

TITLE 20: DEPARTMENT OF COMMERCE

**CHAPTER 20-10
ALCOHOL BEVERAGE AND TOBACCO CONTROL DIVISION**

**SUBCHAPTER 20-10.1
ALCOHOL BEVERAGE CONTROL RULES AND REGULATIONS**

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Subchapter Authority: 1 CMC § 2454; 4 CMC § 5575, Executive Order 94-3 (effective Aug. 23, 1994).

Subchapter History: Amdts Adopted 40 Com. Reg. 40512 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 40383 (Nov. 28, 2017); Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 26 Com. Reg. 23097 (Nov. 30, 2004); Amdts Proposed 26 Com. Reg. 22979 (Oct. 26, 2004); Amdts Adopted 17 Com. Reg. 13393 (May 15, 1995); Amdts Proposed 17 Com. Reg. 13277 (Apr. 15, 1995); Amdts Adopted 17 Com. Reg. 13395 (May 15, 1995); Amdts Proposed 17 Com. Reg. 13280 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 13026 (Mar. 15, 1995); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: 1 CMC § 2451 originally created the Department of Commerce and Labor. 1 CMC § 2454 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

4 CMC §§ 5511-5595 govern alcoholic beverage control in the Commonwealth. 4 CMC § 5575 authorizes the Alcoholic Beverage Control Board to issue regulations necessary to carry out its statutory duties.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 §§ 103 and 302(c):

Section 103. Department of Commerce.

The Department of Commerce and Labor is re-designated the Department of Commerce.

Section 302. Department of Commerce.

(c) Alcoholic Beverage Control. The Commonwealth Alcoholic Beverage Control Board is

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abolished and its functions transferred to the Secretary of Commerce.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001. See also the commission comment to 4 CMC § 5511.

PL 11-75 (effective Mar. 26, 1999), codified at 4 CMC §§ 50131-50146, created the Alcohol Beverage and Tobacco Control Division within the Department of Commerce, responsible for the statutory duties and responsibilities for alcoholic beverage control and tobacco control. See 4 CMC § 50131.

On December 16, 1978, the Department of Commerce published proposed “Statistical Research Center Rules and Regulations.” See 1 Com. Reg. 73 (Dec. 16, 1978). A notice of adoption for the 1978 proposed regulations was never published.

PL 15-91 (effective Oct. 2, 2007) clarified the authority of senatorial districts to adopt their own alcohol laws. See 4 CMC § 5512.

PL 15-115 (effective Nov. 29, 2007), codified at Title 4, Chapter 5 of the CNMI Code, added provisions regarding sampling alcoholic beverages, amended the fee schedule for licenses, and modified prohibitions on minors in bar areas and stacking drinks. Regulations implementing PL 15-115 were proposed in 30 Com. Reg. 28489 (May 27, 2008) and adopted in 30 Com. Reg. 28889 (Oct. 25, 2008).

PL 16-44 (effective Aug. 14, 2009) clarified the provisions regarding sampling.

The 2013 amendments to this subchapter made extensive amendments to the subchapter.

Part 001 - General Provisions

§ 20-10.1-001 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

§ 20-10.1-005 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

§ 20-10.1-010 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.

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History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Part 100 - Licenses

§ 20-10.1-101 License Applications

- (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.
- (d) Applications for any class of alcoholic beverage control license shall be limited to the premises for which the license is applied for and shall not exercise the privileges conferred by the license at other premises

History: Amdts Adopted 40 Com. Reg. 40512 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 40383 (Nov. 28, 2017); Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

§ 20-10.1-105 Type of License

Class		Fee
Class 1	Manufacturer's License	\$1,500
	Annual Sampling Fee	\$100
Class 2	Wholesale Agent's License	\$1,000
	Annual Sampling Fee	\$100
Class 3	Retail Dealer's On-Sale License	
	Beer and Wine	\$150
	General	\$500
	Annual Sampling Fee	\$50
	General – If Class A Restaurant License	\$300
Class 4	Retail Dealer's Off-Sale License	
	Beer and Wine	\$150
	General	\$500
	Annual Sampling Fee	\$50
Class 5	Temporary Beer License	\$100
Class 6	Club License	\$1,000
Class 7	Special Liquor License	\$1,500

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Class 8	Special Casino Liquor License Annual Sampling Fee	\$20,000 \$200
Class 9	Special Electronic Gaming Liquor License Annual Sampling Fee	\$10,000 \$200

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40512 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 40383 (Nov. 28, 2017); Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 30 Com. Reg. 28889 (Oct. 25, 2008); Amdts Proposed 30 Com. Reg. 28489 (May 27, 2008); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

§ 20-10.1-110 Duration

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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

§ 20-10.1-115 Renewal

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 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The Commission corrected the capitalization of the word “licensee” pursuant to 1 CMC § 3806(f). The Commission struck the figure “30” pursuant to 1 CMC § 3806(e).

