

# September 20, 2017 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair	NA	Oahu	Parking Pass	Yes ✓
Kyoko Kimura	HA	Maui	Parking Pass	Yes ✓
Harris Nakamoto, Vice Chair	NA	Oahu	NA	Yes ✓
Director's ex officio Mark Rikorio Carl Nagasako	NA	Oahu	NA	Yes ✓
Robert Cundiff	NA	Oahu	Parking Pass	No
Nancy Atmospera-Walch	NA	Oahu	NA	Yes ✓
Garth Yamanaka	HA	B.I.	Parking Pass	YES

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Poll Board Attendance - in process <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">6</span>	X
Draft Agenda to Chair for approval <i>Approved</i>	✓
Prepare TAF's for Director's approval - ASAP (Linda) - Group TAF <i>Done - Linda/Yamanaka</i>	✓
Copies of Rule Package for Lte. Gov's Office (2) and Scan for Posting on State Calendar <del>X</del>	✓
Send Chair Minutes for Approval <i>Post Draft Minutes Approved</i>	✓
Post approved agenda on <del>SBRB</del> website, <del>X</del> State Calendar, <del>X</del> Lte. Governor's Office	✓
Send Agendas to those people who requested it - IMPORTANT <i>Done</i>	✓
Upload Meeting Documents onto Board's Website in Calendar <i>Done</i>	✓
Include "discussion leader" names on the agendas to Board members only.	✓
Prepare Agenda ONLY for "Chair" with Names of Attendees <i>working on</i>	✓
Mail parking permits to those Board members noted (Sent in Nov. 2016 six (6) permits)	NA

STAFF				
<del>Jennifer</del> Dawn Apuna	Wahee-Polik			✓ Via I-pad
Dori Palcovich				✓

Post Meeting Checklist	

## Palcovich, Dori

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**From:** Amber Coutsos <execasst@mauichamber.com>  
**Sent:** Tuesday, August 15, 2017 4:18 PM  
**To:** Palcovich, Dori  
**Subject:** RE: Follow-up on our Conversation

**Importance:** High

Hi Dori,

Thank you for reaching out to us on this!

We have been following what has been happening lately with the Maui Liquor Commission. I did speak with Pam about this and even though the meeting specifically addressed the Class 10 Special License which is for nonprofits and political candidates, this could still affect small businesses. If a business wants to apply for a Class 10 Special License to sell alcohol for one day, they have to partner with a nonprofit as that is the only way for a business to be able to obtain the 1 day permit. Usually the business partners with a nonprofit for the event and then makes a donation to the nonprofit. For example, we have heard that the Shops at Wailea have been wanting to do a beer garden event to increase traffic during slow times, but have been unable to get a special 1 day permit unless they partner with a nonprofit. If the Maui Liquor Commission continues to strictly enforce and interpret legislation making it more difficult for nonprofits to get the special permits, then that impacts small businesses as well. I believe this particular meeting was to hear suggestions on how the Maui Liquor Commission could streamline the requirements for nonprofit. Pam did want me to note that while the SBRRB does not cover nonprofits, they are still considered small businesses.

Beyond the issue with nonprofits, there is currently a bigger issue on how the Maui Liquor Commission is interpreting the law compared to neighbor islands. It is now harder to get a liquor license here on Maui for businesses/restaurants because of their interpretation of the state law.

I hope this helps!

Also Pam is still very interested in applying to be a member on the Small Business Regulatory Review Board. I am blocking off time on the calendar for next week so she can complete the application. I will let you know when she has submitted it.

Mahalo,



**Amber Coutsos**  
**Executive Assistant**  
[execasst@mauichamber.com](mailto:execasst@mauichamber.com)  
Maui Chamber of Commerce

95 Mahalani St RM 22A  
Wailuku, HI 96793  
Phone: 808-244-0081  
Fax: 808-244-0083  
<http://www.mauichamber.com>



**From:** Palcovich, Dori [mailto:dori.palcovich@hawaii.gov]  
**Sent:** Tuesday, August 15, 2017 11:14 AM  
**To:** Amber Coutsos <execasst@mauichamber.com>  
**Subject:** Follow-up on our Conversation

Hi Amber:

Thanks so much for helping the SBRRB out with these proposed administrative rule changes to the Maui Liquor Control.

As I mentioned to you, we are not sure if the business impact extends beyond non-profits and political candidates.

Sincerely,

Dori

Small Business Regulatory Review Board Meeting

Wednesday, September 20, 2017

10:00 a.m.

No. 1 Capitol District Building

250 South Hotel Street, Honolulu, HI

Conference Room 436



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Bldg., 250 South Hotel St. 5<sup>th</sup> Fl., Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Email: [dbedt.sbrb.info@hawaii.gov](mailto:dbedt.sbrb.info@hawaii.gov)  
Website: [dbedt.hawaii.gov/sbrb](http://dbedt.hawaii.gov/sbrb)

Tel 808 586-2594

David Y. Ige  
Governor

Luis P. Salaveria  
DBEDT Director

### Members

Anthony Borge  
Chairperson  
Oahu

Robert Cundiff  
Vice Chairperson  
Oahu

Garth Yamanaka  
2<sup>nd</sup> Vice Chairperson  
Hawaii

Harris Nakamoto  
Oahu

Nancy Atmospera-Walch  
Oahu

Kyoko Kimura  
Maui

Director, DBEDT  
Voting Ex Officio

### AGENDA

Wednesday, September 20, 2017 ★ 10:00 a.m.  
No. 1 Capitol District Building  
250 South Hotel Street - Conference Room 436

#### I. Call to Order

#### II. Approval of August 16, 2017 Meeting Minutes

#### III. New Business

- A. Discussion and Action on Proposed Amendments to Title 8, Subtitle 1, Liquor Commission, Chapter 101, **Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui**, promulgated by the Department of Liquor Control, County of Maui, as follows:  
**Discussion Leader – Kyoko Kimura**

1. Section 22(j) - **Licenses, Classes; Class 10. Special License;**
2. Section 69(a) – **Practice to Promote Excessive Consumption of Liquor; Prohibited**

#### IV. Administrative Matters

- A. Discussion and Action on Recommended Changes to Administrative Directive No. 09-01, dated October 29, 2009, regarding Chapter 201M, Hawaii Revised Statutes (HRS)
- B. Update and Discussion on Upgrading the Board's Website
- C. Update on Amendments to Chapter 201M, HRS for the 2018 Hawaii Legislative Session – To clarify the powers of the Small Business Regulatory Review Board by adding that the Board may consider any request from small business owners for review of a rule that is “proposed” and “amended” as well as adopted by a state agency, and to change “ordinance” to “rules” when making recommendations to the county council or the mayor for appropriate action
- D. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, HRS

#### V. **Next Meeting:** Scheduled for Wednesday, October 18, 2017, at 10:00 a.m., Capitol District Building, Conference Room 436, Honolulu, Hawaii

#### VI. Adjournment

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

## II. Approval of August 16, 2017 Meeting Minutes

## Small Business Regulatory Review Board

### MINUTES OF REGULAR MEETING - Draft

August 16, 2017

Conference Room 436 - No. 1 Capitol District Building, Honolulu, Hawaii

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 10:04 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Anthony Borge, Chair
- Robert Cundiff, Vice Chair
- Garth Yamanaka, 2<sup>nd</sup> Vice Chair
- Kyoko Kimura
- Harris Nakamoto
- Mark Ritchie

**ABSENT MEMBERS:**

- Nancy Atmospera-Walch

**STAFF:** DBEDT  
Dori Palcovich

Office of the Attorney General  
Dawn Apuna  
Jennifer Waihee-Polk

II. **APPROVAL OF JULY 19, 2017 MINUTES**

Mr. Nakamoto made a motion to accept the July 19, 2017 minutes, as presented. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. **OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Title 8, Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor Control, County of Maui, promulgated by the Department of Liquor Control, County of Maui

Discussion leader Ms. Kimura explained that the amendments were reviewed at a prior board meeting and before the "second" public hearing that resulted from the many public complaints and concerns. In particular, concerns included the change in hours that licensed premises may be opened and the requirement that the non-profit board members will be subject to criminal background checks.

