

REPUBLIC OF PALAU

TOBACCO CONTROL REGULATIONS

Tobacco Control Regulations
For the Republic of Palau
Ministry of Finance
Bureau of Revenue, Customs and Taxation

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1. PURPOSE AND SCOPE

1.1. Purpose.

The legislature has created separate tobacco control laws to assist in protecting present and future generations against the devastating health and economic losses to individuals and families caused by tobacco consumption and exposure in the Republic. The purpose of these regulations is to establish policies and procedures to implement and provide uniform enforcement of the tobacco laws of the Republic.

1.2. Authority.

These provisions were mandated by RPPL 8-27 to require the Minister of Finance to promulgate these regulations. These regulations are also promulgated pursuant to the required provisions of Administrative Procedure Act (APA) of Title 6 Chapter 1 and shall have the force and effect of law. They may be amended as deemed necessary to carry out the purpose of and intent of RPPL 8-27.

1.3. Applicability.

These regulations shall apply to all persons including persons who apply and/or obtain tobacco license(s). These regulations will address licensing requirements, fees, approval, revocation and suspension, requirements for licensed establishments, restricted smoking areas, required signage, prohibition of advertising, promotion, and sponsorship of tobacco products, limitations on the distribution, purchasing, and manufacturing of tobacco products, and illicit trade of tobacco.

1.4. Definitions.

The following definitions and interpretations shall apply to these regulations unless the context requires otherwise:

- (A) "Accepted means of identification" means a valid and current document issued by the national government of the Republic of Palau or foreign government, state or national, that is legible and unaltered and includes a photograph and the date of birth of the person presenting the identification. A valid and current Republic of Palau driver's license, foreign driver's license, passport or other official government-issued identification are accepted means of identification. School identification cards or other identifications are accepted means of identification. School identification cards or other identification cards not issued by a government are not accepted means of identification.
- (B) "Act" means Tobacco Control Act.

- (C) "Adult care facility" means all land, buildings, structures, and improvements within the boundaries of any real property which is used primarily for the care of adults with special needs or senior citizens.
- (D) "Applicant" means any individual, partnership, corporation, or other association of individuals, or of any group or combination of the above acting together or as a unit, and includes any proprietor, firm, partnership, corporation, franchise, organization, agency, association, or institution who applies for a tobacco license.
- (E) "Bureau" means Bureau of Revenue Customs and Taxation.
- (F) "Calendar Year" means commencing on January 1 and ending on December 31.
- (G) "Childcare facility" means all land, buildings, structures, and improvements within the boundaries of any real property which is used primarily for childcare.
- (H) "Cigarette" means a tobacco product comprising of a roll of cut tobacco enclosed in paper.
- (I) "Commercial purpose" is the intent to obtain direct or indirect financial gain in the form of the sale, distribution, exportation, importation, or manufacture of tobacco.
- (J) "Director" means Director of the Bureau of Revenue Customs and Taxation.
- (K) "Distribute" means to sell, give, serve, supply, exchange, convey, consign, deliver, furnish, or transfer tobacco to another for a commercial purpose, or as a sample, gift, or prize with or without consideration.
- (L) "Due diligence" means conducting a reasonable, state-of-the-art investigation for the purpose of ascertaining whether a legal or natural person is complying with or can reasonably be expected to comply with all applicable laws and regulations.
- (M) "Educational facility" means all land, buildings, structures, and improvements within the boundaries of any real property, which is used primarily for educational purposes.
- (N) "Elaus" means a whole or divided betel nut that is distributed singly either already prepared with all the additives such as lime, leaf, and tobacco or

with additives included to be added by the consumer. It does not include the betel nut alone.

