

**RULES AND REGULATIONS
OF THE
ALCOHOLIC BEVERAGE CONTROL**

Filed this 13th day of
November 1984.
Office of Registrar of Corporation
Commonwealth of the Northern Mariana Islands

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I. GENERAL PROVISIONS

Section 1. Authority:

These proposed rules and regulations have been promulgated for adoption pursuant to Title II of the Mariana Islands District Code.

Section 2. Purpose:

To establish uniform regulations in order to carry out the intent and purpose of Title II of the Mariana Islands District Code.

Section 3. Definitions:

The definition applicable to a particular word set forth in 11.04.010 of Title II of the Mariana Islands District Code shall govern whenever any word contained in that section is used herein.

II. LICENSES

Section 1. License Applications:

- a. Applications for any Alcoholic Beverage Control License or transfer of any license authorized under Title II, Mariana Islands District Code, shall be submitted upon proper forms to be provided and approved by the Alcoholic Beverage Control Board.
- b. Each application must be properly and completely filled out and accompanied by any and all required data supplementing the application form. If the Board feels that additional information is necessary, consideration of the application may be postponed and a reasonable period of time may be afforded the applicant to comply with this requirement.
- c. A deposit of \$25.00 to cover the cost of processing the application must accompany all applications for license. Full payment of the prorated license fee is due and payable at the time the license is issued.

Section 2. Type of License:

<u>Class</u>	<u>Fees</u>
Class 1 - Manufacturer s License.....	\$250.00
Class 2 - Wholesale Agent s License.....	\$250.00
Class 3 - Retail Dealer s On-Sale License:	
Beer and Wine.....	\$ 20.00
General.....	\$ 30.00
General - if class A Restaurant license.....	\$ 25.00
Class 4 - Retail Dealer s Off-Sale License:	
Beer and Wine.....	\$ 25.00
General.....	\$ 30.00
Class 5 - Temporary Beer License.....	\$ 10.00
Class 6 - Club License.....	\$100.00

Section 3. Duration:

The license is issued for a period of one year. It commences on July 1 and terminates upon June 30.

Section 4. Renewal:

To renew a license, the fee must be paid on or before June 30. Failure to do so will cause the license to be automatically suspended. However, it may be so reinstated if the fee is paid within 3 days of June 30th. The license will be automatically revoked on July 31 if not so reinstated.

Section 5. Qualifications of Prospective Licensees:

- a. Prior to the Board considering an application for an Alcoholic Beverage Control License, a thorough investigation into an applicant s background will be conducted by the ABC Board. The Board may inquire into an applicant s:
 - 1. moral character;
 - 2. prior criminal record;
 - 3. whether he/s he has been adjudged insane;
 - 4. location of the premises to determine whether the premises would be a nuisance;
 - 5. past business conduct and practices;
 - 6. condition of premises; and
 - 7. any and all other matters and things which in the judgment of things which in the judgment of the Board pertain to or affect the matter of the application, its issuance or the exercise of the license applied for.

The Board will carefully consider the results of this investigation and may make a determination as to approval of disapproval of the application.

- b. Where the applicant for a license is a corporation, all individuals who own stock in such corporation or director of the corporation or are otherwise involved in any way as proprietors, managers, employees or agent of the business being considered for licensing, shall be listed by legal name in the current application on file with the Board. No license shall be issued or renewed unless these listing are complete and legally accurate and reveal sufficient compliance with all pertinent provisions of Chapter 5, 4 CMC and or these regulations as made applicable.
- * c. All applicants, as a condition for receiving a Class 3 Retail dealer s on-sale General license, excluding those applying for a Class 3 restaurant license, shall provide evidence of United States citizenship or continuous meaningful residency in the Commonwealth for at least one year preceding the date of application for this Class 3 Retail dealer s on-sale General license, and must also, as a condition for receiving this Class-3 Retail dealer s on-sale General license, post a surety bond on the amount of five thousand (5,000) United States Dollars.

Section 6. Review:

Upon inspection and investigation, the Board shall consider the application and shall within 15 days give its decision, granting or refusing, the application.

- a. If the Board decides in favor of the applicant or licensee, the Board shall promptly notify the applicant or licensee of its decision. If the Board decides otherwise, it shall issue an appropriate decision and order. The decisions and order shall be accompanied by separate findings of fact and conclusion of law. The Board shall within a reasonable time send a certified copy thereof to the applicant or licensee.
- b. Where an application for license has been denied, a person aggrieved by such a denial shall be entitled to review of the decision by the Governor.
- c. Judicial review shall be as provided by law.

Section 7. Premises Qualifications:

- a. All premises licensed or proposed to be licensed shall be constructed, arranged, furnished, equipped, maintained and operated in such manner as may be prescribed by the Board.
- b. Licensed premises, including furnishings, equipment and paraphernalia on the premises, shall be kept in clean and sanitary condition, and drinking glasses must be effectively sterilized. There must be installed on licensed premises where liquor is consumed, separate and adequate toilet facilities for men and women, which facilities must have the approval of the Department of Public Health and Environmental Services.

- * c. The Secretary of Commerce shall have the authority to define the premises to be used for the serving of alcoholic beverages for all on-sale licensees in the Commonwealth. These premises shall normally include the building and its perimeter as regularly used within the business activity during normal hours of operation by the on-sale licensee.

Section 8. Transfer of License:

- a. Where license has been issued to or in the name of partnership, no substitution, addition, removal or other change to the licensed partnership shall be made until the proposed change has first been considered by the Board upon application for transfer between two distinct business entities.
- b. No application for transfer of a license will be considered by the Board unless the applicant has met the same personal qualifications as that required of an applicant for an original license.

