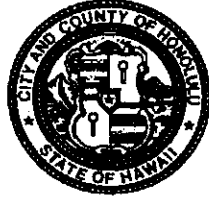


LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU

711 KAPIOLANI BOULEVARD, SUITE 600 • HONOLULU, HAWAII 96813-5249
PHONE: (808) 768-7300 or (808) 768-7355 • FAX: (808) 768-7311
E-mail address: liquor@honolulu.gov • INTERNET: www.honolulu.gov/liq

PETER B. CARLISLE
MAYOR



March 20, 2012

MICHAEL S. YAMAGUCHI
CHAIRMAN

IRIS R. OKAWA
CO-VICE CHAIR

PATRICK K. KOBAYASHI
CO-VICE CHAIR

WESLEY F. FONG
COMMISSIONER

JOSEPH V. O'DONNELL
COMMISSIONER

GREG I. NISHIOKA
ADMINISTRATOR

ANNA C. HIRAI
ASST. ADMINISTRATOR

Representative Angus L.K. McKelvey, Chair
Representative Isaac W. Choy, Vice Chair
Committee on Economic Revitalization & Business

Hearing: Thursday, March 22, 2012
9:15 am; Room 312

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

Committee on Economic Revitalization
& Business
Thursday, March 22, 2012
9:15 am; Room 312
Page 2

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