

SB 868

RELATING TO LIQUOR COMMISSIONS

Requires county liquor commissions that choose to regulate dancing to adopt or amend rules regarding limitations on dancing.

PSM

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Friday, February 20, 2015 2:36 PM
To: PSMTestimony
Cc: traci.villarosa@mauicounty.gov
Subject: Submitted testimony for SB868 on Feb 24, 2015 13:15PM

SB868

Submitted on: 2/20/2015

Testimony for PSM on Feb 24, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Traci Fujita Villarosa, Esq.	County of Maui, Department of Liquor Control	Oppose	No

Comments: **The County of Maui, Department of Liquor Control supports the intent of this bill but opposes it in its current form. We propose an amendment which clarifies the intent of this bill as set forth in both the description of the bill as well as the implementation language in section 2 of the bill.**

A BILL FOR AN ACT

RELATING TO LIQUOR COMMISSIONS.

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

Section 1. Section 281-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The liquor commission, within its own county, shall have the sole jurisdiction, power, authority, and discretion, subject only to this chapter:

- (1) To grant, refuse, suspend, and revoke any [~~licenses~~] license for the manufacture, importation, and sale of liquors;
- (2) To take appropriate action against a person who, directly or indirectly, manufactures, sells, or purchases any liquor without being authorized pursuant to this chapter; provided that in counties which have established by charter a liquor control adjudication board, the board shall have the jurisdiction, power, authority, and discretion to hear and determine administrative complaints of the director regarding violations of the liquor laws of the State or of the rules of the liquor commission,

and impose penalties for violations thereof as may be provided by law;

- (3) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education; provided that any educational program shall be limited to the commission staff, commissioners, liquor control adjudication board members, and licensees and their employees, and shall be financed through the money collected from the assessment of fines against licensees; provided that fine moneys, not to exceed [~~ten~~] 10 per cent a year of fines accumulated, may be used to fund public [~~liquor-related~~] liquor-related educational or enforcement programs;
- (4) From time to time to make, amend, and repeal [~~such~~] rules, not inconsistent with this chapter, as in the judgment of the commission [~~seem~~] are deemed appropriate for carrying out this chapter and for the efficient administration thereof, and the proper conduct of the business of all licensees, including every matter or thing required to be done or which may be done with the approval or consent [~~of~~], by order [~~of~~], under the direction or supervision of, or as prescribed by the commission; which rules, when adopted as

provided in chapter 91 shall have the force and effect of law;

- (5) Subject to chapter 76, to appoint and remove an administrator, who may also be appointed an investigator and who shall be responsible for the operations and activities of the staff. The administrator may hire and remove hearing officers, investigators, and clerical or other assistants as its business may from time or time require, [~~to~~] prescribe their duties [~~]~~ and fix their compensation [~~]~~, and engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every investigator, within the scope of the investigator's duties, shall have the powers of a police officer;
- (6) To limit the number of licenses of any class or kind within the county, or the number of licenses of any class or kind to do business in any given locality, when in the judgment of the commission such limitations are in the public interest;
- (7) To prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including

a requirement of any indemnity deemed appropriate to the case;

- (8) To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which shall be uniform throughout the county as to each class respectively;
- (9) To prescribe all forms to be used for the purposes of this chapter not otherwise provided for in this chapter, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;
- (10) To investigate violations of this chapter, chapter 244D and, notwithstanding any law to the contrary, violations of the applicable department of health's allowable noise levels, through its investigators or otherwise, to include covert operations, and to report violations to the prosecuting officer for the prosecution and, where appropriate, the director of taxation to hear and determine complaints against any licensee; provided that a liquor commission in a county with a population of seven hundred thousand or greater may establish a pilot program that employs both a dBA and a dBC sound level measurement system for the purpose of community

noise control; provided further that the dBC sound level measurements shall be in accordance with the following maximum permissible sound levels in dBC:

- (A) Zoning districts that include all areas equivalent to lands zoned residential, conservation, preservation, public space, open space, or similar type shall have a maximum dBC sound level of fifty-five from 7:00 a.m. to 10:00 p.m. and a maximum dBC level of forty-five from 10:00 p.m. to 7:00 a.m.;
- (B) Zoning districts that include all areas equivalent to lands zoned for multi-family dwellings, apartment, business, commercial, hotel, resort, or similar type shall have a maximum dBC sound level of sixty from 7:00 a.m. to 10:00 p.m. and a maximum dBC level of fifty from 10:00 p.m. to 7:00 a.m.; and
- (C) Zoning districts that include all areas equivalent to lands zoned in agriculture, country, industrial, or similar type shall have a maximum dBC sound level of seventy from 7:00 a.m. to 10:00 p.m. and a maximum dBC level of seventy from 10:00 p.m. to 7:00 a.m.;

(11) To prescribe, by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of licenses;

(12) To prescribe, by rule, the term of any license or solicitor's and representative's permit authorized by this chapter, the annual or prorated amount, the manner of payment of fees for the licenses and permits, and the amount of filing fees; ~~and~~

(13) To prescribe, by rule, limitations on licensed premises regarding dancing therein if the liquor commission chooses to regulate dancing; and

~~[(13)]~~ (14) To prescribe, by rule, the circumstances and penalty for the unauthorized manufacturing or selling of any liquor."

SECTION 2. No later than October 1, 2015, each county liquor commission that chooses to regulate dancing shall adopt or amend rules regarding dancing in premises licensed to sell liquor for consumption thereon. The rules of each county liquor commission that chooses to regulate dancing shall include a definition of the term "dancing".

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

SECTION 4. This Act shall take effect upon its approval; provided that the amendments made to section 281-17(a), Hawaii Revised Statutes, in section 1 of this Act

shall not be repealed on May 5, 2017, pursuant to section 4
of Act 297, Session Laws of Hawaii 2012.

Bernard P. Carvalho, Jr.
Mayor

Nadine K. Nakamura
Managing Director



Gerald T. Rapozo
Director

DEPARTMENT OF LIQUOR CONTROL
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February 23, 2014

Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair
Committee on Public Safety, Intergovernmental and Military Affairs

Hearing: Tuesday, February 24, 2015
1:15 p.m.; Room 229

Position: Support SB 868 Relating to Liquor Commissions

Dear Chair Espero, Vice Chair Baker and Members:

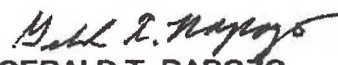
The Department of Liquor Control, County of Kauai, supports Senate Bill 868 relating to Liquor Commissions.

The inclusion of subsection (13) "to prescribe, by rule, limitations on licensed premises regarding dancing therein if the liquor commission chooses to regulate dancing;" will give each local liquor commission the opportunity to decide whether to pursue rule changes to regulate dancing in liquor licensed premises.

The Department of Liquor Control, County of Kauai urges you to support Senate Bill 868, Relating to Liquor Commissions.

Thank-you for the opportunity to testify on this matter.

Respectfully Submitted,


GERALD T. RAPOZO
Director