

JAN 20 2016

A BILL FOR AN ACT

RELATING TO LIQUOR.

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 part to be appropriately designated and
3 to read as follows:

4 "PART . ALCOHOL IMPACT AREAS

5 §281-A Alcohol impact area designation; recognition
6 criteria. (a) An alcohol impact area may be designated by a
7 county ordinance pursuant to section 46-1.5(28). Following the
8 designation as an alcohol impact area the respective county
9 shall make a good faith effort for at least six months to
10 mitigate the effects of chronic public inebriation before a
11 county liquor commission or liquor adjudication board may
12 recognize an alcohol impact area and before any unique review
13 process, restriction, or condition may be applied to the area.

14 (b) Following the minimum six-month mitigation period, a
15 designated alcohol impact area may be recognized by a county
16 liquor commission or liquor adjudication board if the following
17 criteria are met:



- (1) The alcohol impact area's proposed geographic boundaries shall not include the entire county and shall be described in a way that makes it clear which liquor licensees are in the proposed impact area;
- (2) Proposed boundaries of the alcohol impact area are clearly understandable to the public;
- (3) The ordinance details the rationale behind the proposed boundaries in the alcohol impact area;
- (4) A pervasive pattern of public intoxication or public consumption of liquor in the proposed alcohol impact area is evidenced by police reports, emergency medical response data, sanitation reports, public health records, community group petitions, or other similar records;
- (5) Findings demonstrate a need for an alcohol impact area due to chronic public inebriation or illegal activity associated with off-premises liquor sales or consumption in the proposed area, threatening the welfare, health, peace, or safety of an alcohol impact area's visitors or occupants;



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(6) Documentation demonstrates a good faith effort to control the problem;

(7) Voluntary options offered to remedy the problem of chronic public inebriation or illegal activity associated with off-premises liquor sales or consumption in the proposed area, including why these voluntary measures failed to sufficiently resolve the problem, have been documented;

(8) A list of restrictions or conditions, with an explanation as to how the restrictions or conditions will reduce chronic public inebriation or illegal activity associated with off-premises liquor sales, is submitted.

§281-B Alcohol impact area restrictions or conditions.

(a) Within an alcohol impact area that has been recognized, a county liquor commission or liquor control adjudication board may impose by resolution, restrictions or conditions on any applicants for new or renewal liquor licenses to operate within the alcohol impact area that may include but are not limited to:

(1) Business hours of operation for off-premises liquor sales;



(2) Off-premises sale of certain liquor products within an alcohol impact area; or

(3) Container sizes available for off-premises liquor sales.

(b) A product restriction shall originate from a county's law enforcement agency or public health authority. Restrictions relating to business operations shall originate from a county's law enforcement agency or governing body.

(c) Product restrictions shall be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include but are not limited to: police, fire, or emergency medical response statistics; photographic evidence; law enforcement, citizen, or medical provider testimony; testimony by current or former chronic public inebriants; litter pickup; or other statistical evidence that a reasonable person may rely upon to determine whether a product is associated with chronic public inebriation or illegal activity.

(d) Beer and wine products may be restricted only if they have a minimum alcohol content of 5.7 per cent by volume and 12 per cent by volume, respectively.



1 (e) A product restriction or modification shall take
2 effect no less than thirty days after the county liquor
3 commission or liquor adjudication board approves the restriction
4 through its formal rulemaking procedure.

5 (f) Following approval by a county liquor commission or
6 liquor control adjudication board, a county may restrict a
7 product that is materially similar to a product already
8 restricted in its own alcohol impact area or restricted in
9 another recognized alcohol impact area if the product is
10 materially similar to a product already restricted in its own
11 alcohol impact area. A county shall demonstrate to the
12 respective county liquor commission or liquor control
13 adjudication board, in writing, the material similarities and
14 the need for product inclusion.

15 (g) A county may propose the removal of a restriction,
16 condition, or product from its alcohol impact area; provided
17 that the county demonstrates the reason for removal to the
18 respective county liquor commission or liquor control
19 adjudication board in writing.

