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**CHAPTER 3
ALCOHOLIC BEVERAGE CONTROL**

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§ 3100. Title.

This Chapter shall be known and may be cited as the Alcoholic Beverage Control Law.

SOURCE: GC § 25000.

§ 3101. Definitions.

Unless the context otherwise requires, the definitions set forth in this part govern the construction of this Chapter.

SOURCE: GC § 25001.

§ 3102. Administrator.

Administrator means the Alcoholic Beverage Control Administrator.

SOURCE: GC § 25002.

§ 3103. Alcohol.

Alcohol means ethyl alcohol, hydrated oxide of ethyl or spirits of wine.

SOURCE: GC § 25003.

§ 3104. Alcoholic Beverage.

Alcoholic beverage means beer, distilled spirits or wine and every liquid or solid which contains one-half (½) of one per cent (1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when combined with other substances.

SOURCE: GC § 25004.

§ 3105. Beer.

Beer means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley or other grain, hops and malt in water.

SOURCE: GC § 25005.

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§ 3105.1. Caffeinated Malt Beverage.

A caffeinated malt beverage is a beverage containing at least five-tenths percent (.5%) alcohol by volume, which is either:

(a) produced by a brewer, as defined in 26 U.S.C. § 5092, and to which is added, or infused with, caffeine and/or other stimulants, including, but not limited to, guarana, ginseng, absinthe, and taurine; or

(b) treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in C.F.R. Sec. 25.55, and to which is added a flavor or other ingredient containing alcohol, except for a hop extract and caffeine and/or other stimulants, including, but not limited to, guarana, ginseng, absinthe, and taurine, and for which the producer is required to file a formula for approval with the United States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55, or that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

SOURCE: Added by P.L. 31-101:1 (Sept. 30, 2011).

§ 3106. Board.

Board means the Alcoholic Beverage Control Board.

SOURCE: GC § 25006.

§ 3107. Case.

Case means a standard box or carton as packed by the manufacturer, in which packages of alcoholic beverages are shipped or transferred.

SOURCE: GC § 25007.

§ 3108. Club.

Club means an organization which operates an establishment for objects of an athletic, patriotic, political or social nature and not for pecuniary gain, having a bona fide membership list, the majority of members of which pay dues at least once in every year.

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SOURCE: GC § 25008.

§ 3109. Distilled Spirits.

Distilled Spirits means aggie, alcohol, brandy or whiskey and every product of distillation of any fermented liquid which is fit for beverage purposes.

SOURCE: GC § 25009.

§ 3110. General License.

General License means a license to sell every kind of alcoholic beverage except alcohol.

SOURCE: GC § 25010.

§ 3111. Inspector.

Inspector means a person in the service of the government under the supervision and direction of the Administrator and designated an inspector.

SOURCE: GC § 25011.

§ 3112. Licensee.

Licensee means a person holding a license issued by the Board.

SOURCE: GC § 25012.

§ 3113. Manufacture.

Manufacture includes rectifying, packaging and labeling.

SOURCE: GC § 25013.

§ 3114. On-Sale License.

On-Sale License means a license to sell alcoholic beverages for consumption on the licensee's premises.

SOURCE: GC § 25014.

§ 3115. Off-Sale License.

Off-Sale License means a license to sell alcoholic beverages for consumption off the licensee's premises.

SOURCE: GC § 25015.

§ 3116. Package.

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Package means a container used for holding alcoholic beverages which is corked or sealed.

SOURCE: GC § 25016.

§ 3117. Person.

Person includes an association, business trust, copartnership, corporation, estate, firm, joint venture, receiver, syndicate or any other group or combination acting together or as a unit.

SOURCE: GC § 25017.

§ 3118. Public Eating Place: Meals: Guests: Public Premises.

(a) Public Eating Place means a place which is regularly used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the Department of Health. Public Eating Place also means a convention center, exhibit hall, or auditorium, which is regularly used and kept open for the attendance of guests, and in connection with such use serves meals to such guests for compensation, and which has suitable kitchen facilities in connection therewith, as defined above.

(b) Meals as used in this section, means food commonly ordered at a lunch or dinner; provided, however, that the service of food such as sandwiches or salads not be deemed compliance with this requirement.

(c) Guests shall mean persons who, during the hours when meals are regularly served therein, come to a public eating place for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein.

(d) Public Premises means:

(1) Premises licensed with any type of license other than an on-sale beer license, and maintained and operated

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for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food shall not be sold or served to the public as in a public eating place, but upon which premises food products may be sold or served incidentally to the sale or service of alcoholic beverages, in accordance with rules prescribed by the department.

(2) Premises licensed with an on-sale beer license, in which food shall not be sold or served to the public as in a public eating place and in which sandwiches, salads, desserts and similar short orders shall not be sold and served.

SOURCE: GC § 25018 as amended by P.L. 12-124.

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 3119. Rectify.

Rectify means color, flavor, mix or otherwise process distilled spirits.

SOURCE: GC § 25019.

§ 3120. Sell.

Sell includes:

(a) Transferring title to alcoholic beverages by one person to another for any consideration but not the retransfer of title by the latter to the former.

(b) Keeping or serving alcoholic beverages in connection with the sale or service of any other substance by one person to another for any consideration.

(c) Soliciting and receiving orders for alcoholic beverages.

(d) Keeping, offering or exposing for sale alcoholic beverages.

SOURCE: GC § 25020.

§ 3121. Wine.

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Wine means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar, with or without added brandy or other spirits, which contains not more than fifteen (15) per cent added flavoring, coloring and blending material and not more than twenty-four (24) per cent of alcohol by volume.

SOURCE: GC § 25021.

§ 3122. Closed.

Closed means that the premise(s) shall be vacated by all persons immediately after the ‘authorized’ hours of sale in § 3414 of this Title. In this Section, ‘all persons’ does not include employees who may remain in the premises for the purpose of cleaning and maintenance. Section 3613 of Article 6 of this Chapter shall apply to this Section with respect to hearing and penalty as appropriate.

SOURCE: Added by P.L. 29-034:2 (Oct. 25, 2007).

§ 3123. Alcohol Employee.

Alcohol employee means a person employed by any on-sale or off-sale licensee who sells or serves alcoholic beverages, or who supervises others who sell or serve alcoholic beverages. This includes, but is not limited to, bartenders, waitresses, waiters, hostesses, hosts, cashiers, checkout clerks, supervisors, and managers of licensees who are holders of Class 4, 5, 6, 7, 9, 10, 11, and 12 ABC Licenses.

SOURCE: Added by P.L. 32-051:2 (July 5, 2013).

§ 3124. Alcohol Server/Seller Training Program.

Alcohol server/seller training program means a classroom only educational program offered by a non-profit organization, an entity of the government of Guam, a community college, or a university that has been approved by the Administrator under regulations promulgated by the Board. Such regulations shall include, but not be limited to, the content of the program, certification of instructors of the program, and testing and methods of presentation, and as further provided pursuant to 3 GAR Chapter 2 [Alcoholic Beverage Control Board]. The

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Board, in drafting such regulations, shall consult with community stakeholders and shall comply with the Administrative Adjudication Act.

SOURCE: Added by P.L. 32-051:2 (July 5, 2013).

§ 3124.1. Delegation of Authority.

(a) The Administrator, with the approval of the Board, may enter into an agreement with a non-profit organization, community college, or university with an authorized program to conduct an Alcohol Server/Seller Training program on behalf of the Board, to include:

(1) verification of qualifications;

(2) the collection of fees for application and licensure, as provided pursuant to § 3207 of this Chapter, on behalf of the Board, notwithstanding 3 GAR § 2101(d), which shall not be applicable in this instance;

(3) the issuance of a Guam Alcohol Beverage Control Alcohol Employee license on behalf of the Board; and

(4) the accounting and remittance of requisite fees collected for application and licensure, the full sum of which shall be paid to the Alcoholic Beverage Compliance Fees and Fines Fund, must be used to promote the compliance and enforcement of liquor laws; the act of which shall be deemed compliant with Title 11 Guam Code Annotated, Chapter 3, § 3515.

(b) Prior to remitting the fees collected pursuant to this Section to the Alcoholic Beverage Compliance Fees and Fines Fund, the authorized non-profit organization, community college, or university shall deduct and retain from the fees collected the cost for tuition for the Alcohol Server/Seller Training program, which shall not exceed fifty percent (50%) of the cost to obtain an Alcohol Employee Server/Seller License pursuant to 11 GCA Chapter 3, § 3207.

SOURCE: Added by P.L. 32-051:2 (July 5, 2013), amended by P.L. 33-032 (June 10, 2015).

§ 3125. Manager.

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All Class 4 on-sale establishments shall have a duly registered manager or assistant manager on the premises, in the absence of the licensee, and during the hours from 7:00 p.m. daily until closing.

SOURCE: Added by P.L. 32-051:2 (July 5, 2013).

§ 3126. Alcoholic Beverage Compliance Fees and Fines Fund.

(a) The “Alcoholic Beverage Compliance Fees and Fines Fund,” (Fund), is hereby created, separate and apart from all other funds of the government of Guam. Monies deposited into the Fund *shall not* be commingled with other funds administered by the Department of Revenue and Taxation (DRT) and the Alcoholic Beverage Control Board, and *shall only* be available for use as stipulated herein pursuant to § 3124.1 of Article 1 and § 3229(c)(7) of Article 2 of this Chapter. Monies collected and deposited into the Fund *shall* be automatically or continually appropriated from the Fund to DRT for its authorized use.

(b) Should the Board be unable to make quorum to approve the use of the monies collected, the Administrator may still be authorized to use the monies collected; provided, that the Administrator notifies the Chairperson of the Board or his/her designee.

SOURCE: Added by P.L. 35-053:3 (Nov. 27, 2019).

2020 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

ARTICLE 2
LICENSES

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- § 3230. Alcohol Employee License.
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- § 3232. Manager License.
- § 3233. Alcohol Server/Seller Training Program License.

§ 3200. License: Required.

Except as authorized in this Title a person shall not import, manufacture or sell alcoholic beverages without a license.

SOURCE: GC § 25100.

§ 3201. Same: Lack of: Disposal of Stock.

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A person in possession of a stock of lawfully acquired alcoholic beverages following the revocation or voluntary surrender of, or failure to renew a license, may sell such stock, under supervision of the Board in such manner as the Board shall provide by regulation, to a licensee authorized to sell such alcoholic beverages.

SOURCE: GC § 25101.

§ 3202. Sale by Nonlicensee: Holder of Warehouse Receipts.

Upon receiving permission from the Board, a bank, trust company or other financial institution owning or possessing warehouse receipts for alcoholic beverages which warehouse receipts were acquired by such bank, trust company or other financial institution as security for a loan, may sell such warehouse receipts to a licensee authorized to sell such alcoholic beverages or such warehouse receipts.

SOURCE: GC § 25102.

§ 3203. Same: Insurer.

Upon receiving permission from the Board, an insurer for losses to persons shipping alcoholic beverages may take possession and sell to licensees authorized to sell such alcoholic beverages any alcoholic beverages the containers of which have been damaged by fire or otherwise. This permission shall extend only to alcoholic beverages owned by a licensee and insured against loss or damage by the insurer applying for such permission.

SOURCE: GC § 25103.

§ 3204. Exception: Sacramental Wines.

A religious organization may import or receive into Guam sacramental wine for use in the religious rites of such religious organization without license.

