

## TITLE 20: DEPARTMENT OF COMMERCE

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### SUBCHAPTER 20-30.1 BUSINESS LICENSE REGULATIONS

Subchapter Authority: 1 CMC § 2453(d); 1 CMC § 2454; PL 3-11 § 503 (formerly 4 CMC § 1503).

Subchapter History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994).

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 redesignated the Department of Commerce.

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

PL 3-11, "The Revenue and Taxation Act of 1982" took effect, with some exceptions on June 1, 1982. Section 503 (formerly codified at 4 CMC § 1503) addressed business licensing in the Commonwealth and was the authority cited for the Business License Regulations issued by the Department of Commerce. PL 9-22 § 1 (effective retroactively January 1, 1995) repealed PL 3-11 § 503 in its entirety. See the comment to 4 CMC § 1101.

PL 9-22 § 3, formerly codified at 4 CMC § 5611, reauthorized the Secretary of the Department of Commerce to issue business licenses.

PL 11-73 (effective March 19, 1999) completely revised the Commonwealth code provisions regarding business licenses and transferred authority to issue business licenses to the Department of Finance. See 4 CMC §§ 5611-5614. PL 11-73 provided, in part:

Section 1. Short Title. This Act shall be referred to as the "Business Licensing Processing Act of 1998."

Section 2. Findings and Purpose. Tax compliance has long been a challenge in the CNMI, due to a lack of central control and sharing of data between various entities. A great deal of inconsistencies will be resolved by centralizing the issuance of business licenses with the agency which issues CNMI Tax Identification Numbers. Such issues that will be resolved include, but are not limited to the following: detecting non-filers of tax returns; ascertaining whether taxes have been paid prior to the issuance of a renewal of business license; allowing the Department of Finance to close down a business if taxes are not paid, or using the same as a deterrent for avoiding payment of taxes; allowing the Department of Finance to verify that a business is engaged in the activity stated on the license by comparing it to the activity stated on the tax return; and assuring that a business which imports good for sale has an active business license and all taxes have been paid before allowing importation of goods into the CNMI.

By allowing the Department of Finance, Division of Revenue and Taxation to issue a business license and at the same time issue the CNMI Taxpayer Identification Number, there will be a tracking mechanism established that will not only serve the Division of Revenue and Taxation, as the point of control, but the Division of Customs and the Department of Commerce as well. The integration of issuing business licenses into the Division of Revenue and Taxation is expected to result in collection of a significant amount of additional taxes that are not collected due to the lack of a single control point. This should provide the CNMI with much needed revenue without the need to raise taxes at this point in time.

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It is therefore the purpose of this legislation to transfer the function of issuing business licenses from the Department of Commerce to the Department of Finance in order to strengthen the Department of Finance's efforts to enforce tax compliance. The day-to-day function of issuing licenses within the Department of Finance shall be handled by the Division of Revenue and Taxation.

PL 11-73 § 7, codified at 4 CMC § 5614, authorizes the Secretary of Finance to promulgate rules and regulations to carry out the intent of the act. In October of 1999, the Secretary of Finance promulgated Business License Regulations. See 21 Com. Reg. 16970 (Oct. 15, 1999); see also NMIAC title 70, subchapter 40.1. The Department of Commerce never formally repealed its Business License Regulations. This subchapter is, however, superceded by statute and later regulation.

[Superceded by PL 11-73, effective March 19, 1999.]