

JAN 18 2013

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 281-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§281-17 Jurisdiction and powers.** (a) The liquor
4 commission, within its own county, shall have the sole
5 jurisdiction, power, authority, and discretion, subject only to
6 this chapter:

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

9 (2) To take appropriate action against a person who,
10 directly or indirectly, manufactures, sells, or
11 purchases any liquor without being authorized pursuant
12 to this chapter; provided that in counties which have
13 established by charter a liquor control adjudication
14 board, the board shall have the jurisdiction, power,
15 authority, and discretion to hear and determine
16 administrative complaints of the director regarding
17 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, alcohol abuse treatment, prevention, and
6 education; provided that any alcohol abuse treatment,
7 prevention, or educational program shall be [~~limited~~
8 ~~to the commission staff, commissioners, liquor control~~
9 ~~adjudication board members, licensees and their~~
10 ~~employees and shall be~~] financed through the money
11 collected from the assessment of fines against
12 licensees and license fees; [~~provided that fine~~
13 ~~moneys, not to exceed ten per cent a year of fines~~
14 ~~accumulated, may be used to fund public liquor related~~
15 ~~educational or enforcement programs;~~]

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



1 the approval or consent or by order or under the
2 direction or supervision of or as prescribed by the
3 commission; which rules, when adopted as provided in
4 chapter 91 shall have the force and effect of law;

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

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



1 (7) To prescribe the nature of the proof to be furnished,
2 the notices to be given, and the conditions to be met
3 or observed in case of the issuance of a duplicate
4 license in place of one alleged to have been lost or
5 destroyed, including a requirement of any indemnity
6 deemed appropriate to the case;

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

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

16 (10) To investigate violations of this chapter, chapter
17 244D and, notwithstanding any law to the contrary,
18 violations of the applicable department of health's
19 allowable noise levels, through its investigators or
20 otherwise, to include covert operations, and to report
21 violations to the prosecuting officer for prosecution
22 and, where appropriate, the director of taxation to



1 hear and determine complaints against any licensee;
2 provided that a liquor commission in a county with a
3 population of seven hundred thousand or greater may
4 establish a pilot program that employs both a dBA and
5 a dBC sound level measurement system for the purpose
6 of community noise control; provided further that the
7 dBC sound level measurements shall be in accordance
8 with the following maximum permissible sound levels in
9 dBC:

10 (A) Zoning districts that include all areas
11 equivalent to lands zoned residential,
12 conservation, preservation, public space, open
13 space, or similar type shall have a maximum dBC
14 sound level of fifty-five from 7:00 a.m. to 10:00
15 p.m. and a maximum dBC level of forty-five from
16 10:00 p.m. to 7:00 a.m.;

17 (B) Zoning districts that include all areas
18 equivalent to lands zoned for multi-family
19 dwellings, apartment, business, commercial,
20 hotel, resort, or similar type shall have a
21 maximum dBC sound level of sixty from 7:00 a.m.



1 to 10:00 p.m. and a maximum dBC level of fifty
2 from 10:00 p.m. to 7:00 a.m.; and
3 (C) Zoning districts that include all areas
4 equivalent to lands zoned in agriculture,
5 country, industrial, or similar type shall have a
6 maximum dBC sound level of seventy from 7:00 a.m.
7 to 10:00 p.m. and a maximum dBC level of seventy
8 from 10:00 p.m. to 7:00 a.m.;

9 (11) To prescribe, by rule, the terms, conditions, and
10 circumstances under which persons or any class of
11 persons may be employed by holders of licenses;

12 (12) To prescribe, by rule, the term of any license or
13 solicitor's and representative's permit authorized by
14 this chapter, the annual or prorated amount, the
15 manner of payment of fees for the licenses and
16 permits, and the amount of filing fees; and

17 (13) To prescribe, by rule, the circumstances and penalty
18 for the unauthorized manufacturing or selling of any
19 liquor.

20 (b) Subject only to this chapter, the commission or board
21 and each member thereof shall have the same powers respecting
22 the administering of oaths, compelling the attendance of



1 witnesses and the production of documentary evidence, and
2 examining the witnesses as are possessed by a circuit court,
3 except that the commission or board and each member thereof
4 shall not be bound by the strict legal rules of evidence. In
5 addition, the commission or board shall have the power to
6 require the production of, and to examine any books, papers, and
7 records of any licensee which may pertain to the licensee's
8 business under the license or which may pertain to a matter at a
9 hearing before the commission or board or to an investigation by
10 the commission or board.

11 (c) The commission shall also have the power to provide
12 funding to the county for public and private programs that are
13 intended to prevent and treat alcohol abuse within that county.

14 (d) The exercise by the commission or board of the power,
15 authority, and discretion vested in it pursuant to this chapter
16 shall be final and shall not be reviewable by or appealable to
17 any court or tribunal, except as otherwise provided in this
18 chapter or chapter 91."

19 SECTION 2. Section 281-17.5, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Any [~~sueh~~] liquor license fees or any moneys
22 collected or received by any liquor commission under this



1 chapter may only be used for alcohol abuse education,
2 prevention, and treatment programs and costs and expenses
3 directly relating to operational and administrative costs
4 actually incurred by the liquor commission collecting or
5 receiving [~~such~~] the liquor license fees or moneys. [~~Such~~] The
6 fees or moneys shall not be used for any costs or expenses other
7 than those directly relating to its operation and
8 administration, except as otherwise provided by law."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY:

By Request



S.B. NO. 437

Report Title:

Maui County Package; Intoxicating Liquors; Alcohol Abuse
Treatment and Prevention

Description:

Authorizes the liquor commission to conduct and fund state and
county alcohol abuse treatment and prevention activities.
Allows liquor license fees to be used for those activities.

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not legislation or evidence of legislative intent.*