20 §281-C Alcohol impact area notification; implementation
21 and duration; modification. (a) Once an alcohol impact area



1 has been recognized, a county liquor commission or liquor
2 control adjudication board shall notify, in a timely manner, the
3 following:

4 (1) Appropriate liquor distributors of any product
5 restrictions; and

6 (2) All off-premises sales licensees in an alcohol impact
7 area whenever a county liquor commission or liquor
8 control adjudication board recognizes, or recognizes
9 changes to, an alcohol impact area.

10 (b) Recognition of an alcohol impact area shall take
11 effect on the day that the county liquor commission or liquor
12 adjudication board passes a resolution to recognize an alcohol
13 impact area. Recognition shall remain in effect until:

14 (1) A county repeals the enabling ordinance that
15 designates an alcohol impact area;

16 (2) A county requests that the county liquor commission or
17 liquor adjudication board revoke its recognition of an
18 alcohol impact area;

19 (3) A county liquor commission or liquor adjudication
20 board repeals its recognition of an alcohol impact



1 area on its own initiative and following a public
2 hearing; or

3 (4) A county fails to comply with the reporting
4 requirements of section 281-E.

5 (c) A county may petition a county liquor commission or
6 liquor adjudication board to modify an alcohol impact area's
7 geographic boundaries or an existing restriction or condition
8 and the commission or board may agree to the modification if
9 supporting documentation demonstrates the need for modification.

10 §281-D Alcohol impact area and liquor license application
11 or renewal. (a) When a county liquor commission or liquor
12 control adjudication board receives an application for a new
13 liquor license that includes an off-premises sales privilege in
14 an alcohol impact area, the respective county shall have sixty
15 days to comment upon the application. The county:

16 (1) May request an extension of the sixty-day comment
17 period when unusual circumstances require additional
18 time for comment; and

19 (2) Shall notify an applicant when the county requests an
20 extension to the sixty-day comment period.



(b) When a county liquor commission or liquor control adjudication board receives an application for a liquor license renewal that includes an off-premises sales privilege, the respective county shall be notified at least ninety days before the current license expires and have ninety days to comment upon the application. In renewal applications involving a licensee, a licensed business, or a licensed location with a documented history of noncompliance or illegal activity, the county:

(1) May request an extension of the ninety-day comment period when unusual circumstances require additional time for comment; and

(2) Shall notify a licensee when the county requests an extension to the ninety-day comment period.

§281-E Alcohol impact area report and assessment;
recognized alcohol impact area revocation. (a) No later than sixty days following each anniversary of a county liquor commission or liquor control adjudication board's recognition of an alcohol impact area, a county shall submit an annual report to the respective county liquor commission or liquor control adjudication board that demonstrates the effectiveness of an alcohol impact area's restrictions or conditions.



(b) A county liquor commission or liquor control adjudication board shall assess an alcohol impact area once every five years. Within ten days after receiving a county's annual report, a county liquor commission or liquor control adjudication board shall notify affected parties of the upcoming assessment. An assessment shall include:

- (1) Analysis of comments or petitions submitted by affected parties;
- (2) Analysis of each annual report submitted during a five-year period; and
- (3) Modifications that a county shall make to an alcohol impact area or the reasons for revoking recognition of an alcohol impact area.

(c) Within twenty days of receiving a county liquor commission or liquor control adjudication board's notification of an upcoming assessment, an affected party may petition the county liquor commission or liquor control adjudication board to discontinue its recognition of an alcohol impact area by submitting findings that:

- (1) Demonstrate how chronic public inebriation or illegal activity associated with liquor sales or consumption



1 within a proposed alcohol impact area does not or no
2 longer contributes to the deterioration of the general
3 quality of life within an alcohol impact area or does
4 not threaten the welfare, health, peace, or safety of
5 an alcohol impact area's visitors or occupants;

6 (2) Demonstrate the absence of a pervasive pattern of
7 public intoxication or public consumption of liquor as
8 documented in crime statistics, police reports,
9 emergency medical response data, detoxification
10 reports, sanitation reports, public health records, or
11 similar records; and

12 (3) Demonstrate how the absence of restrictions or
13 conditions will reduce chronic public inebriation or
14 illegal activity associated with off-premises sales or
15 liquor consumption.

16 An affected party may request one twenty-day extension if the
17 party provides sufficient reason as to why the party is unable
18 to meet the initial petition deadline, and a county liquor
19 commission or liquor control adjudication board shall complete
20 an assessment no later than sixty days following the close of
21 the final comment or petition period."



SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is amended to read as follows:

"§46-1.5 General powers and limitation of the counties.

Subject to general law, each county shall have the following powers and shall be subject to the following liabilities and limitations:

- (1) Each county shall have the power to frame and adopt a charter for its own self-government that shall establish the county executive, administrative, and legislative structure and organization, including but not limited to the method of appointment or election of officials, their duties, responsibilities, and compensation, and the terms of their office;
- (2) Each county shall have the power to provide for and regulate the marking and lighting of all buildings and other structures that may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health, and property;
- (3) Each county shall have the power to enforce all claims on behalf of the county and approve all lawful claims



1 against the county, but shall be prohibited from
2 entering into, granting, or making in any manner any
3 contract, authorization, allowance payment, or
4 liability contrary to the provisions of any county
5 charter or general law;

6 (4) Each county shall have the power to make contracts and
7 to do all things necessary and proper to carry into
8 execution all powers vested in the county or any
9 county officer;

10 (5) Each county shall have the power to:

11 (A) Maintain channels, whether natural or artificial,
12 including their exits to the ocean, in suitable
13 condition to carry off storm waters;

14 (B) Remove from the channels, and from the shores and
15 beaches, any debris that is likely to create an
16 unsanitary condition or become a public nuisance;
17 provided that, to the extent any of the foregoing
18 work is a private responsibility, the
19 responsibility may be enforced by the county in
20 lieu of the work being done at public expense;



(C) Construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded;

(D) Enact zoning ordinances providing that lands deemed subject to seasonable, periodic, or occasional flooding shall not be used for residence or other purposes in a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (chapter 1025, Public Law 1016); and

(E) Establish and charge user fees to create and maintain any stormwater management system or infrastructure;

(6) Each county shall have the power to exercise the power of condemnation by eminent domain when it is in the public interest to do so;



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- 1 (7) Each county shall have the power to exercise
2 regulatory powers over business activity as are
3 assigned to them by chapter 445 or other general law;
- 4 (8) Each county shall have the power to fix the fees and
5 charges for all official services not otherwise
6 provided for;
- 7 (9) Each county shall have the power to provide by
8 ordinance assessments for the improvement or
9 maintenance of districts within the county;
- 10 (10) Except as otherwise provided, no county shall have the
11 power to give or loan credit to, or in aid of, any
12 person or corporation, directly or indirectly, except
13 for a public purpose;
- 14 (11) Where not within the jurisdiction of the public
15 utilities commission, each county shall have the power
16 to regulate by ordinance the operation of motor
17 vehicle common carriers transporting passengers within
18 the county and adopt and amend rules the county deems
19 necessary for the public convenience and necessity;
- 20 (12) Each county shall have the power to enact and enforce
21 ordinances necessary to prevent or summarily remove



1 public nuisances and to compel the clearing or removal
2 of any public nuisance, refuse, and uncultivated
3 undergrowth from streets, sidewalks, public places,
4 and unoccupied lots. In connection with these powers,
5 each county may impose and enforce liens upon the
6 property for the cost to the county of removing and
7 completing the necessary work where the property
8 owners fail, after reasonable notice, to comply with
9 the ordinances. The authority provided by this
10 paragraph shall not be self-executing, but shall
11 become fully effective within a county only upon the
12 enactment or adoption by the county of appropriate and
13 particular laws, ordinances, or rules defining "public
14 nuisances" with respect to each county's respective
15 circumstances. The counties shall provide the
16 property owner with the opportunity to contest the
17 summary action and to recover the owner's property;

18 (13) Each county shall have the power to enact ordinances
19 deemed necessary to protect health, life, and
20 property, and to preserve the order and security of
21 the county and its inhabitants on any subject or



1 matter not inconsistent with, or tending to defeat,
2 the intent of any state statute where the statute does
3 not disclose an express or implied intent that the
4 statute shall be exclusive or uniform throughout the
5 State;

6 (14) Each county shall have the power to:

7 (A) Make and enforce within the limits of the county
8 all necessary ordinances covering all:

9 (i) Local police matters;

10 (ii) Matters of sanitation;

