

DEPARTMENT OF LIQUOR CONTROL

LEO SANDOVAL, DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

October 8, 2021

TO: **ALL LIQUOR LICENSEES OF THE COUNTY OF KAUAI**
FROM: **DEPARTMENT OF LIQUOR CONTROL**
SUBJECT: **Proposed Rule Amendments**

Aloha Industry Members,

The Department is currently working on amendments to the Rules & Regulations of the Liquor Control Commission.

The proposed amendments are currently available on our website at www.kauai.gov/liquor or at our office.

At this time the proposed rules are being reviewed by the Hawaii Small Business Regulatory Review Board prior to announcing intentions for a public hearing. If you should have any comments on the proposed rules, please reach out to our Department by email at liquor@kauai.gov or by phone at 808-241-4699.

Sincerely,
DEPARTMENT OF LIQUOR CONTROL

LEO SANDOVAL
Director

2021 PROPOSED RULE AMENDMENTS

RULE	DESCRTIPTION	PROGRAM IMPLEMENATION	IMPACT
1.1	Definitions	Adds, "Suspended Penalty" means a penalty or any part thereof that the Commission has ordered suspended for a period of time under conditions.	Adds in a new definition
2.5.5	License Application (False Statement)	Adds, "If the Department finds that the applicant has made a false statement or misrepresentation as part of the application, it may deny the application, suspend or revoke any current license, or assess and collect a penalty."	New rule adds the ability for the Department to take an action if a false application is submitted to the Commission.
2.12(b)(4)	Direct Shipment of Wine by Wineries	Removes "\$48" with "\$180"	Increases the fee associated with the annual license issued to Direct Shippers to align with neighboring island fees for the same license. Initial fee has been in place since 2006 with no increase.
2.20	Notarial act performed using audio-visual communication technology; electronic or digital signatures Notarial act performed using audio-visual communication technology; electronic or digital signatures	Adds, "(a) Documents bearing a notarized signature that was obtained using audio-visual communication technology and performed in compliance with state law may be submitted and accepted for processing. (b) Applications and any related documents may be submitted and accepted for processing with an electronic or digital signature	New Rule adds the ability for the department to extend the option for online notary and the use of verified digital signatures on all documents related to licensing.

		in accordance with procedures established by the department.”	
3.18	Suspended Penalty	Adds,” Whenever the Commission has assessed a penalty against a licensee, any part of which the Commission has ordered suspended under conditions, in the event of the violation of such conditions by the licensee, the Director shall collect from the licensee the amount suspended without further action by the Commission.	New Rule permitting the Department to collect the any amount in abeyance.
4.4 (a)	Percentage Fee	Adds, the option to submit percentage fees electronically Replaces “File” to Submit	New rule added to allow the licensees to submit online payments as an option.
4.7 (b)	Percentage Fee	Removes, “September 30 th ” Adds, “October 30.”	Changes the due date to allow the department to more accurately account for percentage fees calculated by Department of Finance and amounts due by the licensee.
4.7(c)	Gross Liquor Sales Report	Adds, “the option to for the Department to send invoices electronically to the licensees.”	New rule added to allow the Department the option to send invoices electronically to the licensees for gross liquor sales.
4.8	Failure to Submit Accurate Gross Liquor Sales Reports	Adds, “Licensees shall maintain complete and accurate records in order to properly complete and submit the gross liquor sales report pursuant	This rule aligns with HRS 281-91 adding in the ability for the

