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## A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1           SECTION 1. Section 281-17, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) The liquor commission, within its own county, shall  
4 have the jurisdiction, power, authority, and discretion, subject  
5 only to this chapter:

6           (1) To grant, refuse, suspend, and revoke any license for  
7 the manufacture, importation, and sale of liquors;

8           (2) To take appropriate action against a person who,  
9 directly or indirectly, manufactures, sells, or  
10 purchases any liquor without being authorized pursuant  
11 to this chapter; provided that in counties that have  
12 established by charter a liquor control adjudication  
13 board, the board shall have the jurisdiction, power,  
14 authority, and discretion to hear and determine  
15 administrative complaints of the director regarding  
16 violations of the liquor laws of the State or of the



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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, and licensees and their employees, and  
9 shall 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 rules,  
15 not inconsistent with this chapter, as in the judgment  
16 of the commission are deemed appropriate for carrying  
17 out this chapter and for the efficient administration  
18 thereof, and the proper conduct of the business of all  
19 licensees, including every matter or thing required to  
20 be done or which may be done with the approval or  
21 consent, by order, under the direction or supervision



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

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

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



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1           (7) To prescribe the nature of the proof to be furnished,  
2           the notices to be given, and the conditions to be met  
3           or observed in case of the issuance of a duplicate  
4           license in place of one alleged to have been lost or  
5           destroyed, including a requirement of any indemnity  
6           deemed appropriate to the case;

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

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

16          (10) To investigate violations of this chapter[~~chapter~~  
17          244D] and, notwithstanding any law to the contrary,  
18          violations of the applicable department of health's  
19          allowable noise levels, through its investigators or  
20          otherwise, to include covert operations, and to report  
21          violations to the prosecuting officer for prosecution



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1           ~~[and,]~~ where appropriate~~[,]~~. Investigations of  
 2           violations of chapter 244D shall be referred to the  
 3           director of taxation to hear and determine complaints  
 4           against any licensee;

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

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

13          (13) To prescribe, by rule, regulations on dancing in  
 14          licensed premises; and

15          (14) To prescribe, by rule, the circumstances and penalty  
 16          for the unauthorized manufacturing or selling of any  
 17          liquor."

18          SECTION 2. Section 281-20, Hawaii Revised Statutes, is  
 19          amended to read as follows:

20          "**§281-20 General right of inspection.** Any investigator  
 21          may, at all times, without notice and without any search warrant



1 or other legal process, visit and have immediate access to every  
 2 part of the premises of every licensee for the purpose of making  
 3 any examination or inspection thereof or inquiry into the books  
 4 and records therein, to ascertain whether all of the conditions  
 5 of the license and all provisions of this chapter [~~and chapter~~  
 6 ~~244D~~] are being complied with by the licensee."

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

9 "**§281-45 No license issued, when.** No license shall be  
 10 issued under this chapter:

11 (1) To any minor or to any person who has been convicted  
 12 of a felony and not pardoned[~~, or to any other person~~  
 13 ~~not deemed by the commission to be a fit and proper~~  
 14 ~~person to have a license]; provided that the~~  
 15 commission may grant a license under this chapter to a  
 16 corporation that has been convicted of a felony where  
 17 the commission finds that the corporation's officers  
 18 and shareholders of twenty-five per cent or more of  
 19 outstanding stock are fit [~~and proper persons to have~~  
 20 ~~a license];~~



- 1           (2) To a corporation the officers and directors of which,  
2           or any of them, would be disqualified under paragraph  
3           (1) from obtaining the license individually, or a  
4           stockholder of which, owning or controlling twenty-  
5           five per cent or more of the outstanding capital  
6           stock, or to a general partnership, limited  
7           partnership, limited liability partnership, or limited  
8           liability company whose partner or member holding  
9           twenty-five per cent or more interest of which, or any  
10          of them would be disqualified under paragraph (1) from  
11          obtaining the license individually; provided that for  
12          publicly-traded companies or entities ultimately  
13          solely owned by a publicly-traded company, only the  
14          officers and directors designated as primary decision-  
15          makers shall be considered to determine  
16          disqualification under paragraph (1);
- 17          (3) Unless the applicant for a license or a renewal of a  
18          license, or in the case of a transfer of a license,  
19          both the transferor and the transferee, present to the  
20          issuing agency a tax clearance certificate from the  
21          department of taxation showing that the applicant or



