



RESOLUTION

REQUESTING THE HAWAII STATE LEGISLATURE TO INCREASE THE PENALTY FOR THE UNLICENSED MANUFACTURE OR SALE OF LIQUOR TO A FELONY AND TO ADD THE CRIME TO THE CLASS OF ORGANIZED CRIMINAL ACTIVITIES UNDER HAWAII REVISED STATUTES CHAPTER 842.

WHEREAS, Hawaii Revised Statutes ("HRS") Section 281-3 provides that it shall be unlawful for any person not having a valid license to manufacture or sell any liquor except as otherwise provided in Chapter 281 (relating to "Intoxicating Liquor"); and

WHEREAS, notwithstanding the prohibition under HRS Section 281-3, persons and organizations currently undertake the unlicensed sale of liquor within the City and County of Honolulu ("City"); and

WHEREAS, the City Council ("Council") notes that because these unlicensed operators and establishments are operating without regulation, they draw crowds and attract other illegal activity that pose health, safety, and community concerns, as evidenced by the recent fatal shooting at a well-known, but unlicensed, bar establishment that has been in operation for a number of years; and

WHEREAS, the Council seeks to provide law enforcement with meaningful tools to close down such unlicensed establishments in order to preserve and protect the general health, safety, and welfare of the City's residents and the communities that have been forced to coexist with these establishments; and

WHEREAS, existing regulatory tools under HRS Chapter 281 have proven inadequate to address the problem of unlicensed liquor establishments and their adverse effects; and

WHEREAS, the Council believes that adding the unlicensed manufacture or sale of liquor to the definitions of "organized crime" and "racketeering activity" will provide law enforcement a viable option for addressing and closing down such unlicensed establishments and reflect the seriousness of the violation; and

WHEREAS, the Council recognizes that the enactment of criminal laws for the unlicensed sale of liquor may be necessary to enable law enforcement agencies to take action, and notes that criminal laws have been enacted for unlicensed contracting offenses under Part XIV, of the Hawaii Penal Code, HRS Sections 708-8300 through 708-8305; now, therefore,



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 17-280

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BE IT RESOLVED by the Council of the City and County of Honolulu that the Hawaii State Legislature is requested to enact legislation such as the draft House/Senate bill attached hereto as Exhibit A to increase the penalty for the unlicensed manufacture or sale of liquor, to add the crime to the definitions of "organized crime" and "racketeering activity" in HRS Chapter 842, and to enact such additional criminal laws for the unlicensed manufacture or sale of liquor as the Legislature may deem necessary for enforcement against this activity under HRS Chapter 842; and



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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the President of the Hawaii State Senate, the Speaker of the Hawaii State House of Representatives, the Hawaii State Attorney General, the Mayor, the acting Chief of Police, and the Administrator of the Honolulu Liquor Commission.

INTRODUCED BY:



DATE OF INTRODUCTION:

OCT 06 2017

Honolulu, Hawaii

Councilmembers

EXHIBIT A

___B. NO. ___

A BILL FOR AN ACT

RELATING TO LIQUOR.

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

1 SECTION 1. Section 281-101, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§281-101 **Manufacture or sale without license; penalty.** If
4 any person, acting in person or by or through any agent,
5 servant, or employee, manufactures or sells any liquor, either
6 directly or indirectly, or upon any pretense or by any
7 subterfuge, except as authorized pursuant to this chapter, the
8 person [~~shall be fined not more than \$2000 or imprisoned not~~
9 ~~more than one year, or both]~~ is guilty of a class B felony."

10 SECTION 2. Section 712A-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§712A-4 **Covered offenses.** Offenses for which property is
13 subject to forfeiture under this chapter are:

14 (a) All offenses that specifically authorize forfeiture;

15 (b) Murder, kidnapping, labor trafficking, unlicensed
16 manufacture or sale of liquor, gambling, criminal property
17 damage, robbery, bribery, extortion, theft, unauthorized entry

.B. NO.

1 into motor vehicle, burglary, money laundering, trademark
2 counterfeiting, insurance fraud, promoting a dangerous, harmful,
3 or detrimental drug, commercial promotion of marijuana,
4 methamphetamine trafficking, manufacturing of a controlled
5 substance with a child present, promoting child abuse, promoting
6 prostitution, sex trafficking, solicitation of a minor for
7 prostitution, habitual solicitation of prostitution, or
8 electronic enticement of a child that is chargeable as a felony
9 offense under state law;

10 (c) The manufacture, sale, or distribution of a controlled
11 substance in violation of chapter 329, promoting detrimental
12 drugs or intoxicating compounds, promoting pornography,
13 promoting pornography for minors, or solicitation of
14 prostitution near schools or public parks, which is chargeable
15 as a felony or misdemeanor offense, but not as a petty
16 misdemeanor, under state law; and

17 (d) The attempt, conspiracy, solicitation, coercion, or
18 intimidation of another to commit any offense for which property
19 is subject to forfeiture."

20 SECTION 3. Section 842-1, Hawaii Revised Statutes, is
21 amended by amending the definitions of "organized crime" and
22 "racketeering activity" to read as follows:

____.B. NO. _____

1 "Organized crime" means any combination or conspiracy to
2 engage in criminal activity as a significant source of income or
3 livelihood, or to violate, aid, or abet the violation of
4 criminal laws relating to prostitution, gambling, loan sharking,
5 drug abuse, illegal drug distribution, counterfeiting,
6 extortion, labor trafficking, unlicensed manufacture or sale of
7 liquor, or corruption of law enforcement officers or other
8 public officers or employers.

9 "Racketeering activity" means any act or threat involving
10 but not limited to murder, kidnapping, gambling, criminal
11 property damage, robbery, bribery, extortion, labor
12 trafficking, unlicensed manufacture or sale of liquor, theft, or
13 prostitution, or any dealing in narcotic or other dangerous
14 drugs that is chargeable as a crime under state law and
15 punishable by imprisonment for more than one year."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____