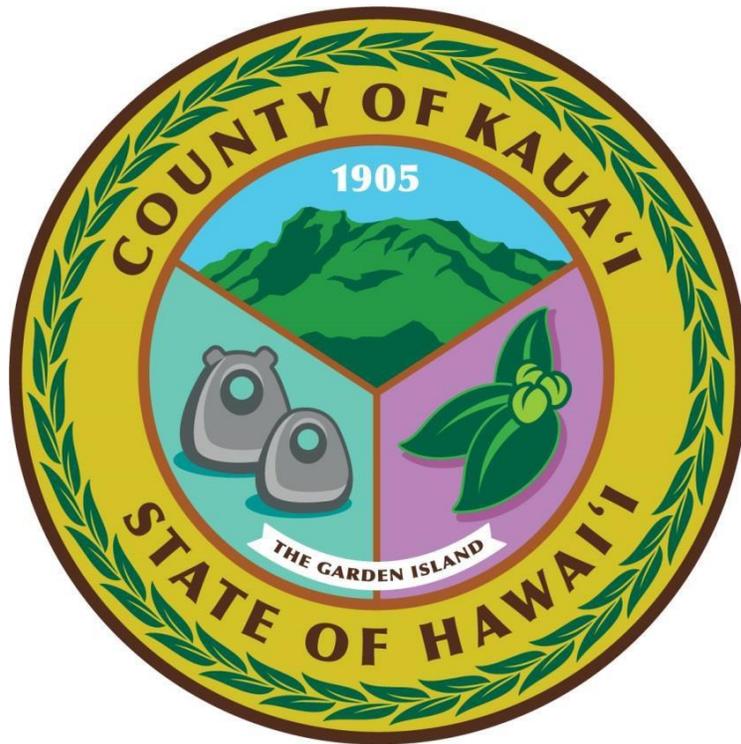


The Kauai Department of Liquor Control and The Kauai Liquor Commission

Study Guide

Managers & Assistant Managers



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About Us

Information provided is as of September 2021 and may be subject to change

The Kauai Liquor Control Commission

Our Mission: To protect the health, safety and welfare of the residents of Kauai County by effectively and fairly enforcing Federal and State laws and County liquor rules as they apply to the manufacture, sale and distribution of alcoholic beverages.

The Kauai Liquor Control Commission is authorized by Chapter 281 of the Hawaii Revised Statutes.

There are seven (7) citizen commissioners who set policy, hold hearings, and make decisions. The commission meets twice a month and are appointed by the mayor and are subject to County council confirmation.

The Department of Liquor Control

The Department of Liquor Control, as authorized by state statute, is responsible for enforcement of Section 281 of the Hawaii Revised Statutes and the rules of the liquor commission. The department also serves as the staff for the seven-member commission that has the sole jurisdiction to approve or renew liquor applications, and also suspend or revoke a license once it has been issued. Currently, the commission meets twice monthly and performs both regulatory and adjudication functions.

The liquor department is divided into three distinctive branches with specific functions and responsibilities, all working toward the same mission.

The department provides the administrative services for the commission. It investigates all applications for liquor licenses and compiles all the facts and statistics on all the matters before the commission.

The department has police powers to enforce the liquor laws. It inspects all liquor licensed premises to ensure compliance with the liquor laws and the commission's rules and regulations. It investigates all alleged violations and complaints of alleged violations and reports all violations to the commission.

Alcohol Overview

What is alcohol? Alcohol is a colorless, volatile flammable liquid that is the intoxicating constituent of wine, beer, spirits, and other drinks, and is also used as an industrial solvent as fuel. Liquor contains one-half of one percent or more of alcohol by volume used for beverage purposes.

The following information regarding alcohol is taken from the National Institute on Alcohol Abuse and Alcoholism. Additional information can be found on www.niaaa.nih.gov

Overview of Alcohol Consumption

Alcohol's effects vary from person to person, depending on a variety of factors, including:

- *How much you drink*
- *How often you drink*
- *Your age*
- *Your health status*
- *Your family history*
- *Size of a person*
- *Gender*

Drinking alcohol in small amounts may not necessarily be a problem. Drinking alcohol in excess may cause a range of consequences and potential health risks.

Consequences of drinking too much

Alcohol enters your bloodstream as soon as you take your first sip. Alcohol's immediate effects can appear within about 10 minutes. As you drink, you increase your Blood Alcohol Concentration (BAC) level, which is the amount of alcohol present in your bloodstream. A BAC of .08% is considered legal intoxication in the State of Hawaii.

