
A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1 SECTION 1. Section 244D-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§244D-3 Cooperation between department and liquor**
4 **commission.** The department of taxation and the liquor
5 commission, if the commission exercises its authority under this
6 chapter, shall cooperate in the enforcement of this chapter.

7 The department shall notify the proper liquor commission of
8 the name and address of every permittee whose permit has been
9 revoked, and any license issued to the permittee under the
10 liquor law thereupon shall be deemed forfeited.

11 The department may notify the proper liquor commission of
12 the name and address of every person who has failed to file any
13 return required, or to pay any tax prescribed, or to secure a
14 permit, or to perform any other duty or act imposed under this
15 chapter, and [~~such~~] the proper liquor commission shall thereupon
16 suspend any license [~~which~~] that may have been issued to any



1 [such] person under the liquor law until [such] the time [as
2 such] the person complies with this chapter.

3 ~~[The liquor commission, if the commission exercises its
4 authority under this chapter, shall provide to the department
5 the results of any examination the commission has undertaken
6 pursuant to section 244D-10 and shall, upon request, furnish to
7 the department any information in its possession relative to any
8 person having a license issued by it, and its records shall be
9 open to examination of the department.] "~~

10 SECTION 2. Section 244D-9, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Every dealer shall keep a record of all sales of
13 liquor by gallonage and dollar volume in each liquor category
14 defined in section 244D-1 and taxed under section 244D-4(a) made
15 by the dealer, in [such] a form [as] prescribed by the
16 department of taxation [~~may prescribe~~]. Every person holding a
17 license under the liquor law, other than a manufacturer's or
18 wholesaler's license, shall keep a record of all purchases by
19 the person of liquor by gallonage and dollar volume in each
20 liquor category defined in section 244D-1 and taxed under
21 section 244D-4(a), in [such] a form [as] prescribed by the



1 department [~~may prescribe~~]. All [~~such~~] records shall be offered
2 for inspection and examination at any time upon demand by the
3 department [~~or commission~~] and shall be preserved for a period
4 of five years, except that the department may in writing consent
5 to their destruction within [~~such~~] the five-year period or may
6 require that they be kept longer.

7 The department may by rule require the dealer to keep
8 [~~such~~] other records as it may deem necessary for the proper
9 enforcement of this chapter."

10 SECTION 3. Section 244D-10, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§244D-10 Inspection.** The director of taxation, [~~the~~
13 ~~liquor commission~~], or the duly authorized agent of [~~either~~] the
14 director [~~or commission~~], may examine all records required to be
15 kept under this chapter, and books, papers, and records of any
16 person engaged in the sale of liquor to verify the accuracy of
17 the payment of the tax imposed by this chapter and other
18 compliance with this chapter and regulations adopted pursuant
19 thereto. Every person in possession of [~~such~~] books, papers,
20 and records and the person's agents and employees shall give the
21 director, [~~the commission~~] or the duly authorized agent of



1 ~~[either of them]~~ the director, the means, facilities, and
2 opportunities for ~~[such]~~ examination.

3 ~~[The authority granted to the liquor commission under this~~
4 ~~section shall not conflict with section 231-18 and shall not~~
5 ~~extend to the inspection of any documents not directly related~~
6 ~~to this chapter.] "~~

7 SECTION 4. Section 281-17, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

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

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



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

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

15 (4) From time to time to make, amend, and repeal rules,
16 not inconsistent with this chapter, as in the judgment
17 of the commission are deemed appropriate for carrying
18 out this chapter and for the efficient administration
19 thereof, and the proper conduct of the business of all
20 licensees, including every matter or thing required to
21 be done or which may be done with the approval or



1 consent, by order, under the direction or supervision
2 of, or as prescribed by the commission; which rules,
3 when adopted as provided in chapter 91 shall have the
4 force and effect of law;

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

17 (6) To limit the number of licenses of any class or kind
18 within the county, or the number of licenses of any
19 class or kind to do business in any given locality,
20 when in the judgment of the commission such
21 limitations are in the public interest;



