

## 2023 PROPOSED RULE AMENDMENTS

RULE	DESCRIPTION	PROGRAM IMPLEMENTATION	IMPACT
1.1	Definitions	<p>Adds “Growler(s) or Container used for Off-Premises Consumption.” A growler or other glass, ceramic, or metal container used by Manufacturers, Restaurants, Retail Dealers, Brewpubs, Wineries, and Small Craft Producer Pubs for sale of product for off-premises consumption by patrons shall be a single-use container that is filled on-premise or a container that is re-sealable once opened, and intended for multiple fills and use.</p> <p>“Industry member” means any person engaged in business, within and without the County of Kauai or State of Hawaii, as a distiller, brewer, rectifier, blender, or other producer; or as an importer or wholesaler including class 1 manufacturer licensee, class 3 wholesale dealer’s licensee, class 14 brewpub licensee, class 16 winery licensee, class 18 small craft producer pub licensee, of distilled spirits, wine, or malt beverages; or as a bottler of distilled spirits, wine, beer, or malt beverages; or as a bottler, or warehousemen and bottler, of distilled spirits. An industry member must possess a valid federal alcohol and tobacco tax and trade bureau permit or brewer’s notice. An industry member does not include an agency of a state or political subdivision thereof, or an officer or employee of such agency.</p> <p>“Meals” means the usual assortment of foods commonly ordered at various hours of the day (i.e. breakfast, lunch, or dinner) that are prepared within the licensee’s premises; the service of any prepackaged food not prepared on the licensed premises shall not be deemed in compliance with this requirement.</p>	None

		<p>“Noise” means any sound that may produce adverse physiological or psychological effects or interfere with individual or group activities, including but not limited to communication, work, rest, recreation, or sleep.</p>	
2.3.1	Delegation of Administrative Duties	<p>Adds, <del>“Delegation of Administrative Duties. The Commission at its discretion may delegate to the Director routine administrative duties and functions which do not require a hearing and which the Commission determines will more efficiently assist the Commission in its responsibilities.”</del></p>	<p>Intent of this rule is to allow the Commission to authorize the Director to act on behalf of the Commission on specified functions.</p>
-	Recommended Changes by Hawaii Restaurant Assoc.	<p>Clarification on what specific administrative duties.</p>	<p>This rule amendment will need to be revisited on the next round of amendments.</p>
2.4.1	Legal Counsel or Other Authorized Representative	<p>Adds, <b>“Legal Counsel or Other Authorized Representative.</b> (a) A party may be represented by legal counsel or any other individual authorized in writing to represent that party at any proceeding before the Commission.</p> <p>(b) Substitution of legal counsel shall be effective only upon filing written notice of substitution with the Commission.</p> <p>(c) Withdrawal of legal counsel in the absence of a concurrent substitution shall be effective only upon the approval of the Commission and legal counsel shall be subject to the guidelines of the Hawaii Code of Professional Responsibility and other applicable law.</p> <p>(d) No party shall substitute or withdraw legal counsel for the purpose of delaying a proceeding. Substitution or withdrawal of counsel less than thirty days before the hearing shall not be considered sufficient reason to continue the hearing,</p>	<p>None / added for clarification</p>

		unless good cause is shown.”	
2.4.2	Authorized Agent Representing Party	<p>Adds, “<b>Authorized Agent Representing Party.</b> (a) When an individual, acting in a representative capacity on behalf of a party, appears in a proceeding or signs a document submitted to the Commission, that personal appearance or signature shall constitute a representation that the individual is lawfully authorized to so act.</p> <p>(b) The agent shall provide written authorization from the licensee or applicant to act in this capacity in all proceedings. This authorization shall be renewed annually or is considered invalid. The Commission may, at any time, however, require the individual to furnish proof of authorization.</p> <p>(c) Authorized agents shall be bound by the provisions of the code of conduct currently applicable to attorneys and others authorized by law to represent parties. The Commission reserves the right to refuse to recognize authorized agents in its proceedings for sufficient cause.”</p>	None / added for clarification
2.4.3	Testimony and Recording	<p>Adds, “<b>Testimony and Recording; Adjudication Hearings.</b> (a) All witnesses testifying at an adjudication hearing shall be administered an oath prior to their testimony. The Commission’s chairperson or designee shall administer the oath.</p> <p>(b) A record shall be made of all oral testimony taken at the hearing. Testimony taken at the hearing may be electronically recorded by video or audio recording and need not be transcribed. The cost of any transcription shall be paid by the requesting party, unless otherwise provided. The Commission shall make the written record of the</p>	None / added for clarification

