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# A BILL FOR AN ACT

RELATING TO STATEWIDE LIQUOR LAWS.

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

1           SECTION 1. The legislature finds that there are vast  
2   disparities between the different liquor rules in each county,  
3   with limited oversight and widespread complaints. A recent  
4   audit of the Maui county department of liquor control found that  
5   the department and county liquor commission are not fulfilling  
6   their mandated responsibilities and are operating in a manner  
7   that is inconsistent and arbitrary. Among other things, the  
8   audit criticized the department and commission's lack of  
9   communication with the public on policies and rules. The  
10  department and commission made major rule changes without proper  
11  notice and imposed burdensome requirements on certain events,  
12  which led to public outcry and later the reversal of the  
13  changes. The legislature further finds that despite numerous  
14  complaints, the county's mayor and council were powerless over  
15  the department or commission.

16           The purpose of this Act is to require uniform standard  
17  operating procedures for all county liquor agencies.



1 SECTION 2. Section 281-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "County liquor control agency" means each liquor control  
5 agency established by county charter and includes the  
6 commission, liquor control adjudication board, administrator of  
7 the commission, and any staff thereof."

8 SECTION 3. Chapter 281, Hawaii Revised Statutes, is  
9 amended by adding six new sections to part II to be  
10 appropriately designated and to read as follows:

11 "§281- County liquor control agency requirements. Each  
12 county liquor control agency shall:

- 13 (1) Keep records of historical data that include the  
14 percentage of applications approved and denied  
15 compared to the total number of applications submitted  
16 and records of how long each application process  
17 takes;
- 18 (2) Review and update its operations and policy manuals by  
19 January 31, 2020, and every five years thereafter;  
20 provided that the policy manual shall provide adequate  
21 guidance or limits on conducting inspections and



1 investigations; provided further that each county  
2 liquor control agency shall track inspections  
3 electronically, and enforcement staff shall be  
4 required to report on how the selection criteria for  
5 inspection reflected a perceived risk to public health  
6 and safety;

7 (3) Provide application forms and guidance materials, as  
8 well as a copy of its operations, policy, and  
9 procedures manuals, on its website;

10 (4) Maintain a database of licensees for electronic  
11 communication;

12 (5) Process new applications efficiently enough to notify  
13 each applicant within seventy-two hours whether the  
14 application was approved or denied;

15 (6) Establish an appeal process where applicants can  
16 request additional review by the commission;

17 (7) Include in its annual reports and strategic plans  
18 information on the prevalence of underage drinking and  
19 alcohol abuse within its county and specific goals to  
20 tackle these alcohol-related issues, including  
21 performance measures to track the agency's progress;



1 provided that these performance measures shall be  
2 outcome-oriented with quantifiable goals to measure  
3 the effectiveness of the operations; and

4 (8) Make reasonable efforts to consult key stakeholders  
5 and the public before implementing major rule changes,  
6 including rule changes for twenty-four-hour liquor  
7 sales and the removal of the cap on local hostess  
8 bars.

9 §281- Commission administrator; annual survey and  
10 review. (a) The administrator of each commission shall undergo  
11 an annual customer satisfaction survey of licensees and the  
12 general public that shall be shared with the commission.

13 (b) The administrator of each commission shall undergo an  
14 annual review of the administrator's performance by the  
15 commission no later than January 31 of each year.

16 §281- Corporation counsel. The county attorney or  
17 corporation counsel of the county or city and county of the  
18 commission shall:

19 (1) Ensure compliance with state laws and county rules;

20 (2) Attend all commission meetings; and



1           (3) Rigorously train the commission on the legal  
2           requirements of the commissioner position.

3           §281- Training. Each county administrator and member of  
4           a commission shall undergo comprehensive training on chapter 92  
5           and other state laws and county rules.

6           §281- Goals. Each commission shall establish long- and  
7           short-term goals for the county liquor control agency, including  
8           outlining meaningful performance goals and measures for liquor  
9           control.