11 (iii) Matters of inspection of buildings;

12 (iv) Matters of condemnation of unsafe

13 structures, plumbing, sewers, dairies, milk,
14 fish, and morgues; and

15 (v) Matters of the collection and disposition of
16 rubbish and garbage;

17 (B) Provide exemptions for homeless facilities and
18 any other program for the homeless authorized by
19 part XVII of chapter 346, for all matters under
20 this paragraph;



1 (C) Appoint county physicians and sanitary and other
2 inspectors as necessary to carry into effect
3 ordinances made under this paragraph, who shall
4 have the same power as given by law to agents of
5 the department of health, subject only to
6 limitations placed on them by the terms and
7 conditions of their appointments; and

8 (D) Fix a penalty for the violation of any ordinance,
9 which penalty may be a misdemeanor, petty
10 misdemeanor, or violation as defined by general
11 law;

12 (15) Each county shall have the power to provide public
13 pounds; to regulate the impounding of stray animals
14 and fowl, and their disposition; and to provide for
15 the appointment, powers, duties, and fees of animal
16 control officers;

17 (16) Each county shall have the power to purchase and
18 otherwise acquire, lease, and hold real and personal
19 property within the defined boundaries of the county
20 and to dispose of the real and personal property as



1 the interests of the inhabitants of the county may
2 require, except that:

3 (A) Any property held for school purposes may not be
4 disposed of without the consent of the
5 superintendent of education;

6 (B) No property bordering the ocean shall be sold or
7 otherwise disposed of; and

8 (C) All proceeds from the sale of park lands shall be
9 expended only for the acquisition of property for
10 park or recreational purposes;

11 (17) Each county shall have the power to provide by charter
12 for the prosecution of all offenses and to prosecute
13 for offenses against the laws of the State under the
14 authority of the attorney general of the State;

15 (18) Each county shall have the power to make
16 appropriations in amounts deemed appropriate from any
17 moneys in the treasury, for the purpose of:

18 (A) Community promotion and public celebrations;

19 (B) The entertainment of distinguished persons as may
20 from time to time visit the county;



1 (C) The entertainment of other distinguished persons,
2 as well as, public officials when deemed to be in
3 the best interest of the community; and

4 (D) The rendering of civic tribute to individuals
5 who, by virtue of their accomplishments and
6 community service, merit civic commendations,
7 recognition, or remembrance;

8 (19) Each county shall have the power to:

9 (A) Construct, purchase, take on lease, lease,
10 sublease, or in any other manner acquire, manage,
11 maintain, or dispose of buildings for county
12 purposes, sewers, sewer systems, pumping
13 stations, waterworks, including reservoirs,
14 wells, pipelines, and other conduits for
15 distributing water to the public, lighting
16 plants, and apparatus and appliances for lighting
17 streets and public buildings, and manage,
18 regulate, and control the same;

19 (B) Regulate and control the location and quality of
20 all appliances necessary to the furnishing of



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- 1 water, heat, light, power, telephone, and
2 telecommunications service to the county;
- 3 (C) Acquire, regulate, and control any and all
4 appliances for the sprinkling and cleaning of the
5 streets and the public ways, and for flushing the
6 sewers; and
- 7 (D) Open, close, construct, or maintain county
8 highways or charge toll on county highways;
9 provided that all revenues received from a toll
10 charge shall be used for the construction or
11 maintenance of county highways;
- 12 (20) Each county shall have the power to regulate the
13 renting, subletting, and rental conditions of property
14 for places of abode by ordinance;
- 15 (21) Unless otherwise provided by law, each county shall
16 have the power to establish by ordinance the order of
17 succession of county officials in the event of a
18 military or civil disaster;
- 19 (22) Each county shall have the power to sue and be sued in
20 its corporate name;



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1 (23) Each county shall have the power to establish and
2 maintain waterworks and sewer works; to collect rates
3 for water supplied to consumers and for the use of
4 sewers; to install water meters whenever deemed
5 expedient; provided that owners of premises having
6 vested water rights under existing laws appurtenant to
7 the premises shall not be charged for the installation
8 or use of the water meters on the premises; to take
9 over from the State existing waterworks systems,
10 including water rights, pipelines, and other
11 appurtenances belonging thereto, and sewer systems,
12 and to enlarge, develop, and improve the same;

