

JAN 22 2008

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# A BILL FOR AN ACT

RELATING TO SMOKING.

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

1           SECTION 1. Chapter 281, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§281-     Smoking establishment license fee.

5     Notwithstanding sections 281-16 and 281-17.5, or any other law  
6     to the contrary, beginning July 1, 2008, there shall be a  
7     smoking establishment license fee for each holder of a  
8     restaurant, dispensers', club, or cabaret license if the  
9     establishment is a licensed smoking establishment as provided in  
10    section 281-31. The smoking establishment license fee shall be  
11    collected by the liquor commission for each county, and shall be  
12    in addition to other fees required under this chapter. The fee  
13    shall be as follows:

14           (1) \$1,000 for the following establishments in which  
15                 smoking is permitted: class 5 category A standard  
16                 bars, class 2 category C restaurants, and class 6  
17                 clubs;



1           (2) \$2,000 for the following establishments in which  
2           smoking is permitted: class 5 category C and category  
3           D licenses; and

4           (3) \$3,000 for the following establishments in which  
5           smoking is permitted: class 11 cabarets and class 5  
6           category B premises.

7 Fifty percent of the smoking establishment license fees  
8 collected by each commission shall be deposited into the organ  
9 and tissue donation special fund established under section 327-  
10 5.6. Fifty percent of the smoking establishment license fees  
11 collected by each commission shall be deposited into the Hawaii  
12 tobacco prevention and control trust fund established under  
13 section 328L-5. Each commission may retain a portion, not to  
14 exceed ten per cent, of every smoking establishment license fee  
15 collected that directly relates to actual costs and expenses of  
16 operation and administration of the commission as set forth in  
17 this chapter."

18           SECTION 2. Chapter 328J, Hawaii Revised Statutes, is  
19 amended by adding two new sections to be appropriately  
20 designated and to read as follows:

21           "§328J-A Smoking establishment employees; smoke hazard  
22 acknowledgment form. All holders of a restaurant, dispensers',



1 club, or cabaret license under which smoking is permitted as  
2 provided in section 281-31 are required to inform all employees  
3 and prospective employees of the hazards of tobacco smoke. The  
4 liquor commission for each county shall proscribe forms that  
5 each smoking establishment license holder and each employee of a  
6 smoking establishment license holder must sign to acknowledge  
7 that the employee has been informed of the hazards of working in  
8 a smoking establishment. Forms required under this section  
9 shall be filed with the appropriate liquor commission.

10 §328J-B Smoking establishment signs. Notwithstanding any  
11 other provision of this chapter, all holders of a restaurant,  
12 dispensers', club, or cabaret license under which smoking is  
13 permitted as provided in section 281-31 shall erect a sign no  
14 smaller than eleven inches by seventeen inches in dimension,  
15 which shall consist of block lettering at least one inch high,  
16 with the exact design to be approved by the Hawaii Bar Owners  
17 Association, and which shall state as follows: THIS IS A SMOKER  
18 FRIENDLY BUSINESS . . . ENTER AT YOUR OWN RISK. All signs  
19 required under this section shall be attached to the door of the  
20 entrance of every smoking establishment in a clear and  
21 conspicuous manner at all times."



1 SECTION 3. 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' license. A license for the  
6 manufacture of liquor shall authorize the licensee to  
7 manufacture the liquor therein specified and to sell it at  
8 wholesale in original packages to any person who holds a license  
9 to resell it and to sell draught beer or wine manufactured from  
10 grapes or other fruits grown in the State in any quantity to any  
11 person for private use and consumption. Under this license, no  
12 liquor shall be consumed on the premises except as authorized by  
13 the commission. Of this class, there shall be the following  
14 kinds:

- 15 (1) Beer;
- 16 (2) Wine;
- 17 (3) Alcohol; and
- 18 (4) Other specified liquor.

19 It shall be unlawful for any holder of a manufacturer's  
20 license to have any interest whatsoever in the license or  
21 licensed premises of any other licensee. This subsection shall  
22 not prevent the holder of a beer class manufacturer's license



1 under this chapter or under the law of another jurisdiction from  
2 maintaining any interest in the license or licensed premises of  
3 a beer and wine class wholesale dealer licensee under this  
4 chapter whose wholesaling is limited to beer, other than direct  
5 ownership of a beer and wine class wholesale dealer's license,  
6 or direct ownership of a partnership share, one or more shares  
7 of stock, or similar proprietary stake in the holder of a beer  
8 and wine class wholesale dealer's license.

9 (c) Class 2. Restaurant license.

