
A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1 SECTION 1. The purpose of this Act is to:

2 (1) Clarify ambiguous language in sections 281-41(i) and
3 281-53, Hawaii Revised Statutes, enacted by Act 12,
4 Session Laws of Hawaii 2016;

5 (2) Modernize chapter 281, Hawaii Revised Statutes; and

6 (3) Enable the various county liquor commissions to
7 execute their duties in a more efficient and effective
8 manner.

9 SECTION 2. Section 281-41, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsections (d), (e), and (f) to read:

12 "(d) Where a license is held by a partnership, the
13 commission may, notwithstanding any other provision of this
14 section, approve the transfer of [the partnership interest upon
15 the death or withdrawal of a member of the partnership to any
16 remaining partner or partners without publication of notice at a
17 public hearing.] a partnership interest, without publication of



1 notice at a public hearing, to any remaining partner or
2 partners, upon the death or withdrawal of a partner of the
3 partnership, or to a trust of which the partner is the trustee.

4 (e) Where a license is held by a partnership, limited
5 partnership, limited liability partnership, or a limited
6 liability company, the admission or withdrawal of a partner,
7 limited partner, partner of a limited liability partnership, [~~or~~
8 ~~a member of the]~~ member of a member managed limited liability
9 company, or manager of a manager managed limited liability
10 company shall not be deemed a transfer of the license [~~held by~~
11 ~~the partnership or limited liability company, but]~~; provided
12 that the licensee shall, [~~prior to such]~~ within thirty days from
13 the date of the admission or withdrawal, so notify the
14 commission in writing, stating the name of the partner,
15 [~~partners, member, or members who have withdrawn, if such be the~~
16 ~~case, and the name, age, and place of residence of the partner,~~
17 ~~partners, member, or members who have been admitted, if that be~~
18 ~~the case. If the commission finds a partner or a member to be~~
19 ~~an unfit or improper person to hold a license in the partner's~~
20 ~~or member's own right pursuant to section 281-45, it may revoke~~
21 ~~the license or suspend the license of the partnership or the~~



1 ~~limited liability company until the unfit or improper partner or~~
2 ~~member is removed or replaced.]~~ member, or manager who has been
3 admitted or withdrawn, and any other information as may be
4 required by the commission.

5 (f) Except as otherwise provided in this section, the same
6 procedure shall be followed in regard to the transfer of a
7 license as is prescribed by this chapter for obtaining a
8 license. Sections 281-51 to 281-60, except where inconsistent
9 with ~~[any provision hereof,]~~ this section, are ~~[hereby made]~~
10 applicable to ~~[such]~~ the transfers. The word "applicant", as
11 used in ~~[such]~~ sections~~[,]~~ 281-51 to 281-60, shall include each
12 ~~[such]~~ proposed transferee, and the words, "application for a
13 license or for the renewal of a license", as used in ~~[such]~~
14 those sections, shall include an application for the transfer of
15 a license."

16 2. By amending subsections (h), (i), and (j) to read:

17 "(h) If any licensee without ~~[such]~~ prior approval
18 transfers to any other person the licensee's business for which
19 the licensee's license was issued, either openly or under any
20 undisclosed arrangement, whereby any person, other than the
21 licensee, comes into exclusive possession or control of the



1 business or takes in any partner or associate, who would be
2 unfit or improper to hold a license pursuant to section 281-45,
3 the commission may in its discretion suspend or cancel the
4 license.

5 (i) If the licensee is a corporation, a change in
6 ownership of any outstanding capital stock shall not be deemed a
7 transfer of a license; provided that in the case of a change in
8 ownership of twenty-five per cent or more of the voting capital
9 stock or in the case of change in ownership of any number of
10 shares of the stock that results in the transferee thereof
11 becoming the owner of twenty-five per cent or more of the
12 outstanding voting capital stock, the corporate licensee shall,
13 ~~[prior to]~~ within thirty days of the date of the transfer, apply
14 for ~~[and secure]~~ the approval of the transfer from the
15 commission in writing. If the commission finds that the
16 ~~[proposed]~~ transferee is an unfit or improper person to hold a
17 license in the ~~[proposed]~~ transferee's own right pursuant to
18 section 281-45, it shall not approve the ~~[proposed]~~ transfer.
19 If any transfer, notification of which is required to be given
20 as specified in this subsection, is ~~[made without the prior~~
21 ~~approval of]~~ not approved by the commission, the commission may



