

ACT 88

S.B. NO. 3031

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. The legislature finds that section 281-78(b)(6), Hawaii Revised Statutes, has been interpreted to result in strict liability for liquor licensees if possession or use of illegal drugs or other unlawful conduct occurs on their premises, even if the unlawful conduct is timely suppressed by the licensee.

The purpose of this Act is to clarify that a licensee who timely suppresses unlawful activity occurring on the licensed premises shall not be deemed to be in violation of section 281-78(b)(6), Hawaii Revised Statutes.

SECTION 2. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) At no time under any circumstances shall any licensee or its employee:

- (1) Sell, serve, or furnish any liquor to, or allow the consumption of any liquor by:
  - (A) Any minor;
  - (B) Any person at the time under the influence of liquor;
  - (C) Any person known to the licensee to be addicted to the excessive use of intoxicating liquor; or

- (D) Any person for consumption in any vehicle that is licensed to travel on public highways; provided that the consumption or sale of liquor to a minor shall not be deemed to be a violation of this subsection if, in making the sale or allowing the consumption of any liquor by a minor, the licensee was misled by the appearance of the minor and the attending circumstances into honestly believing that the minor was of legal age and the licensee acted in good faith; and provided further that it shall be incumbent upon the licensee to prove that the licensee so acted in good faith;
- (2) Permit any liquor to be consumed on the premises of the licensee or on any premises connected therewith, whether there purchased or not, except as permitted by the terms of its license;
  - (3) Permit any liquor to be sold or served by any person eighteen to twenty years of age except in licensed establishments where selling or serving the intoxicating liquor is part of the minor's employment, and where there is proper supervision of these minor employees to ensure that the minors shall not consume the intoxicating liquor;
  - (4) Permit any liquor to be sold or served by any person below the age of eighteen years upon any licensed premises, except in individually specified licensed establishments found to be otherwise suitable by the liquor commission in which an approved program of job training and employment for dining room waiters and waitresses is being conducted in cooperation with the University of Hawaii, the state community college system, or a federally sponsored personnel development and training program, under arrangements that ensure proper control and supervision of employees;
  - (5) Knowingly permit any person under the influence of liquor or disorderly person to be or remain in or on the licensed premises;
  - (6) Fail [~~immediately~~] to timely prevent or suppress any violent, quarrelsome, disorderly, lewd, immoral, or unlawful conduct of any person on the premises;
  - (7) Sell any draught beer unless upon the faucet, spigot, or outlet wherefrom the beer is drawn there is attached a clear and legible notice, placard, or marker which in the English language indicates and declares the name or brand adopted by the manufacturer of the draught beer, so situated as to be clearly legible for a distance of at least ten feet from the spigot, faucet, or outlet, to a purchaser with normal vision; or
  - (8) Receive from a person, as payment or as a consideration for liquor, any personal or household goods, including clothing and food, or any implements of trade. Any person violating this paragraph shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 281-102."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 26, 2012.)