§ 20-10.1-120 Qualifications of Prospective Licensees

(a)(1) The Secretary of Commerce or his designee, in considering an application for an alcoholic beverage control license, shall conduct a thorough investigation into an applicant’s background. The Secretary of Commerce or his designee may inquire into the following:

- (i) The applicant’s moral character;
- (ii) The applicant’s prior criminal record;
- (iii) Whether the applicant has been adjudged insane;
- (iv) Location of the premises identified in the application to determine whether the premises would be a nuisance;
- (v) The applicant’s past business conduct and practices;
- (vi) Condition of premises identified in the application; and

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(vii) 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, the issuance of a license, or the exercise of the license sought to be issued.

(2) The Secretary of Commerce or his designee will carefully consider the results of this investigation and 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 agents 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 listings are complete and legally accurate, and reveal sufficient compliance with all pertinent provisions of Chapter 5 of Division 5 of Title 4 of the Commonwealth Code and these regulations as made applicable.

(c) All applicants, as a condition for receiving an on-sale 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 in the amount of \$5,000.

(d) All applicants, as a condition for obtaining any class of license, with the exception of class 1 and class 2 applicants, shall meet the following requirements prior to the issuance of a 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 an I.D. 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 be valid for two years from the date of certification.

(2) Make a deposit of \$25 for the cost of certification for each person participating in 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 sale or service of alcoholic beverages.

(4) In the event that a certified person transfers to another licensed establishment/employer prior to the expiration of his/her certified I.D. card, the person may carryover his/her certification credential. Provided however that the person transferring to another licensed establishment/employer shall be responsible to inform the ABTC division to amend his/her certification to be carried over to his/her new place of employment. The new employer shall be responsible for the transfer of a certified J.D. card, at a cost of \$25 per transfer.

(5) Each licensee shall be responsible to ensure that his/her employees attend the recertification training by the ABTC division upon expiration of the certified I.D. card.

(6) A processing fee of \$10 shall be assessed for each request to replace a certified I.D. card.

(e) All applicants, as a condition for receiving an on-sale class 7 special liquor license, a

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class 8 special casino liquor license, or a class 9 special electronic gaming liquor license shall meet the following requirements prior to the issuance of license:

- (1) Applicant must be in good business standing as demonstrated by compliance with all Commonwealth and federal laws and shall have no prior ABTC violation(s) on file in the past five years from the date of the application.
- (2) Must complete the training and certification of responsible alcohol sales and services and have a valid certification card under subsection (d)(1).

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 40 Com. Reg. 40512 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 40383 (Nov. 28, 2017); Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 17 Com. Reg. 13393 (May 15, 1995); Amdts Proposed 17 Com. Reg. 13277 (Apr. 15, 1995); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

The 1995 amendments added new subsection (c). The 2013 amendments added subsections (d) and (e).

§ 20-10.1-125 Review

Upon inspection and investigation, and in reference to the guidelines set forth in section 20-10.1-120, 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 decision and order shall be accompanied by separate findings of facts and conclusions 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The 2013 amendments changed the name of this section from “Review” to “Application Review.” The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission corrected the capitalization of the word “review” in subsection (c) pursuant to 1 CMC § 3806(f).

§ 20-10.1-130 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 Secretary of Commerce or his designee.

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(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 years.

(1) Procedures for Sampling:

(i) No sample may be offered from more than four products at any one time.

(ii) No more than one bottle of each of the four products to be sampled may be displayed and opened at any one time.

(iii) Samples given shall not be more than two ounces for each product sampled.

(iv) All open bottles must be visible at all times and all open bottles must be removed at the conclusion of the sampling activity.

(v) No person under the age of twenty-one years shall conduct or participate in the sampling activity.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 30 Com. Reg. 28889 (Oct. 25, 2008); Amdts Proposed 30 Com. Reg. 28489 (May 27, 2008); Amdts Adopted 17 Com. Reg. 13395 (May 15, 1995); Amdts Proposed 17 Com. Reg. 13280 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 13026 (Mar. 15, 1995); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The 1995 amendments added new subsection (c). The 2008 amendments added new subsection (d).

The Commission inserted commas after the words “maintained” in subsection (a) and “equipment” in subsection (b) pursuant to 1 CMC § 3806(g). The Commission struck the figure “21” from subsections (d) and (d)(i)(v) pursuant to 1 CMC § 3806(e).

