

JAN 22 2016

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 281-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§281-17 Jurisdiction and powers.** (a) The liquor
4 commission, within its own county, shall have the jurisdiction,
5 power, authority, and discretion, subject only to this chapter:

6 (1) To grant, refuse, suspend, and revoke any license for
7 the manufacture, importation, and sale of liquors;

8 (2) To take appropriate action against a person who,
9 directly or indirectly, manufactures, sells, or
10 purchases any liquor without being authorized pursuant
11 to this chapter; provided that in counties that have
12 established by charter a liquor control adjudication
13 board, the board shall have the jurisdiction, power,
14 authority, and discretion to hear and determine
15 administrative complaints of the director regarding
16 violations of the liquor laws of the State or of the



1 rules of the liquor commission, and impose penalties
2 for violations thereof as may be provided by law;

3 (3) To control, supervise, and regulate the manufacture,
4 importation, and sale of liquors by investigation,
5 enforcement, alcohol abuse treatment, prevention, and
6 education; provided that any alcohol abuse treatment,
7 prevention, or educational program [~~shall be limited~~
8 ~~to~~] may include the commission staff, commissioners,
9 liquor control adjudication board members, and
10 licensees and their employees, and shall be financed
11 through the money collected from the assessment of
12 fines against licensees; provided that fine moneys [~~7~~
13 ~~not to exceed~~] of at least ten per cent a year of
14 fines accumulated [~~7, may~~], shall be used to fund public
15 liquor-related treatment, prevention, educational, or
16 enforcement programs;

17 (4) From time to time to make, amend, and repeal rules,
18 not inconsistent with this chapter, as in the judgment
19 of the commission are deemed appropriate for carrying
20 out this chapter and for the efficient administration
21 thereof, and the proper conduct of the business of all



1 licensees, including every matter or thing required to
2 be done or which may be done with the approval or
3 consent, by order, under the direction or supervision
4 of, or as prescribed by the commission; which rules,
5 when adopted as provided in chapter 91 shall have the
6 force and effect of law;

7 (5) Subject to chapter 76, to appoint and remove an
8 administrator, who may also be appointed an
9 investigator and who shall be responsible for the
10 operations and activities of the staff. The
11 administrator may hire and remove hearing officers,
12 investigators, and clerical or other assistants as its
13 business may from time to time require, prescribe
14 their duties and fix their compensation, and engage
15 the services of experts and persons engaged in the
16 practice of a profession, if deemed expedient. Every
17 investigator, within the scope of the investigator's
18 duties, shall have the powers of a police officer;

19 (6) To limit the number of licenses of any class or kind
20 within the county, or the number of licenses of any
21 class or kind to do business in any given locality,



1 when in the judgment of the commission [~~such~~] the
2 limitations are in the public interest;

3 (7) To prescribe the nature of the proof to be furnished,
4 the notices to be given, and the conditions to be met
5 or observed in case of the issuance of a duplicate
6 license in place of one alleged to have been lost or
7 destroyed, including a requirement of any indemnity
8 deemed appropriate to the case;

9 (8) To fix the hours between which licensed premises of
10 any class or classes may regularly be open for the
11 transaction of business, which shall be uniform
12 throughout the county as to each class respectively;

13 (9) To prescribe all forms to be used for the purposes of
14 this chapter not otherwise provided for in this
15 chapter, and the character and manner of keeping of
16 books, records, and accounts to be kept by licensees
17 in any matter pertaining to their business;

18 (10) To investigate violations of this chapter, chapter
19 244D and, notwithstanding any law to the contrary,
20 violations of the applicable department of health's
21 allowable noise levels, through its investigators or



1 otherwise, to include covert operations, and to report
2 violations to the prosecuting officer for prosecution
3 and, where appropriate, the director of taxation to
4 hear and determine complaints against any licensee;
5 provided that a liquor commission in a county with a
6 population of seven hundred thousand or greater may
7 establish a pilot program that employs both a dBA and
8 a dBC sound level measurement system for the purpose
9 of community noise control; provided further that the
10 dBC sound level measurements shall be in accordance
11 with the following maximum permissible sound levels in
12 dBC:

