

BUREAU OF COMMERCIAL DEVELOPMENT  
ALCOHOL AND TOBACCO REGULATIONS (2002)  
Implementing Title 11, Chapter 10 of the Palau National Code

*PART 1. APPLICATION*

- 1.1 To the extent that any provision of these Regulations is inconsistent with or contrary to any provision of The REGULATIONS GOVERNING THE SALE, DISTRIBUTION AND CONSUMPTION OF ALCOHOLIC BEVERAGES, adopted by the Alcoholic Beverage & Tobacco Products Control Board on July 22, 1997, such provision of these Regulations shall be controlling.

*PART 2. DEFINITIONS*

- 2.1 “Accepted means of identification” means a valid and current document issued by the national government of the Republic of Palau or foreign government, state or national, that is legible and unaltered and includes a photograph and the date of birth of the person presenting the identification. A valid and current Republic of Palau driver's license, foreign driver's license, passport or other official government-issued identifications are accepted means of identification. School identification cards or other identification cards not issued by a government are not accepted means of identification.
- 2.2 “Act” means the Alcoholic Beverage and Tobacco Control Act as amended and codified in Title 11, Chapter 10 of the Palau National Code
- 2.3 “Bureau” means The Bureau of Commercial Development of the Ministry of Commerce and Trade, unless otherwise stated.
- 2.4 “Director” means the Director of the Bureau of Commercial Development of the Ministry of Commerce and Trade, unless otherwise stated.
- 2.5 “Licensee” means the individual(s) whose name(s) appear(s) on the license and the licensed premises.
- 2.6 “Minor” means any individual under twenty-one years of age.
- 2.7 “Premises” means the specific area licensed for sale and/or consumption.
- 2.8 “Tobacco” means the processed leaves of plants from the genus *Nicotiana* used for smoking, chewing or as snuff, and includes all products which contain tobacco in any form in an amount that is more than an incidental ingredient or component and that is intended for human consumption and includes all parts and materials, such as filters, rods and similar matter. Tobacco shall include, but not be limited to, the following: (a) Tobacco in any form, including cigarettes, cigars, pipe tobacco, chewing tobacco and leaf tobacco; (b) Pipes, rolling papers, rolling

machines, hookahs and any other paraphernalia used for preparing or smoking tobacco.

*PART 3. MAINTENANCE AND RETENTION OF RECORDS (11 PNC §§ 1015(c))*

- 3.1 Every licensee shall keep, and retain for a period of not less than six (6) years after creation, records of all purchases and sales and all income generated and shall make such records available to authorized employees of the Bureaus of Public Safety and Commercial Development upon request and without court order. Such records shall include receipts and other documentation required to be maintained under Title 40 of the Palau National Code including all records regarding the payment and calculation of gross revenue taxes, wage and salary taxes, and social security contributions.
- 3.2 All records required to be maintained under the Act, and these Regulations shall be kept on the licensed premises or in a place that is directly and immediately accessible from the licensed premises.

*PART 4. CONTENTS OF APPLICATION FOR LICENSE; REJECTION OR DENIAL OF LICENSE; CONTENTS OF LICENSE (11 PNC §§ 101 5(d), 1036 and 1038)*

- 4.1 Applications shall be submitted and signed by at least one owner of the premises to be licensed. Applications shall at a minimum include the following information:
  - (a) the name of the premises to be licensed;
  - (b) the applicant's name, home and business phone numbers, and home and business mailing addresses;
  - (c) the name, home and business phone numbers, and home and business mailing addresses for every other individual possessing an ownership interest in the establishment for which the license is sought;
  - (d) a description and diagram of the premises to be licensed including and identifying all structures immediately surrounding the premises to be licensed,
  - (e) the class of license applied for. If the license sought is for a special event, the applicant shall include a full description of the premises to be licensed and date(s) of the event; and
  - (f) such other information as may be requested by the Bureau, either generally or with regard to any individual applicant or premises to be licensed.
- 4.2 A license application lacking information or supporting documentation required

or requested by the Bureau may be rejected. Applications rejected under this section may be resubmitted once all required and requested information and documents are provided.

