

A G E N D A  
LIQUOR COMMISSION  
DEPARTMENT OF LIQUOR CONTROL  
COUNTY OF MAUI

DATE & TIME: DECEMBER 13, 2017, AT 9:00 A.M.

PLACE: DEPARTMENT OF LIQUOR CONTROL CONFERENCE ROOM  
DAVID K. TRASK, JR. OFFICE BUILDING  
2145 KAOHU STREET, ROOM 108  
WAILUKU, MAUI, HAWAII 96793

**I. CALL TO ORDER**

**II. AGENDA:**

- A. Approval of Agenda for December 13, 2017

**III. MINUTES:**

- A. Approval of Liquor Commission minutes of November 8, 2017

**IV. PUBLIC TESTIMONY**

**V. GENERAL LICENSING MATTERS:** [For Confirmation of Special Licenses, Temporary Licenses, Cancellation of License, Change in Officers and Directors]

- A. **SP-04**, Chaminade University of Honolulu dba Maui Jim Maui Invitational effective November 20, 21 & 22, 2017 at Lahaina Civic Center (Fan Festival), Lahaina, Maui, Hawaii.
- B. **SP-05**, Chaminade University of Honolulu dba Maui Jim Maui Invitational effective November 20, 21 & 22, 2017 at Lahaina Civic Center (Stadium Club), Lahaina, Maui, Hawaii.
- C. **SP-06**, Shane Victorino Foundation dba 2017 Victorino Golf Classic effective November 19, 2017 at Wailea Golf Course - Gold Course, Wailea, Maui, Hawaii.
- D. **SP-07**, Pacific Cancer Foundation dba Aloha Kalikimaka effective November 18, 2017 at Yokouchi Estate, 2471 Main Street, Wailuku, Maui, Hawaii.
- E. **SP-08**, Maui Roping Club Inc. dba Oskie Rice Memorial Rodeo effective November 25-26, 2017 at Oskie Rice Arena,

Olinda Road, Makawao, Maui, Hawaii.

- F. **TEM-01A**, Miko's Cuisine LLC dba Miko's Cuisine for a Dispenser General, Category C(ii) License, effective October 29, 2017 up to and including February 25, 2018 at 1764 Wili Pa Loop, Wailuku, Maui, Hawaii.
- G. **TEM-04A**, Maui-Molokai Sea Cruises dba Pride of Maui for a Tour or Cruise Vessel, Category 2 License, effective October 29, 2017 up to and including February 25, 2018 at Maalaea Harbor, Berth Basin, Maalaea, Maui, Hawaii.
- H. **TEM-05A**, Maui Exclusive Partners, LLC dba Ohana Seafood Bar & Grill for a Dispenser General, Category C(ii) License, effective October 29, 2017 up to and including February 25, 2018 at 1945 South Kihei Road, C & D, Kihei, Maui, Hawaii.
- I. **TEM-06A**, Capu Maui Corp. dba Wow-wee Maui's Kava Bar & Grill for a Dispenser General, Category C(ii) License, effective October 29, 2017 up to and including February 25, 2018 at 333 Dairy Road, #101A, Kahului, Maui, Hawaii.
- J. **TEM-10A**, Clark Enterprises, Inc. dba Paragon Sailing Charters Maui (Paragon) for a Tour or Cruise Vessel, Category 2 License, effective October 31, 2017 up to and including February 27, 2018 at Lahaina Offshore Area, LAH-0/S-012, Lahaina, Maui, Hawaii.
- K. **TEM-11A**, Clark Enterprises, Inc. dba Paragon Sailing Charters Maui (Paragon II) for a Tour or Cruise Vessel, Category 2 License, effective October 31, 2017 up to and including February 27, 2018 at Maalaea Small Boat Harbor, Berth 72, Maalaea, Maui, Hawaii.
- L. **TEM-22**, Culinaria Restaurant Group Incorporated dba The Pour House Kapalua for a Dispenser General, Category C(ii) License, effective November 21, 2017 up to and including March 20, 2018 at 700 Office Road, Suite A-101, Kapalua, Maui, Hawaii.
- M. The Wine Palette LLC dba The Wine Palette notifying the commission of the cancellation of liquor license.

- N. KBHL, LLC dba Kaanapali Beach Hotel (#404) and Kaanapali Deli Corner (#400) notifying the commission of the change of officers, directors, and title within the member of the limited liability company.
- O. FS Lanai Inc. dba Four Seasons Resort Lana'i (#014) and Four Seasons Resort Lāna'i, The Lodge at Koele (#067) notifying the commission of the change of officers and directors within the corporation.