- (O) "Enclosed" Area/Place/Space means all space between a floor and ceiling which is enclosed on all sides by solid wall or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.
- (P) "Healthcare facility" means all land, buildings, structures, and improvements within the boundaries of any real property, which is used primarily for medical or healthcare purposes, including diagnosis, prevention and treatment of diseases or physical and mental disabilities.
- (Q) "Manufacture" means to fabricate, process or package and/or label tobacco for commercial purposes.
- (R) "Minister of Finance" means Minister of Finance or his designee.
- (S) "Minor" means any person under 18 years of age.
- (T) "Person" means any individual, partnership, corporation, or other association of individuals, or of any group or combination of the above acting together or as a unit, and includes any proprietor, firm, partnership, corporation, franchise, organization, agency, association, or institution.
- (U) "Premises" means the entire building and the area within its boundaries.
- (V) "Public Place" means a place or vehicle that the public, or a section of the public is entitled to use or that is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club, or other body, or otherwise.)
- (W) "Purchase" means to obtain tobacco products for money or other valuable consideration.
- (X) "Republic" means Republic of Palau.
- (Y) "Smoke-Free Area" means any area that restricts smoking either by law or designation.
- (Z) "Smoking" means inhaling, exhaling, or handling ignited tobacco.
- (AA) "Sports Facility" means all land, building, structures, and improvements within the boundaries of any real property which is used primarily for the general public to engage in sporting activities such as to assemble either

to engage in physical exercise, participate in athletic competition, or witness sports events.

- (BB) "Tobacco Product" includes, but is not limited to each of the following: (1) Tobacco in any form including cigarettes, cigars, pipe tobacco, chewing tobacco, and leaf tobacco; (2) Pipes, filters, rods, rolling papers, hookahs, and other tobacco paraphernalia utilized for smoking; (3) Any product bearing the name and or insignia of a brand of cigarette, cigar, or other tobacco product; (4) Any other product other than tobacco that contains nicotine in an amount more than incidental and is intended for human consumption, but not limited to nicotine water, nicotine candy, e-cigarettes and dissolvable tobacco.
- (CC) "Tobacco Sponsorship" means the public attribution, acknowledgment, association or identification, for commercial purposes, of a tobacco manufacturer, seller, brand, or product, with, on, or in connection with any one or more of:
 - (a) An entertainment, sporting, recreational, educational, cultural, or other public event or work;
 - (b) A person or team participating in such an event or work, including equipment, clothing, and accessories;
 - (c) A service provided or contribution made by a tobacco manufacturer or seller;
 - (d) A building, institution, stadium, organization or other entity which is not a tobacco manufacturer, importer, or seller.
- (DD) "Vending Machine" means any self-service machine that on the insertion of a coin or token or by any other means dispenses by way of sale tobacco products, whether automatically or with the assistance of the purchaser.
- (EE) "Workplace" means any indoor or enclosed area that is occupied by an employer and that employees usually frequent during the course of their employment and includes any vehicle, cafeteria, corridor, elevator, lobby, stairwell, toilet and washroom and also includes any enclosed common areas and employer provided vehicles normally used by the employees, but does not include any place which is primarily used as a residence occupied by the employer.

1.5. State Option.

By popular referendum conducted according to the standards of state law or constitution, a state may determine whether the importation or sale of tobacco in the state shall be permitted, may expand the areas where smoking (or include chewing, i.e., "Chew-Free Zones") is not permitted, and/or broaden the tobacco laws as stated in the Act. If the qualified voters of the state opt to make the sale and importation of tobacco illegal within the state or expand the areas where smoking is not permitted, or to include a prohibition to areas that do not allow chewing, then it will be the responsibility of the state to enforce such an ordinance through its own police force or by such other legal means as are available.

1.6. Ability to Prohibit Chewing Tobacco or Elaui.

Due to the devastating effects of tobacco, a national, state, or local government agency or private organization, business, or office may on its own initiative make the determination that chewing tobacco or elaui be prohibited. If such an entity makes such determination, it shall post signs stating such prohibition.

1.7. State Law.

Nothing in this Chapter shall preclude any state from enacting any ordinance which is not in conflict with these regulations.

1.8. Ability to Prohibit Smoking in Exempt Locations.

Due to the devastating effects of tobacco, the owner of any outdoor restaurant, bar, or club or any hotel or motel may on its own initiative prohibit smoking and declare the entire premises as a smoke-free area.

