A BILL FOR AN ACT

RELATING TO STATEWIDE LIQUOR LAWS.

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

SECTION 1. The legislature finds that there are vast disparities between the different liquor rules in each county, with limited oversight and widespread complaints. A recent audit of the Maui county department of liquor control found that the department and county liquor commission are not fulfilling their mandated responsibilities and are operating in a manner that is inconsistent and arbitrary. Among other things, the audit criticized the department and commission's lack of communication with the public on policies and rules. The department and commission made major rule changes without proper notice and imposed burdensome requirements on certain events, which led to public outcry and later the reversal of the changes. The legislature further finds that despite numerous complaints, the county's mayor and council were powerless over the department or commission.

The purpose of this Act is to require uniform standard operating procedures for all county liquor agencies.
SECTION 2. Section 281-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"County liquor control agency" means each liquor control agency established by county charter and includes the commission, liquor control adjudication board, administrator of the commission, and any staff thereof."

SECTION 3. Chapter 281, Hawaii Revised Statutes, is amended by adding six new sections to part II to be appropriately designated and to read as follows:

"§281- County liquor control agency requirements. Each county liquor control agency shall:

(1) Keep records of historical data that include the percentage of applications approved and denied compared to the total number of applications submitted and records of how long each application process takes;

(2) Review and update its operations and policy manuals by January 31, 2020, and every five years thereafter; provided that the policy manual shall provide adequate guidance or limits on conducting inspections and
investigations; provided further that each county liquor control agency shall track inspections electronically, and enforcement staff shall be required to report on how the selection criteria for inspection reflected a perceived risk to public health and safety;

(3) Provide application forms and guidance materials, as well as a copy of its operations, policy, and procedures manuals, on its website;

(4) Maintain a database of licensees for electronic communication;

(5) Process new applications efficiently enough to notify each applicant within seventy-two hours whether the application was approved or denied;

(6) Establish an appeal process where applicants can request additional review by the commission;

(7) Include in its annual reports and strategic plans information on the prevalence of underage drinking and alcohol abuse within its county and specific goals to tackle these alcohol-related issues, including performance measures to track the agency's progress;
provided that these performance measures shall be
outcome-oriented with quantifiable goals to measure
the effectiveness of the operations; and

(8) Make reasonable efforts to consult key stakeholders
and the public before implementing major rule changes,
including rule changes for twenty-four-hour liquor
sales and the removal of the cap on local hostess
bars.

§281- Commission administrator; annual survey and
review. (a) The administrator of each commission shall undergo
an annual customer satisfaction survey of licensees and the
general public that shall be shared with the commission.

(b) The administrator of each commission shall undergo an
annual review of the administrator's performance by the
commission no later than January 31 of each year.

§281- Corporation counsel. The county attorney or
corporation counsel of the county or city and county of the
commission shall:

(1) Ensure compliance with state laws and county rules;

(2) Attend all commission meetings; and
(3) Rigorously train the commission on the legal requirements of the commissioner position.

§281- Training. Each county administrator and member of a commission shall undergo comprehensive training on chapter 92 and other state laws and county rules.

§281- Goals. Each commission shall establish long- and short-term goals for the county liquor control agency, including outlining meaningful performance goals and measures for liquor control.

§281- Council authority. Notwithstanding section 281-17(a)(5), the council of each county shall have the authority to require action and redirect liquor control operations if the performance of the administrator of the commission is unsatisfactory."

SECTION 4. Section 281-13, Hawaii Revised Statutes, is amended to read as follows:

"§281-13 Meetings. (a) Meetings of the liquor commission or the liquor control adjudication board may be held at any time and as often from time to time as the commission or board deems necessary for the proper transaction of its business, upon call of the chairperson or by any other two members of the commission
or board. The administrator shall give notice of the meetings
as the commission or board may prescribe to the several
members[...] and the county attorney or corporation counsel of the
county or city and county of the commission, and give any other
notice thereof directed by the commission or board.

(b) A majority of all the members of the commission or
board shall constitute a quorum for the transaction of business,
but the affirmative vote of a majority of all of the members
shall be necessary to determine any matter before it.

(c) No commission shall be permitted to enter closed
meetings, override a fair and transparent selection process, or
hire any person who has not filed an application."

