



GOV. MSG. NO. 855

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 470 HD1 CD1

On July 15, 2009, Senate Bill No. 470, entitled "A Bill for an Act Relating to Liquor" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to make various amendments to the State's liquor laws. Included in these amendments are provisions that: 1) allow the Department of Taxation to provide tax clearances to liquor establishments for license renewals as long as these establishments enter into a payment plan for taxes owed, 2) allow the county liquor commissions to extend the deadline for making liquor license application decisions from a maximum of 30 days up to 120 days, and 3) allow the county liquor commissions to use up to ten percent of fines collected to fund public liquor-related educational and enforcement programs.

While this measure is well-intentioned, I have concerns regarding two provisions in this bill. Although I understand the economic difficulties that liquor establishments are facing as a result of the current downturn, I am concerned that this bill does not provide a means for immediately revoking a liquor license if an establishment fails to make payments to the Department of Taxation while already on an installment plan for taxes owed. Currently, contractors are able to obtain temporary tax clearances and renew their licenses as long as they enter into a payment plan with the Department of Taxation. However, their license can be promptly revoked if the contractor fails to make payments. For liquor establishments, the only way for the Department of Taxation to proceed with a liquor license revocation is to apply to the county liquor commissions for a hearing, which allows a liquor establishment to operate without paying taxes until the commission makes the decision to revoke the license.

Additionally, I am concerned that extending the deadline for making liquor license application decisions will result in longer wait times for small businesses attempting to set up an establishment that requires a liquor license. Since liquor establishments must locate and lease space prior to applying for a liquor license, it would be difficult for these businesses to continue paying rent for their establishment up to 120 days after the hearings process when they cannot start operations until a license is approved. While I understand that the original intent is to allow

The Honorable Colleen Hanabusa, President
and Members of the Senate
Page 2

the county liquor commissions more time to evaluate establishments with complicated liquor license applications, rather than automatically denying those establishments a license, timetables should be limited to ensure licenses are granted expeditiously.

Since the intent of this measure is to help businesses struggling during these economic times, I hope the county liquor commissions will work with all stakeholders to administer this bill fairly and equitably so that the above concerns can be addressed.

For the foregoing reasons, I allowed Senate Bill No. 470 to become law as Act 184, effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda Lingle', with a stylized flourish at the end.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1 SECTION 1. Section 231-28, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§231-28 Tax clearance before procuring liquor licenses.

4 No liquor licenses shall be issued or renewed unless the
5 applicant therefor shall present to the issuing agency, a
6 certificate signed by the director of taxation, showing that the
7 applicant does not owe the State any delinquent taxes,
8 penalties, or interest[-]; or that the applicant has entered
9 into and is complying with an installment plan agreement with
10 the department of taxation for the payment of delinquent taxes
11 in installments."

12 SECTION 2. Section 281-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "retail licensee" to read
14 as follows:

15 ""Retail licensee" means any licensee holding a class 2 or
16 class 4 through class [14] 16 license."

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



1 "§281-3 Illegal manufacture, importation, or sale of
2 liquor. It shall be unlawful for any person not having a valid
3 license to manufacture or sell any liquor except as otherwise
4 provided in this chapter; provided that the head of any family
5 may produce for family use and not for sale an amount of wine
6 not exceeding two hundred gallons a year, and an amount of beer
7 not exceeding one hundred gallons a year.

8 It shall also be unlawful for any person, not having a
9 valid wholesale license or a valid manufacturer's (including
10 rectifier's) license, to import any liquor from without the
11 State, except as otherwise provided in this chapter. Liquor
12 imported into this State shall come to rest at the warehouse of
13 the manufacturer (including rectifier) or the wholesaler
14 importing the liquor, shall be unloaded into such warehouse, and
15 shall be held in such warehouse for at least forty-eight hours
16 before further sale by such manufacturer (including rectifier)
17 or wholesaler.