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1           the transferor and transferee do not owe the state  
2           government any delinquent taxes, penalties, or  
3           interest; or that the applicant, or in the case of a  
4           transfer of a license, the transferor or transferee,  
5           has entered into an installment plan agreement with  
6           the department of taxation for the payment of  
7           delinquent taxes in installments and that the  
8           applicant is or the transferor or transferee is, in  
9           the case of a transfer of a license, complying with  
10          the installment plan agreement; provided that when the  
11          applicant or the transferor or transferee, in the case  
12          of a transfer of a license, is validly challenging a  
13          tax assessment, penalty, or other proceeding that  
14          prevents the issuance of a signed certificate from the  
15          appropriate federal or state tax agency, the  
16          commission shall issue a license that is valid for the  
17          period of time necessary to resolve the challenge;

18          (4) To an applicant for a class 2, class 4 except for  
19          convenience minimarts, class 5, class 6, class 11,  
20          class 12, class 13, class 14, class 15, class 17, or  
21          class 18 license unless the applicant for issuance of





1 a license or renewal of a license, or in the case of a  
 2 transfer of a license, both the transferor and the  
 3 transferee, present to the issuing agency proof of  
 4 liquor liability insurance coverage in an amount of  
 5 \$1,000,000; or

6 (5) To any applicant who has had any liquor license  
 7 revoked less than two years previous to the date of  
 8 the application for any like or other license under  
 9 this chapter."

10 SECTION 4. Section 281-53, Hawaii Revised Statutes, is  
 11 amended to read as follows:

12 "**§281-53 Application; penalty for false statements.** Every  
 13 application for a license or for the renewal of a license or for  
 14 the transfer of a license shall be in writing, signed [~~and,~~  
 15 ~~except for the renewal of a license, verified by the oath of the~~  
 16 ~~applicant,~~], and notarized by the applicant, or in the case of a  
 17 corporation or unincorporated association by the proper officer  
 18 or officers thereof, or if a partnership by a general partner  
 19 thereof, or if a limited liability partnership by a partner  
 20 thereof, or if a member-managed limited liability company by a  
 21 member thereof, or if a manager-managed limited liability



1 company by a manager thereof, [~~made before any official~~  
2 ~~authorized by law to administer oaths,~~] and shall be addressed  
3 to the liquor commission, and set forth:

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

20 (2) A particular description of the place or premises  
21 where the proposed license is to be exercised, so that



1 the exact location and extent thereof may be clearly  
2 and definitely determined therefrom;

3 (3) The class and kind of license applied for; and

4 (4) Any other matter or information pertinent to the  
5 subject matter which may be required by the rules of  
6 the commission.

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

17 SECTION 5. Section 281-55, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§281-55 Reference to investigator.** Upon the filing of  
20 any application the administrator of the liquor commission shall  
21 indorse thereon the date of filing thereof. If no patent



1 disqualification of the applicant or certain valid objection to  
2 the granting of the application is apparent initially and if all  
3 requirements relative to the filing of the application appear to  
4 have been complied with, the application shall be referred to  
5 the investigator for investigation[~~-~~] at the discretion of the  
6 administrator of the liquor commission."

7 SECTION 6. Section 281-56, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) On every application referred to the investigator  
10 under section 281-55, the investigator shall report in writing  
11 to the liquor commission and, if the application is for a  
12 license of any class other than class 8, class 9, or class 10,  
13 such report shall include:

14 (1) A description of the premises intended to become the  
15 licensed premises, and the equipment and surrounding  
16 conditions, including the relationship to surrounding  
17 residences which may share a common boundary or a  
18 common structure with the premises proposed for  
19 licensing;

20 (2) If the application is made by a person who has held a  
21 prior license for the same or any other premises



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1 within two years past, a statement as to the manner in  
2 which the premises have been operated and the business  
3 conducted under the previous license;

4 (3) The locality of any church, chapel, or school, if any,  
5 within a distance of five hundred feet from the  
6 nearest point of the premises for which the license is  
7 asked to the nearest point of the church, chapel, or  
8 school grounds;

