
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, article 10, part II, Hawaii
2 Revised Statutes, is amended by adding a new section to be
3 appropriately designated and to read as follows:
4 "§431:10- General casualty insurers; coverage for class
5 5 liquor dispensers; duty to inform. Any insurer authorized to
6 transact general casualty insurance who terminates or refuses to
7 renew a policy of liquor liability insurance for any liquor
8 licensee, except manufacturers and wholesalers, shall notify the
9 liquor commission of the county where the licensee is located
10 within thirty days prior to the expiration of the insurance on
11 the holder of the policy."

12 SECTION 2. Section 281-31, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§281-31 Licenses, classes.** (a) Licenses may be granted
15 by the liquor commission as provided in this section.

16 (b) Class 1. Manufacturer license. A license for the
17 manufacture of liquor shall authorize the licensee to

1 manufacture the liquor therein specified and to sell it at
2 wholesale in original packages to any person who holds a license
3 to resell it and to sell draught beer or wine manufactured from
4 grapes or other fruits grown in the State in any quantity to any
5 person for private use and consumption. Under this license, no
6 liquor shall be consumed on the premises except as authorized by
7 the commission. Of this class, there shall be the following
8 kinds:

- 9 (1) Beer;
- 10 (2) Wine;
- 11 (3) Alcohol; and
- 12 (4) Other specified liquor.

13 It shall be unlawful for any holder of a manufacturer
14 license to have any interest whatsoever in the license or
15 licensed premises of any other licensee. This subsection shall
16 not prevent the holder of a manufacturer license under this
17 chapter or under the law of another jurisdiction from
18 maintaining any interest in the license or licensed premises of
19 a wholesale dealer licensee under this chapter.

20 (c) Class 2. Restaurant license.

21 (1) A license under this class shall authorize the
22 licensee to sell liquor specified in this subsection

1 for consumption on the premises; provided that a
2 restaurant licensee, with commission approval, may
3 provide off-premises catering of food and liquor;
4 provided further that the catering activity shall be
5 directly related to the licensee's operation as a
6 restaurant. A licensee under this class shall be
7 issued a license according to the category of
8 establishment the licensee owns or operates. The
9 categories of establishment shall be as follows:

10 (A) A standard bar; or

11 (B) Premises in which live entertainment or recorded
12 music is provided. Facilities for dancing by the
13 patrons may be permitted as provided by
14 commission rules.

15 (2) If a licensee under class 2 desires to change the
16 category of establishment the licensee owns or
17 operates, the licensee shall apply for a new license
18 applicable to the category of the licensee's
19 establishment.

20 (3) Of this class, there shall be the following kinds:

21 (A) General (includes all liquor except alcohol);

22 (B) Beer and wine; and

1 (C) Beer.

2 Notwithstanding section 281-57, the commission may approve at
3 one public hearing and without notice the change to a class 2
4 restaurant license of a licensee holding a class 5 dispenser
5 license who meets the requirements of a class 2 license.

6 (d) Class 3. Wholesale dealer license. A license for the
7 sale of liquor at wholesale shall authorize the licensee to
8 import and sell only to licensees, or to others who are by law
9 authorized to resell but are not by law required to hold a
10 license, the liquor therein specified; provided that samples of
11 liquor may be sold back to the manufacturer. Under the license,
12 no liquor shall be consumed on the premises except as authorized
13 by the commission. Of this class, there shall be the following
14 kinds:

- 15 (1) General (includes all liquor except alcohol);
- 16 (2) Beer and wine; and
- 17 (3) Alcohol.

