

ACT 383

S.B. NO. 2038

A Bill for an Act Relating to Liquor.

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

SECTION 1. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§281- Liquor commission attorney.** The liquor commission may hire county attorneys to assist it in carrying out its functions under this chapter. The assistance may include providing legal advice and prosecuting and defending legal claims under this chapter or arising in connection with this chapter.”

SECTION 2. Section 281-11, Hawaii Revised Statutes, is amended to read as follows:

**“§281-11 County liquor commissions; qualifications; compensation. (a)** A liquor commission, consisting of five members, no more than three of whom shall belong to the same political party at the time of appointment, is created for each of the counties. The elected executive head of each county shall nominate, and by and with the advice and consent of the legislative body of the county, shall appoint the members of the commissions. The elected executive head of each county [may], by and with the advice and consent of the legislative body of the county, may remove from office any of such members. The commission shall designate one of its members as chairman. Each member shall be a citizen of the United States and shall have resided in the county for which appointed for at least three years immediately preceding the date of the member’s appointment.

[The members of the commission shall be appointed, one for a term to expire on December 31, 1965, one for a term to expire on December 31, 1966, one for

a term to expire on December 31, 1967, one for a term to expire on December 31, 1968, and one for a term to expire on December 31, 1969.]

(b) Upon the expiration of the term of each commissioner, the commissioner's successor shall be appointed for a term to expire five years from the date of the expiration of the preceding term.

The tenure in office of every commissioner shall be for the terms provided and until their successors are duly appointed and qualified.

Any vacancy shall be filled by appointment for the remainder of the unexpired term. No person shall be a member of any commission who is or becomes engaged, or is directly or indirectly interested in any business for the manufacture or sale of liquor or who advocates or is or becomes a member of, or is identified or connected with, any organization or association which advocates prohibition, or who is an elected officer of the state or county government or who presents oneself as a candidate for election to any public office during the term of the person's appointment hereunder. This provision shall be enforced by the elected executive head of the county by the removal of the disqualified member whenever such disqualifications shall appear.

[The members of the commission shall be allowed their reasonable expenses, for travel and other costs necessarily incidental to the discharge of their duties and shall each receive and be paid compensation for the member's services at the rate of \$10 per day for each day's actual attendance upon their duties; provided that they shall not receive more than \$100 each per month on account of such compensation.]

In any county having a population of more than one hundred thousand, the chairman and each member of that county's liquor commission shall be compensated for their services at the rate of \$35 per day for the chairman and \$25 per day for each member, for their reasonable expenses incidental to the discharge of their duties; provided that the chairman shall not receive more than \$350 per month and each member shall not receive more than \$250 each per month on account of such compensation.]

(c) The amount of compensation and reasonable expenses for travel and other costs necessarily incidental to the discharge of the members' duties shall be established by each county.

(d) Each member of the commission, before entering upon the duties of the member's office, shall take and subscribe to an oath that the member will faithfully perform such duties according to law, which written oath shall be filed with the elected executive head of each county."

SECTION 3. Section 281-31, Hawaii Revised Statutes, is amended by amending subsection (k) to read as follows:

"(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 in resort areas may be opened for the transaction of business until 4 a.m. throughout the entire week."

SECTION 4. Section 281-32, Hawaii Revised Statutes, is amended to read as follows:

"§281-32 Licenses, temporary. A temporary license of any class and kind specified in section 281-31 may be granted under the following conditions.

- (1) The premises shall have been operated under a license of the same class and kind issued by the liquor commission at least one year immediately prior to the date of filing of the application for temporary license.
- (2) The license of the same class and kind then in effect for the premises shall be surrendered in such manner and at such time as the commission shall direct.
- (3) The applicant for temporary license shall have filed with the commission an application for [the transfer to the applicant of the] a license of the same class and kind then in effect for the premises.
- (4) The application for temporary license shall be accompanied by a license fee in such amount as may be prescribed by the commission. If the application is denied or withdrawn, the fee which accompanied the application shall be refunded in full.
- (5) A temporary license shall be for a period of not in excess of [sixty] one hundred and twenty days. The license may be renewed at the discretion of the commission for not more than one additional sixty day period upon payment of such additional fee as may be prescribed by the commission and upon compliance with all conditions required in this section and section 281-31.
- (6) A temporary license shall authorize the licensee to purchase liquor only by payment in currency or certified check for the liquor before or at the time of delivery of the liquor to the licensee.
- (7) Sections 281-52 and 281-54 and sections 281-56 to 281-61 shall not apply to any application for temporary license."

SECTION 5. Section 281-54, Hawaii Revised Statutes, is amended to read as follows:

**"§281-54 Filing fees with application.** A filing fee in such amount as shall be established by the respective liquor commission shall be paid with any application for an initial issuance of a license or for a transfer of a license[, provided that a filing fee is not required with an application for a license or transfer of a license of the following classes and kinds:

- (1) Manufacturer of wine from grapes or other fruits grown in the State;
- (2) Manufacturer of alcohol;
- (3) Retail alcohol;
- (4) Vessel;
- (5) Additional vessel;
- (6) Special].

Where a license is granted, the filing fee deposited with the application shall become part payment of the fee required for such license. Where an application is denied or withdrawn, the filing fee paid shall become a realization of the county."

SECTION 6. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) At no time under any circumstances shall any licensee:
- (1) Knowingly permit any person under the influence of liquor or disorderly person to be or remain in or on the licensed premises;
  - (2) Fail immediately to prevent or suppress any violent, quarrelsome, disorderly, lewd, immoral, or unlawful conduct of any person on the premises;

- (3) Sell any draught beer unless upon the faucet, spigot, or outlet wherefrom the beer is drawn there is attached a clear and legible notice, placard, or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of the draught beer, so situated as to be clearly legible for a distance of at least ten feet from the spigot, faucet, or outlet, to a purchaser with normal vision[.];
- (4) Receive from a person, as payment or as a consideration for liquor, any personal or household goods, including clothing and food, or any implements of trade. Any person violating this paragraph shall be guilty of a misdemeanor and upon conviction shall be punished as provided for in section 281-102.”

SECTION 7. Section 281-81, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 281-103, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 281-112, Hawaii Revised Statutes, is repealed.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved June 15, 1988.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.