

JAN 25 2012

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. The legislature finds that section
2 281-78(b)(6), Hawaii Revised Statutes, has been interpreted to
3 result in strict liability for liquor licensees if possession or
4 use of illegal drugs or other unlawful conduct occurs on their
5 premises, even if the unlawful conduct is timely suppressed by
6 the licensee.

7 The purpose of this Act is to clarify that a licensee who
8 timely suppresses unlawful activity from occurring on the
9 licensed premises, by detaining and reporting the offender to
10 the police, shall not be deemed to be in violation of section
11 281-78(b)(6), Hawaii Revised Statutes.

12 SECTION 2. Section 281-78, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) At no time under any circumstances shall any licensee
15 or its employee:

16 (1) Sell, serve, or furnish any liquor to, or allow the
17 consumption of any liquor by:

18 (A) Any minor;



- 1 (B) Any person at the time under the influence of
- 2 liquor;
- 3 (C) Any person known to the licensee to be addicted
- 4 to the excessive use of intoxicating liquor; or
- 5 (D) Any person for consumption in any vehicle that is
- 6 licensed to travel on public highways;

7 provided that the consumption or sale of liquor to a
8 minor shall not be deemed to be a violation of this
9 subsection if, in making the sale or allowing the
10 consumption of any liquor by a minor, the licensee was
11 misled by the appearance of the minor and the
12 attending circumstances into honestly believing that
13 the minor was of legal age and the licensee acted in
14 good faith; and provided further that it shall be
15 incumbent upon the licensee to prove that the licensee
16 so acted in good faith;

17 (2) Permit any liquor to be consumed on the premises of
18 the licensee or on any premises connected therewith,
19 whether there purchased or not, except as permitted by
20 the terms of its license;

21 (3) Permit any liquor to be sold or served by any person
22 eighteen to twenty years of age except in licensed



1 establishments where selling or serving the
2 intoxicating liquor is part of the minor's employment,
3 and where there is proper supervision of these minor
4 employees to ensure that the minors shall not consume
5 the intoxicating liquor;

6 (4) Permit any liquor to be sold or served by any person
7 below the age of eighteen years upon any licensed
8 premises, except in individually specified licensed
9 establishments found to be otherwise suitable by the
10 liquor commission in which an approved program of job
11 training and employment for dining room waiters and
12 waitresses is being conducted in cooperation with the
13 University of Hawaii, the state community college
14 system, or a federally sponsored personnel development
15 and training program, under arrangements that ensure
16 proper control and supervision of employees;

17 (5) Knowingly permit any person under the influence of
18 liquor or disorderly person to be or remain in or on
19 the licensed premises;

20 (6) Fail [~~immediately~~] to timely prevent or suppress any
21 violent, quarrelsome, disorderly, lewd, immoral, or
22 unlawful conduct of any person on the premises;



1 (7) Sell any draught beer unless upon the faucet, spigot,
2 or outlet wherefrom the beer is drawn there is
3 attached a clear and legible notice, placard, or
4 marker which in the English language indicates and
5 declares the name or brand adopted by the manufacturer
6 of the draught beer, so situated as to be clearly
7 legible for a distance of at least ten feet from the
8 spigot, faucet, or outlet, to a purchaser with normal
9 vision; or

10 (8) Receive from a person, as payment or as a
11 consideration for liquor, any personal or household
12 goods, including clothing and food, or any implements
13 of trade. Any person violating this paragraph shall
14 be guilty of a misdemeanor and upon conviction shall
15 be punished as provided in section 281-102."

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

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



S.B. NO. 3031

Report Title:

Intoxicating Liquor; Liquor Licensee; Liability

Description:

Amends section 281-78(b), HRS, to clarify that a licensee who timely suppresses unlawful activity, including by means of detaining and reporting an offender to the police, from occurring on the licensed premises shall not be in violation of that section.

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