



GOV. MSG. NO. 805

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 10, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 10, 2008, the following bill was signed into law:

SB2169 SD1 HD1

A BILL FOR AN ACT RELATING TO LIQUOR
LICENSES.
(ACT 163)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 10 2008

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

ACT 163

S.B. NO. 2169
S.D. 1
H.D. 1

A BILL FOR AN ACT

RELATING TO LIQUOR LICENSES.

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

1 SECTION 1. Section 281-31, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§281-31 Licenses, classes.~~ (a) Licenses may be granted
4 by the liquor commission as provided in this section.

5 (b) Class 1. [~~Manufacturers~~] Manufacturer license. A
6 license for the manufacture of liquor shall authorize the
7 licensee to manufacture the liquor therein specified and to sell
8 it at wholesale in original packages to any person who holds a
9 license to resell it and to sell draught beer or wine
10 manufactured from grapes or other fruits grown in the State in
11 any quantity to any person for private use and consumption.
12 Under this license, no liquor shall be consumed on the premises
13 except as authorized by the commission. Of this class, there
14 shall be the following kinds:

- 15 (1) Beer;
16 (2) Wine;
17 (3) Alcohol; and



1 (4) Other specified liquor.

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

15 (c) Class 2. Restaurant license.

16 (1) A license under this class shall authorize the
17 licensee to sell [~~liquors~~] liquor specified in this
18 subsection for consumption on the premises; provided
19 that a restaurant licensee, with commission approval,
20 may provide off-premises catering; provided further
21 that the catering activity shall be directly related
22 to the licensee's operation as a restaurant. A



1 licensee under this class shall be issued a license
2 according to the category of establishment the
3 licensee owns or operates. The categories of
4 establishment shall be as follows:

5 (A) A standard bar; or

6 (B) Premises in which live entertainment or recorded
7 music is provided. Facilities for dancing by the
8 patrons may be permitted as provided by
9 commission rules.

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

15 (3) For each category of class 2 licenses, there shall be
16 the following kinds:

17 (A) General (includes all [~~liquors~~] liquor except
18 alcohol);

19 (B) Beer and wine; and

20 (C) Beer.



1 Any licensee holding a different class of license on June 19,
2 1990, and who would otherwise come within this class of license
3 shall not be required to apply for a new license.

4 (d) Class 3. Wholesale [~~dealers~~] dealer license. A
5 license for the sale of [~~liquors~~] liquor at wholesale shall
6 authorize the licensee to import and sell only to licensees, or
7 to others who are by law authorized to resell but are not by law
8 required to hold a license, the [~~liquors~~] liquor therein
9 specified in quantities not less than five gallons at one time
10 if sold from or in bulk containers or not less than one gallon
11 if bottled goods; provided that samples of liquor may be sold
12 back to the manufacturer. The license may authorize the
13 licensee to sell draught beer in quantities not less than five
14 gallons at one time to any person for private use and
15 consumption if the licensee files an affidavit with the
16 commission that there is not a class 4 retail [~~dealers~~] dealer
17 licensee available to sell the [~~wholesalers~~] wholesaler's brand
18 of draught beer. Under the license, no liquor shall be consumed
19 on the premises except as authorized by the commission. Of this
20 class, there shall be the following kinds:

- 21 (1) General (includes all [~~liquors~~] liquor except
22 alcohol);



1 (2) Beer and wine; and

2 (3) Alcohol.

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

20 (e) Class 4. Retail [~~dealers'~~] dealer license. A license
21 to sell [~~liquors~~] liquor at retail or to class 10 licenses shall
22 authorize the licensee to sell the [~~liquors~~] liquor therein



1 specified in their original packages. Under the license, no
2 liquor shall be consumed on the premises except as authorized by
3 the commission. Of this class, there shall be the following
4 kinds:

- 5 (1) General (includes all [~~liquors~~] liquor except
- 6 alcohol);
- 7 (2) Beer and wine; and
- 8 (3) Alcohol.

9 (f) Class 5. [~~Dispensers~~] Dispenser license.