13 (24) (A) Each county may impose civil fines, in addition
14 to criminal penalties, for any violation of
15 county ordinances or rules after reasonable
16 notice and requests to correct or cease the
17 violation have been made upon the violator. Any
18 administratively imposed civil fine shall not be
19 collected until after an opportunity for a
20 hearing under chapter 91. Any appeal shall be
21 filed within thirty days from the date of the



1 final written decision. These proceedings shall
2 not be a prerequisite for any civil fine or
3 injunctive relief ordered by the circuit court;
4 (B) Each county by ordinance may provide for the
5 addition of any unpaid civil fines, ordered by
6 any court of competent jurisdiction, to any
7 taxes, fees, or charges, with the exception of
8 fees or charges for water for residential use and
9 sewer charges, collected by the county. Each
10 county by ordinance may also provide for the
11 addition of any unpaid administratively imposed
12 civil fines, which remain due after all judicial
13 review rights under section 91-14 are exhausted,
14 to any taxes, fees, or charges, with the
15 exception of water for residential use and sewer
16 charges, collected by the county. The ordinance
17 shall specify the administrative procedures for
18 the addition of the unpaid civil fines to the
19 eligible taxes, fees, or charges and may require
20 hearings or other proceedings. After addition of
21 the unpaid civil fines to the taxes, fees, or



1 charges, the unpaid civil fines shall not become
2 a part of any taxes, fees, or charges. The
3 county by ordinance may condition the issuance or
4 renewal of a license, approval, or permit for
5 which a fee or charge is assessed, except for
6 water for residential use and sewer charges, on
7 payment of the unpaid civil fines. Upon
8 recordation of a notice of unpaid civil fines in
9 the bureau of conveyances, the amount of the
10 civil fines, including any increase in the amount
11 of the fine which the county may assess, shall
12 constitute a lien upon all real property or
13 rights to real property belonging to any person
14 liable for the unpaid civil fines. The lien in
15 favor of the county shall be subordinate to any
16 lien in favor of any person recorded or
17 registered prior to the recordation of the notice
18 of unpaid civil fines and senior to any lien
19 recorded or registered after the recordation of
20 the notice. The lien shall continue until the
21 unpaid civil fines are paid in full or until a



1 certificate of release or partial release of the
2 lien, prepared by the county at the owner's
3 expense, is recorded. The notice of unpaid civil
4 fines shall state the amount of the fine as of
5 the date of the notice and maximum permissible
6 daily increase of the fine. The county shall not
7 be required to include a social security number,
8 state general excise taxpayer identification
9 number, or federal employer identification number
10 on the notice. Recordation of the notice in the
11 bureau of conveyances shall be deemed, at such
12 time, for all purposes and without any further
13 action, to procure a lien on land registered in
14 land court under chapter 501. After the unpaid
15 civil fines are added to the taxes, fees, or
16 charges as specified by county ordinance, the
17 unpaid civil fines shall be deemed immediately
18 due, owing, and delinquent and may be collected
19 in any lawful manner. The procedure for
20 collection of unpaid civil fines authorized in
21 this paragraph shall be in addition to any other



1 procedures for collection available to the State
2 and county by law or rules of the courts;
3 (C) Each county may impose civil fines upon any
4 person who places graffiti on any real or
5 personal property owned, managed, or maintained
6 by the county. The fine may be up to \$1,000 or
7 may be equal to the actual cost of having the
8 damaged property repaired or replaced. The
9 parent or guardian having custody of a minor who
10 places graffiti on any real or personal property
11 owned, managed, or maintained by the county shall
12 be jointly and severally liable with the minor
13 for any civil fines imposed hereunder. Any such
14 fine may be administratively imposed after an
15 opportunity for a hearing under chapter 91, but
16 such a proceeding shall not be a prerequisite for
17 any civil fine ordered by any court. As used in
18 this subparagraph, "graffiti" means any
19 unauthorized drawing, inscription, figure, or
20 mark of any type intentionally created by paint,
21 ink, chalk, dye, or similar substances;



