

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



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Commonwealth of the Northern Mariana Islands
Department of Commerce
Alcoholic Beverage and Tobacco Control Division

Sixto K. Igisomar, Secretary
Department of Commerce – ABTC Division Caller Box 10007 CK
Capitol Hill Road, Pohnpei Street, Saipan MP 96950

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**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF THE
DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGE AND TOBACCO CONTROL DIVISION**

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:

The Commonwealth of the Northern Mariana Islands, Department of Commerce, Alcoholic Beverage and Tobacco Control (ABTC) division intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Secretary of the Department of Commerce is authorized to promulgate rules and regulations pursuant to 4 CMC §5575, and 1 CMC §2454, (modified by Section 302(c) of Executive Order 94-3, text printed in Reorganization Plan No. 2, Directive 93, Comm. Reg. Vol. 16, No. 6, at 11931 [effective date June 15, 1994], Public Law 16-27 [effective date April 07, 2008], and Public Law 17-83 [effective date September 23, 2012]) to be codified at 4 CMC, Division 5, Chapter 5, as amended, repealed and re-enacted.

THE TERMS AND SUBSTANCE: The proposed promulgation and amendments of regulations are made to effectuate the Alcoholic Beverage Control Statutory Enforcement, Licensing and Requirements created in Title 4 CMC, Division 5, Chapter 5, §5575, Public Law 16-27 (effective date April 07, 2008) and Public Law 17-83 (effective date September 23, 2012).

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1) Title 4 CMC, Division 5, Chapter 5, §5575, provides for the regulations to be consistent with the provisions of this chapter and amend or repeal them as it deems necessary to carry out all intents of the provisions of this chapter and to enable it to exercise the powers and perform the duties conferred upon it.

2) Mandated by Public Law 16-27 (effective date April 07, 2008), the proposed Alcoholic Beverage Control Regulations provides for the exemption of business establishments situated within the passenger holding areas at the airports within the CNMI from the requirements of the Hours of Sale in accordance with §5554, as well as during election day when polls are open for voting in accordance with §5557.

3) Mandated by Public Law 17-83 (effective date December 24, 2012), the proposed Alcoholic Beverage Control Regulations provides for the requirement of business establishments and persons to be subjected to stiffer fines and penalties for providing and selling alcoholic beverages to persons under the age of twenty-one (21), and to impose stiffer fines for persons under twenty-one (21) years of age who purchases, consumes, or possess any alcoholic beverages, and to promulgate regulations consistent to the provisions of Public Law 17-83. Specifically to establish a new class of license and amend existing license fees.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

AVAILABILITY: The proposed regulations may be obtained from the Department of Commerce, Alcoholic Beverage and Tobacco Control Division, located at the Donni Hill Complex on Capitol Hill Road, Pohnpei Street, or write to and request copies from David R. Maratita, Director of ABTC Division, Caller Box 10007 CK, Saipan, MP 96950, or email your request to cnmi.abtc@commerce.gov.mp.

TO PROVIDE COMMENTS: The Secretary of Commerce is soliciting comments on these proposed regulations from the general public. Anyone interested in submitting comments on these proposed regulations may do so in writing addressed to David R. Maratita, Director of ABTC Division, Caller Box 10007 CK, Saipan, MP 96950. Written comments may be hand-delivered to the Director of ABTC, Department of Commerce, emailed to cnmi.abtc@commerce.gov.mp, or faxed to 664-3067. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

These proposed regulations were approved by the Secretary of the Department of Commerce on June 04, 2013 and intends to adopt these regulations.

Submitted by:


SIXTO K. IGISOMAR
Secretary of Commerce


2013-0729
Date

Received by:


ESTHER S. FLEMING
Governor's Special Assistant for Administration

08/21/13
Date


Filed and
Recorded by:


ESTHER M. SAN NICOLAS
Commonwealth Register

08/21/2013
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated this 14th day of August, 2013.


JOEY P. SANNICOLAS,
Attorney General



Sixto K. Igisomar
Secretary of Commerce

DEPARTMENT OF COMMERCE

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David R. Maratita
Director

PROPOSED PROMULGATION AND AMENDMENTS OF THE ALCOHOLIC BEVERAGE CONTROL RULES AND REGULATIONS

Filed this _____ day of _____, 2013

At the Commonwealth Register, Office of the Attorney General
Commonwealth of the Northern Mariana Islands

I. GENERAL PROVISIONS

Section 1. Authority:

The proposed amendments of the Alcoholic Beverage Control Rules and Regulations have been promulgated for adoption pursuant to Title 4 CMC, Division 5, Chapter 5 §5575 of the Commonwealth Code, as amended, repealed and re-enacted.