## VI. LICENSING:

### Public Hearings:

- A. **Unfinished Business:**  
**APPL. NO. 23,** Hawaiian Paradise Cocktails LLC dba Hawaiian Paradise Cocktails for a Manufacturer Other Specified Liquor License at 142 Kupuohi Street, Unit F6, Lahaina, Maui, Hawaii.
- B. **APPL. NO. 22,** JAS Restaurants II LLC dba Son'z Steakhouse, Maui for a Dispenser General License, Category C(ii) - (premises in which live entertainment or recorded music is provided) at 200 Nohea Kai Drive, Kaanapali, Maui, Hawaii.
- C. **APPL. NO. 03,** Freshies Maui Corp. dba Freshies Maui for a Dispenser Beer and Wine License, Category C(ii) - (premises in which live entertainment or recorded music is provided) at 3620 Baldwin Avenue, Space 102-A, Makawao, Maui, Hawaii.
- D. **APPL. NO. 08,** Sushi Paradise, Inc. dba Sushi Paradise for a Dispenser General License, Category C(ii) - (premises in which live entertainment or recorded music is provided) at 1215 South Kihei Road, Unit 1, Kihei, Maui, Hawaii.
- E. **APPL. NO. 09,** Walgreen of Hawaii, LLC dba Walgreens for a Retail General License at 342 Keawe Street, Building D, Lahaina, Maui, Hawaii.
- F. **APPL. NO. 10,** Walgreen of Hawaii, LLC dba Walgreens for a Retail General License at 10 East Kamehameha Avenue,

Kahului, Maui, Hawaii.

- G. **APPL. NO. 11**, Walgreen of Hawaii, LLC dba Walgreens for a Retail General License at 700 Waiale Road, Wailuku, Maui, Hawaii.
- H. **APPL. NO. 17**, Mist Marine Inc. dba Scotch Mist Charters (Scotch Mist II) for a Tour or Cruise Vessel License, Category A at Lahaina Small Boat Harbor, Slip 2, Lahaina, Maui, Hawaii.

**Preliminary Hearings:**

- I. **APPL. NO. 16**, Aumakua Holdings Inc. dba Maui Brewing Co. for a Small Craft Producer Pub License, Category B - (premises in which live entertainment or recorded music is provided) at 605 Lipoa Parkway, Kihei, Maui, Hawaii.
- J. **APPL. NO. 18**, Shaka Sushi Maui, Inc. dba Shaka Sushi Maui for a Dispenser Beer and Wine License, Category C(ii) - (premises in which live entertainment or recorded music is provided) at 658 Front Street, #140, Lahaina, Maui, Hawaii.

**VII. OTHER LICENSING MATTERS:**

- A. Lahaina Petroleum, LLC dba Lahaina Chevron requesting commission approval to change the existing trade name to Lahaina Texaco, pursuant to Section 08-101-36 of the Rules of the Liquor Commission, County of Maui.
- B. Lahaina Petroleum, LLC dba Port Town Chevron requesting commission approval to change the existing trade name to Port Town Texaco, pursuant to Section 08-101-36 of the Rules of the Liquor Commission, County of Maui.
- C. Lahaina Petroleum, LLC dba Pukalani Chevron requesting commission approval to change the existing trade name to Pukalani Texaco, pursuant to Section 08-101-36 of the Rules of the Liquor Commission, County of Maui.
- D. Lahaina Sushi Ko LLC dba Lahaina Sushi Ko requesting commission approval to change the trade name to Maui Dog

House, and notifying commission that the licensee name has changed from Lahaina Sushi Ko LLC to Lahaina Sushi Ko, LLC effective February 21, 2017.

- E. Friendly Market Center, Ltd. dba Friendly Market Center, Ltd. requesting commission approval for the transfer of the outstanding capital stock of the corporation.
- F. Lily's Ma'alaea Kitchen LLC dba Ma'alaea General Store and Cafe, Dispenser General License, Category C(ii), at 132 Ma'alaea Road, Ma'alaea, Maui, Hawaii, requesting an extension to exercise the liquor license pursuant to Section 08-101-34(c) of the Rules of the Liquor Commission, County of Maui. License granted by the commission on August 10, 2016; request for extension approved by the commission on January 11, 2017; extension to expire on February 6, 2018.
- G. Cool Cat Cafe LLC dba Cool Cat Cafe requesting commission approval for modification and extension of licensed premises, pursuant to Sections 08-101-46 and 08-101-98 of the Rules of the Liquor Commission, County of Maui.
- H. Mid Pac Petroleum, LLC dba Mako's Mart (#107, 340) requesting commission approval for the merger of entities, pursuant to Section 281-41(k) of the Hawaii Revised Statutes.
- I. HIE Retail, LLC dba nomnom (#022, 031, 347) requesting commission approval for the merger of entities, pursuant to Section 281-41(k) of the Hawaii Revised Statutes.
- J. Hyatt Corporation dba Hyatt Regency Maui requesting commission approval for an extension of hours to allow minors to remain and dance within the premises until 12:15 a.m. on January 1, 2018 at its New Year's Eve event, and to designate areas for music, entertainment, dancing, and a non-consumption area for minors to remain, pursuant to Section 08-101-61(h) of the Rules of the Liquor Commission, County of Maui.