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

- 17 (A) A standard bar;
- 18 (B) Premises in which a person performs or entertains
- 19 unclothed or in attire restricted to use by
- 20 entertainers pursuant to commission rules;
- 21 (C) Premises in which live entertainment or recorded
- 22 music is provided; provided that facilities for



1 dancing by the patrons may be permitted as
2 provided by commission rules; or
3 (D) Premises in which employees or entertainers are
4 compensated to sit with patrons, regardless of
5 whether the employees or entertainers are
6 consuming nonalcoholic beverages while in the
7 company of the patrons pursuant to commission
8 rules.

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

14 (3) For each category of class 5 licenses, there shall be
15 the following kinds:

16 (A) General (includes all [~~liquors~~] liquor except
17 alcohol);

18 (B) Beer and wine; and

19 (C) Beer.

20 (g) Class 6. Club license. A club license shall be
21 general only (but excluding alcohol) and shall authorize the
22 licensee to sell [~~liquors~~] liquor to members of the club and to



1 guests of the club enjoying the privileges of membership, for
2 consumption only on the premises kept and operated by the club;
3 provided that the license shall also authorize any club member
4 to keep in the member's private locker on the premises a
5 reasonable quantity of liquor, if owned by the member, for the
6 member's own personal use and not to be sold and that may be
7 consumed only on the premises.

8 (h) Class 7. Vessel license. A general license may be
9 granted to the owner of any vessel performing a regular water
10 transportation passenger service between any two or more ports
11 in the [~~State~~] state for the sale of liquor (other than alcohol)
12 on board the vessel while in the waters of the [~~State~~] state;
13 provided the sales are made only while the vessel is en route
14 and only for consumption by passengers on board. If the vessel
15 has a home port in the [~~State~~] state, the license shall be
16 issuable in the county in which the home port is situated;
17 provided that if the licensee's home port is not situated in
18 this [~~State~~] state, the license shall be issuable in the city
19 and county of Honolulu. If, on any vessel for which no license
20 has been obtained under this chapter, any liquor is sold or
21 served within three miles of the shore of any island of the
22 [~~State~~] state, it shall constitute a violation of this chapter.



1 (i) Class 8. Transient vessel license. A general license
2 may be granted to the owner of any vessel that does not fall
3 within class 7 for the sale of liquor (other than alcohol) on
4 board the vessel while in any port of the [~~State~~] state. Sales
5 shall be made only for consumption by passengers and their
6 guests on board the vessel. The license shall be issuable in
7 each county where the sales are to be made; provided that the
8 application for the license may be made by any agent
9 representing the owner.

10 (j) Class 9. Tour or cruise vessel license. A general
11 license may be granted to the owner of any tour or cruise vessel
12 for the sale of liquor (other than alcohol) on board the vessel
13 while in the waters of the [~~State~~] state; provided that sales
14 be made only for consumption by passengers on board while the
15 vessel is in operation outside the port or dock of any island of
16 the [~~State~~] state, unless otherwise approved by the county
17 where the license has been issued. If the vessel has a home
18 port in the [~~State~~] state, the license shall be issuable in the
19 county wherein the home port is situated; provided that if the
20 licensee's home port is not situated in this [~~State~~] state, the
21 license shall be issuable in the city and county of Honolulu.
22 If, on any vessel for which no license has been obtained under

1 this chapter, any liquor is sold or served within three miles of
2 the shore of any island of the [~~State,~~] state, it shall
3 constitute a violation of this chapter.

4 (k) Class 10. Special license. A special license may be
5 granted for the sale of liquor for a period not to exceed three
6 days on any occasion and under any conditions as may be approved
7 by the commission. Of this class, there shall be the following
8 kinds:

- 9 (1) General (includes all [~~liquors~~] liquor except
10 alcohol);
11 (2) Beer and wine; and
12 (3) Beer.

13 Under this license, the [~~liquors~~] liquor therein specified shall
14 be consumed on the premises.

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



1 the patrons; provided that professional entertainment by persons
2 who perform or entertain unclothed shall be authorized by:

3 (1) A cabaret license for premises where professional
4 entertainment by persons who perform or entertain
5 unclothed was presented on a regular and consistent
6 basis immediately prior to June 15, 1990; or

7 (2) A cabaret license that, pursuant to rules adopted by
8 the liquor commission, permits professional
9 entertainment by persons who perform or entertain
10 unclothed.