18 If any wholesale dealer solicits or takes any orders in any
19 county other than that where the dealer's place of business is
20 located, the orders may be filled only by shipment direct from
21 the county in which the wholesale dealer holds the dealer
22 license. Nothing in this subsection shall prevent a wholesaler

1 from selling liquor to post exchanges, ships' service stores,
2 army or navy officers' clubs, or similar organizations located
3 on army or navy reservations, or to any vessel other than
4 vessels performing a regular water transportation service
5 between any two or more ports in the State, or to aviation
6 companies who operate an aerial transportation enterprise as a
7 common carrier, under chapter 269, engaged in regular flight
8 passenger services between any two or more airports in the State
9 for use on aircraft, or aviation companies engaged in
10 transpacific flight operations for use on aircraft outside the
11 jurisdiction of the State.

12 (e) Class 4. Retail dealer license. A license to sell
13 liquor at retail or to class 10 licenses shall authorize the
14 licensee to sell the liquor therein specified in their original
15 packages. Under the license, no liquor shall be consumed on the
16 premises except as authorized by the commission. Of this class,
17 there shall be the following kinds:

- 18 (1) General (includes all liquor except alcohol);
19 (2) Beer and wine; and
20 (3) Alcohol.
21 (f) Class 5. Dispenser license.

- 1 (1) A license under this class shall authorize the
2 licensee to sell liquor specified in this subsection
3 for consumption on the premises. A licensee under
4 this class shall be issued a license according to the
5 category of establishment the licensee owns or
6 operates. The categories of establishments shall be
7 as follows:
- 8 (A) A standard bar;
- 9 (B) Premises in which a person performs or entertains
10 unclothed or in attire restricted to use by
11 entertainers pursuant to commission rules;
- 12 (C) Premises in which live entertainment or recorded
13 music is provided; provided that facilities for
14 dancing by the patrons may be permitted as
15 provided by commission rules; or
- 16 (D) Premises in which employees or entertainers are
17 compensated to sit with patrons, regardless of
18 whether the employees or entertainers are
19 consuming nonalcoholic beverages while in the
20 company of the patrons pursuant to commission
21 rules.

1 (2) If a licensee under class 5 desires to change the
2 category of establishment the licensee owns or
3 operates, the licensee shall apply for a new license
4 applicable to the category of the licensee's
5 establishment.

6 (3) Of this class, there shall be the following kinds:

7 (A) General (includes all liquor except alcohol);

8 (B) Beer and wine; and

9 (C) Beer.

10 (g) Class 6. Club license. A club license shall be
11 general only (but excluding alcohol) and shall authorize the
12 licensee to sell liquor to members of the club and to guests of
13 the club enjoying the privileges of membership, for consumption
14 only on the premises kept and operated by the club; provided
15 that the license shall also authorize any club member to keep in
16 the member's private locker on the premises a reasonable
17 quantity of liquor, if owned by the member, for the member's own
18 personal use and not to be sold and that may be consumed only on
19 the premises. A club licensee shall be authorized to host
20 charitable functions that are open to the general public only
21 pursuant to commission rules.

22 The categories of establishment shall be as follows:

1 (1) A standard bar; or

2 (2) Premises in which live entertainment or recorded music
3 is provided. Facilities for dancing by the patrons
4 may be permitted as provided by commission rules.

5 (h) Class 8. Transient vessel license. A general license
6 may be granted to the owner of any vessel for the sale of liquor
7 (other than alcohol) on board the vessel while en route within
8 the jurisdictional limits of the State and within any port of
9 the State. Sales shall be made only for consumption by
10 passengers and their guests on board the vessel. The license
11 shall be issuable in each county where the sales are to be made;
12 provided that the application for the license may be made by any
13 agent representing the owner.

14 (i) Class 9. Tour or cruise vessel license. A general
15 license may be granted to the owner of any tour or cruise vessel
16 for the sale of liquor (other than alcohol) on board the vessel
17 while in the waters of the State; provided that sales be made
18 only for consumption by passengers on board while the vessel is
19 in operation outside the port or dock of any island of the
20 State, unless otherwise approved by the county where the license
21 has been issued. The license shall be issuable in the county
22 wherein the home port is situated. If, on any vessel for which

1 no license has been obtained under this chapter, any liquor is
2 sold or served within three miles of the shore of any island of
3 the State, it shall constitute a violation of this chapter.

