

LIQUOR COMMISSION  
**CITY AND COUNTY OF HONOLULU**  
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PETER B. CARLISLE  
MAYOR



March 28, 2012

Representative Robert N. Herkes, Chair  
Representative Ryan I. Yamane, Vice Chair  
Committee on Consumer Protection & Commerce

**Hearing:** Thursday, March 29, 2012  
2:35 pm; Room 325

**Position:** Providing Comments on SB 3031 SD1 Relating to Intoxicating Liquor

As Administrator of the Liquor Commission, City and County of Honolulu, thank you for the opportunity to provide comments on SB 3031 SD1.

SB 3031 SD1 seeks to amend the prohibition contained in Section 281-78(b)(6), Hawaii Revised Statutes, that makes a licensee in violation of the liquor laws if any person on the licensed premises is engaged in unlawful conduct. The objection to the current language is that "immediately" has been and can be interpreted to impose liability on a licensee as soon as the unlawful conduct occurs, regardless of attempts made by the licensee to prevent or to rectify the situation immediately following discovery of the unlawful conduct.

While one can appreciate the challenge certain types of licensees face in controlling the conduct of persons on their premises, the following concerns warrant consideration:

- Having a liquor license is a privilege, not a right, and which is accompanied by public safety responsibilities regarding conduct taking place on the licensed premises. Accordingly, any diminution of that responsibility should be both reasonable and conservative.
- Query whether "timely" will provide sufficient specificity so that both licensees and the liquor commission decision makers (the commissions or adjudication boards) can make consistent, reasonable, and predictable evaluations of licensee response time.
- Because liquor control investigators exercise limited discretion in the field, it is likely that the proposed amendment *will not* result in fewer violations being issued to licensees. As only the commissions and adjudication boards can

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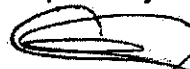
ANNA C. HIRAI  
ASST. ADMINISTRATOR

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make the determination of what is or is not "timely" under the circumstances, licensees will still have to appear before the decision makers to justify the timeliness of its response for a violation of HRS §281-78(b)(6).

Thank you for the opportunity to provide comments on this matter.

Respectfully submitted,



Greg I. Nishioka, Administrator

GIN:ACH