		<p>testimony available to the parties for use in preparing exceptions to or statements in support of a recommended decision or recommended order.</p> <p>(c) Unless otherwise provided by law, the record shall consist of the following:</p> <ol style="list-style-type: none"> <li>(1) All pleadings, motions, and intermediate rulings;</li> <li>(2) All evidence received or considered, including without limitation, oral, testimony, exhibits, and matters officially noted by the Commission;</li> <li>(3) All offers of proof and rulings thereon; and</li> <li>(4) All proposed findings and exceptions.”</li> </ol>	
2.4.5	Evidence; Adjudication Hearings	<p>Adds, “<b>Evidence; Adjudication Hearings.</b> (a) The admissibility of evidence at an adjudication hearing shall not be governed by the laws of evidence and all relevant oral or documentary evidence shall be admitted. Irrelevant, immaterial, or unduly repetitious material shall not be admitted into evidence. The Commission shall give effect to the privileges recognized at law.</p> <p>(b) Documentary evidence may be received in the form of copies, provided that, upon request, all other parties to the proceeding shall be given an opportunity to compare the copy with the original. If the original is not available, a copy may still be admissible but the non-availability of the original and the reasons therefore may be considered by the Commission when considering the weight of the documentary evidence.</p> <p>(c) The Commission may take notice of judicially</p>	None / added to comply with Rule 4.2 (c)

		<p>recognizable facts and of generally recognized technical or scientific facts. The parties, whenever possible, shall be notified before the hearing of the material to be so noticed and shall be afforded an opportunity to contest the facts so noticed.</p> <p>(d) Except as otherwise provided by law, the burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by preponderance of the evidence.”</p>	
2.4.6	Disclosure; Adjudication Hearings	<p>Adds, “<b>Disclosure; Adjudication Hearings.</b> (a) Any party to an adjudication hearing may, by written demand timely filed with the Commission, and served upon any other party, request of any other party to the proceeding, the full disclosure of:</p> <p>(1) The identity of all witnesses to be called by the other party, including their addresses and phone numbers, if known;</p> <p>(2) The identity of all persons, including their addresses and phone numbers, known by the other party to have material knowledge relevant to the proceeding; and</p> <p>(3) All exhibits, including, but not limited to documents, photographs, and other tangible evidence to be introduced by the other party at the adjudication hearing. The requesting party shall have the right to examine the exhibits and make copies thereof.</p> <p>(b) In order to be admitted at the adjudication hearing, a copy of an investigation report shall be provided to all parties upon request not later than seven days before such hearing. If a copy of the</p>	None / added to comply with Rule 4.2 (c)

		<p>investigation report is not provided to all parties, the report shall not be permitted to be introduced at the adjudication hearing.</p> <p>(c) All demands for disclosure shall continue in effect for the duration of the proceeding and the party to whom the demand is directed shall be under a continuing duty to disclose the information requested as and when it becomes available.</p> <p>(d) The information requested shall be disclosed to the requesting party at the pre-hearing conference or at least seven days before the adjudication hearing, whichever occurs first. The failure to comply with disclosure requirements may result in the evidence subject to the disclosure request not being permitted to be introduced at the adjudication hearing.”</p>	
2.4.7	Procedures; Adjudication Hearings	<p>Adds, <b>“Procedures; Adjudication Hearings.</b> Unless otherwise stipulated by the parties, all adjudication hearings shall proceed as follows:</p> <p>(a) The licensee who has been notified to appear before the Commission shall enter a plea admitting or not contesting or denying the allegations contained in the Notice of Hearing.</p> <p>(b) If the licensee admits or does not contest the allegations contained in the Notice of Hearing, the Commission shall determine what action, if any, should be taken against the licensee.</p> <p>(c) If the licensee denies the allegations contained in the Notice of Hearing, the parties shall have the opportunity to present any facts tending to prove or disprove the allegations contained in the Notice of Hearing.</p>	None / added to comply with Rule 4.2 (c)

