

# SB2945

Measure Title: RELATING TO LIQUOR LICENSES.  
Report Title: Liquor License; Revocation; Suspension; Liquor Commission  
Description: Authorizes the revocation or suspension of a liquor license for a continuing pattern of noise, disturbance, misconduct, or disorder.  
Companion: HB2311  
Package: None  
Current Referral: PGM, CPN  
Introducer(s): FUKUNAGA, Baker, Espero, Galuteria

<b><u>Sort by</u></b> <b><u>Date</u></b>		<b>Status Text</b>
1/25/2012	S	Introduced.
1/25/2012	S	Passed First Reading.
1/27/2012	S	Referred to PGM, CPN.
2/7/2012	S	The committee(s) on PGM has scheduled a public hearing on 02-14-12 3:15PM in conference room 224.
2/14/2012	S	The committee(s) on PGM recommend(s) that the measure be PASSED, UNAMENDED. The votes in PGM were as follows: 4 Aye(s): Senator(s) Espero, Kidani, Baker, Ryan; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Slom.
2/16/2012	S	Reported from PGM (Stand. Com. Rep. No. 2272) with recommendation of passage on Second Reading and referral to CPN.
2/16/2012	S	Report adopted; Passed Second Reading and referred to CPN.
2/21/2012	S	The committee(s) on CPN will hold a public decision making on 02-28-12 10:00AM in conference room 229.

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

2/26/12

Testimony in opposition to SB2945

Damned if I do! Damned if I don't! Just plain damned!

Senators,

Please do not pass this bill. It will damn every bar on Oahu. This bill provides the means and makes it law to condemn every bar. It is the nature of every bar to be considered a nuisance from the moment they apply for a license. Why? Because, they operate outside the normal hours of the majority of working people. Their hours of operation make them a nuisance to some within the surrounding community. Within that community it is assured that not everyone wants a bar in their neighborhood. This bill provides the means for those disgruntled to demand a hearing for revocation.

Why is this unfair? The liquor licensing process is a difficult one with a lengthy hearing process that allows all in a neighborhood to weigh in on the application. The process is also a costly one as notification and 4-6 months of process is necessary to acquire the license. Until the license is acquired it is futile to be building out the location to make it a serviceable establishment, a process that requires permits and plans just to proceed to construction. The total process may take more than a year and most likely without rent abatements. The investment in application, plans, construction, rent etc. may cost a \$500,000 and most likely more for a small businessman. It is a considerable expense in time, effort and obviously cash.

Understanding this investment and the nature of the business the application process denies a license if there is 50% plus one in petitions against the bar receiving a license. That means there may be 49.99% of the remaining neighborhood opposed to the bar in principle before it even exists. This bill would allow all those who did not want a bar to become complainants to then force a hearing for revocation. This bill provides the means and manner to remove that license. Small businessmen take a considerable risk to create this business, a business that does provide for a large revenue return for government. This would simply pull the rug out from under them after completing the total business compliance already demanded by government. This is totally unfair. The licensee will not be afforded a free pass on the lease and will certainly go bankrupt.

This then creates a new element in the cycle where now the landlord cannot lease to another operator as nobody will now take that risk knowing the circumstances of revocation. The site now becomes a ghost operation with no business inside, remains un-leasable and often becomes an eyesore upon the community with no upkeep, with trash, waste, offal and graffiti upon the premises. Eventually it may be torn down or eventually converted to another use but all at a great expense to that neighborhood.

Good behavior and supervision go hand in hand in the bar industry. To supervise those partaking in alcoholic beverages requires them to be inside under the eyes and ears of the staff. Until 6 years ago that was the case. There were certainly bars that operated poorly but they were at a minimum. They were handled by the Liquor Commission. Now however every bar becomes a nuisance to its neighbors and only for one reason. Government demanded it through the legislated smoking ban. Unfortunately the ban does not work as well for our industry in the hours we operate. It does not work for our neighbors as well. The ban demands that our customers leave our establishments and go at least 20 feet beyond our doorways to areas that are beyond our supervision and control. We didn't put them there the legislature did. If you asked our neighbors if they preferred smoking in bars or noise on the streets and sidewalks until 4am, I think they would prefer the smoking inside. If in the license application process one asked for an exterior open air area for patrons to congregate until 2am or 4am it would be questioned and most likely denied as it would raise noise issues. Why has one bill, Act 295, had the ability to create so many problems and override all existing Liquor Law? Let the Liquor Commission use its existing powers under 281-291 to revoke licenses and not force hearings on nearly every license. The means exist to eliminate problem bars: we do not need to pass SB2945 to turn all bars into problem bars.