- 1 (7) To prescribe the nature of the proof to be furnished,
2 the notices to be given, and the conditions to be met
3 or observed in case of the issuance of a duplicate
4 license in place of one alleged to have been lost or
5 destroyed, including a requirement of any indemnity
6 deemed appropriate to the case;
- 7 (8) To fix the hours between which licensed premises of
8 any class or classes may regularly be open for the
9 transaction of business, which shall be uniform
10 throughout the county as to each class respectively;
- 11 (9) To prescribe all forms to be used for the purposes of
12 this chapter not otherwise provided for in this
13 chapter, and the character and manner of keeping of
14 books, records, and accounts to be kept by licensees
15 in any matter pertaining to their business;
- 16 (10) To investigate violations of this chapter [~~chapter~~
17 ~~244D~~] and, notwithstanding any law to the contrary,
18 violations of the applicable department of health's
19 allowable noise levels, through its investigators or
20 otherwise, to include covert operations, and to report
21 violations to the prosecuting officer for prosecution



1 [~~and~~,] where appropriate[~~7~~]. Investigations of
2 violations of chapter 244D shall be referred to the
3 director of taxation to hear and determine complaints
4 against any licensee;

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

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

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

15 (14) To prescribe, by rule, the circumstances and penalty
16 for the unauthorized manufacturing or selling of any
17 liquor."

18 SECTION 5. Section 281-20, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§281-20 General right of inspection.** Any investigator
21 may, at all times, without notice and without any search warrant



1 or other legal process, visit and have immediate access to every
2 part of the premises of every licensee for the purpose of making
3 any examination or inspection thereof or inquiry into the books
4 and records therein, to ascertain whether all of the conditions
5 of the license and all provisions of this chapter [~~and chapter~~
6 ~~244D~~] are being complied with by the licensee."

7 SECTION 6. Section 281-45, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§281-45 No license issued, when. No license shall be
10 issued under this chapter:

11 (1) To any minor or to any person who has been convicted
12 of a felony and not pardoned[, ~~or to any other person~~
13 ~~not deemed by the commission to be a fit and proper~~
14 ~~person to have a license~~]; provided that the
15 commission may grant a license under this chapter to a
16 corporation that has been convicted of a felony where
17 the commission finds that the corporation's officers
18 and shareholders of twenty-five per cent or more of
19 outstanding stock [~~are fit and proper persons to have~~
20 ~~a license~~]; meet the statutory requirements to hold a
21 license;



1 (2) To a corporation the officers and directors of which,
2 or any of them, would be disqualified under
3 paragraph (1) from obtaining the license individually,
4 or a stockholder of which, owning or controlling
5 twenty-five per cent or more of the outstanding
6 capital stock, or to a general partnership, limited
7 partnership, limited liability partnership, or limited
8 liability company whose partner or member holding
9 twenty-five per cent or more interest of which, or any
10 of them would be disqualified under paragraph (1) from
11 obtaining the license individually; provided that for
12 publicly-traded companies or entities ultimately
13 solely owned by a publicly-traded company, only the
14 officers and directors designated as primary decision-
15 makers shall be considered to determine
16 disqualification under paragraph (1);
17 (3) Unless the applicant for a license or a renewal of a
18 license, or in the case of a transfer of a license,
19 both the transferor and the transferee, present to the
20 issuing agency a tax clearance certificate from the
21 department of taxation showing that the applicant or

1 the transferor and transferee do not owe the state
2 government any delinquent taxes, penalties, or
3 interest; or that the applicant, or in the case of a
4 transfer of a license, the transferor or transferee,
5 has entered into an installment plan agreement with
6 the department of taxation for the payment of
7 delinquent taxes in installments and that the
8 applicant is or the transferor or transferee is, in
9 the case of a transfer of a license, complying with
10 the installment plan agreement; provided that when the
11 applicant or the transferor or transferee, in the case
12 of a transfer of a license, is validly challenging a
13 tax assessment, penalty, or other proceeding that
14 prevents the issuance of a signed certificate from the
15 appropriate federal or state tax agency, the
16 commission shall issue a license that is valid for the
17 period of time necessary to resolve the challenge;

