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# A BILL FOR AN ACT

RELATING TO AMENDING OR REPEALING VARIOUS PROVISIONS OF CHAPTER 281, HAWAII REVISED STATUTES, INTOXICATING LIQUOR, FOR THE PURPOSE OF CLARIFYING LANGUAGE, CORRECTING ERRORS, AND DELETING UNNECESSARY AND OBSOLETE PROVISIONS.

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

1 SECTION 1. Section 281-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Partner" means a partner in a general partnership,  
5 limited partnership, or limited liability partnership."

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

8 **"§281-4 Liquor consumption on unlicensed premises**  
9 **prohibited, when.** (a) It shall be unlawful for any person who  
10 keeps or maintains any restaurant or other premises where food,  
11 beverages, or entertainment are [~~sold or~~] provided [~~for~~  
12 compensation,], or brought in by patrons or guests, whether for  
13 compensation or not, or to which members of the public, or  
14 members of an organization, resort for food, refreshment, or  
15 entertainment, and who is not a licensee of the commission under  
16 this chapter, to promote, encourage, aid, or permit the



1 consumption of liquor on the premises, except during the hours  
2 between which licensed premises of dispensers are permitted to  
3 be open for the transaction of business in the county where the  
4 premises are located.

5 (b) It shall be unlawful for any person who is present at  
6 any restaurant or other premises where food, beverages, or  
7 entertainment are sold [~~or~~], provided [~~for compensation~~], or  
8 brought in by patrons or guests, or to which members of the  
9 public, or members of an organization, resort for food,  
10 refreshment, or entertainment, and which premises are not  
11 licensed by the commission under this chapter, to consume any  
12 liquor on the premises, except during the hours between which  
13 licensed premises of dispensers are permitted to be open for the  
14 transaction of business in the county where the premises are  
15 located.

16 (c) It shall be unlawful for any person who keeps or  
17 maintains any restaurant or other premises where food,  
18 beverages, or entertainment are [~~sold or~~] provided [~~for~~  
19 ~~compensation~~], or brought in by patrons or guests, whether  
20 compensated or not, to sell or provide [~~any food~~] or [~~beverages~~]  
21 allow the consumption of liquor to or for any of the following



1 persons knowing that such person has, or is about to obtain,  
2 liquor for consumption by the person on the premises, to wit:

- 3 (1) Any minor~~[ ]~~;
- 4 (2) Any person at the time under the influence of  
5 liquor~~[ ]~~;
- 6 (3) Any disorderly person~~[ ]~~;
- 7 (4) Any person known to be addicted to the excessive use  
8 of liquor~~[ ]~~; or
- 9 (5) Any person, for consumption in any vehicle on the  
10 premises;

11 provided that the ~~[sale of or the]~~ providing of ~~[food or~~  
12 ~~beverages]~~ liquor to or for a minor who has or is about to  
13 obtain liquor for consumption by the minor on the premises or  
14 allowing the consumption of liquor by a minor shall not be  
15 deemed to be a violation of this subsection if, at the time, the  
16 person ~~[so selling or]~~ providing ~~[food]~~ or ~~[beverages]~~ allowing  
17 the consumption of liquor was misled by the appearance of the  
18 minor and the attending circumstances into honestly believing  
19 that such minor was of legal age and the person acted in good  
20 faith, and it shall be incumbent upon the person to prove that  
21 the person so acted in good faith.



1 (d) Within the meaning of this section, the word  
2 "premises" includes any vessel as well as any place, with or  
3 without a structure thereon, and the hours between which  
4 licensed premises of dispensers are permitted to be open for the  
5 transaction of business shall be deemed to be those during which  
6 such dispensers are permitted to keep open their premises for  
7 the sale, service, and consumption of liquor, or any of them."

8 SECTION 3. Section 281-17.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10 "(b) Any such liquor license fees or any moneys collected  
11 or received by any liquor commission under this chapter may only  
12 be used for costs and expenses directly relating to operational  
13 and administrative costs actually incurred by the liquor  
14 commission collecting or receiving such liquor license fees or  
15 moneys. Such fees or moneys shall not be used for any costs or  
16 expenses other than those directly relating to its operation and  
17 administration[-], except as otherwise provided by law."

18 SECTION 4. Section 281-21, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§281-21 Service of subpoenas by investigators, police  
21 officers, or other law enforcement officers; witnesses' fees.**

22 Any investigator, police officer, or other law enforcement



1 officer may serve any subpoena issued by the liquor commission  
2 [~~or~~], liquor control adjudication board[-], or administrator.

3 Every witness attending or testifying at any hearing of the  
4 commission or board in response to a subpoena issued by it or  
5 the administrator shall be paid as provided for in section  
6 621-7. If a witness is subpoenaed by direction of the  
7 commission [~~or~~], board, or administrator, the witness' fees  
8 shall be paid out of any funds which may be set aside for the  
9 expenses of the commission or board and, if the witness is  
10 subpoenaed on behalf of any interested party, the witness' fees  
11 shall be paid by that party."

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

14 "**§281-31 Licenses, classes.** (a) Licenses may be granted  
15 by the liquor commission as provided in this section.

16 (b) Class 1. Manufacturers' license. A license for the  
17 manufacture of liquor shall authorize the licensee to  
18 manufacture the liquor therein specified and to sell it at  
19 wholesale in original packages to any person who holds a license  
20 to resell it and to sell draught beer or wine manufactured from  
21 grapes or other fruits grown in the [~~State~~] state in any  
22 quantity to any person for private use and consumption. Under



1 this license, no liquor shall be consumed on the premises except  
2 as authorized by the commission. Of this class, there shall be  
3 the following kinds:

- 4 (1) Beer;
- 5 (2) Wine;
- 6 (3) Alcohol; and
- 7 (4) Other specified liquor.