Section 2. Purpose:

To establish uniform regulations in order to carry out the intent and purpose of Public Law 16-27 (effective date April 07, 2008), as amended, and Public Law 17-83 (effective date December 24, 2012), as amended, repealed and re-enacted, to be codified at Title 4, Division 5, Chapter 5 of the Commonwealth Code.

Section 3. Definitions:

The definition applicable to a particular word set forth in Title 4 CMC, Division 5, Chapter 5 §5511 of the Commonwealth Code, the definitions described in Public Law 16-27 (effective date April 07, 2008), the definitions in Public Law 17-83 (effective date December 24, 2012) shall govern whenever any word contained in their particular sections are used herein.

II. LICENSES.

Section 1. License Applications:

The requirements for license applications in Northern Marianas Administrative Code §20-10.1-101 are amended to read as follows:

* a. Applications for any Alcoholic Beverage Control License or transfer of any license shall be submitted upon proper forms to be provided and approved by the Secretary of Commerce or his designee.

* b. Each application must be properly and completely filled out and accompanied by any and all required data supplementing the application form. If the Secretary of Commerce or his designee determines 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 \$50.00 to cover the cost of processing the application must accompany all applications for license. Full payment of the license fee is due and payable at the time the license is issued.

Section 2. Type of License:

The types of licenses are amended and a new Class 7 license added to read as follows:

<u>Class</u>	<u>Fee</u>
* Class 1 – Manufacturer’s License.....	\$1,500.00
* Annual Sampling Fee.....	\$100.00
* Class 2 – Wholesale Agent’s License.....	\$1,000.00
* Annual Sampling Fee.....	\$100.00
Class 3 – Retail Dealer’s On-Sale License:	
* Beer and Wine.....	\$150.00
* General.....	\$500.00
* Annual Sampling Fee.....	\$50.00
* General – If Class-A Restaurant License.....	\$300.00
Class 4 – Retail Dealer’s Off-Sale License:	
* Beer and Wine.....	\$150.00
* General.....	\$500.00
* Annual Sampling Fee.....	\$50.00
* Class 5 – Temporary Beer License.....	\$100.00
* Class 6 – Club License.....	\$1,000.00
* Class 7 – Special Liquor License.....	\$1,500.00

Section 3. License Duration:

The duration of license is amended to read as follows:

* Upon payment of required license fees, except for a temporary beer license, each license shall be for a period of one year from the date of issuance.

Section 4. Renewal:

The requirement for renewing a license is amended to read as follows:

* Except for a temporary beer license which is authorized not to exceed three days, to renew a license, the license fees for renewal must be fully paid on or before the expiration date of the license. If the required renewal license fees are not paid on or before the expiration date, the license shall automatically be suspended and a penalty of \$25.00 shall be assessed for each day the license is not renewed. If a Licensee fails to renew a license within thirty (30) calendar days from the date of expiration, the license shall automatically be revoked and the Secretary of Commerce shall not issue a license except upon a new original application, provided however, that any penalty fee pending for payment must be paid in full prior to the issuance of a new license.

Section 5. Qualifications of Prospective Licensees:

The qualifications for applicants are amended to read as follows:

* a. Prior to the Secretary of Commerce or his designee in considering an application for an Alcoholic Beverage Control license, a thorough investigation into an applicant’s background will be conducted. The Secretary of Commerce or his designee may inquire into an applicant’s:

1. Moral Character;
2. Prior Criminal Record;
3. Whether he/she 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 the Secretary of Commerce or his designee pertain to or affect the matter of the application, its issuance or the exercise of the license applied for.

* The Secretary of Commerce or his designee will carefully consider the results of this investigation and may make a determination as to approval or disapproval of the application.

* b. Where the applicant for a license is a corporation, partnership, or limited liability company, all individuals who own stock in, or are members, officers or directors of such corporation, partnership, or limited liability company 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 Alcoholic Beverage and Tobacco Control Division. No license shall be issued or renewed unless these listing are complete and legally accurate and reveal sufficient compliance with all pertinent provisions of 4 CMC, Division 5, Chapter 5 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 Retail dealer's on-sale General license in conjunction with a Class A restaurant license, shall post a surety bond on the amount of five thousand (\$5,000) United States Dollars.

* d. All applicants, as a condition for obtaining any class type of license, shall meet the following requirements prior to the issuance of license:

1. Attend the training and certification program on responsible alcohol sales and services provided by the Alcoholic Beverage and Tobacco Control division. Upon completion of training and certification, the Secretary of Commerce or his designee shall issue I.D. cards certifying the owner and each employee of his/her establishment, which shall be worn at all times during on-duty hours. Such certified I.D. cards shall expire three (3) years from the date of certification. It shall be the responsibility of the ABTC division to provide necessary update to the licensee of any changes affecting the sales and service of alcoholic beverages.
2. Make a deposit of \$10.00 for the cost of certification which will be assessed for each person that completed the certification process. Full payment of the certification fee is due at the time the certified I.D. card is issued.
3. In the event a new employee is hired, it shall be the responsibility of the licensee to register the newly hired employee within 24 hours with the ABTC division. The licensee shall arrange an appointment with the ABTC division to have such new employee undergo the training and certification prior to handling any sell or service of alcoholic beverages.

