

JAN 25 2012

A BILL FOR AN ACT

RELATING TO SMOKING.

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

1 SECTION 1. Section 328J-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "open to the public" to
3 read as follows:
4 "Open to the public" means enclosed or partially enclosed
5 areas to which the public is invited or permitted and areas
6 within any building available for use by or accessible to the
7 general public during the normal course of business conducted
8 therein by either private or public entities, including but not
9 limited to [~~bars,~~] educational facilities, financial
10 institutions, health care facilities, hotel and motel lobbies,
11 lanais, laundromats, public transportation facilities, including
12 airport areas from curb to cabin and including all areas within
13 and immediately in front of and adjacent to passenger terminals
14 and pick-up areas, throughout the airport facility, and up to
15 the passenger loading gates of all state airports, reception
16 areas, restaurants, retail food production and marketing
17 establishments, retail service establishments, retail stores,
18 shopping malls, sports arenas, theaters, and waiting rooms, but



1 does not include a private residence unless it is used as a
2 child care, adult day care, or health care facility."

3 SECTION 2. Section 328J-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~§~~328J-3~~§~~] **Prohibition in enclosed or partially**
6 **enclosed places open to the public.** Smoking shall be prohibited
7 in all enclosed or partially enclosed areas open to the public,
8 including but not limited to the following places:

- 9 (1) Airports and public transportation facilities and
10 vehicles, including buses and taxicabs, under the
11 authority of the State or county, and ticket,
12 boarding, and waiting areas of public transit depots,
13 including airports from curb to cabin and including
14 all areas within and immediately in front of and
15 adjacent to passenger terminals and pick-up areas,
16 throughout the airport facility, and up to the
17 passenger loading gates of all state airports;
- 18 (2) Aquariums, galleries, libraries, and museums;
- 19 (3) Areas available to and customarily used by the general
20 public, including but not limited to restrooms,
21 lobbies, reception areas, hallways, and other common
22 areas, in businesses and nonprofit entities patronized



- 1 by the public, including but not limited to
2 professional offices, banks, laundromats, hotels, and
3 motels;
- 4 (4) Bars[+] that do not hold a dispenser or cabaret
5 license under section 281-31 or do not post signs as
6 required under section 328J-9(b);
- 7 (5) Bowling alleys;
- 8 (6) Convention facilities;
- 9 (7) Educational facilities, both public and private;
- 10 (8) Elevators;
- 11 (9) Facilities primarily used for exhibiting a motion
12 picture, stage, drama, lecture, musical recital, or
13 other similar performance, except when part of the
14 performance;
- 15 (10) Health care facilities;
- 16 (11) Hotel and motel lobbies, meeting rooms, and banquet
17 facilities;
- 18 (12) Licensed child care and adult day care facilities;
- 19 (13) Lobbies, hallways, and other common areas in apartment
20 buildings, condominiums, retirement facilities,
21 nursing homes, multifamily dwellings, and other
22 multiple-unit residential facilities;



- 1 (14) Nightclubs[+] that do not hold a dispenser or cabaret
- 2 license under section 281-31 or do not post signs as
- 3 required under section 328J-9(b);
- 4 (15) Polling places;
- 5 (16) Restaurants;
- 6 (17) Retail stores;
- 7 (18) Rooms, chambers, places of meeting or public assembly
- 8 under the control of an agency, board, commission,
- 9 committee or council of the State or county, to the
- 10 extent the place is subject to the jurisdiction of the
- 11 State or county;
- 12 (19) Service lines; and
- 13 (20) Shopping malls."

