
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 liquor commission shall thereupon suspend any
16 license which may have been issued to any such person under the



1 liquor law until such time as such person complies with this
2 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-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, and
20 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 3. 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[~~7~~
17 ~~chapter 244D~~] and, notwithstanding any law to the
18 contrary, violations of the applicable department of
19 health's allowable noise levels, through its
20 investigators or otherwise, to include covert
21 operations, and to report violations to the



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

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

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

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

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

19 SECTION 4. Section 281-20, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§281-20 General right of inspection.** Any investigator
2 may, at all times, without notice and without any search warrant
3 or other legal process, visit and have immediate access to every
4 part of the premises of every licensee for the purpose of making
5 any examination or inspection thereof or inquiry into the books
6 and records therein, to ascertain whether all of the conditions
7 of the license and all provisions of this chapter [~~and~~
8 ~~chapter 244D~~] are being complied with by the licensee."

9 SECTION 5. Section 281-45, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§281-45 No license issued, when.** No license shall be
12 issued under this chapter:

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



1 outstanding stock are fit [~~and proper persons to have~~
2 a license];

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

19 (3) Unless the applicant for a license or a renewal of a
20 license, or in the case of a transfer of a license,
21 both the transferor and the transferee, present to the



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

20 (4) To an applicant for a class 2, class 4 except for
21 convenience minimarts, class 5, class 6, class 11,



1 class 12, class 13, class 14, class 15, class 17, or
2 class 18 license unless the applicant for issuance of
3 a license or renewal of a license, or in the case of a
4 transfer of a license, both the transferor and the
5 transferee, present to the issuing agency proof of
6 liquor liability insurance coverage in an amount of
7 \$1,000,000; or

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

12 SECTION 6. Section 281-53, Hawaii Revised Statutes, is
13 amended to read as follows:

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



1 thereof, or if a member-managed limited liability company by a
2 member thereof, or if a manager-managed limited liability
3 company by a manager thereof, [~~made before any official~~
4 ~~authorized by law to administer oaths,~~] and shall be addressed
5 to the liquor commission, and set forth:

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



- 1 (2) A particular description of the place or premises
2 where the proposed license is to be exercised, so that
3 the exact location and extent thereof may be clearly
4 and definitely determined therefrom;
- 5 (3) The class and kind of license applied for; and
- 6 (4) Any other matter or information pertinent to the
7 subject matter which may be required by the rules of
8 the commission.

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

19 SECTION 7. Section 281-55, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§281-55 Reference to investigator.** Upon the filing of
2 any application the administrator of the liquor commission shall
3 indorse thereon the date of filing thereof. If no patent
4 disqualification of the applicant or certain valid objection to
5 the granting of the application is apparent initially and if all
6 requirements relative to the filing of the application appear to
7 have been complied with, the application shall be referred to
8 the investigator for investigation[-] at the discretion of the
9 administrator of the liquor commission."

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

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

17 (1) A description of the premises intended to become the
18 licensed premises, and the equipment and surrounding
19 conditions, including the relationship to surrounding
20 residences which may share a common boundary or a



- 1 common structure with the premises proposed for
2 licensing;
- 3 (2) If the application is made by a person who has held a
4 prior license for the same or any other premises
5 within two years past, a statement as to the manner in
6 which the premises have been operated and the business
7 conducted under the previous license;
- 8 (3) The locality of any church, chapel, or school, if any,
9 within a distance of five hundred feet from the
10 nearest point of the premises for which the license is
11 asked to the nearest point of the church, chapel, or
12 school grounds;
- 13 (4) The number, position, and distance from the premises,
14 in respect of which a license is applied for, of any
15 other licensed premises of the same class in the
16 neighborhood;
- 17 (5) The number of licenses of the same class or kind
18 already issued and being lawfully exercised within the
19 county;



1 ~~[(6) Whether or not in the opinion of the investigator the~~
2 ~~applicant is a fit and proper person to have a~~
3 ~~license;~~

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

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

16 ~~[(9)]~~ (8) ~~[Any and all other matters and things, that in~~
17 ~~the judgment of the investigator pertain to or affect~~
18 ~~the matter of the application, or the issuance or the~~
19 ~~exercise of the license applied for; provided that~~
20 ~~when the license application is for premises within a~~
21 ~~county with a population of five hundred thousand~~



1 ~~residents or more, the report shall specify the]~~ The
2 possible adverse effects the premises, after
3 licensing, may have on the surrounding community if
4 the license application is for premises within a
5 county having a population of five hundred thousand
6 residents or more."

7 SECTION 9. Section 281-79, Hawaii Revised Statutes, is
8 amended to read as follows:

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

19 If any investigator or officer, or any person called by the
20 investigator or officer to the investigator's or officer's aid,
21 is threatened with the use of violence, force, or physical



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

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

16 SECTION 10. This Act does not affect rights and duties
17 that matured, penalties that were incurred, and proceedings that
18 were begun before its effective date.

19 SECTION 11. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 12. This Act shall take effect on January 1, 2050.



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 1/1/2050. (HD1)

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