10           §281- Council authority. Notwithstanding section 281-  
11           17(a) (5), the council of each county shall have the authority to  
12           require action and redirect liquor control operations if the  
13           performance of the administrator of the commission is  
14           unsatisfactory."

15           SECTION 4. Section 281-13, Hawaii Revised Statutes, is  
16           amended to read as follows:

17           "§281-13 Meetings. (a) Meetings of the liquor commission  
18           or the liquor control adjudication board may be held at any time  
19           and as often from time to time as the commission or board deems  
20           necessary for the proper transaction of its business, upon call  
21           of the chairperson or by any other two members of the commission

1 or board. The administrator shall give notice of the meetings  
2 as the commission or board may prescribe to the several  
3 members ~~[7]~~ and the county attorney or corporation counsel of the  
4 county or city and county of the commission, and give any other  
5 notice thereof directed by the commission or board.

6 (b) A majority of all the members of the commission or  
7 board shall constitute a quorum for the transaction of business,  
8 but the affirmative vote of a majority of all of the members  
9 shall be necessary to determine any matter before it.

10 (c) No commission shall be permitted to enter closed  
11 meetings, override a fair and transparent selection process, or  
12 hire any person who has not filed an application."

13 SECTION 5. Section 281-31, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By amending subsections (a) and (b) to read:

16 "(a) Licenses may be granted by the liquor commission as  
17 provided in this section ~~[-]~~; provided that any license  
18 authorizing the consumption of liquor on the licensee's premises  
19 shall authorize consumption of the liquor specified on the  
20 entire premises.



1 (b) Class 1. Manufacturer license. A license for the  
2 manufacture of liquor shall authorize the licensee to:

- 3 (1) Manufacture the liquor therein specified;  
4 (2) Sell it in original packages to any wholesaler who  
5 holds a license to resell it; and  
6 (3) Sell beer, wine, or other specified liquor  
7 manufactured or distilled on the licensee's premises  
8 from fruits or other products grown in the State, in  
9 any quantity:

- 10 (A) At wholesale in original packages to any person  
11 who holds a license to resell it; and  
12 (B) To any person for private use and consumption.

13 Under this license, [~~no~~] liquor [~~shall~~] may be consumed on  
14 the premises [~~, except as authorized by the commission~~]. Of this  
15 class, there shall be the following kinds:

- 16 (1) Beer;  
17 (2) Wine;  
18 (3) Alcohol; and  
19 (4) Other specified liquor.

20 It shall be unlawful for any holder of a manufacturer  
21 license to have any interest whatsoever in the license or



1 licensed premises of any other licensee. This subsection shall  
2 not prevent the holder of a manufacturer license under this  
3 chapter or under the law of another jurisdiction from  
4 maintaining any interest in the license or licensed premises of  
5 a wholesale dealer licensee under this chapter."

6 2. By amending subsections (d) and (e) to read:

7 "(d) Class 3. Wholesale dealer license. A license for  
8 the sale of liquor at wholesale shall authorize the licensee to  
9 import and sell only to licensees or to others who are by law  
10 authorized to resell the liquor specified by the license but are  
11 not by law required to hold a license; provided that a class 3  
12 licensee may sell samples of liquor back to the manufacturer.  
13 Under a class 3 license, ~~[no]~~ liquor ~~[shall]~~ may be consumed on  
14 the premises ~~[except as authorized by the commission]~~. Of this  
15 class, there shall be the following kinds:

- 16 (1) General (includes all liquor except alcohol);  
17 (2) Beer and wine; and  
18 (3) Alcohol.

19 If any wholesale dealer solicits or takes any orders in any  
20 county other than that where the dealer's place of business is  
21 located, the orders may be filled only by shipment direct from





1 the county in which the wholesale dealer holds the dealer  
2 license. Nothing in this subsection shall prevent a wholesaler  
3 from selling liquor to post exchanges, ships' service stores,  
4 army or navy officers' clubs, or similar organizations located  
5 on army or navy reservations, or to any vessel other than  
6 vessels performing a regular water transportation service  
7 between any two or more ports in the State, or to aviation  
8 companies who operate an aerial transportation enterprise  
9 subject to chapter 269 and engaged in regular flight passenger  
10 services between any two or more airports in the State for use  
11 on aircraft, or aviation companies engaged in transpacific  
12 flight operations for use on aircraft outside the jurisdiction  
13 of the State.