(1) The parties shall have the opportunity to make opening statements before any evidence is presented, unless they waive the opportunity. The opening statement shall be heard in the following order:

(A) The County's opening statement; and  
(B) Licensee's opening statement, unless licensee chooses to reserve same until after presentation of the County's evidence;

(2) The County's evidence shall be presented first, and shall be followed by the presentation of the evidence in support of licensee's case;

(3) After presentation of the evidence in support of their respective cases, the parties shall have the opportunity to introduce rebuttal evidence. Rebuttal evidence shall be introduced in the same order as was followed with respect to the introduction of evidence in support of the parties' respective cases;

(4) Each witness shall be examined first by the party calling the witness before cross-examination by the opposing party;

(5) After all evidence has been presented, including rebuttal evidence, the parties shall have the opportunity to make a final argument. Final argument shall proceed as follows:

(A) The County's final argument;  
(B) Licensee's final argument;  
(C) The County's final argument in rebuttal which shall be limited to countering matters raised in licensee's final argument.

(6) The adjudication hearing shall be deemed closed after completion of all final arguments or

		upon filing of all permitted memoranda and other post hearing submissions or upon the expiration of the time allowed for filing submissions, unless the time is extended, or upon the completion of taking further evidence pursuant to Rule §2.4.9, whichever is later.	
2.4.8	Motion to Dismiss; Adjudication Hearings	<p>Adds, <b>“Motion to Dismiss; Adjudication Hearings.</b></p> <p>(a) After all evidence has been presented by the County in support of the allegations contained in a Notice of Hearing, the licensee may move the Commission for an order denying or dismissing the charges in the Notice of Hearing or for similar affirmative relief.</p> <p>(b) If the motion is denied or taken under advisement, licensee shall have the right to continue with the adjudication as fully as if the motion had never been made.”</p>	None / added to comply with Rule 4.2 (c)
2.4.9	Taking of Further Evidence; Adjudication Hearings	Adds, <b>“Taking of Further Evidence; Adjudication Hearings.</b> At any time before the Commission’s final decision, the Commission, on its own or upon motion for good cause shown, may reopen an adjudication hearing for the purpose of taking further evidence. The reopening shall be at the sole discretion of the Commission. Further evidence may be taken either through oral hearing or by certification of written questions to the parties.”	None / added to comply with Rule 4.2 (c)
2.4.10	Reconsideration of Decision and Order	Adds, <b>“Reconsideration of Decision and Order; Adjudication Hearings.</b> Any request or motion to reconsider a decision made by the Commission or for a new hearing, or for a stay of the decision or order shall be filed with the Commission within fifteen (15) days from the date the decision and order is served. A suspension or revocation of license shall commence following the fifteenth day	None / added to comply with Rule 4.2 (c)



		after notification.”	
2.5.4	Special License by For-Profit Organizations	<p>Adds, <b>“Special License by For-Profit Organizations.</b> (a) Any For-Profit organization may apply for special licenses in increments up to three (3) days on any occasion per license, not to exceed twelve (12) days per calendar quarter, with Commission approval.</p> <p>(b) An application for a For-Profit special license must include a current tax clearance from the State of Hawaii – Department of Taxation, a letter of authorization from the landlord approving use for the sell of liquor for consumption at the premise.</p> <p>(c) A floor plan drawn to scale.</p> <p>(d) Names, addresses and telephone number of person(s) in charge of liquor sales, dispensing and security staff.</p> <p>(e)The Special License will be required to be notarized prior to submission.</p> <p>(f) Applications for special For-Profit organizations shall be submitted within established deadlines as prescribed by the commission.”</p>	None / added to define the procedure for application to obtain a For-Profit special license for limited use. The intent is to allow issuance of this type of permit while allowing controls on the ability to utilize this permit as a long term license as opposed to applying for a permanent license.
2.6	Renewal of License	<p>Adds, “(a)” and “(b) The commission may withhold the issuance of a renewed license for good and sufficient reason, which may include, but is not limited to:</p> <p>(1) Failure to pay any outstanding penalties due the commission;</p>	None / adds clarification for the licensees as to what violations would be considered a reason for the Commission to refuse renewal of a