1 (D) At the completion of an appeal in which the
2 county's enforcement action is affirmed and upon
3 correction of the violation if requested by the
4 violator, the case shall be reviewed by the
5 county agency that imposed the civil fines to
6 determine the appropriateness of the amount of
7 the civil fines that accrued while the appeal
8 proceedings were pending. In its review of the
9 amount of the accrued fines, the county agency
10 may consider:

- 11 (i) The nature and egregiousness of the
12 violation;
- 13 (ii) The duration of the violation;
- 14 (iii) The number of recurring and other similar
15 violations;
- 16 (iv) Any effort taken by the violator to correct
17 the violation;
- 18 (v) The degree of involvement in causing or
19 continuing the violation;
- 20 (vi) Reasons for any delay in the completion of
21 the appeal; and



1 (vii) Other extenuating circumstances.

2 The civil fine that is imposed by administrative
3 order after this review is completed and the
4 violation is corrected shall be subject to
5 judicial review, notwithstanding any provisions
6 for administrative review in county charters;

7 (E) After completion of a review of the amount of
8 accrued civil fine by the county agency that
9 imposed the fine, the amount of the civil fine
10 determined appropriate, including both the
11 initial civil fine and any accrued daily civil
12 fine, shall immediately become due and
13 collectible following reasonable notice to the
14 violator. If no review of the accrued civil fine
15 is requested, the amount of the civil fine, not
16 to exceed the total accrual of civil fine prior
17 to correcting the violation, shall immediately
18 become due and collectible following reasonable
19 notice to the violator, at the completion of all
20 appeal proceedings;



1 (F) If no county agency exists to conduct appeal
2 proceedings for a particular civil fine action
3 taken by the county, then one shall be
4 established by ordinance before the county shall
5 impose the civil fine;

6 (25) Any law to the contrary notwithstanding, any county
7 mayor, by executive order, may exempt donors, provider
8 agencies, homeless facilities, and any other program
9 for the homeless under part XVII of chapter 346 from
10 real property taxes, water and sewer development fees,
11 rates collected for water supplied to consumers and
12 for use of sewers, and any other county taxes,
13 charges, or fees; provided that any county may enact
14 ordinances to regulate and grant the exemptions
15 granted by this paragraph;

16 (26) Any county may establish a captive insurance company
17 pursuant to article 19, chapter 431; [~~and~~]

18 (27) Each county shall have the power to enact and enforce
19 ordinances regulating towing operations[~~-~~]; and



1 (28) Each county shall have the power to enact ordinances
2 designating alcohol impact areas and to recognize
3 alcohol impact areas pursuant to section 281-A."

4 SECTION 3. Section 281-1, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Alcohol impact area" means a geographic area designated
8 and recognized as such pursuant to section 281-A because the
9 area had been adversely affected by chronic public inebriation
10 or illegal activity associated with off-premises liquor sales or
11 consumption."

12 SECTION 4. Section 281-45, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§281-45 No license issued, when. No license shall be
15 issued under this chapter:

16 (1) To any minor or to any person who has been convicted
17 of a felony and not pardoned, or to any other person
18 not deemed by the commission to be a fit and proper
19 person to have a license; provided that the commission
20 may grant a license under this chapter to a
21 corporation that has been convicted of a felony where



1 the commission finds that the corporation's officers
2 and shareholders of twenty-five per cent or more of
3 outstanding stock are fit and proper persons to have a
4 license;

5 (2) To a corporation the officers and directors of which,
6 or any of them, would be disqualified under paragraph
7 (1) from obtaining the license individually, or a
8 stockholder of which, owning or controlling twenty-
9 five per cent or more of the outstanding capital
10 stock, or to a general partnership, limited
11 partnership, limited liability partnership, or limited
12 liability company whose partner or member holding
13 twenty-five per cent or more interest of which, or any
14 of them would be disqualified under paragraph (1) from
15 obtaining the license individually;

16 (3) Unless the applicant for a license or a renewal of a
17 license, or in the case of a transfer of a license,
18 both the transferor and the transferee, present to the
19 issuing agency a signed certificate from the director
20 of taxation and from the Internal Revenue Service
21 showing that the applicant or the transferor and



