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## A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1           SECTION 1. Article VIII, section 2 of the Hawaii  
2 Constitution states, in relevant part, that:

3                   Each political subdivision shall have the power  
4 to frame and adopt a charter for its own self-  
5 government within such limits and under such  
6 procedures as may be provided by general law. . . .

7                   Charter provisions with respect to a political  
8 subdivision's executive, legislative and  
9 administrative structure and organization shall be  
10 superior to statutory provisions, subject to the  
11 authority of the legislature to enact general laws  
12 allocating and reallocating powers and functions.

13                  The purpose of this Act is to authorize the counties to  
14 appoint and remove their respective liquor administrators  
15 pursuant to their respective county charter. The legislature  
16 finds that the grant of such authority is within the purview of  
17 the counties' executive and administrative structure and  
18 organization, and is therefore supported by and consistent with



1 the principle of county self-governance established in article  
2 VIII, section 2 of the Hawaii Constitution.

3 SECTION 2. Section 281-11.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§281-11.5 Liquor [~~commission~~] administrator and board  
6 attorney. (a) Subject to chapter 76, a liquor administrator  
7 shall be appointed and may be removed by the liquor commission  
8 or as prescribed by the charter of each county. The liquor  
9 administrator may also be appointed an investigator, and shall  
10 be responsible for the operations and activities of the liquor  
11 commission staff.

12 The liquor administrator may:

13 (1) Hire, remove, prescribe the duties of, and fix the  
14 compensation for hearing officers, investigators, and  
15 clerical and other assistants, as the liquor  
16 commission's business may from time to time require;  
17 and

18 (2) Engage the services of experts and persons engaged in  
19 the practice of a profession, if deemed expedient.

20 Every investigator, within the scope of the  
21 investigator's duties, shall have the powers of a  
22 police officer.



1        (b) The liquor commission or liquor control adjudication  
2 board may hire attorneys to assist it in carrying out its  
3 administrative functions under this chapter. The assistance may  
4 include providing legal advice and prosecuting and defending  
5 legal claims under this chapter or arising in connection with  
6 this chapter."

7        SECTION 3. Section 281-17, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9        "(a) The liquor commission, within its own county, shall  
10 have the sole jurisdiction, power, authority, and discretion,  
11 subject only to this chapter:

12        (1) To grant, refuse, suspend, and revoke any licenses for  
13 the manufacture, importation, and sale of liquors;

14        (2) To take appropriate action against a person who,  
15 directly or indirectly, manufactures, sells, or  
16 purchases any liquor without being authorized pursuant  
17 to this chapter; provided that in counties which have  
18 established by charter a liquor control adjudication  
19 board, the board shall have the jurisdiction, power,  
20 authority, and discretion to hear and determine  
21 administrative complaints of the director regarding  
22 violations of the liquor laws of the State or of the



1 rules of the liquor commission, and impose penalties  
2 for violations thereof as may be provided by law;

3 (3) To control, supervise, and regulate the manufacture,  
4 importation, and sale of liquors by investigation,  
5 enforcement, and education; provided that any  
6 educational program shall be limited to the commission  
7 staff, commissioners, liquor control adjudication  
8 board members, licensees and their employees and shall  
9 be financed through the money collected from the  
10 assessment of fines against licensees; provided that  
11 fine moneys, not to exceed ten per cent a year of  
12 fines accumulated, may be used to fund public liquor  
13 related educational or enforcement programs;

14 (4) From time to time to make, amend, and repeal such  
15 rules, not inconsistent with this chapter, as in the  
16 judgment of the commission seem appropriate for  
17 carrying out this chapter and for the efficient  
18 administration thereof, and the proper conduct of the  
19 business of all licensees, including every matter or  
20 thing required to be done or which may be done with  
21 the approval or consent or by order or under the  
22 direction or supervision of or as prescribed by the



1 commission; which rules, when adopted as provided in  
2 chapter 91 shall have the force and effect of law;

3 ~~[-(5) Subject to chapter 76, to appoint and remove an  
4 administrator, who may also be appointed an  
5 investigator and who shall be responsible for the  
6 operations and activities of the staff. The  
7 administrator may hire and remove hearing officers,  
8 investigators, and clerical or other assistants as its  
9 business may from time to time require, to prescribe  
10 their duties, and fix their compensation; to engage  
11 the services of experts and persons engaged in the  
12 practice of a profession, if deemed expedient. Every  
13 investigator, within the scope of the investigator's  
14 duties, shall have the powers of a police officer;~~

15 ~~-(6)]~~ (5) To limit the number of licenses of any class or  
16 kind within the county, or the number of licenses of  
17 any class or kind to do business in any given  
18 locality, when in the judgment of the commission such  
19 limitations are in the public interest;

20 ~~[-(7)]~~ (6) To prescribe the nature of the proof to be  
21 furnished, the notices to be given, and the conditions  
22 to be met or observed in case of the issuance of a



1 duplicate license in place of one alleged to have been  
2 lost or destroyed, including a requirement of any  
3 indemnity deemed appropriate to the case;

4 [~~8~~] (7) To fix the hours between which licensed premises  
5 of any class or classes may regularly be open for the  
6 transaction of business, which shall be uniform  
7 throughout the county as to each class respectively;

8 [~~9~~] (8) To prescribe all forms to be used for the  
9 purposes of this chapter not otherwise provided for in  
10 this chapter, and the character and manner of keeping  
11 of books, records, and accounts to be kept by  
12 licensees in any matter pertaining to their business;

13 [~~10~~] (9) To investigate violations of this chapter,  
14 chapter 244D and, notwithstanding any law to the  
15 contrary, violations of the applicable department of  
16 health's allowable noise levels, through its  
17 investigators or otherwise, to include covert  
18 operations, and to report violations to the  
19 prosecuting officer for prosecution and, where  
20 appropriate, the director of taxation to hear and  
21 determine complaints against any licensee;



1     ~~[(11)]~~ (10) To prescribe, by rule, the terms, conditions,  
2                     and circumstances under which persons or any class of  
3                     persons may be employed by holders of licenses;

4     ~~[(12)]~~ (11) To prescribe, by rule, the term of any license  
5                     or solicitor's and representative's permit authorized  
6                     by this chapter, the annual or prorated amount, the  
7                     manner of payment of fees for the licenses and  
8                     permits, and the amount of filing fees; and

9     [(13)] (12) To prescribe, by rule, the circumstances and  
10                    penalty for the unauthorized manufacturing or selling  
11                    of any liquor."

12            SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14            SECTION 5. This Act shall take effect upon its approval.

15

INTRODUCED BY:           Calvin K. Ray          

BY REQUEST

JAN 21 2011



**Report Title:**

Liquor Commission; Liquor Administrator; Counties

**Description:**

Authorizes the counties to appoint and remove their respective liquor administrators pursuant to their respective county charter. Provides powers and duties of liquor administrator.

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