		<p>(2) Failure to file any outstanding gross liquor sales reports;</p> <p>(3) Failure to pay any outstanding additional license fees;</p> <p>(4) 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;</p> <p>(5) 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;</p> <p>(6) 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;</p> <p>(7) Complaints from the public or reports from the commission's investigators indicating that behavior by patrons of the premises poses a threat to public safety and disturbs residents of the neighborhood in which the premises are located;</p> <p>(8) A report, investigated and verified by the commission, indicating that sounds emanating from the premises exceed</p>	license.
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		<p>permissible levels or any report from the commission's investigators for any non-compliance with proper conduct of the business.</p> <p>(9) 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 sixty (60) days old to establish compliance with this requirement.</p> <p>(10) All licensees shall certify all current officers, directors, managers, members, and partners and ownership/interest percentages. Corporate licensees who are publicly-traded companies are excluded from reporting only stockholder information."</p>	
2.13	Application for a permit for trade shows, tasting event or other exhibitions.	Adds, ";and" " (6) Source of where the liquor was acquired from.	None / adds clarification of the source where alcohol is being obtained for these events.
2.14	Applications for warehousing liquor off the licensed premises	<p>Adds, "(a)". Adds, Invoices for all liquor received at the warehouse and a record of all liquor removed from the warehouse shall be kept within the warehouse. All such records shall be kept for not less than three (3) years.</p> <p>(b) No liquor shall be distributed or sold from the outside warehouse. However, this restriction shall not apply to the delivery of liquor from the outside warehouse of a wholesale dealer licensee. Liquor imported into the State may</p>	None / adds clarification of additional documentation that needs to be available for inspection at the location of warehousing and clarification of what activities may or may not be permitted at the

		<p>come to rest at an outside warehouse by being unloaded into such warehouse.</p> <p>(c) Any investigator may without notice and without any search warrant or other legal process, visit and have immediate access to every part of the warehouse premises of any licensee for the purpose of making any examination.</p>	<p>approved warehousing site.</p>
2.18	Free One-Day Special License	<p>Removes, "Free", Adds, "Non-Profit" under (a) adds "Non-Profit". Under (b) removes, "free" adds "non-profit" under (d) removes, "free" adds "non-profit". Adds, (e) A one-day non-profit special license may be issued to any non-profit organization, not to exceed (15) fifteen days per calendar year.</p>	<p>None / Removes the word free, this has created confusion in the past due to the fact this is a type of special license that has not been differentiated from a For-Profit Special license. This also places a limit on the amount of "free" special license.</p>
2.19.1	License Applicant Background Verification	<p>Adds, "The license applicant shall ensure that every person named in an application discloses to the Commission any felony convictions. The obligation to disclose such information shall be continuing even after the license is issued."</p>	<p>None</p>
2.20	Notarial act performed using audio-visual communication technology; electronic or digital signatures	<p>Adds, "(a) Applications and any related"</p>	<p>None</p>