18 It shall also be unlawful for any person to label,
19 designate, or sell any liquor using the word "Hawaii",
20 "Hawaiian", "Aloha State", "50th State", "Kauai", "Maui",
21 "Oahu", or "Honolulu" unless such liquor is wholly or partially
22 manufactured in the State, and all of the primary ingredients



1 are wholly rectified or combined in the State of Hawaii in
2 compliance with the [~~Bureau of Alcohol, Tobacco and Firearms~~]
3 Alcohol and Tobacco Tax and Trade Bureau standards.

4 A license shall constitute authority for the licensee to
5 sell only the liquor thereby authorized to be sold by the
6 licensee."

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

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

- 12 (1) To grant, refuse, suspend, and revoke any licenses for
13 the manufacture, importation, and sale of liquors;
- 14 (2) To take appropriate action against a person who,
15 directly or indirectly, manufactures, sells, or
16 purchases any liquor without being authorized pursuant
17 to this chapter; provided that in counties which have
18 established by charter a liquor control adjudication
19 board, the board shall have the jurisdiction, power,
20 authority, and discretion to hear and determine
21 administrative complaints of the director regarding
22 violations of the liquor laws of the State or of the



1 rules of the liquor commission, and impose penalties
2 for violations thereof as may be provided by law;

3 (3) To control, supervise, and regulate the manufacture,
4 importation, and sale of liquors by investigation,
5 enforcement, and education; provided that any
6 educational program shall be limited to the commission
7 staff, commissioners, liquor control adjudication
8 board members, licensees and their employees and shall
9 be financed through the money collected from the
10 assessment of fines against licensees; provided that
11 fine moneys, not to exceed ten per cent a year of
12 fines accumulated, may be used to fund public liquor
13 related educational or enforcement programs;

14 (4) From time to time to make, amend, and repeal such
15 rules, not inconsistent with this chapter, as in the
16 judgment of the commission seem appropriate for
17 carrying out this chapter and for the efficient
18 administration thereof, and the proper conduct of the
19 business of all licensees, including every matter or
20 thing required to be done or which may be done with
21 the approval or consent or by order or under the
22 direction or supervision of or as prescribed by the



1 commission; which rules, when adopted as provided in
2 chapter 91 shall have the force and effect of law;

3 (5) Subject to chapter 76, to appoint and remove an
4 administrator, who may also be appointed an
5 investigator and who shall be responsible for the
6 operations and activities of the staff. The
7 administrator may hire and remove hearing officers,
8 investigators, and clerical or other assistants as its
9 business may from time to time require, to prescribe
10 their duties, and fix their compensation; to engage
11 the services of experts and persons engaged in the
12 practice of a profession, if deemed expedient. Every
13 investigator, within the scope of the investigator's
14 duties, shall have the powers of a police officer;

15 (6) To limit the number of licenses of any class or kind
16 within the county, or the number of licenses of any
17 class or kind to do business in any given locality,
18 when in the judgment of the commission such
19 limitations are in the public interest;

20 (7) To prescribe the nature of the proof to be furnished,
21 the notices to be given, and the conditions to be met
22 or observed in case of the issuance of a duplicate



1 license in place of one alleged to have been lost or
2 destroyed, including a requirement of any indemnity
3 deemed appropriate to the case;

4 (8) To fix the hours between which licensed premises of
5 any class or classes may regularly be open for the
6 transaction of business, which shall be uniform
7 throughout the county as to each class respectively;

8 (9) To prescribe all forms to be used for the purposes of
9 this chapter not otherwise provided for in this
10 chapter, and the character and manner of keeping of
11 books, records, and accounts to be kept by licensees
12 in any matter pertaining to their business;

13 (10) To investigate violations of this chapter, chapter
14 244D and, notwithstanding any law to the contrary,
15 violations of the applicable department of health's
16 allowable noise levels, through its investigators or
17 otherwise, to include covert operations, and to report
18 violations to the prosecuting officer for prosecution
19 and, where appropriate, the director of taxation to
20 hear and determine complaints against any licensee;



1 (11) To prescribe, by rule, the terms, conditions, and
2 circumstances under which persons or any class of
3 persons may be employed by holders of licenses;

4 (12) To prescribe, by rule, the term of any license or
5 solicitor's and representative's permit authorized by
6 this chapter, the annual or prorated amount, the
7 manner of payment of fees for the licenses and
8 permits, and the amount of filing fees; and

9 (13) To prescribe, by rule, the circumstances and penalty
10 for the unauthorized manufacturing or selling of any
11 liquor."