The higher your BAC, the more impaired you become by alcohol's effects. These effects can include:

- Reduced inhibitions
- Slurred speech
- Motor impairment
- Confusion
- Memory problems
- Concentration problems
- Coma
- Breathing problems
- Death

Other risks of drinking can include:

- Car crashes and other accidents
- Risky behavior
- Violent behavior
- Suicide and homicide

People who drink too much over a long period of time may experience alcohol's longer-term effects, which can include:

- Alcohol dependence, addiction
- Health problems
- Increased risk for certain cancers

How does alcohol affect the human body?

Brain: Alcohol interferes with the brain's communication pathways and can affect the way the brain works. These disruptions can change mood and behavior and make it harder to think clearly and move with coordination.

Heart: Drinking a lot over a long time or too much on a single occasion can damage the heart, causing problems including:

Cardiomyopathy – Stretching and drooping of heart muscle

Arrhythmias – Irregular heartbeat

Stroke

High blood pressure

Liver: Heavy drinking takes a toll on the liver, and can lead to a variety of problems and liver inflammations including:

- Steatosis, or fatty liver
- Alcoholic hepatitis
- Fibrosis and Cirrhosis

Pancreas: Alcohol may cause the pancreas to produce toxic substances that can eventually lead to pancreatitis, a dangerous inflammation and swelling of the blood vessels in the pancreas that prevents proper digestion.

Cancer: Drinking too much alcohol can increase your risk of developing certain cancers, including cancers of the:

- Mouth
- Esophagus
- Throat
- Liver
- Breast

Immune System: Drinking in excess can weaken your immune system, making your body a much easier target for disease. Chronic drinkers are more liable to contract diseases like pneumonia and tuberculosis than other people who do not drink heavily. Drinking a lot on a single occasion slows your body's ability to ward off infections – even up to 24 hours after being intoxicated.

Study Guide

I. Introduction

The Study Guide will help prepare you for the required Kauai Department of Liquor Control Manager Red/Blue Card Test. It is a requirement for all employees to be familiar with the Liquor Laws of Hawaii and the Rules of the Liquor Commission. This study guide will focus on some important laws and rules that may impact you while on the job.

After reading the provided information, you will gain understanding in the following areas:

- 1) Requirements of being a Manager in an On or Off Premise licensee
- 2) Knowledge of State of Hawaii liquor laws and County of Kauai Rules and Regulations
- 3) Effects of alcohol

II. Liquor Laws of the State of Hawaii and Rules and Regulations of the Kauai Liquor Commission

All employees must be familiar with the Liquor Laws of the State of Hawaii and the rules and regulations of the Kauai Liquor Commission.

Every licensee shall have a current copy of Chapter 281 of the Hawaii Revised Statutes (HRS) and the Rules and Regulations of the Kauai Liquor Commission, on their premises at all times. This booklet is given out to each licensee at time of approval. Rule 3.1

Customers shall be entitled to examine the laws and rules upon request and employees must know where the booklet is located. Rule 3.1

Throughout this study guide, we will refer to the State Laws from Chapter 281 of the Hawaii Revised Statutes and the Rules and Regulations of the Kauai Liquor Commission. Please refer to the law and/or rule being discussed. The laws and rules are listed numerically in the booklet provided to each licensee, or on our website at www.kauai.gov/liquor.

III. Definitions

These are a few of the key definitions found in the County of Kauai Liquor Rules and Regulations

"Employee" shall include the licensee and all other persons who perform any type of activity, whether compensated or not, in conjunction with the operation, maintenance, or management of the licensed premises, including but not limited to the dispensing, serving, or selling of liquor, directly or indirectly, or who shall assist in the dispensing, serving, or selling of liquor, or who shall manage or supervise, directly or indirectly, any person who shall dispense, serve, or sell liquor. Any person who performs, whether compensated or not, any act or function as defined above, shall be considered "on duty".

"Entertainer" means any person who performs a service usually or normally done, on or within licensed premises, regardless of whether that person is under contract or commission, registered or not registered, compensated, or not compensated.

"Legal age" means someone over the age of 21 years of age.

"Manager" means any person who has a valid blue or red card and who is registered as a manager or assistant manager by the licensee.

"Off premises license", licensee, or establishment means a retail dealer, license, licensee, or business.

"On premises license", licensee, or establishment means any license, licensee, or business authorized to sell liquor for consumption on the premises.