1 transferee do not owe the state or federal governments
2 any delinquent taxes, penalties, or interest; or that
3 the applicant, or in the case of a transfer of a
4 license, the transferor or transferee, has entered
5 into an installment plan agreement with the department
6 of taxation and the Internal Revenue Service for the
7 payment of delinquent taxes in installments and that
8 the applicant is or the transferor or transferee is,
9 in the case of a transfer of a license, complying with
10 the installment plan agreement;

11 (4) Unless, pursuant to section 281-D as applicable, the
12 county has either commented on the application or the
13 county's comment period has ended;

14 [~~4~~] (5) To an applicant for a class 2, class 4 except for
15 convenience minimarts, class 5, class 6, class 11,
16 class 12, class 13, class 14, class 15, class 17, or
17 class 18 license unless the applicant for issuance of
18 a license or renewal of a license, or in the case of a
19 transfer of a license, both the transferor and the
20 transferee, present to the issuing agency proof of



1 liquor liability insurance coverage in an amount of
2 \$1,000,000; or

3 ~~[(5)]~~ (6) To any applicant who has had any liquor license
4 revoked less than two years previous to the date of
5 the application for any like or other license under
6 this chapter."

7 SECTION 5. Section 281-59, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Upon the day of hearing, or any adjournment thereof,
10 the liquor commission shall consider the application and any
11 protests and objections to the granting thereof, shall consider
12 comments by the county that were made within the comment period
13 pursuant to section 281-D, if applicable, and shall hear the
14 parties in interest. The liquor commission shall accept all
15 written or oral testimony for or against the application whether
16 the application is denied, refused, or withdrawn. Within ninety
17 days after the hearing, or within one hundred twenty days
18 thereafter if in its discretion the commission extends the
19 ninety days to one hundred twenty days, and gives public notice
20 of same, the commission shall give its decision granting or
21 refusing the application; provided that if a majority of the:



1 (1) Registered voters for the area within five hundred
2 feet of the nearest point of the premises for which
3 the license is asked; or

4 (2) Owners and lessees of record of real estate and owners
5 of record of shares in a cooperative apartment within
6 five hundred feet of the nearest point of the premises
7 for which the license is asked,

8 have duly filed or caused to be filed their protests against the
9 granting of the license, or if there appears any other
10 disqualification under this chapter, the application shall be
11 refused. Otherwise, the commission may in its discretion grant
12 or refuse the same.

13 For purposes of defining "a majority of the owners and
14 lessees of record of real estate and owners of record of shares
15 in a cooperative apartment", each property counts only once;
16 provided that roadways shall not be included. A protest
17 submitted by the majority of the co-owners or the majority of
18 the co-lessees of a property shall constitute a protest by all
19 the owners or lessees of record of that property. A protest
20 filed by owners or lessees who own more than one property shall
21 be counted for each property."



SECTION 6. Section 281-61, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Other than for good cause, the renewal of an existing license shall be granted upon the filing of an application; provided that if:

(1) Complaints from the public;

(2) Comments by the county pursuant to section 281-D, if applicable;

~~[(2)]~~ (3) Reports from the commission's investigators; or

~~[(3)]~~ (4) Adjudications of the commission or the liquor control adjudication board,

indicate that noise created by patrons departing from the premises disturbs residents on the street or of the neighborhood in which the premises are located, or that noise from the premises or adjacent related outdoor areas such as parking lots or lanais exceed standards contained in state or county noise codes or intrudes into nearby residential units, the commission may deny the renewal application or withhold the issuance of a renewed license until corrective measures meeting the commission's approval are taken."



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon its approval.
4

INTRODUCED BY: Erzanne Chun Halland

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Clement Kricher
M



S.B. NO. 2062

Report Title:

Public Safety; Alcohol Impact Area; Chronic Public Inebriation; Liquor Commission; Liquor Control Adjudication Board; Off-premises Liquor License

Description:

Defines alcohol impact area as a geographic area designated and recognized by a county because the area had been adversely affected by chronic public inebriation or illegal activity associated with off-premises liquor sales or consumption. Provides the authority to enact an ordinance to designate an alcohol impact area to a county, and the authority to recognize an alcohol impact area to a county liquor commission or liquor adjudication board. Requires a county to submit annual reports to a county liquor commission or liquor control adjudication board, and requires a county liquor commission or adjudication board to conduct an assessment of an alcohol impact area once every five years.

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

