

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

December 7, 2012

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy Committee, having met on July 25, 2012, October 3, 2012, and November 26, 2012, makes reference to County Communication 11-33, from Council Chair Danny A. Mateo, relating to matters pertaining to the Maui County Legislative Package.

Your Committee notes that it received a single proposal for consideration for the 2013 Maui County Legislative Package.

By correspondence dated September 5, 2012, Councilmember Gladys C. Baisa transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2013 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL AUTHORIZING COUNTY LIQUOR COMMISSIONS TO PROVIDE FUNDING FOR ALCOHOL ABUSE TREATMENT AND PREVENTION". The purpose of the proposed resolution is to approve for inclusion in the 2013 Maui County Legislative Package a State bill authorizing County liquor commissions to provide funding for alcohol abuse treatment and prevention in the counties they serve.

Currently, revenues derived from the collection of fines against licensees may be used for educational programs for liquor commission staff, commissioners, liquor control adjudication board members, licensees, and their employees. State law also allows funds, not to exceed 10 per cent per year of fines, to be used for public liquor-related educational or enforcement programs.

The proposed State bill would delete the 10 per cent limitation and expand the revenue source to include license fees. The bill would empower County liquor commissions to use those revenues to address alcohol abuse treatment and prevention efforts.

Your Committee requested that the Hawaii State Association of Counties Executive Committee be asked to solicit comments from the other County councils on the proposed State bill.

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Your Committee subsequently received comments in support of the proposal from the Kauai County Council, through a Committee Report of its Intergovernmental Relations Committee, which the Kauai County Council adopted on November 14, 2012.

The Director and Deputy Director of Liquor Control noted that the expanded uses of the licenses fees and fines would represent a significant departure from the Department's current oversight responsibilities. They advised that the added alcohol abuse treatment and prevention uses may require additional staffing and training. The Department's Budget Officer provided an overview of the license fees and fines collected, noting that approximately \$291,000 have been accumulated from fines since about 1995.

Your Committee considered revising the proposed State bill to mandate that a certain minimum percentage of license fees and fines be used for alcohol abuse treatment and prevention purposes. However, your Committee declined to propose that such a mandate be imposed. Your Committee noted that its primary goal is to broaden the uses of these revenues, and that allowing the State Legislature flexibility in this regard, rather than fixing a minimum percentage for such uses, may be prudent.

Your Committee voted 5-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Hokama and members Baisa, Cochran, Mateo, and White voted "aye". Committee Vice-Chair Carroll and members Couch, Pontanilla, and Victorino were excused.

Your Policy Committee **RECOMMENDS** the following:

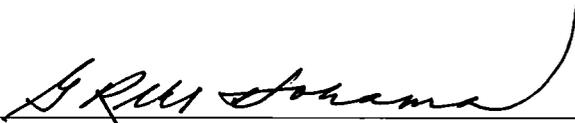
1. That Resolution _____, attached hereto, entitled "APPROVING FOR INCLUSION IN THE 2013 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL AUTHORIZING COUNTY LIQUOR COMMISSIONS TO PROVIDE FUNDING FOR ALCOHOL ABUSE TREATMENT AND PREVENTION", be **ADOPTED**; and
2. That County Communication 11-33 be **FILED**.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

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Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2013 MAUI
COUNTY LEGISLATIVE PACKAGE A STATE BILL
AUTHORIZING COUNTY LIQUOR COMMISSIONS TO
PROVIDE FUNDING FOR ALCOHOL ABUSE TREATMENT
AND PREVENTION

WHEREAS, the need for treatment and prevention programs to combat alcohol abuse remains a constant despite ebbing social service program resources; and

WHEREAS, early and persistent intervention through treatment and prevention programs assist not only the at-risk individual, but can reduce long-term societal costs; and

WHEREAS, county liquor commission revenues collected through fines against licensees and license fees should be available to benefit the general public through alcohol abuse treatment and prevention, in addition to education and enforcement programs, and without the current 10 percent limitation; and

WHEREAS, enactment of State legislation authorizing county liquor commissions to provide funding for alcohol abuse treatment and prevention would provide the counties with a resource to address the problem through revenues generated by the very industry from which the problem stems; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A", to authorize county liquor commissions to provide funding for alcohol abuse treatment and prevention, is approved for inclusion in the 2013 Maui County Legislative Package; and
2. That a certified copy of this resolution be transmitted to the Mayor of the County of Maui.