12 SECTION 5. Section 281-22, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) A commission employee may support, advocate, or aid
15 in the election or defeat of any candidate for public office, or
16 run for public office; provided the employee:

17 (1) Notifies the commission in writing of the employee's
18 intent to support, advocate, or aid in the election or
19 defeat of a candidate for public office; and

20 (2) If a candidate for public office, takes a leave of
21 absence in accordance with [~~chapter 79~~] section 78-23
22 for a period beginning prior to the initiation of



1 political activities related to the candidacy and
2 ending the day following the general election for the
3 office."

4 SECTION 6. Section 281-31, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (n) to read:

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

- 8 (1) Shall manufacture not more than ten thousand barrels
9 of malt beverages on the licensee's premises during
10 the license year;
- 11 (2) May sell malt beverages manufactured on the licensee's
12 premises for consumption on the premises;
- 13 (3) May sell malt beverages manufactured by the licensee
14 in brewery-sealed packages to class 3 wholesale dealer
15 licensees pursuant to conditions imposed by the county
16 [~~planning and public works departments,~~] by ordinance
17 or rule;
- 18 (4) May sell intoxicating liquor, purchased from a class 1
19 manufacturer licensee, or a class 3 wholesale dealer
20 licensee, to consumers for consumption on the
21 licensee's premises. The categories of establishments
22 shall be as follows:



- 1 (A) A standard bar; or
- 2 (B) Premises in which live entertainment or recorded
3 music is provided. Facilities for dancing by the
4 patrons may be permitted as provided by
5 commission rules;
- 6 (5) May sell malt beverages manufactured on the licensee's
7 premises to consumers in brewery-sealed kegs and
8 growlers for off-premises consumption; provided that
9 for purposes of this paragraph, "growler" means a
10 glass container, not to exceed one half-gallon, which
11 shall be securely sealed;
- 12 (6) May sell malt beverages manufactured on the licensee's
13 premises to consumers, in recyclable containers that
14 may be provided by the licensee or by the consumer,
15 not to exceed one gallon per container, which are
16 securely sealed on the licensee's premises, for off-
17 premises consumption;
- 18 (7) Shall comply with all regulations pertaining to class
19 4 retail dealer licensees when engaging in the retail
20 sale of malt beverages; and
- 21 (8) May sell malt beverages manufactured on the licensee's
22 premises in brewery-sealed containers directly to



1 class 2 restaurant licensees, class 3 wholesale dealer
 2 licensees, class 4 retail dealer licensees, class 5
 3 dispenser licensees, class 6 club licensees, class 8
 4 transient vessel licensees, class 9 tour or cruise
 5 vessel licensees, class 10 special licensees, class 11
 6 cabaret licensees, class 12 hotel licensees, class 13
 7 caterer licensees, and class 15 condominium hotel
 8 licensees, pursuant to conditions imposed by county
 9 regulations governing class 1 [+]manufacturer[+] licensees and class 3 wholesale dealer licensees."