***The Commission anticipates that it may convene in executive session on the above items pursuant to Sections 92-4 and 92-5(a)(4), Hawaii Revised Statutes, to consult with its attorney on***

***the Commission's powers, duties, privileges, immunities, and liabilities.***

**VIII. PUBLIC HEARING - 10:00 A.M.:**

The Liquor Commission will conduct a public hearing to hear and receive testimony on proposed amendments to certain sections of its Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui (the "Rules").

The entire text of the proposed rule amendments is listed below, and is further summarized as follows:

SUMMARY:

1. Section 08-101-5: Definitions.
  - Adds and amends definition of
    - Establishment gross revenues
    - Industry member
2. Section 08-101-25(a)(3) and (a)(5): Hours for the sale, service, and consumption of liquor in licensed premises.
  - for hotel and condominiums, amends hours to 6:00 a.m. to 4:00 a.m., the following day, and any hour of the day for room service
  - for manufacturers and wholesalers, amends hours from 5:00 a.m. to 9:00 p.m.
3. Section 08-101-30(b): Application.
  - Amends the acceptance of state and federal tax clearances from 60 days to 90 days
4. Section 08-101-33(a): Renewal of license.
  - Amends the acceptance of state and federal tax clearances from 60 days to 90 days
5. Section 08-101-41 (a) and (f): Criminal history record check.
  - For publicly-traded companies, requires criminal history record checks only of designated primary decision-makers
  - Provides licensees the option of using the department's electronic livescan fingerprinting service or the Field Print Hawaii services

6. Section 08-101-50 (c)(7) and (8), (f): Fees for liquor license, temporary license, duplicate license; solicitors' and representatives' permits; certificate for registration of employee approved by the director, minor, employee of class 5, category D, or any duplicate thereof; and others and terms.
  - Requires new fee for a Rule Book or List of Licensees
  - Requires new fee for permit for direct shipment of wine by wineries
  - Provides that the filing fee deposited with an application be credited towards the license fee
7. Section 08-101-73(i) and (j): Employment and registration of minors.
  - Establishes new subsections to expedite processing of minors engaged in charitable entertainment
8. Section 08-101-107: Manufacturer or wholesaler; special license exception.
  - Amends title to Industry member.

#### PROPOSED RULE AMENDMENTS

##### Amendments to Title 08, Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui

1. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by adding a definition to be appropriately inserted and to read as follows:

“Establishment gross revenue” means food and liquor gross sale revenues. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 11/29/15; am and comp 3/4/17; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

2. Section 08-101-5, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending the definition of “industry member” to read as follows:

“Industry member” includes any person engaged in business, within and without the County of Maui or State of Hawaii, as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler including class 1, manufacturer licensee, and 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; industry member does not include an agency of a state or political subdivision thereof, or an officer or employee of such agency. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 11/29/15; am and comp 3/4/17; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

3. Section 08-101-25, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) Hours during which licensed premises may be open for the transaction of business shall be as follows:

- (1) Dispensers, restaurants, clubs, transient vessels, tour or cruise vessels, and specials: any hour of the day from 8:00 a.m. to 2:00 a.m., the following day.
- (2) Cabarets: any hour of the day from 8:00 a.m. to 4:00 a.m., the following day.
- (3) Hotels and condominium hotels: from 6:00 a.m. to 4:00 a.m., the following day[.], and any hour of the day for room service.
- (4) Retailers: any hour of the day from 6:00 a.m. to 11:00 p.m.
- (5) Manufacturers and wholesalers: from [6:00] 5:00 a.m. to 9:00 p.m.
- (6) Brewpubs: any hour of the day from 8:00 a.m. to 2:00 a.m., the following day for on-premises consumption liquor sales and 6:00 a.m. to 11:00 p.m. for off-premises retail liquor sales.
- (7) Small craft producer pubs: any hour of the day from 8:00 a.m. to 2:00 a.m., the following day for on-premises consumption liquor sales, any hour of the day for manufacture and wholesale, and 6:00 a.m. to 11:00 p.m. for off-premises retail liquor sales.
- (8) Caterers: any hour of the day from 6:00 a.m. to 2:00 a.m., the following day.
- (9) Wineries: any hour of the day for manufacture and wholesale, and from 6:00 a.m. to 11:00 p.m. for off-premises retail sales and on premises wine tasting activities. [Eff 7/1/00; am and comp 6/18/15; am and comp 3/4/17; am and comp 7/29/17; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

4. Section 08-101-30, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (b) to read as follows:



“(b) The department of health clearance, certificate of occupancy, and other clearances or executed copies of other documents, as approved by the commission, may be submitted after filing the application and hearing thereon, but must be filed before issuance of the license. State and federal tax clearances shall be dated within [sixty] ninety days of the acceptance of any application by the department. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 3/4/17; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