* e. All applicants, as a condition for receiving an on-sale Class 7 Special Liquor License, shall meet the following requirements prior to the issuance of license:

1. Applicant is currently in good business standing with the Commonwealth and federal laws and shall have no prior ABC violation(s) in file in the past five (5) years from the date of application.
2. Must complete the training and certification of responsible alcohol sales and services and have a valid certification card under Section 5(d)(1) of these regulations.

Section 6. Application Review:

The process for application review is amended to read as follows:

* Upon inspection and investigation, and in reference to the guidelines set forth in Section 5 of this regulation, the Secretary of Commerce or his designee shall consider the application and shall within 15 days give its decision, granting or refusing, the application.

* a. If the Secretary of Commerce or his designee decides in favor of the applicant or licensee, the applicant or licensee shall be promptly notified of the decision. If the Secretary of Commerce or his designee decides otherwise, an appropriate decision and order shall be issued and provided to the applicant or licensee. The decisions and order shall be accompanied by separate findings of fact and conclusion of law. The Secretary of Commerce or his designee 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 a review of the decision by the Governor.

c. Judicial Review shall be as provided by law.

Section 7. Premises Qualification:

The qualification of premises is amended to read as follows:

* 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 Secretary of Commerce or his designee.

* b. Licensed on-sale 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 a certificate of building occupancy obtained from the Department of Public Works (building safety code division) where liquor is to be sold and consumed on the premises, must have sufficient lighting and adequate toilet facilities, which facilities must have the approval of the Bureau of Environmental Health of the Commonwealth Healthcare Corporation.

* 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 an emergency exit and exit sign provided within the building and its perimeter as regularly used within the business activity during normal hours of operation by the on-sale licensee.

* d. Premises proposed to be licensed for sampling activity or event shall establish a designated consumption area for the sampling of alcoholic beverages. The designated consumption area shall be cordoned-off or fenced-in with an entrance and exit access way. At no time under any circumstances shall a sample be offered or allowed to be consumed by an intoxicated person or any individual under the age of twenty-one (21) years.

(1) Procedures for Sampling:

- a. No sample may be offered from more than four products at any one time.
- b. No more than one bottle of each of the four products to be sampled may be displayed and opened at any one time.
- c. Samples given shall not be more than two ounces for each product sampled.
- d. All open bottles must be visible at all times and all open bottles must be removed at the conclusion of the sampling activity.
- e. No person under the age of twenty-one (21) years shall conduct or participate in the sampling activity.

Section 8. Transfer of License:

The requirement for the transfer of license is amended to read as follows:

* a. Where a license has been issued to or in the name of corporation, partnership, or sole-proprietorship, no substitution, addition, removal or other change to the license holder shall be made until the proposed change has first been approved by the Secretary of Commerce or his designee upon application for transfer between two distinct business entities.

* b. No application for transfer of a license will be approved by the Secretary of Commerce or his designee unless the applicant has met the same qualifications as required in Section 5 for an original license.

Section 9. Responsibilities of the Licensee:

The responsibilities of the licensee are amended to read as follows:

* a. It shall be the responsibility of a licensee to notify the Secretary of Commerce or his designee 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. This shall include any event a licensee intends or is in the process of foreclosing his/her business, which shall include a brief purpose of the foreclosure. 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 Secretary of Commerce or his designee. The suspension of the license shall remain in effect until removal, modification or other action as may be deemed necessary and appropriate action.

* b. The following shall apply to all Class-3, retail on-sale establishments:

- * 1) It shall be the responsibility of the licensee to have a duly registered manager or assistant manager on the premises, in the absence of the licensee and daily during the hours when the business is open 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.
- * 2) It shall be the responsibility of the licensee, manager or assistant manager to announce a last-call to order alcoholic beverage one hour ahead prior to closing time, and no orders of any alcoholic beverage shall be taken, sold or served within the hour after the last-call is announced prior to securing and closing the business premises.
- * 3) It shall be the responsibility of the licensee, manager or assistant manager to ensure that no customers remain on the premises, except employees for cleaning-up purposes, after closing and securing of business premise at 2:00 a.m., and after 4:00 a.m. if the licensee holds a Class 7 Special Liquor License.
- * 4) It shall be the responsibility of the licensee, manager and assistant manager to post sign at the front main entrance (and other entrances, if any) indicating "I.D. Card is Mandatory/Required before Entering".
- * 5) It shall be the responsibility of the licensee, manager and assistant manager to ensure that a customer does not leave the premises with any alcoholic beverage in his/her possession. Further, it shall be the responsibility of the licensee to post signs on strategic or conspicuous areas within the business premises indicating "No Alcoholic Beverage Allowed to be Taken Outside or Beyond the Business Premises".