The proposal to open 24-hours has subsequently been reduced back to 11 hours. Ms. Kimura added that this Board will review additional amendments at the September 20<sup>th</sup> meeting on Class 10, Special License applications.

Ms. Kimura made a motion to move the amendments to the Mayor for adoption. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

#### **IV. NEW BUSINESS**

A. Discussion and Action on Proposed Amendments to HAR Title 12, Chapter 15, Hawaii Workers' Compensation Medical Fee Schedule and Exhibit A, "Workers Compensation Supplemental Medical Fee Schedule," promulgated by Department of Labor and Industrial Relations (DLIR)

Ms. JoAnn Vidinar, Administrator at DLIR's Disability Compensation Division, discussed the proposed rule changes and the medical fee schedule, indicating that the prior proposal from last year was postponed due to the adverse comments made at the public hearing. The current proposal is expected to take effect January 1, 2018, and includes new codes based on a recent survey of the prevailing workers' compensation charges.

Small business impact includes a change/increase in premium costs for workers' compensation and no fault insurance coverages; however, this may likely be passed down to consumers. The impact to the changes of the Workers' Compensation Supplemental Medical Fee Schedule will result in a 0.9% increase (or \$2,000) for systems costs and 1.5% increase in no-fault personal injury protection rates.

Discussion leader Ms. Kimura noted that the Hawaii Chapter of the American Physical Therapy Association submitted testimony in support of the proposed rule amendments. On behalf of Mr. Greg Casilion from Kauai, Mr. Ishihara provided oral testimony in favor of the proposed changes adding that DLIR's efforts to make additional changes to the medical fee schedule was appreciated. Mr. Norman Kawakami, President of CHART Rehabilitation of Hawaii, Inc., also supported DLIR's recommended changes.

Ms. Kimura made a motion for the proposed amendments to move to public hearing. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 19, Chapter 44, Rules Relating to Service and Procedures, Charges, Tools and Fees, promulgated by Department of Transportation (DOT)

Ms. Dreanalee Kalili, Revenue Enhancement Manager at DOT Harbors, discussed the current \$450 million project that will construct a new cargo yard. While this is expected to alleviate congestion in the harbor system, because DOT Harbors is one-hundred percent self-funded, use-fee rates must be raised to finance this and other projects that are part of the Harbors Modernization Plan.

Proposed changes reflect an increase in dockage, cruise passengers, and port entry fees. Dockage and port entry fees will increase by 20% effective July 1, 2019; 15% effective July 1, 2020; and 5% effective July 1, 2021; ships longer than 900 feet will be subject to higher rates. Cruise passenger fees will be adjusted from \$75 per passenger to \$15 in Honolulu Harbor and \$8 per passenger in all other harbors, effective July 1, 2018.



The State Legislature has instructed DOT Harbors to use \$5.4 million CIP appropriations of its self-funded funds for cruise terminal improvements across the harbor system which will include a covered walkway, Wi-Fi, artwork, etc. Ms. Kalili stated that she will be back in front of this Board at year-end to discuss a proposal for the development of concession rules.

In regards to the impact on small business, Chair Borge explained that although the larger businesses are directly affected by the increased fees, ultimately, the fees will be passed onto the "small businesses" who will have to absorb, at least, a portion of the increases. However, it is also recognized that the ports are in need of improvement and modernization. Ms. Kalili responded that it is very difficult to accurately complete the Board's small business impact statement because it is unknown exactly how much of the fee increases will trickle down to the small businesses.

Vice Chair Cundiff stated that as stakeholders, small businesses should add a voice to the changes in the rules. While it is difficult to determine exactly what the downstream impact on the smaller businesses would be, it is important that these businesses are included in the rule-review process. Therefore, organizations such as the Chamber of Commerce of Hawaii, Small Business Administration and others should be notified and included in the process of reviewing proposed rule amendments. Mr. Ritchie added that Ms. Kalili is welcome to discuss DOT's rule amendments at one of DBEDT's export training programs; Chair Borge asked that Ms. Kalili provide a presentation to the building industry.

Mr. Yamanaka inquired as to whether DBEDT's Research and Economic Analysis Division (READ) can run data for this Board regarding how much the additional fees would affect and bring in every dollar of revenue from the general excise tax; staff will research this with READ and get back to the Board.

Discussion leader Ms. Kimura made a motion to move the proposed amendments to public hearing and that the Department of Transportation's Harbors Division make an effort to engage the Hawaii small businesses that may be impacted by the proposed fee increases through the outreach of business organizations and trade associations such as the Chamber of Commerce of Hawaii. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Testimony, dated August 3, 2017, from Mr. Rick Gaffney, President, Hawaii Fishing & Boating Association regarding Proposed Amendments to HAR Title 13, Subtitle 11, Ocean Recreation and Coastal Areas, as follows, promulgated by Department of Land and Natural Resources (DLNR)

- I. Small Boat Harbors
  - Chapter 230, General Provisions
  - Chapter 231, Operations of Boats, Small Boat Harbors, and Permits
  - Chapter 232, Sanitation and Fire Safety
  - Chapter 233, Motor Vehicle and Parking Rules
  - Chapter 235, Offshore Mooring Rules and Areas
  
- II. Boating
  - Chapter 240, General Provisions

- Chapter 242, Accidents, Reports, Fines, Enforcement and Records
- Chapter 243, Vessel Equipment Requirements
- Chapter 244, Rules of the Road; Local and Special Rules
- Chapter 245, Waterway Marking Systems

III. Ocean Waters, Navigable Streams & Beaches

- Chapter 250, General Provisions
- Chapter 251, Commercial Activities on State Ocean Waters, Navigable Streams, and Beaches
- Chapter 253, Registration and Permit Fees
- Chapter 254, Local Ocean Waters
- Chapter 255, Waikiki Beach
- Chapter 256, Ocean Recreation Management Rules

Mr. Ed Underwood, Administrator at DLNR's Division of Boating and Ocean Recreation (DOBOR), introduced Mr. Todd Tashima, DOBOR's new Legal Fellow. Mr. Underwood provided the members with background information, stating that because DOBOR has received many complaints in the past about flawed and/or insufficient information on proposed rule amendments, outreach efforts have greatly increased and improved.

For example, Mr. Underwood explained that advance notice of the proposed amendments is now provided to Ocean Tourism Coalition and others. He stated that testifier, Mr. Rick Gaffney, received a proposed rule package a year in advance; at that time, DOBOR included into the rules recommendations that were made by Mr. Gaffney.

While it was acknowledged that this Board does not address concerns regarding Chapter 91, HRS, Mr. Underwood stated that Chapter 91 was strictly followed, and although the law only requires an agency to have one public hearing, five (5) hearings were held on the proposed rule changes.

Six-hundred fifty (650) comments were received during and after the public hearings, with 99% of the comments opposing the predator rules on feral cats. In addition, as comments are still coming into DOBOR, the rules have yet been finalized for the Board of Land and Natural Resources' (BLNR's) review. It is expected that the final rules will be presented to BLNR on or around September 25<sup>th</sup> or 28<sup>th</sup>.

Regarding the proposed deletion of DOBOR creating an advisory council, it was explained that because this would trigger the requirement of Sunshine Law, it is cumbersome and time consuming. Mr. Underwood explained that while DOBOR wants to encourage business groups to meet and discuss the rule amendments, it also wants to avoid the Sunshine Law requirement.

