

ACT 269

S.B. NO. 1835-84

A Bill for an Act Relating to Intoxicating Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

“§281-31 Licenses, classes. (a) Licenses may be granted by the liquor commission as provided in this section.

(b) Class 1. Manufacturers’ licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturer’s license to have any interest whatsoever in the license or licensed premises of any other licensee.

(c) Class 3. Wholesale dealers’ licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods; provided that samples of liquor may be sold back to the manufacturer. The license may authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption if the licensee files an affidavit with the commission that there is not a class 4 retail dealers licensee available to sell the wholesalers brand of draught beer. Under

the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where his place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer has his license. Nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs, or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise as a common carrier, under chapter 269, engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

(d) Class 4. Retail dealers' licenses. A license to sell liquors at retail or to class 10 licenses, shall authorize the licensee to sell the liquors therein specified in their original packages. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

(e) Class 5. Dispensers' licenses. A license under this class shall authorize the licensee to sell liquors herein specified for consumption on the premises. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:

- (1) A standard bar;
- (2) A premise in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- (3) A premise in which live or recorded music is played and in which facilities for dancing by the patrons are provided; or
- (4) A premise in which employees or entertainers are compensated to sit with patrons whether or not the employees or [entertainer] entertainers are consuming nonalcoholic beverages while in the company of such patrons.

If the¹ licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

For each category of class 5 licenses there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

(f) Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

(g) Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

(h) Class 8. Additional vessel licenses. A general license may be granted to the owner of any vessel which does not fall within class 7 for the sale of liquor (other than alcohol) on board the vessel while in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessel. The license shall be issuable in each county where the sales are to be made and the application for the license may be made by any agent representing the owner.

(i) Class 9. Tour or cruise vessel licenses. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State, the same shall constitute a violation of this chapter.

(j) Class 10. Special. A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under such

conditions as may be approved by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Under such license the liquors therein specified shall be consumed on the premises.

(k) Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, or professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

(l) Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to sell all liquors, except alcohol, for consumption on the premises; provided that the liquor commissions in each county shall adopt rules, as deemed appropriate by each respective liquor commission, restricting holders of hotel licenses in selling liquors authorized by retail dealers' licenses.

(m) Class 13. Caterer license. A general license may be granted to the owner of any catering service for the sale of liquor (other than alcohol) while performing catering functions; provided that the sales are made only upon the premises of the patron contracting the catering services. Under this license, it shall be lawful for any caterer to promote, encourage, aid or permit the consumption of liquor on the premises, except during the hours between which licensed premises of dispensers are permitted to be open for the transaction of business in the county where the premises are located.

No catering service for the sale of liquor to commercial establishments will be performed unless prior written notice of the service has been delivered to the office of the liquor commission of the county concerned. The notice shall state the date, time, and location of the proposed event.

The intent of a caterer license is to provide service to patrons at a location other than that of the caterer's premises. Use of the caterer license as a substitute for a licensed dispenser premises is prohibited.

[(m)] (n) It shall be unlawful for any retail licensee (Classes 4 through [12] 13) to purchase liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

Sections 281-57 to 281-61 shall not apply to classes 7 to 10[,] and 13.”

SECTION 2. Section 281-33.1, Hawaii Revised Statutes, is amended to read as follows:

“[[]§281-33.1[]] Individual permits to receive shipments of liquor. (a) Notwithstanding any other provisions of law, any unlicensed adult person may apply to the liquor commission and be issued, for a nominal fee, except as hereinafter provided, a permit to receive a single shipment of liquor from outside the State, not to exceed five gallons, (19 liters), for use and consumption by the applicant and his household and not for sale in any form.

(b) In the case of a shipment which the applicant shows is an unsolicited gift, the quantities permitted to be received under subsection (a) above shall be limited to 3.2 gallons (12 liters) in total of all kinds of liquor.

(c) In the case of a shipment in respect of which the applicant shows to the liquor commission that the liquor was prior to the date of the application the personal property of the applicant, formed a part of his household goods, was used and stored outside the State, and was originally acquired (or made by the applicant) outside the State, the quantity of wine, or other liquor capable of aging and originating from grapes or other fruit, which shall be permitted to be received under subsection (a) above may exceed the limit there stated if the commission finds that it is reasonable to do so consistent with the intent of this statute to allow persons taking up residency in the State the free movement of their household goods into this State.

(d) In the case of a shipment of wine or beer which is otherwise available in the State, the permit shall not be issued unless the applicant shall pay a fee equal to the tax that would be imposed by section 244-4 upon the use of liquor having a wholesale price equal to the price paid or to be paid by applicant for the wine or beer being shipped, and such fee shall be in lieu of the imposition by section 244-4 of any tax upon the use of such wine or beer.

[(d)] (e) Except in the case of applications meeting the requirements of subsections (b) [or], (c), or (d), the permit shall not be issued unless the applicant demonstrates to the satisfaction of the liquor commission that each of the brands to be brought in under the permit is otherwise unavailable in the State[, and that the manufacturer of such brand would be willing to list prices for such brand pursuant to section 281-43 if channels for distribution in the State were available].

[(e)] (f) No more than one permit may be issued pursuant to subsection (a) in respect of any one household in any calendar year, and each applicant shall be required to affirm, under penalty of perjury, that no member of his household has previously received such a permit in the applicable calendar year.

[(f)] (g) All such applications and shipments shall be in accordance with regulations promulgated by the liquor commission.

[(g)] (h) A common carrier to whom the permit is presented is authorized to make delivery of the described shipment to the person named in the permit. Delivery of such a shipment pursuant to the permit shall not be deemed to constitute a sale in this State.”

SECTION 3. Section 281-47, Hawaii Revised Statutes, is amended to read as follows:

“~~[]§281-47[]~~ **Standard bar; music and dancing available.** Any standard bar establishment may provide [live or recorded music and dancing] facilities for dancing by patrons, including a dance floor and live or recorded music, if the establishment is located in a commercial district and obtains the approval of the commission to provide such services on a one time trial basis not to exceed ninety days[,]; provided that the music and dancing shall be allowed only during the trial period.”

SECTION 4. Section 281-57, Hawaii Revised Statutes, is amended to read as follows:

“~~§281-57~~ **Notice.** Upon the filing of the inspector’s report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10 and 13) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than forty-five days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission’s fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application, to not less than two-thirds of the owners and lessees of record of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than forty-five days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice and provided further that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of the owners and lessees of record of real estate situated within a distance of one hundred feet from the nearest point of the premises as provided herein. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition, for each condominium project within the affected area, one notice of the hearing shall be

sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium involved. For purposes of this section, notice to one co-owner and one co-lessee shall be sufficient notice to all co-owners and all co-lessees."

SECTION 5. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§281- Supplier to report all sales. A supplier as defined in §281-121(1) is required to report to the commission all direct and indirect sales and shipments to persons licensed pursuant to this chapter and all direct and indirect sales and shipments, to any federal enclave such as, but not limited to, any military base, post exchange or similar operation located within the State. Duplicate copies of invoices from suppliers shall satisfy this requirement."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 7. This Act shall take effect upon its approval.

(Approved June 6, 1984.)

Notes

1. Prior to amendment, "the" read "a".
2. Edited pursuant to HRS §23G-16.5.