4 The categories of establishment shall be as follows:

5 (1) A standard bar; or

6 (2) Premises in which live entertainment or recorded music
7 is provided. Facilities for dancing by the patrons
8 may be permitted as provided by commission rules.

9 (j) Class 10. Special license. A special license may be
10 granted for the sale of liquor for a period not to exceed three
11 days and pursuant to commission rule may be approved by the
12 administrator for fundraising events by nonprofit organizations,
13 political candidates, and political parties; provided that any
14 registered educational or charitable nonprofit organization may
15 sell liquors in their original packages for off-premises
16 consumption. Of this class, there shall be the following kinds:

17 (1) General (includes all liquor except alcohol);

18 (2) Beer and wine; and

19 (3) Beer.

20 Under this license, the liquor therein specified shall be
21 consumed on the premises.

1 (k) Class 11. Cabaret license. A cabaret license shall
2 be general only (but excluding alcohol) and shall authorize the
3 sale of liquor for consumption on the premises. This license
4 shall be issued only for premises where food is served,
5 facilities for dancing by the patrons are provided, including a
6 dance floor, and live or amplified recorded music or
7 professional entertainment, except professional entertainment by
8 a person who performs or entertains unclothed, is provided for
9 the patrons; provided that professional entertainment by persons
10 who perform or entertain unclothed shall be authorized by:

11 (1) A cabaret license for premises where professional
12 entertainment by persons who perform or entertain
13 unclothed was presented on a regular and consistent
14 basis immediately prior to June 15, 1990; or

15 (2) A cabaret license that, pursuant to rules adopted by
16 the liquor commission, permits professional
17 entertainment by persons who perform or entertain
18 unclothed.

19 A cabaret license under paragraph (1) or (2) authorizing
20 professional entertainment by persons who perform or entertain
21 unclothed shall be transferable through June 30, 2000. A
22 cabaret license under paragraph (1) or (2) authorizing

1 professional entertainment by persons who perform or entertain
2 unclothed shall not be transferable after June 30, 2000, except
3 when the transferee obtains approval from the liquor commission,
4 and pursuant to rules adopted by the commission.

5 Notwithstanding any rule of the liquor commission to the
6 contrary, cabarets in resort areas may be opened for the
7 transaction of business until 4 a.m. throughout the entire week.

8 (1) Class 12. Hotel license. A license to sell liquor in
9 a hotel shall authorize the licensee to provide entertainment
10 and dancing on the hotel premises and to sell all liquor, except
11 alcohol, for consumption on the premises; provided that a hotel
12 licensee, with commission approval, may provide off-premises
13 catering of food and liquor, if the catering activity is
14 directly related to the licensee's food service.

15 Procedures such as room service, self-service (no-host),
16 minibars or similar service in guest rooms, and service at
17 parties in areas that are the property of and contiguous to the
18 hotel, are permitted with commission approval.

19 Any licensee who would otherwise fall within the hotel
20 license class but holds a different class of license may be
21 required to apply for a hotel license.

1 If the licensee applies for a change of classification
2 prior to July 30, 1992, the licensee shall not be subject to the
3 requirements of sections 281-52, 281-54, and 281-57 through 281-
4 59.

5 Any licensee holding a class 12 license on May 1, 2007, and
6 who would otherwise come within this class of license may apply
7 to the liquor commission in which the licensee is seeking a
8 change in liquor license for a change to a class 15 license;
9 provided that the licensee shall not be subject to the
10 requirements of section 281-54 and sections 281-57 to 281-60.

11 If a licensee holding a class 12 license on May 1, 2007,
12 applies for a change to a class 15 license, the respective
13 liquor commission shall hold a public hearing upon notice, and
14 upon the day of hearing, or any adjournment thereof, the liquor
15 commission shall consider the application, accept all written or
16 oral testimony for or against the application, and render its
17 decision granting or refusing the application. If the
18 application is denied, the class 12 license shall continue in
19 effect in accordance with law.