		to Rule 4.4(a). Failure to submit an accurate gross liquor sales report may subject the licensee to the penalty set forth in Section 281-91, Hawaii Revised Statutes.”	commission to assess a fine to a licensee that does not follow through with reporting requirements.
4.8.5	Trade Name; Change; Fee.	Adds, “Trade Name; Change; Fee. A new licensee or transferee shall have a choice of trade name, however, any trade name must be registered with the State Department of Commerce and Consumer Affairs. Any current or pending licensee desiring to change an existing or previous trade name shall submit to the Commission a Certificate of Registration of Trade Name issued by the State Department of Commerce and Consumer Affairs, showing approval of that registration. A processing fee of \$45.00 shall be assessed by the Commission for any change of existing trade name.”	New rule that aligns with neighboring islands permitting a fee to be charged for the processing of a tradename change. Currently the department does not charge for this service. This would minimally impact the licensees.
4.9	Payment for Under Reporting Gross Liquor Sales	Adds, “Any licensee who is determined by the Director to have under-reported gross liquor sales may be issued a notice of violation.”	New rule that aligns with neighboring islands giving a deadline to correct any under-reported gross sales. Currently no rule exists.
4.10	Fines Collected from Penalties Assessed	Adds, “The Director, with the Commission approval, shall be authorized to designate a portion of the fines collected for use in programs to promote compliance with liquor laws, business development, and improvement of interagency and interoffice functions. Such programs may include, but are not limited to, grant assistance	New rule that is aligning with the neighboring island rules clarifying the purpose and permitted use of the funds collected through fines.

		programs, enforcement, public service announcements promoting responsible drinking and driving, youth programs, education, and liquor control administrative meetings.”	
6.2	Sales, Service or consumption before or after hours of business, exception	Removes,” except that employees who were on duty at the legal closing time in on premises establishments may consume liquor immediately after closing with the permission of the licensee, and at no cost, if no other person is in the liquor service area of the premises.”	Amendment to the existing rule. New rule would align with neighboring islands prohibiting consumption of alcohol after legal closing hours.
7.8 (a)	Manager on duty, qualifications	Removes,” at all times when there is anyone who is not an employee in the premises” Adds, “during the time the establishment is open for business and licensed to sell or serve liquor.”	Amendment to the existing rule aligning with Rule 10.2
7.8(b)	Manager on duty, qualifications	Removes “written or oral” Removes”eighty-five percent (85%), replaces with “eighty-six percent (86%)” Removes”,” replaces with “and” Removes”,” replaces with “,” Removes “Five”, Replaced with “Four” years. Removes “manager” Removes, “and commission review of eligibility and approval;”	Amendment replaces the validity of the manager card from 5 years to 4 years to align with neighboring islands. Removes the need for commission review of applicant prior to issuing the manager card.
7.8 (c)	Manager on duty, qualifications	Adds, “A non-refundable registration of ten dollars (\$10.00) shall be charged at the time of registration for the manager’s test.”	New rule permitting the Department to collect a small fee for the class and exam being taught by the Department same.

7.8 (d)	Manager on duty, qualifications	Adds," An additional ten dollars (\$10.00) shall be charged to cover processing costs for each manager card issued after successful completion of the test."	New rule permitting the Department to collect a small fee for issuance of a physical card. This fee would help the Department recover costs of card producing equipment and supplies that are absorbed by the Department currently.
7.8 (e)	Manager on duty, qualifications	Adds," A manager may obtain a replacement manager card upon payment of a ten dollars (\$10.00) replacement fee.	New rule permitting the Department to collect a small fee for issuance of a replacement card. This fee would help the Department recover costs of card producing equipment and supplies that are absorbed by the Department currently.
7.8 (f)	Manager on duty, qualifications	Adds," A person with an active and valid manager card from a neighboring island may be issued a manager card from the Department to expire no later than the expiration date on the neighboring island card. Upon expiration of the card so issued, the card-holder must take and pass with a score of eighty-six percent 86% or better the test required in subsection (b) of this rule."	New rule permitting the Department to collect a small fee for issuance of a temporary card. This fee would help the Department recover costs of card producing equipment and supplies that are absorbed by