So we remain damned. Damned if we put our patrons on the sidewalk to comply with the Smoking Ban. We then risk our license for noise and violence issues. Damned if we keep them inside to smoke as we risk fines and our health department permits to continue operating. Damned if we close as the lease will not go away while we make zero income. Damned by government demands that we do both, but obviously we cannot do both. Please choose to allow exemptions to the bar industry for the smoking ban's overreach and allow our neighbors some peace and quiet.

This is reactive legislation punishing all bars for the problems of the few. It is legislation that is unnecessary if exemptions to the smoking ban were allowed and some requirements eased. It is nighttime and people should not be outside unsupervised they should be inside as all prior liquor laws and rules suggest.

Please defer SB2945 and work to create a more reasonable business environment for the bar industry.

Sincerely,

Bill Comerford

Spokesman

Hawaii Bar Owners Association

10 Marin Lane

Honolulu, HI 96817

[bill@ejlounge.com](mailto:bill@ejlounge.com)

SB 2945 & HB 2311

Dear Legislators,

I own a business located in Chinatown, named Manifest (32 North Hotel St. 96817 Honolulu, HI), which operates as a bar, coffee shop, and art gallery. I also live in the Artist's Lofts located on the corner of Hotel St. & Maunakea St. Tonight, I write on behalf of the SB & HB regarding revocation of licenses in response to multiple noise complaints.

I don't have a problem with the bill as much as I do with its language. I also have doubts whether a bill of this nature, which sweeps away those viewed as problematic, deals with the problem directly.

For instance, as much as I hope this doesn't pass, but lets say it does. For reasons beyond me, my business is identified as a culprit for excessive noise. After 4 complaints in a 60-day period, I lose my liquor license and now I'm forced to close. The build out I executed to open my establishment was tailored specifically for a bar, though flexible in its applications, a bar. Now after my business vacates, what's to stop another bar from stepping in, continuing this cycle of businesses failing from noise complaints? And by no doubt shortly after being replaced by the same problem. This bill has the appearance of a rotating door that appeases the complainants but not the real issue.

In Hawaii, it's everyone's God given right to see a sun set and hear the ocean break along the shore. But, like anything in paradise, that right comes with a price, and those who experience it pay for it in their rent. In my opinion, if I pay for lower income housing, I would anticipate that it comes with certain understandings. Nefarious activities run rampant and people defecate in doorways weekly. I know there's going to be a victim of homelessness sleeping on a bus stop bench, and known drug dealers will greet me while I walk my dog. Now I don't personally live in a low-income residential building, but I DO live in Chinatown, and every single time I step outside of the comfort of my building, I anticipate a symphony of things that one should expect when they live in the city, and in this case a mixed business district.

I hope to not be misunderstood. I'm not advocating for a sin city where loud noises are permitted. I just don't see how evicting businesses that bring wealth and positive foot traffic to an area, with a history of so much negativity, are out weighed by complaints about the noise. Complaints that don't need to happen more than twice a month. These are struggles that every business owner experiences and by restricting our abilities to provide entertainment in an urban part of Honolulu, I fear for the future of this neighborhood.

Now if the sound complaints are from various individuals and made daily, then that would give cause or validity for an investigation. However four complaints in the

span of sixty days, in my experiences, is unreasonable for an urban area. Given street closures and block parties, you're going to get more than 4 complaints.

I just want it understood that we are **not** trying to make excessive noise but when the residents of an area complain about the sirens of a fire truck being too noisy, judgment needs to be called into question.

Most respectfully,

Brandon Reid  
Owner of Puka Panty LLC dba Manifest

"A little nonsense now and then is cherished by the wisest men."