Section 9. Responsibilities of the Licensee:

- a. It shall be the responsibility of a licensee to notify the Board Chairman in writing of any and all changes in a licensed business ownership, management, agents or any other changes which materially affect or modify the data on file and recorded as the basis for granting or renewal of such license prior to the time such change occurs. Failure to do so within twenty-four (24) hours of such change shall require an immediate temporary suspension of the license pending investigation and review by the Board. This suspension of the license shall remain in effect until removal, modification or other action as may be deemed necessary and appropriate action.
- b. All Class-3, retail on-sale, general establishments shall have a duly registered manager or assistant manager on the premises, in the absence of the licensee and daily during the hours of 7:00 p.m. until closing. The manager or assistant manager shall be capable of maintaining order and responsible for compliance to laws and regulations that pertain to the licensed premises.
- c. A licensee proposing to transfer or who is in the process of transferring his license to another party shall remain responsible for the conduct of the business and liable for compliance with all terms of the licensed business and all laws and regulations pertaining thereto until such time as the Board has approved the transfer and the transferred license has been re-issued in the new licensee's name.
- d. A licensee shall post a list of employees and their specified by duty hours on the premises where such list shall be at all times available for inspection by duly authorized representatives of the Board. These specified work periods shall clearly indicate the hours when each employee is considered to be on duty.
- e. Licensees of Class 3, retail on-sale, general establishments, shall register or cause to be registered with the ABC Board, the names of employees employed by his establishment and engaged in the mixing and/or serving of alcohol; beverages, within 24 hours after employment.

- f. The stacking of liquor for consumption by customers is prohibited. No customer shall be permitted to have more than one drink at a time.
- g. Refill prohibited. A licensee shall not refill any distilled spirits containers with distilled spirit nor keep, offer for sale or sell distilled spirits from a container that has been refilled. Immediately upon emptying a container, a licensee shall destroy it.
- h. Every license issued and in effect under Title II shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises.

Section 10. Prohibitions:

- a. At no time under any circumstances shall any liquor be sold or furnished by any licensee:
 - 1) to any person under the age of 21;
 - 2) to any person at the time under the influence of liquor;
 - 3) after 2:00 a.m. and before 9:00 a.m. if licensee holds an on-sale license;
 - 4) before 7:00 a.m. and after 10:00 p.m. if the licensee holds an off-sale license;
 - 5) when election polls are open for voting;
- b. No employee, owner, manager or agent thereof of any licensed premises shall consume or be permitted to consume any alcoholic beverages while on duty on such premise.
- c. A licensee, his agent or employee shall not permit any minor under the age of eighteen (18) years to mix or serve any alcoholic beverages at any on-sale establishment.

Section 11. Revocation of Licenses:

A licensee of any class may be revoked on any of the following grounds:

- a. Where the continuation of a license would be contrary to the public interest;
- b. Violation of, causing or permitting a violation of, or failure or refusal by a licensee to comply with any provision of this Title or any regulation of the Board adopted under Title II;
- c. Misrepresentation of a material fact by any applicant in obtaining or renewing a license;
- d. A plea, verdict or judgment of guilty or nolo contendere to any public offense involving moral turpitude.

Section 12. Procedure on Revocation or Suspension of License:

The Board may revoke any license or suspend the right of the licensee to use his license for the violation of any provision of the Title II or any rule or regulation applicable thereto.

In every case where it is proposed to revoke or suspend the exercise of any license, the licensee shall be given:

- a. Notice and hearing; the notice to be given at least five (5) days before hearing;
- b. At the hearing, the licensee shall be entitled to be heard in person or through council and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for the proposed action do not exist;
- c. The testimony taken shall be under oath and taken stenographically or by machine, but the parties shall not be bound by strict rules for evidence;
- d. Copies of any transcript made at the hearing shall be given to the licensee upon his request at his expense;
- * e. In the event revocation or suspension of a license is found as an appropriate sanction for a violation of any applicable statutes or regulations, the following civil sanctions and/or penalties will apply to violations occurring within a one year (365 day) period:
 - 1. First Offense: 48 Hour Suspension of License to commence on the same day of the week the offense is found.
 - 2. Second Offense: 72 Hour Suspension of License to commence on the same day of the week the offense is found, and a civil penalty of \$300.00.
 - 3. Third Offense: 168 Hour Suspension of License to commence on the same day of the week the offense is found, and a civil penalty of \$500.00.
 - 4. Fourth Offense: Revocation of License, and a civil penalty of \$1,000.00.

Any order of revocation or suspension by the Board upon the licensee shall be in addition to any penalty that might be imposed upon the licensee upon his conviction in a criminal prosecution for violation of Title II.

Section 13. Appeal:

Where the Board revokes or suspends a licensee, the person aggrieved by such revocation or suspension shall be entitled to a review of the decision by the Governor.

*** Section 14. Disposal of Confiscated Alcoholic Beverages:**

- a. All alcoholic beverages confiscated in the Commonwealth shall be disposed of at the discretion of the Secretary of Commerce by either:
 - (I) dumping in public by the Secretary or his authorized representative in the presence of one employee of the Department of Public Safety and one employee of the Office of the Attorney General; or,
 - (ii) sale by public auction with reserve yet without warranty of fitness or merchantability, and after execution or appropriate releases and/or covenants not to sue by the bidders, and following 14 days public notice in a newspaper of general circulation.