- 4.3 License applications complying with all regulatory and statutory requirements shall be brought to hearing in accordance with 11 PNC § 1038.
- 4.4 The denial of a license by the Director is final and subject to judicial review in accordance with the Administrative Procedure Act.
- 4.5 All licenses shall at a minimum include the following information:
  - (a) the name of the licensee;
  - (b) the name and description of the licensed premises;
  - (c) the class of license and activities authorized; and
  - (d) the expiration date of the license.
- 4.6 The applicant shall advise the Bureau in writing of any changes to the information provided under this Part within five (5) days of the change taking effect.

*PART 5. DISPLAY OF LICENSES (11 PNC §§ 1015(d))*

- 5.1 Licenses shall be prominently displayed on the licensed premises in a location and manner conducive to inspection by the public at all times.

*PART 6. MULTIPLE LICENSES REQUIRED FOR SEPARATE PLACES OF BUSINESS. (11 PNC § 1035(6))*

- 6.1 A separate and appropriate license must be obtained for each separate place of business.
- 6.2 The Director, in his discretion, may determine that a single establishment consists of separate places of business and may require multiple licenses therefor. Separate rooms or floors within an establishment or multiple locations on the grounds of a hotel or other facility from which alcohol is distributed or served may constitute separate places of business.

*PART 7. HEALTH, SAFETY AND SANITATION REQUIREMENTS (11 PNC § 1063)*

- 7.1 Licensed establishments shall comply with all requirements of the Palau National Code and all EQPB regulations regarding construction, lighting and sanitary facilities.

*PART 8. DISTRIBUTION TO OBVIOUSLY INTOXICATED PERSONS PROHIBITED (11 PNC § 1067)*

- 8.1 A licensee, or any of his employees or agents, shall not sell, serve or distribute any alcoholic beverage or permit any alcoholic beverage to be sold, served, distributed to or consumed by any obviously intoxicated person.
- 8.2 An “obviously intoxicated person” is an individual who exhibits impaired motor or mental skills or notably irregular speech. There shall be a rebuttable presumption that any person with a blood alcohol level of .20 or more is obviously intoxicated.

*PART 9. SALE OR DISTRIBUTION TO MINORS PROHIBITED (11 PNC§ 1068)*

- 9.1 No person shall offer to sell, give or otherwise distribute alcoholic beverages to minors.
- 9.2 No licensee or employee thereof shall sell, give or otherwise distribute alcohol to any person who appears to be under the age of thirty-five years of age, unless that person presents an accepted means of identification which identifies the person as being at least 21 years of age, or unless the licensee or employee knows the person to be at least 21 years of age.

*PART 10. CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES PROHIBITED; EXCEPTIONS (11 PNC § 1086(c))*

- 10.1 No person may distribute or consume any alcoholic beverage in any public place in the Republic other than (a) on a premises licensed for consumption of alcoholic beverages; (b) in the rock islands; or (c) in any location within a State of the Republic, specifically designated by the Governor of that State, with the written consent of the Director.

*PART 11. RIGHT TO INSPECT LICENSED PREMISES; RIGHT TO REVIEW, SEIZE AND COPY BOOKS AND RECORDS; VIOLATION CONSTITUTES OBSTRUCTING JUSTICE (11 PNC § 1082)*

- 11.1 To ensure compliance with the provisions of the Act and these Regulations, any authorized employee of the Bureaus of Commercial Development and Public Safety shall have the right to enter, inspect, and to have immediate access to every part of a premises licensed to sell or distribute alcohol or tobacco at any time the licensed premises is being used or is otherwise occupied by an employee or agent of the licensee, or when the employee has a reasonable belief that alcohol is being sold, served or consumed on the premises.
- 11.2 The right to inspect provided in the Act and in section 11.1 shall include the right

to review, seize and copy any and all business documents and records described in Part 3 of these Regulations, without a court order.