Vice Chair Cundiff stated that it looks as if DOBOR is doing a good job at making the rules clearer. This Board, however, would appreciate DOBOR continuing with its due diligence and review Mr. Gaffney's testimony regarding his concerns by making sure that the definitions are in compliance with international law and federal standards as this Board does not know if the definitions are correct or not.

In addition, although this Board understands DOBOR's concerns regarding the requirement of Sunshine Law, the members would like DOBOR to create an avenue of accessibility and open communication with regards to those businesses affected by the rule changes.

Mr. Underwood stated that although the public hearings are finished, DOBOR has left the "comment" period open and will continue to receive testimony and comments until it is found that the information is no longer substantive. In reference to Mr. Gaffney's concerns regarding the "definition section," Mr. Underwood said DOBOR will review and address Mr. Gaffney's comments and continue to work with him on any proposed rule changes he may have. He added that many of the definitions had been amended to be consistent with the federal rules, such as the "dive flag" definition.

Mr. Ritchie made a motion to send Mr. Gaffney a letter explaining that his concerns were discussed with Administrator Ed Underwood, requesting that DOBOR continue in its due diligence with amending Title 13, Subtitle 11, Parts I., II, II, Hawaii Administrative Rules, and that Mr. Underwood review Mr. Gaffney's testimony to assure that the rule definitions are reasonable and in compliance with international law and federal standards. Further, in regards to Mr. Gaffney's concern with the removal of the advisory council, it was requested that DOBOR create an avenue of accessibility and open communication with the businesses affected by the amendments, such as those in the Chamber of Commerce of Hawaii and Hawaii Fishing & Boating Association. Ms. Kimura seconded the motion, and the Board members unanimously agreed.

## **V. ADMINISTRATIVE MATTERS**

### **A. Discussion and Action on the Board's Nominations of Proposed Board Members for Submission to the Governor under Section 201M-5(b)(3), HRS, including Ms. Mary Albitz**

Mr. Ritchie stated that based on his limited knowledge of Ms. Albitz, who is a small business consultant, he believes she would have the knowledge-base to be qualified as a member of this Board.

Mr. Nakamoto made a motion to send Ms. Albitz's nomination to the Governor as a member of this Board, with a request to expedite the nominating process. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

### **B. Discussion and Action on Proposed Amendments to Chapter 201M, HRS for the 2018 Hawaii Legislative Session**

Chair Borge explained that the proposed changes to the Board's statute, which will be part of DBEDT's administrative package, clarify the intent of this Board's powers. The changes under Section 201M-5(a), HRS are as follows:

- 1) Replaces "ordinances" with "rules" when making recommendations to county council or the mayor; and
- 2) Adds that the Board may consider requests from small business owners for review of any rule that is "proposed" and "amended" in addition to adopted rules.

Vice Chair Cundiff made a motion to accept the proposed changes to Section 201M-5(a), HRS, as follows: 1) replace "ordinances" with "rules" when making recommendations to county council or the mayor, and 2) clarify the intent of the SBRRB's powers by adding that the Board may consider any request from small business owners for review of any rule that is "proposed" and "amended" in addition to adopted rules. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

#### C. Discussion on the Board's "2008 Chapter 201M-7, Report"

Chair Borge explained that at the time the 2008 "201M-7 Report" was created, the board members made several recommendations that would justify some follow-through; particularly in regards to small business impact.

Further discussion on this 2008 report is deferred until later.

Also discussed was Mr. Denver S. Coon's 2014 report submitted to William S. Richardson School of Law, entitled "The Need for Modernizing Hawaii's Informal Rulemaking Procedure." Chair Borge explained that the State of Hawaii's rule-making process has been in existence since 1959 and is archaic as the public hearings come too late in the process. Mr. Coon's paper focuses on statutorily changing the rule-making process; Deputy Attorney General Apuna remarked that due to the time and cost involved, the State is unwilling to make any changes to the existing process.

Chair Borge would like to review and address the existing rule-making process so that stakeholders can get involved earlier rather than at the tail-end of the process. He added that although having public hearings is a great idea, very few small businesses come out to testify. He would like this Board to begin a dialogue with the legislators about this in the 2018 Legislature. DBEDT staff will review other states' rule-review processes in order to provide suggestions and alternatives, especially those that may not include a statutory change to Chapter 91, HRS.

Deputy Attorney General Apuna added that many of the states have taken their procedures from the "Model State Administrative Procedure Act." She suggested that tallying the number of agencies that currently perform outreach to the small business community during the rule-review process would be helpful to know for this Board's potential plight in proposing changes to the process.

#### D. Update on Upgrading the Board's Website

Chair Borge questioned the members as to whether they were interested in requesting a written proposal from Hawaii Information Consortium (HIC), the agency that discussed the implementation of a new website at the last board meeting. He believes that having a user-friendly website for the small business community will enhance the Board's directive.

Vice Chair Cundiff added that it will not cost anything for a proposal and it will help back-up the monetary request from DBEDT, which is \$15,000. Mr. Ritchie suggested that the Board provide HIC with a "needs analysis" so they will come back with a proposal that lines up with the Board's request.

Mr. Nakamoto made a motion to request a written proposal from Hawaii Information Consortium for implementing a new website and monthly service charges for this Board. Vice Chair Cundiff seconded the motion, and the Board members unanimously agreed.

E. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, HRS

Chair Borge noted that this Board is required to provide DBEDT with a list of its 2017 accomplishments for submission to the State Legislature for the 2018 session. Staff is in the process of preparing a list of accomplishments including the Board's outreach efforts; i.e., participating in Reg Baker's "Thinktech of Hawaii" show and attending the Maui Small Business conference, as well as the Board's monthly review of administrative rules.

Also announced was due to Mr. Reg Baker's attendance at the June 28<sup>th</sup> Board meeting when Ms. Anna Hirai, Assistant Administrator at the City and County of Honolulu Liquor Commission attended the meeting and discussed small businesses concerns with getting IRS tax clearances for liquor license renewals and applications in Hawaii, Mr. Baker will be providing testimony on behalf of Hawaii's liquor commissions at the August 28<sup>th</sup> SBA Fairness Board Meeting in Washington D.C. The members were reminded that Mr. Baker is a member on the U.S. Small Business Administration's Region IX Regulatory Fairness Board and represents the voice of small business on federal regulatory issues.

**VI. NEXT MEETING** – The next meeting is scheduled for Wednesday, September 20, 2017, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii at 10:00 a.m.

**VII. ADJOURNMENT** – Mr. Ritchie made a motion to adjourn the meeting and Ms. Kimura seconded the motion; the meeting adjourned at 12:08 p.m.

### **III. New Business**

**A.** Discussion and Action on Proposed Amendments to Title 8, Subtitle 1, **Sale of Intoxicating Liquor of the County of Maui**, promulgated by the Department of Liquor Control, County of Maui, as follows:

1. Section 22(j) – **Licenses, Classes; Class 10, Special License**
2. Section 69(a) – **Practice to Promote Excessive Consumption of Liquor; Prohibited**

ALAN M. ARAKAWA  
MAYOR



GLENN MUKAI  
DIRECTOR


MARK T. HONDA  
DEPUTY DIRECTOR

DEPARTMENT OF LIQUOR CONTROL  
C O U N T Y O F M A U I

2145 KAOHU STREET, ROOM 105 • WAILUKU, MAUI, HAWAII 96793  
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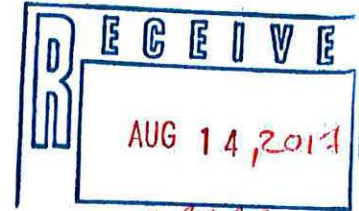
**MEMORANDUM**

TO: Anthony Borge, Chairperson  
Small Business Regulatory Review Board

FROM: Glenn Mukai, Director   
Department of Liquor Control, County Of Maui

DATE: August 11, 2017

SUBJECT: Proposed Amendments to Title 08, Subtitle 01, Liquor Commission,  
Chapter 101, "Rules Governing the Manufacture and Sale of Intoxicating  
Liquor of the County of Maui"



56213

Ms. Yuki Lei Sugimura, resident of Maui, petitioned the Liquor Commission, County of Maui, to amend Sections 08-101-22(j) and 08-101-69(a) of the Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui. The Department also proposed rule amendments to the abovementioned sections. These proposed amendments were placed on the Liquor Commission's agenda of August 9, 2017 for review and discussion.