8 It shall be unlawful for any holder of a manufacturer's  
9 license to have any interest whatsoever in the license or  
10 licensed premises of any other licensee. This subsection shall  
11 not prevent the holder of a [~~beer class~~] manufacturer's license  
12 under this chapter or under the law of another jurisdiction from  
13 maintaining any interest in the license or licensed premises of  
14 a [~~beer and wine class~~] wholesale dealer licensee under this  
15 chapter [~~whose wholesaling is limited to beer, other than direct~~  
16 ~~ownership of a beer and wine class wholesale dealer's license,~~  
17 ~~or direct ownership of a partnership share, one or more shares~~  
18 ~~of stock, or similar proprietary stake in the holder of a beer~~  
19 ~~and wine class wholesale dealer's license)].~~

20 (c) Class 2. Restaurant license.

21 (1) A license under this class shall authorize the  
22 licensee to sell liquors specified in this subsection



1 for consumption on the premises; provided that a  
2 restaurant licensee, with commission approval, may  
3 provide off-premises catering[+] of food and liquor;  
4 provided further that the catering activity shall be  
5 directly related to the licensee's operation as a  
6 restaurant. A licensee under this class shall be  
7 issued a license according to the category of  
8 establishment the licensee owns or operates. The  
9 categories of establishment shall be as follows:

10 (A) A standard bar; or

11 (B) Premises in which live entertainment or recorded  
12 music is provided. Facilities for dancing by the  
13 patrons may be permitted as provided by  
14 commission rules.

15 (2) If a licensee under class 2 desires to change the  
16 category of establishment the licensee owns or  
17 operates, the licensee shall apply for a new license  
18 applicable to the category of the licensee's  
19 establishment[+].[+]

20 (3) [~~For each category of class 2 licenses,~~] Of this  
21 class, there shall be the following kinds:

22 (A) General (includes all liquors except alcohol);



1 (B) Beer and wine; and

2 (C) Beer.

3 ~~[Any]~~ Notwithstanding section 281-57, the commission may approve  
4 at one public hearing and without notice the change to a class 2  
5 restaurant license of a licensee holding a [different class of]  
6 class 5 dispenser license [on June 19, 1990, and who would  
7 otherwise come within this class of license shall not be  
8 required to apply for a new license.] who meets the requirements  
9 of a class 2 license.

10 (d) Class 3. Wholesale dealers' license. A license for  
11 the sale of liquors at wholesale shall authorize the licensee to  
12 import and sell only to licensees or to others who are by law  
13 authorized to resell but are not by law required to hold a  
14 license, the liquors therein specified [~~in quantities not less~~  
15 ~~than five gallons at one time if sold from or in bulk containers~~  
16 ~~or not less than one gallon if bottled goods~~]; provided that  
17 samples of liquor may be sold back to the manufacturer. [~~The~~  
18 ~~license may authorize the licensee to sell draught beer in~~  
19 ~~quantities not less than five gallons at one time to any person~~  
20 ~~for private use and consumption if the licensee files an~~  
21 ~~affidavit with the commission that there is not a class 4 retail~~  
22 ~~dealers licensee available to sell the wholesalers brand of~~





1 ~~draught beer.~~] Under the license, no liquor shall be consumed  
2 on the premises except as authorized by the commission. Of this  
3 class, there shall be the following kinds:

- 4 (1) General (includes all liquors except alcohol);
- 5 (2) Beer and wine; and
- 6 (3) Alcohol.

7 If any wholesale dealer solicits or takes any orders in any  
8 county other than that where the dealer's place of business is  
9 located, the orders may be filled only by shipment direct from  
10 the county in which the wholesale dealer has the dealer's  
11 license. Nothing in this subsection shall prevent a wholesaler  
12 from selling liquors to post exchanges, [~~ships~~] ships' service  
13 stores, army or navy officers' clubs, or similar organizations  
14 located on army or navy reservations, or to any vessel other  
15 than vessels performing a regular water transportation service  
16 between any two or more ports in the [~~State,~~] state, or to  
17 aviation companies who operate an aerial transportation  
18 enterprise as a common carrier, under chapter 269, engaged in  
19 regular flight passenger services between any two or more  
20 airports in the [~~State~~] state for use on aircraft, or aviation  
21 companies engaged in transpacific flight operations for use on  
22 aircraft outside the jurisdiction of the State.



1 (e) Class 4. Retail dealers' license. A license to sell  
2 liquors at retail or to class 10 licenses shall authorize the  
3 licensee to sell the liquors therein specified in their original  
4 packages. Under the license, no liquor shall be consumed on the  
5 premises except as authorized by the commission. Of this class,  
6 there shall be the following kinds:

- 7 (1) General (includes all liquors except alcohol);
- 8 (2) Beer and wine; and
- 9 (3) Alcohol.

10 (f) Class 5. Dispensers' license.

11 (1) A license under this class shall authorize the  
12 licensee to sell liquors specified in this subsection  
13 for consumption on the premises. A licensee under  
14 this class shall be issued a license according to the  
15 category of establishment the licensee owns or  
16 operates. The categories of establishments shall be  
17 as follows:

- 18 (A) A standard bar;
- 19 (B) Premises in which a person performs or entertains  
20 unclothed or in attire restricted to use by  
21 entertainers pursuant to commission rules;



1 (C) Premises in which live entertainment or recorded  
2 music is provided; provided that facilities for  
3 dancing by the patrons may be permitted as  
4 provided by commission rules; or

5 (D) Premises in which employees or entertainers are  
6 compensated to sit with patrons, regardless of  
7 whether the employees or entertainers are  
8 consuming nonalcoholic beverages while in the  
9 company of the patrons pursuant to commission  
10 rules.

11 (2) If a licensee under class 5 desires to change the  
12 category of establishment the licensee owns or  
13 operates, the licensee shall apply for a new license  
14 applicable to the category of the licensee's  
15 establishment.