11 2. By amending subsection (p) to read:

12 "[+](p)[+] Class 16. Winery license. A winery licensee:

- 13 (1) Shall manufacture not more than ten thousand barrels
 14 of wine on the licensee's premises during the license
 15 year;
- 16 (2) May sell wine manufactured on the licensee's premises
 17 for consumption on the premises;
- 18 (3) May sell wine manufactured by the licensee in winery-
 19 sealed packages to class 3 wholesale dealer licensees
 20 pursuant to conditions imposed by the county [~~planning~~
 21 ~~and public works departments,~~] by ordinance or rule;



- 1 (4) May sell wine manufactured on the licensee's premises
2 to consumers in winery-sealed kegs and magnums for
3 off-premises consumption; provided that for purposes
4 of this paragraph, "magnum" means a glass container,
5 not to exceed one half-gallon, which may be securely
6 sealed;
- 7 (5) May sell wine manufactured on the licensee's premises
8 to consumers, in recyclable containers that may be
9 provided by the licensee or by the consumer, not to
10 exceed one gallon per container, which are securely
11 sealed on the licensee's premises, for off-premises
12 consumption;
- 13 (6) Shall comply with all rules pertaining to class 4
14 retail dealer licensees when engaging in the retail
15 sale of wine; and
- 16 (7) May sell wine manufactured on the licensee's premises
17 in winery-sealed containers directly to class 2
18 restaurant licensees, class 3 wholesale dealer
19 licensees, class 4 retail dealer licensees, class 5
20 dispenser licensees, class 6 club licensees, [~~class 7~~
21 ~~vessel licensees,~~] class 8 transient vessel licensees,
22 class 9 tour or cruise vessel licensees, class 10



1 special licensees, class 11 cabaret licensees, class
2 12 hotel licensees, class 13 caterer licensees, class
3 14 brewpub licensees, and class 15 condominium hotel
4 licensees, pursuant to conditions imposed by county
5 planning and public works departments and rules
6 governing class 3 wholesale dealer licensees[; and
7 ~~(8) May conduct the activities described in paragraphs (1)~~
8 ~~through (7) at locations other than the licensee's~~
9 ~~premises; provided that the manufacturing takes place~~
10 ~~in Hawaii; and provided further that the other~~
11 ~~locations are properly licensed by the same~~
12 ~~ownership]."~~

13 SECTION 7. Section 281-41, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§281-41 Transfer of licenses; notice of change in**
16 **officers, directors, and stockholders of corporate licenses,**
17 **partners of a partnership license, and members of a limited**
18 **liability company license; penalty. (a) No license issued**
19 **under this chapter to an original applicant or to any transferee**
20 **shall be transferable or be transferred within one year of the**
21 **issuance or transfer, except for good cause shown to the**
22 **satisfaction of the liquor commission. A transfer of license**



1 shall be for the same class, kind, and category of license. No
2 license issued under this chapter shall be transferable or be
3 transferred except upon written application to the commission by
4 the proposed transferee, and after prior inspection of the
5 premises, reference to, and report by an inspector, and a public
6 hearing held by the commission not less than fourteen days after
7 one publication of notice thereof, but without sending notice of
8 the hearing by mail to persons being the owners or lessees of
9 real estate situated within the vicinity of the premises and
10 without the right to the owners or lessees to protest the
11 transfer of a license. Exceptions are class 5 and 11 licensees
12 who must comply with the [~~notice~~] requirements as set forth in
13 [~~section 281-57.~~] sections 281-57 to 281-60.

14 [~~(b) No class 5 or 12 license issued to a standard bar, as~~
15 ~~defined in section 281-1, shall be transferable to other than a~~
16 ~~standard bar and that such license shall be subject to~~
17 ~~revocation if the licensed premises is not retained as a~~
18 ~~standard bar except upon written application to the commission~~
19 ~~by the licensee or the proposed transferee, subject to sections~~
20 ~~281-51 to 281-60.~~

21 ~~(e)]~~ (b) A county may increase the requirements for
22 transfers of class 5, category [~~+~~] (1) [~~+~~] (B) and (D), and class



1 11 licenses by ordinance designating one or more areas within
2 the county as special liquor districts and specifying the
3 requirements applicable to transfers of any of these licenses
4 within each district.

5 ~~[(d)]~~ (c) For the purpose of this section, "special liquor
6 district" means an area designated by a county for restoration,
7 reservation, historic preservation, redevelopment, rejuvenation,
8 or residential protection, in which development is guided to
9 protect or enhance the physical and visual aspects of the area
10 for the benefit of the community as a whole.