The Liquor Commission, at its meeting on August 9, 2017, voted to initiate proceedings for public hearing of both versions of the amendments in accordance with Section 91-3, HRS. Public hearing will be held on September 13, 2017.

The following documents are attached:

- o Pre-Public Hearing Small Business Impact Statement
- o August 9, 2017 Liquor Commission agenda
- o Notice of Public Hearing to be published in The Maui News on August 13, 2017

Should you have any questions or need clarification, please do not hesitate to contact me at (808) 243-7772.

Attachments

**PRE-PUBLIC HEARING  
SMALL BUSINESS IMPACT STATEMENT  
TO THE  
SMALL BUSINESS REGULATORY REVIEW BOARD**  
(Hawaii Revised Statutes §201M-2)



**Department or Agency:** Department of Liquor Control, County of Maui  
**Administrative Rule Title and Chapter:** Title 08, Chapter 101  
**Chapter Name:** Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui  
**Contact Person/Title:** Glenn Mukai, Director  
**Phone Number:** 808-243-7772  
**E-mail Address:** liquor@mauicounty.gov      **Date:** August 11, 2017

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7? Yes  No  (If Yes, please provide webpage address and when and where rules may be viewed in person)   
co.maul.hl.us/667/Liquor-Control see rules/laws August 13, 2017  
(Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. **Rule Description:** New  Repeal  Amendment  Compilation

II. **Will the proposed rule(s) affect small business?** Yes  No  (If No, no need to submit this form.)

\* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

\* "Small business" is defined as a "for-profit enterprise consisting of fewer than one hundred full-time or part-time employees." HRS §201M-1

III. **Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?** Yes  No  (If Yes, no need to submit this form.)

(e.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives.) HRS §201M-2(d)

IV. **Is the proposed rule being adopted pursuant to emergency rulemaking?** (HRS §201M-2(a)) Yes  No  (If Yes, no need to submit this form.)

\* \* \*



**If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:**

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

Applicants for Class10, Special License will not be adversely affected should the proposed rules be adopted. Applicants are restricted to Nonprofit charitable or educational organization, political candidates and political parties pursuant to Section 281-31(j), HRS.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

There will not be any increase of direct or indirect costs to applicants should the amendments be adopted.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.
  - b. Amount of the proposed fee or fine and the percentage increase.
  - c. Reason for the new or increased fee or fine.
  - d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).
3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

There will not be any increase in costs or benefits to the Department nor will the Department collect any additional fees should the amendments be adopted.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

The Commission has considered and explored various legal viable alternatives that does not conflict with nor contrary to any state laws or Rules of the Commission.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

The Commission and representative of applicants have submitted alternatives for considerations.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

The Commission and representatives of applicants have considered various methods of compliance to address their concerns due to the repeal of Section 281-32.3, HRS.

7. How the agency involved small business in the development of the proposed rules.

Representative of applicants have submitted a petition on proposed rule amendments to address their concerns pursuant to Section 91-6, HRS.

- a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

Commission initiated proceeding on the petition submitted by representative of the applicants in accordance to 91-3, HRS.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

Proposed rule amendments are less stringent than those mandated.

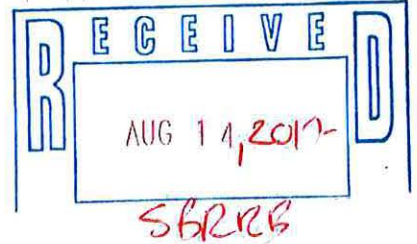
If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
  
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
  
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
  
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
  
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

\* \* \*

Small Business Regulatory Review Board / DBEDT  
Phone: (808) 586-2594  
Email: [dbedt.sbrrb@hawaii.gov](mailto:dbedt.sbrrb@hawaii.gov)

This Statement may be found on the  
SBRRB Website at:  
<http://dbedt.hawaii.gov/sbrrb/small-business-impact-statements-pre-and-post-public-hearing>



NOTICE OF PUBLIC HEARING

Pursuant to Section 91-3(a), Hawaii Revised Statutes, the Liquor Control Commission of the County of Maui (the "Liquor Commission") hereby provides notice of a public hearing for the purpose of amending sections 08-101-22(j) and 08-101-69(a) 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:**

Section 08-101-22(j) of the Rules:

ALTERNATIVE #1:

Amends Section 08-101-22(j) of the Rules by adding a new subsection (5) to allow the Liquor Commission to streamline the application procedures for the issuance of class 10 special licenses.

ALTERNATIVE #2:

Amends Section 08-101-22(j) of the Rules by amending subsection (2) to provide that under certain conditions, no personal history statements, criminal history background checks, or other governmental clearances shall be required for Class 10 license applicants.

Section 08-101-69(a) of the Rules:

ALTERNATIVE #3:

Amends Section 08-101-69(a) of the Rules by deleting provisions that limit the amount of liquor that can be offered, sold or served during a set period of time, or for a fixed price.

ALTERNATIVE # 4:

Amends Section 08-101-69(a) of the Rules to add Class 10 licensees to the exemption from provisions that limit the amount of liquor that can be offered, sold or served during a set period of time, or for a fixed price.

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 08-101-22, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (j) to read as follows:

ALTERNATIVE # 1:

- “(j) Class 10. Special license.
- (1) A special license may be granted by the director for the sale of liquor for a period not to exceed three consecutive days at the same location for fundraising events by nonprofit organizations, political candidates, and political parties; provided that any registered educational or charitable nonprofit organization may sell liquor in its original package for off-premises consumption.
- (2) Special licenses shall be issued only to charitable or educational nonprofit organizations, to political parties and to candidates seeking public office from which organization no person is entitled to or takes, directly or indirectly, any share of the profits thereof. Nonprofit charitable or educational organizations shall be required to attach their U.S. Internal Revenue’s sections 501(c)(3), 501(c)(4), 501(c)(10), or 501(c)(19) exemption letter and political candidates shall be required to attach a copy of their organizational report filed with the State campaign spending commission, to their application.
- (3) Of this class, there shall be the following kinds:
- (A) General (includes all liquor except alcohol);
- (B) Beer and wine; and
- (C) Beer.
- (4) Liquor sold under a class 10 license shall be consumed on the premises.
- (5) The commission may streamline application procedures, including but not limited to, waiving of hearing, notarization of documents, criminal history records check, and personal history statements for the issuance of special licenses for the sale of liquor for fundraising events. [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 7/29/17; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

ALTERNATIVE # 2:

- “(j) Class 10. Special license.
- (1) A special license may be granted by the director for the sale of liquor for a period not to exceed three consecutive days at the same location for fundraising events by nonprofit organizations, political candidates, and political parties; provided that any registered educational or charitable nonprofit organization may sell liquor in its original package for off-premises consumption.
- (2) Special licenses shall be issued only to charitable or educational nonprofit organizations, to political parties and to candidates seeking public office from which organization no person is entitled to or takes, directly or indirectly, any share of the profits thereof. Nonprofit charitable or educational organizations shall be required to attach their U.S. Internal Revenue’s sections 501(c)(3), 501(c)(4), 501(c)(10), or 501(c)(19) exemption letter and political candidates shall be required to attach a copy of their organizational report filed with the State campaign spending commission, to their application. Notwithstanding the provisions in subchapter 4, Licensing Procedures, special license applications for non-profits shall not require personal history statements, criminal history background checks, or other governmental clearances, but shall be subject to the following conditions:
- (A) (Applicable to Individual only). The applicant is the sole owner of the nonprofit proposed to be licensed, is no less than twenty-one (21) years of age, and is not a person who has been convicted of a felony and not pardoned.
- (B) (Applicable to Corporation only). The individuals indicated on the application are all the officers and directors of the corporation or stockholders who own twenty-five percent (25%) or more of its outstanding capital stock, and each officer, director, and stockholder is no less than twenty-one (21) years of age and is not a person who has been convicted of a felony and not pardoned.
- (C) (Applicable to Partnership or LLC only). The individuals indicated on the application are all the members of the partnership or LLC indicated on the application, and each member is no less than twenty-one (21) years of age and is not a person who has been convicted of a felony and not pardoned.
- (D) (Applicable to Unincorporated Association only). The individuals indicated on the application are all the members of the applicant association and the full names of the officers thereof, each of whom is no less than twenty-one (21) years of

age and is not a person who has been convicted of a felony and not pardoned.