Greetings Committee Members,

I am a firm believer in the democratic process and encourage my students, staff, friends and family to become the government they seek to see in action. Therefore, I have a moral and ethical obligation to speak regarding SB2945. By day, I am a teacher at the Hawaii National Guard Youth Challenge Academy and like all other employees of this hard working establishment, I have a second job which I need to survive in this state that is my home. Thus, I am a bookkeeper for Manifest Hawaii, a locally owned and operated liquor license holding establishment located on Hotel Street. I also am a resident and avid participant in the community. I live a block away from Manifest. The reason you need to understand this is because I am not a bar owner, I'm not a bartender, I am like so many local people who love this state but need extra income.

What most people do not understand, and which I hope this testimony enlightens you to, is that all bars are not created equal. Manifest serves as a bar, yes. It serves liquor, yes. It also serves as an avenue for burgeoning artists. At times, a venue for non-profit fundraisers such as the Oahu Society for the Prevention of Cruelty to Animals and recently, GirlFest. We are a coffee shop by day and strive to sweep away drug abuse and the negative economy that it attracts but in order to do so, we need patrons, we need people and people, make noise. We make every effort to quell the noise made by our patrons and we pay high in security to ensure safety. However, Chinatown, much like the rest of the island, is highly populated. In specific, Chinatown is populated with people who don't necessarily live there because of the location but because of the affordable housing complexes currently being reviewed by you fine legislators. We have found that many people would rather drug dealers, addicts and street urchins populate their community rather than bars, why? Simple, because they aren't noisy. I am a resident of chinatown and I do so because I love the downtown experience and I work hard to be an active force. However, many want what's cheap and easy and to me, this bill is both. In deciding on this law please ask yourselves the following questions:

1. How are these complaints to be fielded in a judicious manner to determine which are legitimate and which are done out of negativity and malice?
2. How are the "offenders" able to defend their livelihood if such sanctions are to be placed on them which would restrict their ability to survive?
3. Could this bill be done better; is this the best way to deal with this problem in an EFFECTIVE and fair manner?

I am more than convinced of the opposing argument and many times, I share the sentiment. The reality is that Chinatown is in its renaissance and with drug abuse rampant, very few people will open businesses that don't attract brave souls. Manifest and Chinatown vendors are seeking to change this. If you review the Downtown Neighborhood Board minutes you will notice a repeat topic of noise complaint that comes from the same people every time. I refuse to accept their malcontent as universal. I believe that if you don't want noise, move out of a city. The argument of proximity seems to me, a argument of lassitude. Waikiki has bars and tourists, Chinatown has bars and drug addicts, the comparison is relative that if you don't want to deal with these elements, the only option is move. However, I believe that the residents of these state buildings, where the majority of the complaints come from, in Chinatown, are much too comfortable with their extremely below average rent so, instead of move, they seek to destroy the only businesses that are capable of demanding change. I can assure you of the multitude of young adults who would savor living downtown. However, who doesn't want cheap rent?

I humbly request that we, as responsible, local employees consider not just the actions of a few offending parties, and their victims, but also those who thrive and strive to build more than a bar but a community. Those few who may be hurt, may be put out of business if, just a few people decide to irreparably dismantle the hard work of so many. Booze will always be a business but it's how we determine the rewards for those who abide by the rules rather than punish all for the deeds of a few.

I submit this with great thanks for the time given to a citizen.

Many thanks and with great respect,

Nicole L. Maryott

[Nicole.maryott@gmail.com](mailto:Nicole.maryott@gmail.com)

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Testimony for CPN 2/28/2012 10:00:00 AM SB2945

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Micheal Zehner

Organization: Individual

E-mail: [mz9995@hotmail.com](mailto:mz9995@hotmail.com)

Submitted on: 2/26/2012

Comments:

This bill is a cruel attack on small business bars.

Testimony for CPN 2/28/2012 10:00:00 AM SB2945

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: H. William Burgess

Organization: Individual

E-mail: [hwburgess@hawaii.rr.com](mailto:hwburgess@hawaii.rr.com)

Submitted on: 2/26/2012

Comments:

Testimony for CPN 2/28/2012 10:00:00 AM SB2945

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Brenda Kosky

Organization: Individual

E-mail: [Brenda.Kosky@gmail.com](mailto:Brenda.Kosky@gmail.com)

Submitted on: 2/27/2012

Comments:

Yes I strongly support this, it is needed!