These are a few of the key definitions found in the Hawaii Revised Statutes Chapter 281

"Addicted to the excessive use of intoxicating liquor" refers to one who has acquired the habit of using intoxicating liquor excessively to deprive oneself of reasonable self-control, a common drunkard, or a habitual drunkard.

"Alcohol" means the product of distillation of any fermented liquid, whether rectified or not, whatever may be the origin thereof, and includes synthetic ethyl alcohol, but not denatured or other alcohol which is considered non-potable under the customs laws of the United States.

"License" means any license granted under this chapter.

"Licensee" includes also all agents, servants, and employees of the holder of a license.

"Liquor" or "intoxicating liquor" includes alcohol, brandy, whiskey, rum, gin, okolehao, sake, beer, ale, porter, and wine; and also includes, in addition to the foregoing, any spirituous, vinous, malt or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one per cent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes.

"Minor" means any person below the age of twenty-one years.

"Premises" or "licensed premises" means the building and property that houses the establishment for which a license has been or is proposed to be issued; provided that in the case of class 12 hotel license, "premises" includes the hotel premises; provided further that in the case of a class 15 condominium hotel license, "premises" includes units, as defined in section 5 I 4B-3, that are used to provide transient lodging for periods of less than thirty days under a written contract with the owner or owners of each unit in, and common elements for access purposes as established by the declaration of condominium property regime of, the condominium hotel; and provided further that if an establishment is in a retail shopping complex the businesses of which have formed a merchants association, "premises" means the establishment. As used in this definition, "establishment" means a single physical location where the selling of liquor takes place.

"Restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to patrons for compensation and which has suitable kitchen facilities connected therewith, containing the necessary equipment and supplies for cooking an assortment of foods which may be required for ordinary meals. Additionally, at least thirty per cent of the establishment's gross revenue must derive from the sale of foods.

"Retail licensee" means any licensee holding a class 2, class 4 through class 16, or class 18 license.

Class 4. Retail dealer license. A license to sell liquor at retail or to class 10 licensees shall authorize the licensee to sell the liquor therein specified in their original packages. A license under this class shall also authorize the licensee to sell beer, malt beverages, or cider in non-original packages; provided that the beer, malt beverage, or cider is sold in a securely sealed or covered glass, ceramic, or metal container that is sold to or provided by the patron, and each sealed or covered glass, ceramic, or metal container does not exceed a maximum capacity of one half-gallon. Under a class 4 license, no liquor shall be consumed on the premises except as authorized by the commission.

"Sell" or "to sell" includes to solicit and receive an order for; to have or keep or offer or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; to traffic in; and the word "sale" includes every act of selling as herein defined. Notwithstanding the provisions above, the delivery of liquor by a licensee's vehicle or the vehicle of a licensee's agent shall be deemed delivery for value.

"Under the influence of liquor" means that the person concerned has consumed intoxicating liquor sufficient to impair at the particular time under inquiry the person's normal mental faculties or ability to care for oneself and guard against casualty, or sufficient to substantially impair at the time under inquiry that clearness of intellect and control of oneself which the person would otherwise normally possess.

IV. Registration of Manager(s)

Anyone applying for their Manager's Card (liquor card) must provide the following:

- Valid government issued photo ID (driver's license, state ID, military ID, passport, etc.)

If you have previously obtained a Manager's Card from another Hawaii county, it will be accepted for as long as it is valid. However, you need to obtain a Kauai Red/Blue card that will be good for the time remaining on your other card.

There are two (2) types of Manager's Cards (liquor cards). Each identified by color.

- 1) **Blue:** Manager and Assistant Manager On-Premise
- 2) **Red:** Manager and Assistant Manager Off-Premise

V. Manager(s)/Assistant Manager(s)

An on-premises licensee must have a registered manager in active charge of the licensed premises whenever there are non-employees in the premises. Rule 7.8

An off-premises licensee must have a registered manager in the premises in active charge whenever liquor can be legally sold. Rule 10.2

Managers cards shall be valid for five (5) years from the date of issue and shall be in the employee's possession or be readily available on the premises for inspection at all times, while on duty. Rule 7.8 and 10.2

Managers must be at least 21 years of age. Rule 7.8 and 10.2

Managers (like all other employees) may not consume liquor while on duty. Rule 7.11

Retail Managers (Managers who work at grocery stores, liquor stores, convenience stores, club type stores, drug stores, etc.) must be registered with the commission and be at least 21 years of age. Rule 10.2

Retail Managers must also ensure no consumption of alcohol by employees or customers is done on the premises. HRS 281-31 Class 4 (e)