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

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



1 (m) Class 12. Hotel license. A license to sell liquor in
2 a hotel shall authorize the licensee to provide entertainment
3 and dancing on the hotel premises and to sell all [~~liquors,~~
4 liquor, except alcohol, for consumption on the premises;
5 provided that a hotel licensee, with commission approval, may
6 provide off-premises catering, if the catering activity is
7 directly related to the licensee's operation as a hotel.

8 Procedures such as room service, self-service (no-host),
9 minibars or similar service in guest rooms, and service at
10 private parties in areas that are the property of and contiguous
11 to the hotel, are permitted with commission approval.

12 Any licensee who would otherwise fall within the hotel
13 license class but holds a different class of license may be
14 required to apply for a hotel license.

15 If the licensee applies for a change of classification
16 prior to July 30, 1992, the licensee shall not be subject to the
17 requirements of sections 281-52, 281-54, and 281-57 through
18 281-59.

19 Any licensee holding a class 12 license on [+]May 1,
20 2007, [+] and who would otherwise come within this class of
21 license may apply to the liquor commission in which the licensee
22 is seeking a change in liquor license for a change to a class 15



1 license; provided that the licensee shall not be subject to the
2 requirements of section 281-54 and sections 281-57 to 281-60.

3 If a licensee holding a class 12 license on [†]May 1,
4 2007, [†] applies for a change to a class 15 license, the
5 respective liquor commission shall hold a public hearing upon
6 notice, and upon the day of hearing, or any adjournment thereof,
7 the liquor commission shall consider the application, accept all
8 written or oral testimony for or against the application, and
9 render its decision granting or refusing the application. If
10 the application is denied, the class 12 license shall continue
11 in effect in accordance with law.

12 (n) Class 13. Caterer license. A general license may be
13 granted to any licensee who serves food as part of their
14 operation for the sale of liquor (other than alcohol) while
15 performing food catering functions.

16 No catering service for the sale of liquor shall be
17 performed off the licensee's premises, unless prior written
18 notice of the service has been delivered to the office of the
19 liquor commission of the county concerned. The notice shall
20 state the date, time, and location of the proposed event and
21 shall include a written statement signed by the owner or



1 representative of the property that the function will be subject
2 to the liquor laws and to inspection by investigators.

3 (o) Class 14. Brewpub license. A brewpub licensee:

4 (1) Shall manufacture not more than ten thousand barrels
5 of malt beverages on the licensee's premises during
6 the license year;

7 (2) May sell malt beverages manufactured on the licensee's
8 premises for consumption on the premises;

9 (3) May sell malt beverages manufactured by the licensee
10 in brewery-sealed packages to class 3 [7] wholesale
11 dealer licensees pursuant to conditions imposed by
12 county planning and public works departments;

13 (4) May sell intoxicating liquor, purchased from a
14 class 1 [7] manufacturer licensee, or a class 3 [7]
15 wholesale [~~dealer's~~] dealer licensee, to consumers for
16 consumption on the licensee's premises; provided that
17 the premises is owned and operated by the licensee.

18 The categories of establishments shall be as follows:

19 (A) A standard bar; or

20 (B) Premises in which live entertainment or recorded
21 music is provided. Facilities for dancing by the



- 1 patrons may be permitted as provided by
2 commission rules;
- 3 (5) May sell malt beverages manufactured on the licensee's
4 premises to consumers in brewery-sealed kegs and
5 growlers for off-premises consumption; provided that
6 for purposes of this paragraph, "growler" means a
7 glass container, not to exceed one half-gallon, which
8 may be securely sealed;
- 9 (6) May sell malt beverages manufactured on the licensee's
10 premises to consumers, in recyclable containers that
11 may be provided by the licensee or by the consumer,
12 not to exceed one gallon per container, which are
13 securely sealed on the licensee's premises, for off-
14 premises consumption;
- 15 (7) Shall comply with all regulations pertaining to
16 class 4 retail dealer licensees when engaging in the
17 retail sale of malt beverages;
- 18 (8) May sell malt beverages manufactured on the licensee's
19 premises in brewery-sealed containers directly to
20 class 2 restaurant licensees, class 3 wholesale dealer
21 licensees, class 4 retail dealer licensees, class 5
22 [~~dispensers~~] dispenser licensees, class 6 club