- (E) No person other than the applicant named herein will have any interest in the business affected by the application without prior approval of the Commission.
  - (F) No liquor license heretofore issued to the applicant has been revoked within a term of two years preceding the date of the application.
  - (G) The applicant (or if the applicant is an entity, the officers and directors thereof) is familiar with the provisions of the State statutes relating to intoxicating liquor and with these rules.
  - (H) The applicant shall comply with all applicable state and county rules, laws, and regulations.
  - (I) The information submitted with the application represents a full, true, and correct statement of the applicant.
- (3) Of this class, there shall be the following kinds:
- (A) General (includes all liquor except alcohol);
  - (B) Beer and wine; and
  - (C) Beer.
- (4) Liquor sold under a class 10 license shall be consumed on the premises. [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 7/29/17; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)"

2. Section 08-101-69, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, is amended by amending subsection (a) to read as follows:

ALTERNATIVE # 3:

- "(a) No licensee [of any premises licensed to sell liquor for consumption on the premises] shall:
- (1) [Sell, advertise, or offer to sell "all the liquor you can drink", or more than two drinks of alcoholic beverage for a fixed price; or encourage,] Encourage, sponsor, permit or have any promotion, game or contest that involves the consumption of liquor or the awarding of liquor as a prize[;].
  - (2) [Serve an unlimited amount of liquor during a set period of time for a fixed price, provided this provision does not apply to class 2, class 9, and class 12 licensees:
    - (A) When such function is not open to the general public and for which a hosted bar is utilized such as weddings, private parties, and fundraising functions;

- (B) Where champagne may be inclusive with brunch;
  - (C) Where liquor may be inclusive with luaus; or
  - (D) Where liquor may be inclusive with tour or cruise vessel operations;
- (3)] Employ any person for the purpose of selling, furnishing or serving liquor under any scheme, plan, or arrangement involving the payment for such services on the basis of any commission, percentage, or such similar method of payment without the prior approval of the commission. [Eff 7/1/00; am and comp 4/2/07; am and comp 3/4/17; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

ALTERNATIVE # 4:

“(a) No licensee of any premises licensed to sell liquor for consumption on the premises shall:

- (1) Sell, advertise, or offer to sell "all the liquor you can drink", or more than two drinks of alcoholic beverage for a fixed price; or encourage, sponsor, permit or have any promotion, game or contest that involves the consumption of liquor or the awarding of liquor as a prize[;].
- (2) Serve an unlimited amount of liquor during a set period of time for a fixed price, provided this provision does not apply to class 2, class 9, class 10, and class 12 licensees:
  - (A) When such function is not open to the general public and for which a hosted bar is utilized such as weddings, private parties, and fundraising functions;
  - (B) Where champagne may be inclusive with brunch;
  - (C) Where liquor may be inclusive with luaus; or
  - (D) Where liquor may be inclusive with tour or cruise vessel operations[;].
- (3) Employ any person for the purpose of selling, furnishing or serving liquor under any scheme, plan, or arrangement involving the payment for such services on the basis of any commission, percentage, or such similar method of payment without the prior approval of the commission. [Eff 7/1/00; am and comp 4/2/07; am and comp 3/4/17; am and comp] (Auth: HRS §§91-2, 281-17) (Imp: HRS §281-17)”

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

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



5. 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.

**The Liquor Commission will conduct a public hearing on the proposed amendments on September 13, 2017, at 10:00 a.m. at the Department of Liquor Control Conference Room, 2145 Kaohu Street, Room 108, Wailuku, Maui, Hawaii.**

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 September 13, 2017.

Any person requesting accommodations due to disabilities must call (808) 244-4666 at least six (6) days before the date of the scheduled public hearing.

Please contact the Commission Secretary at (808)244-4666 if further information is needed.

By:   
ROBERT TANAKA  
Chair  
Liquor Commission

**Palcovich, Dori**

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**From:** Amber Coutsos <execasst@mauichamber.com>  
**Sent:** Tuesday, August 15, 2017 4:18 PM  
**To:** Palcovich, Dori  
**Subject:** RE: Follow-up on our Conversation

**Importance:** High

Hi Dori,

Thank you for reaching out to us on this!

We have been following what has been happening lately with the Maui Liquor Commission. I did speak with Pam about this and even though the meeting specifically addressed the Class 10 Special License which is for nonprofits and political candidates, this could still affect small businesses. If a business wants to apply for a Class 10 Special License to sell alcohol for one day, they have to partner with a nonprofit as that is the only way for a business to be able to obtain the 1 day permit. Usually the business partners with a nonprofit for the event and then makes a donation to the nonprofit. For example, we have heard that the Shops at Wailea have been wanting to do a beer garden event to increase traffic during slow times, but have been unable to get a special 1 day permit unless they partner with a nonprofit. If the Maui Liquor Commission continues to strictly enforce and interpret legislation making it more difficult for nonprofits to get the special permits, then that impacts small businesses as well. I believe this particular meeting was to hear suggestions on how the Maui Liquor Commission could streamline the requirements for nonprofit. Pam did want me to note that while the SBRRB does not cover nonprofits, they are still considered small businesses.

Beyond the issue with nonprofits, there is currently a bigger issue on how the Maui Liquor Commission is interpreting the law compared to neighbor islands. It is now harder to get a liquor license here on Maui for businesses/restaurants because of their interpretation of the state law.

I hope this helps!

Also Pam is still very interested in applying to be a member on the Small Business Regulatory Review Board. I am blocking off time on the calendar for next week so she can complete the application. I will let you know when she has submitted it.

Mahalo,



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**Amber Coutsos**  
**Executive Assistant**  
[execasst@mauichamber.com](mailto:execasst@mauichamber.com)  
Maui Chamber of Commerce

95 Mahalani St RM 22A  
Wailuku, HI 96793  
Phone: 808-244-0081  
Fax: 808-244-0083  
<http://www.mauichamber.com>



**From:** Palcovich, Dori [mailto:dori.palcovich@hawaii.gov]  
**Sent:** Tuesday, August 15, 2017 11:14 AM  
**To:** Amber Coutsos <execasst@mauichamber.com>  
**Subject:** Follow-up on our Conversation

Hi Amber:

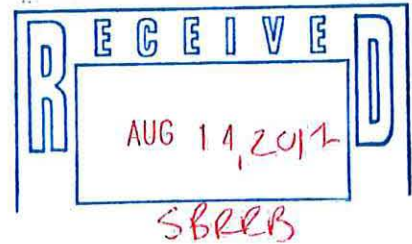
Thanks so much for helping the SBRRB out with these proposed administrative rule changes to the Maui Liquor Control.

As I mentioned to you, we are not sure if the business impact extends beyond non-profits and political candidates.