18 (4) To an applicant for a class 2, class 4 except for
19 convenience minimarts, class 5, class 6, class 11,
20 class 12, class 13, class 14, class 15, class 17, or
21 class 18 license unless the applicant for issuance of



1 a license or renewal of a license, or in the case of a
2 transfer of a license, both the transferor and the
3 transferee, present to the issuing agency proof of
4 liquor liability insurance coverage in an amount of
5 \$1,000,000; or

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

10 SECTION 7. Section 281-53, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§281-53 Application; penalty for false statements.** Every
13 application for a license or for the renewal of a license or for
14 the transfer of a license shall be in writing, signed [~~and,~~
15 ~~except for the renewal of a license, verified by the oath of the~~
16 ~~applicant], and notarized by the applicant, or in the case of a
17 corporation or unincorporated association by the proper officer
18 or officers thereof, or if a partnership by a general partner
19 thereof, or if a limited liability partnership by a partner
20 thereof, or if a member-managed limited liability company by a
21 member thereof, or if a manager-managed limited liability~~



1 company by a manager thereof, [~~made before any official~~
2 ~~authorized by law to administer oaths,~~] and shall be addressed
3 to the liquor commission, and set forth:

4 (1) The full name, age, and place of residence of the
5 applicant; if a copartnership, the names, ages, and
6 respective places of residence of all the partners; if
7 a limited liability company, its full name and the
8 names of all its members; if a corporation or joint-
9 stock company, its full name and the names of its
10 officers and directors, and the names of all
11 stockholders owning twenty-five per cent or more of
12 the outstanding capital stock; if a publicly-traded
13 company, or an entity ultimately solely owned by a
14 publicly-traded company, the names of the officers
15 designated as the primary decision-makers regarding
16 the purchase and sale of liquor; and if any other
17 association of individuals, the names, ages, and
18 respective places of residence of its officers and the
19 number of its members;

20 (2) A particular description of the place or premises
21 where the proposed license is to be exercised, so that



1 the exact location and extent thereof may be clearly
2 and definitely determined therefrom;

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

4 (4) Any other matter or information pertinent to the
5 subject matter, which may be required by the rules of
6 the commission.

7 ~~[If any false statement is knowingly made in any~~
8 ~~application which is verified by oath, the applicant, and in the~~
9 ~~case of the application being made by a corporation, limited~~
10 ~~liability company, association, or club, the persons signing the~~
11 ~~application, shall be guilty of perjury, and shall be subject to~~
12 ~~the penalties prescribed by law for such offense.]~~ If any false
13 statement is knowingly made in any application ~~[which]~~ that is
14 not verified by oath, the person or persons signing the
15 application shall be guilty of a misdemeanor and upon conviction
16 thereof shall be punished as provided in section 281-102
17 ~~[provided]."~~

18 SECTION 8. Section 281-55, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§281-55 Reference to investigator.** Upon the filing of
21 any application the administrator of the liquor commission shall



1 indorse thereon the date of filing thereof. If no patent
 2 disqualification of the applicant or certain valid objection to
 3 the granting of the application is apparent initially and if all
 4 requirements relative to the filing of the application appear to
 5 have been complied with, the application shall be referred to
 6 the investigator for investigation[-] at the discretion of the
 7 administrator of the liquor commission."

8 SECTION 9. Section 281-56, Hawaii Revised Statutes, is
 9 amended by amending subsection (a) to read as follows:

10 "(a) On every application referred to the investigator
 11 under section 281-55, the investigator shall report in writing
 12 to the liquor commission and, if the application is for a
 13 license of any class other than class 8, class 9, or class 10,
 14 [~~such~~] the report shall include:

- 15 (1) A description of the premises intended to become the
- 16 licensed premises, and the equipment and surrounding
- 17 conditions, including the relationship to surrounding
- 18 residences [~~which~~] that may share a common boundary or
- 19 a common structure with the premises proposed for
- 20 licensing;