14 (e) Class 4. Retail dealer license. A license to sell  
15 liquor at retail or to class 10 licensees shall authorize the  
16 licensee to sell the liquor therein specified in their original  
17 packages. A license under this class shall also authorize the  
18 licensee to sell beer, malt beverages, or cider in non-original  
19 packages; provided that the beer, malt beverage, or cider is  
20 sold in a securely sealed or covered glass, ceramic, or metal  
21 container that is sold to or provided by the patron, and each



1 sealed or covered glass, ceramic, or metal container does not  
2 exceed a maximum capacity of one half-gallon. Under a class 4  
3 license, [~~no~~] liquor [~~shall~~] may be consumed on the premises  
4 [~~except as authorized by the commission~~]. Of this class, there  
5 shall be the following kinds:

- 6 (1) General (includes all liquor except alcohol);
- 7 (2) Beer and wine; and
- 8 (3) Alcohol."

9 SECTION 6. Section 281-53, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§281-53 Application; penalty for false statements.** Every  
12 application for a license or for the renewal of a license or for  
13 the transfer of a license shall be in writing, signed and,  
14 except for the renewal of a license, verified by the oath of the  
15 applicant, or in the case of a corporation or unincorporated  
16 association by the proper officer or officers thereof, or if a  
17 partnership by a general partner thereof, or if a limited  
18 liability partnership by a partner thereof, or if a member-  
19 managed limited liability company by a member thereof, or if a  
20 manager-managed limited liability company by a manager thereof,



1 made before any official authorized by law to administer oaths,  
2 and shall be addressed to the liquor commission, and set forth:

3 (1) The full name, age, and place of residence of the  
4 applicant; if a copartnership, the names, ages, and  
5 respective places of residence of all the partners; if  
6 a limited liability company, its full name and the  
7 names of all its members; if a corporation or joint-  
8 stock company, its full name and the names of its  
9 officers and directors, and the names of all  
10 stockholders owning twenty-five per cent or more of  
11 the outstanding capital stock; if a publicly-traded  
12 company, or an entity ultimately solely owned by a  
13 publicly-traded company, the names of the officers  
14 designated as the primary decision-makers regarding  
15 the purchase and sale of liquor; and if any other  
16 association of individuals, the names, ages, and  
17 respective places of residence of its officers and the  
18 number of its members;

19 (2) A particular description of the place or premises  
20 where the proposed license is to be exercised, so that



1 the exact location and extent thereof may be clearly  
2 and definitely determined therefrom;

3 (3) The class and kind of license applied for; and

4 (4) Any other matter or information pertinent to the  
5 subject matter which may be required by the rules of  
6 the commission[-];

7 provided that applicants shall not be required to meet  
8 personally with any county liquor control agency staff member to  
9 obtain application materials.

10 If any false statement is knowingly made in any application  
11 which is verified by oath, the applicant, and in the case of the  
12 application being made by a corporation, limited liability  
13 company, association, or club, the persons signing the  
14 application, shall be guilty of perjury, and shall be subject to  
15 the penalties prescribed by law for such offense. If any false  
16 statement is knowingly made in any application which is not  
17 verified by oath, the person or persons signing the application  
18 shall be guilty of a misdemeanor and upon conviction thereof  
19 shall be punished as in section 281-102 provided."

20 SECTION 7. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# H.B. NO. 1198

1 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Tim Wildgen*  
*and a Bill*  
*Robert Cruz*  
*[Signature]*

JAN 23 2019



# H.B. NO. 1198

**Report Title:**

Liquor; Counties; Operations; Procedures

**Description:**

Requires uniform standard operating procedures for all county liquor agencies. Allows the consumption of alcohol on a manufacturer, wholesale dealer, or retail dealer licensee's premises.

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