16 (3) [~~For each category of class 5 licenses,~~] Of this  
17 class, there shall be the following kinds:

- 18 (A) General (includes all liquors except alcohol);
- 19 (B) Beer and wine; and
- 20 (C) Beer.

21 (g) Class 6. Club license. A club license shall be  
22 general only (but excluding alcohol) and shall authorize the

1 licensee to sell liquors to members of the club and to guests of  
2 the club enjoying the privileges of membership, for consumption  
3 only on the premises kept and operated by the club; provided  
4 that the license shall also authorize any club member to keep in  
5 the member's private locker on the premises a reasonable  
6 quantity of liquor, if owned by the member, for the member's own  
7 personal use and not to be sold and that may be consumed only on  
8 the premises. A club licensee shall be authorized to host  
9 charitable functions that are open to the general public only  
10 pursuant to commission rules.

11 The categories of establishment shall be as follows:

12 (1) A standard bar; or

13 (2) Premises in which live entertainment or recorded music  
14 is provided. Facilities for dancing by the patrons  
15 may be permitted as provided by commission rules.

16 ~~[(h) Class 7. Vessel license. A general license may be~~  
17 ~~granted to the owner of any vessel performing a regular water~~  
18 ~~transportation passenger service between any two or more ports~~  
19 ~~in the State for the sale of liquor (other than alcohol) on~~  
20 ~~board the vessel while in the waters of the State; provided the~~  
21 ~~sales are made only while the vessel is en route and only for~~  
22 ~~consumption by passengers on board. If the vessel has a home~~



1 ~~port in the State, the license shall be issuable in the county~~  
2 ~~in which the home port is situated; provided that if the~~  
3 ~~licensee's home port is not situated in this State, the license~~  
4 ~~shall be issuable in the city and county of Honolulu. If, on~~  
5 ~~any vessel for which no license has been obtained under this~~  
6 ~~chapter, any liquor is sold or served within three miles of the~~  
7 ~~shore of any island of the State, it shall constitute a~~  
8 ~~violation of this chapter.~~

9       ~~(i)]~~ (h) Class 8. Transient vessel license. A general  
10 license may be granted to the owner of any vessel [~~that does not~~  
11 ~~fall within class 7]~~ for the sale of liquor (other than alcohol)  
12 on board the vessel while [~~in~~] en route within the  
13 jurisdictional limits of the state and within any port of the  
14 [~~State.~~] state. Sales shall be made only for consumption by  
15 passengers and their guests on board the vessel. The license  
16 shall be issuable in each county where the sales are to be made;  
17 provided that the application for the license may be made by any  
18 agent representing the owner.

19       ~~(j)]~~ (i) Class 9. Tour or cruise vessel license. A  
20 general license may be granted to the owner of any tour or  
21 cruise vessel for the sale of liquor (other than alcohol) on  
22 board the vessel while in the waters of the [~~State,~~] state;



1 provided that sales be made only for consumption by passengers  
 2 on board while the vessel is in operation outside the port or  
 3 dock of any island of the [~~State,~~] state, unless otherwise  
 4 approved by the county where the license has been issued. [~~If~~  
 5 ~~the vessel has a home port in the State, the]~~ The license shall  
 6 be issuable in the county wherein the home port is situated[~~r~~  
 7 ~~provided that if the licensee's home port is not situated in~~  
 8 ~~this State, the license shall be issuable in the city and county~~  
 9 ~~of Honolulu]~~. If, on any vessel for which no license has been  
 10 obtained under this chapter, any liquor is sold or served within  
 11 three miles of the shore of any island of the [~~State,~~] state, it  
 12 shall constitute a violation of this chapter.

13 The categories of establishment shall be as follows:

- 14 (1) A standard bar; or
- 15 (2) Premises in which live entertainment or recorded music  
 16 is provided. Facilities for dancing by the patrons  
 17 may be permitted as provided by commission rules.

18 [~~(k)~~] (j) Class 10. Special license. A special license  
 19 may be granted for the sale of liquor for a period not to exceed  
 20 three days [~~on any occasion and under any conditions as may be~~  
 21 ~~approved by the commission.] and pursuant to commission rule may  
 22 be approved by the administrator for fundraising events by~~



1 nonprofit organizations, political candidates, and political  
2 parties; provided that any registered educational or charitable  
3 nonprofit organization may sell liquors in their original  
4 packages for off-premises consumption. Of this class, there  
5 shall be the following kinds:

- 6 (1) General (includes all liquors except alcohol);
- 7 (2) Beer and wine; and
- 8 (3) Beer.

9 Under this license, the liquors therein specified shall be  
10 consumed on the premises.

11 [~~(l)~~] (k) Class 11. Cabaret license. A cabaret license  
12 shall be general only (but excluding alcohol) and shall  
13 authorize the sale of liquors for consumption on the premises.  
14 This license shall be issued only for premises where food is  
15 served, facilities for dancing by the patrons are provided,  
16 including a dance floor, and live or amplified recorded music or  
17 professional entertainment, except professional entertainment by  
18 a person who performs or entertains unclothed, is provided for  
19 the patrons; provided that professional entertainment by persons  
20 who perform or entertain unclothed shall be authorized by:

- 21 (1) A cabaret license for premises where professional  
22 entertainment by persons who perform or entertain



1           unclothed was presented on a regular and consistent  
2           basis immediately prior to June 15, 1990; or

3           (2) A cabaret license that, pursuant to rules adopted by  
4           the liquor commission, permits professional  
5           entertainment by persons who perform or entertain  
6           unclothed.

7           A cabaret license under paragraph (1) or (2) authorizing  
8           professional entertainment by persons who perform or entertain  
9           unclothed shall be transferable through June 30, 2000. A  
10          cabaret license under paragraph (1) or (2) authorizing  
11          professional entertainment by persons who perform or entertain  
12          unclothed shall not be transferable after June 30, 2000, except  
13          when the transferee obtains approval from the liquor commission,  
14          and pursuant to rules adopted by the commission.

