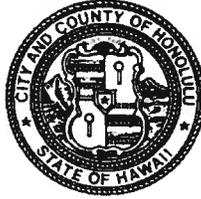


LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU

711 KAPIOLANI BOULEVARD, SUITE 600 • HONOLULU, HAWAII 96813-5249
 PHONE: (808) 768-7300 or (808) 768-7355 • FAX: (808) 768-7311
 E-mail address: liquor@honolulu.gov • INTERNET: www.honolulu.gov/liq

KIRK CALDWELL
 MAYOR



MICHAEL S. YAMAGUCHI
 CHAIRMAN
 IRIS R. OKAWA
 VICE CHAIR
 WESLEY F. FONG
 COMMISSIONER
 JOSEPH V. O'DONNELL
 COMMISSIONER
 JOSEPH M. MAGALDI, JR.
 COMMISSIONER
 FRANKLIN DON PACARRO, JR.
 ADMINISTRATOR
 ANNA C. HIRAI
 ASSISTANT ADMINISTRATOR

**September 1, 2014 Supplement to
 Liquor Laws of Hawaii & Rules of the Liquor Commission
 (Yellow Book – November 2012 Reprint)**

INDEX TO AMENDED RULES IN SUPPLEMENT

Rule Number	Description	Page(s)
§3-80-1.1	Definitions	2-3
§3-81-17.53	License Fees; When Due and How Calculated; Refund Offset	3
§3-81-17.54	Gross Sales Reports	3-4
§3-81-17.55	Additional License Fees on Gross Sales	5
§3-81-20	General Right of Inspection (NEW)	5
§3-82-31.8	Recorking	5
§3-82-38.5	Registration of Employees	5-7
§3-82-38.8	Semi-Annual Submission of Employee List	7
§3-82-38.9	Licensee and Manager in Charge of Premises	7-9
§3-82-38.25	Restrictions or Conditions on Licenses	9
§3-82-38.26	Bottle Service for On-Premise Consumption (NEW)	9
§3-82-41.2	Transfer of Corporate Stock; Notification Regarding Limited Partners, Limited Liability Company Managers or Members	9-10
§3-82-41.4	Management or Operating Agreements (NEW)	10-11
§3-83-53.1	License Applications; Notice of Hearing; Affidavits	11-16
§3-83-61.1	Renewal of Existing License	16
§3-83-62	Architectural Requirements/Alteration of Licensed Premises	16-17
§3-84-72.2	Premises Lighting; Doors	17
§3-84-73.2	Quality of Liquor (NEW)	17
§3-84-78.06	Solicitation of Business Outside of Premises	17
§3-84-78.52	Stacking of Drinks	17-18
§3-85-91.12	Licenses Under Safekeeping	18

**RULES OF THE LIQUOR COMMISSION
OF THE CITY AND COUNTY OF HONOLULU**
(Effective August 28, 2014; Implemented September 1, 2014)

Material repealed is [bracketed]. New material is underscored.

1. **§3-80-1.1. Definitions** is amended by amending the definitions for “bartender”, “dancer”, “employee”, “entertainer”, “manager”, and “sexual contact”, and to read as follows:

“Bartender” means a person who prepares or mixes alcoholic drinks in accordance with established recipes and procedures, collects and receives payment for drinks served as all or part of his duties, and is responsible for the cleanliness and orderly condition of the bar area. This excludes people who only open or pour draught or bottled beer or wine. This also excludes a customer who brings into the premises, purchases from the licensee, or obtains from the licensee wine or distilled spirits in its original container, or a pitcher of beer, and pours wine or distilled spirits from the original container, or beer from a pitcher, to create an unmixed serving of liquor for himself or others who sit at the pourer’s table and consume the serving of liquor at the pourer’s table.

“Dancer” means a person who is at least twenty-one (21) years of age and who performs or entertains [either clothed (i.e., “Go-Go” Dancer) or] unclothed or in such attire as to expose to view any portion of the pubic hair, anus, cleft of the buttocks, genitals, or any portion of the female breast below the top of the areola. A dancer performing on a licensed premises shall be deemed an employee of the licensee regardless of whether the dancer is under contract or commission, compensated or not compensated, and shall be considered on duty during the period the dancer is performing and while the dancer remains on the licensed premises between performances.

“Employee” means any person who performs a service usually or normally done, on or within a licensed premises, regardless of whether that person is under contract or commission, registered or not registered, compensated or not compensated. This excludes a customer who brings into the premises, purchases from the licensee, or obtains from the licensee wine or distilled spirits in its original container, or a pitcher of beer, and pours wine or distilled spirits from the original container, or beer from a pitcher, to create an unmixed serving of liquor for himself or others who sit at the pourer’s table and consume the serving of liquor at the pourer’s table.

“Entertainer” means any musician, singer, comic, any person who operates a system that provides amplified, recorded music for dancing, any person who operates a system that provides music so that customers may sing (i.e., “karaoke machines”), or other person who performs a specialized talent for the customers of a licensed premises, regardless of whether that person is under contract or on commission, registered or not registered, compensated or not compensated. This definition excludes dancers and go-go dancers.