* d. 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 Secretary of Commerce or his designee has approved the transfer and the transferred license has been re-issued in the new licensee's name.

* e. A licensee shall post a sign-in sheet for employees indicating the time and position each employee reports for duty and the time each employee signs off from duty. This list shall be

available at all times for inspection purpose by the enforcement officers of the ABTC division. In addition, the licensee shall have the responsibility to ensure that the certified I.D. cards are worn at all times during duty hours for verification during inspection.

* f. It shall be the responsibility of a licensee to register or cause to be registered with the ABTC division, the names of employees employed by his/her establishment who will be engaged in handling the sell, including mixing and/or serving of alcoholic beverages, within twenty-four (24) hours after employment.

* g. It shall be the responsibility of a licensee to keep and preserve for a period of three (3) years adequate records of the gross proceeds of sales of the business. The licensee shall also keep itemized invoices for all merchandise purchased (and whether procured from local or other retail or wholesale outlets), all bank statements and cancelled checks, and all other books or accounts as may be necessary to determine the financial position of the business. All itemized purchase invoices shall bear the date of purchase, name of the seller and purchaser. Cash register tapes may not be used in lieu of itemized invoices for record purposes. In addition to the above records, restaurant licensee shall keep records of gross sales in three (3) separate categories; food, beer and alcoholic beverages. Such records shall be adequate in substance to conform with generally accepted accounting practices and all records shall be written in the English language. All records shall be open for examination at any time by the ABTC Director, any authorized employee of the Department, or its duly authorized agent. The records provided for in this regulation shall be kept at the licensee's place of business or at his/her office or accountant within the CNMI. Failure to keep such records or refuse to allow examination of such records shall subject the licensee to immediate temporary suspension of license.

* h. All on-sale and off-sale licensee shall be required, as a condition of license, to provide monthly sales report of all alcoholic beverage products (and tobacco products, if licensed to sell tobacco products). It shall be the responsibility of the licensee to ensure that such report are submitted to the ABTC division at the end of each month, which shall commence thirty (30) days after the date the license is issued. Such reporting format shall be prescribed by the ABTC division upon issuance of license. Failure to provide the required report, the licensee shall be grounds for immediate temporary suspension in accordance with Section 11(b) under this Title, until such time the licensee complies with this requirement.

* i. Every license issued and in effect under Title 4 CMC, Division 5, Chapter 5 shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises.

Section 10. Prohibitions:

The activities prohibited on a licensed establishment are amended to read as follows:

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 as defined in 1 CMC §7105;
- * 3) After 2:00 a.m. and before 9:00 a.m. if licensee holds an on-sale license, except for Class-7 Special Liquor License holder;
- * 4) After 4:00 a.m. and before 9:00 a.m., if licensee holds a Class 7 Special Liquor license;
- * 5) Before 7:00 a.m. and after 10:00 p.m. if licensee holds an off-sale license;
- * 6) When election polls are open for voting. This prohibition is not applicable to licensees who are situated within the sterile passenger holding areas at CNMI airports, including licensees who are situated within hotels, hotel resorts, and golf resorts.

b. No employee, owner, manager or agent thereof of any licensed premises shall consume or be permitted to consume any alcoholic beverage while on duty on such premises.

* c. Except for Class-3 on-sale restaurant licensee, an on-sale general license holder whose business is primarily engaged in the sale and consumption of alcoholic beverages such as but not limited to night clubs, karaoke clubs, bars, cabarets, or disco clubs, shall not permit:

- 1) Any person under the age of twenty-one (21) years to enter his/her establishment. The licensee shall mandatorily demand, regardless of the appearance of an individual, a valid I.D. Card prior to allowing any person to enter his/her establishment.
- 2) Any person who does not immediately carry in his/her possession a valid official identification card issued by the CNMI Government, Municipalities of the CNMI, the United States Government, United State's states, United States territories, or by foreign governments which bears the person's full name, current photograph, sex, and date of birth indicating that the possessor is twenty-one (21) years of age or older and that said presentation and verification occurs. Provided however that, an on-sale licensee may allow persons under the age of twenty-one (21) years to enter his/her establishment only on the following occasion:
 - a) Special youth programs or events. During such youth program or event, licensee shall remove or lock away all alcoholic beverage and remove any promotional materials of alcoholic beverage from the premises.
 - b) Licensee shall promptly notify, in writing, the Director of ABTC division at least five (5) business days in advance prior to such special youth program or event from taking place.
- 3) Any person under the age of twenty-one (21) years to mix or serve any alcoholic beverage while on duty on such premises.