5. Section 08-101-33, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

“(a) Other than for good cause, the renewal of an existing license shall be granted upon the filing of a completed application, payment of the basic fee, submission of State and federal tax clearances, and other required documents. State and federal tax clearances shall be dated within [sixty] ninety days of the acceptance of the application by the department. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp 6/18/15; am and comp 3/4/17; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

6. Section 08-101-41, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-41 Criminal history record check. (a) The commission shall request a background check on an applicant for a liquor license[.], provided that neither a criminal history record check shall be required for the officers and directors of publicly-traded companies or entities ultimately solely owned by a publicly-traded company, who are not designated as primary decision-makers regarding the sale or purchase of liquor. For the purposes of this section, "criminal history record check" means an examination or search for evidence of an individual's criminal history by means of:

- (1) A search for the individual's fingerprints in the national criminal history record files and, if found, an analysis and any other information available pertaining thereto[; and].
- (2) A criminal history record check conducted by the Hawaii criminal justice data center, Maui police department, or any governmental agency; provided that the Hawaii criminal justice data center, Maui police department, or any other governmental agency may charge a reasonable fee for criminal history record checks performed.

The background check, at a minimum, shall require the applicant to disclose whether:

- (A) The applicant has been convicted in any jurisdiction of a crime that would tend to indicate the applicant may be unsuited for obtaining a liquor license[; and].
- (B) The judgment of conviction has not been vacated.

For the purpose of this section, the criminal history disclosure made by the applicant may be verified by the commission by means of information obtained through the Hawaii criminal justice data center, Maui police department, or any other governmental agency. The applicant shall provide the Hawaii criminal justice data center, Maui police department, or any other governmental agency with personal identifying information which shall include, but not limited to, at a minimum, the applicant's name, social security number, date of birth, sex, and the applicant's fingerprints. This information shall be secured only for the purpose of conducting the criminal history record check authorized by this section.

- (b) The applicant shall submit to the commission:
  - (1) A statement signed under penalty of perjury whether the applicant has ever been convicted of a crime other than a minor traffic violation;
  - (2) Written consent to the commission to request and obtain criminal history record information for verification;
  - (3) Permission to be fingerprinted and completed fingerprint card;
  - (4) Any reasonable fee assessed for criminal history record checks performed by the Hawaii criminal justice data center, Maui police department, or any governmental agency, which shall be submitted at the time of the submittal of application and made payable to the governmental agency performing the criminal history record check.
- (c) The commission shall obtain criminal history record information through the Hawaii criminal justice data center, Maui police department, or any other governmental agency on the applicant. The information obtained shall be used exclusively for the stated purpose for which it was obtained and shall be subject to applicable State or federal laws or rules currently or hereafter in effect.
- (d) Any applicant, including but not limited to, all persons, partners in the partnership or limited liability partnership, officers, directors, or persons owning or controlling twenty-five percent or more of the applicant's outstanding corporate stock, members, managers, organizers, or any persons of a limited liability company, or any person, or entity or any person within an entity or its subdivision, that is in good standing and can legally do business in the State is required to submit all completed criminal history request(s) and fingerprint card(s) at the time of filing of the application to the department and to have local,

State, and national criminal law enforcement agencies provide such person's criminal history abstract directly to the department, if said abstracts cannot otherwise be obtained by the department. The commission may waive this requirement upon the applicant showing of good cause. Good cause shall include, but not limited to, applicant's inability to obtain the necessary clearance after due diligence, or have on file with the department a criminal record check that is less than two years old, had the criminal record check process through the Federal Bureau of Investigation "Rap Back" program, or the applicant's fingerprints are not adequate for accurate classification and/or identification due to applicant's age, medical reason, disfigurement, or other abnormalities.

(e) Fingerprint cards. All fingerprint cards submitted by the applicant shall contain the required fingerprints and be completely filled out. Those fingerprinted by any personnel other than from the department or the Maui police department, must be accompanied by a letter from the fingerprint technician which contains the following:

- (1) Fingerprint technician's name, signature, address, telephone number, and fingerprint technician's certification issued by a law enforcement agency; and identity, social security number, and date the person was fingerprinted;
- (2) The identity of the law enforcement agency that the fingerprint technician represents, the law enforcement agency's address, and telephone number; or
- (3) Fingerprint technician's name, signature, address, telephone number, identity of the entity the fingerprint technician represents, and a letter of certification issued by a law enforcement agency that the entity the fingerprint technician is employed at is in good standing and have provided fingerprinting service to, and the fingerprints have been accepted by the law enforcement agencies within the State.

(f) Any applicant may utilize the department's electronic livescan fingerprinting or Field Print Hawaii services following conditions and requirements set forth by the commission and Hawaii criminal justice center in lieu of submitting fingerprint cards for criminal background check.