- 13 (A) Zoning districts that include all areas
14 equivalent to lands zoned residential,
15 conservation, preservation, public space, open
16 space, or similar type shall have a maximum dBC
17 sound level of fifty-five from 7:00 a.m. to 10:00
18 p.m. and a maximum dBC level of forty-five from
19 10:00 p.m. to 7:00 a.m.;
- 20 (B) Zoning districts that include all areas
21 equivalent to lands zoned for multi-family



1 dwellings, apartment, business, commercial,
2 hotel, resort, or similar type shall have a
3 maximum dBC sound level of sixty from 7:00 a.m.
4 to 10:00 p.m. and a maximum dBC level of fifty
5 from 10:00 p.m. to 7:00 a.m.; and

6 (C) Zoning districts that include all areas
7 equivalent to lands zoned in agriculture,
8 country, industrial, or similar type shall have a
9 maximum dBC sound level of seventy from 7:00 a.m.
10 to 10:00 p.m. and a maximum dBC level of seventy
11 from 10:00 p.m. to 7:00 a.m.;

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

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

20 (13) To prescribe, by rule, regulations on dancing in
21 licensed premises; and



1 (14) To prescribe, by rule, the circumstances and penalty
2 for the unauthorized manufacturing or selling of any
3 liquor.

4 (b) Subject only to this chapter, the commission or board
5 and each member thereof shall have the same powers respecting
6 the administering of oaths, compelling the attendance of
7 witnesses and the production of documentary evidence, and
8 examining the witnesses as are possessed by a circuit court,
9 except that the commission or board and each member thereof
10 shall not be bound by the strict legal rules of evidence. In
11 addition, the commission or board shall have the power to
12 require the production of, and to examine any books, papers, and
13 records of any licensee which may pertain to the licensee's
14 business under the license or which may pertain to a matter at a
15 hearing before the commission or board or to an investigation by
16 the commission or board.

17 (c) The commission shall provide funding to the county,
18 through the use of fine moneys, for public and private programs
19 intended to prevent and treat alcohol abuse within the county
20 from which the fines are collected. The funds shall be
21 administered by the applicable county agency through grants.



1 (d) The exercise by the commission or board of the power,
2 authority, and discretion vested in it pursuant to this chapter
3 shall be final and shall not be reviewable by or appealable to
4 any court or tribunal, except as otherwise provided in this
5 chapter or chapter 91."

6 SECTION 2. Section 281-17.5, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Any [~~such~~] liquor license fees or any moneys
9 collected or received by any liquor commission under this
10 chapter may [~~only~~] be used for costs and expenses directly
11 relating to operational and administrative costs actually
12 incurred by the liquor commission collecting or receiving [~~such~~]
13 those liquor license fees or moneys[-]; provided that at least
14 ten per cent of the license fees are used for public liquor-
15 related treatment, prevention, educational, or enforcement
16 programs within the county from which the fees are collected.
17 The fees shall be administered by the applicable county agency
18 through grants. [~~Such~~] The fees or moneys shall not be used for
19 any costs or expenses other than those directly relating to [~~its~~
20 ~~operation and administration,~~] those purposes, except as
21 otherwise provided by law."



S.B. NO. 2223

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

3 SECTION 4. This Act shall take effect upon its approval;
4 provided that the amendments to section 281-17(a), Hawaii
5 Revised Statutes, under section 1 of this Act shall not be
6 repealed when section 281-17(a), Hawaii Revised Statutes, is
7 reenacted on May 5, 2017, pursuant to Act 297, section 4,
8 Session Laws of Hawaii 2012.

9

INTRODUCED BY: _____


BY REQUEST



S.B. NO. 2223

Report Title:

Maui County Package; Liquor Commission; Powers; Programs

Description:

Expands the powers of the liquor commission to include alcohol abuse treatment and prevention. Converts the 10% ceiling on the use of fines for certain programs to a 10% floor. Requires the commission to use fine moneys to provide grants to the counties for alcohol abuse programs.

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