

TITLE 21.

INTOXICATING LIQUOR

CHAPTER 1.

ALCOHOLIC BEVERAGES

ARRANGEMENT OF SECTIONS

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An Act to prohibit and control the sale, use, consumption and production or possession of alcoholic beverages and to provide statutory authority for municipalities to administer the prohibition and control of alcoholic beverages and for matters connected therewith.

Commencement: 9 July 1971
Source: M.I. Code (1975)
P.L. 1980-18
P.L. 1986-10
P.L. 1990-78
P.L. 1991-115
P.L. 1992-7

PART I - LICENSES

- §101. Short title.

This Chapter may be cited as the Alcoholic Beverage Control Act 1971. [P.L. 1980-18, §1.]

§102. Interpretation.

As used herein:

(a) “alcoholic beverage” means beer and malt beverages, distilled spirits, wine, and every liquid which contains one-half of one percent (0.5%) or more of alcohol by volume intended or used for beverage purposes, either alone or combined with other substances;

(b) “bar” means any place or building to which the public is admitted, or to which membership or the right entitling one to enter may be obtained, and in which alcoholic beverages are sold for consumption on the premises;

(c) “package store” means any place or building to which the public is admitted, or to which membership or the right entitling one to enter may be obtained, and in which alcoholic beverages are sold in unopened containers for consumption not on the premises;

(d) “permit” means a local consumption permit issued by a Local Government pursuant to Section 120 of this Chapter or an identity card issued pursuant to the Registration of Persons Act 1989 (7 MIRC 16);

(e) “person” means every individual, corporation, partnership or any other form of business association or combination thereof;

(f) “proof of age” means any currently valid official document or identification, including but not limited to a currently valid passport, driver’s license, or identity card issued pursuant to the Registration of Persons Act 1989, which shall contain at a minimum the person’s name, signature and address; issue and expiration dates, if applicable; and the person’s date of birth showing proof that the person identified by that document has attained the age of eighteen (18) years or such other minimum age greater than eighteen years as may be required by an ordinance of the local government council. [M.I. Code (1975), §12; amended by P.L. 1980-18, §5, adding Paragraphs (b) and (e); P.L. 1990-78, § 2(1), adding Paragraph (e); P.L. 1991-115, §2(1), enacting new Paragraph (d) and renumbering subsequent Paragraphs; P.L. 1992-7, §2.]

§103. Licenses required.

No person shall sell, offer for sale or possess for purpose of sale, whether at retail or wholesale, any alcoholic beverage unless he is the then designated licensee and holder of a duly issued and currently valid license issued pursuant to this Chapter. [P.L. 1980-18, §2.]

§104. License fees.

(1) The annual alcoholic beverage license fee shall be determined by the Local Government Council.

(2) The fee shall be paid on a quarterly basis, and when issued during a quarter, shall be prorated. [P.L. 1980-18, §3; amended by P.L. 1986-10, §2(1).]

§105. Issuance of licenses.

An application for original issuance or renewal of a license is to be submitted to the Local Government Council and is to be accompanied by the applicable license fee. [P.L. 1980-18, §4, amended by P.L. 1986-10, §2.]

§106. Term of license.

A license shall be valid for a period of one year from the date of issuance unless sooner suspended or revoked. [P.L. 1980-18, §6.]

§107. Licensing, suspension and revocation.

(1) Within sixty (60) days of the date a completed application is submitted, a hearing on new applicants shall be held before the Local Government Council. At such hearing, testimony shall be taken concerning the fitness of the applicant and the reasonableness of the proposed establishment. Notice and procedure shall be in conformity with applicable laws of the Republic.

(2) In considering the issuance of a license, the factors to be taken into account shall include but shall not be limited to:

- (a) priority in time of application;
- (b) the applicant's past performance in complying with applicable laws;
- (c) the applicant's criminal record, if any;
- (d) population density in the location of the proposed establishment;
- (e) its proximity to other licensed establishments;
- (f) its proximity to churches, schools, hospitals and other locations dedicated to particular functions or purposes;
- (g) the residential nature of the area;
- (h) the likely effect of any noise or disturbance from the establishment or surrounding premises;
- (i) any zoning or other applicable laws or ordinances.

(3) The renewal of licenses shall be preceded by notice and hearing. Such notice and hearing shall be in conformity with the following mandatory suspension and revocation system:

- (a) on a finding by the Local Government Council of any willful violation of any provision of this Chapter, the establishment's license shall be suspended for not less than two weeks or more than two months;
- (b) on a second finding of a willful violation, whether or not a repeat violation, the license shall be suspended for not less than two (2) months or more than four (4) months; and
- (c) on a third finding of a willful violation, whether or not a repeat violation, the license shall be revoked.

In addition to the suspension or revocation of a license, an administrative fine of up to \$1,000 per violation may be imposed. [P.L. 1980-18, §7 amended by P.L. 1986-10, §2, adding Subsection (2).]

§108. Multiple businesses.

A separate license shall be required for each location where a business activity required to be licensed is conducted. In the event a bar or package store, whether retail or wholesale, or any combination thereof, is located on the same site, a separate license shall be required for each activity. [P.L. 1980-18, §8.]

§109. Persons licensed on effective date.

A person who is the designated licensee and holder of a currently valid license to engage in the business of the sale or production of alcoholic beverages by the municipality on the effective date of this Chapter shall be exempt from the payment of the license fees fixed herein for the

remainder of the period for which such current license was issued and fees paid; provided, however, that such licenses shall be subject to the requirements and conditions provided herein, including administrative suspension and fines, and all other applicable laws of the Republic, including criminal penalties. [P.L. 1980-18, §9.]

§110. Fees.

All fees collected under this Chapter by the Local Government Council shall be credited to that Local Government Council. [P.L. 1986-10, §2(c), introducing Section 9A, which has been re-numbered.]

PART II- RESTRICTIONS ON BUSINESS

§111. Conduct of business.

Each licensee shall comply with the following conditions of operation:

(a) Every bar shall employ and have on duty on the premises at all times during business hours a special policeman who shall maintain peace and quiet, and who shall wear clothing which clearly indicates his role and the nature of his employment. His presence shall be apparent and distinct at all times. The full names and other particulars regarding each such

special policeman shall be promptly supplied to the Local Government Council. Such special policeman shall be the employee of the licensee only and not that of the local government, and the licensee shall be responsible for his conduct in like manner as any employer is for his employee's conduct.

(b) Each bar, and the employees or operators thereof, shall be subject to a sanitary and medical inspection upon application for a license, and thereafter at periodic intervals, at the discretion of the Local Government Council.

(c) The Local Government Council of the area shall decide on the days and the times all bars and package stores may sell or offer for sale any alcoholic beverage, or be opened to the public for any purpose.

(d) The Local Government Council shall make ordinances or regulations prescribing the times and days on which the bars and package stores may sell or offer for sale any alcoholic beverage, or be opened to the public for any purpose.

(e) No licensee shall allow any person, other than an employee legitimately engaged in the performance of his after-closing duties, to remain on the premises of the establishment after the hours provided for under Paragraph (c) herein above.

(f) No person under the age of eighteen (18) shall enter or remain in or be allowed to enter or remain, or be employed within any bar.

(g) Any bar may provide music and permit dancing; provided, however, that the Local Government Council may prohibit or restrict the days or hours during which such music or dancing may be allowed at any particular bar in the event it determines such may constitute a public nuisance or be detrimental to the peace and quiet of others.

(h) No package store owner (whether retail or wholesale), operator, or employee shall permit the consumption of any alcoholic beverages upon the premises and shall actively take all steps necessary to prevent such.

(i) Each licensee shall assure that their respective licensed premises, and the surrounding site or area upon which it is located, shall at all times be maintained in a clean,

tidy, sanitary condition and that all empty or discarded bottles, cans, boxes and other trash, debris or refuse of whatever nature shall be immediately removed and deposited in a public garbage or disposal site designated as such by the appropriate governmental authority.

(j) Each licensee shall assure compliance with all applicable laws, regulations or ordinances including but not limited to sanitation, health, fire and safety laws or regulations

(k) Each licensee shall post and display its Alcoholic Beverage Control License in a prominent location at all times and produce such for inspection upon demand of any law enforcement officer or other authorized person and shall, in addition thereto, produce for inspection any other health permits or business or other licenses, permits, or records upon demand by such person or the Local Government Council.

(l) Every bar shall post and display a sign which shall state, in letters not less than two inches high, in English and Marshallese, "No Person Under 18 Years of Age Allowed".

(m) Every bar shall be adequately equipped with fire fighting equipment and readily accessible exits, as determined by the Fire Inspector; and any Fire Inspector shall have the right to inspect the premises and require that the necessary equipment or exits be installed if lacking. In the event any such licensee shall refuse or fail to install the equipment specified or provide for exits or other specified fire protection measures, the Local Government Council may immediately conduct a hearing to consider and determine whether the license should be suspended or revoked. [P.L. 1980-18, §10, amended by P.L. 1986-1 0, §2. This Section has been renumbered.]

PART III - MISCELLANEOUS

§112. Illegally remaining on premises.

No person, other than an employee legitimately engaged in the performance of his after-closing duties, may remain on the premises of a bar after the legal time set for closing. A person found guilty of illegally remaining on such premises shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$100 or to a term of imprisonment not exceeding three (3) days or both. [P.L. 1980-18, §11. This Section has been renumbered.]

§113. Abatement of nuisance.

Any bar or package store which violates a provision of this Chapter shall be deemed a nuisance. A civil action for abatement is authorized to be brought by the Attorney-General in court. This action need not be preceded by initiation of proceedings to suspend or revoke the license, or by the institution of a criminal charge. [P.L. 1980-18, §12. This Section has been renumbered.]

§114. Open containers in a car.

No person shall possess in or on any moving motor vehicle any opened container of an alcoholic beverage. [P.L. 1980-18, §13. This Section has been renumbered.]

§115. Littering.

Any person discarding a container of an alcoholic beverage on or around a public thoroughfare, premises, beach, or into the lagoon other than such places designated for disposal, commits an offense under this Chapter. [P.L. 1980-18, §13. This Section was formerly part of §13 of the original Act, but has been given its own Section and has been renumbered.]

§116. Penalty.

Any person violating any provision of this Chapter shall be guilty of and shall upon conviction be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both. [P.L. 1980-18, §14. This Section has been renumbered.]

PART IV - LOCAL OPTION**§117. Prohibition subject to local option.**

(1) No person shall sell, give, use, consume, produce, possess, or manufacture any alcoholic beverage within the Republic except within a municipality or local governmental unit which has elected by ordinance to allow the sale, use, consumption, production, manufacture, or possession thereof as provided herein.

(2) Any person who violates Subsection (1) above shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both. [M.I. Code (1975) §12.013; codified & v P.L. 1980-18, §15. This Section has been renumbered.]

§118. Local option.

(1) Each municipality or local governmental unit in the Republic, whether chartered or not, may enact by ordinance or in any other authorized manner rules and regulations authorizing and regulating the sale, use, consumption, production, or possession of alcoholic beverages. Such rules and regulations shall be effective only within the jurisdiction of each such local municipality or governmental unit and shall not be inconsistent with laws of the Republic which also relate to alcoholic beverage control. A local municipality or governmental unit may enact ordinances or regulations more restrictive but not less restrictive than those enacted by the Nitijela.

(2) A local government council may enact an ordinance with respect to the purchase, consumption, acquisition, or possession of alcoholic beverages which sets a minimum age greater than eighteen (18) years.

(3) Nothing in this Chapter shall be construed as limiting the authority of a local council to set standards for issuance of permits or licenses that take into account the documented physical or mental condition of an applicant or the criminal record of an applicant. [M.I. Code (1975), §12. 014; codified by P.L. 1980-18, §16, amended by P.L. 1992-7, §3.]

§119. Prohibition to apply notwithstanding exercise of local option.

The following prohibitions and penalties shall apply to any municipality which exercises its right to permit the sale, use, consumption, production, or possession of alcoholic beverages:

(a) no person under the age of eighteen (18) years shall purchase, consume, drink, possess, produce, or manufacture any alcoholic beverages;

(b) no person shall sell or give or cause to be sold or given any alcoholic beverage to any person under eighteen (18) years of age;

(c) no person shall sell or give or cause to be sold or given any alcoholic beverage to any person who is intoxicated;

(d) no person shall sell, give, or deliver, or offer to sell, give, or deliver any alcoholic beverages to any person on or within the premises of any school, jail, hospital, dispensary, or the grounds thereof, nor shall any person consume any alcoholic beverage in any of the

aforementioned structures or areas, except upon the prior written consent of the Local Government Council to the person in charge of said facility, and with the authorization of said person so in charge;

(e) any person who violates Paragraph (a) of this Section shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not less than \$10 or exceeding \$1,000, or to a term of imprisonment not exceeding six (6) months, or both;

(f) any person who violates any one or more of Paragraphs (b) through (d) Of this Section will be guilty of a misdemeanor and will upon conviction be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both, and will, in addition to any other penalty imposed, be subject to suspension or revocation of that person's license in accordance with Section 107 of this Chapter;

(g) an employer, or his employee, or both, shall be held jointly and severally responsible and liable for any violation of Paragraphs (b) through (d) of this Section by such employee. [M.I. Code (1975) §12.016, codified by P.L. 1980-18, §18. This Section has been renumbered. Amended by P.L. 1991-115, §2(2) by making addition to Paragraph (f).]

§120. Local consumption permit or proof of age required.

(1) A Local Government Council may require the issuance or possession of a local consumption permit to purchase, consume, possess, or otherwise obtain or acquire any alcoholic beverages. In the event that a Local Government Council does not require the issuance or possession of such a permit, proof of age, as defined in Section 102 of this Chapter, shall be required.

(2) No person may purchase, or in any manner obtain any alcoholic beverage from, or consume or possess any alcoholic beverage on or within any establishment, package store, beer tavern, or bar authorized by the municipality wherein located to sell, or otherwise dispense alcoholic beverages, whether at wholesale or retail, and no person may offer, give, dispense, deliver, sell, or transfer any alcoholic beverage to any person on or within any such establishment, beer tavern, bar, or package store, whether retail or wholesale, unless the person to whom such alcoholic beverage is delivered is in immediate possession of either:

(a) a local consumption permit, if required by a Local Government Council; or

(b) a currently valid official document or identification, issued to the bearer, showing proof of age, if such a permit is not so required.

(3) The owner, proprietor, operator, special policeman, or other authorized attendant on duty at any beer tavern, bar, or other establishment where alcoholic beverages may be purchased, obtained, or are sold or offered for sale in open containers, shall, prior to sale, delivery of possession, or other dispensing of any alcoholic beverage to any person within such establishment, require that person to produce for examination either:

(a) a local consumption permit, if required by a Local Government Council; or, if such a permit is not so required,

(b) a currently valid official document or identification, issued to the bearer, showing proof of age.

In addition to the provisions of this subsection above, a Local Government Council may provide, by ordinance or by the terms of the alcoholic beverage license issued to individual establishments, that no person may be allowed to enter or to remain within specified beer taverns, bars, or other establishments, unless such person is then in immediate possession of a local consumption permit, if required by that Local Government Council, or a currently valid official

document or identification, issued to the bearer, showing proof of age.

(4) The owner, proprietor, operator, cashier, clerk, or other attendant on duty in any package store or other establishment authorized by the municipality wherein located to sell or otherwise dispense alcoholic beverages exclusively in unopened containers for consumption off the premises, shall, prior to sale, delivery of possession or other dispensing of any alcoholic beverage to any person, require that person to produce for examination either:

(a) a local consumption permit, if required by a Local Government Council; or

(b) a currently valid official document or identification, issued to the bearer, showing proof of age, if such a permit is not so required.

(5) In the event any person licensed to sell alcoholic beverages, or that person's employees or agents, demands a local consumption permit, if required by that Local Government Council, or proof of age before selling alcoholic beverages to any person, and the person upon whom such demand is made produces a currently valid official document or identification showing proof of age, which appears to be lawfully issued and valid, is fair on its face, and purports to identify the person producing such proof permit or proof, and the person selling such alcoholic beverages accepts such permit or proof as proper identification and proof of age in good faith believing it to be true and accurate and to be lawfully issued to the person producing the permit or proof, that person may rely on such permit or proof in selling any alcoholic beverage to such person and shall not be held liable for any penalties imposed for selling alcoholic beverages to any person under eighteen (18) years of age.

(6) Upon the request of the owner, proprietor, or operator of any bar, beer tavern, dram shop, or other establishment which sells or dispenses alcoholic beverages in open containers, or upon the request of duly authorized employees thereof, a duly appointed private policeman hired by such establishment, or any law enforcement officer, any person who enters or attempts to enter any such establishment shall thereby consent to produce for inspection either:

(a) a local consumption permit, if required by a Local Government Council, or

(b) a currently valid official document or identification, issued to the bearer showing proof of age, if such a permit is not so required.

Failure to comply with this Subsection shall be grounds for excluding any person from any such bar, beer tavern, dram shop, or other such establishment.

(7) No person may alter any permit or proof of age, allow any other person to use or possess his permit or proof of age, nor use or possess any other person's permit or proof of age, for the purpose of purchasing or otherwise obtaining alcoholic beverages.

(8) In addition to any other penalty provided by law, any person who violates any provision of this Section shall be guilty of a misdemeanor and shall upon conviction be liable for a fine of not less than twenty-five dollars (US \$25) nor exceeding five hundred dollars (US \$500), or imprisoned for a term not exceeding six (6) months, or both.

(9) Each Local Government Council that requires the issuance or possession of a local consumption permit shall adopt regulations regarding the issuance and particulars of such a permit, including but not limited to the following:

(a) procedures for the issuance of permits and replacement permits;

(b) procedures for issuing special or temporary permits;

(c) procedures for maintaining accurate and complete records of the issuance of any permit;

(d) the time period during which a permit shall be effective;

- (e) provisions for suspension or termination of permits;
- (f) required application forms and necessary verifying documentation;
- (g) the fees to be charged for the issuance of a permit;
- (h) procedures for maintaining accurate and complete accounting records for all fees collected; and
- (i) all other necessary procedures and requirements for the efficient implementation of this Section.

(10) All fees collected for the issuance of local consumption permits shall be credited to the Local Government Council that collected such fees. [Repealed and replaced by P.L. 1991-115, §2(3); amended by P.L. 1992-7, §4.]

§121. Release of alcoholic beverages: sales tax.

No Local Government Council may require proof of payment of any sales tax imposed by that Local Government pursuant to the Local Government Tax and Fees Act 1989 (4 MIRC 2) as a condition precedent to the release of any alcoholic beverages by an importer, warehouse, retailer or merchant to any person or entity. [Repealed and replaced by P.L. 1990-78, §2(3).]

§122. Exemptions by Minister of Internal Affairs.

For visiting foreign dignitaries and other guests of the Government temporarily present in the Republic, the Minister of Internal Affairs or his designee is hereby authorized to provide a limited exemption to any Local Government requirement for a consumption permit. A limited exemption shall be signified in such manner as the Minister deems most expedient. [added by P.L. 1992-7, §5.]

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