

## ACT 256

H.B. NO. 687

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Section 281-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Standard bar” means any establishment licensed to sell liquor for consumption on the premises, except:

- (1) Premises in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission regulations; or
- (2) Premises in which live or recorded music is played and with facilities for dancing by the patrons are provided; or
- (3) Premises in which employees or entertainers consume non-alcoholic beverages while in the company of patrons or sit with patrons.”

SECTION 2. Section 281-41, Hawaii Revised Statutes, is amended to read:

“**Sec. 281-41 Transfer of licenses; notice of change in officers, directors and stockholders of corporate licenses; penalty.** No license issued under this chapter to an original applicant or to any transferee shall be transferable or be transferred within one year of such issuance or transfer except for good cause shown to the satisfaction of the liquor commission. No license issued under this chapter shall be transferable or be transferred except upon written application to the commission by the proposed transferee, and after prior inspection of the premises, reference to, and report by an inspector, and a public hearing held by the commission not less than fourteen days after one publication of notice thereof, but without sending notice of the

hearing by mail to persons being the owners or lessees of real estate situated within the vicinity of the premises and without the right to such owners or lessees to protest the transfer of a license; provided that no class 5 or 12 license issued to a standard bar as defined in section 281-1, shall be transferable to other than a standard bar, and that such license shall be subject to revocation if the licensed premise is not retained as a standard bar except upon written application to the commission by the licensee and/or the proposed transferee, subject to sections 281-51 to 281-60.

Where a license is held by a partnership, the commission may, notwithstanding this section, transfer the license upon the death or withdrawal of a member of the partnership to any remaining partner or partners without publication of notice and without public hearing.

Where a license is held by a limited partnership, the admission or withdrawal of a limited partner shall not be deemed a transfer of the license held by the partnership, but the licensee shall, prior to such admission or withdrawal, so notify the commission in writing, stating the name of the partner or partners who have withdrawn, if such be the case, and the name, age, and place of residence of the partner or partners who have been admitted, if that be the case. If the commission finds a limited partner to be an unfit or improper person to hold a license in his own right pursuant to section 281-45, it may revoke the license or suspend the license of the partnership until the unfit or improper partner is removed or replaced.

Except as otherwise provided in this section, the same procedure shall be followed in regard to the transfer of a license as is prescribed by this chapter for obtaining a license. Sections 281-51 to 281-60, except where inconsistent with any provision hereof, are hereby made applicable to such transfers. The word "applicant", as used in such sections, shall include each such proposed transferee, and the words, "application for a license or for the renewal of a license", as used in such sections, shall include an application for the transfer of a license.

Upon the hearing, the commission shall consider the application and any objections to the granting thereof, and hear the parties in interest. It shall inquire into the propriety of each transfer and determine whether the proposed transferee is a fit person to hold the license. It may approve a transfer or refuse to approve a transfer, and the refusal by the commission to approve a transfer shall be final and conclusive, unless an appeal is taken as provided in chapter 91.

If any licensee without such approval transfers to any other person his business for which his license was issued, either openly or under any undisclosed arrangement whereby any person other than the licensee comes into possession or control of the business, or takes in any partner or associate the commission may in its discretion suspend or cancel the license.

If the licensee is a corporation, a change in ownership of any outstanding capital stock shall not be deemed a transfer of a license; provided that in the case of a change in ownership of twenty-five per cent or more of the stock or in the case of change in ownership of any number of shares of the stock which results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock, the corporate licensee shall, prior to the date of such transfer, apply for and secure the approval of the transfer from the commission in writing. If the commission finds that the proposed transferee is an unfit or improper person to

hold a license in his own right pursuant to section 281-45, it shall not approve the proposed transfer. If any transfer is made without the prior approval of the commission, the commission may in its discretion revoke or suspend the license until it determines that the transferee is a fit and proper person, and if the commission finds that the transferee is not a fit and proper person, until a retransfer or new transfer of the capital stock is made to a fit and proper person pursuant to section 281-45. In addition, the corporate licensee shall, within thirty days from the date of election of any officer or director, notify the commission in writing of the name, age, and place of residence of such officer or director. If the commission finds the transferee, officer or director an unfit or improper person to hold a license in his own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until a retransfer or new transfer of such capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper officer or director is removed or replaced by a fit and proper person pursuant to section 281-45.

If a licensee closes out the business for which the license is held, during the term for which the license was issued, he shall, within five days from the date of closing the same, give the commission written notice thereof and surrender his license for cancellation.”

SECTION 3. Section 281-57, Hawaii Revised Statutes, is amended to read:

“**Sec. 281-57 Notice.** Upon the filing of the inspector’s report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than twenty-one days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission’s fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application to not less than two-thirds of the persons being the owners or lessees of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than twenty-one days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice and provided further that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of the persons being the owners or lessees of real estate situated within a distance of one hundred feet from the nearest point of the premises as provided herein. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition,

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for each condominium project within the affected area, one notice of the hearing shall be sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium involved."

**SECTION 4. Severability.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the Legislature hereby declares that the remainder of the Act and every other provision thereof shall not be effected thereby.

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 6.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.