Exhibit “A”

A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 281-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§281-17 Jurisdiction and powers.** (a) The liquor
4 commission, within its own county, shall have the sole
5 jurisdiction, power, authority, and discretion, subject only to
6 this chapter:

7 (1) To grant, refuse, suspend, and revoke any licenses for
8 the manufacture, importation, and sale of liquors;

9 (2) To take appropriate action against a person who,
10 directly or indirectly, manufactures, sells, or purchases any
11 liquor without being authorized pursuant to this chapter;
12 provided that in counties which have established by charter a
13 liquor control adjudication board, the board shall have the
14 jurisdiction, power, authority, and discretion to hear and
15 determine administrative complaints of the director regarding
16 violations of the liquor laws of the State or of the rules of

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1 the liquor commission, and impose penalties for violations
2 thereof as may be provided by law;

3 (3) To control, supervise, and regulate the manufacture,
4 importation, and sale of liquors by investigation, enforcement,
5 alcohol abuse treatment, prevention, and education; provided
6 that any alcohol abuse treatment, prevention, or educational
7 program shall be [limited to the commission staff,
8 commissioners, liquor control adjudication board members,
9 licensees and their employees and shall be] financed through the
10 money collected from the assessment of fines against licensees
11 and license fees; [provided that fine moneys, not to exceed ten
12 per cent a year of fines accumulated, may be used to fund public
13 liquor related educational or enforcement programs;]

14 (4) From time to time to make, amend, and repeal such
15 rules, not inconsistent with this chapter, as in the judgment of
16 the commission seem appropriate for carrying out this chapter
17 and for the efficient administration thereof, and the proper
18 conduct of the business of all licensees, including every matter
19 or thing required to be done or which may be done with the
20 approval or consent or by order or under the direction or
21 supervision of or as prescribed by the commission; which rules,

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1 when adopted as provided in chapter 91 shall have the force and
2 effect of law;

3 (5) Subject to chapter 76, to appoint and remove an
4 administrator, who may also be appointed an investigator and who
5 shall be responsible for the operations and activities of the
6 staff. The administrator may hire and remove hearing officers,
7 investigators, and clerical or other assistants as its business
8 may from time to time require, to prescribe their duties, and
9 fix their compensation; to engage the services of experts and
10 persons engaged in the practice of a profession, if deemed
11 expedient. Every investigator, within the scope of the
12 investigator's duties, shall have the powers of a police
13 officer;

14 (6) To limit the number of licenses of any class or kind
15 within the county, or the number of licenses of any class or
16 kind to do business in any given locality, when in the judgment
17 of the commission such limitations are in the public interest;

18 (7) To prescribe the nature of the proof to be furnished,
19 the notices to be given, and the conditions to be met or
20 observed in case of the issuance of a duplicate license in place
21 of one alleged to have been lost or destroyed, including a
22 requirement of any indemnity deemed appropriate to the case;

1 (8) To fix the hours between which licensed premises of
2 any class or classes may regularly be open for the transaction
3 of business, which shall be uniform throughout the county as to
4 each class respectively;

5 (9) To prescribe all forms to be used for the purposes of
6 this chapter not otherwise provided for in this chapter, and the
7 character and manner of keeping of books, records, and accounts
8 to be kept by licensees in any matter pertaining to their
9 business;

10 (10) To investigate violations of this chapter, chapter
11 244D and, notwithstanding any law to the contrary, violations of
12 the applicable department of health's allowable noise levels,
13 through its investigators or otherwise, to include covert
14 operations, and to report violations to the prosecuting officer
15 for prosecution and, where appropriate, the director of taxation
16 to hear and determine complaints against any licensee;

17 (11) To prescribe, by rule, the terms, conditions, and
18 circumstances under which persons or any class of persons may be
19 employed by holders of licenses;

20 (12) To prescribe, by rule, the term of any license or
21 solicitor's and representative's permit authorized by this
22 chapter, the annual or prorated amount, the manner of payment of

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1 fees for the licenses and permits, and the amount of filing
2 fees; and

3 (13) To prescribe, by rule, the circumstances and penalty
4 for the unauthorized manufacturing or selling of any liquor.

5 (b) Subject only to this chapter, the commission or board
6 and each member thereof shall have the same powers respecting
7 the administering of oaths, compelling the attendance of
8 witnesses and the production of documentary evidence, and
9 examining the witnesses as are possessed by a circuit court,
10 except that the commission or board and each member thereof
11 shall not be bound by the strict legal rules of evidence. In
12 addition, the commission or board shall have the power to
13 require the production of, and to examine any books, papers, and
14 records of any licensee which may pertain to the licensee's
15 business under the license or which may pertain to a matter at a
16 hearing before the commission or board or to an investigation by
17 the commission or board.

18 (c) The commission shall also have the power to provide
19 funding to the county for public and private programs that are
20 intended to prevent and treat alcohol abuse within that county.

21 (d) The exercise by the commission or board of the power,
22 authority, and discretion vested in it pursuant to this chapter

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1 shall be final and shall not be reviewable by or appealable to
2 any court or tribunal, except as otherwise provided in this
3 chapter or chapter 91."

4 SECTION 2. Section 281-17.5, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Any [such] liquor license fees or any moneys
7 collected or received by any liquor commission under this
8 chapter may only be used for alcohol abuse education,
9 prevention, and treatment programs and costs and expenses
10 directly relating to operational and administrative costs
11 actually incurred by the liquor commission collecting or
12 receiving [such] those liquor license fees or moneys. [Such]
13 The fees or moneys shall not be used for any costs or expenses
14 other than those directly relating to its operation and
15 administration, except as otherwise provided by law."

16 SECTION 3. Statutory material to be deleted is bracketed
17 and in strikethrough. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

19

20 INTRODUCED BY: _____

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