SOURCE: GC § 25104.

§ 3205. Same: Consular Officials.

A consul general, consul or vice-consul of a foreign country may import or receive into Guam for private use and consumption, any alcoholic beverages without a license.

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SOURCE: GC § 25105.

§ 3206. Same: Arrivals.

A person arriving in Guam may bring with him not more than once every sixty (60) days for private use, and not for sale, alcoholic beverages not exceeding one (1) gallon in quantity without a license.

SOURCE: GC § 25107.

§ 3207. Licenses: Classes and Fees.

The Board is authorized to issue the following classes and kinds of licenses at the following fees:

Class 1.	Manufacturer's license	\$ 100.00	per year
Class 2.	Agent's license	\$ 250.00	per year
Class 3.	Wholesale dealer's license	\$1,000.00	per year
Class 4.	Retail dealer's on-sale license:		
	Beer	\$ 300.00	per year
	General	\$1,000.00	per year
	Wine	\$ 300.00	per year
	Manager/Assistant Manager	\$ 60.00	per 3 years
	Alcohol Employee	\$ 60.00	per 3 years
Class 5.	Retail dealer's off-sale license:		
	Beer	\$ 200.00	per year
	General	\$1,000.00	per year
	Wine	\$ 400.00	per year
	Alcohol Employee	\$ 60.00	per 3 years
Class 6.	Special Alcoholic license	\$ 25.00	per year
	Alcohol Employee	\$ 60.00	per 3 years
Class 7.	Temporary beer license	\$ 20.00	per day
	not to exceed	\$ 100.00	per event
	Alcohol Employee	\$ 60.00	per 3 years
Class 8.	Public warehousemen's license	\$ 50.00	per year
Class 9.	Club license	\$ 500.00	per year
	Alcohol Employee	\$ 60.00	per 3 years
Class 10.	Temporary general license	\$ 50.00	per day,
	not to exceed	\$ 100.00	per event

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Alcohol Employee	\$ 60.00	per 3 years
Class 11. Microbrewery - pub restaurant license	\$1,000.00	per year
Alcohol Employee	\$ 60.00	per 3 years
Class 12. Mobile License:		
(a) Limousine Service – per vehicle	\$ 750.00	per year
(b) Charter Vehicle (Vans) – per vehicle up to ten passengers	\$ 500.00	per year
(c) Charter Vehicle (Vans) – per vehicle More than ten passengers	\$ 750.00	per year
(d) Buses - per vehicle	\$1,000.00	per year
(e) Alcohol Employee	\$ 60.00	per 3 years
Class 13. Alcohol Server/Seller training program	\$ 200.00	per year.

SOURCE: GC § 25108 as amended by P.L. 11-183 and P.L. 12-124. Amended by P.L. 22-142:1 (Dec. 14, 1994); P.L. 29-002:V:I:4 (May 18, 2007); P.L. 32-051:3 (July 5, 2013); and P.L. 33-223:2 (Jan. 9, 2017).

§ 3208. Same: Fees: Reductions.

If the applicant applies for a license after the beginning of a fiscal year but during the first (1st) quarter of the year, he shall pay the full fee therefor. If he applies after the end of the first (1st) quarter and during the second (2nd) quarter he shall pay three-fourths (3/4) of the fee. If he applies after the end of the second (2nd) quarter he shall pay one-half (1/2) of the fee regardless of when he applies.

SOURCE: GC § 25109.

§ 3209. Same: Expiration Date.

(a) Except for a temporary beer license which the Board is authorized to issue for a period not exceeding three (3) days, the licenses specified in § 3207 of this Code shall be issued for an indefinite period, and existing licenses, although containing an expiration date, shall be deemed to be so issued and shall be valid until revoked in accordance with the provisions of this Chapter. Provided, however, that each licensee shall pay an annual license fee in the amount specified in § 3207 for issuance of the license, payable on or before the 30th day of June of each

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year beginning with the 30th day of June following the issuance of the license or the approval of a transfer as the case may be.

(b) If the license fee is not paid on or before the 30th day of June of each year, the license is automatically suspended, but may be reinstated by the Board within thirty-one (31) days after June 30, upon the payment of the license fee.

(c) Unless the license is so reinstated, it is automatically revoked thirty-one (31) days after June 30, and the Board shall not issue a license except upon a new original application.

SOURCE: GC § 25110.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 3210. Same: Same: Transfer or Closing of Business.

Notwithstanding the provisions of § 3209 of this Article, general retail dealer's on-sale license and a general retail dealer's off-sale license shall expire one (1) year from the date of transfer from such a licensee to another person, or from the date such a licensee goes out of business, whether voluntarily or involuntarily, unless, the licensee or transferee thereof puts the license to use within such one (1) year period by actually engaging in the business of selling alcoholic beverages in the manner permitted by the license.

SOURCE: GC § 25111.

§ 3211. License: Privilege: Limitation.

A licensee is limited to the privileges conferred by the license and is not authorized to exercise any other privileges.

SOURCE: GC § 25112.

§ 3212. Same: Limitation.

Except in the case of licenses issued to agents and bartenders which are not issued for a particular premises, a licensee is limited to the premises for which the license is issued and is not authorized to exercise the privileges conferred by the license at an additional or other premises.

SOURCE: GC § 25113.

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§ 3213. Same: Manufacturer.

(a) A person holding a Class 1 manufacturer's license as defined in this Chapter, or engaged in the manufacture of alcoholic beverages other than as microbreweries, outside of Guam, is authorized to manufacture and sell in packages to persons holding manufacturer's or wholesaler's licenses, as specified by the Board.

(b) No manufacturer of any alcoholic beverages, other than microbreweries may hold or have interest in another class of alcoholic beverage license directly or indirectly or engage in any activity requiring any other alcoholic beverage license other than a manufacturer's license.

SOURCE: GC § 25114. Amended by P.L. 24-39:2.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 3214. Same: Agent.

A person holding an agent's license is authorized to sell as an agent of manufacturers of alcoholic beverages located within or without Guam, but only to persons holding wholesale dealer's licenses.

SOURCE: GC § 25115.

§ 3215. Same: Wholesaler.

(a) A person holding a wholesale dealer's license is authorized to import into or to purchase in Guam from a manufacturer or other wholesale licensee, the alcoholic beverages specified by the Board and to sell such alcoholic beverages to persons holding licenses authorizing them to resell such alcoholic beverages.

(b) In addition, a person holding a wholesale dealer's license is authorized to export or sell alcoholic beverages to any person holding a valid retail or wholesale license under the Business License Law for export.

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(c) In addition, a person holding a wholesale dealer's license is authorized to sell sacramental wine to a religious organization for use in the religious rites of such organization and to sell alcoholic beverages to a consul general, consul or vice-consul of a foreign country for private use and consumption even though such religious organization or representative of a foreign government is not a licensee.

(d) In addition, a person holding a wholesale dealer's license is authorized to export or sell alcoholic beverages to a non-licensee for export.

SOURCE: GC § 25116.

§ 3216. Purchase in Guam for Export.

Any person holding a valid retail or wholesale license under the Business License Law may purchase and take delivery of alcoholic beverages from any person holding a wholesale dealer's license or a manufacturer's license for export. Each such purchase and export must be reported to the Administrator in accordance with regulations.

SOURCE: GC § 25116.1.

§ 3217. Internal Revenue Taxes and Custom Duties: Exemptions and Refunds.

(a) In respect to any sale made subsequent to October 20, 1950, pursuant to the authority contained in subsection (b) of § 3215, the authorized seller may obtain, at any time and from time to time, compliance with the provisions of this Act and such uniform rules and regulations as may with the approval of the Governor be promulgated by the Alcoholic Beverage Control Board and the Department of Revenue and Taxation, exemption from the levy by the government of Guam of any and all Internal Revenue taxes upon any of the alcoholic beverages forming the subject of such sale; provided, however, that notwithstanding the provisions of any other law to the contrary, the proceeds of the seller from such sale shall be subject to the business privilege tax levied by Chapter 26 of this Title.

(b) The Department of Revenue and Taxation is authorized to refund in respect to any sale made in accordance with the

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provisions of subsection (a) hereof, the full amount of any Internal Revenue taxes levied and collected by the government of Guam at any time prior or subsequent to October 20, 1950, upon any of the alcoholic beverages forming the subject of such sale made subsequent to said date.

(c) Whoever, in connection with any exemption or refund obtained or sought to be obtained by virtue of the provisions of this Act, knowingly makes or causes to be made any statement, written or oral, which is false, which conceals any material fact or which is intended or calculated to mislead or deceive any public official, officer, agent or employee, or whoever willfully violates or fails to comply with any of the rules or regulations duly promulgated under the provisions of this Act, shall, unless the Criminal and Correctional Code of Guam provides a graver penalty for the specific act or omission, be guilty of a misdemeanor.

SOURCE: GC § 25117. Subsection (c) as amended by P.L. 13-187:167. Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax.

§ 3218. License: Retail: On-Sale.

A person holding a retail dealer's on-sale license is authorized to sell to consumers for consumption on the premises where sold the alcoholic beverages specified by the Board.

SOURCE: GC § 25118.

§ 3219. Same: Same: Off-Sale.

A person holding a retail dealers off-sale license is authorized to sell to consumers for consumption off the premises where sold, the alcoholic beverages in packages specified by the Board.

SOURCE: GC § 25119.

§ 3220. Same: Special.

A person holding a special alcohol license is authorized to import or to purchase within Guam for his own use or for transfer to a person holding such a license, alcohol for industrial, medical or scientific purposes but not for beverage purposes.

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SOURCE: GC § 25120.

§ 3221. Same: Temporary Beer or General.

A person holding a temporary beer or general license is authorized to sell beer or every kind of alcoholic beverage, dependent upon type of license held for consumption within an area defined in the license by the Board on premises temporarily occupied for the purpose of picnic, special gathering or similar occasions specified by the Board for a period not exceeding ten (10) days. Non-profit organizations and clubs are considered eligible persons for holding a temporary beer or general license, when conducting carnivals, or special gatherings for fund raising purposes.

SOURCE: §25121 as amended by P.L. 11-183 and P.L. 12-124.

§ 3222. Same: Bartenders.

No bartender's license shall be required.

SOURCE: GC § 25122.

§ 3223. Same: Warehouseman's.

A person holding a public warehouseman's license is authorized to store alcoholic beverages for the account of licensees.

SOURCE: GC § 25123.

§ 3224. Same: Club Licenses.

A club license shall be general only and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by such club, and shall also authorize any bona fide club member to keep in his private locker on such premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

SOURCE: GC § 25124.

§ 3225. Same: Special Conditions: Club Licenses.

(a) No liquor shall be sold under a club license to any person not a bona fide members of the club nor a bona fide guest

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thereof enjoying the privileges of membership, but a member or a guest enjoying the privileges of membership may purchase liquor for consumption on the premises by his own bona fide guests.

(b) No guest of a member or of a guest enjoying the privileges of membership shall purchase or be permitted to purchase liquor on the premises.

(c) Each licensed club shall maintain a complete list of its members, which list shall at all times be available on the premises for inspection by any duly authorized officer or employee of the government of Guam.

(d) Each licensed club also shall maintain on the premises a guest book in which all bona fide guests and members responsible for said guest shall be required to register.

SOURCE: GC § 25125.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 3226. Air Terminal or Commercial Port Licenses.