Sincerely,

Dori

AGENDA  
LIQUOR COMMISSION  
DEPARTMENT OF LIQUOR CONTROL  
COUNTY OF MAUI



DATE & TIME: AUGUST 9, 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 August 9, 2017

**III. MINUTES:**

- A. Approval of Liquor Commission minutes of July 12, 2017  
B. Approval of Executive Session summary I of July 12, 2017  
C. Approval of Executive Session summary II of July 12, 2017

**IV. PUBLIC TESTIMONY**

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

- A. **TV-03**, Princess Cruise Lines, Ltd. dba Golden Princess effective July 15, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.  
B. **TV-04**, Princess Cruise Lines, Ltd. dba Golden Princess effective August 16, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.  
C. **TV-05**, Princess Cruise Lines, Ltd. dba Emerald Princess effective October 15, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.  
D. **TV-06**, Princess Cruise Lines, Ltd. dba Grand Princess

- effective November 6 & 21, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
- E. **TV-07**, Princess Cruise Lines, Ltd. dba Grand Princess effective December 26, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - F. **TV-08**, Princess Cruise Lines, Ltd. dba Star Princess effective October 2, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - G. **TV-09**, Princess Cruise Lines, Ltd. dba Star Princess effective November 2 & 22, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - H. **TV-10**, Princess Cruise Lines, Ltd. dba Star Princess effective December 27, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - I. **TV-11**, Seabourn Cruise Line Limited dba Seabourn Sojourn effective November 6, 2017 at Manele Bay: Anchor, Lanai, Hawaii.
  - J. **TV-12**, Seabourn Cruise Line Limited dba Seabourn Sojourn effective November 8, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - K. **TV-13**, Holland America Line N.V. dba ms Eurodam effective October 10, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - L. **TV-14**, Holland America Line N.V. dba ms Oosterdam effective December 9, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - M. **TV-15**, Holland America Line N.V. dba ms Amsterdam effective December 14, 2017 at Lahaina Off Port Anchorage, Lahaina, Maui, Hawaii.
  - N. **SP-54**, Maui Roping Club dba 4<sup>th</sup> of July Rodeo effective June 30, 2017 at Oskie Rice Arena, Olinda Road, Makawao, Maui, Hawaii.

- O. **SP-01**, Maui Roping Club dba 4<sup>th</sup> of July Rodeo effective July 1 & 2, 2017 at Oskie Rice Arena, Olinda Road, Makawao, Maui, Hawaii.
- P. **TEM-01**, Miko's Cuisine LLC dba Miko's Cuisine for a Dispenser General, Category C(ii) License, effective July 1, 2017 up to and including October 28, 2017 at 1764 Wili Pa Loop, Wailuku, Maui, Hawaii.
- Q. **TEM-02**, Maui Chan, Inc. dba Ichiban the Restaurant for a Restaurant Beer and Wine, Category B(ii) License, effective July 1, 2017 up to and including October 28, 2017 at 47 Kaahumanu Avenue, Unit 1, Kahului, Maui, Hawaii.
- R. **TEM-03**, Nabee Inc. dba Poni for a Dispenser General, Categories C(ii)/D License, effective July 1, 2017 up to and including October 28, 2017 at 1063 Lower Main Street, C-108 & C-109, Wailuku, Maui, Hawaii.
- S. **TEM-04**, Maui-Molokai Sea Cruises dba Pride of Maui for a Tour or Cruise Vessel, Category 2 License, effective July 1, 2017 up to and including October 28, 2017 at Maalaea Harbor, Berth Basin, Maalaea, Maui, Hawaii.
- T. **TEM-05**, Maui Exclusive Partners, LLC dba Ohana Seafood Bar & Grill for a Dispenser General, Category C(ii) License, effective July 1, 2017 up to and including October 28, 2017 at 1945 South Kihei Road, C & D, Kihei, Maui, Hawaii.
- U. **TEM-06**, Capu Maui Corp. dba Wow-wee Maui's Kava Bar & Grill for a Dispenser General, Category C(ii) License, effective July 1, 2017 up to and including October 28, 2017 at 333 Dairy Road, #101A, Kahului, Maui, Hawaii.
- V. **TEM-10**, Clark Enterprises, Inc. dba Paragon Sailing Charters Maui (Paragon) for a Tour or Cruise Vessel, Category 2 License, effective July 3, 2017 up to and including October 30, 2017 at Lahaina Offshore Area, LAH-0/S-012, Lahaina, Maui, Hawaii.
- W. **TEM-11**, Clark Enterprises, Inc. dba Paragon Sailing Charters

Maui (Paragon II) for a Tour or Cruise Vessel, Category 2 License, effective July 3, 2017 up to and including October 30, 2017 at Maalaea Small Boat Harbor, Berth 72, Maalaea, Maui, Hawaii.

- X. Kmart Corporation dba Big Kmart notifying the commission of the cancellation of liquor license.
- Y. Maui Chan, Inc. dba Ichiban the Restaurant notifying the commission of the cancellation of liquor license.
- Z. Maui Wine, Ltd. dba MauiWine notifying the commission of the cancellation of liquor license.
- AA. Maui Country Club, Ltd. dba Maui Country Club notifying the commission of change of officers and directors within the corporation.
- BB. Le Vecke Corporation dba Haliimaile Distilling Company notifying the commission of the change of title in the corporation.
- CC. Travel Traders Hotel Stores, Inc. dba Lobby Shop notifying the commission of a change of title within the corporation.
- DD. Maui Tacos H4, Inc. dba Maui Tacos notifying the commission of the change of title in the corporation.
- EE. Foods 4 Life Inc. dba Rodeo General Store notifying the commission of a change of titles within the corporation.
- FF. MMK Maui L.P. dba Kahili Golf Course (#365) and The King Kamehameha Golf Club (#356) notifying the commission of a change of corporate name of the limited partner and the member within the general partner.
- GG. MVW of Hawaii, Inc. dba Marriott's Maui Ocean Club notifying the commission of a change of officer, director, and title within the corporation.
- HH. Pleasant Travel Service dba Royal Lahaina Resort and Royal Trading Company notifying the commission of change of

officers, directors, and titles within the corporation.

- II. QSI, Inc. dba Times Super Market (#345 and #367) notifying the commission of the change of officers and titles within the corporation.

## VI. LICENSING:

### Public Hearings:

- A. **APPL. NO. 27**, MPK3, LLC dba Monkeypod Kitchen by Merriman for a Dispenser General License, Category C(ii) - (premises in which live entertainment or recorded music is provided) at 2435 Kaanapali Parkway, Store No. 101, Kaanapali, Maui, Hawaii.
- B. **APPL. NO. 28**, Kahikolu, Ltd. dba Calypso for a Tour or Cruise Vessel License, Category 2, at Maalaea Boat Harbor, Berth 44 & 46, Maalaea, Maui, Hawaii.
- C. **APPL. NO. 31**, Maui-Molokai Sea Cruises dba Pride of Maui for a Tour or Cruise Vessel License, Category 2, at Maalaea Boat Harbor Berth Basin, Maalaea, Maui, Hawaii.

### Preliminary Hearings:

- D. **APPL. NO. TA-03**, Maui Chan, Inc. dba Ichiban the Restaurant for a transfer of a Restaurant Beer and Wine License, Category B(ii) - (premises in which live entertainment or recorded music is provided) from Maui Chan, Inc. dba Ichiban the Restaurant at 47 Kaahumanu Avenue, Unit 1, Kahului, Maui, Hawaii.
- E. **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.
- F. **APPL. NO. 29**, Miko's Cuisine LLC dba Miko's Cuisine for a Dispenser General License, Category C(ii) - (premises in which live entertainment or recorded music is provided) at 1764 Wili Pa Loop, Wailuku, Maui, Hawaii.