“Manager” means the designated person duly registered with the Commission as a manager or assistant manager who is in active charge of the licensed premises [while the premises is open for business] during the time the establishment is licensed to sell or serve liquor.

“Sexual Contact” means any touching of the sexual or other intimate parts of a person **[not married to] by** the actor, or of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.

2. **§3-80-1.1. Definitions** is amended to add a new definition to be appropriately inserted and to read as follows:

“Go-Go Dancer” means a person who is at least twenty-one (21) years of age and who performs or entertains clothed and in such attire that does not expose to view any portion of the pubic hair, anus, cleft of the buttocks, genitals, or any portion of the female breast below the top of the areola. A go-go dancer performing on a licensed premises shall be deemed an employee of the licensee regardless of whether the go-go dancer is under contract or commission, compensated or not compensated, and shall be considered on duty during the period the go-go dancer is performing and while the go-go dancer remains on the licensed premises between performances.

3. **§3-81-17.53. License Fees; When Due and How Calculated; Refund Offset** is amended to revise the section heading and to add new subsection (d), and to read as follows:

- (a) The fee for any license renewed shall be due with the renewal application and payable on or before June 30 of each year. For any license other than special, transient vessel (per day), caterer, temporary or renewed licenses, the fee shall be due and payable on the date the license is issued. The fee for a license issued July 1 shall be for a full year. The fee paid for a license issued on any other date shall be prorated from the first day of the month in which the license is issued to the end of the license year.
- (b) License fees required to be paid on June 30 of each year, or on such other date as provided by this rule, shall be the fees prescribed by §3-81-17.51 for each respective class and kind of license.
- (c) The license fee for a special and caterer license shall be based on the calendar day ending and expiring at midnight.
- (d) If a licensee fails to effect its renewed license following payment of the license fee, refund of the fee to the licensee shall be reduced by any outstanding assessments and/or penalties for liquor law or rule violations.**

4. **§3-81-17.54. Gross Sales Reports** is amended to amend subsections (a), (b), and (f) and to add new subsection (g), and to read as follows:

- (a) All licensees, except vessel, transient vessel (per day), and special, shall file a report as directed by the Commission showing the true and accurate gross sales of liquor **and purchases of liquor. The report shall be signed by the owner, partner, corporate officer, member, or authorized agent and submitted with the original signature of the authorized party.** The gross sales report shall also indicate the

additional license fee due and payable which exceeds the minimum fees established by §3-81-17.51.

- (b) All tour and cruise vessel licensees shall file **[with the Commission]** a report **on a prescribed form as directed by the Commission** showing the true and accurate declaration of liquor purchases **[as directed by the Commission and]**. **The report shall be signed by the owner, partner, corporate officer, member, or authorized agent and submitted with the original signature of the authorized party. The gross sales report shall also indicate** the additional fee due and payable which exceeds the minimum fees established by §3-81-17.51.
- (c) The report shall be completed and filed not sooner than July 1 nor later than July 31 of each year, or at such other times as the Commission may direct. In cases of a transfer of a license, the report shall be filed by the transferor before the actual transfer of the license. Where licenses are revoked, canceled, or expired by term, a final report shall be filed within thirty-one (31) days following such revocation, cancellation or expiration. All reports shall be filed on or before the required filing dates by delivering them to the office of the Liquor Commission or by depositing them, properly addressed and stamped, in the United States mail. A postmark shall be evidence as to the time and date a report is mailed. The Commission shall not be responsible for failure of the post office to postmark the mailed report in a timely manner. A report received through the mail after the filing dates shall be considered late if received more than seven (7) calendar days after the postmark.
- (d) All licensees, except vessel, transient vessel (per day), and special, shall produce within three (3) calendars days for Commission inspection books or records showing all income, purchases and expenses of their liquor licensed business. These books and records, including but not limited to daily sales records and invoices, shall be made available for inspection and/or auditing by the Commission, through its auditors or otherwise, at any time and shall be preserved for a period of four years, except that the Commission may, in its discretion, consent to destruction of those books and records within the period or may require that they be kept longer.
- (e) Gross sales from off-premises catering shall be included in the gross sales report of the Restaurant, Hotel, or Condominium Hotel licensee.
- (f) Licensees who give complimentary drinks shall report the value of those drinks in their annual gross sales report. **If there is no sales price related to the complimentary drink, the licensee shall report the complimentary drink's value at four (4) times the amount of liquor purchased.**
- (g) **In addition to the report for the period ending June 30th, wholesale licensees shall complete and file an interim gross sales of liquor report for the period July 1 to December 31. The interim report is due not later than March 1st of the following year. The Commission may direct the wholesale class to file additional interim gross sales of liquor reports, and establish the respective due date(s).**

5. **§3-81-17.55. Additional License Fees on Gross Sales** is amended to read as follows:

- (a) The additional license fee based on gross sales of liquor shall be due and payable thirty-one (31) days after expiration, revocation or cancellation of the license under which the additional license fee accrued. In case of a license transfer, the additional license fee chargeable against such licenses shall become due and payable before the actual transfer of the license. If the deductible for the fiscal year has not been calculated, the prior year's deductible (prorated) will be applied to gross liquor sales to determine if any additional license fee is due. **[At the end of the fiscal year, the current year's deductible will be applied to the total gross liquor sales to determine the additional license fee. Any amount due will be assessed to the current licensee; any refund will be returned to the current licensee.]**
- (b) If the license is issued after July 1, any additional license fee based on gross sales of liquor shall be determined by prorating the deductible for the year.