(a) On-Sale License. A special license authorizing the sale of alcoholic beverages for consumption on the premises may be issued to any person granted a concession for that purposes at the air terminal or Commercial Port.

(b) Sales to Departing Passengers. A special license authorizing sale of alcoholic beverages to a departing passenger may be issued to any person granted a concession for that purposes at the air terminal or Commercial Port. Any such sales by distributors to the special licensee for resale to departing passengers shall be exempt from tax to the extent and in the manner provided by § 26303(c).

(c) Licenses authorized by Subsections (a) and (b) shall not be transferable, and their continuance shall be conditioned upon compliance with all terms applicable to operation of the concession as established by terminal or port management, respectively. No concession shall be granted to any person not meeting requirements of law applicable to licensees generally, and its operation shall be subject to compliance with law and

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regulation by the Board in the same manner as other licensed premises.

SOURCE: GC § 25126, amended by P.L. 14-59:1.

§ 3227. License: Microbrewery-Pub; Authorizations.

Notwithstanding any other provisions of law, a person holding a microbrewery-pub restaurant license is authorized to:

(a) Annually manufacture and store on the licensed restaurant premises, no more than eight thousand barrels of beer containing not more than eight percent (8%) of alcohol by weight.

(b) Sell such beer so manufactured on the licensed restaurant premises for consumption at the restaurant premises; as such premises are described in the license.

(c) Sell beer, wine or other spirits not manufactured on the licensed restaurant premises for consumption at the restaurant premises; as such premises are described in the license.

(d) Sell on the licensed premises at retail, beer manufactured on the licensed premises in brewery-sealed packages directly to the consumer for consumption off premises.

(1) Such packages and the method of packaging must be approved by the Department of Public Health and Social Services with regards to sanitary conditions, date of manufacture, method of storage to avoid perishability, expiration dates and alcohol content by percentage of weight.

(2) The off-sale of beer manufactured on the licensed premises is limited to an annual volume of no more than one thousand (1,000) barrels.

(3) All off-sale transactions shall be subject to business privilege taxes under Article 2 of Chapter 26 of Title 11, Guam Code Annotated and the alcoholic beverage taxes under § 26302 of Article 3 of Chapter 26 of Title 11, Guam Code Annotated.

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(e) Sell to wholesalers holding, a Class 3 liquor license as defined by § 3207 of this Chapter, beer manufactured on the licensed premises in brewery-sealed packages to licensees.

(1) Such packages and the method of packaging must be approved by the Department of Public Health and Social Services with regards to sanitary conditions, date of manufacture, method of storage to avoid perishability, expiration dates and alcohol content by percentage of weight.

(2) All wholesalers purchasing beer from the brewery shall be required to pay all alcoholic beverage taxes applicable under Article 3 of Chapter 26 of Title 11, Guam Code Annotated.

(f) (1) The microbrewery may manufacture and package on the licensed premises beer in an unlimited quantity for export outside of Guam.

(2) Such packages and the method of packaging must be approved by the Department of Public Health and Social Services with regards to sanitary conditions, date of manufacture, method of storage to avoid perishability, expiration dates, alcohol content by percentage of weight and a label stating that such beer was manufactured for sale outside of Guam.

(g) No manufacturer of any alcoholic beverage holding a Class 1 Manufacturer's License under the provisions of § 3207 of this Chapter, or who actively engages in the manufacture of alcoholic beverages outside of Guam other than as a microbrewery-pub, may obtain a Class 11 License to operate a microbrewery pub restaurant as defined herein.

SOURCE: Added by P.L. 22-142 (12/14/94). Amended by P.L. 24-39:3.

2017 NOTE: Subitem designations added pursuant to the authority of 1 GCA § 1606.

References to "Territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 3228. Mobile License.

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(a) A mobile license shall be a general on-sale license only and shall authorize the licensee to sell alcoholic beverages to passengers, clients and customers for consumption only on the premises of a limousine or bus meeting the requirements of 9 GCA § 92114. The license shall be restricted to vehicles owned and registered to the licensee and shall be non-transferable. All rules and regulations applicable and enforceable, in accordance with Chapter 3, Title 11, Guam Code Annotated, to on-sale licenses shall apply to mobile license.

(b) No applicant issued a license under this Section shall authorize any individual to operate a vehicle subject to this Section who has been convicted of any drug or alcohol-related offense.

SOURCE: Added by P.L. 28-22:4. Amended by P.L. 29-002:VI:10 (May 18, 2007).

2018 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

The reference to 16 GCA § 18121 originally enacted by P.L. 22-020 (June 22, 1993) altered to reflect the current codification in Chapter 92 of Title 9 GCA, pursuant to P.L. 34-107:5 (June 5, 2018).

§ 3229. Special Display and Tasting / Sampling Events; Authorized.

(a) A person holding a valid off-sale license, wholesale dealers' license, or agent's license, is authorized to conduct special display and sampling / tasting events of authorized alcoholic beverages and distilled spirits for the purpose of familiarizing consumers with the taste of an alcoholic beverage or distilled spirit product(s) on authorized premises.

(b) The Board shall, within one hundred twenty (120) days of the enactment of this Act, develop necessary procedures, and as deemed necessary, promulgate rules and regulations, if any, to implement this Section. The procedures, rules and regulations shall be duly promulgated by the Board pursuant to Article 3 - Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated.

(1) The Board shall designate the categories of approved alcoholic beverages and/or distilled spirits which

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are authorized for consumption during sampling / tasting events; and

(2) shall determine the amount of, and manner by which, the beverages may be offered or served for sampling / tasting.

(c) The authorized licensee shall, in addition to complying with applicable rules and regulations promulgated relative to this Section, be subject to the following conditions for the conduct of a sampling / tasting event:

(1) The tasting / sampling shall not be for a fee or charge in any amount to the consumer;

(2) The amount of alcoholic beverages offered for tasting shall be limited to no more than one (1) three (3)-ounce sample of each item per person, with the exception of distilled spirits, which will be limited to a single one (1)-ounce sample of each item per person;

(3) A wholesale dealer licensee or agent licensee shall not sell any alcoholic beverage product directly to a consumer during the tasting / sampling event; provided, however, that the holder of an off-sale license applicable to the premises upon which the event is conducted, may sell directly to consumers for later consumption off the premises;

(4) Frequency of Event. A special tasting and sampling event shall not be conducted for more than two (2) consecutive days at a single location per week, nor more than a total of six (6) days at the same location per month;

(5) Advance Notification of Planned Event to Board. Notice of the anticipated or planned conduct of an event, or multiple events, shall be submitted to the Board, in writing or by electronic notification, at least five (5) business days in advance of the event. The one (1) day per event special license shall be assessed a non-recurring fee of Twenty-five Dollars (\$25.00). For all notice submissions received less than five (5) business days from a planned event, an expedited processing fee of Fifty Dollars (\$50.00) will be

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assessed. Full payment of the license fee is due and payable at the time a license is issued to the applicant; and

(6) Authorized Locations. The following locations are authorized for the conduct of temporary special display and sampling / tasting events for authorized alcoholic beverages:

(A) A business holding an off-Sale license, or sponsored on the premises by a licensed wholesale dealer or licensed agent of alcoholic beverages;

(B) A Class 1 Manufacturer's establishment, as defined in this Chapter; and

(C) Hotel lobbies and hotel special event rooms, to include, but not be limited to, exhibit halls, convention centers, mall courtyards, club, vessel, transient vessel, condominium hotel, brewpub and general caterer, when sponsored by a licensed wholesale dealer or licensed agent of alcoholic beverages.

(7) Monies Collected from Assessment of Fees. All monies collected for the non-recurring fee and/or the expedited processing fee *shall* be deposited into the "Alcoholic Beverage Compliance Fees and Fines Fund" in accordance with § 3126 of Article 1 of this Chapter. The Administrator, with Board approval, *shall* be authorized to use the monies collected for programs to promote compliance with liquor laws, business development, and improvement of interagency and interoffice functions. Such programs may include, but are not limited to, enforcement; public service announcements promoting responsible drinking and driving practices; youth programs; education; and Alcoholic Beverage Control Board and administrative meetings.

(d) Sampling and Licensed Premise.

(1) Licensees desiring to have a promotional sampling on their premises shall clearly state and identify in the application the type of liquor to be sampled, the date and

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hours the sampling is to take place, and the name of the person in charge of the sampling;

(2) Samples of alcoholic beverages will be limited to one (1) three (3)-ounce sample of each item per person. Distilled spirits will be limited to a single one (1)-ounce sample of each item per person;

(3) No minors or persons under the age of twenty-one (21) years shall be permitted to sample liquor;

(4) No person under the age of eighteen (18) years shall serve alcohol, liquor, beer, and/or wine;

(5) A copy of the approval license shall be posted in the vicinity of the sampling area; and

(6) Consumers (Tasters) shall remain within the designated "event room" and not be allowed to wander throughout the premise, and shall not be allowed to exit the premises with alcohol, liquor, wine, and/or beer.

SOURCE: Added by P.L. 31-199:2 (Apr. 2, 2012). Subsection (c)(7) amended by P.L. 35-053:2 (Nov. 27, 2019).

§ 3230. Alcohol Employee License.

(a) An Alcohol Employee License shall be required for all persons who sell or serve, supervise or manage those who sell or serve alcoholic beverages for holders of Class 4, 5, 6, 7, 9, 10, 11, and 12 ABC Licenses.

(b) A Temporary Alcohol Employee License may be issued to an employee who has registered for an ABC Board approved Alcohol Server/Seller Training Program. The Temporary Alcohol Employee License expires in thirty days or when the Alcohol Employee License is issued, whichever is sooner.

(c) A dated receipt from an ABC Board approved Alcohol Server/Seller Training Program indicating enrollment and the scheduled date, time, and location of training shall be considered a Temporary Alcohol Employee License. The receipt shall also state, "Temporary Alcohol Employee License", and shall contain

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the notation that the temporary license shall expire within thirty days of issuance.

SOURCE: Added by P.L. 32-051:5 (July 5, 2013).

§ 3231. Alcohol Employee License, Term and Portability.

Except as otherwise provided for a violation, as provided pursuant to this Chapter, the License for an Alcohol Employee shall:

(a) be valid for a term of three years;

(b) be portable to additional or other premises;

(c) be in the possession of the employee at all times when performing any duties involving the service or sale of any class of alcohol, as provided for and defined pursuant to Article 1 of this Chapter;

(d) include the declaration that the holder has completed an ABC Board approved Alcohol Server/Seller Training Program; and

(e) be issued by the Alcohol Server/Seller training program.

SOURCE: Added by P.L. 32-051:4 (July 5, 2013) as § 3212.1. Renumbered by the Compiler to harmoniously fit in Article 2 of this chapter.

§ 3232. Manager License.

An Alcohol Beverage Control Manager License shall be required for all managers or assistant managers. Every manager must provide the Board and their employer with proof that the manager has successfully completed an ABC Board approved Alcohol Server/Seller Training Program. Proof for the employer shall be satisfied by the possession of a valid Alcohol Beverage Control Manager or Assistant Manager License, which shall include the declaration, that the holder has completed an ABC Board approved “Alcohol Server/Seller Training Program.

SOURCE: Added by P.L. 32-051:5 (July 5, 2013) as § 3231. Renumbered by the Compiler to harmoniously fit in Article 2 of this chapter.