~~[(f)]~~(g) The department may utilize criminal history record clearance obtained from an approved governmental agency.

~~[(g)]~~(h) Licensee or any applicant shall submit, within thirty calendar days, a completed fingerprint card of any person whose fingerprints appearing on the fingerprint card or result of the electronic fingerprint scanner that was not adequate for accurate classification and/or identification by the Federal Bureau of Investigation or Hawaii Criminal Justice Data Center, and the required processing fee, upon receipt of notification. Any licensee who fails to comply

shall not exercise the license until said completed fingerprint card is duly processed by the department.

[(h)](i) The license applicant or licensee shall be responsible to ensure that every person named in an application discloses to the commission any felony conviction. The obligation to disclose such information shall be continuing even after the license is issued. [Eff 7/1/00; am and comp 4/22/12; am and comp 3/4/17; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

7. Section 08-101-50, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-50 Fees for liquor license, temporary license, duplicate license; solicitors' and representatives' permits; certificate for registration of employee approved by the director, minor, employee of class 5, category D, or any duplicate thereof; and others and terms.

(a) All licensees shall pay an annual license fee, which shall be the basic fee as defined in subsection (b) of this section plus the percentage fee as defined in subsection (d) of this section.

(b) Basic fee. This fee shall be paid in advance not later than each June 15th, prior to the fiscal year for which the license is issued. The fee paid for a license issued on any other date shall be reckoned proportionally from the first day of the month in which the business is commenced to the expiration date or to the next payment due date.

	<u>Class</u>	<u>Kind</u>	<u>Basic Fee</u>
(1)	Manufacturers (including rectifiers)	(A) Beer	\$ 600
		(B) Wine	600
		(C) Wine manufactured from fruits grown in the State	300
		(D) Alcohol	200
		(E) Other liquors	640
(2)	Restaurant	(A) General	600
		(B) Beer and Wine	300
		(C) Beer	150
(3)	Wholesale	(A) General	2,400
		(B) Beer and Wine	1,800
		(C) Alcohol	200
(4)	Retail	(A) General	560
		(B) Beer and Wine	260

	(C)	Alcohol	200
(5)		Dispenser	
	(A)	General	600
	(B)	Beer and Wine	300
	(C)	Beer	150
(6)		Club	320
(8)		Transient Vessel, per day	25
		Monthly	100
		Yearly	1,200
(9)		Tour or Cruise Vessel	300
(10)		Special, per day	
	(A)	General	25
	(B)	Beer and Wine	15
	(C)	Beer	10
(11)		Cabaret	1,200
(12)		Hotel	1,200
(13)		Caterer	600
(14)		Brewpub	1,000
(15)		Condominium Hotel	1,200
(16)		Winery	1,000
(18)		Small craft producer pub	1,000

(c) Temporary, solicitors', representatives', duplicate license, certificate for registration of employee approved by the director, minor, employee of class 5, category D, or any duplicate thereof, alcohol, and other fees.

(1) Temporary license. The fee for a temporary license of any class and kind shall be \$200 for an initial period of one hundred twenty (120) days, or any part of such initial period, and an additional \$200 for one additional one hundred twenty (120) day renewal or any part of such renewal period of such license.

(2) The fees for solicitors' and representatives' permits shall be for each license year commencing July 1 and ending on the succeeding June 30 or fraction thereof and shall be in the following amounts:

(A)	General	\$1,800
(B)	Beer and Wine	\$1,200
(C)	Alcohol	\$ 200

Every individual solicitor and or representative is required to obtain an individual permit in his or her name.

(3) The annual fee for a permit to purchase alcohol for non-beverage purposes shall be \$50 for each fiscal year, commencing July 1 and ending the succeeding June 30, or a fraction thereof. The director may waive the fee for a permit to purchase alcohol for non-beverage purposes for any County or State governmental agencies.

- (4) The fee for issuance of a duplicate liquor license in place of one alleged to have been lost or destroyed shall be \$10 plus any cost incurred for postage and handling.
- (5) The fee for the certification examination, a certificate for registration of employee approved by the director, minor, employee of class 5, category D, or any duplicate thereof shall be \$10 plus any cost incurred for postage and handling.
- (6) The fee for a permit to import liquor shall be \$5.
- (7) The fee for a Rule Book or List of Licensees shall be \$10 plus cost for postage and handling.
- (8) The fee for permit for direct shipment of wine by wineries shall be \$48 per calendar year.
- (d) Percentage fee.
- (1) Licensees in classes 2(A), (B) and (C), 4(A) and (B), 5(A), (B) and (C), 6, 9, 11, 12, 13, 14, 15, 16, 18, and temporary license, as defined in subsection (b) of this section, shall be subject to the basic fee plus a percentage fee. Licensees in class 1 (other than a class 1 manufacturer, whose wine is manufactured from fruits grown in the State), and class 3, as defined in subsection (b) of this section, shall be subject to basic fee plus the percentage fee of retail liquor sales to any person for private use and consumption. Licensees in class 9, as defined in subsection (b) of this section, shall be subject to basic fee plus percentage fee of four times the total amount of liquor purchased from class 1 manufacturers' licensee, class 3 wholesale dealers' licensee, class 14 brewpub licensee, class 16 winery licensee, and class 18 small craft producer pub licensee. Licensee shall report the retail value of any complimentary drinks or donated liquor, or both, in their annual gross sales report.
- (2) The percentage fee for each current fiscal year shall be based upon the following formula, which shall establish the percentage to be applied to the gross sales or four times the total amount of liquor purchased of each licensee:

$$\frac{EE - BF - C}{EGS} = \text{Percentage}$$

EGS = Percentage

EE = Estimated Expenditures (current fiscal year)

BF = Basic Fees (current fiscal year)

C = Carryover (prior fiscal year)

(Carryover in excess of twenty per cent as provided in section 281-17.5, HRS)

EGS = Estimated Gross Sales (prior fiscal year)

- (3) Licensees in the above-mentioned classes shall file with the director on a form prescribed by the commission a report showing true and accurate gross sales of liquor and any other pertinent record or records requested therein. The form shall be furnished by the director and shall be completed, filed at, and accepted by the department not later than 4:30 p.m. on July 31 after the date of expiration of such licenses, and at such other times or intervals as the director may require. If the 31<sup>st</sup> of July falls on Saturday, Sunday, or legal County of Maui holiday, the last day for the filing of the gross liquor sales report shall be 4:30 p.m. on the first County of Maui working day following. The gross sales of liquor report shall be on the original form(s) and contain the original signature; duplicates or copies shall not be accepted.  
The director may reject, refuse to accept, or return any gross liquor sales report that is inaccurate, incomplete, illegible, or does not meet any requirement(s) of or not in compliance with any rule of the commission or chapter 281, HRS.
- (4) After a tally of all total gross liquor sales filed by the due date by the licensees, the percentage fee due and payable shall be assessed each licensee and shall be paid within thirty-one calendar days of receipt of said assessment.
- (5) In case of transfer of such licenses, the report shall be filed and paid by the transferor immediately after approval by the commission and before the actual transfer of the license and the business of the licensee-transferor. The percentage fee based on the current applicable percentage fee shall be paid prior to the issuance of the license.
- (6) Any licensee who fails to file the report or fails to pay the percentage fee due on or before the due date shall not exercise his license after the due date and until said report has been filed or percentage fee paid, or both.
- (7) Where licenses are revoked, expired, or canceled, or the licensee closes out the business for which the license is held, the report shall be filed and the percentage fee due paid within five calendar days of the revocation, expiration, cancellation or closing out the business. The percentage fee due shall be based on the current applicable percentage.
- (8) Any licensee who fails to pay the percentage fee by the due date shall be assessed a late charge of five percent per month on the balance due until such fees are paid in full. The five percent late charge shall

be a flat fee (not be prorated) that will be charged for any portion of the month payment is due.

- (9) Any licensee who fails to pay the percentage fee within ninety days of the due date, shall be notified and scheduled for hearing. Upon satisfactory proof of such prohibited activity, the license shall be revoked.
- (10) No licensee shall fail to accurately report revenues from gross liquor sales or to properly complete the gross liquor sales report. It shall be the licensee's responsibility to maintain complete and accurate records in order to properly complete and submit the gross liquor sales report pursuant to the rules of the commission. Records shall be maintained for a period of four years.
- (11) All licensees shall have available for inspection within the County, books or records, or both, showing all income, purchases, and expenses of their liquor license business. These books and records, including but not limited to daily sales records, price lists, employee time sheets, and invoices, shall be made available for inspection or auditing, or both, by the department, through its auditor(s) or otherwise, at any time upon demand and shall be preserved for a period of four years, except that the commission may, in its discretion, consent to destruction of such books and records within such period or may require that they be kept longer. Licensee or its employees shall record the sale of liquor at the time of the transaction on its daily sales records.
- (12) Any licensee who fails to pay any fee due on or before the due date or when any check, money order, or the like that is utilized by the licensee for payment of such fee is returned by any financial institution for non-payment due to insufficient funds or for any other reason, shall not exercise the license until said fee and any related service charges are paid in cash, certified check, or money order, and such payment is duly processed by the department.
- (13) Any licensee who failed to file the gross sales of liquor report by the due date, shall be assessed the percentage fee equal to the highest percentage fee due and payable by the licensee of the same class or the highest percentage fee due and payable by any licensee if there is no licensee in the same class.
  - (e) Filing fees with application. A filing fee of \$50 shall be paid with any application for an initial issuance of a license or for a transfer of a license in accordance with and in the manner prescribed by law.
  - (f) Where a license is granted, the filing fee deposited with the application shall become part payment of the fee required for such license.