§ 20-10.1-135 Transfer of License

(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 20-10.1-120 for an original license.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission inserted a comma after the word “removal” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 20-10.1-140 Responsibilities of the Licensee

(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 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 on-sale licensees:

(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 with alcoholic beverage control 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 beverages 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 premises 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 a 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.”

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

(d) 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 purposes 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.

(e) 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 of, including mixing and/or serving of, or selling of alcoholic beverages, within 24 hours after employment.

(f) It shall be the responsibility of a licensee to keep and preserve for a period of three 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 licensees shall keep records of gross sales in three 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.

(g) All on-sale and off-sale licensees 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 reports are submitted to the ABTC division at the end of each month, which shall commence 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 under § 20-10.1-150 until such time the licensee complies with this requirement.*

(h) Every license issued and in effect under Chapter 5 of Division 5 of Title 4 of the Commonwealth Code shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises.

* So in original.

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Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40512 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 40383 (Nov. 28, 2017); Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 30 Com. Reg. 28889 (Oct. 25, 2008); Amdts Proposed 30 Com. Reg. 28489 (May 27, 2008); Amdts Adopted 26 Com. Reg. 23097 (Nov. 30, 2004); Amdts Proposed 26 Com. Reg. 22979 (Oct. 26, 2004); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

The 2004 amendments added subsection (i). The 2013 amendments completely rewrote subsections (b) through (h) and removed former subsection (i).

§ 20-10.1-145 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 as defined in 4 CMC § 5558;
 - (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 on-sale licensees operating within the sterile passenger holding areas at CNMI airports, hotels, hotel resorts, golf resorts, casino resorts, or at Managaha island.
 - (7) Exercise the privilege of the license at other premises not conferred by the license.
- (b) The time prohibitions set forth in subsections (a)(3)–(5) shall not apply to holders of class 8 and class 9 licenses.
- (c) 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.
- (d) Except for class 3 on-sale restaurant licensees, 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 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 States' 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 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 21 years to enter his/her establishment only on the following occasion:
 - (i) Special youth programs or events. During such youth program or event, licensee shall remove or lock away all alcoholic beverages and remove any promotional materials of alcoholic

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beverages from the premises.

(ii) Licensee shall promptly notify, in writing, the Director of ABTC division at least five business days in advance prior to such special youth program or event taking place.

(3) Any person under the age of 21 years to mix or serve any alcoholic beverage while on duty on such premises, except restaurant establishments.

(e) 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 bottles 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 another 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.

(f) Refill prohibited. A licensee shall not refill any distilled spirits' containers with distilled spirits 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.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 40 Com. Reg. 40512 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 40383 (Nov. 28, 2017); Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 30 Com. Reg. 28889 (Oct. 25, 2008); Amdts Proposed 30 Com. Reg. 28489 (May 27, 2008); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The 2013 amendments amended subsections (a)(3) through (a)(6), (c), and (d), and added subsection (e).

In codifying 40 Com. Reg. 40512, the Commission renumbered (a)(7) to (b), (a)(8) to (a)(7), and renumbered all subsequent sections accordingly.

§ 20-10.1-150 Revocation of Licenses

(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 this section 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 hours;

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- (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.

* So in original. See Commission Comment.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The 2013 amendments renamed this section from “Revocation of Licenses” to “Suspension and Revocation of Licenses.”

Section 11(g), referenced in subsection (b)(2), does not appear in the original regulation.

The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission corrected the capitalization of the word “title” in subsection (a)(2) pursuant to 1 CMC § 3806(f). The Commission converted a semicolon at the end of subsection (a)(5) to a period and converted a semicolon at the end of subsection (b) to a colon pursuant to 1 CMC § 3806(g). The Commission struck the figure “48” from subsection (b)(1) pursuant to 1 CMC § 3806(e).

§ 20-10.1-155 Procedure on Revocation or Suspension of License

- (a) 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.
- (b) In every case where it is proposed to revoke or suspend the exercise of any license, the licensee shall be given:
 - (1) Notice and hearing; the notice to be given at least five business days before hearing;
 - (2) 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;
 - (3) 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 [1 CMC § 9101 et seq.] shall apply wherever applicable.
 - (4) Copies of any transcript made at the hearing shall be given to the licensee upon his request and at his expense.
 - (5) 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:
 - (i) First offense: a \$1,000 fine; and a four hours mandatory attendance of ABC Laws and Regulations Refresher Orientation by the licensee or his/her designee;
 - (ii) Second offense: a \$3,000 fine; and the Secretary of Commerce shall issue a final notice for revocation of license on third offense;

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- (iii) Third offense: revocation of license and a \$5,000 fine.
- (6) 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 17 Com. Reg. 13393 (May 15, 1995); Amdts Proposed 17 Com. Reg. 13277 (Apr. 15, 1995); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

Commission Comment: The original paragraphs of this section were not designated. The Commission designated subsections (a) and (b).