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

1. By amending subsections (a) and (b) to read:

"(a) Licenses may be granted by the liquor commission as
provided in this section[...]; provided that any license
authorizing the consumption of liquor on the licensee's premises
shall authorize consumption of the liquor specified on the
entire premises."
(b) Class 1. Manufacturer license. A license for the manufacture of liquor shall authorize the licensee to:

(1) Manufacture the liquor therein specified;

(2) Sell it in original packages to any wholesaler who holds a license to resell it; and

(3) Sell beer, wine, or other specified liquor manufactured or distilled on the licensee's premises from fruits or other products grown in the State, in any quantity:

(A) At wholesale in original packages to any person who holds a license to resell it; and

(B) To any person for private use and consumption.

Under this license, liquor may be consumed on the premises, except as authorized by the commission. Of this class, there shall be the following kinds:

(1) Beer;

(2) Wine;

(3) Alcohol; and

(4) Other specified liquor.

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

2. By amending subsections (d) and (e) to read:

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

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

If any wholesale dealer solicits or takes any orders in any
county other than that where the dealer's place of business is
located, the orders may be filled only by shipment direct from
the county in which the wholesale dealer holds the dealer license. Nothing in this subsection shall prevent a wholesaler from selling liquor to post exchanges, ships' service stores, army or navy officers' clubs, or similar organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise subject to chapter 269 and engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

(e) Class 4. Retail dealer license. A license to sell liquor at retail or to class 10 licensees shall authorize the licensee to sell the liquor therein specified in their original packages. A license under this class shall also authorize the licensee to sell beer, malt beverages, or cider in non-original packages; provided that the beer, malt beverage, or cider is sold in a securely sealed or covered glass, ceramic, or metal container that is sold to or provided by the patron, and each
sealed or covered glass, ceramic, or metal container does not exceed a maximum capacity of one half-gallon. Under a class 4 license, [no] liquor [shall] may be consumed on the premises [except as authorized by the commission]. Of this class, there shall be the following kinds:

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

SECTION 6. Section 281-53, Hawaii Revised Statutes, is amended to read as follows:

"§281-53 Application; penalty for false statements. Every application for a license or for the renewal of a license or for the transfer of a license shall be in writing, signed and, except for the renewal of a license, verified by the oath of the applicant, or in the case of a corporation or unincorporated association by the proper officer or officers thereof, or if a partnership by a general partner thereof, or if a limited liability partnership by a partner thereof, or if a member-managed limited liability company by a member thereof, or if a manager-managed limited liability company by a manager thereof,
made before any official authorized by law to administer oaths,
and shall be addressed to the liquor commission, and set forth:

(1) The full name, age, and place of residence of the
applicant; if a copartnership, the names, ages, and
respective places of residence of all the partners; if
a limited liability company, its full name and the
names of all its members; if a corporation or joint-
stock company, its full name and the names of its
officers and directors, and the names of all
stockholders owning twenty-five per cent or more of
the outstanding capital stock; if a publicly-traded
company, or an entity ultimately solely owned by a
publicly-traded company, the names of the officers
designated as the primary decision-makers regarding
the purchase and sale of liquor; and if any other
association of individuals, the names, ages, and
respective places of residence of its officers and the
number of its members;

(2) A particular description of the place or premises
where the proposed license is to be exercised, so that
the exact location and extent thereof may be clearly
and definitely determined therefrom;

(3) The class and kind of license applied for; and
(4) Any other matter or information pertinent to the
subject matter which may be required by the rules of
the commission[ ];

provided that applicants shall not be required to meet
personally with any county liquor control agency staff member to
obtain application materials.

If any false statement is knowingly made in any application
which is verified by oath, the applicant, and in the case of the
application being made by a corporation, limited liability
company, association, or club, the persons signing the
application, shall be guilty of perjury, and shall be subject to
the penalties prescribed by law for such offense. If any false
statement is knowingly made in any application which is not
verified by oath, the person or persons signing the application
shall be guilty of a misdemeanor and upon conviction thereof
shall be punished as in section 281-102 provided."

SECTION 7. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 8. This Act shall take effect upon its approval.

INTRODUCED BY:

JAN 2 3 2019
Report Title:  
Liquor; Counties; Operations; Procedures

Description:  
Requires uniform standard operating procedures for all county liquor agencies. Allows the consumption of alcohol on a manufacturer, wholesale dealer, or retail dealer licensee's premises.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.