6. A new rule **§3-81-20. General Right of Inspection** is added and to read as follows:

Without notice, search warrant, or other legal process, a licensee shall provide an investigator immediate access to every part of the licensed premises for the purpose of making an examination or inspection thereof of items related to the licensee's compliance with the liquor laws or rules. Except as prohibited by laws governing confidential or protected information, said examination or inspection shall include, but not be limited to, any books and records of the licensee kept on the licensed premises which relate to the licensee's compliance with the liquor laws or rules. Items discovered during such examination or inspection shall be used for the purpose of enforcement of the liquor laws or rules.

7. **§3-82-31.8. Recorking** is amended to read as follows:

Unless inconsistent with Chapter 281 of the Hawaii Revised Statutes or the Rules of the Liquor Commission, any [Class 2 Restaurant, Class 6 Club, Class 11 Cabaret, Class 12 Hotel, Class 14 Brewpub, and Class 15 Condominium Hotel] licensee engaged in meal service [may] shall allow a patron who has purchased or brought unto the licensed premises [a bottle of] wine, liquor or beer for consumption with a meal[,] to remove the partially consumed [bottle of wine] product from the licensed premises, which shall be recorked or resealed in its original container.

8. **§3-82-38.5. Registration of Employees** is amended by amending subsections (b) and (f), and to read as follows:

- (a) All dispenser, cabaret, hotel, club, brewpub, or condominium hotel licensees shall employ only persons in that section of the licensed premises where liquor is sold, served or consumed who are registered with the Commission prior to the start of employment. For restaurant licensees, only managers and bartenders are required to

be registered prior to the start of employment. Licensees shall ensure that any bartender currently employed in these classes of licenses successfully completes the server-training program within ninety (90) days of the publication of these rules. A temporary registration is allowed for each employee who has an unexpired certificate of registration. This temporary registration shall not exceed three (3) consecutive days, and will only become effective if the licensee timely advised the Commission by facsimile time stamp of the temporary employment. Further, the employee temporarily registered with the Commission must permanently register not later than the first working day after the temporary registration expires. An employee need not obtain a new certificate of registration because of a name change only. This rule shall apply to the registration of employees under a temporary license based upon a new license application as stated in §3-82-32.1. However, this rule shall not apply to employees under a temporary license based upon a transfer license application where the employee is registered under the pre-existing license.

- (b) Certificates of registration issued by the Commission shall be valid only for the licensed premises for which the employee registers and the license number of the premises shall be printed on the certificate of registration. Employees may be employed to work at more than one licensed premises; however, a separate certificate of registration shall be required for each licensed premises. Certificates of registration for employees, except for dancers, **bartenders or managers** shall be valid for four (4) years from the date of issue. **For bartenders or managers, certificates of registration shall be valid for four (4) years from the date of successful completion of the server training program required under sub-paragraph (f) of this rule (including passing the examination).**
- (c) Persons who apply to the Commission for registration shall present:
- (1) Positive identification in the form of either a passport, a laminated driver's license with photograph, or other laminated government identification with a photograph;
 - (2) Proof of a Social Security number;
 - (3) A current satisfactory tuberculosis (TB) clearance report.
- (d) Each person registered shall be photographed and issued a certificate of registration which shall be valid until the expiration date indicated thereon or when recalled, suspended, or revoked by the Commission. The certificate of registration shall be retained by each employee and not surrendered to or held by the employer. A processing fee shall be charged for each certificate of registration issued to cover the cost of materials and processing.
- (e) Licensees shall ensure that all employees who are required to register with the Commission have their certificate of registration for the licensed premises readily available for inspection while on duty at that licensed premises.
- (f) All dispenser, cabaret, restaurant, tour or cruise vessel, annually licensed transient vessel, hotel, club, brewpub, or condominium hotel licensees shall employ only bartenders who have successfully completed the server-training program administered by the Commission, including an examination and instruction in the following areas:
- (1) Identifying and dealing with intoxicated persons,
 - (2) Reviewing liquor laws and rules, and
 - (3) Dangers of driving while intoxicated.

In these classes, the licensees shall ensure that individuals currently employed as a bartender successfully complete the server-training program within ninety (90) days of publication of these rules. A person may be issued a certificate of registration as a bartender for the same or another licensed premises and need not retake the server-training program if that person had successfully completed the server-training program within the past ~~two (2)~~ **four (4)** years.