The Commission struck the figure “5” from subsection (b)(1) and (b)(5)(i) pursuant to 1 CMC § 3806(e). The Commission corrected the capitalization of the words “offense” in subsections (b)(5)(i), (b)(5)(ii), and (b)(5)(iii), and “licensee” in subsection (b)(5)(1) pursuant to 1 CMC § 3806(f).

§ 20-10.1-160 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Adopted 9 Com. Reg. 4845 (Jan. 19, 1987); Proposed 6 Com. Reg. 3228 (Nov. 15, 1984).

§ 20-10.1-165 Disposal of Confiscated Alcoholic Beverages

All alcoholic beverages confiscated in the Commonwealth shall be disposed of at the discretion of the Secretary of Commerce by either:

- (a) 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,
- (b) Sale by public auction with 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.

History: Amdts Adopted 35 Com. Reg. 34366 (Oct. 28, 2013); Amdts Proposed 35 Com. Reg. 34194 (Aug. 28, 2013); Amdts Adopted 17 Com. Reg. 13395 (May 15, 1995); Amdts Proposed 17 Com. Reg. 13280 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 13026 (Mar. 15, 1995).

Commission Comment: The Commission corrected the spelling of the word “of” in the initial paragraph pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of the words “dumping” in subsection (a) and “sale” in subsection (b) pursuant to 1 CMC § 3806(f).

CHAPTER 20-10
ALCOHOL BEVERAGE AND TOBACCO CONTROL DIVISION

SUBCHAPTER 20-10.2
TOBACCO CONTROL RULES AND REGULATIONS

Part 001	General	Provisions	License	
[Reserved]			§ 20-10.2-110	Absolute Prohibition on Issuance
Part 100	Requirements		§ 20-10.2-115	Required Signs
§ 20-10.2-101	Required Documents		§ 20-10.2-120	Condition of Premises
§ 20-10.2-105	Grant or Denial of			

Subchapter Authority: 1 CMC § 2454; 4 CMC §§ 50131-50146; Executive Order 94-3 (effective Aug. 23, 1994).

Subchapter History: Proposed 24 Com. Reg. 19608 (Oct. 30, 2002);* Adopted 21 Com. Reg. 16801 (June 23, 1999); Proposed 21 Com. Reg. 16769 (May 19, 1999).

*A notice of adoption for the 2002 proposed regulations had not been published as of December 31, 2004.

Commission Comment: 1 CMC § 2451 originally created the Department of Commerce and Labor. 1 CMC § 2454 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 103:

Section 103. Department of Commerce.

The Department of Commerce and Labor is re-designated the Department of Commerce.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 11-75 (effective Mar. 26, 1999), codified as amended at 4 CMC §§ 50131-50146, created the Alcohol Beverage and Tobacco Control Division within the Department of Commerce, responsible for the statutory duties and responsibilities for alcoholic beverage control and tobacco control. See 4 CMC § 50131. The act sets forth requirements for licenses to sell tobacco products and the control of tobacco in the Commonwealth. 4 CMC § 50146 authorizes the Department of Commerce to promulgate rules and regulations necessary to implement the licensing requirements of the act.

The proposed 2002 regulations repeal the 1999 regulations and promulgate new regulations.

Part 001 - General Provisions

[Reserved.]

Part 100 - Requirements

§ 20-10.2-101 Required Documents

The following documents must be submitted prior to the review and granting of a license to sell tobacco and tobacco products in the Commonwealth:

- (a) Tobacco control license application;

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- (b) Current police clearance/criminal record;
- (c) List of names of employees or agents authorized to sell tobacco items (must be 18 years or older) with a valid photocopy of their official identification;
- (d) Public health sanitation permit (if applicable for other business purposes);
- (e) Copy of business license;
- (f) Copy of lease or rental agreement, or title or deed (if a property owner);
- (g) Map of exact business location; and
- (h) Payment receipt (application fee of \$5.00, and license fee depending on license sought by the applicant).

Modified, 1 CMC § 3806(f).

History: Adopted 21 Com. Reg. 16801 (June 23, 1999); Proposed 21 Com. Reg. 16769 (May 19, 1999).