20 (m) Class 13. Caterer license. A general license may be
21 granted to any applicant who serves food as part of their

1 operation for the sale of liquor (other than alcohol) while
2 performing food catering functions off the premises.

3 No catering service for the sale of liquor shall be
4 performed off the licensee's premises, unless prior written
5 notice of the service has been delivered to the office of the
6 liquor commission of the county concerned. The notice shall
7 state the date, time, and location of the proposed event and
8 shall include a written statement signed by the owner or
9 representative of the property that the function will be subject
10 to the liquor laws and to inspection by investigators.

11 (n) Class 14. Brewpub license. A brewpub licensee:

12 (1) Shall manufacture not more than ten thousand barrels
13 of malt beverages on the licensee's premises during
14 the license year;

15 (2) May sell malt beverages manufactured on the licensee's
16 premises for consumption on the premises;

17 (3) May sell malt beverages manufactured by the licensee
18 in brewery-sealed packages to class 3 wholesale dealer
19 licensees pursuant to conditions imposed by county
20 planning and public works departments;

21 (4) May sell intoxicating liquor, purchased from a class 1
22 manufacturer licensee, or a class 3 wholesale dealer

1 licensee, to consumers for consumption on the
2 licensee's premises. The categories of establishments
3 shall be as follows:

4 (A) A standard bar; or

5 (B) Premises in which live entertainment or recorded
6 music is provided. Facilities for dancing by the
7 patrons may be permitted as provided by
8 commission rules;

9 (5) May sell malt beverages manufactured on the licensee's
10 premises to consumers in brewery-sealed kegs and
11 growlers for off-premises consumption; provided that
12 for purposes of this paragraph, "growler" means a
13 glass container, not to exceed one half-gallon, which
14 shall be securely sealed;

15 (6) May sell malt beverages manufactured on the licensee's
16 premises to consumers, in recyclable containers that
17 may be provided by the licensee or by the consumer,
18 not to exceed one gallon per container, which are
19 securely sealed on the licensee's premises, for off-
20 premises consumption;

- 1 (7) Shall comply with all regulations pertaining to class
2 4 retail dealer licensees when engaging in the retail
3 sale of malt beverages; and
- 4 (8) May sell malt beverages manufactured on the licensee's
5 premises in brewery-sealed containers directly to
6 class 2 restaurant licensees, class 3 wholesale dealer
7 licensees, class 4 retail dealer licensees, class 5
8 dispenser licensees, class 6 club licensees, class 8
9 transient vessel licensees, class 9 tour or cruise
10 vessel licensees, class 10 special licensees, class 11
11 cabaret licensees, class 12 hotel licensees, class 13
12 caterer licensees, and class 15 condominium hotel
13 licensees, pursuant to conditions imposed by county
14 regulations governing class 1 [manufacturer] licensees
15 and class 3 wholesale dealer licensees.
- 16 (o) Class 15. Condominium hotel license. A license to
17 sell liquor in a condominium hotel shall authorize the licensee
18 to provide entertainment and dancing on the condominium hotel
19 premises and to sell all liquor, except alcohol, for consumption
20 on the premises; provided that a condominium hotel licensee,
21 with commission approval, may provide off-premises catering;

1 provided further that the catering activity is directly related
2 to the licensee's operation as a condominium hotel.

3 Procedures such as room service, self-service (no-host),
4 minibars or similar service in apartments, and service at
5 private parties in areas that are the property of and contiguous
6 to the condominium hotel, are permitted with commission
7 approval.

8 A condominium hotel licensee shall not sell liquor in the
9 manner authorized by a class 4 retail [dealer] license.

10 Any licensee who would otherwise fall within the
11 condominium hotel license class but holds a different class of
12 license may be required to apply for a condominium hotel
13 license.