- (g) If an employee has been issued a manager's certificate of registration for a particular licensed premises, the employee with the manager's certificate need not be issued a separate employee's certificate of registration of another category, except dancers, for the same licensed premises.
- (h) Entertainers are not required to be registered as employees pursuant to this rule.
- (i) The licensee shall ensure that any employee who performs duties of a hostess, as defined in §3-80-1.1, in a class 5 Dispenser, Category 4 licensed premises, is duly registered as a hostess with the Liquor Commission. Licensed premises not authorized Category 4 (hostess) shall not have employees registered or performing duties as hostesses, except as defined in §3-80-1.1.
- (j) For hotel and condominium hotel licensees, only managers, bartenders and staff who handle, serve or sell liquor are required to be registered as employees pursuant to this rule.

9. **§3-82-38.8. Semi-Annual Submission of Employee List** is amended to read as follows:

All ~~retail,~~ brewpub, tour or cruise vessels, dispenser, cabaret, hotel, club, restaurant, and condominium hotel licensees shall submit to the Commission, semi-annually on a date and in such manner as the Commission may direct, the name of every person then employed on the licensed premises who is registered with the Commission or who is subject to registration. The employment of a person who had previously registered for a particular premises and whose name does not appear on the licensee's semi-annual list of employees shall be considered terminated and the registration of that person shall be voided. A person whose registration with the Commission for a particular premises has expired and who then applies for re-registration shall be considered an original applicant and shall appear in person at the Commission's office to complete this registration. It shall be presumed evidence of a violation of §3-82-38.5, Registration of Employees; §3-82-38.6, Dancers; and §3-82-38.9, Managers; that an unregistered employee's name appears on any employee time card or employment records.

10. **§3-82-38.9. Licensee and Manager in Charge of Premises** is amended by amending subsections (b) and (d), and to read as follows:

- (a) Each dispenser, cabaret, tour or cruise vessel, annually licensed transient vessel, restaurant, club, hotel, caterer, brewpub, and condominium hotel licensee shall have a duly registered manager in active charge of the licensed premises during the time the establishment is licensed to sell or serve liquor.
 - (1) Managers on catered premises shall be registered with the hotel, restaurant, or condominium hotel licensee performing the catering.

- (2) Retail (class 4) licensees shall have a duly registered manager or assistant manager assigned to each licensed premises (or group of premises if ownership has multiple properties) to insure employees are knowledgeable in applicable Commission laws and rules. It is not required that these managers be present at all times but shall assume responsibility for training and monitoring their assigned stores. These managers shall complete the server-training program and pass the examination prior to being assigned those duties or within one hundred eighty (180) days after publication of these rules, if currently performing those duties.
- (b) A person shall successfully complete the server-training program and pass the examination administered by the Commission before that person can be registered with the Commission as a manager or permitted to renew the manager's certificate of registration. However, a person may be issued a manager's certificate of registration for the same or another licensed premises and need not retake the server-training program and pass the examination if that person had successfully completed the server training program within the past **[two] four** years.
- (c) Certificates of registration issued by the Commission shall be valid only for the licensed premises in which the manager is registered. A person may be employed to work as a manager at more than one licensed premises, however, that person shall have a manager's certificate of registration for each licensed premises. Retail licensees shall be exempt from the "one certificate-one premises" limitation.
- (d) Certificates of registration for managers shall be valid for four (4) years from the date of **[issue] successful completion of the server training program required under sub-paragraph (b) of this rule (including passing the examination)**. Any person registered as a manager for a licensed premises may also perform any other duties at the same premises, except for performing as a dancer, which does require a separate registration, or sit with customers in the case of a cabaret. Managers of licensed cabarets are not permitted to sit with customers during hours of operation.
- (e) Persons who apply to the Commission for registration as a manager for a particular premises shall present:
- (1) Positive identification in the form of either a passport, a laminated driver's license with photograph, or other laminated government identification with photograph;
 - (2) Proof of a Social Security number;
 - (3) Proof that the applicant is at least twenty-one (21) years of age;
 - (4) A letter from the licensee certifying that the applicant will be or is a manager of the licensed premises;
 - (5) A current satisfactory tuberculosis (TB) clearance report.
- (f) Each person registering as a manager shall be photographed and issued a certificate of registration which shall be valid for use only at the designated licensed premises until the expiration date or until recalled, suspended or revoked by the Commission. The certificate of registration shall be retained by each manager and not surrendered to or be held by the employer. A processing fee shall be charged for each certificate of registration issued to cover the cost of materials and processing.
- (g) Licensees shall ensure that all managers who are required to register with the Commission shall have the manager's certificate of registration for the licensed

premise readily available for inspection while on duty at that premises.

- (h) All retail, dispenser, cabaret, tour or cruise vessel, restaurant, club, hotel, brewpub, and condominium hotel licensees shall ensure that responsible managers have successfully completed the server-training program administered by the Commission, including passing an examination and instruction in the following areas:
- (1) Identifying and dealing with intoxicated persons,
 - (2) Reviewing liquor laws and rules, and
 - (3) Dangers of driving while intoxicated.