§ 3233. Alcohol Server/Seller Training Program License.

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An Alcohol Server/Seller training program license shall be issued to alcohol server/seller training programs that have been approved by the administrator.

SOURCE: Added by P.L. 32-051:5 (July 5, 2013) as § 3232. Renumbered by the Compiler to harmoniously fit in Article 2 of this chapter.

ARTICLE 3
ISSUANCE OF LICENSES

- § 3300. License: Restrictions.
- § 3301. Same: Same: Citizenship Required.
- § 3302. Same: Same: Real Party in Interest.
- § 3303. Same: Same: Minors.
- § 3304. Same: Same: Prior Revokee.
- § 3305. Same: Same: Unfit Person.
- § 3306. Same: Same: Near Church, Hospital, School.
- § 3307. Same: Same: Zoning.
- § 3308. Same: Same: Number.
- § 3309. Same: Same: Number, Cancellation, Issuance of Licenses in Excess of Authorized Ratio: Application: Hearing.
- § 3310. License: Transfers: Application: Establishment of Escrow: License not to be Pledged.
- § 3311. Same: Application.
- § 3312. Application: Investigation.
- § 3313. Same: Same: by Administrator.
- § 3314. Same: Notice Given.
- § 3315. Same: Publication of Notice.
- § 3316. Who May Protest.
- § 3317. Protest: Writing Required.
- § 3318. Same: by Administrator as Ground for Denial.
- § 3319. Same: Same: Notice and Hearing.
- § 3320. Same: by Others: Hearing.
- § 3321. License: Issuance Without Protest.
- § 3322. Same: After Protest.
- § 3323. Same: Content: Filing.

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§ 3300. License: Restrictions.

(a) Except in the case of an on-sale beer license, off-sale beer license, public warehouseman's license or temporary beer license, the Board shall not issue a license to any person who is then holding a license of another class. The Board may issue an on-sale beer license and an off-sale beer license to one person, a public warehouseman's license to any person holding a manufacturer's license or wholesaler's license and a temporary beer license to any on-sale or off-sale licensee.

(b) No manufacturer within or outside of Guam or any officer, subsidiary, affiliate or other entity in which a manufacturer holds any ownership or interest, directly or indirectly by stock ownership, interlocking directors, trusteeship, loan, mortgage or lien on any real or personal property, shall hold any alcoholic beverage license other than a manufacturer's license in Guam.

SOURCE: GC § 25200. Subsection (b) added by P.L. 20-17:12.

2017 NOTE: References to "Territory" and "territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 3301. Same: Same: Citizenship Required.

Except in the case of an on-sale license for a premise under the operation or control of a person who is a contractor to the United States, the Board shall not issue a license to any person who is not a citizen or national of the United States having resided in Guam permanently and continuously for a period of at least one (1) year immediately preceding the date of application for a license. If the person is a partnership, each partner must be such a citizen or national of the United States, and if a corporation, a majority of the members of the board of directors must be such citizens or nationals of the United States, and all of the persons who are charged with the duties of managing or conducting the business must be citizens or nationals of the United States residing in Guam but need not possess a previous residence of particular duration. The Board may issue an on-sale license for a premise under the operation or control of a person who is a contractor to the United States.

SOURCE: GC § 25201.

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COMMENT: § 3301, in requiring a licensee to be a citizen or national of the United States, has no further force and effect. See Attorney General opinion memorandum on Feb. 12, 1981, and *Kent W. Ho v. Alcoholic Beverage Control Board*, Civil Case No. 235-83, Superior Court of Guam (Nov. 7, 1983).

§ 3302. Same: Same: Real Party in Interest.

The Board shall not issue a license of any class to an applicant who is not the real party in interest.

SOURCE: GC § 25202.

§ 3303. Same: Same: Minors.

The Board shall not issue a license of any class to a person under twenty-one (21) years of age.

SOURCE: GC § 25203 as amended by P.L. 11-144. Amended by P.L. 30-156:2 (July 8, 2010).

§ 3304. Same: Same: Prior Revokee.

Except in the case of a license revoked for non-payment of a renewal fee, the Board shall not issue a license of any class to any person who held an alcoholic beverage license of any class which was revoked within a one-year period prior to the date of the application.

SOURCE: GC § 25206.

§ 3305. Same: Same: Unfit Person.

The Board shall not issue a license of any class to any person the Board deems unfit to hold a license.

SOURCE: GC § 25207.

§ 3306. Same: Same: Near Church, Hospital, School.

(a) The Board shall not issue an on-sale license for premises located within a distance of five hundred (500) feet from any church, hospital or public or private school of general education where persons under the age of eighteen (18) are taught, the measurements to be taken in a straight line from the center of the nearest entrance to the building used as such church, hospital or school to the center of the nearest entrance of the premises for which a license is applied; except that the provisions of this section shall not prohibit the renewal of any valid on-sale license

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previously issued and in effect at the time of a subsequent construction or establishment of such church, hospital or school within five hundred (500) feet of such licensed premises, and provided that such licensed premises shall not subsequently be added to or enlarged; and provided that an on-sale beer licensee coming under this exception shall not thereafter be issued a general on-sale license.

(b) Exception. Notwithstanding the provisions of Subparagraph (a) of this section, the Board may issue an on-sale license for premises located with a distance of five hundred (500) feet from any church, hospital or public or private school of general education where persons under the age of eighteen (18) are taught, if the Board finds that the premises to be licensed are such that would not disturb the church services, or the hospital patients, or the school students, or detract from the peace and quiet of the neighborhood, and that the general benefit to Guam at large by the licensing of such premises would outweigh any benefit to be derived from a strict enforcement of the prohibition. No such exception may be made if the presiding official of the church, hospital or school within the five hundred (500) fee distance does not consent in writing to the waiver of such prohibition.

SOURCE: GC § 25208 as amended by P.L. 11-144.

2017 NOTE: References to “territory” removed and/or altered to “Guam” pursuant to 1 GCA § 420.

§ 3307. Same: Same: Zoning.

The Board shall only issue a license for premises in an area zoned ‘C’ (Commercial), ‘M1’ (Light Industrial), except that conditional use is authorized in an ‘R2’ (Multiple Dwelling Zone) when premises are located in a hotel or accessory building as defined in 21 GCA § 61102, or when located in a shopping center containing a leasable area in excess of 10,000 square feet.

SOURCE: GC § 25209 as amended by P.L. 12-124.

§ 3308. Same: Same: Number.

The Board shall not license a greater number of on-sale premises within a municipality or portion of a municipality than it deems consistent with the public interest.

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SOURCE: GC § 25210.

§ 3309. Same: Same: Number, Cancellation, Issuance of Licenses in Excess of Authorized Ratio: Application: Hearing.

(a) The number of premises for which an on-sale general license or an off-sale general license is issued shall be limited to one (1) for each two hundred (200) or fraction thereof, inhabitants of the municipality in which the premises are situated, provided, however, that without regard to such population limitation, a nontransferable, on-sale, general license may be issued for any hotel of not less than twenty (20) rooms, or for any premises designed to provide restaurant facilities for the public in which the investment in buildings is not less than fifty thousand dollars (\$50,000.00). No on-sale general license shall be issued in lieu of or upon the cancellation or surrender of an on-sale beer and wine license, except in case of an increase in population as provided hereafter.

(b) For purposes of this Title municipality shall mean the geographical area over which a mayor as defined in 5 GCA Ch. 40 exercises jurisdiction while inhabitants shall exclude those residing on military contractors' reservations.

(c) Nothing in this section shall authorize the cancellation of any license which may be outstanding in any municipality in excess of the number authorized by the ratio established in this section nor shall anything in this article require the issuance of any license in any municipality because the number of the licenses does not equal the authorized ration.

(d) Whenever it is made to appear to the Board by satisfactory evidence that the population in any municipality has increased by more than two hundred (200) or multiples of two hundred (200) inhabitants since the latest census recognized by the government of Guam, and it appears to the Board that by reason thereof the inhabitants of the municipality are unjustly and unfairly discriminated against, and if the total number of licenses in such municipality does not exceed the maximum specified, the Board may issue not to exceed one on-sale general license and one off-sale general license for each additional two

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hundred (200) inhabitants in the municipality since the effective date, hereof, any person applying for an off-sale general license on the ground of increased population shall set forth in his application and shall affirmatively show all of the following:

(1) That he is a qualified applicant and that his premises qualify under the law and rules of the Board.

(2) That the issuance of the license applied for would serve the public convenience or necessity.

(3) That the issuance of the license applied for would not be contrary to the public welfare and morals.

(4) That inequality in the ratio of licenses exists between the municipality in which the applicant's premises are located, and other municipalities in Guam.

(5) That the population in the municipality for which the license is applied has increased to the extent and under the conditions mentioned in this section.

(e) When an application is filed with the Board pursuant to the provision of the section regarding the increase in population, it shall be referred to the Administrator who shall cause a full investigation to be made of all matters stated in and relating to the application and report his findings to the Board with the recommendations. If a protest against the issuance of the license is filed with the Board, the hearing thereon shall be had and conducted accordingly, as provided in this Title.

SOURCE: GC § 25210.1 as amended by P.L. 12-72.

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

References to "territory" and "territorial" removed and/or altered to "Guam" pursuant to 1 GCA § 420.

§ 3310. License: Transfers: Application: Establishment of Escrow: License not to be Pledged.

Each license is separate and distinct and is transferable from the licensee to another person upon the approval of the Board as provided in this Title and upon the payment of a transfer fee equal to the fee payable upon an original application for the

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license, subject however to the reductions specified § 3208 of this Code, except as hereinafter provided.

(a) The license or licenses of one spouse may be transferred to the other spouse when the application for transfer is made prior to the entry of a final decree of divorce, and the license or licenses of a decedent, minor ward, incompetent person, bankrupt person, person for whose estate a receiver is appointed, or assignor for the benefit of creditors may be transferred by or to the surviving partner or partners of a deceased licensee, the executor, administrator, or guardian of an estate of a licensee, the surviving spouse of a deceased licensee in the event that the deceased licensee leaves no estate to be administered, the trustee of a bankrupt estate of a licensee, receiver of the estate of a licensee, or an assignee for the benefit of creditors of a licensee with the consent of the assignor, or licenses may be transferred between partners where no new partner is being licensed. All such transfers shall be approved by the Board upon application therefor without further proceedings. The fee for transfer for each such license is twenty-five dollars (\$25.00).

(b) Each license is transferable from the premises for which issued upon the approval of the Board, the payment of a transfer fee of twenty-five dollars (\$25.00) and compliance with the provisions of this Title relating to the issuance of an original license.

(c) (1) No retail license limited in numbers shall be transferred, unless before the filing of the transfer application with the Board, the licensee or the intended transferee records in the Department of Revenue and Taxation, government of Guam, a notice of the intended transfer, stating all of the following:

- (A) The name and address of the licensee.
- (B) The name and address of the intended transferee.
- (C) The kind of license or licenses intended to be transferred.

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(D) The address or addresses of the premises to which the license or licenses have been issued.

(E) The date when, which shall be at least ten (10) days after the recording of the notice, and the place where the purchase price or consideration for the transfer of the license or licenses, if any there be, is to be paid, and the amount of the purchase price or consideration, if any there be.

(F) The name and address of the escrow holder provided herein.