* d. Stacking alcoholic beverages for consumption by customers is prohibited. "Stacking" means serving more than one drink at any one time to any one individual. Provided however that, beers of not more than six cans or bottle may be sold and served in a larger container such as a special bucket sale to an individual who is accompanied with his/her companions, or if the individual is buying the bucket for other group of customers within the establishment. At no time under any circumstances shall a bucket be sold or served to an individual if the individual is buying a bucket for himself or herself.

* e. 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.

*** Section 11. Suspension and Revocation of Licenses:**

The suspension and revocation of licenses is amended to read as follows:

- * a) A license of any class may be suspended or revoked on any of the following grounds:
1. Where the continuation of a license would be contrary to the public interest;
 2. 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 Alcoholic Beverage and Tobacco Control adopted under Title 4 CMC, Division 5, Chapter 5;
 3. Misrepresentation of a material fact by an applicant in obtaining or renewing a license;
 4. A plea, verdict, or judgment of guilty to any public offense involving moral turpitude;
 5. Upon filing of a sworn written report with the ABTC Director by an inspector setting forth any of the grounds in Section 11 for the temporary suspension or revocation of license;
- b) The ABTC Director may temporarily suspend any license pending a regular hearing by the Department;

1. The ABTC Director upon temporarily suspending a license shall immediately notify the Secretary of Commerce in writing of the decision and action taken to be transmitted with the inspector's report which shall include the names of all witnesses. Any temporary suspension of license shall not exceed forty-eight (48) hours;
2. The Secretary of Commerce, upon receiving the report as required in Section 11(g), shall immediately hold a hearing based on such report as soon as practicable;
3. The Secretary of Commerce, through its findings of facts and conclusion of law, may suspend or revoke the license of any licensee found guilty of violating any of the provisions adopted under Title 4 CMC, Division 5, Chapter 5;
4. Without reference to the ABTC director, any person may file an accusation with the Secretary of Commerce against any licensee setting forth a ground for suspending or revoking a license. Provided however, that such accusation shall be provided with a list of witnesses prior to any decision and order for suspending or revoking a license.

Section 12. Procedure on Revocation or Suspension of License:

* The Secretary of Commerce may revoke or suspend the right of the licensee to use his/her license for the violation of any provision of Title 4 CMC, Division 5, Chapter 5 or any rule or regulation applicable thereto.

In any 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) business days before hearing;
- b. At the hearing, the licensee shall be entitled to be heard in person or through counsel 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 steno-graphically or by machine, but the parties shall not be bound by strict rules of evidence. The Commonwealth Administrative Procedures Act shall apply wherever applicable.
- d. Copies of any transcript made at the hearing shall be given to the licensee upon request at his/her expense.
- e. , The following civil sanctions and/or fines and penalties shall apply to violations of Title 4 CMC, Division 5, Chapter 5, or any rule or regulation applicable thereto:
 - * 1) First Offense: a \$1,000 fine; and a four (4) hours mandatory attendance of ABC Laws and Regulations Refresher Orientation by the Licensee or his/her designee;
 - * 2) Second Offense: a \$3,000 fine; and the Secretary of Commerce shall issue a final notice for revocation of license on third offense;
 - * 3) Third Offense: revocation of license and a \$5,000 fine.
- f. Any order of revocation or suspension by the Secretary of Commerce upon the licensee shall be in addition to any penalty that might be imposed upon the licensee upon his/her conviction in a criminal prosecution for violation of Title 4 CMC, Division 5, Chapter 5.

*** Section 13. Appeal:**

Where the Secretary of Commerce revokes or suspends a license, 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 Safety and one employee of the Office of the Attorney General; or,
 - (ii) sale by public auction with the reserve yet without warranty of fitness or merchantability, and after execution of appropriate releases and/or covenants not to sue by the bidders, and following 14 days public notice in a newspaper of general circulation.

**Commonwealth of the Northern Mariana Islands
Department of Commerce
Alcoholic Beverages and Tobacco Control Division
Sixto K. Igisomar, Secretary
Department of Commerce-ABTC Division Caller Box 10007 CK
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**ARONGOL TOULAP REEL POMWOL ALLÉGH
KKA EBWE AMENDÁÁ REEL ALLÉGHÚL
DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGE AND TOBACCO CONTROL DIVISION**

MÁNGEMÁNGIL MWÓGHUT YEEL BWE EBWE ADAPTÁÁLI POMWOL ATIWLIGH KKAAL:
Commonwealth of the Northern Mariana Islands, Department of Commerce Alcoholic Beverage
me Tobacco Contro (ABTC)division emuschel ebwe adaptááli me aleghú ló atiwlich kkaa e
apasch bwe Proposed Regulations, sáangi mwóghutughutul Administrative Procedure Act, 1
CMC §9104(a). Atiwlich kkaal ebwe bwunguló 10 ráál mwiril yaar adaptááli me appasch llól
Commonwealth Register (1 CMC§9105(b)).