15          Notwithstanding any rule of the liquor commission to the  
16          contrary, cabarets in resort areas may be opened for the  
17          transaction of business until 4 a.m. throughout the entire week.

18          [~~(m)~~] (1) Class 12. Hotel license. A license to sell  
19          liquor in a hotel shall authorize the licensee to provide  
20          entertainment and dancing on the hotel premises and to sell all  
21          liquors, except alcohol, for consumption on the premises;  
22          provided that a hotel licensee, with commission approval, may





1 provide off-premises catering[7] of food and liquor, if the  
2 catering activity is directly related to the licensee's  
3 [~~operation as a hotel.~~] food service.

4 Procedures such as room service, self-service (no-host),  
5 minibars or similar service in guest rooms, and service at  
6 [~~private~~] parties in areas that are the property of and  
7 contiguous to the hotel, are permitted with commission approval.

8 Any licensee who would otherwise fall within the hotel  
9 license class but holds a different class of license may be  
10 required to apply for a hotel license.

11 If the licensee applies for a change of classification  
12 prior to July 30, 1992, the licensee shall not be subject to the  
13 requirements of sections 281-52, 281-54, and 281-57 through  
14 281-59.

15 Any licensee holding a class 12 license on [+]May 1,  
16 2007, [+] and who would otherwise come within this class of  
17 license may apply to the liquor commission in which the licensee  
18 is seeking a change in liquor license for a change to a class 15  
19 license; provided that the licensee shall not be subject to the  
20 requirements of section 281-54 and sections 281-57 to 281-60.

21 If a licensee holding a class 12 license on [+]May 1,  
22 2007, [+] applies for a change to a class 15 license, the



1 respective liquor commission shall hold a public hearing upon  
2 notice, and upon the day of hearing, or any adjournment thereof,  
3 the liquor commission shall consider the application, accept all  
4 written or oral testimony for or against the application, and  
5 render its decision granting or refusing the application. If  
6 the application is denied, the class 12 license shall continue  
7 in effect in accordance with law.

8 [~~n~~] (m) Class 13. Caterer license. A general license  
9 may be granted to any [~~licensee~~] applicant who serves food as  
10 part of their operation for the sale of liquor (other than  
11 alcohol) while performing food catering functions~~[-]~~ off the  
12 premises.

13 No catering service for the sale of liquor shall be  
14 performed off the licensee's premises, unless prior written  
15 notice of the service has been delivered to the office of the  
16 liquor commission of the county concerned. The notice shall  
17 state the date, time, and location of the proposed event and  
18 shall include a written statement signed by the owner or  
19 representative of the property that the function will be subject  
20 to the liquor laws and to inspection by investigators.

21 [~~e~~] (n) Class 14. Brewpub license. A brewpub licensee:



- 1 (1) Shall manufacture not more than ten thousand barrels  
2 of malt beverages on the licensee's premises during  
3 the license year;
- 4 (2) May sell malt beverages manufactured on the licensee's  
5 premises for consumption on the premises;
- 6 (3) May sell malt beverages manufactured by the licensee  
7 in brewery-sealed packages to class 3[7] wholesale  
8 dealer licensees pursuant to conditions imposed by  
9 county planning and public works departments;
- 10 (4) May sell intoxicating liquor, purchased from a  
11 class 1[7] manufacturer licensee, or a class 3[7]  
12 wholesale dealer's licensee, to consumers for  
13 consumption on the licensee's premises [~~; provided that~~  
14 ~~the premises is owned and operated by the licensee~~].
- 15 The categories of establishments shall be as follows:
- 16 (A) A standard bar; or
- 17 (B) Premises in which live entertainment or recorded  
18 music is provided. Facilities for dancing by the  
19 patrons may be permitted as provided by  
20 commission rules;
- 21 (5) May sell malt beverages manufactured on the licensee's  
22 premises to consumers in brewery-sealed kegs and



1 growlers for off-premises consumption; provided that  
2 for purposes of this paragraph, "growler" means a  
3 glass container, not to exceed one half-gallon, which  
4 [~~may~~] shall be securely sealed;

5 (6) May sell malt beverages manufactured on the licensee's  
6 premises to consumers, in recyclable containers that  
7 may be provided by the licensee or by the consumer,  
8 not to exceed one gallon per container, which are  
9 securely sealed on the licensee's premises, for  
10 off-premises consumption;

11 (7) Shall comply with all regulations pertaining to  
12 class 4 retail licensees when engaging in the retail  
13 sale of malt beverages; and

14 (8) May sell malt beverages manufactured on the licensee's  
15 premises in brewery-sealed containers directly to  
16 class 2 restaurant licensees, class 3 wholesale dealer  
17 licensees, class 4 retail dealer licensees, class 5  
18 dispensers' licensees, class 6 club licensees, class  
19 [~~7, 8, and 9 vessel licensees,~~] 8 transient vessel  
20 licensees, class 9 tour or cruise vessel licensees,  
21 class 10 special licensees, class 11 cabaret  
22 licensees, class 12 hotel licensees, class 13 caterer

1 licenses, and class 15 condominium hotel license,  
2 pursuant to conditions imposed by county [~~planning and~~  
3 ~~public works departments and~~] regulations governing  
4 class 1 manufacturer's licensees and class 3 wholesale  
5 dealers licensees [~~+~~ and  
6 ~~(9) May conduct the activities described in paragraphs (1)~~  
7 ~~through (8) at one location other than the licensee's~~  
8 ~~premises; provided that the manufacturing takes place~~  
9 ~~in Hawaii; and provided further the other location is~~  
10 ~~properly licensed by the same ownership].~~

11 [~~(p)~~] (o) Class 15. Condominium hotel license. A license  
12 to sell liquor in a condominium hotel shall authorize the  
13 licensee to provide entertainment and dancing on the condominium  
14 hotel premises and to sell all liquors, except alcohol, for  
15 consumption on the premises; provided that a condominium hotel  
16 licensee, with commission approval, may provide off-premises  
17 catering; provided further that the catering activity is  
18 directly related to the licensee's operation as a condominium  
19 hotel.

