

JAN 23 2009

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 3, part III, Hawaii
2 Revised Statutes, is amended by adding a new section to be
3 appropriately designated and to read as follows:
4 "§431:3- 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
9 within thirty days prior to the expiration of the insurance the
10 liquor commission of the county in which the holder of or
11 applicant for a class 5 dispensers' license conducts or proposes
12 to conduct business as a class 5 dispenser."

13 SECTION 2. Section 281-31, Hawaii Revised Statutes, is
14 amended by amending subsection (f) to read as follows:

15 "(f) Class 5. Dispenser license.

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



1 for consumption on the premises. A licensee under
2 this class shall be issued a license according to the
3 category of establishment the licensee owns or
4 operates. The categories of establishments shall be
5 as follows:

- 6 (A) A standard bar;
- 7 (B) Premises in which a person performs or entertains
8 unclothed or in attire restricted to use by
9 entertainers pursuant to commission rules;
- 10 (C) Premises in which live entertainment or recorded
11 music is provided; provided that facilities for
12 dancing by the patrons may be permitted as
13 provided by commission rules; or
- 14 (D) Premises in which employees or entertainers are
15 compensated to sit with patrons, regardless of
16 whether the employees or entertainers are
17 consuming nonalcoholic beverages while in the
18 company of the patrons pursuant to commission
19 rules.

20 (2) If a licensee under class 5 desires to change the
21 category of establishment the licensee owns or
22 operates, the licensee shall apply for a new license



1 applicable to the category of the licensee's
2 establishment.

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

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

5 (B) Beer and wine; and

6 (C) Beer.

7 (4) The licensee shall maintain at all times liquor
8 liability insurance coverage in an amount to be
9 determined every two years pursuant to commission
10 rules; provided that the commission shall not set the
11 amount at less than \$1,000,000. Proof of coverage
12 shall be kept on the premises and shall be made
13 available for inspection by the commission at any time
14 during the licensee's regular business hours. Failure
15 to obtain or maintain coverage at any time shall cause
16 the commission to refuse to issue or renew a license,
17 or suspend, or terminate the license, as appropriate.
18 No license shall be granted, reinstated, or renewed
19 until after the required insurance coverage is
20 obtained."

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



1 "§281-45 No license issued, when. No license shall be
2 issued under this chapter:

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

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



1 of them would be disqualified under paragraph (1) from
2 obtaining the license individually;

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

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

18 ~~(4)~~ (5) To any applicant who has had any liquor license
19 revoked less than two years previous to the date of
20 the application for any like or other license under
21 this chapter."



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

3 "§281-61 Renewals. (a) Other than for good cause, the
4 renewal of an existing license shall be granted upon the filing
5 of an application; provided that if:

- 6 (1) Complaints from the public;
- 7 (2) Reports from the commission's investigators; or
- 8 (3) Adjudications of the commission or the liquor control
9 adjudication board,

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

19 (b) The commission or board, pursuant to section 281-17,
20 at the time of renewal or at any time, may revoke, suspend, or
21 place conditions or restrictions on any license issued under
22 this chapter for the purpose of preventing activities within the



1 licensed premises or adjacent areas that are potentially
2 injurious to the health, safety, and welfare of the public and
3 neighborhood including but not limited to criminal activity,
4 including assault, drug dealing, drug use, or prostitution, upon
5 proper notice to the licensee, and a hearing before the
6 commission pursuant to chapter 91.

7 (c) The commission or board, shall deny renewal of a class
8 5 dispenser license if the licensee fails to obtain or maintain
9 at all times liquor liability insurance coverage as required by
10 section 281-31(f). The amount of insurance coverage required
11 shall be determined by commission rules; provided that the
12 commission shall not set the amount at less than \$1,000,000.
13 The commission shall review and may amend the amount of coverage
14 required at least every two years."

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

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



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

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Report Title:

Intoxicating Liquor; Liquor Licenses

Description:

Requires liquor 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.

