

ACT 15

S.B. NO. 638

A Bill for an Act Relating to Liquor.

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

SECTION 1. The legislature finds that an ongoing problem in several communities across the State is the sale of liquor by unlicensed operators or entities that are not under the jurisdiction of the liquor control agencies. Liquor control agencies are restricted from executing compliance checks on establishments without liquor licenses. The reportedly widespread unlicensed sale of liquor on private properties within the State, if true, undermines the mission of liquor control agencies to control the sale of liquor.

The legislature also finds that on November 1, 2017, the Honolulu city council expressed the will of the people through the unanimous adoption of Resolution 17-280, CD1, entitled “Requesting the Hawaii State Legislature to increase the penalty for the unlicensed manufacture or sale of liquor to a felony and to add the crime to the class of organized criminal activities under Hawaii Revised Statutes Chapter 842.”

The resolution states, “because these unlicensed operators and establishments are operating without regulation, they draw crowds and attract other illegal activity that poses health, safety, and community concerns, as evidenced by the recent fatal shooting at a well-known, but unlicensed, bar establishment that has been in operation for a number of years . . .”

Under existing law, the penalty for the misdemeanor offense of unlicensed manufacture or sale of liquor is a fine of not more than \$2,000, imprisonment for not more than one year, or both. The intent of this Act is to deter future illegal liquor sales, not occurring under the oversight of liquor control agencies, by increasing the consequences of subsequent conviction and allow greater latitude to judges in their sentencing options.

The purpose of this Act is to:

- (1) Increase the penalty for the unlicensed sale of liquor;
- (2) Add unlicensed sale and unlicensed manufacture of liquor to the list of offenses eligible for civil asset forfeiture; and
- (3) Amend the definitions of “organized crime” and “racketeering activity” to include the unlicensed sale of liquor.

SECTION 2. Section 281-101, Hawaii Revised Statutes, is amended to read as follows:

“§281-101 ~~[Manufacture or sale without license;]~~ Unlicensed manufacture or sale of liquor; penalty. (a) If any person, acting in person or by or through any agent, servant, or employee, manufactures ~~[or sells]~~ any liquor, either directly or indirectly, or upon any pretense or by any subterfuge, except

as authorized pursuant to this chapter, the person shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

(b) If any person, acting in person or by or through any agent, servant, or employee, sells any liquor, either directly or indirectly, or upon any pretense or by any subterfuge, except as authorized pursuant to this chapter, the person shall be guilty of a class C felony.”

SECTION 3. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

“§712A-4 Covered offenses. Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses that specifically authorize forfeiture;
- (b) Murder, kidnapping, labor trafficking, unlicensed sale of liquor, unlicensed manufacture of liquor, gambling, criminal property damage, robbery, bribery, extortion, theft, unauthorized entry into motor vehicle, burglary, money laundering, trademark counterfeiting, insurance fraud, promoting a dangerous, harmful, or detrimental drug, commercial promotion of marijuana, methamphetamine trafficking, manufacturing of a controlled substance with a child present, promoting child abuse, promoting prostitution, sex trafficking, solicitation of a minor for prostitution, habitual solicitation of prostitution, or electronic enticement of a child that is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or solicitation of prostitution near schools or public parks, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

SECTION 4. Section 842-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “organized crime” to read:
““Organized crime” means any combination or conspiracy to engage in criminal activity as a significant source of income or livelihood, or to violate, aid, or abet the violation of criminal laws relating to prostitution, gambling, loan sharking, drug abuse, illegal drug distribution, counterfeiting, extortion, labor trafficking, unlicensed sale of liquor, or corruption of law enforcement officers or other public officers or employers.”

2. By amending the definition of “racketeering activity” to read:
““Racketeering activity” means any act or threat involving but not limited to murder, kidnapping, gambling, criminal property damage, robbery, bribery, extortion, labor trafficking, unlicensed sale of liquor, theft, or prostitution, or any dealing in narcotic or other dangerous drugs that is chargeable as a crime under state law and punishable by imprisonment for more than one year.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved April 23, 2019.)