(2) A copy of the notice of intended transfer, certified by the Department of Revenue and Taxation, shall be filed with the Board together with a transfer application.

(3) Before the filing of such a transfer application with the Board the licensee and the intended transferee shall establish in escrow with some person, corporation, or association not a party to the transfer acting as escrow holder, and the intended transferee shall deposit with the escrow holder the full amount of the purchase price or consideration, if any there be, to be paid in connection with the transfer. The licensee and intended transferee shall also enter into an agreement, which agreement shall be deposited with the escrow holder, directing the escrow holder, out of the purchase price or consideration, to pay the claims of the bona fide creditors of the licensee who file their claims with the escrow holder on or before the date when the purchase price or consideration which is to be paid for the transfer of the license is fixed in the recorded notice of intended transfer; or if the purchase price or consideration is not sufficient to pay the claims in full, to distribute the consideration pro rata to the creditors of the licensee. The agreement shall also provide that the escrow holder shall make the payment or distribution within reasonable time after the completion of the transfer of the license.

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(d) The provision of this section relative to the filing of an application for transfer and on the establishment of escrow shall not apply to transfer of license made pursuant to subparagraph (a) of § 3310 of this Code by or to an executor, administrator, guardian, trustee, receiver, or other person acting in the legal or proper discharge of official duty, or in the discharge of any trust imposed upon him by law, nor to any transfer or assignment, statutory or otherwise, made for the benefit of creditors.

(e) No licensee shall enter into any agreement wherein he pledges the transfer of his license as security for a loan or as security for the fulfillment of any agreement. Each application for the transfer of a license shall be accompanied by or contain a statement verified by both the transferrer and transferee specifically stating that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Board, or to gain or establish a preference to or for any creditor of the transferrer or to defraud or injure any creditor of the transferrer. This statement shall become part of the application, and any misrepresentation contained in the statement shall be considered the misrepresentation of a material fact.

SOURCE: GC § 25213.

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606, after review of original source, GC § 25213.

§ 3311. Same: Application.

An applicant for a license shall submit an application in writing to the Board, verified under oath and accompanied by the license fee.

SOURCE: GC § 25214.

§ 3312. Application: Investigation.

Upon receipt of an application for a license and the license fee, the Board shall cause a thorough investigation to be made to

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determine whether or not the applicant and the premises qualify for a license.

SOURCE: GC § 25216.

§ 3313. Same: Same: by Administrator.

The Board shall refer every application for a license to the Administrator for investigation and report. The Board shall not issue any license prior to receipt of the Administrator's report.

SOURCE: GC § 25217.

§ 3314. Same: Notice Given.

In addition to referring the application to the Administrator, the Board shall immediately mail notice of the application to the Chief of Police, Director of Public Health and Social Service, Attorney General, Planning Commission, and the Commissioner of the municipality in which the premises for which the license is sought are located.

SOURCE: GC § 25218.

NOTE: Director of Public Safety and Island Attorney replaced by Chief of Police and Attorney General to reflect current organizational titles.

§ 3315. Same: Publication of Notice.

Within five (5) days after filing an application, an applicant shall cause notice of the application in a form prescribed by the Board to be published for three (3) consecutive days in a newspaper of general circulation in Guam. The applicant shall file an affidavit of publication with the Board before the Board may issue a license.

NOTE: GC § 25219.

§ 3316. Who May Protest.

The Administrator, Chief of Police, Director of Public Health and Social Services, Attorney General, Planning Commission, Commissioner of the municipality in which the premises for which a license is sought are located, and every person who has an interest that might be affected adversely by the granting of a license by reason of being an official of a church, hospital, school, contractor's or similar camp, or military reservation, or by reason for having an interest in land located

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within five hundred (500) feet of the premises for which a license is sought, may protest against the issuance of a license.

SOURCE: GC § 25220.

NOTE: Director of Public Safety and Island Attorney replaced by Chief of Police and Attorney General to reflect current organizational titles.

§ 3317. Protest: Writing Required.

The protest shall be in writing, signed by the person protesting and shall set forth the basis upon which the protest is made and such other information as the Board shall require.

SOURCE: GC § 25221.

§ 3318. Same: by Administrator as Ground for Denial.

A protest by the Administrator disclosing that an applicant or the premises for which a license is sought does not qualify for a license shall constitute grounds for denial of the license without necessity for a hearing by the Board prior to such denial.

SOURCE: GC § 25222.

§ 3319. Same: Same: Notice and Hearing.

In the event the Board denies a license on the basis of the Administrator's protest, the Board shall immediately notify the applicant in writing. Within ten (10) days after the giving of notice by the Board, the applicant may present a written petition for a license and the Board shall hold a hearing on the petition.

SOURCE: GC § 25223.

§ 3320. Same: by Others: Hearing.

(a) If a protest is received from any person entitled to protest, other than the Administrator, and is received within ten (10) days after the first publication of notice of the applicant's application in a newspaper of general circulation in Guam, the Board shall not issue a license until after a hearing on the protest.

(b) If the protest is received after a license is issued the Board shall treat it as an accusation.

SOURCE: GC § 25224.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

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§ 3321. License: Issuance Without Protest.

If a protest is not made by the Administrator in his report or within the prescribed period by other person entitled to protest, and the Board is satisfied that the applicant and the premises qualify for a license, the Board may proceed to issue a license.

SOURCE: GC § 25225.

§ 3322. Same: After Protest.

If a protest is made by the Administrator or within the prescribed period by other person entitled to protest, the Board may proceed to issue a license after a hearing, if it is satisfied that the applicant and premises qualify for a license.

SOURCE: GC § 25226.

§ 3323. Same: Content: Filing.

The Board shall issue all licenses to named persons, specifying on each license the class, and where more than one kind within a class, the kind of license, fee, and except in the case of agents, the premises for which issued. In the case of an agent's license the Board shall specify the name of the manufacturer whom the agent is representing. The Board may delegate to the Administrator the signing of any licenses authorized to be issued.

SOURCE: GC § 25227.

**ARTICLE 4
STANDARDS**

- § 3400. How Business is to be Conducted.
- § 3401. Advertising.
- § 3402. Posting Price List.
- § 3403. Same: On-Sale.
- § 3404. Premiums or gifts forbidden: exception.
- § 3405. Alcoholic beverages: gifts forbidden: exception.
- § 3406. Same: Distribution to Shareholders Forbidden.
- § 3407. Hostess, etc. Forbidden.
- § 3408. Prostitutes Forbidden.

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- § 3409. Minors: Employment Forbidden.
- § 3410. Same: Entry Forbidden.
- § 3411. Condition of Premises.
- § 3412. Unauthorized Alcoholic Beverages: Possession Forbidden.
- § 3413. Same: Consumption Forbidden.
- § 3414. Hours of Sale. On-Sale Premises.
- § 3415. Same: Air Terminal.
- § 3416. Same: Penalty.
- § 3417. Same: Off-Sale.
- § 3418. Sale: To Intoxicated Person or Habitual Drunkard: Forbidden.
- § 3419. Same: To Minor.
- § 3420. Same: False Identification by Minor.
- § 3421. Same: In School.
- § 3422. Same: In Jail.
- § 3423. Consumption on Public Way Forbidden.
- § 3424. Label: Required Content.
- § 3425. Alcoholic Solution.
- § 3426. Information to Purchaser.
- § 3427. Container: Refill Prohibit.
- § 3428. Same: Size Limited: On-Sale.
- § 3429. Same: Same: Off-Sale.
- § 3430. Restrictions on Interests and Transactions Between Licenses.
- § 3431. Restriction on Business Interests of Licensees.
- § 3432. Stacking Drinks Prohibited.
- § 3433. Consumption of Alcoholic Beverages by Licensees and Employees While on Duty Prohibited.
- § 3434. Size of Measuring Glass or Use of Measuring Instrument for Mixing Drinks Prescribed.
- § 3435. Sale of Tax-Free Liquor Prohibited.

§ 3400. How Business is to be Conducted.

A licensee, whether manufacturer, agent, wholesaler or retailer shall not encourage the consumption of alcoholic beverages but shall confine his business to the supplying of demand for alcoholic beverages, and in a dignified manner, in accordance with the intent of the provisions of this Chapter.

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SOURCE: GC § 25300.

§ 3401. Advertising.

The Board shall have the power to prescribed by regulation the character and extent of all advertising on the interior of any licensed premises, and subject to the provisions of this Chapter in case of the exterior of any on-sale premises, all other advertising by radio, newspaper or other periodical, outdoor signs or other graphic or printed matter as will provide the purchaser or consumer of alcoholic beverages with accurate information as to the kind, quantity, quality and manufacturer or distributor of alcoholic beverages and as will prevent false, misleading, obscene or indecent statements or statements addressed to minors or intended to encourage consumption of alcoholic beverages or disparaging the product of a competitor or advertising that is not consistent with the dignity required in the operation of the premises.

SOURCE: GC § 25301.

§ 3402. Posting Price List.

An on-sale licensee shall post in a conspicuous place in the premises a current price list of alcoholic beverages, beers and all other beverages sold or offered for sale within the premises.

SOURCE: GC § 25301.1 added by P.L. 15-76:1.

§ 3403. Same: On-Sale.

An on-sale licensee shall not place nor permit to be placed any sign upon or adjacent to the exterior of the premises which advertises any alcoholic beverage or which uses the words bar, saloon or cocktail, either alone or in conjunction with other words or which uses any symbol having a similar import unless such sign shall first have been approved by the Board.

SOURCE: GC § 25302.

§ 3404. Premiums or Gifts Forbidden: Exception.

A licensee shall not give, directly or indirectly, any premiums or gifts with the sale of any alcoholic beverages; provided, however, that on-sale and off-sale licensees may give premiums or promotional gifts in connection with the sale of

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alcoholic beverages, subject to any limitations that may be imposed on such gifts by regulation adopted by the Board.

SOURCE: GC § 25303. Amended by P.L. 22-80:2 (3/3/94).

§ 3405. Alcoholic Beverages: Gifts Forbidden: Exception.

Subject to any limitations that may be imposed by regulation adopted by the Board, no person shall offer or give any alcoholic beverages to any person in conjunction with the operation of any business, except that any person, including a licensee, may serve and provide, at no charge, food and alcoholic and non-alcoholic beverages to persons attending special promotions, grand openings, special gatherings, and similar occasions. In addition, any licensee may donate for charitable events alcoholic and non-alcoholic beverages to any not-for profit, charitable corporation or association which has a current certificate of tax exemption from the government of Guam.

SOURCE: GC § 25304. Amended by P.L. 22-80:3 (3/3/94).

§ 3406. Same: Distribution to Shareholders Forbidden.

A corporation shall not distribute, directly or indirectly, any alcoholic beverages to its stockholders by dividend, either by distribution in kind or the granting of purchase premiums.

§ 3407. Hostess, etc. Forbidden.

A licensee shall not employ in any on-sale premises a hostess or entertainer for the purpose of procuring or encouraging the sale of alcoholic beverages.

SOURCE: GC § 25306.

§ 3408. Prostitutes Forbidden.

A licensee shall not keep nor permit to frequent or be used in conjunction with any on-sale premises a prostitute or other person who practices immoral acts.

SOURCE: GC § 25307.

§ 3409. Minors: Employment Forbidden.

(a) A licensee shall not employ any minor under the age of eighteen (18), in or about that portion of the premises which is

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used for the sale or service of alcoholic beverages for consumption on the premises.