- 1 (2) If the application is made by a person who has held a
2 prior license for the same or any other premises
3 within two years past, a statement as to the manner in
4 which the premises have been operated and the business
5 conducted under the previous license;
- 6 (3) The locality of any church, chapel, or school, if any,
7 within a distance of five hundred feet from the
8 nearest point of the premises for which the license is
9 ~~asked~~ proposed to the nearest point of the church,
10 chapel, or school grounds;
- 11 (4) The number, position, and distance from the premises,
12 in respect of which a license is applied for, of any
13 other licensed premises of the same class in the
14 neighborhood;
- 15 (5) The number of licenses of the same class or kind
16 already issued and being lawfully exercised within the
17 county;
- 18 ~~[(6) Whether or not in the opinion of the investigator the~~
19 ~~applicant is a fit and proper person to have a~~
20 ~~license;~~



1 ~~(7)~~] (6) Whether or not the applicant is for any reason
 2 disqualified by this chapter from obtaining or
 3 exercising a license; and whether or not the applicant
 4 has complied with all the requirements of this chapter
 5 relative to the making and filing of the applicant's
 6 application;

7 ~~[(8)]~~ (7) For the next application by the same applicant
 8 for a license in the same physical location that was
 9 previously denied, refused, or withdrawn, evidence, to
 10 be provided by the applicant, of a substantial change
 11 in the circumstances that caused the previous denial,
 12 refusal, or withdrawal; and

13 ~~[(9)]~~ (8) ~~[Any and all other matters and things, that in~~
 14 ~~the judgment of the investigator pertain to or affect~~
 15 ~~the matter of the application, or the issuance or the~~
 16 ~~exercise of the license applied for; provided that~~
 17 ~~when the license application is for premises within a~~
 18 ~~county with a population of five hundred thousand~~
 19 ~~residents or more, the report shall specify the]~~ The
 20 possible adverse effects the premises, after
 21 licensing, may have on the surrounding community~~[-]~~ if



1 the license application is for premises within a
2 county having a population of five hundred thousand
3 residents or more."

4 SECTION 10. Section 281-79, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§281-79 Entry for examination; obstructing liquor**
7 **commission operations; penalty.** Every investigator shall, and
8 any officer having police power may, at all reasonable times,
9 and at any time whatsoever if there is any reasonable ground for
10 suspicion that the conditions of any license are being violated,
11 without warrant enter into and upon any licensed premises and
12 inspect the same and every part thereof, and any books or
13 records therein, to ascertain whether or not all conditions of
14 the license and all provisions of this chapter [~~and chapter~~
15 ~~244D~~] are being complied with by the licensee.

16 If any investigator or officer, or any person called by the
17 investigator or officer to the investigator's or officer's aid,
18 is threatened with the use of violence, force, or physical
19 interference or obstacle, or is hindered, obstructed, or
20 prevented by any licensee, the licensee's employees, or any
21 other person from entering into [~~any such~~] the premises, or



1 whenever any investigator or officer is by any licensee, the
2 licensee's employees, or any other person opposed, obstructed,
3 or molested in the performance of the officer's duty in any
4 respect, the licensee, the licensee's employee, or any other
5 person shall be fined not more than \$2,000 or imprisoned not
6 more than one year, or both.

7 Whenever any investigator or officer, having demanded
8 admittance into any licensed premises and declared the
9 investigator's or officer's name and office, is not admitted by
10 the licensee or the person in charge of the premises, it shall
11 be lawful for the investigator or officer to forcibly and in any
12 manner to break into and enter the premises."

13 SECTION 11. This Act does not affect rights and duties
14 that matured, penalties that were incurred, and proceedings that
15 were begun before its effective date.

16 SECTION 12. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 13. This Act shall take effect on January 5, 2022.



Report Title:

Liquor Licensing; Liquor Tax Law; Applications; Investigations

Description:

Provides that violations of liquor tax law shall be referred to the director of taxation for investigation. Repeals the general right of inspection without a warrant for potential violations of liquor tax law. Repeals the discretionary power of the liquor commission to deny a license to any person the commission finds is not fit and proper to hold a license. Requires applications for liquor licenses to be notarized. Provides the administrator of the liquor commission discretion over whether to refer applications for investigation. Repeals the requirement that investigative reports to the liquor commission include any and all matters that are relevant to the application or license in the judgment of the investigator. Effective 1/5/2022. (SD1)

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