

A Bill for an Act Relating to Alcoholic Beverages.

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

PART I

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . CIVIL ACTION; INTOXICATION OF PERSONS UNDER AGE TWENTY-ONE

§663-A Right of action. (a) Any person twenty-one years or older who:

- (1) Sells, furnishes, or provides alcoholic beverages to a person under the age of twenty-one years; or
- (2) Owns, occupies, or controls premises on which alcoholic beverages are consumed by any person under twenty-one years of age, and who knows of alcohol consumption by persons under twenty-one years of age on such premises, and who reasonably could have prohibited or prevented such alcohol consumption;

shall be liable for all injuries or damages caused by the intoxicated person under twenty-one years of age.

(b) This section shall not apply to sales licensed under chapter 281.

(c) An intoxicated person under the age of twenty-one years who causes an injury or damage shall have no right of action under this part.

§663-B Subrogation claims denied. There shall be no recovery for any subrogation claim pursuant to any subrogation clause of an uninsured, underinsured, collision, or other first-party coverage as a result of payments made to persons who have claims that arise in whole or in part under this part.”

SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No adult shall provide or purchase liquor for consumption or use by a [minor:] person under twenty-one years of age.”

SECTION 3. Part I of this Act shall apply only to causes of action based upon acts or omissions occurring on or after its effective date.

PART II

SECTION 4. Section 281-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The liquor commission, within its own county, shall have the sole jurisdiction, power, authority, and discretion, subject only to this chapter:

- (1) To grant, refuse, suspend, and revoke any licenses for the manufacture, importation, and sale of liquors;
- (2) To take appropriate action against a person who, directly or indirectly, manufactures [or], sells, or purchases any liquor without being authorized pursuant to this chapter; provided that in counties which have established by charter a liquor control adjudication board, the board shall have the jurisdiction, power, authority, and discretion to hear and

determine administrative complaints of the director regarding violations of the liquor laws of the State or of the rules of the liquor commission, and impose penalties for violations thereof as may be provided by law;

- (3) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education; provided that any educational program shall be limited to licensees and their employees and shall be financed through the money collected from the assessment of fines against licensees;
- (4) From time to time to make, amend, and repeal such rules, not inconsistent with this chapter, as in the judgment of the commission seem appropriate for carrying out this chapter and for the efficient administration thereof, and the proper conduct of the business of all licensees, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission; which rules, when adopted as provided in chapter 91 shall have the force and effect of law;
- (5) Subject to chapter 76, to appoint and remove an administrator, who may also be appointed an investigator and who shall be responsible for the operations and activities of the staff. The administrator may hire and remove hearing officers, investigators, and clerical or other assistants as its business may from time to time require, to prescribe their duties, and fix their compensation; to engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every investigator, within the scope of the investigator's duties, shall have the powers of a police officer;
- (6) To limit the number of licenses of any class or kind within the county, or the number of licenses of any class or kind to do business in any given locality, when in the judgment of the commission such limitations are in the public interest;
- (7) To prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement of any indemnity deemed appropriate to the case;
- (8) To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which shall be uniform throughout the county as to each class respectively;
- (9) To prescribe all forms to be used for the purposes of this chapter not otherwise provided for in this chapter, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;
- (10) To investigate violations of this chapter, chapter 244D and, notwithstanding any law to the contrary, violations of the applicable department of health's allowable noise levels, through its investigators or otherwise, to include covert operations, and to report violations to the prosecuting officer for prosecution and, where appropriate, the director of taxation to hear and determine complaints against any licensee;
- (11) To prescribe, by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of licenses;
- (12) To prescribe, by rule, the term of any license [for] solicitor's and representative's permit authorized by this chapter, the annual or pro-

- rated amount, the manner of payment of fees for the licenses and permits, and the amount of filing fees; and
- (13) To prescribe, by rule, the circumstances and penalty for the unauthorized manufacturing or selling of any liquor.”

SECTION 5. Section 286-136, Hawaii Revised Statutes, is amended to read as follows:

“**§286-136 Penalty.** (a) Except as provided in subsection (b), any person who violates section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both. Any person who violates any other section in this part shall be fined not more than \$1,000.

(b) Any person who is convicted of violating section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be subject to a minimum fine of \$500 and a maximum fine of \$1,000, or imprisoned not more than one year, or both, if the person has two or more prior convictions for the same offense in the preceding five-year period.

(c) Notwithstanding subsections (a) and (b), a minor under the age of eighteen under the jurisdiction of the family court who is subject to this section shall either lose the right to drive a motor vehicle until the age of eighteen or be subject to a fine of \$500.”

SECTION 6. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

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

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

(Approved May 20, 2003.)