3.6	Advertisements, posters, and signs	Removes, "government" and Adds, " of Kauai".	Adds terms to align with specific applicability to the County of Kauai.
3.11	Waiving of rights to a violation hearing	<p>Adds, " (4) Rule 7.8 Manager on Duty, qualifications and (10) Manager on Duty, qualifications.</p> <p>Moves the original (4) to (5) and the original (10) to (11).</p> <p>Adds, "under section (1), (3), (5), (6), (8), (9), and (11)" and Removes, "one"</p> <p>Adds, "under section (1), (3), (5), (6), (8), (9), and (11)".</p> <p>Adds, " For the first violation under section (2), (4), (7), and (10), the licensee shall pay a penalty of three hundred dollars (\$300.00) to the department at the time that the licensee admits to the charge.</p> <p>For the second violation within a twelve-month period of violation under section (2), (4), (7), or (10) whether the violation is of the same rule or any other rule mentioned above, the licensee shall pay a penalty of six hundred dollars (\$600.00) to the department at the time that the licensee admits to the charge."</p>	<p>This update, adds in clarification of what offenses are able to waive an adjudication hearing under the original fines. This also adds in additional waivable violations that in a higher tier of violation that are now able to waive the adjudication hearing without being present with the option to pay a set fine. Fines under this rule have not been increased since 2016. New fine limits were signed into law under ACT 076 and signed by the Governor on June, 17, 2022.</p>

3.13	Contests and Prizes, prohibitions	Adds, in section (a), "directly or indirectly"	Adds clarification to the offering of liquor as a prize.
3.16.1	Prohibitions involving minors; penalty	Adds, " <b>Prohibitions involving minors; penalty.</b> (a) The sale or service of liquor to a minor or the permitting consumption of liquor by a minor on any licensed or unlicensed premises, any off-premises catered event, or any other premises authorized by the commission is prohibited.	None
3.17	Restrictions or Conditions on Licenses	Added, "(a)" and "(b) Failure to comply with any such other laws applicable to the business of the licensee which results in a citation or notice of violation from another official governmental entity will constitute a violation of this rule. "	Added to provide clarification of the rule.

<p>4.1</p>	<p>License fees</p>	<p>Remove, "7. Transient Vessel, per day \$33 and Transient Vessel, per year \$900" Remove, "8. Tour or Cruise Vessel \$240" Remove, "9. Special, per day (a)General \$33, (b)Beer &amp; Wine \$24, (c) Beer \$16, Remove, "10. Cabaret \$600" Remove, "11. Hotel \$900" Remove, "12. Caterer \$120" Remove, "13. Brewpub \$900" Remove, "14. Condominium Hotel \$900" Remove, "15. Winery \$900" Remove, "16. Small Craft Producer Pub \$900"</p> <p>Add, "7. Reserved" Add, "8. Transient Vessel, per day \$33 and Transient Vessel, per year \$900" Add, "9. Tour or Cruise Vessel \$240" Add, "10. Special, per day (a)General \$90, (b)Beer &amp; Wine \$60, (c) Beer \$45, Add, "11. Cabaret \$600" Add, "12. Hotel \$900" Add, "13. Caterer \$120" Add, "14. Brewpub \$900" Add, "15. Condominium Hotel \$900" Add, "16. Winery \$900" Add, "17. Reserved" Add, "18. Small Craft Producer Pub \$900"</p> <p>Removes, "sixty dollars (\$60.00)" adds, " one hundred and twenty dollars (\$120.00)" , Adds, "one hundred and twenty dollars (\$120.00),- Removes, sixty dollars (\$60.00)</p>	<p>Aligns Class with HRS.</p> <p>This will also increase the fee to obtain a temporary license from \$60.00 to \$120.00 and increase an extension past the original approved 120 days to operate from \$60.00 to \$120.00</p> <p>Increases fees for Special license on Per Day, General License from \$33 to \$90. For Special Beer and Wine license from \$24 to \$60 and Special Beer license from \$16 to \$45.</p> <p>These fees have not been increased since 1988 on special license.</p> <p>Temporary license fees have not increased since 1983.</p>
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4.7	Gross liquor sales report, percentage fee, and records	Removes,"8,10,13, and 16" replaced with, "9, 12, 15 and 18"	This change is to align the proper classes that are required to report with HRS and Commission Rules.
4.11	Use of Unauthorized Trade Name Prohibited	Adds, "Use of Unauthorized Trade Name Prohibited. Use of any trade name without prior approval of the Commission is prohibited. Any publication or advertising or sign with an unauthorized trade name will be considered presumed evidence of use of that trade name.	None
4.12	Waiver	Adds, "Waiver. Upon receipt of a written request from a license applicant or a licensee, or upon the Commission's initiative but with the concurrence of a license applicant or a licensee, the Commission may waive any portion of the Rules upon a showing by the license applicant or the licensee that (A) the license applicant or the licensee would suffer undue hardship, economic or otherwise, if the Rule were to be strictly implemented; (B) the waiver of the Rule would not unduly burden or adversely affect any affected parties; and (C) the waiver is consistent with the underlying purposes of Chapter 281, Hawaii Revised Statutes, as amended, and the Rules. Waiver requests made by the license applicant or the licensee must be submitted in writing to the Commission, and	None