11. **§3-82-38.25. Restrictions or Conditions on Licenses** is amended to read as follows:

- (a) Pursuant to HRS Section 281-61(b), the Commission may, at any time, fine, suspend, revoke, or place restrictions or conditions on any license issued under HRS 281 and the Rules of the Commission for the purpose of preventing activities within the licensed premises, or adjacent areas under the licensee's control that are potentially injurious to the health, safety, and welfare of the public. Such adjacent areas include areas such as, but not limited to, stages, entertainment areas, lanais, and parking areas.
- (b) The Commission may place such restrictions or conditions on any license issued pursuant to HRS 281 or these Rules (i) at the time the license is initially issued or transferred or (ii) at any other time upon petition of the Administrator to the Commission and after notice and hearing in accordance with HRS 281 and these Rules.
- (c) Licensee shall comply with any restrictions or conditions placed on the license by the Commission pursuant to this Rule.

12. A new rule **§3-82-38.26. Bottle Service for On-Premise Consumption** is added and to read as follows:

Service of wine or distilled spirits in its original container is permitted at premises licensed for on-premise consumption. The seal of the original container shall be broken at the time of service.

13. **§3-82-41.2. Transfer of Corporate Stock; Notification Regarding Limited Partners, Limited Liability Company Managers or Members** is amended to read as follows:

- (a) Prior to the date of transfer or change in ownership of a corporation, the corporate licensee shall submit an application for stock transfer and secure the approval, in writing, of such transfer or change of ownership from the Commission. The request for approval shall include the following:
 - (1) The stock purchase offer or similar document;
 - (2) Information regarding the consideration to be paid for the transfer and the effective date of the transfer of stock;
 - (3) Personal history, FBI Fingerprint card, and criminal history record clearance, as

explained in §3-82-45.1, on forms prescribed by the Commission, of each new stockholder holding twenty-five percent (25%) or more of corporate stock, officer or director; and

- (4) Upon the approval of the proposed transfer of stock by the Commission, the corporate licensee shall submit an executed copy of the stock purchase agreement to the Commission not more than fifteen days after the effective date of the transfer of stock or approval by the Commission, whichever is earlier.
- (b) Corporate licensees shall notify the Commission, in writing, within thirty days of any change of officers or directors and submit a personal history of the new officer or director, on forms prescribed by the Commission. Limited liability company licensees shall notify the Commission, in writing, **[within thirty days of] prior to** any change of managers of manager-managed limited liability companies or of any change of members in a member-managed limited liability companies and submit a personal history of the new manager or member, on forms prescribed by the Commission. All newly appointed or elected principals, who are natural persons, of any class license, except as exempted by §3-82-45.1, must be fingerprinted or submit fingerprints on a Honolulu Liquor Commission fingerprint card and submit a personal history and affidavit, and must request a Criminal History Clearance from the Hawaii Criminal Justice Data Center within thirty days of appointment or election, unless the period is extended or the requirement is waived by the Commission, for just cause. Principals that are not natural persons must submit whatever documentation establishes the entity (for example, Articles of Incorporation or Organization, or Partnership Agreement), and a list of principals of the entity. Limited partnerships and manager-managed limited liability company licensees shall notify the Commission, in writing, within thirty days of any change of limited partners **holding twenty-five percent or more interest** or members and submit a personal history of the new limited partner **holding twenty-five percent or more interest** or member, on forms prescribed by the Commission.
- (c) The transfer of an aggregate of fifty-one (51%) percent of the stock of cabaret licenses which, pursuant to Section 281-31(l), Hawaii Revised Statutes, are permitted to have entertainment by dancers, shall be considered a transfer of the license for purposes of determining whether the licensee may continue to have such entertainment.
- (d) Stock transfer applicants shall provide documentation from the Department of Commerce and Consumer Affairs of proof of the existence of a valid corporation.

14. A new rule **§3-82-41.4. Management or Operating Agreements** is added and to read as follows:

Licensee shall apply for and secure approval for any management or operating agreement from the Commission, in writing, prior to such agreement taking effect, subject to the following conditions:

- (a) **The agreement shall be restricted to permitting the operator to manage and operate the licensed premises on behalf of the licensee, and the licensee shall remain responsible for and maintain exclusive control of the licensed premises.**

- (b) The agreement shall be for the entire licensed premises, unless otherwise approved by the Commission.**
- (c) If the agreement is effected without the prior approval of the Commission, the Commission may in its discretion revoke or suspend the license, or assess and collect a penalty, or reprimand the licensee.**
- (d) In conjunction with its request for approval, the licensee shall submit an executed copy of the agreement, and can be subject to submittal of any or all documents required under Rule §3-83-53.1, and shall be subject to a hearing before the Commission.**
- (e) If the Commission finds that any proposed person or any principal of the agreement is an unfit or improper person to hold a liquor license in the person's or principal's own right pursuant to Section 281-45, Hawaii Revised Statutes, it shall not approve the agreement.**

The term "management agreement" or "operating agreement" shall include any agreement, verbal or written, where through such agreement the licensee allows an operator to manage and operate the licensed premises on behalf of the licensee.