1 licenses, class 7 [~~7, 8, and 9~~] vessel licensees, class
 2 8 transient vessel licensees, class 9 tour or cruise
 3 vessel licensees, class 10 special licensees, class 11
 4 cabaret licensees, class 12 hotel licensees, class 13
 5 caterer licensees, and class 15 condominium hotel
 6 [~~license,~~] licensees, pursuant to conditions imposed
 7 by county planning and public works departments and
 8 regulations governing class 3 wholesale [~~dealers~~]
 9 dealer licensees; and

10 (9) May conduct the activities described in paragraphs (1)
 11 through (8) at one location other than the licensee's
 12 premises; provided that the manufacturing takes place
 13 in Hawaii; and provided further the other location is
 14 properly licensed by the same ownership.

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



1 directly related to the licensee's operation as a condominium
2 hotel.

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

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

10 (g) Class 16. Winery license. A winery licensee:

11 (1) Shall manufacture not more than ten thousand barrels
12 of wine on the licensee's premises during the license
13 year;

14 (2) May sell wine manufactured on the licensee's premises
15 for consumption on the premises;

16 (3) May sell wine manufactured by the licensee in winery-
17 sealed packages to class 3 wholesale dealer licensees
18 pursuant to conditions imposed by county planning and
19 public works departments;

20 (4) May sell wine manufactured on the licensee's premises
21 to consumers in winery-sealed kegs and magnums for
22 off-premises consumption; provided that for purposes



1 of this paragraph, "magnum" means a glass container,
2 not to exceed one half-gallon, which may be securely
3 sealed;

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

10 (6) Shall comply with all rules pertaining to class 4
11 retail dealer licensees when engaging in the retail
12 sale of wine;

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



1 licensees, pursuant to conditions imposed by county
2 planning and public works departments and rules
3 governing class 3 wholesale dealer licensees; and
4 (8) May conduct the activities described in paragraphs (1)
5 through (7) at locations other than the licensee's
6 premises; provided that the manufacturing takes place
7 in Hawaii; and provided further that the other
8 locations are properly licensed by the same ownership.

9 ~~[(q)]~~ (r) 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)]~~ (s) 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 ~~[(e)]~~ class 15, or class 16 to allow a patron to remove from the
18 licensed premises any portion of wine that was purchased for
19 consumption with a meal; provided that it is recorked or
20 resealed in its original container. This subsection applies
21 only to a valid holder of a class 2, class 6, class 11, class



1 12, class 14, [~~or~~] class 15, or class 16 license engaged in meal
2 service.

3 [~~s~~] (t) Sections 281-57 to 281-60 shall not apply to
4 classes 7 through 10 and 13."

5 SECTION 2. Section 281-33.6, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) Any person holding:

9 (1) A general excise tax license from the department of
10 taxation; and

11 (2) Either:

12 (A) A class 1 or class 16 license to manufacture wine
13 under section 281-31; or

14 (B) A license to manufacture wine issued by another
15 state,

16 may pay any applicable fees and obtain a direct wine shipper
17 permit from the liquor commission of the county to which the
18 wine will be shipped authorizing the holder to directly ship
19 wine to persons in the county pursuant to this section."

20 2. By amending subsection (c) to read:

21 "(c) The holder of a license to manufacture wine issued by
22 another state may annually renew a direct wine shipper permit by



1 providing the liquor commission that issued the permit with a
2 copy of the license and paying all required fees. The holder of
3 a class 1 or class 16 license to manufacture wine under section
4 281-31 may renew a direct wine shipper permit concurrently with
5 the class 1 license by complying with all applicable laws and
6 paying all required fees."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 10 day of JUN, 2008



GOVERNOR OF THE STATE OF HAWAII