20 Procedures such as room service, self-service (no-host),  
21 minibars or similar service in apartments, and service at  
22 private parties in areas that are the property of and contiguous



1 to the condominium hotel, are permitted with commission  
2 approval.

3 A condominium hotel licensee shall not sell liquor in the  
4 manner authorized by a class 4 retail dealer's license.

5 Any licensee who would otherwise fall within the  
6 condominium hotel license class but holds a different class of  
7 license may be required to apply for a condominium hotel  
8 license.

9 [~~r~~] (p) It shall be unlawful for any retail licensee,  
10 except a class 10 licensee, to purchase, acquire, or sell liquor  
11 from any person other than a wholesaler licensed pursuant to  
12 this chapter, except as otherwise provided in this section.

13 [~~r~~] (q) Any provision to the contrary notwithstanding,  
14 at the discretion of the county liquor commission, permission  
15 may be granted to a bona fide hotel, restaurant, or club  
16 licensed under class 2, class 6, class 11, class 12, class 14,  
17 or class 15 to allow a patron to remove from the licensed  
18 premises any portion of wine that was purchased for consumption  
19 with a meal; provided that it is recorked or resealed in its  
20 original container. This subsection applies only to a valid  
21 holder of a class 2, class 6, class 11, class 12, class 14, or  
22 class 15 license engaged in meal service.



1        [~~s~~] (r) Sections 281-57 to 281-60 shall not apply to  
2 classes [7] 8 through 10 and 13."

3        SECTION 6. Section 281-32, Hawaii Revised Statutes, is  
4 amended to read as follows:

5        "**§281-32 Licenses, temporary.** A temporary license of any  
6 class and kind specified in section 281-31 may be granted under  
7 the following conditions~~[-]~~:

8        (1) The premises shall have been operated under a license  
9 of the same class [~~and~~], kind, and category issued by  
10 the liquor commission at least one year immediately  
11 prior to the date of filing of the application for a  
12 temporary license~~[-]~~, except as otherwise approved by  
13 the commission;

14        (2) The license of the same class [~~and~~], kind, and  
15 category then in effect for the premises shall be  
16 surrendered in such manner and at such time as the  
17 commission shall direct~~[-]~~;

18        (3) The applicant for a temporary license shall have filed  
19 with the commission an application for a license of  
20 the same class [~~and~~], kind, and category currently or  
21 previously [~~then~~] in effect for the premises~~[-]~~;



- 1           (4) The application for a temporary license shall be  
2           accompanied by a license fee in such amount as may be  
3           prescribed by the commission. If the application is  
4           denied or withdrawn, the fee which accompanied the  
5           application shall [~~be refunded in full.~~] become a  
6           realization of the county;
- 7           (5) A temporary license shall be for a period of not in  
8           excess of one hundred and twenty days. The license  
9           may be renewed at the discretion of the commission for  
10          not more than one additional [~~sixty-day~~] one hundred  
11          twenty-day period upon payment of such additional fee  
12          as may be prescribed by the commission and upon  
13          compliance with all conditions required in this  
14          section and section 281-31. When a temporary license  
15          has expired and no permanent license has been issued,  
16          the sale and service of liquor shall cease until the  
17          permanent license is issued; provided that, when  
18          applicable, the license shall be properly renewed;
- 19          (6) A temporary license shall authorize the licensee to  
20          purchase liquor only by payment in currency, check, or  
21          certified check for the liquor before or at the time





1 of delivery of the liquor to the licensee[-], except  
2 as otherwise provided by commission rule; and

3 (7) Sections 281-52 and 281-54 and sections 281-56 to  
4 281-61 shall not apply to any application for a  
5 temporary license."

6 SECTION 7. Section 281-35, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§281-35 Special conditions; club licenses.** No liquor  
9 shall be sold under a club license to any person not a member of  
10 the club nor a guest thereof enjoying the [~~privilege~~] privileges  
11 of membership, but a member or a guest enjoying the privileges  
12 of membership may purchase liquor for consumption on the  
13 premises by the person's own guests.

14 The liquor commission may by [~~regulations~~] rule require the  
15 keeping and posting of lists of the members of a club, and the  
16 keeping and production of records as to membership and the  
17 registration of guests enjoying the privileges of membership.

18 No liquor shall be sold or kept for sale at any club except  
19 by the club itself pursuant to its license. If any liquor is  
20 sold or kept on the club premises for sale or barter by any  
21 member, employee, or person other than the club itself, the club

1 shall be deemed to be selling without a license [~~whether it~~  
2 ~~holds its own license or not~~]."

3 SECTION 8. Section 281-39, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Except for a condominium hotel operator under a  
6 class 15 license, no change of premises under any issued license  
7 shall be allowed unless the doing of business on the new  
8 premises is authorized in the same manner as provided by this  
9 chapter for approval of any original premises; provided that the  
10 holder of any manufacturer's license or a wholesale dealer's  
11 license issued by the commission of any county may, through  
12 authorized solicitors or representatives, solicit and take  
13 orders for direct shipment [~~for~~] of liquor in permitted  
14 quantities in any other county."