- G. **APPL. NO. 30**, Nabee Inc. dba Poni for a Dispenser General License, Categories C(ii)/D - (premises in which live entertainment or recorded music is provided and premises in which employees or entertainers are compensated to sit with patrons, whether or not the employees or entertainers are consuming nonalcoholic beverages while in the company of the patrons) at 1063 Lower Main Street, C-108 & C-109A, Wailuku, Maui, Hawaii.

**VII. OTHER LICENSING MATTERS:**

- A. Mid Pac Petroleum, LLC dba Mako's Mart (#107 and #340) requesting commission approval for the transfer of the outstanding capital stock within the member, and notifying the commission of the change of name of the member and the change of officers, directors, and agent within the member of the limited liability company.
- B. HIE Retail, LLC dba 2 Go Tesoro (#022, #031, and #347) requesting commission approval of a stockholder owning 25% or more of the outstanding capital stock of a member of the manager-managed limited liability company, and notifying the commission of the change of managers and member within the limited liability company and a change of officer and director within the member (Par Hawaii, Inc.) of the limited liability company.
- C. Duke's Maui, LLC dba Duke's Beach House requesting commission approval for the transfer of the outstanding capital stock within the manager (T S Restaurants Management, Inc.) and member (T S Aloha, Inc.) and notifying the commission of the change of members within the limited liability company and changes to the officers, directors, and titles within the manager (T S Restaurants Management, Inc.) and members (T S Aloha, Inc., Big Fork Investments, LLC and T-Bo Family Partnership LLC).
- D. Loa'a, Inc. dba Minit Stop (#166) requesting commission approval for a change in stockholder within the corporation and notifying the commission of a change of officers, directors, and titles within the corporation.

- E. Sailing Shipp, Ltd. dba Gemini Charters (Gemini) requesting commission approval for a change of stockholder and notifying the commission of a change of officers and directors within the corporation.
- F. FOH Hospitality, LLC dba The Westin Nanea Ocean Villas requesting an extension of licensed premises and an increase in area of licensed premises. Licensee is requesting to include Buildings 6, 7 & 8 which is expected to be completed by September 2017.

**VIII. ADMINISTRATIVE AFFAIRS:**

- A.
  - 1) Review and discussion of Department's proposed rule amendments to Sections 08-101-22(j) and 08-101-69(a) of the Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui (the "Rules"), which amendments are summarized as follows:
    - Amends Section 08-101-22(j) of the Rules by adding a new subsection (5) to allow the Liquor Commission to streamline the application procedures for the issuance of Class 10 special licenses.
    - Amends Section 08-101-69(a) of the Rules by deleting provisions that limit the amount of liquor that can be offered, sold or served during a set period of time, or for a fixed price.
  - 2) Review and discussion of the petition letter filed by Yuki Lei Sugimura dated July 19, 2017 proposing rule amendments to Sections 08-101-22(j) and 08-101-69(a)(2) of the Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui (the "Rules"), which amendments are summarized as follows:
    - Amends Section 08-101-22(j) of the Rules by amending subsection (2) to provide that under certain conditions, no personal history statements, criminal history background checks, or other governmental clearances shall be required for Class 10 license applicants.

- Amends Section 08-101-69(a)(2) of the Rules to add Class 10 licensees to the exemption from provisions that limit the amount of liquor that can be offered, sold or served during a set period of time, or for a fixed price.

***The Commission may take action on these items, including initiating proceedings in accordance with Section 91-3, HRS, for the amendment of the subject rules.***

***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.***

- B. Review, discussion and approval of revisions to the Department's "Special License Application Checklist" and "Application for Special Liquor License" forms.

***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.***

- C. Corporation Counsel; status report; Committee for Responsible Liquor Control and Madge Schaefer (Plaintiffs) vs. Liquor Control Commission, Director of the Department of Liquor Control and County of Maui (Defendants). Civil No. 17-1-0185 (Other Civil Action), Second Circuit Court, State of Hawaii.

***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.***

- D. Director's Monthly Report:

1. Personnel
2. Minor Decoy
3. State Conference

E. Liquor Control Adjudication Board:

1. No August Meeting

**IX. ADJOURNMENT**

NEXT LIQUOR COMMISSION MEETING WILL BE HELD ON SEPTEMBER 13, 2017, AT 9:00 A.M. AT THE DEPARTMENT OF LIQUOR CONTROL CONFERENCE ROOM, DAVID K. TRASK, JR. OFFICE BUILDING, 2145 KAOHU STREET, ROOM 108, 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.

## **IV. Administrative Matters**

A. Discussion and Action on Recommended Changes to Administrative Directive No. 09-01, dated October 29, 2009, regarding Chapter 201M, HRS

## DRAFT - PROPOSED CHANGES

September 20, 2017

ADMINISTRATIVE DIRECTIVE NO. ~~09-01~~ 17-01

To: All Agency Heads

Subject: Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules

This administrative directive updates the policy and procedure by which departments or agencies shall request executive approval of any proposed adoption, amendment, or repeal of administrative rules. It rescinds Administrative Directive No. 09-01, Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules, ~~dated August 2, 1999~~ October 29, 2009.

### Legal Reference:

Section 91-3(c), Hawaii Revised Statutes, provides that, "the adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor."

Hawaii Revised Statutes Chapter 201M, the "Hawaii Small Business Regulatory Flexibility Act," requires that if a proposed rule "affects small business," the department or agency shall submit a "small business impact statement" and a "small business statement" to the Small Business Regulatory Review Board. Chapter 201M does not apply to emergency rulemaking or rules adopted to comply with a federal requirement.

### Policy:

Whenever any department or agency requests executive approval for the proposed adoption, amendment, or repeal of a rule, the director of the department or agency shall ensure that the proposed changes conform to existing legal provisions, including Chapter 91, Hawaii Revised Statutes. In requesting the adoption, amendment, or repeal of any rule, the director will explain or submit the following:

1. Explain the exact changes to be made and the purpose, reasons for the changes, and justification for the change. If applicable, cite the present rule and quote the proposed rule change in full without paraphrasing.
2. Describe the manner in which the proposal would affect the agency's internal and external responsibilities, programs, functions, operations, activities, and inter-relationships.
3. Identify the final result expected by instituting the proposal (e.g. a program improvement/clarification of statute).

4. Identify any program and financial impacts on the State that will arise upon the implementation of the proposal to include:
  - a. Long- and short-range program impacts, and
  - b. Anticipated program funding required for the present biennium, including a statement as to whether funds are currently budgeted to permit the implementation and enforcement of the proposed adoption, amendment, or repeal of the rule, and estimates for anticipated savings or funding shortfalls projected over the subsequent four-year planning period, and the assumptions used to arrive at the estimates.
5. Describe long- and short-term impacts to the public or the economy of the State.
6. Identify the alternatives explored in lieu of implementing the proposal.
7. Provide an explanation of whether the proposal will affect small business. For purposes of this Directive, a proposal will affect small business if the proposal will impact a for-profit enterprise consisting of corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than 100 full-time or part-time employees in Hawaii and will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business. **(Taken from Section 201M-1, HRS.)**

If a proposal affects small business, the department or agency will describe:

- a. Whether it has considered the availability and practicability of less restrictive alternatives that could be implemented in lieu of adopting the proposal;
- b. Whether it has considered creative, innovative, or flexible methods of compliance for small business in lieu of adopting the proposed rule; and
- c. Whether it has prepared a "Small Business Impact Statement" that has been submitted to the Small Business Regulatory Review Board for consideration under HRS Chapter 201M.
- d. **Whether it has involved small business in the development of the proposed rules, and if so, how it involved small business. (Taken from Section 201M-2(b) (6), HRS.)**

Administrative Directive No. 09-01

Date

Page 3

Procedure:

1. Approval of the Governor is required prior to any rule change proceeding to a public hearing.

Prior to formal publication of notice of public hearing on the proposed adoption, amendment, or repeal of any rule, departments and agencies will:

- a. Obtain the Attorney General's approval "as to form" prior to submitting the rule to me for approval for public hearing; provided that as to rules proposed for adoption, amendment, or repeal that are submitted by the Board of Regents of the University of Hawaii, such rules shall be first reviewed and approved as to form by the University's Office of General Counsel prior to submission to the Attorney General. The Department of the Attorney General will complete its pre-hearing review on an expeditious basis;
- b. Provide the Governor's office with a copy of the proposed rule, including the information requested in "Policy" items 1 through 7 above; and
- c. At the time the rules are submitted to the Governor's Office concurrently provide copies to the Director of Budget and Finance (B&F) and to the Director of Business, Economic Development and Tourism (DBEDT) for their prompt review. B&F and DBEDT comments will be forwarded directly to the Governor.