Commission Comment: The Commission corrected the placement of the semicolon in subsection (g) and removed an extraneous comma pursuant to 1 CMC § 3806(g).

§ 20-10.2-105 Grant or Denial of License

Following receipt of the necessary documents, a thorough inspection will be conducted by the Alcoholic Beverage and Tobacco Control Division (“ABTC”). The ABTC shall, through the Secretary of Commerce, issue a decision, upon findings and adequate investigation, whether to grant or disapprove an application within fifteen days. If disapproved, the person aggrieved by such a denial shall be entitled to a review of the decision pursuant to the Administrative Procedure Act [1 CMC §§ 9101, et seq.], provided the person so aggrieved provides a written appeal/request for a hearing to the Secretary of Commerce within thirty days of the receipt of the notification of denial.

History: Adopted 21 Com. Reg. 16801 (June 23, 1999); Proposed 21 Com. Reg. 16769 (May 19, 1999).

§ 20-10.2-110 Absolute Prohibition on Issuance

The Department of Commerce, Alcoholic Beverage and Tobacco Control Division, shall not issue a license of any class to any applicant that falls into one of the following restrictions:

- (a) The applicant is not the real party in interest;
- (b) The applicant is under eighteen years of age;
- (c) Except in the case of a license revoked for non-payment of the renewal fee, the applicant is a person or establishment that held a tobacco license of any class that was revoked within the prior year by the Department of Commerce, Alcoholic Beverage and Tobacco Control Division;

(d) The applicant is a retail establishment located within a distance of 300 feet from any public or private school building.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 21 Com. Reg. 16801 (June 23, 1999); Proposed 21 Com. Reg. 16769 (May 19, 1999).

Commission Comment: In subsection (c), the commission changed the final period to a semi-colon to correct a manifest error.

§ 20-10.2-115 Required Signs

Any business applying for a license to sell any tobacco product and/or preparation shall clearly and conspicuously post signs reading:

“TOBACCO SALES PROHIBITED TO PERSONS UNDER THE AGE OF 18”

next to any cash register or any other place(s) where such items may be purchased. These sign(s) shall be at least eleven inches by eight and one-half inches in dimension, and the letters on said sign(s) shall be printed in a bright color, with large, capitalized letters, printed in a plain, easily read font or lettering style.

Modified, 1 CMC § 3806(e).

History: Adopted 21 Com. Reg. 16801 (June 23, 1999); Proposed 21 Com. Reg. 16769 (May 19, 1999).

§ 20-10.2-120 Condition of Premises

All applicants must have an English written billboard (sign board) mounted or displayed outside the business premises as indicated on the proposed (d.b.a.) on the application form. Retail establishments shall ensure that cigarettes are displayed behind a glass partition and any other tobacco products behind the cashier's counter or in a locked cabinet that can be opened only by the owner or an agent of the retail establishment. In addition, the sale of cigarettes from vending machines is prohibited unless the vending machine is located in a bar, cabaret, or any enclosed establishments for which the minimum age for admission is eighteen years. All licenses issued shall at all times be conspicuously posted and exposed to view for inspection on the licensed establishment.

Modified, 1 CMC § 3806(e).

History: Adopted 21 Com. Reg. 16801 (June 23, 1999); Proposed 21 Com. Reg. 16769 (May 19, 1999).

CHAPTER 20-10

ALCOHOL BEVERAGE AND TOBACCO CONTROL DIVISION

SUBCHAPTER 20-10.3
BETEL NUT CONTROL RULES REGULATIONS

Part 001	General Provisions	§ 20-10.3-135	Application Review
§ 20-10.3-001	Authority	§ 20-10.3-140	Transfer of License
§ 20-10.3-005	Purpose	§ 20-10.3-145	Responsibilities of the
§ 20-10.3-010	Construction		Licensee
§ 20-10.3-015	Severability	§ 20-10.3-150	Prohibitions
§ 20-10.3-020	Definitions. Words	§ 20-10.3-155	Enforcement: Fines,
and Terms: Tense, Number, and Gender			Penalties, and Suspension and Revocation of
§ 20-10.3-025	Definitions		Licenses
		§ 20-10.3-160	Right to
Part 100	Licenses		Administrative Hearing
§ 20-10.3-101	License Required	§ 20-10.3-165	Procedure on
§ 20-10.3-105	License Applications		Revocation or Suspension of License
§ 20-10.3-110	Type of License	§ 20-10.3-170	Procedure on
§ 20-10.3-115	License Duration		Unlicensed Sales of Betel Nut “Areca Nut” -
§ 20-10.3-120	License Renewal		Disposal of Confiscated Betel Nut “Areca
§ 20-10.3-125	License Restrictions		Nut”
§ 20-10.3-130	Qualifications of		
Prospective Licensee			

Subchapter Authority: 1 CMC § 2454; 4 CMC § 51920; 1 CMC §§ 9101–9115.