BWÁNGIL: Eyoor bwángil Secretary-il Depatamentol Commerce ebwe arongawow atiwlich kkaal sangi
4 CMC §5575, me 1 CMC§2454. (modified mereel Section 302(c) reel Executive Order 94-3, e iisch llól
Reorganization Plan No.2, Derective 93, Comm. Reg. Vol. 16, reel 11931(bwunguló wool únnyo 15,
1994), P.L. 16-27(bwungló wóól Abrid 07,2008) me Alleghúl Toulap me 17-83(bwunguló wóól Settembre
23, 2012) ebwe codified reel 4 CMC, Dibision 5, Chapter 5, igha e amendá , ayúúló, féér sefal.

KKAPASAL ME AWEWEEL: Pomwol arong me amendáál atiwlich kkaal ebwe ebwe ngaley bwangil
Alcoholic Beverage Control Statutory Enforcement, Licensing me Requirements ikka e féér llól Title 4
CMC, Division 5, Chapter 5, §5575, Alleghúl Toulap 16-27(bwunguló Abrid 07, 2008) me Alleghúl Toulap
17-83(bwunguló Settembre 23,2012).

KKAPASAL ME ÓUTOL: Atiwlich kkaal:

1) Title 4 CMC, Division 5, Chapter 5, §5575, ayoora reel atiwlich kkaal reel ebwe wewe
ngali provisions llól chapter yeel me ebwe amendááli ngare ayúúwól ngare e nesesariyo reel ebwe
féérú alongal meta e tingor llól provisions yeel lóll chapter yeel me ebwe ngalley bwangil me
pomwoli angaangal.

2) Sángi Alleghúl Toulap 16-27 (bwungló Abrid 07,2008), Pomwol Atiwligh kka ngali Alcoholic Beverage Control eayoora exemptions ngali business kka e lo airport reel leliliyal passenger holding areas llól CNMI sangi requirements reel Oral Akkaméló sangi §5554, bwal durantil ralil bwota ngare a susu reel bwotasion sangi §5557.

3) Sángi Alleghúl Toulap 17-83 (bwunguló Disembre 24, 2012), Pomwol Atiwlighil Alcoholic Beverage Control reel requirement il business me aramas reel óbwóss me mutal reel ngare re akkamé ngaliir me ngaleer aramas iye esaal 21 rághil ie e akkameé, úúl, me bweibwogh áshi, me ebwe arongawow atiwligh kkaal e wewe ngali provisions il Alleghúl Toulap 17-83. Reel ebwe ayoora eew feel class il license me amenda li méél license kka ello.

AFAL REEL AMWELIL ME ARONGOWOWUL: Pomwol atiwiigh kkaal ebwe appasch llól Commonwealth Register llól section proposed and newly adopted regulations (1 CMC §9102(a)(1)) me appasch llól bwuley kka llól Civic Center me bwulasiyoo llól eew senatorial district, llól English, Refaluwasch me Remeraalis. (1 CMC §9104(a)(1)).

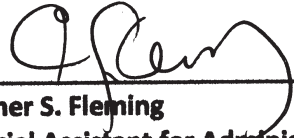
EYOOR: Emal oubwe bwughi Pomwol atiwligh kkal mereel Department of Commerce, Alcoholic Beverage and Tobacco Control Division, e lo Donni Hill Complex, Capital Hill road, Pohnpei Street, me ngare iisch ngare tingor kkopial reel David R. Maritita, Director of ABTC Division, Caller Box 10007 CK, Saipan, MP 96950, ngare email yóómw tingor reel cnmi.abtc@commerce.gov.mp.

ATOTOOLONGOL MWALIILI: Secretary -il Commerece ekke tingor isisilongol mangemange reel pomwol atiwligh kkaal sangi toulap. Iyo emwuschel ebwe isisilong mefiyer reel pomwol atiwligh kkaal ebwe iisch nge a address ngali David R. Maritita, Director of ABTC Division, Caller Box 10007 CK, Saipan, MP 96950. Iischil Memef nge rebwe bwughiló reel Director of ABTC, Department of Commerece, email ngali cnmi.abtc@commerce.gov.mp, ngare faxed ngali 664-3067 Isisilongol mangemang nge ebwe llól 30 raal sangi raalil iye e appasch arongorong yeel. Isalilong yóómw data, mangemang me angingi. (1 CMC § 9104(a)(2)).

