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# 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~~[,]~~. 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 281-53, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§281-53 Application; penalty for false statements.** Every  
10 application for a license or for the renewal of a license or for  
11 the transfer of a license shall be in writing, signed [~~and,~~  
12 ~~except for the renewal of a license, verified by the oath of the~~  
13 ~~applicant], and notarized by the applicant, or in the case of a  
14 corporation or unincorporated association by the proper officer  
15 or officers thereof, or if a partnership by a general partner  
16 thereof, or if a limited liability partnership by a partner  
17 thereof, or if a member-managed limited liability company by a  
18 member thereof, or if a manager-managed limited liability  
19 company by a manager thereof, [~~made before any official~~  
20 ~~authorized by law to administer oaths,~~] and shall be addressed  
21 to the liquor commission, and set forth:~~



- 1           (1) The full name, age, and place of residence of the  
2           applicant; if a copartnership, the names, ages, and  
3           respective places of residence of all the partners; if  
4           a limited liability company, its full name and the  
5           names of all its members; if a corporation or joint-  
6           stock company, its full name and the names of its  
7           officers and directors, and the names of all  
8           stockholders owning twenty-five per cent or more of  
9           the outstanding capital stock; if a publicly-traded  
10          company, or an entity ultimately solely owned by a  
11          publicly-traded company, the names of the officers  
12          designated as the primary decision-makers regarding  
13          the purchase and sale of liquor; and if any other  
14          association of individuals, the names, ages, and  
15          respective places of residence of its officers and the  
16          number of its members;
- 17          (2) A particular description of the place or premises  
18          where the proposed license is to be exercised, so that  
19          the exact location and extent thereof may be clearly  
20          and definitely determined therefrom;
- 21          (3) The class and kind of license applied for; and



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

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

15 SECTION 7. Section 281-56, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

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



- 1           (1) A description of the premises intended to become the  
2           licensed premises, and the equipment and surrounding  
3           conditions, including the relationship to surrounding  
4           residences [~~which~~] that may share a common boundary or  
5           a common structure with the premises proposed for  
6           licensing;
- 7           (2) If the application is made by a person who has held a  
8           prior license for the same or any other premises  
9           within two years past, a statement as to the manner in  
10          which the premises have been operated and the business  
11          conducted under the previous license;
- 12          (3) The locality of any church, chapel, or school, if any,  
13          within a distance of five hundred feet from the  
14          nearest point of the premises for which the license is  
15          [~~asked~~] proposed to the nearest point of the church,  
16          chapel, or school grounds;
- 17          (4) The number, position, and distance from the premises,  
18          in respect of which a license is applied for, of any  
19          other licensed premises of the same class in the  
20          neighborhood;



- 1           (5) The number of licenses of the same class or kind  
2           already issued and being lawfully exercised within the  
3           county;
- 4           ~~[(6) Whether or not in the opinion of the investigator the~~  
5           ~~applicant is a fit and proper person to have a~~  
6           ~~license;~~
- 7           ~~-(7)]~~ (6) Whether or not the applicant is for any reason  
8           disqualified by this chapter from obtaining or  
9           exercising a license; and whether or not the applicant  
10          has complied with all the requirements of this chapter  
11          relative to the making and filing of the applicant's  
12          application;
- 13          ~~-(8)]~~ (7) For the next application by the same applicant  
14          for a license in the same physical location that was  
15          previously denied, refused, or withdrawn, evidence, to  
16          be provided by the applicant, of a substantial change  
17          in the circumstances that caused the previous denial,  
18          refusal, or withdrawal; and
- 19          ~~-(9)]~~ (8) ~~[Any and all other matters and things, that in~~  
20          ~~the judgment of the investigator pertain to or affect~~  
21          ~~the matter of the application, or the issuance or the~~



1 ~~exercise of the license applied for; provided that~~  
2 ~~when the license application is for premises within a~~  
3 ~~county with a population of five hundred thousand~~  
4 ~~residents or more, the report shall specify the] The~~  
5 possible adverse effects the premises, after  
6 licensing, may have on the surrounding community[-] if  
7 the license application is for premises within a  
8 county having a population of five hundred thousand  
9 residents or more."

10 SECTION 8. Section 281-79, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§281-79 Entry for examination; obstructing liquor**  
13 **commission operations; penalty.** Every investigator shall, and  
14 any officer having police power may, at all reasonable times,  
15 and at any time whatsoever if there is any reasonable ground for  
16 suspicion that the conditions of any license are being violated,  
17 without warrant enter into and upon any licensed premises and  
18 inspect the same and every part thereof, and any books or  
19 records therein, to ascertain whether or not all conditions of  
20 the license and all provisions of this chapter [~~and chapter~~  
21 ~~244D~~] are being complied with by the licensee.



1           If any investigator or officer, or any person called by the  
2 investigator or officer to the investigator's or officer's aid,  
3 is threatened with the use of violence, force, or physical  
4 interference or obstacle, or is hindered, obstructed, or  
5 prevented by any licensee, the licensee's employees, or any  
6 other person from entering into [~~any such~~] the premises, or  
7 whenever any investigator or officer is by any licensee, the  
8 licensee's employees, or any other person opposed, obstructed,  
9 or molested in the performance of the officer's duty in any  
10 respect, the licensee, the licensee's employee, or any other  
11 person shall be fined not more than \$2,000 or imprisoned not  
12 more than one year, or both.

13           Whenever any investigator or officer, having demanded  
14 admittance into any licensed premises and declared the  
15 investigator's or officer's name and office, is not admitted by  
16 the licensee or the person in charge of the premises, it shall  
17 be lawful for the investigator or officer to forcibly and in any  
18 manner to break into and enter the premises."

19           SECTION 9. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



1           SECTION 10. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3           SECTION 11. This Act shall take effect on July 30, 2075.



**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. 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 7/30/2075. (SD2)

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