Subchapter History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

Part 001 - General Provisions

§ 20-10.3-001 Authority

The proposed Betel Nut Control Rules and Regulations have been promulgated for adoption pursuant to 4 CMC § 51920, of the Commonwealth Code, as enacted under Public Law 19-66, Betel Nut Control Act of 2015.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-005 Purpose

To establish uniform regulations in order to carry out the intent and purpose of Public Law 19-66 (effective date September 23, 2016), as enacted and codified at Title 4, Division 5, Chapter 19 of the Commonwealth Code.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-010 Construction

- (a) Nothing contained in these regulations shall be construed as to conflict with any provision of the Consumer Protection Act (codified at 4 CMC §§ 5101-5123).
- (b) These regulations shall be interpreted in accordance with generally accepted principles of statutory construction.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-015 Severability

If any clause, sentence, subparagraph, paragraph, subsection, section, chapter, or other portion of these entire regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair, or invalidate the remainder of these regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter, or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-020 Definitions. Words and Terms: Tense, Number, and Gender

In interpreting these regulations, except when otherwise plainly declared or clearly apparent from the context: Words in the present tense include the future tense; the singular includes the plural and the plural includes the singular; and words of one gender include the other genders.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-025 Definitions

Except as hereinafter stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this chapter shall be the same as those used in Public Law 19-66 (codified at 4 CMC §§ 51901–51921):

- (a) “ABTC” shall mean Alcohol Beverage and Tobacco Control.
- (b) “Act” shall mean the Betel Nut Control Act of 2015 (codified at 4 CMC §§ 51901–51921).
- (c) “Areca Nut” or “Betel Nut” shall mean the seed of the areca palm.
- (d) “Business” includes every trade, occupation, profession, and other lawful purpose, whether or not carried on for profit.

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- (e) “CMC” means the Northern Mariana Islands Commonwealth Code.
- (f) “Commonwealth” or “CNMI” means the Commonwealth of the Northern Mariana Islands.
- (g) “Department of Commerce” means the CNMI Department of Commerce.
- (h) “Employee” means any individual, who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.
- (i) “Employer” includes any person acting directly or indirectly in the interest of an employer in relation to an employee.
- (j) “Entity” includes corporation and foreign corporation; nonprofit corporation; profit and nonprofit unincorporated associations; business, trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States and foreign government.
- (k) “Person” shall mean any natural person, corporation, firm, partnership, association, institution, joint-stock company, trust, other organizations of persons, or any other legal entity.
- (l) “Secretary” shall mean the Secretary of Commerce.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

Part 100 - Requirements

§ 20-10.3-101 License Required

A person or business entity shall be required to obtain a Betel Nut Control License issued by the Department of Commerce, Alcohol Beverage and Tobacco Control (“ABTC”) Division prior to engaging in the importation and/or selling of betel nut in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(f).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-105 License Applications

- (a) Applications for any Betel Nut Control License or transfer of any license shall be submitted upon proper forms to be provided and approved by the Secretary or his/her 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 or his/her designee determines that additional information is necessary, consideration of the application may be postponed and a reasonable period of time may be afforded to the applicant to comply with this requirement.

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(c) A deposit of \$50 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.

(d) An assessment of \$25 shall cover the cost of any amendment of license made or duplication of license requested in addition to the filing fee in § 20-10.3-105(c).

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-110 Type of License

<u>Class</u>	<u>Fee</u>
Class 1 – Betel Nut Importation License.....	\$75
Class 2 – Betel Nut Retail Dealer License.....	\$75

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-115 License Duration

Upon payment of required license fees, each license shall be for a period of one year commencing on the date the license is approved by the Director of ABTC Division and Secretary.

Modified, 1 CMC § 3806(e).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-120 License Renewal

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 shall be assessed for each day the license is not renewed. If a Licensee fails to renew a license within 30 calendar days from the date of expiration, the license shall automatically be revoked and the Secretary 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.