10 (1) A license under this class shall authorize the  
11 licensee to sell liquors specified in this subsection  
12 for consumption on the premises; provided that a  
13 restaurant licensee, with commission approval, may  
14 provide off-premises catering; provided further that  
15 the catering activity shall be directly related to the  
16 licensee's operation as a restaurant. A licensee  
17 under this class shall be issued a license according  
18 to the category of establishment the licensee owns or  
19 operates. The categories of establishment shall be as  
20 follows:

21 (A) A standard bar; [~~or~~]



1 (B) Premises in which live entertainment or recorded  
2 music is provided. Facilities for dancing by the  
3 patrons may be permitted as provided by  
4 commission rules [-]; or

5 (C) Establishments as described in (A) or (B) which  
6 include an outside area in which smoking is  
7 permitted pursuant to commission rules. Smoke  
8 from these outside areas shall not infiltrate  
9 into areas that are not designated for smoking.  
10 A licensee under this category shall be issued a  
11 license according to the category of  
12 establishment the licensee owns or operates. A  
13 smoking establishment license shall be granted  
14 upon written request and remittance of the  
15 smoking establishment license fee by the owner.

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

21 (3) Notwithstanding subsection (2), a smoking  
22 establishment license may be canceled at the owner's

1           request at any time, and the owner shall be issued a  
 2           new license under category A or B under which smoking  
 3           is not permitted. The owner shall not have to reapply  
 4           for a license, and any subsequent fees for a smoking  
 5           establishment license shall be forfeit.

6           ~~(3)~~ (4) For each category of class 2 licenses, there  
 7           shall be the following kinds:

- 8           (A) General (includes all liquors except alcohol);
- 9           (B) Beer and wine; and
- 10          (C) Beer.

11 Any licensee holding a different class of license on June 19,  
 12 1990, and who would otherwise come within this class of license  
 13 shall not be required to apply for a new license.

14           (d) Class 3. Wholesale dealers' license. A license for  
 15 the sale of liquors at wholesale shall authorize the licensee to  
 16 import and sell only to licensees or to others who are by law  
 17 authorized to resell but are not by law required to hold a  
 18 license, the liquors therein specified in quantities not less  
 19 than five gallons at one time if sold from or in bulk containers  
 20 or not less than one gallon if bottled goods; provided that  
 21 samples of liquor may be sold back to the manufacturer. The  
 22 license may authorize the licensee to sell draught beer in



1 quantities not less than five gallons at one time to any person  
2 for private use and consumption if the licensee files an  
3 affidavit with the commission that there is not a class 4 retail  
4 dealers licensee available to sell the wholesalers brand of  
5 draught beer. Under the license, no liquor shall be consumed on  
6 the premises except as authorized by the commission. Of this  
7 class, there shall be the following kinds:

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

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





1 passenger services between any two or more airports in the State  
2 for use on aircraft, or aviation companies engaged in  
3 transpacific flight operations for use on aircraft outside the  
4 jurisdiction of the State.

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

- 11 (1) General (includes all liquors except alcohol);
- 12 (2) Beer and wine; and
- 13 (3) Alcohol.

14 (f) Class 5. Dispensers' license.

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

22 (A) A standard bar;



- 1 (B) Premises in which a person performs or entertains  
2 unclothed or in attire restricted to use by  
3 entertainers pursuant to commission rules;
- 4 (C) Premises in which live entertainment or recorded  
5 music is provided; provided that facilities for  
6 dancing by the patrons may be permitted as  
7 provided by commission rules; [~~or~~]
- 8 (D) Premises in which employees or entertainers are  
9 compensated to sit with patrons, regardless of  
10 whether the employees or entertainers are  
11 consuming nonalcoholic beverages while in the  
12 company of the patrons pursuant to commission  
13 rules[~~or~~]; or
- 14 (E) Establishments as described in (A), (B), (C), or  
15 (D) in which smoking is permitted pursuant to  
16 commission rules. A license under this category  
17 shall authorize the licensee to sell liquor for  
18 consumption in enclosed premises in which  
19 smoking, as defined in section 328J-1, is  
20 allowed. Smoke from these premises shall not  
21 infiltrate into areas that are not designated for  
22 smoking. A licensee under this category shall be



1           issued a license according to the category of  
 2           establishment the licensee owns or operates. A  
 3           smoking establishment license shall be granted  
 4           upon written request and remittance of the  
 5           smoking establishment license fee by the owner.

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

11          (3) Notwithstanding subsection (2), a smoking  
 12          establishment license may be canceled at the owner's  
 13          request at any time, and the owner shall be issued a  
 14          new license under category A, B, C, or D under which  
 15          smoking is not permitted. The owner shall not have to  
 16          reapply for a license, and any subsequent fees for a  
 17          smoking establishment license shall be forfeit.