		shall include all documentation which supports the waiver request.”	
4.13	Ex Parte Communications	<p>Adds, “Ex Parte Communications. In any proceeding before the Commission:</p> <p>(a) No person shall communicate privately on the merits of the case with any member of the Commission or the Commission’s staff unless specifically provided for by law; and</p> <p>(b) No member of the Commission’s staff or any other government agency who participates in the proceeding as a witness or counsel shall communicate privately on the merits of the case with any member of the Commission, unless specifically provided for by law.”</p>	None
7.5	Music, Dancing, and entertainment, exception.	<p>Adds under (c), “for amusement purposes only. Any electronic gaming device, card playing, and table games approved by the commission are limited to amusement purposes only, and any form of gambling is strictly prohibited.”</p> <p>“ Removes, from (d) “ category (C), adds, “ in which live entertainment or recorded music is provided.</p> <p>“ category (C), adds, “ in which live entertainment or recorded music is provided.</p>	Removes “Category C” to add clarification to the rule.

7.8	Manager of Duty, qualification	Adds to (b), “, and shall be in the employee’s possession or be readily available on the premises for inspection at all times, when the employee is on duty.”	None / aligns with rule 10.2 requiring manager to have their manager at all times while on duty.
7.11	Employees drinking on duty and entertaining patrons	Adds, “or manager who is in active charge of the premises and” Removes, “and” also Removes, “This restriction shall not apply to the overall manager who is in active charge of the premises if he does not work at selling or serving liquor.”	None / This rule ensures the management is not consuming alcohol while on duty.
7.15	Practices that promote excessive consumption of liquor	Removes, “excessing” and adds, “excessive”	None

8.2	Cabaret license not issued, when	Add, "(a)", Add "(b) A cabaret license shall not be issued for any premises located within an apartment mixed use sub-precinct within a special improvement or special district in which the economy is primarily based on tourism"	Added to align with new legislation as adopted in ACT 089.
10.1	Retail Dealer licensed premises	Removes, "(d) A Retail Dealer licensee may make deliveries of liquor to private residences or businesses with a bona fide order from the purchaser provided the licensee produces a receipt of delivery signed by a person verified to be of legal age at the delivery point."	Removed to add in Rule 10.1.1 Deliveries which address Retail Dealer deliveries.
10.1.1	Deliveries	<p>Adds, "<b>Deliveries.</b> (a) Retail Dealer licensees may make deliveries of liquor to a person who is twenty-one (21) years of age or older pursuant to a bona fide order which can be taken by telephone, fax, or through the internet subject to the following restrictions:</p> <p>(1) Orders shall be placed and delivery shall be made within the permitted hours of business for a retail dealer licensee and within the County of Kauai;</p> <p>(2) The order may be submitted directly to the retail dealer licensee through a technology provider that connects consumers and licensed retailers using the internet, mobile application, or other similar technology;</p>	<p>Added to provide guidance for Retail Dealers to use third party delivery services.</p> <p>Adds, Education requirement for Alcohol Delivery Drivers. A \$10.00 fee for the educational course reservation and a \$10.00 fee for the issuance of the physical certification card.</p>