15. **§3-83-53.1. License Applications; Notice of Hearing; Affidavits** is amended to read as follows:

- (a) An applicant applying for a new license or for the transfer of an existing license of a manufacturer, restaurant, wholesale, retail, dispenser, club, annual transient vessel, tour or cruise vessel, cabaret, hotel, brewpub, or condominium hotel shall file in support of the application:
 - (1) With the application:
 - (i) If the applicant is a sole proprietor or an unincorporated association, a personal history and affidavit for each natural person listed in the application on forms provided by the Commission.
 - (ii) If the applicant is a partnership, the partnership agreement, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of the current partners to the partnership. For each partner, a personal history and affidavit on a form provided by the Commission or, if the partner is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that partner, and a list of current principals of that partner.
 - (iii) If the applicant is a limited liability company, the articles of organization and operating agreement, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of the current managers and current members of the company with their percentage of ownership. For each manager and member, a personal history and affidavit on a form provided by the Commission or, if the manager or member is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that manager or member, and a list

- of current principals of that manager or member.
- (iv) If the applicant is a corporation, the articles of incorporation, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of current officers, current directors, and current stockholders of 25% or more of the outstanding capital stock of the corporation. For each officer, director, or stockholder of 25% or more of the outstanding capital stock, a personal history and affidavit on a form provided by the Commission or, if the stockholder is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that stockholder, and a list of current principals of that stockholder.
 - (v) Except for a condominium hotel license, a floor plan to scale of the licensed premises or proposed licensed premises with the area to be licensed demarcated in red and showing all fixtures, a square footage calculation for the area to be licensed, and the scale and orientation of the plan, and, in the case of an application regarding a license for consumption on the premises, the restrooms for the premises and a preliminary approval stamp from the State Department of Health. If the applicant is applying for a class or category of license that permits dancing, the designated dance floor shall be shown on the floor plan.
 - (vi) A copy of the floor plan required by paragraph (v) on an 8½-inch by 11-inch piece of paper.
 - (vii) A copy of the deed, lease, sublease, assignment of lease, rental agreement, or other conveyance of the use of the property to the applicant permitting the activity for which the license is applied. A copy of the executed document with applicable consents shall be submitted before the license is issued and may be submitted in fulfillment of the requirement of this paragraph.
 - (viii) For applications for new licenses and for the transfer of an existing dispenser or cabaret license, a tax map drawn to a scale of one inch to each forty, fifty, or sixty feet showing the area within 500 feet of the licensed area or proposed licensed area of the premises and also indicating 100 feet from the premises.
 - (ix) For applications for new licenses and for the transfer of an existing dispenser or cabaret license, a list of names and addresses of all property owners, recorded lessees, condominium projects, and cooperative apartment projects within 500 feet of the premises, which list shall also designate those owners, lessees, condominiums, and cooperatives which are within 100 feet of the premises.
 - (x) Except in the matter of a hotel as defined in HRS Section 486K-1, a restaurant, or a convenience store, for applications for new licenses and for the transfer of an existing dispenser or cabaret license, a list of small businesses within 500 feet and of small businesses within 100 feet of the premises.
 - (xi) A full, true, and accurate statement of the complete financial condition of

- the applicant, which shall not be over six months old, or that is less than one year old and certified by the applicant to be substantially correct.
- (xii) Documents substantiating the financial statement and showing sufficient finances to cover proposed expenditures related to the application and including initial operating expenses for the first six months of operation.
 - (xiii) For the transfer of a license, an instrument documenting the consideration for the proposed transfer.
 - (xiv) Except when the applicant will do business under its own name, exactly, for an application for a new license, a Certificate of Registration of trade name from the Department of Commerce and Consumer Affairs or other sufficient documentation of the permitted use of the trade name in accordance with §3-81-17.58, or for an application for the transfer of a license, a statement of what trade name is proposed to be used, which shall be confirmed before the transfer is effected by a Certificate of Registration of trade name or other sufficient documentation.
 - (xv) A description detailing the kind of business that the applicant proposes to operate. **For applications for transferred restaurant licenses, a financial report of gross revenue for the year preceding the application demonstrating that at least thirty percent of the establishment's gross revenue was derived from the sale of foods. For applications for new restaurant licenses if not previously operated as an establishment serving meals to patrons for compensation, a business plan demonstrating the applicant's ability to meet the minimum gross revenue from the sale of foods required of restaurant licensees.**
 - (xvi) A 4-inch by 6-inch photoimage or photograph of the front of the licensed premises or proposed licensed premises and a 4-inch by 6-inch photoimage or photograph showing the licensed premises or proposed licensed premises street location.
 - (xvii) For applications for new condominium hotel licenses or for the transfer of an existing condominium hotel license:
 - a. A list of the condominium hotel guest rooms within the proposed licensed premises as of the application date.
 - b. A copy of the application for registration of the condominium hotel operator approved by the real estate commission, if applicable.
 - c. A floor plan (which may be a copy of all or portions of the recorded condominium map) marked to show:
 - (i) the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served, with such portion or portions marked in red and showing all fixtures and any designated dance floor in such portion or portions; a square footage calculation of such portion or portions; the scale of the map; and, if liquor will be consumed within such portion or portions, the restrooms for such portion or portions;
 - (ii) the locations of all condominium hotel guest rooms in the

