

**ACT 113**

**S.B. NO. 1998-76**

**A Bill for an Act Relating to the Status of Convicted Persons.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that a healthy and orderly liquor industry depends to a great extent on the owners of liquor licenses and that the liquor commissions are charged with the responsibility of issuing liquor licenses only to fit and proper persons. The purpose of this Act is to enable the liquor commissions in the State to obtain the criminal information on applicants for liquor licenses necessary for a healthy and orderly liquor industry.

SECTION 2. Section 831-3.1, Hawaii Revised Statutes, is amended as follows:

**“Sec. 831-3.1 Prior convictions; criminal records; noncriminal standards.**

(a) A person shall not be disqualified from employment by the State or any of its political subdivisions or agencies, or be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is required by the State or any of its political subdivisions or agencies, solely by reason of a prior conviction of a crime; provided that with respect to liquor licenses, this subsection shall not apply to a person who has been convicted of a felony.

(b) The following criminal records shall not be used, distributed, or disseminated by the State or any of its political subdivisions or agencies in connection with an application for any said employment, permit, license, registration, or certificate:

- (1) Records of arrest not followed by a valid conviction;
- (2) Convictions which have been annulled or expunged;
- (3) Convictions of a penal offense for which no jail sentence may be imposed;
- (4) Conviction of a misdemeanor in which the period of twenty years has elapsed since date of conviction and during which elapsed time there has not been any subsequent arrest or conviction.

Except as provided in paragraphs (1) to (4), the State or any of its political subdivisions or agencies may consider as a possible justification for the refusal, suspension, or revocation of any employment or of any permit, license, registration, or certificate, any conviction of a penal offense when such offense directly relates (i) to the applicant's possible performance in the job applied for, or (ii) to the employee's possible performance in the job which he holds, or (iii) to the applicant's or holder's possible performance in the occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is applied for or held.

For the purpose of this subsection, such refusal, suspension, or revocation may occur only when the agency determines, after investigation in accordance with chapter 91, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust; provided that discharge from probation or parole supervision, or a period of two years after final discharge or release from any term of imprisonment, without subsequent criminal conviction, shall be deemed rebuttable prima facie evidence of sufficient rehabilitation.

(c) When considering noncriminal standards such as good moral character, temperate habits, habitual intemperate use of intoxicants, trustworthiness, and the like, in the granting, renewal, suspension, or revocation of any employment or any such permit, license, registration, or certificate the agency shall not take into consideration the conviction of any crime except as provided by subsection (b). Nothing in this section shall be construed to otherwise affect a proceeding before any agency which does not involve the conviction of a crime.

(d) This section shall prevail over any other law which purports to govern the denial or issuance of any permit, license, registration, or certificate by the

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State or any of its political subdivisions or agencies.”

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

**SECTION 4.** This Act shall take effect upon its approval and shall apply to all liquor license applications pending upon the effective date of this Act.

(Approved May 17, 1976.)

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\*Edited accordingly.