18          ~~(3)~~ (4) For each category of class 5 licenses, there  
 19          shall be the following kinds:

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



1 (g) Class 6. Club license. A club license shall be  
2 general only (but excluding alcohol) and shall authorize the  
3 licensee to sell liquors to members of the club and to guests of  
4 the club enjoying the privileges of membership, for consumption  
5 only on the premises kept and operated by the club; provided  
6 that the license shall also authorize any club member to keep in  
7 the member's private locker on the premises a reasonable  
8 quantity of liquor, if owned by the member, for the member's own  
9 personal use and not to be sold and that may be consumed only on  
10 the premises.

11  Holders of a club license may provide areas in which  
12  smoking is permitted as provided by commission rules. Smoke  
13  from these areas shall not infiltrate into areas that are not  
14  designated for smoking. The license shall be granted upon  
15  written request and remittance of the smoking establishment  
16  license fee by the owner. A smoking establishment license may  
17  be canceled at the owner's request at any time, and the owner  
18  shall be issued a new club license under which smoking is not  
19  permitted. The owner shall not have to reapply for a license,  
20  and any subsequent fees for a smoking establishment license  
21  shall be forfeit.



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

16           (i) Class 8. Transient vessel license. A general license  
17 may be granted to the owner of any vessel that does not fall  
18 within class 7 for the sale of liquor (other than alcohol) on  
19 board the vessel while in any port of the State. Sales shall be  
20 made only for consumption by passengers and their guests on  
21 board the vessel. The license shall be issuable in each county



1 where the sales are to be made; provided that the application  
2 for the license may be made by any agent representing the owner.

3 (j) Class 9. Tour or cruise vessel license. A general  
4 license may be granted to the owner of any tour or cruise vessel  
5 for the sale of liquor (other than alcohol) on board the vessel  
6 while in the waters of the State; provided that sales be made  
7 only for consumption by passengers on board while the vessel is  
8 in operation outside the port or dock of any island of the  
9 State, unless otherwise approved by the county where the license  
10 has been issued. If the vessel has a home port in the State,  
11 the license shall be issuable in the county wherein the home  
12 port is situated; provided that if the licensee's home port is  
13 not situated in this State, the license shall be issuable in the  
14 city and county of Honolulu. If, on any vessel for which no  
15 license has been obtained under this chapter, any liquor is sold  
16 or served within three miles of the shore of any island of the  
17 State, it shall constitute a violation of this chapter.

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



1 (1) General (includes all liquors except alcohol);

2 (2) Beer and wine; and

3 (3) Beer.

4 Under this license, the liquors therein specified shall be  
5 consumed on the premises.

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

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

20 (2) A cabaret license that, pursuant to rules adopted by  
21 the liquor commission, permits professional



1 entertainment by persons who perform or entertain  
2 unclothed.

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

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

14  Holders of a cabaret license may provide areas in which  
15  smoking is permitted as provided by commission rules. Smoke  
16  from these areas shall not infiltrate into areas that are not  
17  designated for smoking. The license shall be granted upon  
18  written request and remittance of the smoking establishment  
19  license fee by the owner. Notwithstanding any other provision  
20  herein, a smoking establishment license may be canceled at the  
21  owner's request at any time, and the owner shall be issued a new  
22  cabaret license under which smoking is not permitted. The owner





1 shall not have to reapply for a license, and any subsequent fees  
2 for a smoking establishment license shall be forfeit.

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

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

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

17 If the licensee applies for a change of classification  
18 prior to July 30, 1992, the licensee shall not be subject to the  
19 requirements of sections 281-52, 281-54, and 281-57 through  
20 281-59.

21 Any licensee holding a class 12 license on [+]May 1,  
22 2007, [+] and who would otherwise come within this class of



1 license may apply to the liquor commission in which the licensee  
2 is seeking a change in liquor license for a change to a class 15  
3 license; provided that the licensee shall not be subject to the  
4 requirements of section 281-54 and sections 281-57 to 281-60.

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

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

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



1 shall include a written statement signed by the owner or  
2 representative of the property that the function will be subject  
3 to the liquor laws and to inspection by investigators.

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

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

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

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

14 (4) May sell intoxicating liquor, purchased from a class  
15 1, manufacturer licensee, or a class 3, wholesale  
16 dealer's licensee, to consumers for consumption on the  
17 licensee's premises; provided that the premises is  
18 owned and operated by the licensee. The categories of  
19 establishments shall be as follows:

20 (A) A standard bar; or

21 (B) Premises in which live entertainment or recorded  
22 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 class  
16 4 retail licensees when engaging in the retail sale of  
17 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' licensees, class 6 club licensees, class



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

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

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



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

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

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

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



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

3 SECTION 4. Section 327-5.6, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§327-5.6 Organ and tissue education special fund.[+]

6 There is established in the state treasury the [+]organ and  
7 tissue education special fund[+]. Moneys collected under  
8 [~~section~~] sections 286-109.7 and 281- shall be deposited into  
9 the fund. The fund shall be administered and distributed by the  
10 department of health and shall be used exclusively for public  
11 education programs and activities on organ, tissue, and eye  
12 donation."