- 11.3 In addition to being guilty of a violation of this Part, every person who denies, attempts to deny or otherwise interferes with the right of authorized employees to enter and inspect a licensed premise, shall be guilty of obstructing justice in violation of 17 PNC § 2501.

*PART 12. SUSPENSION AND REVOCATION OF LICENSES (11 PNC § 1083)*

- 12.1 The Director may suspend or revoke a license of any class for the violation of, or the causing or permitting of a violation of, or for a failure or refusal by a licensee to comply with, any provision of the Act or any regulation issued pursuant thereto.
- 12.2 The Bureau of Public Safety shall provide to the Director a copy of every citation issued alleging a violation of any provision of the Act or regulation issued pursuant thereto. The Director shall keep informed of the status of each prosecution and shall maintain a current record of all citations received and the disposition of said citations.
- 12.3 Upon a third criminal conviction or third imposition of a civil fine for any violation of the Act or regulations issued pursuant thereto, and upon every subsequent conviction or fine the licensee shall have its license(s) suspended or revoked. Prior to each such suspension or revocation, the Director shall hold a hearing in accordance with the Republic of Palau Administrative Procedure Act to determine the duration of the suspension or whether revocation is appropriate.
- 12.4. The Director shall issue a decision within fifteen days after the hearing. Such decision shall include the following:
  - (a) a designation of record which shall identify all documents and materials relied upon by the Director in reaching his determination;
  - (b) findings of fact which shall thoroughly describe the improper conduct; and (c) the action taken which shall concisely state whether the license has been suspended or revoked or whether no action has been taken. If the action is suspension, the decision shall list the effective date, length and other terms and conditions of the suspension.
- 12.5. The Director may suspend any license issued pursuant to the Act, for a period not to exceed one year, after making a determination that the licensee, or employee or agent thereof, committed the violation(s) constituting the basis of the hearing. In determining whether suspension is appropriate, the Director shall consider all relevant facts including the number of citations issued, the gravity of the offense(s), and remedial action(s) taken by the licensee, if any.

- 12.6 Notwithstanding any other provision of the Act or any regulation issued pursuant thereto, the Director may revoke a license based on the violation of any provision of the Act or Regulations, or when he has reason to believe that a suspension of a license will not prevent further violations of the Act or Regulations, or when he believes that revocation is in the best interest of the Republic.
- 12.7 Suspensions and revocations of licenses by the Director are final and are subject to judicial review in accordance with the Administrative Procedure Act.

*PART 13. SECURITY*

- 13.1 All establishments licensed to sell alcohol on premises shall employ sufficient staff to monitor the entrance and exit of persons using the licensed premises. Such staff shall take all reasonable steps to ensure that:
- (a) no weapons or controlled substances are brought onto the premises;
  - (b) no alcohol is transported onto the premises by persons not licensed to do so.
  - (c) no alcohol is transported outside the borders of the premises by persons not licensed to do so;
  - (d) no obviously intoxicated person is allowed to enter the premises;
  - (e) no obviously intoxicated person is allowed to operate a motor vehicle;
  - (f) no minor is served alcohol; and
  - (g) no person is sold, given, or otherwise furnished alcohol unless that person presents a generally accepted means of identification which identifies the person as 21 years of age or older unless the licensee or employee knows the person to be 21 years of age or older.

*PART 14. PENALTIES*

- 14.1 Criminal penalty. Unless specified otherwise, every person found guilty of violating any section of these Regulations shall be imprisoned for a period of not more than six months or fined not more than \$500, or both.
- 14.2 Civil penalty. Every person determined in a civil suit brought by the Office of the Attorney General to have violated any section of these regulations may be fined up to \$5,000 per violation.
- 14.3 A civil or criminal action brought for violation of any section of the Act or these Regulations shall not preclude a civil action or criminal prosecution pursuant to