15 SECTION 9. Section 281-45, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§281-45 No license issued, when.** No license shall be  
18 issued under this chapter:

19 (1) To any minor or to any person who has been convicted  
20 of a felony and not pardoned (except that the  
21 commission may grant a license under this chapter to a  
22 corporation that has been convicted of a felony where



1 the commission finds that the organization's officers  
2 and shareholders of twenty-five per cent or more of  
3 outstanding stock are fit and proper persons to have a  
4 license), or to any other person not deemed by the  
5 commission to be a fit and proper person to have a  
6 license;

7 (2) To a corporation the officers and directors of which,  
8 or any of them, would be disqualified under paragraph  
9 (1) [~~of this section~~] from obtaining the license  
10 individually, or a stockholder of which, owning or  
11 controlling twenty-five per cent or more of the  
12 outstanding capital stock, or to a general  
13 partnership, limited partnership, limited liability  
14 partnership, or limited liability company whose  
15 partner or member holding twenty-five per cent or more  
16 interest of which, or any of them would be  
17 disqualified under [~~that~~] paragraph (1) from obtaining  
18 the license individually;

19 (3) Unless the applicant for a license or a renewal of a  
20 license, or in the case of a transfer of a license,  
21 both the transferor and the transferee, present to the  
22 issuing agency a signed certificate from the director



1 of taxation and from the Internal Revenue Service  
2 showing that the applicant or the transferor and  
3 transferee do not owe the state or federal governments  
4 any delinquent taxes, penalties, or interest; or

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

9 SECTION 10. Section 281-52, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§281-52 Public hearing.** No license shall be granted  
12 except after a public hearing by the liquor commission upon  
13 notice as prescribed in this chapter; provided that [~~section~~]  
14 sections 281-57 to 281-60 shall not apply to the holder of a  
15 restaurant general license, a wholesale general license, [~~or~~] a  
16 retail general license, or a dispenser's general license, who  
17 applies for a different kind of license within the class of the  
18 holder's existing license, on the same premises, or to the  
19 holder of a cabaret license who applies for a dispenser license  
20 of any kind, on the same premises, or to the holder of a  
21 dispenser's beer and wine license who applies for dispenser's  
22 beer license, on the same premises, or to a licensee whose



1 licensed premises have been demolished and replaced by another  
2 building on the same premises and who applies for the same or  
3 lesser kind of the same class of liquor license previously held  
4 by the licensee on said premises."

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

7 "**§281-53 Application; penalty for false statements.** Every  
8 application for a license or for the renewal of a license or for  
9 the transfer of a license shall be in writing, signed and,  
10 except for the renewal of a license, verified by the oath of the  
11 applicant, or in the case of a corporation or unincorporated  
12 association by the proper officer or officers thereof, or if a  
13 partnership by a general partner thereof, or if a limited  
14 liability partnership by a partner thereof, or if a limited  
15 liability company by a member thereof, made before any official  
16 authorized by law to administer oaths, and shall be addressed to  
17 the liquor commission, and set forth:

- 18 (1) The full name, age, and place of residence of the  
19 applicant; if a copartnership, the names, ages, and  
20 respective places of residence of all the partners; if  
21 a limited liability company, its full name and the  
22 names of all its members; if a corporation or



1 joint-stock company, its full name and the names of  
2 its officers and directors, and the names of all  
3 stockholders owning twenty-five per cent or more of  
4 the outstanding capital stock; and if any other  
5 association of individuals, the names, ages, and  
6 respective places of residence of its officers and the  
7 number of its members;

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

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

13 (4) Any other matter or information pertinent to the  
14 subject matter which may be required by the rules [~~and~~  
15 ~~regulations~~] of the commission.

16 If any false statement is knowingly made in any application  
17 which is verified by oath, the applicant, and in the case of the  
18 application being made by a corporation, limited liability  
19 company, association, or club, the persons signing the  
20 application, shall be guilty of perjury, and shall be subject to  
21 the penalties prescribed by law for such offense. If any false  
22 statement is knowingly made in any application which is not



1 verified by oath, the person or persons signing the application  
2 shall be guilty of a misdemeanor and upon conviction thereof  
3 shall be punished as in section 281-102 provided."

4 SECTION 12. Section 281-56, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) On every application referred to the investigator  
7 under section 281-55, the investigator shall report in writing  
8 to the liquor commission and, if the application is for a  
9 license of any class other than [~~class 7,~~] class 8, [~~or~~]  
10 class 9, or class 10, such report shall [~~show+~~] include:

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

17 (2) If the application is made by a person who has held a  
18 prior license for the same or any other premises  
19 within two years past, a statement as to the manner in  
20 which the premises have been operated and the business  
21 conducted under the previous license;



- 1           (3) The locality of any church, chapel, or school, if any,  
2                    within a distance of five hundred feet from the  
3                    nearest point of the premises for which the license is  
4                    asked to the nearest point of the church, chapel, or  
5                    school grounds;
- 6           (4) The number, position, and distance from the premises,  
7                    in respect of which a license is applied for, of any  
8                    other licensed premises of the same class in the  
9                    neighborhood;
- 10          (5) The number of licenses of the same class or kind  
11                    already issued and being lawfully exercised within the  
12                    county;
- 13          (6) Whether or not in the opinion of the investigator the  
14                    applicant is a fit and proper person to have a  
15                    license;
- 16          (7) Whether or not the applicant is for any reason  
17                    disqualified by this chapter from obtaining or  
18                    exercising a license; and whether or not the applicant  
19                    has complied with all the requirements of this chapter  
20                    relative to the making and filing of the applicant's  
21                    application;



1 (8) For the next application for a license that was  
2 previously denied, refused, or withdrawn, evidence, to  
3 be provided by the applicant, of a substantial change  
4 in the circumstances that caused the previous denial,  
5 refusal, or withdrawal; and

6 (9) Any and all other matters and things, [~~which~~] that in  
7 the judgment of the investigator pertain to or affect  
8 the matter of the application, or the issuance or the  
9 exercise of the license applied for; provided that  
10 when the license application is for premises within a  
11 county [~~encompassing~~] with a population of [~~500,000~~]  
12 five hundred thousand residents or more, the report  
13 shall specify the possible adverse effects the  
14 premises, after licensing, may have on the surrounding  
15 community."