It is the responsibility of the Licensee, Managers and Assistant Managers to ensure all employees are familiar with the Liquor Laws of the State of Hawaii and the Rules and Regulations of the Kauai Liquor Commission. Rule 2.9 (b)

A Red or Blue Card Manager is someone at least 21 years of age, who has taken the Red or Blue Card exam and passed. Rule 7.8 and 10.2

Managers shall be strictly accountable for the conduct of all employees on the licensed premises, including other managers and for the sales of liquor in the licensed premises. Rule 7.9

VI. Licensee/Employee Conduct

Employees are not permitted to sit, dance, or play games with a customer during hours of operation even if the employee is on a break. Rule 7.11

No employee shall consume liquor while on duty and within the premises. Rule 7.11 and HRS 281-31 Class 4 (e)

Card games, pool tables, checkers, chess, electronic games, or any games provided by the licensee are allowed in a Dispenser, Restaurant, Club or Brewpub provided the licensee obtain approval from the Liquor Commission prior to allowing such games. Rule 7.5

Employees are not permitted to sit with customers during hours of operation. Rule 7.11

VII. EMPLOYEES (SERVERS, CASHIERS, WAITERS, WAITRESS)

Anyone involved in liquor sales must be at least 18 years old and properly supervised by a Red or Blue Card manager who is in active charge.

No one under the age of 18 can sell liquor. This includes the taking of the order, delivering the order to the table, or ringing up of the order. Rule 3.16 & Rule 10.2 & Definitions

The exception for anyone under 17 years old is that the person, normally a busser or dishwasher, can clean the table and dispose of any vessels containing liquor. This is because the act of cleaning is not considered part of the sale. The same goes for a 17 clerk at a retail store. He/she may assist a customer after the sale has been completed by an 18-year-old or older cashier, by carrying liquor from the store to a customer's car or into a customer's car.

When checking a driver's license, a State of Hawaii Driver's License in vertical format is issued to persons under the age of 21. This means they were under 21 at the time of issuance. They could've turned 21 and are now eligible to purchase liquor so double check the vertical format. Out of state licenses have different formats as well.

Remember that the legal age to legally purchase, possess and consume liquor is 21. You must also be 21 to legally purchase tobacco products as well. No notes from a parent or guardian are allowed in place of a legal government issued identification card.

If an employee is uncertain of a customer's age, the employee should verify the age by asking the customer for a government issued photo identification card. No copies, pictures on a phone, xerox copies or a friend verbally saying they are 21 should be allowed. Remember that there is no law forcing you to sell liquor, but there is a law and penalties if you sell to a minor.

Employees serving liquor should be mindful of not overserving liquor to customers. While overserving is not technically a violation of a law or rule, it is against the law to allow someone who is intoxicated to remain on the premises. 281-78 (b) (5)

VIII. Employee Schedule

A current record showing all employees, including managers who are on duty, who handle, serve or sell liquor shall be available for inspection. Rule 7.10 and Rule 10.1 (b)

Electronic or otherwise recorded employee work schedules may be used for the purposes of this rule but must be readily available and accessible for inspection by investigators.

IX. Standard Servings

The Stacking Rule, where each type of liquor had a standard serving size restriction and the Stacking Rule only allowed 2 standard serving drinks at one time, is no longer in effect.

However, there are still a couple of rules from Rule 7.1- Number of drinks per person and liquor content of drinks, that are in effect.

Distilled spirits containing no mixes are limited to 2 ounces per person at one time. Rule 7.1 (a)

A pitcher, not to exceed 64 ounces, may be served to two or more persons who must be seated together. Rule 7.1 (a)

A standard serving size of beer shall be defined as not exceeding a total volume of 32 ounces

before a customer at any one time. HRS 281-78.5 (b) (2)

X. Obstructing Commission Operations

No Licensee or employee shall obstruct, hamper, or interfere with investigators conducting inspections or Liquor Commission operations in any way. HRS 281-20 & 281-79

XI. Free Goods Prohibited

No licensee shall directly or indirectly offer, furnish, deliver, or give away any free goods, gratuities, gifts, prizes, coupons, premiums, or other article or thing of value to a consumer which is tied into the sale of liquor, except “pupus” (appetizers) offered in on premises establishments and advertising specialties which are available to all consumers are exempt from this provision. Rule 3.5

XII. Practices to Promote Consumption of Liquor, Prohibited.

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” for a fixed price. Rule 7.15
2. Encourage or permit any game or contest that involves the consumption of liquor or the awarding of liquor as a prize. Rule 3.13

XIII. Enforcement

Compliance checks involves minors who are 18 to 20 years of age who are sent into the store by the Liquor Department to see if the store’s employee willingly sells liquor to the minor.

