

ACT 45

S.B. NO. 2125

A Bill for an Act Relating to Liquor Licenses.

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

SECTION 1. The legislature finds that the liquor commissions or liquor control adjudication boards of each county regulate the sale of liquor through the issuance of liquor licenses and the enforcement of laws and rules. Violations may include the sale of liquor to minors, the sale of liquor to highly intoxicated persons, or for excessive noise emanating from liquor establishments, such as bars and nightclubs.

The legislature further finds that under existing law the maximum fine allowable for violations of liquor control laws is \$2,000. The legislature also finds that heftier fines can create a greater deterrent for license holders from risking violation of liquor control laws and rules.

Accordingly, the purpose of this Act is to provide greater flexibility in assessing fines by increasing the maximum allowable fine for violations of liquor control laws by a licensee from \$2,000 to \$5,000.

SECTION 2. Section 281-91, Hawaii Revised Statutes, is amended to read as follows:

“§281-91 Revocation or suspension of license; hearing. The liquor commission or liquor control adjudication board may revoke any license at any time issued, or suspend the right of the licensee to use the licensee’s license, or assess and collect a penalty, or reprimand the licensee, either for the violation of any condition of the license or of any provisions of this chapter or of any rule [or regulation] applicable thereto, or upon the conviction in a court of law of the licensee of any violation of this chapter or of any other law relative to the licensee’s license or the proper exercise thereof, or of any violation of law in any other respect on account whereof the commission or board may deem the licensee to be an unfit or improper person to hold a license, or for any other cause deemed sufficient by the commission or board.

In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other than a conviction at law of the licensee as above specified, the licensee shall be entitled to notice and hearing in conformity with chapter 91, the notice to be given at least five days before the hearing, except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission or board.

At the hearing, before final action is taken by the commission or board, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for the proposed action do not exist, or any reasons why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to the licensee upon the licensee’s request and at the licensee’s expense.

Any order of revocation, suspension, fine, or reprimand imposed by the commission or board upon the licensee shall be in addition to any penalty that might be imposed upon the licensee upon the licensee’s conviction at law for any violation of this chapter. No licensee shall be subject to both the penalty assessed and collected by the commission or board and to revocation or suspension of license. The amount of penalty assessed and collected by the commission or board from any licensee for any particular offense shall not exceed the sum of [~~\$2,000.~~] \$5,000.

Whenever the service of any order or notice shall be required by this section, the service shall be made in the following manner: in the case of any violation based upon the personal observation of any investigator, a written notice of the violation shall be given to the licensee or the licensee’s registered manager in active charge of the premises, or by serving a certified copy of the notice or order upon the holder of the license wherever the holder may be found in the circuit wherein the holder is licensed, or, if the holder cannot be found after diligent search, by leaving a certified copy thereof at the holder’s dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the holder of the license cannot be found after diligent search, and service cannot be made, then service may be made by posting a certified copy of the notice or order in a conspicuous place on the licensed premises and depositing another certified copy thereof in the certified mail of the United States post of-

ACT 45

fi ce, postage prepaid, addressed to the holder of the license at the holder's last known residence address; provided that in the case of a partnership, corporation, unincorporated association, or limited liability company, service may be made upon any partner, officer, or member thereof."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 17, 2022.)