16 SECTION 13. Section 281-57, Hawaii Revised Statutes, is  
17 amended by amending subsections (b), (c), and (d) to read as  
18 follows:

19 "(b) If no preliminary hearing is had or if the  
20 application is not denied upon a preliminary hearing, the  
21 commission shall fix a day for the public hearing of the  
22 application (other than an application for an alcohol license or



1 a license in classes [7] 8 to 10 and 13) and shall give public  
2 notice of the hearing at least once in each of two consecutive  
3 weeks, in the county, the date of the hearing to be not less  
4 than forty-five days after the first notice. The notice shall  
5 require that all protests or objections against the issuance of  
6 the license applied for shall be filed with the administrator of  
7 the commission at or before the time of hearing. Before giving  
8 the notice the commission shall collect from the applicant the  
9 cost of giving the public notice or require a deposit to cover  
10 the same.

11 (c) Immediately upon the commission's fixing a day for the  
12 public hearing of the application, the applicant shall mail a  
13 notice setting forth the time and place of the hearing on the  
14 application to each of the following:

15 (1) Not less than two-thirds of the owners and lessees of  
16 record of real estate and owners of record of shares  
17 in a cooperative apartment or to those individuals on  
18 the list of owners as provided by the managing agent  
19 or governing body of the shareholders association  
20 situated within a distance of five hundred feet from  
21 the nearest point of the premises for which the  
22 license is asked to the nearest point of such real

1 estate or cooperative apartment; provided that in  
2 meeting this requirement, the applicant shall mail a  
3 notice to not less than three-fourths of the owners  
4 and lessees of record of real estate and owners of  
5 record of shares in a cooperative apartment situated  
6 within a distance of one hundred feet from the nearest  
7 point of the premises for which the license is asked.  
8 Notice by mail may be addressed to the last known  
9 address of the person concerned or to the address as  
10 shown in the last tax return filed by the person or  
11 the person's agent or representative;

12 (2) In counties with a population of [~~two hundred fifty~~  
13 ~~thousand~~] five hundred thousand or more, not less than  
14 two-thirds of the registered voters residing within,  
15 and small businesses situated within, a distance of  
16 five hundred feet from the nearest point of the  
17 premises for which the license is asked; provided that  
18 in meeting this requirement, the applicant shall mail  
19 notices to not less than three-fourths of the  
20 registered voters residing within, and small  
21 businesses situated within, a distance of one hundred  
22 feet from the nearest point of the premises for which

1 the license is asked. This paragraph shall not apply  
2 to ~~[any applicant that is a hotel as defined in~~  
3 ~~section 486K-1, a condominium hotel, a restaurant, or~~  
4 ~~a convenience store.] applications for class 2,~~  
5 class 4, class 12, and class 15 licenses. A notice  
6 sent pursuant to this paragraph shall be addressed to  
7 the "occupant" of the residential unit or small  
8 business; and

9 (3) For each condominium project and cooperative apartment  
10 within the five hundred-foot area, one notice of the  
11 hearing shall be sent by mail addressed "To the  
12 Residents, Care of the Manager", followed by the name  
13 and address of the condominium or cooperative  
14 apartment involved.

15 The notices required under this subsection shall be mailed at  
16 least forty-five days prior to the date set for the hearing. No  
17 promotional information shall be allowed on, or accompany the  
18 notice. Before the hearing, and within seven business days of  
19 having mailed the notices, the applicant shall file with the  
20 commission an affidavit that the notices have been mailed in  
21 compliance with this subsection. In addition to the affidavit  
22 (which shall be made available within the same [~~seven-day~~]

1 seven-business-day period with proof of having mailed the  
2 notices), the applicant shall include both a master list of one  
3 hundred per cent of addressees and addresses required by  
4 paragraphs (1), (2), and (3), and another mailing list  
5 consisting of the portion of addressees and their respective  
6 addresses who were mailed the notice purposely needed to meet  
7 the requirements of paragraphs (1), (2), and (3). The  
8 affidavit, master list, and mailing list shall be made available  
9 within seven business days (of the mailing of the notice by the  
10 applicant) by the commission for public review upon request.  
11 For purposes of this section, "master list" means every owner  
12 and lessee who would otherwise be required to receive notice of  
13 the public hearing according to the requirement of paragraphs  
14 (1), (2), and (3), even if they were not actually included in  
15 the two-third or three-fourths requirement (as the case may be)  
16 of paragraph (1) or (2), and every condominium project and  
17 cooperative apartment qualifying in paragraph (3). [~~The~~  
18 ~~commission shall cancel the hearing if not receiving the~~  
19 ~~affidavit prior to the hearing or if discovering that the~~  
20 ~~affidavit is false.] When the requirements of this section have  
21 not been met, the commission may cancel the hearing or continue~~

1 the public hearing subject to the provisions of section 281-57  
2 and this section.

3 (d) For purposes of this section, notice to one co-owner  
4 and one co-lessee of real estate shall be sufficient notice to  
5 all co-owners and all co-lessees of that real estate; and one  
6 notice is sufficient to an owner or lessee of multiple parcels;  
7 except that one notice shall be sent to each individual unit of  
8 a cooperative apartment as provided in this section."

9 SECTION 14. Section 281-58, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§281-58 Protests.** Protests against the granting of a  
12 license may be filed by any person. Protests against the  
13 granting of a license upon such application, which qualifies for  
14 an automatic refusal pursuant to section 281-39.5 or 281-59, may  
15 be so filed by any registered voter for the area within five  
16 hundred feet of the nearest point at which the applicant  
17 proposes to establish or continue the applicant's business under  
18 the license applied for, or by any owner or lessee of record of  
19 real estate or by any owner of record of a share in a  
20 cooperative apartment situated within a distance of five hundred  
21 feet from the nearest point of the premises for which the



1 license is asked to the nearest point of such real estate or  
2 cooperative apartment."