Liquor Control Investigators visit licensees to enforce the Liquor Laws of the State of Hawaii and the Rules and Regulations of the Kauai Liquor Commission.

Liquor Control Investigators do not need search warrants to in order to inspect the premises, books and records or to take samples of liquor as evidence. HRS 281-20, 281-75, 281-79

XIV. Criminal Sections

No minor shall falsify any identification or use any false identification or identification of another person or of a fictitious person for the purpose of buying or attempting to buy liquor or for the purpose of obtaining employment to sell or serve liquor on licensed premises. HRS 281-101.5 (c)

Any adult who provides or purchases liquor for consumption or use by a person under twenty-one years of age shall be guilty of the offense under section 712-1250.5. & HRS 281-101.5

“Exclusion” Every person who, being under the influence of liquor, enters any premises licensed

for the sale of liquor, or being under the influence of liquor there remains after having been requested by the licensee or any person in the licensee's employ to leave the premises, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in section 281-102 provided. HRS 281-84

XV. Notice of Hearing

A Notice of Hearing may be issued to a Licensee should they be in violation of a County of Kauai Liquor Control Commission Rule or State Law. The Licensee (owner/representative) must appear at an adjudication hearing before the Liquor Commission. If the violation is sustained, the Licensee will pay a reprimanded fine, or whether there be a restriction, suspension, or revocation of the liquor license.

XVI. Penalties

Employees who violate the law will be arrested and must appear in court. If found guilty, they may face a penalty of up to a \$2,000 fine and/or one (1) year in jail. Also, personal liability.

If an employee, while on duty violates any Liquor Law or Commission Rule, the licensee may be penalized by a fine of up to \$2,000 or have their liquor license suspended or revoked. HRS 281-91

The maximum penalty for an employee or any person who sells or furnishes liquor to a minor is imprisonment for not more than 1 year and or a fine of not more than \$2,000. Selling liquor to a minor is a misdemeanor which is covered under HRS 712-1250.5 The fine is covered under HRS 706-640. Both of those sections are not covered under the HRS sections that we show but are listed just so you know where that information comes from.

XVII. Licensee Requirements/Hours of Operation

A licensee shall be authorized to sell or serve alcohol and liquor based upon its class of license during the hours specified as follows:

- a) Dispenser (Bar), Club, Restaurant, Brewpub, Tour or Cruise Vessel - From 6:00am to 2:00am the following day.
- b) Cabaret and Hotel - From 6:00am to 4:00am the following day.
- c) Retail - From 6:00am to 11:00pm.
- d) Special – 6:00am to 12 midnight
- e) Caterer – 6:00 a.m. to midnight

No sale, service, or consumption of liquor on or within the licensed premises shall be provided before or after the hours established by the Commission. Rule 6.2

The exception to Rule 6.2 is that employees who were on duty at the legal closing time in on

premises establishments may consume liquor immediately after closing with the permission of the licensee, and at no cost, if no other person is in the liquor service area of the premises. Rule 6.2

All vessels containing liquor must be cleared from all areas open to the public prior to the legal closing time. Rule 7.7

The legal closing time will vary by Class of License. Rule 6.1

It shall be unlawful for any retail licensee (Class 2 or Class 4 through Class 14 license), except a Class 10 licensee, to purchase, acquire, or sell liquor from any person other than a licensed wholesaler. HRS 281-31 (t)

Liquor may be warehoused off the licensed premises within an appropriately zoned area in the county with the written approval of the commission. An application for warehousing off the licensed premises shall include as part of the application: Rule 2.14

1. Floor plan drawn to scale
2. Lease agreement, if applicable
3. List of all licensed premises which will be using the warehouse, if the applicant holds more than one license; and
4. Street address and tax map key of warehouse location

An on-premises licensee shall report all fights and disturbances, on the form provided or approved by the department that occurs in their licensed premises. The report shall be typewritten and submitted to the department within seven (7) days from the time of the fight or disturbance. Handwritten reports will not be accepted. Rule 7.13

Every licensee shall have a current copy of the Rules and Regulations of the Kauai Liquor Commission and the Liquor Laws of the State of Hawaii Revised Statutes Chapter 281. This book is required to be available at all times on the licensed premises for examination by employees and customers.

