

ACT 62

S.B. NO. 3128

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. The legislature finds that under current law, individuals or organizations that are denied a liquor license may reapply for the license after a one-year waiting period. While the applicant is required to conform to a written application process under section 281-53, Hawaii Revised Statutes, in actuality, those who oppose approval of the license generally bear the real burden throughout this process. For example, residents and neighborhood organizations must organize petition drives and public awareness campaigns each time a previously denied individual or organization resubmits an application.

The purpose of this Act is to alleviate the burden experienced by residents and neighborhood organizations that oppose further applications for liquor licenses. This Act proposes that where the liquor commission has denied a license, an applicant who subsequently reapplies for the liquor license for the same premises shall evidence a substantial change in circumstances that warrants the granting of the

application. The legislature believes that this higher evidentiary standard will result in a fairer process for individuals who oppose further applications that have been denied in the past.

SECTION 2. Section 281-60, Hawaii Revised Statutes, is amended to read as follows:

“§281-60 Further application. (a) Except as provided for in section 281-13, if [any] an applicant has at any time been denied or refused a license, no further application from the applicant pertaining to the same premises or building location shall be considered for one year from [such] the denial or refusal.

(b) If an application pertaining to a particular premises or building location is denied, refused, or withdrawn, the next application from any applicant for that premises or building location shall include a report prepared by the applicant evidencing a substantial change in the circumstances that caused the previous denial, refusal, or withdrawal; provided that this section shall not apply to withdrawals which are not based on protests whether or not the protests are filed. The commission shall deny the application at the preliminary hearing unless the applicant submits evidence of a substantial change in the circumstances that previously caused the denial, refusal, or withdrawal of an application pertaining to that premises or building location. The commission may consider the following factors in deciding whether to grant an application pertaining to a premises or building location for which an application has previously been denied, refused, or withdrawn:

- (1) Whether a majority of the registered voters residing within five hundred feet of the nearest point of the premises or building location for which the license is asked, or a majority of the owners and lessees of record of real estate and owners of record of shares in a cooperative apartment within five hundred feet of the nearest point of the premises or building location for which the license is asked, no longer oppose the granting of the license;
- (2) Whether plans for the construction, building design, use, or operation of the proposed establishment have been altered such that they will not conflict with the character of the surrounding area. In evaluating the character of an area for the purposes of this section, the commission may consider the following factors:
 - (A) The usual and existing types of business, residential, and recreational uses and activities within the area;
 - (B) The proximity of residential areas;
 - (C) The population density of the area;
 - (D) The typical or ambient noise levels of the area;
 - (E) The motor vehicle traffic volume, congestion, and noise; and
 - (F) Any other factors that the commission finds relevant;
- (3) Whether the applicant is a fit and proper person to have a license; and
- (4) Any other considerations deemed by the commission to affect the matter of the application, the issuance, or the exercise of the license applied for.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 24, 1996.)