

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

**SUBCHAPTER 20-10.2  
TOBACCO CONTROL RULES AND REGULATIONS**

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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

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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).