- condominium hotel (which locations may be indicated by narrative description or coloring of the condominium map); and
 - (iii) the locations of the apartments, common elements and/or limited common elements over which access will be provided to and from the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served and the condominium hotel guest rooms (which locations may be indicated by narrative description or coloring of the condominium map).
 - d. A preliminary approval stamp from the State Department of Health for the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served.
 - e. The identity of the AOA manager and, if the applicant is not a rental program manager for condominium hotel guest rooms in the condominium hotel, the rental program manager that manages the most condominium hotel guest rooms in the condominium hotel.
- (2) Concurrent with filing the application:
 - (i) A request for criminal history record clearance for liquor license, for each person required to submit a personal history and affidavit, with the Hawaii Criminal Justice Data Center.
 - (ii) A request for zoning clearance with the Department of Planning and Permitting, Aloha Tower Development Corporation, or Hawaii Community Development Authority, as appropriate.
 - (iii) A request for the required list of registered voters, if required, with the City Clerk. A statement that each request has been made, with the date that it was made, shall accompany the application filed with the Commission.
- (3) During the processing of the application:
 - (i) Each person required to submit a personal history and affidavit is required to submit fingerprints on a fingerprint card provided by the Commission. Fingerprints for those principals not fingerprinted by an investigator for the Commission shall be submitted, with a letter of authority by the person who made the fingerprints, with the application or as soon after its submission as possible. The Commission in its discretion may waive part or all of this requirement.
 - (ii) Each applicant required to make a mailing of notification of public hearing following the preliminary hearing shall submit an affidavit of mailing on a form provided by the Commission and the master mailing lists for the mailing as provided by law.
 - (iii) Each applicant required to notify the registered voters in the area of the premises and each applicant who can be denied its application by a percentage of the voters shall submit the list of registered voters within 500 feet and within 100 feet to the Commission with the affidavit of

- mailing and the master mailing lists.
- (iv) The zoning clearance shall be submitted to the Commission as soon as possible and before the license is issued or the transfer is effected.
 - (v) Each applicant for a new license shall directly notify the chair of the neighborhood board in which the applicant's place of business is to be located, in writing and delivered by certified mail, return receipt requested. The Commission, for just cause, may waive this requirement.
- (b) Except as excused by HRS Section 281-52 or 281-57, an application for a change of location, change of class, change of kind, or change of category will be treated as a new application.
- (c) An applicant for a special license, other than a one-day special license for a fund raising event by a not for profit organization, shall fulfill the requirements of paragraphs (a)(1)(i)-(iv) and (xv), (a)(2)(i) and (ii), and (a)(3)(i), (iv), and (v). Additionally, the applicant shall submit a detailed floor plan and site plan with dimensions, permission of the landlord for the event or other document conveying the use of the premises to the applicant, or permission from the government entity property owner allowing the sale or consumption of liquor on the premises, and a detailed description of the event and kind of business that the applicant proposes to conduct.
- (d) An applicant for a transient vessel license shall file in or with the application:
- (1) If the application is made by an agent for the owner, a copy of a contract or other document establishing the agent's relationship with the vessel's owner and a document establishing the identity of the agent.
 - (2) The pier and port at which the vessel will berth and the times and dates of arrival and departure.
 - (3) The name, city, and state or country of the vessel's fee titled owner.
 - (4) A personal history and affidavit, partnership agreement, articles of organization, articles of incorporation, or other organizational document of the proposed licensee.
 - (5) If the proposed licensee is not a sole proprietor, a list of the principals of the proposed licensee.
 - (6) A current financial statement of the proposed licensee.
 - (7) A photograph of the vessel.
 - (8) A description of the vessel and deck plans showing proposed liquor outlets, dance floors, and so forth.
- (e) An applicant for a caterer license shall file with the application a detailed floor plan and site plan with dimensions, permission of the landlord for the event or other document conveying the use of the premises to the applicant, or permission from the government entity property owner allowing the sale or consumption of liquor on the premises, and a detailed description of the event and kind of business that the applicant proposes to conduct.
- (f) After granting of a new license or the transfer of an existing license other than for special license, transient vessel license, or caterer license and before the license is issued or transferred, the applicant shall request a final inspection of the proposed licensed premises by Commission staff. Before the issuance of a license allowing live music or other entertainment, Commission staff will evaluate the premises regarding

its suitability for live music or other entertainment.

- (g) If a new license is not issued or the transfer of a license is not effected within six months from the date of granting, the Commission will review the granting. The applicant may show good cause why the license has not been effected, and the Commission may, at the hearing, reconsider its granting.
- (h) If the Commission finds that the applicant has made a false statement as part of the application, it may deny the application, suspend or revoke any current license, or assess and collect a penalty.