9 (4) The number, position, and distance from the premises,  
10 in respect of which a license is applied for, of any  
11 other licensed premises of the same class in the  
12 neighborhood;

13 (5) The number of licenses of the same class or kind  
14 already issued and being lawfully exercised within the  
15 county;

16 ~~[(6) Whether or not in the opinion of the investigator the~~  
17 ~~applicant is a fit and proper person to have a~~  
18 ~~license;~~

19 ~~(7)]~~ (6) Whether or not the applicant is for any reason  
20 disqualified by this chapter from obtaining or  
21 exercising a license; and whether or not the applicant



1 has complied with all the requirements of this chapter  
2 relative to the making and filing of the applicant's  
3 application;

4 ~~[(8)]~~ (7) For the next application by the same applicant  
5 for a license in the same physical location that was  
6 previously denied, refused, or withdrawn, evidence, to  
7 be provided by the applicant, of a substantial change  
8 in the circumstances that caused the previous denial,  
9 refusal, or withdrawal; and

10 ~~[(9)]~~ (8) ~~[Any and all other matters and things, that in~~  
11 ~~the judgment of the investigator pertain to or affect~~  
12 ~~the matter of the application, or the issuance or the~~  
13 ~~exercise of the license applied for; provided that~~  
14 ~~when the license application is for premises within a~~  
15 ~~county with a population of five hundred thousand~~  
16 ~~residents or more, the report shall specify the] The~~  
17 possible adverse effects the premises, after  
18 licensing, may have on the surrounding community if  
19 the license application is for premises within a  
20 county having a population of five hundred thousand  
21 residents or more."



1 SECTION 7. Section 281-79, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§281-79 Entry for examination; obstructing liquor**  
4 **commission operations; penalty.** Every investigator shall, and  
5 any officer having police power may, at all reasonable times,  
6 and at any time whatsoever if there is any reasonable ground for  
7 suspicion that the conditions of any license are being violated,  
8 without warrant enter into and upon any licensed premises and  
9 inspect the same and every part thereof, and any books or  
10 records therein, to ascertain whether or not all conditions of  
11 the license and all provisions of this chapter [~~and~~  
12 ~~chapter 244D~~] are being complied with by the licensee.

13 If any investigator or officer, or any person called by the  
14 investigator or officer to the investigator's or officer's aid,  
15 is threatened with the use of violence, force, or physical  
16 interference or obstacle, or is hindered, obstructed, or  
17 prevented by any licensee, the licensee's employees, or any  
18 other person from entering into [~~any such~~] the premises, or  
19 whenever any investigator or officer is by any licensee, the  
20 licensee's employees, or any other person opposed, obstructed,  
21 or molested in the performance of the officer's duty in any



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1 respect, the licensee, the licensee's employee, or any other  
 2 person shall be fined not more than \$2,000 or imprisoned not  
 3 more than one year, or both.

4 Whenever any investigator or officer, having demanded  
 5 admittance into any licensed premises and declared the  
 6 investigator's or officer's name and office, is not admitted by  
 7 the licensee or the person in charge of the premises, it shall  
 8 be lawful for the investigator or officer to forcibly and in any  
 9 manner to break into and enter the premises."

10 SECTION 8. This Act does not affect rights and duties that  
 11 matured, penalties that were incurred, and proceedings that were  
 12 begun before its effective date.

13 SECTION 9. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 10. This Act shall take effect upon its approval.

16

INTRODUCED BY:           *Ch Todd (BR)*          

JAN 21 2021





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**Report Title:**

Liquor Licensing; Liquor Tax Law; Applications; Investigations

**Description:**

Provides that violations of liquor tax law shall be referred to the director of taxation for investigation. Repeals the general right of inspection without a warrant for potential violations of liquor tax law. Repeals the discretionary power of the liquor commission to deny a license to any person the commission finds is not fit and proper to hold a license. Requires applications for liquor licenses to be notarized. Provides the administrator of the liquor commission discretion over whether to refer applications for investigation. Repeals the requirement that investigative reports to the liquor commission include any and all matters that are relevant to the application or license in the judgment of the investigator.

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