In addition, Licensed Liquor Establishments are required to maintain liquor liability insurance coverage in the amount of \$1,000,000. Proof of coverage shall be kept on the premises and shall be made available for inspection at any time during the licensee's regular business hours. Rule 3.1 (b) & HRS 281-31 (S)

Within On-Premises establishments, a customer is allowed to consume liquor only within the licensed areas. It is the employee's responsibility to find out where their licensed areas are. HRS 281-31

For Off-Premises establishments, a customer is not allowed to consume any liquor on the entire premises. That includes areas that are not licensed but house the establishment. An example would be the parking lot of the store. However, "Sampling or Tasting" events may be allowed on Off-Premises locations provided a permit from the commission is obtained first. HRS 281-31 (e) Class 4 Retail Dealer

Liquor Licensees are responsible for any advertisements found in retail stores. HRS 281-44

A licensee may build or remove walls, doorways and windows within the licensed premises but must first seek and obtain approval from the Kauai Liquor Commission. Rule 3.2

The main entrance to a licensed liquor premises must remain unlocked whenever there is any non-employee or employee who was not on duty at the time of closing in the premises. Entrance to booths must be open and unobstructed. Lighting in all parts of the licensed premises shall be sufficient to make easily discernible the appearance and conduct of all persons in the premises and the main entrance of licensed premises shall be well and properly lighted. Rule 7.4

In premises where dancing by customers is permitted, the licensee shall provide a clearly designated dance floor of not less than one hundred fifty (150) square feet suitable for ballroom dancing. The designated area may be utilized for other purposes when not used for dancing. However, when used for dancing, the designated area must be totally cleared of all obstructions and utilized only for dancing. Dancing by customers is permitted only on a designated dance floor approved by the Commission. Licensees shall not allow any form of lap dancing by customers or its employees. Rule 7.5

XVIII. Licensee Display Requirements

All licensees must have the following items visibly displayed at the licensed premises.

- 1) Liquor Commission License. Rule 3.1
- 2) OVUII Poster. HRS 281-44

XIX. Dangers of Driving While Intoxicated

Driving under the influence (DUI) is against the law and no person(s) should be driving a vehicle or operating heavy machinery while intoxicated. Alcohol impairs normal function and affects people's vision, coordination, judgment, reaction time and reflexes. These impairments make it difficult for anyone to drive safely.

The person driving while intoxicated may cause a serious accident and statistics show many DUI related accidents can be fatal.

Help keep your customers safe, the roads safe and our community safe. Don't over-serve your customers, observe them and obey the Laws and Rules of selling and serving liquor.

XX. Four (4) types of people you cannot sell or serve liquor to.

- (1) Minor (under age 21) Rule 3.8 & HRS 281-78 (B) (1) (A)
- (2) Under the Influence HRS 281-78 (B) (1) (B)
- (3) Addicted to Alcohol HRS 281-78 (B) (1) (C)
- (4) Purchasing for a Minor HRS 281-101.5 (a)

Be aware that your customers may have been consuming liquor prior to entering your establishment.

Customers intoxicated or under the influence may not enter or remain on your premises even if they stop drinking liquor. HRS 281-78 (b) (5)

You may not sell, serve, furnish liquor, or allow consumption of any liquor by anyone under the influence of liquor. HRS 281-78 (b) (1) (B)

XXI. Identifying and Dealing with Intoxicated Persons

Some common signs of intoxication include:

- (1) Red flushed face, blood shot eyes
- (2) Vomiting
- (3) Talking loudly, being disorderly
- (4) Slurred or slowed speech
- (5) Uncoordinated
- (6) Sudden mood changes
- (7) Staggering, swaying, has difficulty walking
- (8) Sleepy

Employees should be familiar with the signs of intoxication and know what action(s) to take when dealing with an intoxicated person.

Here are three (3) examples of customers under the influence who require proper attention. How would you assist these people?

- 1) Customer has slurred speech, seems uncoordinated, and appears sleepy with blood shot eyes.
- 2) Customer is belligerent, disorderly and starts a fight.
- 3) Customer is found in the restroom disoriented and vomiting or unresponsive.

What would you do and who would you call under these circumstances?

We encourage employers to establish policies and procedures to better prepare themselves to assist customers who may be intoxicated. Employees should be trained on how to handle the example situations mentioned and should be familiar with providing documentation and completing an incident report which must be submitted within seven (7) days of the incident. Please be advised that changes to the rules and regulations and state statutes do occur so please check back regularly. Thank you for your time and we hope to see you soon!

