

JAN 25 2010

A BILL FOR AN ACT

RELATING TO SMOKING.

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

1 SECTION 1. Chapter 328J, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§328J-A Smoking establishment permit; fee. (a)
5 Notwithstanding sections 328J-3, 328J-4, and 328J-14, or any
6 other law to the contrary, beginning July 1, 2010, the
7 department of taxation shall allow for the issuance of smoking
8 establishment permits.

9 (b) There shall be a smoking establishment permit fee for
10 each holder of a dispensers, club, or cabaret license under
11 chapter 281, if the establishment is a permitted smoking
12 establishment. The smoking establishment permit fee shall be
13 collected by the department of taxation, and shall be in
14 addition to any other fees required.

15 (c) The smoking establishment permit fee shall be valid
16 for a fiscal year that corresponds to the established fiscal
17 year of the applicable county liquor commission, and shall not



1 be pro-ratable. Smoking establishment permit fees shall be
2 available only as follows:

3 (1) \$1,000 for class 5 category (1)(A) standard bars and
4 class 6 clubs as specified in section 281-31 in which
5 smoking is permitted;

6 (2) \$2,000 for class 5 category (1)(C) and category (1)(D)
7 premises as specified in section 281-31 in which
8 smoking is permitted; and

9 (3) \$3,000 for class 11 cabarets and class 5 category
10 (1)(B) premises as specified in section 281-31 in
11 which smoking is permitted.

12 (d) The smoking establishment permit fees collected by the
13 department of taxation shall be deposited into the Hawaii organ
14 and tissue education special fund established under section 327-
15 24. The department of taxation may retain a portion, not to
16 exceed ten per cent, of each smoking establishment permit fee
17 collected that is directly related to actual costs and expenses
18 of processing and administration of the smoking establishment
19 permit fee established in this chapter. The department of
20 health shall remit moneys collected under this section and
21 deposited into the Hawaii organ and tissue education special



1 fund to an organ procurement organization in the State on a
2 yearly basis.

3 (e) Notwithstanding any other provision in this section, a
4 smoking establishment permit may be canceled upon the permit
5 holder's written request at any time, and any subsequent fees
6 for a smoking establishment permit shall be forfeited.

7 §328J-B Smoking establishment signs. Notwithstanding any
8 other provision of this chapter, all holders of a smoking
9 establishment permit shall erect a sign no smaller than eight
10 and one-half inches by eleven inches in dimension, which shall
11 consist of block lettering at least one inch high, or the
12 internationally recognized symbol of a green circle encasing a
13 lit cigarette and which shall state as follows: "THIS IS A
14 SMOKER FRIENDLY BUSINESS. SMOKING PERMITTED BY LAW." All signs
15 required under this section shall be posted in and at every
16 entrance of every permitted smoking establishment in a clear and
17 conspicuous manner at all times."

18 SECTION 2. Section 327-24, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§327-24[+] **Hawaii organ and tissue education special**
21 **fund.** There is established in the state treasury the Hawaii
22 organ and tissue education special fund. Moneys collected under



1 ~~[section]~~ sections 286-109.7 and 328J-A shall be deposited into
2 the fund. The fund shall be administered and distributed by the
3 department of health and shall be used exclusively for public
4 education programs and activities on organ, tissue, and eye
5 donation~~[-]~~; provided that moneys collected under section 328J-A
6 by the department of taxation and deposited into the special
7 fund shall be distributed yearly to an organ procurement
8 organization in the State by the department of health."

9 SECTION 3. Section 328J-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "bar" to read as follows:

11 "Bar" means an establishment that is devoted to the serving
12 of alcoholic beverages for consumption by guests on the premises
13 regardless of whether food is served, including but not limited
14 to taverns, cocktail lounges, and cabarets, including outdoor
15 areas of bars~~[-]~~; provided that establishments with a valid
16 smoking establishment permit issued under section 328J-A shall
17 not be included."

18 SECTION 4. Section 328J-7, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§328J-7 Exceptions.** Notwithstanding any other provision
21 of this chapter to the contrary, the following areas shall be



1 exempt from the provisions of sections 328J-3, 328J-4, and
2 328J-5:

- 3 (1) Private residences, except when used as a licensed
4 child care, adult day care, or health care facility;
- 5 (2) Hotel and motel rooms that are rented to guests and
6 are designated as smoking rooms; provided that not
7 more than twenty per cent of rooms rented to guests in
8 a hotel or motel may be so designated. All smoking
9 rooms on the same floor shall be contiguous and smoke
10 from these rooms shall not infiltrate into areas where
11 smoking is prohibited under this chapter. The status
12 of rooms as smoking or nonsmoking may not be changed,
13 except to add additional nonsmoking rooms;
- 14 (3) Retail tobacco stores; provided that smoke from these
15 places shall not infiltrate into areas where smoking
16 is prohibited under this chapter;
- 17 (4) Private and semiprivate rooms in nursing homes and
18 long-term care facilities that are occupied by one or
19 more persons, all of whom are smokers and have
20 requested in writing to be placed in a room where
21 smoking is permitted; provided that smoke from these



1 places shall not infiltrate into areas where smoking
2 is prohibited under this chapter;

3 (5) Outdoor areas of places of employment except those
4 covered by the provisions of sections 328J-3 and
5 328J-5;

6 (6) All areas covered by this chapter when smoking is part
7 of a production being filmed; [and]

8 (7) State correctional facilities; provided that smoking
9 shall only be authorized for employees and volunteers
10 of a correctional facility in an area outside the
11 secure confines of a correctional facility restricted
12 from access by inmates or detainees that has been
13 designated by the warden of a correctional
14 facility[-]; and

15 (8) Establishments possessing a valid smoking
16 establishment permit under section 328J-A."

17 SECTION 5. Section 328J-15, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§328J-15[+] **County ordinances.** (a) Nothing in this
20 chapter shall be construed to supersede or in any manner affect
21 a county smoking ordinance; provided that the ordinance is at
22 least as protective of the rights of nonsmokers as this



1 chapter[-]; provided that no county shall strictly prohibit from
2 operating any establishment with a valid smoking establishment
3 permit pursuant to section 328J-A.

4 (b) Nothing in this chapter shall prohibit a county from
5 enacting ordinances more stringent than this chapter[-]; except
6 that no county shall prohibit from operating any establishment
7 with a valid smoking establishment permit pursuant to section
8 328J-A."

9 SECTION 6. In codifying the new sections added by section
10 1 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 7. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on July 1, 2010.

16

INTRODUCED BY:

V. J. J. J.
by request



Report Title:

Smoking; Smoking Exemption; Organ Donation

Description:

Allows smoking in properly permitted liquor establishments not to include restaurants. Requires collection of smoking establishment permit fee with proceeds to go towards organ donation education.

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