14 SECTION 3. Section 328J-7, Hawaii Revised Statutes, is

15 amended to read as follows:

16 "**§328J-7 Exceptions.** Notwithstanding any other provision

17 of this chapter to the contrary, the following areas shall be

18 exempt from the provisions of sections 328J-3, 328J-4, and

19 328J-5:

- 20 (1) Private residences, except when used as a licensed
- 21 child care, adult day care, or health care facility;



- 1 (2) Hotel and motel rooms that are rented to guests and
2 are designated as smoking rooms; provided that not
3 more than twenty per cent of rooms rented to guests in
4 a hotel or motel may be so designated. All smoking
5 rooms on the same floor shall be contiguous and smoke
6 from these rooms shall not infiltrate into areas where
7 smoking is prohibited under this chapter. The status
8 of rooms as smoking or nonsmoking may not be changed,
9 except to add additional nonsmoking rooms;
- 10 (3) Retail tobacco stores; provided that smoke from these
11 places shall not infiltrate into areas where smoking
12 is prohibited under this chapter;
- 13 (4) Private and semiprivate rooms in nursing homes and
14 long-term care facilities that are occupied by one or
15 more persons, all of whom are smokers and have
16 requested in writing to be placed in a room where
17 smoking is permitted; provided that smoke from these
18 places shall not infiltrate into areas where smoking
19 is prohibited under this chapter;
- 20 (5) Outdoor areas of places of employment except those
21 covered by the provisions of sections 328J-3 and
22 328J-5;



- 1 (6) All areas covered by this chapter when smoking is part
2 of a production being filmed; [~~and~~]
- 3 (7) State correctional facilities; provided that smoking
4 shall only be authorized for employees and volunteers
5 of a correctional facility in an area outside the
6 secure confines of a correctional facility restricted
7 from access by inmates or detainees that has been
8 designated by the warden of a correctional
9 facility[~~-~~]; and
- 10 (8) Establishments that possess a valid dispenser or
11 cabaret license under section 281-31 and post signs as
12 required under section 328J-9(b)."

13 SECTION 4. Section 328J-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~+~~]**§328J-9**[~~+~~] **Signs.** (a) Clearly legible signs that
16 include the words "Smoking Prohibited by Law" with letters of
17 not less than one inch in height or the international "No
18 Smoking" symbol, consisting of a pictorial representation of a
19 burning cigarette enclosed in a red circle with a red bar across
20 it, shall be clearly and conspicuously posted in and at the
21 entrance to every place open to the public and place of
22 employment where smoking is prohibited by this chapter by the



1 owner, operator, manager, or other person in control of that
2 place.

3 (b) Clearly legible signs that include the words "Smoking
4 Permitted" with letters of not less than one inch in height or
5 the international "Smoking Permitted" symbol, consisting of a
6 pictorial representation of a burning cigarette enclosed in a
7 green circle, shall be clearly and conspicuously posted in and
8 at the entrance to every place open to the public and place of
9 employment that holds a dispenser or cabaret license and elects,
10 through its owner, operator, manager, or other person in control
11 of that place, to allow smoking in all or part of the
12 establishment."

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

15 "[+]§328J-15[+] **County ordinances.** (a) Nothing in this
16 chapter shall be construed to supersede or in any manner affect
17 a county smoking ordinance[~~;~~ ~~provided that the ordinance~~] that
18 is at least as protective of the rights of nonsmokers as this
19 chapter[~~-~~]; provided that no county ordinance shall prohibit or
20 impede smoking in all or part of every area that is exempt,
21 pursuant to section 328J-7, from sections 328J-3, 328J-4, and
22 328J-5.



1 (b) Nothing in this chapter shall prohibit a county from
2 enacting ordinances more stringent than this chapter[-];
3 provided that no county ordinance shall more stringently
4 restrict or prohibit smoking in all or part of every area that
5 is exempt, pursuant to section 328J-7, from sections 328J-3,
6 328J-4, and 328J-5."

7 SECTION 6. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that
9 began before its effective date.

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect upon its approval.

13

INTRODUCED BY:



By Request



S.B. NO. 2635

Report Title:

Smoking; Public Areas; Signage; County Smoking Ordinances

Description:

Exempts dispenser and cabaret licensees from smoking prohibitions under certain conditions, including the posting of signs indicating that smoking is permitted. Specifies that county ordinances shall not more stringently restrict or prohibit smoking in exempt areas.

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

