Notwithstanding any other provision of this chapter, an
 19 owner, operator, manager, or other person in control of an
 20 establishment, facility, or outdoor area may declare that an
 21 entire establishment, facility, or outdoor area or any part
 22 thereof as a place where smoking is prohibited.



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

4 SECTION 5. Section 328J-9, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~+~~]**§328J-9**[~~+~~] **Signs.** (a) Clearly legible signs that
7 include the words "Smoking Prohibited by Law" with letters of
8 not less than one inch in height or the international "No
9 Smoking" symbol, consisting of a pictorial representation of a
10 burning cigarette enclosed in a red circle with a red bar across
11 it, shall be clearly and conspicuously posted in and at the
12 entrance to every place open to the public and place of
13 employment where smoking is prohibited by this chapter by the
14 owner, operator, manager, or other person in control of that
15 place.

16 (b) Clearly legible signs that include the words "Smoking
17 Permitted" with letters of not less than one inch in height or
18 the international "Smoking Permitted" symbol, consisting of a
19 pictorial representation of a burning cigarette enclosed in a
20 green circle, shall be clearly and conspicuously posted at the
21 entrance to and inside every establishment identified in section
22 328J-3(b)."



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

3 " ~~[+]§328J-15[+]~~ **County ordinances.** (a) Nothing in this
4 chapter shall be construed to supersede or in any manner affect
5 a county smoking ordinance ~~[; provided that the ordinance]~~ that
6 is at least as protective of the rights of nonsmokers as this
7 chapter[-]; provided that no county ordinance shall prohibit or
8 impede smoking within the premises of establishments pursuant to
9 sections 328J-3(b) and section 328J-7(8).

10 (b) Nothing in this chapter shall prohibit a county from
11 enacting ordinances more stringent than this chapter[-];
12 provided that no county ordinance shall more stringently
13 restrict or prohibit smoking within the premises of
14 establishments pursuant to sections 328J-3(b) and section 328J-
15 7(8)."

16 SECTION 7 Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on January 1, 2112.



Report Title:

Smoking; Bars; Nightclubs; Liquor license

Description:

Permits bars and nightclubs with dispenser licenses in counties with a population of at least 700,000 to allow smoking by posting "smoking permitted" signs and provides that no county ordinance shall prohibit or restrict smoking in these establishments. Effective January 1, 2112. (HB2306 HD1)

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