13 SECTION 5. Section 328J-1, Hawaii Revised Statutes, is  
14 amended by amending the definitions of "Bar" and "Restaurant" to  
15 read as follows:

16 ""Bar" means an establishment that is devoted to the  
17 serving of alcoholic beverages for consumption by guests on the  
18 premises regardless of whether food is served, including but not  
19 limited to taverns, cocktail lounges, and cabarets, including  
20 outdoor areas of bars[-]; provided that establishments with a  
21 smoking establishment license issued under section 281-31 shall  
22 not be included.



1 "Restaurant" means an eating establishment, including but  
2 not limited to coffee shops, cafeterias, sandwich stands, and  
3 private and public school cafeterias, which gives or offers for  
4 sale food to the public, guests, or employees, as well as  
5 kitchens and catering facilities in which food is prepared on  
6 the premises for serving elsewhere[-]; provided that outdoor  
7 areas of establishments operating with a smoking establishment  
8 license issued under section 281-31 shall not be included. The  
9 term "restaurant" includes a bar area within the restaurant and  
10 is limited to the outdoor areas of restaurants."

11 SECTION 6. Section 328J-7, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+] §328J-7 [+] **Exceptions.** Notwithstanding any other  
14 provision of this chapter to the contrary, the following areas  
15 shall be exempt from the provisions of sections 328J-3, 328J-4,  
16 and 328J-5:

- 17 (1) Private residences, except when used as a licensed  
18 child care, adult day care, or health care facility;
- 19 (2) Hotel and motel rooms that are rented to guests and  
20 are designated as smoking rooms; provided that not  
21 more than twenty per cent of rooms rented to guests in  
22 a hotel or motel may be so designated. All smoking





1 rooms on the same floor shall be contiguous and smoke  
2 from these rooms shall not infiltrate into areas where  
3 smoking is prohibited under this chapter. The status  
4 of rooms as smoking or nonsmoking may not be changed,  
5 except to add additional nonsmoking rooms;

6 (3) Retail tobacco stores; provided that smoke from these  
7 places shall not infiltrate into areas where smoking  
8 is prohibited under this chapter;

9 (4) Establishments in which smoking is permitted pursuant  
10 to a smoking establishment license issued under  
11 section 281-31;

12 [~~4~~] (5) Private and semiprivate rooms in nursing homes  
13 and long-term care facilities that are occupied by one  
14 or more persons, all of whom are smokers and have  
15 requested in writing to be placed in a room where  
16 smoking is permitted; provided that smoke from these  
17 places shall not infiltrate into areas where smoking  
18 is prohibited under this chapter;

19 [~~5~~] (6) Outdoor areas of places of employment except  
20 those covered by the provisions of sections 328J-3 and  
21 328J-5;



1       ~~[(6)]~~ (7) All areas covered by this chapter when smoking is  
 2                   part of a production being filmed; and  
 3       ~~[(7)]~~ (8) State correctional facilities."

4       SECTION 7. Section 328L-5, Hawaii Revised Statutes, is  
 5 amended by amending subsection (e) to read as follows:

6       "(e) The assets of the Hawaii tobacco prevention and  
 7 control trust fund shall consist of:

- 8       (1) Moneys appropriated under section 328L-2(b)(3);
- 9       (2) Moneys appropriated to the Hawaii tobacco prevention  
 10           and control trust fund by the state, county, or  
 11           federal government;
- 12       (3) Moneys collected from the smoking establishment  
 13           license fee under section 281- ;
- 14       ~~[(3)]~~ (4) Private contributions of cash or property; and
- 15       ~~[(4)]~~ (5) Income and capital gains earned by the trust  
 16           fund."

17       SECTION 8. Statutory material to be repealed is bracketed  
 18 and stricken. New statutory material is underscored.

19       SECTION 9. This Act shall take effect on July 1, 2008.

20  
 21

INTRODUCED BY:



*[Handwritten signatures and names]*  
 U.S. Hubbard    Francis S. Adams

**Report Title:**

Smoking

**Description:**

Allows smoking in properly licensed establishments. Requires collection of smoking establishment licensing fee with proceeds to go towards organ donation education and tobacco education.