11 ~~[(e)]~~ (d) Where a license is held by a partnership, the
12 commission may, notwithstanding this section, approve the
13 transfer of the [license] partnership interest upon the death or
14 withdrawal of a member of the partnership to any remaining
15 partner or partners without publication of notice ~~[and without]~~
16 at a public hearing.

17 ~~[(f)]~~ (e) Where a license is held by a partnership,
18 limited partnership, limited liability partnership, or a limited
19 liability company, the admission or withdrawal of a limited
20 partner, partner of a limited liability partnership, or a member
21 of the limited liability company shall not be deemed a transfer
22 of the license held by the partnership or limited liability



1 company, but the licensee shall, prior to such admission or
2 withdrawal, so notify the commission in writing, stating the
3 name of the partner, partners, member, or members who have
4 withdrawn, if such be the case, and the name, age, and place of
5 residence of the partner, partners, member, or members who have
6 been admitted, if that be the case. If the commission finds a
7 [~~limited~~] partner or a member to be an unfit or improper person
8 to hold a license in the [~~limited~~] partner's or member's own
9 right pursuant to section 281-45, it may revoke the license or
10 suspend the license of the partnership or the limited liability
11 company until the unfit or improper partner or member is removed
12 or replaced.

13 ~~(g)~~ (f) Except as otherwise provided in this section,
14 the same procedure shall be followed in regard to the transfer
15 of a license as is prescribed by this chapter for obtaining a
16 license. Sections 281-51 to 281-60, except where inconsistent
17 with any provision hereof, are hereby made applicable to such
18 transfers. The word "applicant", as used in such sections,
19 shall include each such proposed transferee, and the words,
20 "application for a license or for the renewal of a license", as
21 used in such sections, shall include an application for the
22 transfer of a license.



1 ~~[(h)]~~ (g) Upon the hearing, the commission shall consider
2 the application and any objections to the granting thereof and
3 hear the parties in interest. It shall inquire into the
4 propriety of each transfer and determine whether the proposed
5 transferee is a fit person to hold the license. It may approve
6 a transfer or refuse to approve a transfer and the refusal by
7 the commission to approve a transfer shall be final and
8 conclusive, unless an appeal is taken as provided in chapter 91.

9 ~~[(i)]~~ (h) If any licensee without such approval transfers
10 to any other person the licensee's business for which the
11 licensee's license was issued, either openly or under any
12 undisclosed arrangement, whereby any person, other than the
13 licensee, comes into possession or control of the business or
14 takes in any partner or associate, the commission may in its
15 discretion suspend or cancel the license.

16 ~~[(j)]~~ (i) If the licensee is a corporation, a change in
17 ownership of any outstanding capital stock shall not be deemed a
18 transfer of a license; provided that in the case of a change in
19 ownership of twenty-five per cent or more of the stock or in the
20 case of change in ownership of any number of shares of the stock
21 that results in the transferee thereof becoming the owner of
22 twenty-five per cent or more of the outstanding capital stock,



1 the corporate licensee shall, prior to the date of the transfer,
2 apply for and secure the approval of the transfer from the
3 commission in writing. If the commission finds that the
4 proposed transferee is an unfit or improper person to hold a
5 license in the proposed transferee's own right pursuant to
6 section 281-45, it shall not approve the proposed transfer. If
7 any transfer is made without the prior approval of the
8 commission, the commission may in its discretion revoke or
9 suspend the license until it determines that the transferee is a
10 fit and proper person, and if the commission finds that the
11 transferee is not a fit and proper person, until a retransfer or
12 new transfer of the capital stock is made to a fit and proper
13 person pursuant to section 281-45. In addition, the corporate
14 licensee shall, within thirty days from the date of election of
15 any officer or director, notify the commission in writing of the
16 name, age, and place of residence of the officer or director.
17 If the commission finds the transferee, officer, or director an
18 unfit or improper person to hold a license in the transferee's,
19 officer's, or director's own right pursuant to section 281-45,
20 it may in its discretion revoke the license or suspend the
21 license until a retransfer or new transfer of the capital stock
22 is effected to a fit or proper person pursuant to section 281-45



1 or until the unfit or improper transferee, officer, or director
2 is removed or replaced by a fit and proper person pursuant to
3 section 281-45.