(b) Provided, however, the minors ages sixteen (16) and above may be employed as entertainers in on-sale premises under regulations made by the Board. Such regulations shall include, but are not limited to, provisions for registrations of entertainers, hours of employment, conditions of employment, and the responsibility of licensees employing such minors. Minors aged sixteen (16) and above may also be employed as waiters, bus persons, or other traditional restaurant staff, or as management trainees, provided the licensee can prove that at least seventy percent (70%) of the licensee's revenue at the food establishment comes from the sale of food, and that no more than thirty percent (30%) of the licensee's revenue at the food establishment comes from the sale of alcoholic beverages and provided further that minors so employed shall not be permitted to handle alcoholic beverages. Minors employed under the provisions of this section must work where close supervision exists to ensure compliance with prohibitions against consumption or handling of alcoholic beverages by minors. Nothing in this section shall be construed as exempting minors from the provisions of Guam's curfew laws or restrictions on working hours for minors that may exist in Guam law.

SOURCE: GC § 25308 amended by P.L. 10-23 and P.L. 11-144. Amended by P.L. 23-92:2.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 3410. Entry Forbidden.

(a) No person under eighteen (18) years of age shall enter an establishment where alcoholic beverages are consumed, unless such establishment is a public eating place, as defined in § 3118 of this Code. Every person who violates this Section shall be guilty of a petty misdemeanor.

(b) Exemptions. Establishments may open their doors and allow for teen events; provided, that the following provisions are adhered to:

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(1) no beverages with any amount of alcoholic content are sold during the events;

(2) all teens entering the premises shall be checked to ensure that no alcoholic beverages are brought into the premises; any alcoholic beverage found shall be confiscated on the spot;

(3) the management of the establishment shall ensure that, in addition to no alcoholic beverage being sold or consumed in the establishment during the teen events, that no alcoholic beverage is being consumed outside the premises which is under the direct control or ownership of the establishment;

(4) the establishment must remove all lewd, pornographic pictures, objects and other paraphernalia not suitable for teens prior to opening its doors for teen events;

(5) the establishment must comply with all other statutes governing the conduct of minors, who are defined as anyone under the age of eighteen (18) years old;

(6) the establishment must provide an identification marking, i.e. stamp, on any individual who is attending or participating in such teen events;

(7) the establishment must provide for adequate adult, i.e. personnel or chaperon, supervision and surveillance of such events;

(8) the establishment must acquire a business permit for conducting such teen events from the Department of Revenue and Taxation; such authorization may be included in its existing business permit at no additional cost; and

(9) the establishment must remove or cover all pictures, objects and other related items exclusively for advertising alcohol or tobacco products. The term 'advertising' for the purpose of this Section shall mean all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase and consumption of alcohol or tobacco by minors.

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(c) In addition to any other penalty allowed by law, a violation of the provisions of this Section shall have as an additional penalty a Five Hundred Dollar (\$500.00) fine, and suspension of the establishment's business license for a minimum of three (3) months.

SOURCE: GC § 25308.1, amended by P.L. 10-23, P.L. 11-144 and P.L. 13-187:169. Repealed/reenacted by P.L. 26-133:2.

2013 NOTE: Pursuant the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (b) were altered to adhere to the Compiler's alpha-numeric scheme.

§ 3411. Condition of Premises.

The Board shall have the power to prescribe by regulation the arrangement, construction, equipping, lighting and sanitary facilities of any premises as will provide a safe and sanitary premises with a sufficiently lighted, orderly atmosphere.

SOURCE: GC § 25309.

§ 3412. Unauthorized Alcoholic Beverages: Possession Forbidden.

A licensee shall not keep upon the premises any alcoholic beverages other than those in which he is authorized to deal by his license.

SOURCE: GC § 25310.

§ 3413. Same: Consumption Forbidden.

Unless authorized by a license issued for the premises and sold by the licensee, a person shall not consume any alcoholic beverages on any premises where alcoholic beverages are sold, nor except as prescribed by the Board by regulation, on any premises open to or used by the public. No person shall consume alcoholic beverages at any bus stops, bus shelters, or any facility provided for students waiting for bus transportation to and from school.

All monies collected from citations issued pursuant to this Section shall be deposited in the Police Services Fund.

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(a) Exception. This § 3413 shall not apply to temporary special tasting and sampling events, as authorized pursuant to § 3229 of Article 2, of this Chapter.

SOURCE: GC § 25311. Amended by P.L. 29-013:2 (Sept. 7, 2007). Subsection (a) added by P.L. 31-199:3 (Apr. 2, 2012).

§ 3414. Hours of Sale. On-Sale Premises.

An on-sale licensee shall not sell or serve any person any alcoholic beverages between the hours of 2:00 a.m. and 8:00 a.m., provided, however, that all alcoholic beverages must be consumed within fifteen (15) minutes of the time permitted for the sale thereof and premise(s) shall be closed no later than 3:00 a.m. thereafter. A licensee may begin selling or serving alcoholic beverages at 8:00 a.m., Monday through Sunday, inclusive.

SOURCE: GC § 25312 amended by P.L. 12-124 and P.L. 16-120, and as R/R by P.L. 17-81:38. Amended by P.L. 29-034:3 (Oct. 25, 2007), P.L. 30-154:1 (July 8, 2010).

§ 3415. Same: Air Terminal.

Section 3414 shall not apply to the sale of alcoholic beverages within the designated concessionaires in the secured areas of the A. B. Won Pat Guam International Airport Authority.

SOURCE: Added by P.L. 13-113:2 as §25312.1 GC. Amended by P.L. 25-57:1 (June 30, 1999).

NOTE: Amended to limit scope only to the designated concessionaires at the airport, not to the whole airport.

CROSS-REFERENCES: P.L. 19-19:27 abolished the Air Terminal Gaming Zone.

§ 3416. Same: Penalty.

Any person who brings alcoholic beverages into premises operated by an on-sale licensee and consumes the same thereon so as to cause a violation of § 3414 of this Chapter is guilty of a petty misdemeanor.

SOURCE: GC § 25313 as amended by P.L. 13-187:170.

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§ 3417. Same: Off-Sale.

An off-sale licensee shall not sell alcoholic beverages between the hours of 2:00 a.m. and 9:00 a.m. of any day.

SOURCE: GC § 25314, R/R by P.L. 12-124 and amended by P.L. 14-61:1.

§ 3418. Sale: To Intoxicated Person or Habitual Drunkard: Forbidden.

A licensee shall not sell or give nor permit to be sold or given any alcoholic beverages to any habitual or common drunkard or obviously intoxicated person.

SOURCE: GC § 25317.

§ 3419. Same: To Minor.

(a) A licensee, his agent or employee shall not sell, give, nor permit to be sold, given or served any alcoholic beverages to any person under twenty-one (21) years of age. For the purpose of preventing any violation of this Section, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence that he or she has reached the age of twenty-one (21) years. In any criminal prosecution or proceeding for the suspension or revocation of any license and based upon a violation of this Section, proof that the defendant licensee, or his agent or employee, demanded and was shown, before furnishing any alcoholic beverage to a minor, an identification card or other bona fide documentary evidence of majority of such person shall be a defense to such prosecution or proceeding for the suspension or revocation of any license.

(b) Every person who violates this Section shall be guilty of a petty misdemeanor.

SOURCE: GC § 25318. Amended by P.L. 10-23, P.L. 11-144, P.L. 13-187-171 and P.L. 30-156:3 (July 8, 2010).

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 3420. Same: False Identification by Minor.

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Any person under twenty-one (21) years of age who exhibits a false identification card or false document for the purpose of purchasing or obtaining alcoholic beverages shall be guilty of a petty misdemeanor.

SOURCE: GC § 25318.1 amended by P.L. 10-23, P.L. 11-144, P.L. 13-187:172 and P.L. 30-156:4 (July 8, 2010).

§ 3421. Same: In School.

A person shall not offer for sale, sell or deliver to any person within any school buildings or grounds any alcoholic beverage.

SOURCE: GC § 25319.

§ 3422. Same: In Jail.

A person shall not offer for sale, sell or deliver to any person within the buildings or grounds of any jail, prison or corrective institution any alcoholic beverage.

SOURCE: GC § 25320.

§ 3423. Consumption on Public Highways Forbidden.

A person shall not consume any alcoholic beverage on any public highway or road while operating or traveling in a motor vehicle, unless exempted by 9 GCA § 92114.

SOURCE: GC § 25321. Amended by P.L. 28-22:3.

2018 NOTE: The reference to 16 GCA § 18121 originally enacted by P.L. 22-020 (June 22, 1993) altered to reflect the current codification in Chapter 92 of Title 9 GCA, pursuant to P.L. 34-107:5 (June 5, 2018).

CROSS-REFERENCES: See 16 GCA § 9105, which forbids drinking in a motor vehicle.

§ 3424. Label: Required Content.

A licensee shall not deliver to the premises of any on-sale or off-sale licensee, nor shall any on-sale or off-sale licensee keep upon his premises any alcoholic beverage, unless the container bears a label plainly indicating the kind and quantity of the contents and the name of the manufacturer, rectifier or wholesaler, and, in addition, in the case of distilled spirits, the proof strength. To the extent that any information is blown into

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the glass of any container it shall constitute compliance with this section.

SOURCE: GC § 25322.

§ 3425. Alcoholic Solution.

(a) Unlawful to manufacture, sell, etc. Penalty. It shall be unlawful for any person, firm, or corporation to manufacture, sell, furnish, or give away, or offer to manufacture, sell, furnish, or give away any alcoholic solution of a potable nature containing any deleterious or poisonous substance, and the burden of proof shall be upon the person, firm or corporation manufacturing, selling, furnishing, or giving away, or offering to manufacture, sell, furnish, or give away, any such alcoholic solution of a potable nature containing any deleterious or poisonous substance, to show that such alcoholic solution of a potable nature did not contain any deleterious or poisonous substance.

(b) Every person who violates any of the provisions of this section is guilty of a misdemeanor.

SOURCE: GC § 25322.5 added by P.L. 13-187:173.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 3426. Information to Purchaser.

A licensee shall not offer for sale nor sell a different brand or character of alcoholic beverage than requested by the purchaser without first informing the purchaser of such difference.

SOURCE: GC § 25323.

§ 3427. Container: Refill Prohibit.

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.

SOURCE: GC § 25324.

§ 3428. Same: Size Limited: On-Sale.

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A licensee shall not deliver to any on-sale licensee nor shall any on-sale licensee have in his possession distilled spirits in packages containing more than one gallon or less than one ounce.

SOURCE: GC § 25325.

§ 3429. Same: Same: Off-Sale.

A licensee shall not deliver to any off-sale general licensee nor shall any off-sale licensee have in his possession or sell distilled spirits in packages containing more than one gallon or less than one ounce.

SOURCE: GC § 25326.

§ 3430. Restrictions on Interests and Transactions Between Licenses.

A manufacturer, agent or wholesaler of alcoholic beverages or any officer, director or agent of such persons shall not:

(a) Hold, directly or indirectly, to ownership of any interest in any on-sale or off-sale license.

(b) Furnish, give or lend, directly or indirectly, any money or other thing of value to, nor guarantee the payment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning or maintaining any on-sale or off-sale premises.

(c) Furnish, give, lend, rent, or sell directly or indirectly any equipment, fixtures, or supplies other than alcoholic beverages, draught beer dispensers, or indoor signs, and promotional gifts and supplies, in accordance with regulation prescribed by the Board, to any person engaged in operating, owning or maintaining any on-sale or off-sale premises.

(d) Own, directly or indirectly, any interest in the business, furniture, fixtures except indoor signs, or lease of any premises operated or maintained under an on-sale or off-sale license or own, directly or indirectly, any interest in land upon which on-sale or off-sale premises are maintained

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unless the holding of such interest is permitted in accordance with regulations of the Board.

(e) Deliver, directly or indirectly, the possession of any alcoholic beverages to any on-sale or off-sale licensee under an agreement of consignment whereby title to such alcoholic beverages is retained by the seller or whereby such licensee receiving such alcoholic beverages has the right at any time prior to sale to relinquish possession to or return them to the original seller.

(f) Give, directly or indirectly, to any on-sale or off-sale licensee or any other person any alcoholic beverages as free goods as a part of any sale or transaction involving alcoholic beverages.

(g) Give secret rebates or make any secret concessions to any on-sale or off-sale licensee.

(h) Give or furnish, directly or indirectly, to any agent or employee of an on-sale or off-sale licensee, anything of value for the purpose or with the intent to solicit, acquire or obtain the help or assistance of such agent or employee to encourage or promote either the purchase or the sale of the alcoholic beverages sold or manufactured by the licensee giving or furnishing him any such thing of value.

(i) Knowingly discriminate, directly or indirectly, in the same trading area, in the price or any such brand of alcoholic beverages sold to different retail licensees purchasing under like terms and conditions.

(j) Credit or compensate an on-sale or off-sale licensee for advertising display or distribution service in connection with the advertising and sale of alcoholic beverages.

(k) Sell any alcoholic beverages to any on-sale or off-sale licensee without invoicing the vendee's license number, or if the vendee is not required by law to hold a license, without indicating fully on the invoice the vendee's identity.

SOURCE: GC § 25327 amended by P.L. 11-88. Subsection (c) amended by P.L. 22-90:4 (3/3/94).

§ 3431. Restriction on Business Interests of Licensees.

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An on-sale or off-sale licensee or any officer, director, agent or employee of such licensee shall not hold, directly or indirectly, any interest in the business, license or property of a manufacturer or wholesaler of alcoholic beverages.

SOURCE: GC § 25328.

§ 3432. Stacking Drinks Prohibited.

No on-sale licensee or agent thereof shall serve more than one drink at any one time to any individual; provided, however, that beer served with a drink of distilled spirits shall be considered a part of such drink.

SOURCE: GC § 25329.

§ 3433. Consumption of Alcoholic Beverages by Licensees and Employees While on Duty Prohibited.

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.

SOURCE: GC § 25330.

§ 3434. Size of Measuring Glass or Use of Measuring Instrument for Mixing Drinks Prescribed.

General on-sale licensees shall use a full one (1) ounce measuring glass, or shall use an electronic measuring device approved by the Alcoholic Beverage Control Board, when mixing drinks at the bar.

SOURCE: GC § 25331 as amended by P.L. 15-76:4.

§ 3435. Sale of Tax-Free Liquor Prohibited.

It shall be unlawful for any general on-sale or off-sale licensee to sell or keep upon the licensed premises alcoholic beverages, taxes upon which have not been paid in accordance with the tax laws of Guam.

SOURCE: GC § 25332.

ARTICLE 5

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ADMINISTRATION

- § 3500. Board: Composition.
- § 3501. Same: Eligibility.
- § 3502. Same: Ineligibility.
- § 3503. Same: Disqualification and Removal of Member.
- § 3504. Same: Compensation.
- § 3505. Same: Employees.
- § 3506. Administrator.
- § 3507. Same: Appointment.
- § 3508. Same: Eligibility.
- § 3509. Same: Employees.
- § 3510. Board: Powers.
- § 3511. Same: Regulations.
- § 3512. Same: Hearings.
- § 3513. Same: Power to Require Records and Reports.
- § 3514. Same: Power to Prescribe Forms.
- § 3515. Same: Fees.
- § 3516. Board Meetings.
- § 3517. Same: Power to Administer Oaths.
- § 3518. Same: Records.
- § 3519. Administrator: Records.

§ 3500. Board: Composition.

The Board shall consist of five members who shall be appointed by the Governor with the advice and consent to the Guam Legislature. The Governor shall designate one of the members chairman. Three members shall be appointed for a term expiring June 30, 1950, and the remaining two members for a term expiring June 30, 1951. Thereafter every appointment shall be made for a term of two years, commencing from the date of the expiration of the last preceding term.

SOURCE: GC § 25400.

CROSS-REFERENCES: See 5 GCA Chapter 43 for general laws governing the operation of boards and commissions, including this one.

§ 3501. Same: Eligibility.

Except as provided in this Article, any citizen of the United States is eligible for membership on the Board.

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SOURCE: GC § 25401.

§ 3502. Same: Ineligibility.

A person is ineligible for membership on the Board who:

(a) Is or becomes interested, directly or indirectly in any business involving the importation, manufacture or sale or alcoholic beverages.

(b) Advocates, or is identified or connected with any organization or association which advocates prohibition.

(c) Is an incumbent of elective office or presents himself as a candidate for election to a public office.

(d) Is or undertakes to serve as an officer or committee member of any political party or organization.

(e) Has not reached the age of twenty-five (25) years.

SOURCE: GC § 25402. Subsection (f) repealed by P.L. 13-187:174.

§ 3503. Same: Disqualification and Removal of Member.

The Governor shall remove any disqualified member whenever such disqualification shall appear.

SOURCE: GC § 25403.

§ 3504. Same: Compensation.

Every member of Board who is not in the service of the Government, for which he receives an annual compensation, shall be paid Fifty Dollars (\$50) per day for each day on which the Board meets, provided, however, that such compensation shall not exceed One Hundred Dollars (\$100) per month.

SOURCE: GC § 25404 amended by P.L. 15-148:9.

§ 3505. Same: Employees.

The Board may employ and insofar as not fixed by separate provision of law or regulation fix the salaries of secretarial and clerical help necessary for the exercise of its powers and the performance of its duties.

SOURCE: GC § 25405.

§ 3506. Administrator.

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The office of the Administrator shall be separate from the Board and the Administrator and his employees shall not be members or employees of the Board while serving in the office of the Administrator.

SOURCE: GC § 25406.

§ 3507. Same: Appointment.

The Governor shall appoint the Administrator and insofar as not fixed by separate provision of law or regulation shall have the power to fix his salary.

SOURCE: GC § 25407.

§ 3508. Same: Eligibility.

Any citizen of the United States is eligible as Administrator who:

(a) Is not interested, directly or indirectly, in any business involving the importation, manufacture or sale of alcoholic beverages.

(b) Does not advocate nor is identified, or connected with any organization or association which advocates prohibition.

(c) Has reached the age of twenty-five (25) years.

(d) Is not or does not undertake to serve as an officer or committee member of any political party or organization.

SOURCE: GC § 25408. Subsection (e) repealed by P.L. 13-187:75.

§ 3509. Same: Employees.

The Administrator may employ, and insofar as not fixed by separate provision of law or regulation, fix the salaries of inspectors, and secretarial and clerical help necessary for him to exercise his powers and perform his duties.

SOURCE: GC § 25409

§ 3510. Board: Powers.

The Board shall have the power to license the importation, manufacture and sale of alcoholic beverages and to suspend, revoke or reinstate such licenses.

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SOURCE: GC § 25410

§ 3511. Same: Regulations.

The Board shall make regulations, not inconsistent with the provisions of this Chapter, and amend or repeal them, as it deems necessary to carry out the intent of the provisions of this Chapter and to enable it to exercise the powers and perform the duties conferred upon it.

SOURCE: GC § 25411.

§ 3512. Same: Hearings.

The Board shall conduct proceedings on any hearing required under the provisions of this Chapter in accordance with the provisions of the Administrative Adjudication Act and shall have all of the powers granted in such Act.

SOURCE: GC § 25412.

§ 3513. Same: Power to Require Records and Reports.

The Board shall have the power to prescribe the character and manner of keeping books and records by licensees, and the powers to require such reports from licensees, common and private carriers and other persons as necessary to enable the Board to exercise its powers and perform its duties.

SOURCE: GC § 25413.

§ 3514. Same: Power to Prescribe Forms.

The Board shall prescribe the form of all applications for licenses or renewal of licenses and other papers it shall require including verification, and the information to be contained in such applications and other papers. It shall prescribe the place for posting licenses by licensees and the conditions under which duplicate licenses shall be issued, which the Board may issue for a fee of one dollar (\$1.00) each.

SOURCE: GC § 25414.

§ 3515. Same: Fees.

The Board shall cause all fees received to be paid into the Treasury. In the event the Board denies a license, it shall cause one-fourth (1/4) of the fee to be paid into the Treasury for costs of

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investigation of the applicant or premises and the remainder of the fee to be returned to the applicant. A person whose license is suspended or revoked is not entitled to return of any portion of the fee.

SOURCE: GC § 25415.

§ 3516. Board Meetings.

A majority of all the members of the Board shall constitute a quorum for the transaction of business, but the affirmative vote of a majority of all of the members shall be necessary to determine any matter before it.

SOURCE: GC § 25416.

§ 3517. Same: Power to Administer Oaths.

The members of the Board, the Administrator and the persons employed by the Board and the Administrator for the administration and enforcement of the provisions of the Chapter shall have the authority to administer and certify oaths in the administration and enforcement of this Chapter.

SOURCE: GC § 25417.

§ 3518. Same: Records.

The Board shall cause complete records to be kept, of all its meetings, proceedings and business, including the number, class and kind of licenses issued, denied, suspended and revoked, moneys received and disbursed and the number, kind and disposition of seizures, which records shall be open to public examination. Within thirty (30) days after the close of each fiscal year the Board shall render a report to the Governor with a copy to the Director of Revenue and Taxation of all of its activities for the preceding year based upon such records.

SOURCE: GC § 25418.

§ 3519. Administrator: Records.

The Administrator shall keep complete records of his activities, including the number, class and kind of licenses temporarily suspended by him, and the number, kind, and disposition of all seizures by him. Within thirty (30) days after the end of the fiscal year, the Administrator shall render a report

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of the Governor, sending a copy to the Board, of his activities as shown by his records.

SOURCE: GC § 25419.

ARTICLE 6
ENFORCEMENT

- § 3600. Enforcement Powers.
- § 3601. Inspections.
- § 3602. Seizure.
- § 3603. Same: Report.
- § 3604. Same: Forfeiture.
- § 3605. Same: Same.
- § 3606. Same: Release and Return.
- § 3607. Destruction of Property Forfeited.
- § 3608. Disposition of Property Seized: Beverages.
- § 3609. Same: Stills and Supplies.
- § 3610. Same: Vehicles.
- § 3611. Revocation or Suspension of License: Grounds.
- § 3612. Same: Temporary.
- § 3613. Same: Hearing.
- § 3614. Same: Same.
- § 3615. Same: Accusation.
- § 3616. Criminal Prosecution.
- § 3617. Penalty.
- § 3618. Same: Officials.
- § 3619. Same: Minors.

§ 3600. Enforcement Powers.

Every member of the Board, the Administrator and every inspector shall have all of the powers of peace officers in the enforcement of the provisions of this Chapter, the regulations of the Board adopted under the provisions of this Chapter and any other penal provision of law prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulterating, diluting, misbranding, and mislabeling of alcoholic beverages.

SOURCE: GC § 25500.

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§ 3601. Inspections.

Every member of the Board, Administrator and every inspector shall have the right at all times, without notice and without legal process, to visit and have immediate access to every part of the premises of every licensee for the purpose of making an examination or inspection of the alcoholic beverages, books and records, the manner of conducting the business and the premises of the licensee.

SOURCE: GC § 25501.

2017 NOTE: The following sentence was removed due to the repeal of GC § 19566.0102 by P.L. 006-094 (Mar. 21, 1962).

With regard to alcoholic beverages placed in a warehouse under bond, the right to visit and to have access to such warehouse for the purpose of examination or inspection of alcoholic beverages shall be exercised in accord with subsection 19566.0102, Government Code of Guam.

NOTE: § 19566.0102 was repealed by P.L. 6-94 in 1962.

§ 3602. Seizure.

Every member of the Board, the Administrator and every inspector shall have the power to seize and hold without legal process until an order of disposition is made by the court, the following:

(a) Any alcoholic beverages manufactured in Guam by any person other than a licensed manufacturer regardless of where found.

(b) Any stills, materials, or supplies capable of and intended for use in manufacture of alcoholic beverages without license.

(c) Any alcoholic beverages imported, possessed or owned in violation of the provisions in this Chapter.

(d) Any alcoholic beverages adulterated, diluted, misbranded or mislabeled and any distilled spirit containers which have been refilled with distilled spirits.

(e) Any vehicles used to carry or conceal any alcoholic beverages which are subject to seizure.

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SOURCE: GC § 25502.

§ 3603. Same: Report.

Every person who seizes any alcoholic beverages, vehicles or other property subject to seizure under the provisions of this Article shall file without delay a written report of the seizure with the Attorney General, with notice to the Board.

SOURCE: GC § 25503.

NOTE: Reference to Island Attorney removed as a functions of that office are now performed by the Attorney General. See 5 GCA Chapter 30.

§ 3604. Same: Forfeiture.

Upon receiving a written report of the seizure of alcoholic beverages, vehicles or other property subject to seizure under the provisions of this Article the Attorney General shall institute proceedings in the Superior Court and have the seized property declared forfeited to the government.

SOURCE: GC § 25504.

NOTE: Reference to Island Attorney removed, and Island changed to Superior Court, to conform with current designation.

§ 3605. Same: Same.

Upon a finding by the court that any alcoholic beverages, vehicles or other property were seized in accordance with the provisions of this Article, the court shall adjudge to seized property forfeited to the government. In the event a vehicle subject to seizure is found to have been used without the knowledge or consent of the owner it shall not be forfeited. The burden is on the owner of the vehicle to show lack of knowledge or consent.

SOURCE: GC § 25505.

§ 3606. Same: Release and Return.

Upon a finding that any alcoholic beverages, vehicles or other property were erroneously or illegally seized, the court shall order the seized property released and returned to the person from whom the property was seized.

SOURCE: GC § 25506.

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§ 3607. Destruction of Property Forfeited.

The court shall order destroyed all alcoholic beverages forfeited by reason of adulteration, dilution or manufacture in Guam by other than a licensed manufacturer and distilled spirits in a container that has been refilled.

SOURCE: GC § 25507.

§ 3608. Disposition of Property Seized: Beverages.

The court shall order the disposition of all alcoholic beverages other than those specified in § 3607 by transfer to a government agency, department or institution requesting such alcoholic beverages for industrial, medicinal or scientific use, by public sale or by destruction. A government agency, department or institution may file with the court a request for any forfeited alcoholic beverages and the court shall not order other disposition of the alcoholic beverages requested until the request has been filled.

SOURCE: GC § 25508.

§ 3609. Same: Stills and Supplies.

The court shall order the disposition of any forfeited stills, materials and supplies by public sale or destruction.

SOURCE: GC § 25509.

§ 3610. Same: Vehicles.

The court shall order the disposition of any forfeited vehicles by transfer to any government agency, department or institution requesting such vehicles and in the absence of any such request, by public sale.

SOURCE: GC § 25510.

§ 3611. Revocation or Suspension of License: Grounds.

A license of any class may be suspended or revoked on any of the following grounds:

- (a) the continuation of a license would be contrary to the public interest.

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(b) The violation, causing or permitting of a violation of, or failure or refusal by a licensee to comply with:

(1) Any provision of this Chapter.

(2) Any regulation of the Board adopted under the provisions of this Chapter.

(3) Any other penal provisions of the laws of Guam or of the United States applicable to Guam prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulterating, diluting, misbranding or mislabeling of alcoholic beverages.

(c) The misrepresentation of a material fact by any applicant in obtaining or renewing any license.

(d) The plea, verdict or judgment of guilty to any public offense involving moral turpitude.

SOURCE: GC § 25511.

§ 3612. Same: Temporary.

Upon the filing of a sworn written report with the Administrator by an inspector setting forth grounds for the suspension or revocation of a license, the Administrator may temporarily suspend any license pending a regular hearing by the Board. No temporary suspension by the Administrator shall exceed forty-eight (48) hours. The Administrator shall upon temporarily suspending a license immediately notify the Board in writing of his action and transmit to the Board the report of the inspector, including the names of all the witnesses.

SOURCE: GC § 25512.

§ 3613. Same: Hearing.

(a) The Board, upon receipt of the report required in § 3612, shall, as soon as practicable, hold a hearing on such report.

(b) (1) The Board shall impose a penalty on a licensee found guilty of violating any of the provisions of this Chapter amounting to One Thousand Five Hundred Dollars (\$1,500.00) for the first offense; Two Thousand Five Hundred Dollars (\$2,500.00) for the second offense; and

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Three Thousand Five Hundred Dollars (\$3,500.00) for the third offense. For the fourth offense, the Board may impose a penalty of up to Ten Thousand Dollars (\$10,000.00), but not less than Five Thousand Dollars (\$5,000.00), and a forty-eight hour suspension for every subsequent offense.

(2) Contingent on the severity of any violation, the Board may use its discretion and suspend or revoke the license of any licensee found guilty of violating any of the provisions of this Chapter.

(c) In addition to the fines in Subsection (b) of this Section, the Board shall suspend, for a period of not less than thirty days and no more than ninety days, the license of any licensee found guilty of violating §3413 of this Chapter as a second offense. The Board shall revoke the license of any licensee found guilty of violating § 3413 of this Chapter as a third offense.

(d) The Board shall suspend an Alcohol Employee's license for seven days for a first offense of § 3231(c) and (d), and/or § 3230, of this Chapter; a suspension of an Alcohol Employee's license for fourteen days and a One Hundred Fifty Dollar (\$150) fine for a second offense; and revocation of an Alcohol Employee's license for the third offense.

SOURCE: GC § 25513. Amended by P.L. 29-002:V:I:5 (May 18, 2007); P.L. 30-155:1 (July. 8, 2010); and P.L. 32-051:6 (July 5, 2013).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606

§ 3614. Same: Same.

In the event the Administrator fails or refuses to suspend or revoke a license within five (5) days after the filing of a written report with the Administrator, the Board may hold a hearing on such report and may suspend or revoke any license.

SOURCE: GC § 25514.

§ 3615. Same: Accusation.

Without reference to the Administrator, any person may file an accusation with the Board against any licensee setting forth a ground for suspending or revoking a license.

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SOURCE: GC § 25515.

§ 3616. Criminal Prosecution.

The criminal prosecution of any person under the provisions of this Chapter shall be in addition to, and independent of the power of the Board and Administrator, to suspend or revoke any license.

SOURCE: GC § 25516.

§ 3617. Penalty.

Every person who violates, causes or permits to be violated, or fails or refuses to comply with any provision of this Chapter or any order or regulation of the Board not inconsistent with the provisions of this Chapter, for which a specific penalty is not otherwise provided, is guilty of a misdemeanor.

SOURCE: GC § 25517 as amended by P.L. 13-187:176.

§ 3618. Same: Officials.

Any member or employee of the Board, the Administrator or any employee of the Administrator or any member of the police who disposes of any alcoholic beverages or other property seized under this Chapter in any manner other than as directed by an order of the court on the provisions of this Chapter, is guilty of a misdemeanor. In addition, he shall be liable to the government in a civil action.

SOURCE: GC § 25518 as amended by P.L. 13-187:177.

§ 3619. Same: Minors.

Any person under the age of twenty-one (21) years purchasing or consuming alcoholic beverages or in possession thereof shall be guilty of a petty misdemeanor. This provision, with regards to possession of alcoholic beverages, does not apply to persons eighteen (18) to twenty (20) years of age who are performing paid work for and on behalf of a licensed establishment that provides alcohol. For purposes of this Section, 'provide' means various methods of distribution or retrieval, including, but not limited to, selling, serving, or transporting alcoholic beverages.

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SOURCE: GC § 25519 as amended by P.L. 10-23, P.L. 11-144, P.L. 13-187:178 and P.L. 30-156:5 (July 8, 2010).

ARTICLE 7
PROHIBITIONS ON IMPORTATIONS

- § 3701. Who May Import.
- § 3702. Prohibitions.
- § 3702.1. Sale of Caffeinated Malt Beverages.
- § 3703. Penalty.

§ 3701. Who May Import.

Alcoholic beverages may be brought into Guam from without Guam for delivery or use within Guam only when the alcoholic beverages are consigned to a licensed wholesaler.

SOURCE: GC § 25600.

2017 NOTE: References to “territory” removed and/or altered to “Guam” pursuant to 1 GCA § 420.

§ 3702. Prohibitions.

The transportation or importation into Guam for delivery or use in Guam of alcoholic beverages without payment of the tax provided by Chapter 26, Article 3, of this Code, or contrary to the provisions of § 3701, is hereby prohibited.

SOURCE: GC § 25601.

References to “Territory” removed and/or altered to “Guam” pursuant to 1 GCA § 420.

NOTE: See *Government of Guam ex. rel. Camacho v. Bird* (1968), 398 F.2d 293.

§ 3702.1. Sale of Caffeinated Malt Beverages.

No caffeinated malt beverages may be imported, produced, manufactured, distributed, or sold at any retail outlet on Guam.

SOURCE: Added by P.L. 31-101:2 (Sept. 30, 2011), effective (1) month from the date of enactment pursuant to P.L. 31-101:2.

§ 3703. Penalty.

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Whoever transports or imports into Guam for delivery or use in Guam alcoholic beverages in violation of this Article shall be guilty of a misdemeanor and may be fined not more than ten thousand dollars (\$10,000.00).

SOURCE: GC § 25602 is amended by P.L. 13-187:179.

NOTE: All references in this Title to 'Director of Finance' and 'Department of Finance' shall mean 'Director of Revenue and Taxation' and 'Department of Revenue and Taxation' by authority of P.L. 9-288, effective August 7, 1968; 'Director of Medical Services' and 'Department of Medical Services' changed to 'Director of Public Health and Welfare' and 'Department of Public Health and Welfare' by P.L. 7-101, effective July 11, 1964. 'Director' and 'Department of Public Health and Welfare' changed to 'Director' and 'Department of Public Health and Social Services' by P.L. 9-147, effective February 16, 1968.