16. **§3-83-61.1. Renewal of Existing License** is amended to add new subsection (h) and to read as follows:

The Commission may withhold the issuance of a renewed license for good and sufficient reason, which may include, but is not limited to:

- (a) Failure to pay any outstanding penalties due the Commission;
- (b) Failure to file any outstanding gross liquor sales reports;
- (c) Failure to pay any outstanding additional license fees;
- (d) Failure to comply with any prior Commission orders, which may include, but is not limited to, an order to update or keep current any and all license application documents contained in the Commission's licensee file;
- (e) Complaints from the public or reports from the Commission's investigators indicating that sounds emanating from the licensed premises cause undue disturbance which disrupts the peace and quiet of the neighborhood;
- (f) Complaints from the public or reports from the Commission's investigators indicating that noise created by patrons departing the premises disturbs residents of the neighborhood in which the premises are located;
- (g) A report, investigated and verified by the Commission, indicating that sounds emanating from the premises exceed permissible levels.
- (h) **For licensees who are corporations, limited partnerships, limited liability companies, or limited liability partnerships, failure to maintain the business entity's good standing in the state of its organization. In this regard, business entity licensees shall submit with their license renewal documents a certificate of good standing from the state of its organization that is not more than 60 days old to establish compliance with this requirement.**

17. **§3-83-62. ARCHITECTURAL REQUIREMENTS/ALTERATION OF LICENSED PREMISES** is amended to amend subsections (a) and (c) and to add new subsection (e), and to read as follows:

- (a) Any physical alterations within a licensed premises shall only be made with the prior, written approval of the Commission. Retail licensees are exempt from the prior approval requirement but are required to file an updated floor plan for the premises within five (5) business days of completion of the alteration(s). **Hotel licensees are required to obtain prior approval only for physical alterations made to (i) an area where alcoholic beverages are sold, served, or consumed or (ii) common areas.**

- (b) No licensee that is authorized on-premise consumption shall have an opening or entrance from within the licensed premises into any other enclosed, unlicensed part of the same structure, or into any adjoining, enclosed, unlicensed structure offering entertainment.
- (c) A licensee who applies for **[an] a permanent** increase in the area of the licensed premises where the increase sought is equal to or greater than 50 percent of the current area licensed shall give notice of said application to the chair of the neighborhood board in which the licensee's licensed premises is located, in writing and delivered by certified mail, return receipt requested.
- (d) Alterations, changes, or increases to a condominium hotel licensee's premises which are within (i) condominium hotel guest rooms or (ii) areas that only provide access to and from the portion or portions of the licensed premises in which alcoholic beverages will be served and condominium hotel guest rooms, are exempt from the requirements and restrictions of this Rule.
- (e) After granting an increase in the area of the existing licensed premises of a licensee, the licensee shall request and pass a final inspection of the premises by Commission staff before the licensee is authorized to occupy and use the granted addition.**

18. **§3-84-72.2. Premises Lighting; Doors** is amended to read as follows:

Street or primary entrances to licensed premises shall be kept unlocked during all times that **[non-employees] any person other than an on-duty employee** is on the premises. Entrances to booths shall be open and unobstructed. The interior and exterior of the licensed premises shall be well and properly lighted.

19. A new rule **§3-84-73.1. Quality of Liquor** is added and to read as follows:

Straight or unmixed distilled spirits shall only be dispensed from its original container. In the handling and storage of straight or unmixed distilled spirits, the transfer of product from its original container to any other storage container is prohibited.

20. **§3-84-78.06. Solicitation of Business Outside of Premises** is amended to read as follows:

No licensee authorized to sell liquor for consumption on the premises, shall solicit business **[immediately outside or in the vicinity] within a twenty feet radius** of the licensed premises.

21. **§3-84-78.52. Stacking of Drinks** is amended to read as follows:

The stacking of liquor by the licensee for consumption by customers is prohibited. **“Stacking” is defined as having more than two standard servings of drinks before a customer at any one time. A standard serving means a drink containing distilled**

spirits in a container not to exceed sixteen ounces, or six ounces of wine, or twenty-two ounces of beer; provided that a serving in excess of these amounts shall be limited to one per customer. A multiple-serving container, not to exceed sixty ounces, may be served to two or more persons. [No customer shall be permitted to have, for consumption, more than one drink at a time, except that a beer may be served with a straight or unmixed serving of liquor. This rule shall not apply to Commission approved authorized “showroom” facilities which may serve the “minimum” drinks at the same time to lessen disturbance to the show, or at auditoriums, theaters, concert halls, arenas, stadiums and convention halls where a walk-up, concession system of service is employed and there is no tableside or seating service provided by wait help. In these concession-serviced facilities, a customer may purchase a maximum of two drinks at a time.]

At last call, multiple-serving container service or any drink exceeding a single standard serving shall be prohibited.

22. **§3-85-91.12. Licenses Under Safekeeping** is amended to read as follows:

Any license held in safekeeping by the Commission shall be considered an active license and the licensee must continue to comply with all Liquor Commission laws and rules unless otherwise directed by the Commission. **Any license held in safekeeping beyond June 30 of a license year must receive Commission approval to remain in safekeeping and as otherwise directed by the Commission.**

*****END*****