4 ~~(k)~~ (j) If a licensee closes out the business for which
5 the license is held, during the term for which the license was
6 issued, the licensee shall, within five days from the date of
7 closing the same, give the commission written notice thereof and
8 surrender the licensee's license for cancellation.

9 (k) The conversion of an entity into any other form of
10 entity or the merger of any entity with any other entity shall
11 not be deemed a transfer of the license; provided that the
12 licensee, prior to the date of the conversion or merger, shall
13 apply for and secure the approval of the commission without any
14 requirement for publication of notice. The foregoing shall not
15 preclude compliance with subsection (d) upon a change in any of
16 the partners or members, or with subsection (i) upon change of
17 any shareholders, officers, or directors of any entity occurring
18 concurrently with a conversion or merger.

19 As used in this subsection, "entity" means a corporation,
20 partnership, limited partnership, limited liability partnership,
21 or limited liability company."



1 SECTION 8. Section 281-45, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§281-45 No license issued, when. No license shall be
4 issued under this chapter:

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

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



1 twenty-five per cent or more interest of which, or any
2 of them would be disqualified under paragraph (1) from
3 obtaining the license individually;

- 4 (3) Unless the applicant for a license or a renewal of a
5 license, or in the case of a transfer of a license,
6 both the transferor and the transferee, present to the
7 issuing agency a signed certificate from the director
8 of taxation and from the Internal Revenue Service
9 showing that the applicant or the transferor and
10 transferee do not owe the state or federal governments
11 any delinquent taxes, penalties, or interest; or that
12 the applicant, or in the case of a transfer of a
13 license, the transferor or transferee, has entered
14 into an installment plan agreement with the department
15 of taxation and the Internal Revenue Service for the
16 payment of delinquent taxes in installments and that
17 the applicant is or the transferor or transferee is,
18 in the case of a transfer of a license, complying with
19 the installment plan agreement; or

- 20 (4) To any applicant who has had any liquor license
21 revoked less than two years previous to the date of



1 the application for any like or other license under
2 this chapter."

3 SECTION 9. Section 281-57, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) Immediately upon the commission's fixing a day for
6 the public hearing of the application, the applicant shall mail
7 a notice setting forth the time and place of the hearing on the
8 application to each of the following:

9 (1) Not less than two-thirds of the owners and lessees of
10 record of real estate and owners of record of shares
11 in a cooperative apartment or to those individuals on
12 the list of owners as provided by the managing agent
13 or governing body of the shareholders association
14 situated within a distance of five hundred feet from
15 the nearest point of the premises for which the
16 license is asked to the nearest point of such real
17 estate or cooperative apartment; provided that in
18 meeting this requirement, the applicant shall mail a
19 notice to not less than three-fourths of the owners
20 and lessees of record of real estate and owners of
21 record of shares in a cooperative apartment situated
22 within a distance of one hundred feet from the nearest



1 point of the premises for which the license is asked.
2 Notice by mail may be addressed to the last known
3 address of the person concerned or to the address as
4 shown in the [~~last tax return filed by~~] current real
5 property tax record of the person or the person's
6 agent or representative;

7 (2) In counties with a population of five hundred thousand
8 or more, not less than two-thirds of the registered
9 voters residing within, and small businesses situated
10 within, a distance of five hundred feet from the
11 nearest point of the premises for which the license is
12 asked; provided that in meeting this requirement, the
13 applicant shall mail notices to not less than three-
14 fourths of the registered voters residing within, and
15 small businesses situated within, a distance of one
16 hundred feet from the nearest point of the premises
17 for which the license is asked. This paragraph shall
18 not apply to applications for class 2, class 4, class
19 12, and class 15 licenses. A notice sent pursuant to
20 this paragraph shall be addressed to the "occupant" of
21 the residential unit or small business; and



1 (3) For each condominium project and cooperative apartment
2 within the five hundred-foot area, one notice of the
3 hearing shall be sent by mail addressed "To the
4 Residents, Care of the Manager", followed by the name
5 and address of the condominium or cooperative
6 apartment involved.