3 SECTION 15. Section 281-59, Hawaii Revised Statutes, is  
4 amended amending subsections (a) and (b) to read as follows:

5 "(a) Upon the day of hearing, or any adjournment thereof,  
6 the liquor commission shall consider the application and any  
7 protests and objections to the granting thereof, and hear the  
8 parties in interest. The liquor commission shall accept all  
9 written or oral testimony for or against the application whether  
10 the application is denied, refused, or withdrawn. Within  
11 fifteen days after the hearing, or within thirty days thereafter  
12 if in its discretion the commission extends the fifteen days to  
13 thirty days, and gives public notice of same, the commission  
14 shall give its decision granting or refusing the application;  
15 provided that if a majority of the:

16 (1) Registered voters for the area within five hundred  
17 feet of the nearest point of the premises for which  
18 the license is asked; or

19 (2) Owners and lessees of record of real estate and owners  
20 of record of shares in a cooperative apartment within  
21 five hundred feet of the nearest point of the premises  
22 for which the license is asked[+],



1 have duly filed or caused to be filed their protests against the  
2 granting of the license, or if there appears any other  
3 disqualification under this chapter, the application shall be  
4 refused. Otherwise, the commission may in its discretion grant  
5 or refuse the same.

6 For purposes of defining "a majority of the owners and  
7 lessees of record of real estate and owners of record of shares  
8 in a cooperative apartment", each property counts only once~~[=]~~i  
9 provided that roadways shall not be included. A protest  
10 submitted by the majority of the co-owners or the majority of  
11 the co-lessees of a property shall constitute a protest by all  
12 the owners or lessees of record of that property. [~~Owners~~] A  
13 protest filed by owners or lessees who own more than one  
14 property [~~may count~~] shall be counted for each property.

15 (b) The liquor commission shall make available to the  
16 applicant and any protester for review before the public  
17 hearing, the protest list of those persons who filed a protest  
18 or objection to the application; provided that the applicant  
19 shall not use the protest list to attempt to influence in any  
20 way any protester to withdraw the protest or objection. All  
21 applicants and protesters may submit corrections, additions, and  
22 subtractions to the master list and the protest list at the





1 public hearing[-]; provided that additions or corrections to the  
2 voter registration list shall be certified by the clerk of the  
3 county. The liquor commission shall rule on proposed  
4 corrections, additions, and subtractions and give reasons for  
5 the ruling."

6 SECTION 16. Section 281-61, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§281-61 Renewals.** (a) Other than for good cause, the  
9 renewal of an existing license shall be granted upon the filing  
10 of an application; provided that if:

- 11 (1) Complaints from the public;
- 12 (2) Reports from the commission's investigators; or
- 13 (3) Adjudications of the commission or the liquor control  
14 adjudication board,

15 indicate that noise created by patrons departing from the  
16 premises disturbs residents on the street or of the neighborhood  
17 in which the premises are located, or that noise from the  
18 premises or adjacent related outdoor areas [~~under the licensee's~~  
19 ~~control~~] such as parking lots or lanais exceed standards  
20 contained in state or county noise codes [~~and~~] or intrudes into  
21 nearby residential units, the commission may deny the renewal



1 application or withhold the issuance of a renewed license until  
2 corrective measures meeting the commission's approval are taken.

3 (b) The commission~~[7]~~ or board, pursuant to section  
4 281-17, at the time of renewal or at any time, may revoke,  
5 suspend, or place conditions or restrictions on any license  
6 issued under this chapter for the purpose of preventing  
7 activities within the licensed premises or adjacent areas [~~under~~  
8 ~~the licensee's control~~] that are potentially injurious to the  
9 health, safety, and welfare of the public and neighborhood  
10 including but not limited to criminal activity, including  
11 assault, drug dealing, drug use, or prostitution, upon [~~petition~~  
12 ~~of the administrator of the appropriate county agency,~~] proper  
13 notice to the licensee, and a hearing before the commission  
14 pursuant to chapter 91."

15 SECTION 17. Section 281-62, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§281-62 Reduction or increase in area of licensed**  
18 **premises.** The liquor commission may, in its discretion, permit  
19 the reduction or the increase in the area of the licensed  
20 premises of any licensee~~[7]~~ without publication of notice at a  
21 public hearing; provided that, where an increase in premises may  
22 significantly impact the public, the commission may require



1 hearings pursuant to sections 281-39.5 and 281-57 to 281-60.

2 Whenever any reduction or increase is permitted, the same shall  
3 be endorsed in some appropriate manner upon the license."

4 SECTION 18. Section 281-32.3, Hawaii Revised Statutes, is  
5 repealed.

6 [~~"§281-32.3 One day special licenses for fundraising~~  
7 ~~events.~~ Notwithstanding any other section of this chapter to  
8 the contrary, the commission shall adopt rules to streamline  
9 procedures including the waiving of hearings, fees, notarization  
10 of documents, submission of floor plans, and other requirements,  
11 to provide for the issuance of special licenses for the sale of  
12 liquor for a period not to exceed one day, for classes of  
13 fundraising events by nonprofit organizations established by the  
14 commission. The commission shall also adopt rules to facilitate  
15 the issuance of such licenses through the mail.

16 Any registered educational or charitable nonprofit  
17 organization may sell liquors in their original packages for  
18 off-premises consumption for fundraising events allowed in this  
19 section, in accordance with rules adopted by the commission  
20 pursuant to chapter 91." ]

21 SECTION 19. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



**1** SECTION 20. This Act shall take effect on July 1, 2008.



H.B. NO. 2253  
H.D. 2  
S.D. 1  
C.D. 1

**Report Title:**

Liquor Law

**Description:**

Amends sections of Chapter 281, Hawaii Revised Statutes, to update the liquor laws. (HB2253 CD1)

HB2253 CD1 HMS 2008-4026