			the Department currently.
7.13	Fight and Disturbance Reports	<p>Removes” quarrelsome behavior that causes the licensee, his employees, or police officers to evict a person from the premises or to request a person to leave the premises.”</p> <p>Adds, “whenever law enforcement or emergency medical services personnel are called to the licensed premises, or when a breach of the peace is created at the premises by a person.</p> <p>Adds, “For the purpose of this rule, “breach of the peace” shall mean any action in violation of HRS 711-1101 DISORDERLY CONDUCT”</p>	Amendment is updated to clarify the licensee’s responsibilities regarding fight and disturbance reporting.
7.15(a)	Practices that promote excessive consumption of liquor prohibited.	<p>Removes,” Licensees shall use good judgment in serving liquor to patrons to prevent excessive consumption of liquor by patrons”</p> <p>Adds, “No licensee shall promote the excessive consumption of liquor, sell, or offer to sell any liquor to any person who appears to be intoxicated.”</p>	Amendment to existing rule that would add a clear expectation of the licensee’s responsibilities encouraging responsible service of alcohol
7.15(c)	Practices that promote excessive consumption of liquor prohibited.	Removes, “This paragraph shall not apply to private functions for which a hosted bar is utilized such as a wedding reception, or public functions such as luaus and brunches where liquor is inclusive, or other similar events where liquor service is incidental to food service.”	Amendment to existing rule removing existing exemptions to the promotion of excessive consumption of liquor.

7.15(e)	Practices that promote excessive consumption of liquor prohibited.	Adds," No licensee shall encourage or permit any game or contest that involves the consumption of liquor or the awarding of liquor as a prize.	Amendment to rule adding games and contest winnings as an additional inducement to consume alcohol.
7.16 (a)	Drugs and Other Illegal Activities	Adds," The possession, distribution, or use of illicit or illegal drugs or narcotics on the licensed premises of any on-premises establishment by any person is prohibited."	New rule adding possession of narcotics as prohibited specifically for on-premises locations
7.16(b)	Drugs and Other Illegal Activities	Adds," No licensee shall promote, encourage or permit any person on the licensed premises to possess, distribute or use illicit or illegal drugs."	New rule adding the involvement of the licensee to any narcotic transaction/involvement to the list of prohibited activities.
7.17 (a)	Improper Influence	Adds," Any licensee, employee of a licensee or its agent who shall give, pay, or offer, directly or indirectly, any pecuniary benefit to any Liquor Department investigator or staff member, with intent to influence the investigator or staff member in the discharge of any duty herein provided for, shall be guilty of a violation."	New rule to prevent any unethical offers between licensees and any member of the Liquor Department.
10.2(b)	Manager on Duty, Qualifications	Referring to the manager card. Removes "written or oral" Removes "eighty-five percent (85%), replaces with "eighty-six percent (86%)" Removes "five" years and replaces with "four" years. Removes "while on duty", replaces with "when the employee is on duty"	Amends the rule to align with rule 7.8(b) amendment.

10.2(c)	Manager on Duty, Qualifications	Adds, "A non-refundable registration of ten dollars (\$10.00) shall be charged at the time of registration for the manager's test."	New rule permitting the Department to collect a small fee for the class and exam being taught by the Department.
10.2(d)	Manager on Duty, Qualifications	Adds," An additional ten dollars (\$10.00) shall be charged to cover processing costs for each manager card issued after successful completion of the test."	New rule permitting the Department to collect a small fee for issuance of a physical card. This fee would help the Department recover costs of processing.
10.2(e)	Manager on Duty, Qualifications	Adds," A manager may obtain a replacement manager card upon payment of a ten dollars (\$10.00) replacement fee.	New rule permitting the Department to collect a small fee for issuance of a replacement card. This fee would help the Department recover costs of card producing equipment and supplies that are absorbed by the Department currently.
10.2(f)	Manager on Duty, Qualifications	Adds," A person with an active and valid manager card from a neighboring island may be issued a manager card from the Department to expire no later than the expiration date on the neighboring island card. Upon expiration of the card so issued, the card-holder must take and pass with a score of eighty-six percent 86% or better the test required in subsection (b) of this rule."	New rule permitting the Department to collect a small fee for issuance of a temporary card. This fee would help the Department recover costs of card producing equipment and supplies

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