~~[(f)]~~~~(g)~~ Forfeiture of fee paid. If any license or application is canceled or withdrawn by the licensee or applicant or the license is revoked or canceled by the commission or the board, the fee paid for the application or license shall be forfeited to the department as respect to the application or unexpired portion of the fee paid for the license.

~~[(g)]~~~~(h)~~ Any licensee who fails to pay any penalty ordered by the board for the violation of the liquor laws of the State or of the rules of the commission by the due date shall be assessed a late charge of five per cent per month on the balance due until such fees are paid in full. The five per cent late charge shall be a flat fee (not be prorated) that will be charged for any portion of the month payment is due.

~~[(h)]~~~~(i)~~ Any licensee who fails to pay any monetary assessment due on or before the due date or whose check or the like that is utilized for payment of such assessment is returned by any financial institution for non-payment due to insufficient funds or for any other reason, shall not exercise the license until said assessment and any related service charges are paid in cash, certified check, or money order, and such payment is duly processed by the department. [Eff 7/1/00; am and comp 7/15/02; am and comp 6/18/15; am and com 9/3/16; am and comp 3/4/17; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

8. Section 08-101-73, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-73 Employment and registration of minors. (a) No person under eighteen years of age shall be employed in any section of a licensed premises where liquor is sold, stored, served, consumed or readily accessible or available unless the licensee has registered and obtained approval from the director for the employment of, or the entertainment by, such minor.

(b) The person under eighteen years of age, and his/her parent or legal guardian shall be interviewed by an investigator, who shall submit a report to the director regarding the employment of the individual under eighteen years of age. If the standards set by the commission are complied with, the director may approve the licensee's request and may include any conditions which the director deems necessary for the protection of the person under eighteen years of age.

(c) After employment approval has been obtained, the employee under the age of eighteen shall be registered pursuant to subsection (a) of this section.

(d) Applications for permission for persons under eighteen years of age to work on licensed premises shall be submitted by the parent or legal guardian of the person under eighteen years of age and shall include the following:

- (1) Proof that the proposed employee is at least sixteen years of age[, except for theatrical employment; and].
- (2) Written consent of a parent or guardian. [For purpose of this section, "theatrical employment" means gainful occupation as a model, dancer, singer, musician, entertainer or motion picture, television, radio or theatrical performer.]
- (e) The duties of a person under eighteen years of age shall not include selling, stocking, handling, coming in contact with, or serving liquor, unless that person is in an approved program under section 281-78(b)(4), HRS.

(f) The licensee shall provide adequate supervision at all times for any employee under twenty-one years of age while such employee is employed on the licensed premises. Supervision shall be by an employee approved by the director.

(g) Any person under the age of eighteen who does not have an approved valid picture governmental identification [or proof of social security, or both], and is applying for their initial registration, may be issued a temporary thirty calendar day registration permit. Such person shall complete and submit all required document(s) prior to the expiration of the temporary permit. The temporary permit shall be for one time only and may not be renewed or re-issued.

(h) The minor employee's registration card shall be in the employee's possession or be readily available on the premises for inspection at all times, while the minor is on duty.

(i) The director may accept application for "registration of minors for entertainment" or "registration of minors for one day fundraising event(s)", without fee, of any person under twenty-one years of age performing or assisting with a religious, charitable, or educational not for profit organization to entertain on a licensed premises submitted by the licensee on an approved department of liquor control's form which shall be filed with the department seven calendar days prior to the event.

The licensee shall comply with all conditions set forth by the commission, which shall include, but not limited to:

- (1) Proof of religious, charitable, educational, and not for profit status of the organization. The religious, charitable, educational, or not for profit organization shall attach a copy of its U.S. Internal Revenue sections 501(c)(3), 501(c)(4), 501(c)(10), or 501(c)(19) approval letter to the application.
- (2) Registration shall expire on June 30, each year and may be renewed each July 1.
- (3) Minor's name, date of birth, and age.
- (4) Name of chaperone(s).
- (5) Licensees shall obtain all necessary clearances from other

governmental agencies including but not limited to be in compliance with “Child Labor” laws.

Licensee shall maintain all the above required documents and information in this section and any other required documents on file and readily available for inspection on its license premises prior to the event and for a period of one year.