(3) Payment for orders of liquor may only be processed by a licensed retailer dealer and an independent contractor may not take possession of funds used to purchase liquor, but an independent contractor may facilitate the sales transaction, such as through the collection of credit card information or the securing of payment authorization from the purchaser;

(4) The person accepting delivery of liquor must be at least twenty-one (21) years old and must display identification at the time of delivery that complies with rule §3.16.1. No liquor shall be delivered to a person who appears to be intoxicated as prescribed in rule §7.15;

(5) The retail dealer licensee must maintain a record of the receipt of delivery signed by the person accepting the delivery of liquor;

(6) The retail dealer licensee may facilitate the delivery, including preparing the order for delivery, by contracting with one or more independent contractors, that may also contract with one or more independent contractors, or by contracting with a common carrier for delivery of liquor, provided the person delivering the order is at least twenty-one (21) years old;

(7) For purposes of this rule, an independent contractor, an independent contractor of an independent contractor, the employee of an independent contractor, or a common carrier is deemed to be acting on behalf of the retail dealer licensee when making a delivery of liquor, and the retail dealer licensee shall be held liable for any violation of this rule during any delivery of liquor

made on behalf of such retail dealer licensee;

(8) Independent contractors, an independent contractor of an independent contractor, or the employee of an independent contractor shall comply with an inquiry or investigation by the commission if requested;

(9) Bona fide orders can only be processed, and deliveries can only be made, during permitted hours of business as prescribed in rule §6.1. Any electronic orders received outside permitted hours of business can be maintained in a virtual queue and processed during permitted hours of business; and

(10) Retail dealer licensees may pay a fee to an independent contractor for the services permitted herein so long as the fee is not based on a percentage of profits received from the sale of liquor.

(11) An executed copy of the contract or agreement between the retail dealer licensee and any agent shall be provided to the commission prior to the start of any such delivery. Any acts or terms found to be in violation of any liquor laws or rules will be subject to the penalties as prescribed by law or rules.

(12) For purposes of this rule, an "agent" is defined as one who acts for or in place of another by authority of that individual or entity. An independent contractor providing delivery services for a retail dealer licensee within the meaning of HRS Chapter 281 shall be deemed an "agent" of the retail dealer licensee.

(13) If an agent, servant, employee,

independent contractor, or common carrier commits a substantiated violation of this rule during any delivery of liquor made on behalf of a retail dealer licensee, the licensee shall be prohibited from using said agent, servant, employee, independent contractor, or common carrier for delivery of liquor on its behalf without commission approval.

(14) Deliveries of liquor by licensed wholesaler dealers or distributors shall only be made to a licensee's premises. With commission prior approval, deliveries to a licensee's catered or other location shall be permitted.

(15) A retail dealer licensee must have received an order for the type and quantity of liquor to be removed from the licensee's premises before removing said liquor for delivery to a customer. Peddling in any sense of the term is prohibited.

(16) To become eligible for approval as an Independent contractors, an independent contractor of an independent contractor, or the employee of an independent contractor as driver which delivers alcohol, the driver shall take a test covering all applicable laws relating to liquor and the rules and regulations of the commission and receive a score of eighty-six percent (86%) or more correct. Upon successful completion of the test; presentation of proper identification showing the applicant's date of birth; and commission review of eligibility and approval; the applicant shall be issued a white card. Any white card issued shall be valid for a period of two years from the date of issuance and shall be in the employee's possession or be readily available for inspection at all times, when the employee is delivering alcohol.

(b) A non-refundable registration of ten

		<p>dollars (\$10.00) shall be charged at the time of registration for the Alcohol Delivery Driver Certification test.</p> <p>(c) An additional ten dollars (\$10.00) shall be charged to cover processing costs for each Alcohol Delivery Driver Certification card issued after successful completion of the test.</p> <p>(d) A replacement Alcohol Delivery Driver Certification card can be obtained upon payment of a ten dollars (\$10.00) replacement fee.</p>	
12.1	Minimum requirements for a caterer license.	Adds, "as part of a Restaurant, Hotel, or Condominium hotel license,"	Added to align with neighboring islands and for clarification as to applicability.