Modified, 1 CMC§ 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-125 License Restrictions

The Secretary or his/her designee shall not issue a license based on the following restrictions:

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- (a) The applicant is not the real party in interest;
- (b) The applicant is under the age of 18 years old; and
- (c) The applicant is a person or business entity that held a license to sell betel nut that was revoked within the prior year by the Secretary.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-130 Qualifications of Prospective Licensee

(a) Prior to the Secretary or his/her designee considering an application for a Betel Nut Control License, a thorough investigation into an applicant's background will be conducted. The Secretary or his/her designee may inquire into an applicant's:

- (1) moral character;
- (2) prior criminal record;
- (3) past business conduct and practices;
- (4) condition of premises; and
- (5) any and all other matters which in the judgment of the Secretary or his/her designee pertain to or affect the matter of the application, its issuance or the exercise of the license applied for.

(b) The Secretary or his/her designee will carefully consider the results of this investigation and may make a determination as to approval or disapproval of the application.

(c) Any applicants for a Betel Nut Control License who are otherwise involved in any way as proprietors or authorized representatives of the business being considered for licensing, shall be listed by legal name in the current application on file with the Alcohol Beverage and Tobacco Control Division. No license shall be issued or renewed unless these listings are complete and legally accurate and reveal sufficient compliance with all pertinent provisions of 4 CMC §§ 51901-51921 and/or these regulations as made applicable.

(d) All applicants, as a condition for obtaining a Betel Nut Control License, shall meet the following requirements prior to the issuance of license:

- (1) Attend the training and certification program on responsible betel nut sales and services provided by the Alcohol Beverage and Tobacco Control Division. Upon completion of training and certification, the Secretary or his/her designee shall issue identification cards certifying the owner and each employee of his/her establishment, which shall be worn at all times during on-duty hours. Such certified identification cards shall expire three years from the date of issuance and certification.
- (2) Make a deposit of \$25 for the cost of certification which will be assessed for each person that completes the certification process. Full payment of the certification fee is due at the time the certified identification card is issued. This certification shall be concurrent in conjunction with the alcohol and tobacco certification process as required under NMIAC §§ 20-10.1-120(d)(1)-(3).

(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 sales of betel nut.

(4) Except in the existing employment under the same corporation or licensee, in the event that a certified person transfers to another licensed establishment/employer prior to the expiration of his/her certified identification card, the person may carryover his/her certification credential. Provided however that the person transferring to another licensed establishment/employer shall be responsible to inform the ABTC division within 24 hours to amend his/her certification to be carried over to his/her new place of employment. The new employer shall be responsible for the transfer of a certified identification card, at a cost of \$25.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-135 Application Review

(a) Upon inspection and investigation, and in reference to the guidelines set forth in § 20-10.3-120, the Secretary or his/her designee shall consider the application and shall within 15 days give its decision, granting or refusing, the application.

(b) If the Secretary or his/her designee decides in favor of the applicant or licensee, the applicant or licensee shall be promptly notified of the decision. If the Secretary or his/her designee decides otherwise, an appropriate decision and order shall be issued and provided to the applicant or licensee. The Secretary shall explain his/her findings to support his/her decision. The Secretary or his/her designee shall within a reasonable amount of time send a certified copy thereof to the applicant or licensee.

(c) Where an application for license has been denied, a person aggrieved by such a denial shall be entitled to a review of the decision pursuant to the procedures established under the Administrative Procedures Act, 1 CMC §§ 9108-9115.

(d) Judicial review shall be as provided by law.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-140 Transfer of License

(a) Where a license has been issued to or in the name of a corporation, partnership, limited liability company, 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 or his/her designee upon application for transfer between two distinct business entities.

(b) No application for transfer of a license shall be approved by the Secretary or his/her designee unless the applicant has met the same qualifications as required in § 20-10.3-130 for an

original license.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

Commission Comment: The Commission renumbered “Section 8” to “§ 20-10.3-130” in (b) pursuant to 1 CMC § 3806(g).

§ 20-10.3-145 Responsibilities of the Licensee

(a) It shall be the responsibility of a licensee to notify the Secretary or his/her 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 24 hours of such change shall require an immediate temporary suspension of the license pending investigation and review by the Secretary or his/her designee. The suspension of the license shall remain in effect until removal, modification, or other action as may be deemed necessary and appropriate.

(b) A licensee proposing to transfer or who is in the process of transferring his/her 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 CNMI laws and regulations pertaining thereto until such time as the Secretary or his/her designee has approved the transfer and the transferred license has been re-issued in the new licensee's name. 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 sale of betel nut within 24 hours after employment.