14 [†] (p) [†] Class 16. Winery license. A winery licensee:

15 (1) Shall manufacture not more than ten thousand barrels
16 of wine on the licensee's premises during the license
17 year;

18 (2) May sell wine manufactured on the licensee's premises
19 for consumption on the premises;

20 (3) May sell wine manufactured by the licensee in winery-
21 sealed packages to class 3 wholesale dealer licensees

1 pursuant to conditions imposed by county planning and
2 public works departments;

3 (4) May sell wine manufactured on the licensee's premises
4 to consumers in winery-sealed kegs and magnums for
5 off-premises consumption; provided that for purposes
6 of this paragraph, "magnum" means a glass container,
7 not to exceed one half-gallon, which may be securely
8 sealed;

9 (5) May sell wine manufactured on the licensee's premises
10 to consumers, in recyclable containers that may be
11 provided by the licensee or by the consumer, not to
12 exceed one gallon per container, which are securely
13 sealed on the licensee's premises, for off-premises
14 consumption;

15 (6) Shall comply with all rules pertaining to class 4
16 retail dealer licensees when engaging in the retail
17 sale of wine;

18 (7) May sell wine manufactured on the licensee's premises
19 in winery-sealed containers directly to class 2
20 restaurant licensees, class 3 wholesale dealer
21 licensees, class 4 retail dealer licensees, class 5
22 dispenser licensees, class 6 club licensees, class 7

1 vessel licensees, class 8 transient vessel licensees,
2 class 9 tour or cruise vessel licensees, class 10
3 special licensees, class 11 cabaret licensees, class
4 12 hotel licensees, class 13 caterer licensees, class
5 14 brewpub licensees, and class 15 condominium hotel
6 licensees, pursuant to conditions imposed by county
7 planning and public works departments and rules
8 governing class 3 wholesale dealer licensees; and
9 (8) May conduct the activities described in paragraphs (1)
10 through (7) at locations other than the licensee's
11 premises; provided that the manufacturing takes place
12 in Hawaii; and provided further that the other
13 locations are properly licensed by the same ownership.
14 (g) Restaurants, retail dealers, dispensers, clubs,
15 cabarets, hotels, caterers, and condominium hotels licensed
16 under class 2, class 4, class 5, class 6, class 11, class 12,
17 class 13, and class 14 shall maintain at all times liquor
18 liability insurance coverage in an amount to be determined every
19 two years pursuant to commission rules; provided that the
20 commission shall not set the amount at less than \$1,000,000.
21 Proof of coverage shall be kept on the premises and shall be
22 made available for inspection by the commission at any time

1 during the licensee's regular business hours. In the event of a
2 licensees failure to obtain or maintain the required coverage,
3 the commission shall refuse to issue or renew a license, or
4 shall suspend or terminate the license as appropriate. No
5 license shall be granted, reinstated, or renewed until after the
6 required insurance coverage is obtained.

7 ~~[(q)]~~ (r) It shall be unlawful for any retail licensee,
8 except a class 10 licensee, to purchase, acquire, or sell liquor
9 from any person other than a wholesaler licensed pursuant to
10 this chapter, except as otherwise provided in this section.

11 ~~[(r)]~~ (s) Any provision to the contrary notwithstanding,
12 at the discretion of the county liquor commission, permission
13 may be granted to a bona fide hotel, restaurant, or club
14 licensed under class 2, class 6, class 11, class 12, class 14,
15 class 15, or class 16 to allow a patron to remove from the
16 licensed premises any portion of wine that was purchased for
17 consumption with a meal; provided that it is recorked or
18 resealed in its original container. This subsection applies
19 only to a valid holder of a class 2, class 6, class 11, class
20 12, class 14, class 15, or class 16 license engaged in meal
21 service.

1 [~~(s)~~] (t) Sections 281-57 to 281-60 shall not apply to
2 classes 8 through 10 and 13."