2. Notice of Public Hearings.

If any proposed rule affects small business, the notice of public hearing will summarize any business impact described in the "Small Business Impact Statement," and will state any new fee or compliance burdens that will be placed on small business.

3. Final Approval After Public Hearing.

Departments and agencies will obtain the Governor's final approval for the adoption, amendment, or repeal of any rule after the required public hearing has been held. In seeking final approval, the director of the department or agency concerned shall:

- a. Indicated whether any revision is being recommended to the proposed rule, amendment, or repeal based on facts and circumstances brought out in the public hearing;
- b. If a revision or change is recommended, provide a copy of the proposed rule with revisions and changes to the Attorney General for approval "as to form" prior to resubmitting the rule to the Governor for final approval; provided that as to rules proposed for adoption, amendment or repeal that are submitted by the Board of Regents of the University of Hawaii, such rules shall be first reviewed and approved as to form by the University's Office of General Counsel prior to submission to the Attorney General.



The Attorney General's office will approve the form within two weeks of receipt if the changes are not substantive. If the changes are determined to be substantial or material by the Attorney General, an additional public hearing will be held.

If a re-hearing of a proposal rule is sought, the procedures required for approval to proceed to public hearing will again be followed;

- c. Indicate whether the proposal affects small business, and, if so, whether a "Small Business Statement," which provides the information described in HRS Chapter 201M, has been submitted to the Small Business Regulatory Review Board; and
  - d. Submit three copies of the proposal in standard format and in accordance with Chapter 91, HRS, for the Governor's final approval. The original and a copy of the rules adopted by the department or agency will be signed by the director of the department or agency will be signed by the director of the department, by the chairperson of a board or commission of a principal department, or by the chairperson of a board or commission if the rule has been adopted by a board or commission which is assigned to a department for administrative purposes. The third copy may use a facsimile of the required signatures.
4. Distribution of Approved Adopted Rules.
- a. A complete set consisting of three copies approved by the Governor will be filed at the Office of the Lieutenant Governor.
  - b. The Office of the Lieutenant Governor will provide one copy to the agency adopting, amending, or repealing the rule.
  - c. Each department or agency adopting, amending, or repealing the rule will provide one file-stamped and certified copy of the rule in the Ramseyer and standard formats to the Legislative Reference Bureau.

DAVID Y. IGE

APPROVED AS TO FORM:

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Attorney General

## **IV. Administrative Matters**

B. Update and Discussion on Upgrading the Board's  
Website

1. Goals - What are you hoping to accomplish with a redesign?
  - What are the primary action(s) you want visitors to take (fill out regulation review card, get updates, etc)?
  - What are your short term goals for this site? How would you complete this sentence? "The site will be successful 6 months after launch if..."
  - What are your long term goals for this site? How would you complete this sentence? "The site will be successful 2 years after launch if..."
2. Content / Features - What's missing from your site that you don't have now?
  - *Tip: If you aren't sure, just think about what problems you are trying to solve or relate it back to what the goals are. Ex: Is your biggest issue that you get 40+ calls a day asking where to find meeting minutes and you think this could be solved by making that section more clear?*
  - You always have interesting speakers at your meetings that touch on high profile and current events. Can you highlight/editorialize on any hot button issues? (Marijuana, Styrofoam/bag ban, agriculture, rail, etc)
  - For the calendar – what features are missing from your current solution? Do you need users to be able to filter or search by island? Or is the current solution working fine for your needs?
  - Do you have any content created but not yet on the site? (Annual reports, forms, etc)
  - Do you need a way for folks to apply to serve on the board?
  - Do you need to start an email list so you can communicate with your user base? Or do you already have one?
  - Do you need to get more speakers to attend your meetings?
  - Do you want to highlight activities and successes of the board via regular news/blog style posts?
  - Is there any other content put out by DBEDT / SBA / etc of helpful videos or interesting content that you could use?
  - Do you want to do a spotlight on key bills being watched in the legislative?
  - Do you have any testimonials or success stories?
3. Create a sitemap
  - I've attached a sample to get you started for how the site might be structured and what pages will live on it. What other pages need to be captured here?

Title	Notes
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**About the Board**

- Mission, History & Governance
- About the SBRRB
- Board Meetings
- Board Meeting Minutes
- Meet the Board Members

**Regulation Review Card**

*Change name to be more action oriented - Maybe 'reco*

**News**

**Contact Us**

*Recommend rule change'*

## **IV. Administrative Matters**

C. Update on Amendments to Chapter 201M, HRS for  
the 2018 Hawaii Legislative Session

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 201M-5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) There shall be established within the department of  
4 business, economic development, and tourism, for administrative  
5 purposes, a small business regulatory review board to review any  
6 proposed new or amended rule. If the board determines that a  
7 proposed rule will not have a significant economic impact on a  
8 substantial number of small businesses, the board shall submit a  
9 statement to that effect to the agency that sets forth the  
10 reason for the board's decision. If the board determines that  
11 the proposed rule will have a significant economic impact on a  
12 substantial number of small businesses, the board may submit to  
13 the agency suggested changes in the proposed rule to minimize  
14 the economic impact of the proposed rule, or may recommend the  
15 withdrawal of the proposed rule. The board may also consider  
16 any request from small business owners for review of any rule  
17 proposed, amended, or adopted by a state agency and to make

.B. NO.          

1 recommendations to the agency or the legislature regarding the  
2 need for a rule change or legislation. For requests regarding  
3 county [~~ordinances~~] rules, the board may make recommendations to  
4 the county council or the mayor for appropriate action."

5 SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval.

8

9 INTRODUCED BY: \_\_\_\_\_

BY REQUEST

10

11



\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Small Business Regulatory Review Board

**Description:**

Clarifies the intent of the Small Business Regulatory Review Board's powers when reviewing State and County administrative rules that impact small business.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

Revised: 1 <sup>st</sup> DRAFT DATE: September 18, 2017
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DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

PURPOSE: To clarify the powers of the Small Business Regulatory Review Board by adding that the Board may consider any request from small business owners for review of a rule that is "proposed" and "amended" as well as adopted by a state agency, and to change "ordinances" to "rules" when making recommendations to the county council or the mayor for appropriate action.

MEANS: Amend section 201M-5(a), Hawaii Revised Statutes.

JUSTIFICATION: To clarify the intent of the Small Business Regulatory Review Board's powers when reviewing State and County administrative rules that impact small business.

Impact on the public: Ensures the stability of the Small Business Regulatory Review Board by clarifying its powers under the Regulatory Flexibility Act.

Impact on the department and other agencies: Minimal.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BED 142.

OTHER AFFECTED AGENCIES: None.

Page 2

EFFECTIVE DATE: Upon its approval.

## **V. Administrative Matters**

D. Update on the Board's Upcoming Advocacy  
Activities and Programs in accordance with the  
Board's Powers, under Section 201M-5, HRS

*No Handouts*