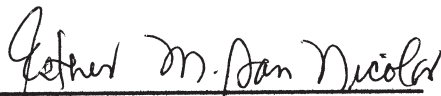
Pomwol atiwligh kkal re apreba li mereel Secretary of the Department of Commerce wóól Unnyo 04,2013 me ebwe adáptááli atiwligh kkaal.

Isáliiyalong: 
SIXTO K. IGISOMAR
Secretary of Commerce

2013-0729
Ráil

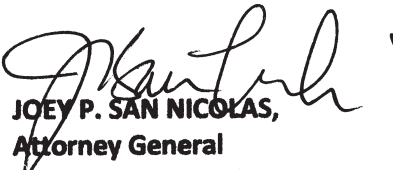
Mwir Sángi: 
Esther S. Fleming
Special Assistant for Administration

8/2/13
Ráil

Amwel Sángi: 
Esther M. San Nicolas
Commonwealth Register

08/21/2013
Ráil

Sángi 1 CMC § 2153(e) (Allégh kkaal a lléghló sángi AG bwe e fil reel ffeerúul me 1 CMC § 9104 (a) (3))mwir sángi AG) Pomwol atiwligh kkaal a appaschlong a takkal amwuri fiischiy, me anguúngú ló ffeerúul me legal sufficiency sángi CNMI Attorney General me ebwele akkatewoow, 1 CMC § 2153(f)(Arongowowul allégh kkaal.


JOEY P. SAN NICOLAS,
Attorney General

COMMONWEALTH GI SANGKATTAN NA ISLAN MARIANAS SIHA

Dipattamentun Kumetsiu

Alcoholic Beverage yan Tobacco Control Division

Sixto K. Igisomar, Sekretariu

**Dipattamentun Kumetsiu, ABTC Division Caller Box 10007 CK
Capital Hill Road, Pohnpei Street, Saipan MP 96950**

tel 670.664.3077; fax 670.3067

info@commerce.gov.mp

**NUTISIAN PUBLIKU PUT I MANMAPROPONIN AREKLAMENTU YAN REGULASION SIHA NI
MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION SIHA GI DIPATTAMENTUN KUMETSU
GI DIBISION ALCOHOLIC BEVERAGE YAN TOBACCO CONTROL**

**I AKSION NI MA'INTENSIONA PARA U MA'ADAPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN
REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Marianas, i Dipattamentun Kumetsiu,
dibision Alcoholic Beverage yan Tobacco Control (ABTC) ha intensiona para u adapta kumu
petmanienti na regulasion siha ni mañechettun i Manmapropo ni na Regulasion siha, sigun gi Aktun
Administrative Procedure, 1 CMC § 9104(a). I Regulasion siha para u ifektibu gi halum i dies(10)
dihas dispues di adaptasion and publikasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b))

ATURIDAT: I Sekretariun Dipattamentun Kumetsiu ma'aturisa para u cho'gui i areklamentu yan
regulasion siha sigun gi 4 CMC §5575, yan i 1 CMC §2454, (matulaika ni Seksiona 302(c) gi Otdin
Eksakatibu 94-3, text ni ma'imprensa gi halum Reorganization Plan No. 2, Directive 93, Comm. Reg.
Baluma 16, gi Numiru 6, gi 11931 [ifektibu na fetcha gi Huniu 15, 1994], Lai Publiku 16-27, [ifektibu
na fetcha gi Abrit 07, 2008], yan Lai Publiku 17-83 [ifektibu na fetcha gi Septembri 23, 2012] ni para u
makodigu gi 4 CMC, Dibision 5, Kapitulu 5, kumu ma'amenda, mana'para yan mata'lun ma'otdin.

I TEMA YAN SUSTANSIAN I PALABRA SIHA: I manmaho'gui ni mapropo ni yan amendasion gi
regulasion siha mafa'tinas para u effectuate i Alcoholic Beverage Control Statutory Enforcement,
Licensing yan Dinimanda siha ni maho'gui gi Titulu 4 CMC, Dibision 5, Kapitulu 5, §5575, Lai
Publiku 16-27 (ifektibu gi Abrit 07, 2008) yan i Lai Publiku 17-83 (ifektibu gi Septembri 23, 2012).

SUHETU NI MASUMARIA YAN ASUNTU NI MANTINEKKA: Esti i areklamentu yan regulasion siha:

1) Titulu 4 CMC, Dibision 5, Kapitulu 5 §5575, ni ha pribeniyi i regulasion siha ni para u
kunsisti yan i prubension gi esti na kapitulu yan u ma'amenda pat u mana'para siha kumu ha deems i
nisisariu para u carry out todu intension siha gi prubension esti na kapitulu yan para u siña ni para u
eksisiu i fuetsa yan u cho'gui i risponsapblidat siha conferred gi sigun.