3 SECTION 3. Section 281-45, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§281-45 No license issued, when.** No license shall be
6 issued under this chapter:

7 (1) To any minor or to any person who has been convicted
8 of a felony and not pardoned (except that the
9 commission may grant a license under this chapter to a
10 corporation that has been convicted of a felony where
11 the commission finds that the organization's officers
12 and shareholders of twenty-five per cent or more of
13 outstanding stock are fit and proper persons to have a
14 license), or to any other person not deemed by the
15 commission to be a fit and proper person to have a
16 license;

17 (2) To a corporation the officers and directors of which,
18 or any of them, would be disqualified under paragraph
19 (1) from obtaining the license individually, or a
20 stockholder of which, owning or controlling twenty-
21 five per cent or more of the outstanding capital
22 stock, or to a general partnership, limited

1 partnership, limited liability partnership, or limited
2 liability company whose partner or member holding
3 twenty-five per cent or more interest of which, or any
4 of them would be disqualified under paragraph (1) from
5 obtaining the license individually;

6 (3) Unless the applicant for a license or a renewal of a
7 license, or in the case of a transfer of a license,
8 both the transferor and the transferee, present to the
9 issuing agency a signed certificate from the director
10 of taxation and from the Internal Revenue Service
11 showing that the applicant or the transferor and
12 transferee do not owe the state or federal governments
13 any delinquent taxes, penalties, or interest; or

14 (4) To an applicant for a class 2, class 4, class 5, class
15 6, class 11, class 12, class 13, or class 14 license,
16 unless the applicant for issuance of a license or
17 renewal of a license, or in the case of a transfer of
18 a license, both the transferor and the transferee,
19 present to the issuing agency proof of liquor
20 liability insurance coverage in an amount set by the
21 issuing agency which shall be not less than
22 \$1,000,000; or

1 [~~4~~] (5) To any applicant who has had any liquor license
2 revoked less than two years previous to the date of
3 the application for any like or other license under
4 this chapter."

5 SECTION 4. Section 281-61, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§281-61 Renewals.** (a) Other than for good cause, the
8 renewal of an existing license shall be granted upon the filing
9 of an application; provided that if:

- 10 (1) Complaints from the public;
11 (2) Reports from the commission's investigators; or
12 (3) Adjudications of the commission or the liquor control
13 adjudication board,

14 indicate that noise created by patrons departing from the
15 premises disturbs residents on the street or of the neighborhood
16 in which the premises are located, or that noise from the
17 premises or adjacent related outdoor areas such as parking lots
18 or lanais exceed standards contained in state or county noise
19 codes or intrudes into nearby residential units, the commission
20 may deny the renewal application or withhold the issuance of a
21 renewed license until corrective measures meeting the
22 commission's approval are taken.

1 (b) The commission or board, pursuant to section 281-17,
2 at the time of renewal or at any time, may revoke, suspend, or
3 place conditions or restrictions on any license issued under
4 this chapter for the purpose of preventing activities within the
5 licensed premises or adjacent areas that are potentially
6 injurious to the health, safety, and welfare of the public and
7 neighborhood including but not limited to criminal activity,
8 including assault, drug dealing, drug use, or prostitution, upon
9 proper notice to the licensee, and a hearing before the
10 commission pursuant to chapter 91.

11 (c) The commission or board, shall deny renewal of a class
12 2, class 4, class 5, class 6, class 11, class 12, class 13, or
13 class 14 license if the licensee fails to obtain or maintain at
14 all times liquor liability insurance coverage as required by
15 section 281-31(q). The amount of insurance coverage required
16 shall be determined by commission rules; provided that the
17 commission shall not set the amount at less than \$1,000,000.
18 The commission shall review and may amend the amount of coverage
19 required at least every two years."

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

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

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

Report Title:

Intoxicating Liquor; Liquor Licenses

Description:

Requires liquor licensees with certain classes of licenses to carry liability insurance as a condition of acquiring and renewing a license. Requires liquor liability insurers to notify the county liquor commissions upon a termination, rejection, or nonrenewal of a licensee's coverage. (SD2)