(c) Every license issued and in effect under 4 CMC §§ 51901-51921, shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises or business establishment.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-150 Prohibitions

(a) Underage Sales. Unless based on actual knowledge that the person buying betel nut is at least 18 years old, at no time under any circumstances shall any betel nut be sold or furnished by any licensee:

(1) To any person under the age of 18 without first requesting that the person provide a valid government identification card; and

(2) To 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 States, United States territories, or by foreign governments which

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bears:

- (i) the person's full name;
- (ii) current photograph;
- (iii) sex; and
- (iv) date of birth indicating that the possessor is 18 years of age or older and that said presentation and verification occurs.

(b) Condition of Premises: Betel Nut Display and Required Sign.

(1) A person or business entity shall ensure that betel nut is displayed in accordance with this section. Betel nut shall not be displayed openly or in any manner in any part of the business premises generally open to the public. Such packages or bags of betel nut shall be secured underneath or behind the cashier counter at the point of sale, which can only be accessed by the owner or an authorized agent (cashier) of the retail establishment upon the request from a person of legal age to purchase such item or product.

(2) Any person or business entity which sells or permits to be sold on its premises betel nut shall clearly, continuously, and conspicuously post signs reading "BETEL NUT SALE IS PROHIBITED TO PERSONS UNDER THE AGE OF 18" at the area where the betel nut is displayed or available for sale, and next to any cash register or any other place(s) where such items may be purchased from the point of sale. Said signs shall be at least 11 inches by 8.5 inches in dimension, and the letters on said signs shall be printed in a bright color, with large capitalized letters, printed in a plain easily readable font or lettering style.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-155 Enforcement: Fines, Penalties, and Suspension and Revocation of Licenses

(a) Any person or business entity that offers, gives, or permits to be given or sold any betel nut to an individual under the age of 18 (a minor) shall, upon the issuance of a notice of violation to the owner, agent, or employee in charge at the time of violation by any representative of the Department of Commerce, ABTC Division, or the Commonwealth Health Care Corporation, Community Guidance Center, who has properly identified himself or herself, shall be fined and penalized within a period of two years, in the following manner:

- (1) First Offense: A fine of not less than \$ 100 but not more than \$300.
- (2) Second Offense: A fine of not less than \$300 but not more than \$500.
- (3) Third Offense: A maximum fine of \$500 and revocation of license up to one year.
- (4) Any person or business entity who violates the provisions of § 20-10.3-140 shall be penalized and pay a maximum of \$300 in monetary fine.
- (5) Any person, parent or legal guardian, of any minor who suffers or permits to allow by either willfully or negligently, such persons under the age of 18 years old to carry, possess, or consume betel nut, shall be penalized and pay a maximum fine of \$300.
- (6) Any person(s) or business establishment found to be operating and selling betel nut without a valid Betel Nut Control License issued by the Department of Commerce, ABTC Division, in violation of Section 1,* shall pay a maximum fine of \$500.

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(b) Suspension and Revocation of Licenses. A Betel Nut Control License may be suspended and/or revoked for any of the following reasons:

- (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 4 CMC §§ 51901–51921 and/or these regulations;
- (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; or
- (5) Upon filing of a sworn written report with the ABTC Director by an inspector setting forth any of the grounds in § 20-10.3-150 for the suspension or revocation of license.

* So in original.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-160 Right to Administrative Hearing

Upon the filing of a request for such hearing with the Secretary, any person or business entity found subject to a fine or penalty, including suspension or revocation of license, for an offense established under any of the provisions established under these regulations, shall have the right to an administrative hearing in accordance with the procedures established under the Administrative Procedures Act, 1 CMC §§ 9108–9115.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-165 Procedures on Revocation or Suspension of License

(a) The Secretary may revoke or suspend the right of the licensee to use his/her license for the violation of any provision of 4 CMC §§ 51901-51921 and/or any rule or regulation applicable thereto.

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

- (1) Notice and hearing; the notice to be given at least five business days before hearing;
- (2) 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;
- (3) 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; and
- (4) Copies of any transcript made at the hearing shall be given to the licensee upon request at his/her expense.

Modified, 1 CMC § 3806(e).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

§ 20-10.3-170 Procedure on Unlicensed Sales of Betel Nut “Areca Nut” – Disposal of Confiscated Betel Nut “Areca Nut”

(a) In the case that a person is advertising, offering to sell, or selling betel nut without a license, all betel nut “areca nut” may be confiscated in the Commonwealth pursuant to an administrative order by the Secretary, in accordance with the Administrative Procedures Act, 1 CMC §§ 9108-9115. Upon an administrative order issued by the Secretary, betel nut subject to that administrative order shall be disposed of at the discretion of the Secretary by either:

(1) Dumping in public by the Secretary or his/her authorized representative in the presence of one employee of the Department of Safety and one employee of the Office of the Attorney General; or

(2) 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.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).