1 in its discretion revoke or suspend the license until it
2 determines that the transferee is a fit and proper person, and
3 if the commission finds that the transferee is not a fit and
4 proper person, until a retransfer or new transfer of the capital
5 stock is made to a fit and proper person pursuant to section
6 281-45. In addition, the corporate licensee, if not a publicly-
7 traded company, or an entity ultimately solely owned by a
8 publicly-traded company, shall, within thirty days from the date
9 of election of any officer or director, notify the commission in
10 writing of the name, age, and place of residence of the officer
11 or director[; ~~provided that if the licensee is a~~]. A publicly-
12 traded company, or an entity ultimately solely owned by a
13 publicly-traded company, [the licensee] shall, within thirty
14 days from the date of election of any replacement of an officer
15 designated as a primary [~~decisionmaker~~] decision-maker regarding
16 the purchase and sale of liquor, notify the commission in
17 writing of the name, age, and place of residence of the
18 [~~officers.~~] officer. If the commission finds that the
19 transferee, officer, or director, notification to whom is
20 required to be given as specified in this subsection, is an
21 unfit or improper person to hold a license in the transferee's,



1 officer's, or director's own right pursuant to section 281-45,
2 it may in its discretion revoke the license or suspend the
3 license until a retransfer or new transfer of the capital stock
4 is effected to a fit or proper person pursuant to section 281-45
5 or until the unfit or improper transferee, officer, or director
6 is removed or replaced by a fit and proper person pursuant to
7 section 281-45.

8 (j) If a licensee closes out the business for which the
9 license is held, during the term for which the license was
10 issued, the licensee shall, within five days from the date of
11 closing the same, give the commission written notice thereof and
12 surrender the licensee's license for cancellation~~[=]~~, unless the
13 licensee obtains prior approval from the commission to place its
14 license with the commission for safekeeping."

15 SECTION 3. Section 281-45, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§281-45 No license issued, when.** No license shall be
18 issued under this chapter:

19 (1) To any minor or to any person who has been convicted
20 of a felony and not pardoned, or to any other person
21 not deemed by the commission to be a fit and proper



1 person to have a license; provided that the commission
2 may grant a license under this chapter to a
3 corporation that has been convicted of a felony where
4 the commission finds that the corporation's officers
5 and shareholders of twenty-five per cent or more of
6 outstanding stock are fit and proper persons to have a
7 license;

- 8 (2) To a corporation the officers and directors of which,
9 or any of them, would be disqualified under paragraph
10 (1) from obtaining the license individually, or a
11 stockholder of which, owning or controlling twenty-
12 five per cent or more of the outstanding capital
13 stock, or to a general partnership, limited
14 partnership, limited liability partnership, or limited
15 liability company whose partner or member holding
16 twenty-five per cent or more interest of which, or any
17 of them would be disqualified under paragraph (1) from
18 obtaining the license individually; provided that for
19 publicly-traded companies or entities ultimately
20 solely owned by a publicly-traded entity, only the
21 officers and directors designated as primary decision-



1 makers shall be considered to determine
2 disqualification under paragraph (1);

- 3 (3) Unless the applicant for a license or a renewal of a
4 license, or in the case of a transfer of a license,
5 both the transferor and the transferee, present to the
6 issuing agency a tax clearance certificate from the
7 department of taxation and from the Internal Revenue
8 Service showing that the applicant or the transferor
9 and transferee do not owe the state or federal
10 governments any delinquent taxes, penalties, or
11 interest; or that the applicant, or in the case of a
12 transfer of a license, the transferor or transferee,
13 has entered into an installment plan agreement with
14 the department of taxation and the Internal Revenue
15 Service for the payment of delinquent taxes in
16 installments and that the applicant is or the
17 transferor or transferee is, in the case of a transfer
18 of a license, complying with the installment plan
19 agreement; provided that when the applicant or the
20 transferor or transferee, in the case of a transfer of
21 a license, is actively challenging a tax assessment,



penalty, or other proceeding that prevents the
issuance of a signed certificate from the appropriate
federal or state tax agency, the commission may issue
a temporary license in accordance with section 281-32;

(4) To an applicant for a class 2, class 4 except for
convenience minimarts, class 5, class 6, class 11,
class 12, class 13, class 14, class 15, class 17, or
class 18 license unless the applicant for issuance of
a license or renewal of a license, or in the case of a
transfer of a license, both the transferor and the
transferee, present to the issuing agency proof of
liquor liability insurance coverage in an amount of
\$1,000,000; or