For this subsection, religious, charitable, or educational not for profit organization means a legal registered entity under federal and state law, organized and operated exclusively for religious, charitable, or educational not for profit purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(j) No minors shall be employed or entertain in any licensed premises other than a class 2, 12, and 15 or any licensee that has on file with the department that shows thirty percent of gross liquor and food revenue is derive from food sales, provided any other licensee will be required to obtain commission approval for the employment of and or entertainment by minors. [Eff 7/1/00; am and comp 7/15/02; am and comp 4/22/12; am and comp] (Auth: HRS §§ 91-2, 281-17) (Imp: HRS §281-17)”

9. Section 08-101-107, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended to read as follows:

“§08-101-107 [Manufacturer or wholesaler;] Industry member; special license exception. The rules of the commission do not prohibit any [manufacturer or wholesaler licensee] industry member from giving financial or other forms of event sponsorship assistance to any charitable or educational nonprofit organization which are issued a class [10,] 10 special license, by this department for purposes of charitable fundraising. This section does not prohibit such suppliers from advertising their sponsorship at such special events. [Eff 7/1/00; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

10. Material, except source notes, to be repealed is bracketed. New material is underscored.

11. Additions to update source notes to reflect these amendments are not underscored.

12. These amendments to Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, shall take effect ten days after filing with the Office of the County Clerk.

Copies of the proposed amendments may be viewed or downloaded from the Department of Liquor Control web page at [www.mauicounty.gov/liquor](http://www.mauicounty.gov/liquor) and selecting the Rules/Laws tab.

Copies of the proposed amendments will be mailed to any interested person who requests a copy and pays the required fees for copying and postage. Requests for a copy may be made at the Department of Liquor Control, 2145 Kaohu Street, Room 105, Wailuku, Hawaii 96793, or by calling (808)244-4666.

Any interested person may submit oral or written testimony on the proposed amendments at the public hearing. Also, written testimony may be submitted by mail to: Liquor Commission, 2145 Kaohu Street, Room 105, Wailuku, Maui, Hawaii 96793. Written testimony must be received by the Liquor Commission before the public hearing closes on December 13, 2017.

***At the conclusion of the public hearing the Commission may take action on the proposed rule amendments, or defer and announce a future date certain when Commission action will occur.***

***The Commission anticipates that it may convene in executive session on any or all of the above items pursuant to Sections 92-4 and 92-5(a)(4), Hawaii Revised Statutes, to consult with its attorney on the Commission's powers, duties, privileges, immunities, and liabilities.***

#### **IX. ADMINISTRATIVE AFFAIRS:**

- A. Corporation Counsel; status report; CAAP 17-805, Committee for Responsible Liquor Control and Schaefer v. Liquor Control Commission Director.

***The Commission anticipates that it may convene in executive session on the above item pursuant to Sections 92-4 and 92-5(a)(4), Hawaii Revised Statutes, to consult with its attorney on the Commission's powers, duties, privileges, immunities, and liabilities.***

- B. Presentation by the Department of the Corporation Counsel regarding a personnel investigation into potential violation(s) of County of Maui policies by an employee of the Department

of Liquor Control; review and discussion of final investigation report.

***The Commission anticipates that it may convene in executive session pursuant to HRS §§ 92-4 and 92-5(a)(4) to consult with its attorney on the Commission's powers, duties, privileges, immunities, and liabilities; and pursuant to HRS §§ 92-4 and 92-5(a)(2) to consider the evaluation of an officer or employee where consideration of matters affecting privacy will be involved.***

- C. Annual review and evaluation of the performance of the Director of the Department of Liquor Control.

***The Commission anticipates that it may convene in executive session pursuant to HRS §§ 92-4 and 92-5(a)(4) to consult with its attorney on the Commission's powers, duties, privileges, immunities, and liabilities; and pursuant to HRS §§ 92-4 and 92-5(a)(2) to consider the evaluation of an officer or employee where consideration of matters affecting privacy will be involved.***

- D. Director's Monthly Report:

1. Small Business Review and Advisory Committee

- E. Approval of Forms - UNFINISHED BUSINESS:

1. DLC-001, License Application Checklist
2. DLC-006, Personal History Statement of Applicant
3. DLC-016, Application for Special Liquor License
4. DLC-030, Special License Application Checklist

- F. Liquor Control Adjudication Board:

1. Summary of Board Decisions of December 7, 2017

## **X. ADJOURNMENT**

NEXT LIQUOR COMMISSION MEETING WILL BE HELD ON JANUARY 10, 2018, AT 9:00 A.M. AT THE DEPARTMENT OF LIQUOR CONTROL CONFERENCE ROOM, DAVID K. TRASK, JR. OFFICE BUILDING, 2145 KAOHU STREET, ROOM 108,

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WAILUKU, MAUI, HAWAII.

Persons interested in presenting written testimony of any agenda item shall submit the signed written testimony to the Director, Department of Liquor Control, 2145 Kaohu Street, Room 105, Wailuku, Maui, Hawaii 96793, at or prior to the time of the hearing.

If you require an auxiliary aid or accommodation due to a disability, please contact the Director three working days prior to the scheduled hearing. The request may be made by writing to the Director at: Department of Liquor Control, 2145 Kaohu Street, Room 105, Wailuku, Maui, Hawaii 96793, or by calling 243-7753.