7 The notices required under this subsection shall be mailed at
8 least forty-five days prior to the date set for the hearing. No
9 promotional information shall be allowed on, or accompany the
10 notice. Before the hearing, and within seven business days of
11 having mailed the notices, the applicant shall file with the
12 commission an affidavit that the notices have been mailed in
13 compliance with this subsection. In addition to the affidavit
14 (which shall be made available within the same seven-business-
15 day period with proof of having mailed the notices), the
16 applicant shall include both a master list of one hundred per
17 cent of addressees and addresses required by paragraphs (1),
18 (2), and (3), and another mailing list consisting of the portion
19 of addressees and their respective addresses who were mailed the
20 notice purposely needed to meet the requirements of paragraphs
21 (1), (2), and (3). The affidavit, master list, and mailing list
22 shall be made available within seven business days (of the



1 mailing of the notice by the applicant) by the commission for
2 public review upon request. For purposes of this section,
3 "master list" means every owner and lessee who would otherwise
4 be required to receive notice of the public hearing according to
5 the requirement of paragraphs (1), (2), and (3), even if they
6 were not actually included in the two-third or three-fourths
7 requirement (as the case may be) of paragraph (1) or (2), and
8 every condominium project and cooperative apartment qualifying
9 in paragraph (3). When the requirements of this section have
10 not been met, the commission may cancel the hearing or continue
11 the public hearing subject to the provisions of [-]this
12 section[+]."

13 SECTION 10. Section 281-59, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Upon the day of hearing, or any adjournment thereof,
16 the liquor commission shall consider the application and any
17 protests and objections to the granting thereof, and hear the
18 parties in interest. The liquor commission shall accept all
19 written or oral testimony for or against the application whether
20 the application is denied, refused, or withdrawn. Within
21 [~~fifteen~~] ninety days after the hearing, or within [~~thirty~~] one
22 hundred twenty days thereafter if in its discretion the



1 commission extends the [~~fifteen~~] ninety days to [~~thirty~~] one
2 hundred twenty days, and gives public notice of same, the
3 commission shall give its decision granting or refusing the
4 application; provided that if a majority of the:

5 (1) Registered voters for the area within five hundred
6 feet of the nearest point of the premises for which
7 the license is asked; or

8 (2) Owners and lessees of record of real estate and owners
9 of record of shares in a cooperative apartment within
10 five hundred feet of the nearest point of the premises
11 for which the license is asked,

12 have duly filed or caused to be filed their protests against the
13 granting of the license, or if there appears any other
14 disqualification under this chapter, the application shall be
15 refused. Otherwise, the commission may in its discretion grant
16 or refuse the same.

17 For purposes of defining "a majority of the owners and
18 lessees of record of real estate and owners of record of shares
19 in a cooperative apartment", each property counts only once;
20 provided that roadways shall not be included. A protest
21 submitted by the majority of the co-owners or the majority of
22 the co-lessees of a property shall constitute a protest by all



1 the owners or lessees of record of that property. A protest
2 filed by owners or lessees who own more than one property shall
3 be counted for each property."

4 SECTION 11. Section 281-85, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) It shall be unlawful for any person acting as agent
7 or representative of a nonresident principal or for any licensee
8 directly or indirectly, or through any subsidiary or affiliate,
9 to give any premium or free goods of intoxicating liquor or
10 other merchandise in connection with the sale of any
11 intoxicating liquor; or to [~~give~~] offer or to provide any
12 premium or free goods of intoxicating liquor in connection with
13 the sale of other merchandise."

14 SECTION 12. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 13. This Act shall take effect upon its approval.

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII