A BILL FOR AN ACT

RELATING TO LIQUOR COMMISSIONS.

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

SECTION 1. The legislature finds that the county liquor commissions as established pursuant to chapter 281, Hawaii Revised Statutes, may be creating rules that address issues that are not related to their intended purpose. This creates a troubling grey area in law which, if not addressed by the elected members of the legislature, may lead to various other commissions and bodies usurping the authority of the legislature.

The legislature notes that each county's liquor commission rules contain provisions that appear to be intended to regulate moral and sexual conduct within licensed liquor premises. These rules do not seem to bear any direct relationship to the sale, consumption, and distribution of alcohol. Rather, they seem to represent the views of community members or commissioners on morality. Although the legislature respects the strong feelings of community members about the propriety of sexuality
in public places, the legislature believes that these rules are not aligned with the liquor commission's established duties.

The legislature also finds that the Honolulu liquor commission has engaged in an unduly discriminatory practice by issuing liquor premises dancer certificates of registration that expire after only one year, while certificates of registration issued for other liquor premises employees expire after four years.

The legislature further finds that the activity known as "lap dancing", in which a nude or semi-nude dancer may touch a patron through the patron's clothing, should be excluded from the criminal offense of prostitution under the Hawaii Revised Statutes.

The purpose of this Act is to:

(1) Prohibit liquor commissions from creating or enforcing rules that relate to certain moral issues;

(2) Require that the term of any certificate of registration for a dancer employed by a liquor licensee be for the same length of time as any other employee of the licensee; and
(3) Exclude from the criminal offense of prostitution lap dancing that is performed by a dancer registered with a liquor commission and performed on authorized liquor licensee premises.

SECTION 2. Chapter 281, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

"§281- Limitation on powers. (a) The commission shall not adopt or enforce any rule that prohibits or restricts:

(1) Obscenity;
(2) Offensive behavior;
(3) Nudity, partial nudity, or the wearing of certain types of clothing;
(4) The display of pubic hair;
(5) Devices that simulate parts of the human body or pubic hair;
(6) Lap dancing;
(7) Striptease;
(8) Sexual intercourse;
(9) Simulations of sexual acts;
(10) The exhibition of music, films, or any media; or
(11) Consensual physical contact between adults, including sexual physical contact, unless the rule is intended to prevent noise pollution or prevent persons outside of a licensed liquor premises from viewing the foregoing items or actions.

(b) Any rule of the liquor commission that violates subsection (a) shall be void.

§281- Certificates of registration; duration. The commission shall not require a certificate of registration for an employee of a licensee to perform as a dancer that is valid for a shorter duration than a certificate of registration required by the commission for any other employee of the licensee."

SECTION 3. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsections (1) and (2) to read as follows:

"(1) A person commits the offense of prostitution if the person:

(a) Engages in, or agrees or offers to engage in, sexual conduct with another person in return for a fee; or

(b) Pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct[−].
provided that in the case of a dancer performing lap dancing for a fee or other consideration on the premises of a liquor licensee authorized by a liquor commission to allow dancing on the premises, neither the dancer nor any patron of the dancer shall be deemed to have engaged in prostitution; provided further that the dancer has a valid certificate of registration issued by the liquor commission.

(2) As used in this section:

"Lap dancing" means dancing in which a dancer makes consensual sexual contact through clothing with another person, regardless of whether or not the person is dancing.

"Liquor commission" means the liquor commission for the county in which the subject premises are located.

"Minor" means a person who is less than eighteen years of age.

"Sexual conduct" means "sexual penetration", "deviate sexual intercourse", or "sexual contact", as those terms are defined in section 707-700, or "sadomasochistic abuse" as defined in section 707-752."
SECTION 5. This Act shall take effect on July 1, 2019.
Report Title:
Liquor Commissions; Jurisdiction; Conduct; Lap Dancing

Description:
Prohibits liquor commissions from creating or enforcing rules that relate to certain moral issues or sexual conduct. Requires that the term of any certificate of registration for a dancer employed by a liquor licensee be for the same length of time as any other employee of the licensee. Excludes lap dancing performed by a dancer registered with a liquor commission and performed on authorized liquor licensee premises from the offense of prostitution.

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