2) Ma'otdin ni Lai Pupbliku 16-27 (umifektibu gi Abrit 07, 2008), maproponi i Regulasion siha i Alcoholic Beverage Control ni ha pribeniyi para i exemption gi inestapblesin bisnis ni situated gi halum i arian passenger holding gi plâsan batkunairi siha gi halum CNMI ni ginin i dinimânda siha gi Oran Binendi Siha sigun gi §5554, tâtkumu i durântin i ha'ânin ileksion yanggin mababa para botasion sigun gi §5557.

3) Ma'otdin ni Lai Pupbliku 17-83 (umifektibu gi Disembri 24, 2012), i maproponi na Regulasion siha para Alcoholic Beverage Control ha pribeniyi para dinimândan inestapblesin bisnis siha yan petsona siha ni para u fanmasuhetu ni para i latakhillu' na mutta yan pena siha yan para u ma'-impose latakhillu' na mutta siha para i petsona siha ni manggaigi gi papa' benti'un(21) âñu na idât ni mamâhan, ha usa, pat ha possess maseha hâfa na alcoholic beverages, yan para u macho'gui i regulasion siha ni kinunsisti gi prubension siha gi Lai Pupbliku 17-83. Ispisiâmenti para u istapblesi i nuebu na klâsin lisensia yan u amenda i existing na âpas lisensia siha.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i seksiona gi maproponi yan i nuebu ma'adâpta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi kumbinienti na lugât siha gi halum i civic center yan gi halum i ufisanan gubietnamentu siha gi kada distritun senadot, parehu gi English yan gi lingguâhin natibu. (1 CMC § 9104(a)(1)).

AVAILABILITY: I manmaproponi na regulasion siha siña ma'ahenta ginin i Dipattamentun Kumetsiu, Dibision Alcoholic Beverage yan Tobacco Control, ni gaigi gi Donni' Hill Complex giya Capitol Hill Road, Pohnpei Street, pat tugi'i para i yan un famaisin kopia siha gi as David R. Maratita, Direktot ABTC Division, Caller Box 10007 CK, Saipan, MP 96950, pat email i finaisen-mu guatu gi cnmi.abtc@commerce.gov.mp.

PARA U MAPRIBENIYI UPIÑON SIHA: I Sekretâriun Kumetsiu mamamaisin upiñon siha gi esti i manmaproponi na regulasion siha ginin i henerât pupbliku. Maseha hâyi na petsona ni para u na'hâlum upiñon siha gi esti i manmaproponi na regulasion siña macho'gui gi tinigi' ni ma'-address guatu gi as David R. Maratita, Direktot i Dibision ABTC, Caller Box 10007 CK, Saipan, MP 96950. Tinigi' upiñon siha siña machuli' guatu gi Direktot i ABTC, Dipattamentun Kumetsiu, emailed guatu gi cnmi.abtc@commerce.gov.mp, pat faxed gi 664-3067. Todu upiñon siha debi na u fanhâlum trenta(30) dihas ginin i fetchan publikasion esti na nutisia. Put fabot na'hâlum imfotmasion, upiñon, testimoniun kinentra siha. (1 CMC § 9104(a)(2)).

Esti i manmaproponi na regulasion siha manma'aprueba ni Sekretâriun Dipattamentun Kumetsiu siha gi Huniu 04, 2013 yan ha intensiona para u adâpta esti na regulasion siha.

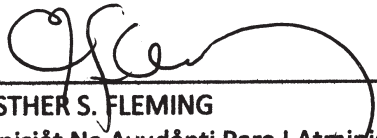
Nina'hâlum as:


SIXTO K. IGISOMAR
Sekretâriun Kumetsiu

2013-0729
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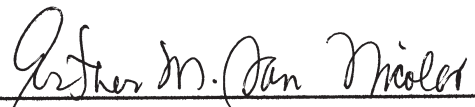
Pâhina 2

Rinisibi as:


ESTHER S. FLEMING
Ispisiát Na Ayudánti Para I Aministrasion

8/21/13
Fetcha

Pine'lu yan Ninota as:


ESTHER M. SAN NICOLAS
Rehistran Commonwealth

08/21/2013
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Sigun i 1 CMC § 2153(e) (I Inapruuban Abugádu Henerát gi regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (inahentan inapruuban Abugádu Henerát) i manmaproponi na regulasion siha ni mafetchettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligát ginin i CNMI Abugádu Henerát yan debi na u mapublika, 1 CMC § 2153(f) (puplikasion areklamentu yan regulasion siha).

Mafetcha esti gi diha 15th di August, 2013.


JOEY P. SAN NICOLAS
Abugádu Henerát