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

SECTION 4. Section 281-53, Hawaii Revised Statutes, is
amended to read as follows:

"§281-53 Application; penalty for false statements. Every
application for a license or for the renewal of a license or for



1 the transfer of a license shall be in writing, signed and,
2 except for the renewal of a license, verified by the oath of the
3 applicant, or in the case of a corporation or unincorporated
4 association by the proper officer or officers thereof, or if a
5 partnership by a general partner thereof, or if a limited
6 liability partnership by a partner thereof, or if a member
7 managed limited liability company by a member thereof, or if a
8 manager managed limited liability company by a manager thereof,
9 made before any official authorized by law to administer oaths,
10 and shall be addressed to the liquor commission, and set forth:

11 (1) The full name, age, and place of residence of the
12 applicant; if a copartnership, the names, ages, and
13 respective places of residence of all the partners; if
14 a limited liability company, its full name and the
15 names of all its members; if a corporation or joint-
16 stock company, its full name and the names of its
17 officers and directors, and the names of all
18 stockholders owning twenty-five per cent or more of
19 the outstanding capital stock; if a publicly-traded
20 company, or an entity ultimately solely owned by a
21 publicly-traded company, the names of the officers



1 designated as the primary [~~decisionmakers~~] decision-
2 makers regarding the purchase and sale of liquor; and
3 if any other association of individuals, the names,
4 ages, and respective places of residence of its
5 officers and the number of its members;

6 (2) A particular description of the place or premises
7 where the proposed license is to be exercised, so that
8 the exact location and extent thereof may be clearly
9 and definitely determined therefrom;

10 (3) The class and kind of license applied for; and

11 (4) Any other matter or information pertinent to the
12 subject matter which may be required by the rules of
13 the commission.

14 If any false statement is knowingly made in any application
15 which is verified by oath, the applicant, and in the case of the
16 application being made by a corporation, limited liability
17 company, association, or club, the persons signing the
18 application, shall be guilty of perjury, and shall be subject to
19 the penalties prescribed by law for such offense. If any false
20 statement is knowingly made in any application which is not
21 verified by oath, the person or persons signing the application



1 shall be guilty of a misdemeanor and upon conviction thereof
2 shall be punished as in section 281-102 provided."

3 SECTION 5. Section 281-53.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The respective county liquor commissions may request
6 a criminal history record check of an applicant for a liquor
7 license in accordance with section 846-2.7[-]; provided that a
8 criminal history record check and compliance with paragraphs (1)
9 and (2) and subsection (b) (1), (2), and (3) shall not be
10 required for the officers and directors of publicly-traded
11 companies or entities ultimately solely owned by a publicly-
12 traded entity, who are not designated as primary decision-makers
13 regarding the sale or purchase of liquor. The criminal history
14 record check, at a minimum, shall require the applicant to
15 disclose whether:

16 (1) The applicant has been convicted in any jurisdiction
17 of a crime that would tend to indicate the applicant
18 may be unsuited for obtaining a liquor license; and

19 (2) The judgment of conviction has not been vacated.

20 For the purpose of this section, the criminal history
21 disclosure made by the applicant may be verified by the liquor



1 commission by means of information obtained through the Hawaii
2 criminal justice data center. The applicant shall provide the
3 Hawaii criminal justice data center with personal identifying
4 information which shall include but not be limited to the
5 applicant's name, social security number, date of birth, and
6 gender. This information shall be secured only for the purpose
7 of conducting the criminal history record check authorized by
8 this section."

9 SECTION 6. Section 281-96, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§281-96 Cancellation.** If the use of the premises covered
12 by any license becomes lost to the licensee by reason of being
13 sold under foreclosure proceedings, or a civil execution, or
14 other legal process, or for any other cause, which shall force a
15 cessation of the business of the licensee thereon under the
16 license (other than by a revocation or suspension of the
17 licensee's license), the liquor commission may cancel or suspend
18 the license[+], unless the liquor commission has approved the
19 safekeeping of the license pursuant to section 281-41(j)."

20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on January 7, 2059.

2



Report Title:

Liquor License; Liquor Commission

Description:

Amends statutory language on liquor license application and operating procedures for clarity. Takes effect 1/7/2059. (SD2)

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