2. CLASSES OF TOBACCO LICENSES

There are four types of tobacco licenses:

- (A) Tobacco Distributor License-Retail: Permitting distribution of tobacco to consumers;
- (B) Tobacco Distributor License- Wholesale: Permitting distribution of tobacco to only persons in the Republic;
- (C) Tobacco Distributor License Import: Permitting importation of tobacco into the Republic for commercial purposes;
- (D) Tobacco Manufacture's License: Permitting fabrication, processing, or packaging, and/or labelling tobacco products.

3. LICENSING REQUIREMENTS

3.1. Separate License for each Establishment and Activity.

- (A) No person shall distribute, import, export, or manufacture a tobacco product unless the person is the holder of all required tobacco licences or is acting on behalf of the holder of such a licence.
- (B) A separate and appropriate license must be obtained for each separate place of business.
- (C) The Director, in his or her discretion, may determine that a single establishment consists of separate places of business and may require multiple licenses. Separate rooms or floors within an establishment or multiple locations on the grounds of a hotel or other facility from which tobacco is distributed may constitute separate places of business.
- (D) A person engaged in two or more of the activities set forth in Section 2 of these regulations must obtain a license for each activity.
- (E) A license is not transferable.

3.2. Application and License Fees.

- (A) Applicants must submit a tobacco license application (or renewal application, if applicable) for each tobacco license, attached with a non-refundable application fee in the amount of \$25 and the requisite license fee. The license fee will be refundable should the application be denied and the license not issued.
- (B) The license fees are as follows:

Tobacco Distributors License-Retail:	\$50
Tobacco Distributor License-Wholesale:	\$150
Tobacco Distributor License-Import:	\$200
Tobacco Manufacturer License:	\$200
- (C) Fees for licenses which become effective after the beginning of the calendar year shall be prorated on a quarterly basis.
- (D) As a prerequisite to receiving a license, all license applications must comply with all regulatory and statutory requirements.

3.3. Application Process.

- (A) The Bureau shall have the power to license the sale, import, or manufacture of any tobacco product in the Republic, and to suspend, revoke, and reinstate such license.
- (B) In deciding whether an applicant should be afforded a tobacco license, the Bureau will exercise due diligence in considering whether an applicant and the owner(s) of the company or establishment, or in the case of an applicant who is not a natural person, whose director, shareholder or principal is:
 - (1) Likely to comply with the Act and any relevant regulations;
 - (2) 18 years or older;
 - (3) Free of any felony criminal convictions;
 - (4) Free of any violation(s) under this Act or any previous related Acts;
 - (5) Not owing any back taxes; i.e., is in good standing;
 - (6) Holding a valid National Business License and any other required license(s);
 - (7) Not operating in a prohibited location; and
 - (8) The Director will consider any other matters that he or she considers relevant or that the regulations require before granting or denying an application for a tobacco license.
- (C) Applications shall be submitted and signed by at least one owner of the premises to be licensed. Applications must include:
 - (1) The name of the premises to be licensed;
 - (2) The applicant's name, home and business phone numbers, and home and business mailing addresses;
 - (3) The name, home and business phone numbers, and home and business mailing addresses for every other individual possessing an ownership interest in the establishment for which the license is sought;

- (4) A description and diagram of the premises to be licensed including and identifying all structures immediately surrounding the premises to be licensed;
 - (5) The class of license; and
 - (6) Such other information as may be required by the Bureau, either generally or with regard to any individual applicant or premises to be licensed.
- (D) A licensed application lacking information or supporting documentation required or requested by the Bureau may be rejected. Applications rejected under Section 3.3(C) may be resubmitted once all required and requested information and documents are provided.
- (E) Within twenty (20) days after the submission of the Application, the Bureau will notify the applicant in writing if their application for a tobacco license was denied denied.
- (F) The denial of a license by the Director may be appealed to the Trial Division of the Supreme Court in accordance with Title 6 of the PNC the Administrative Procedure's Act.

3.4. Contents of License.

All licenses shall at a minimum include the following information:

- (A) The name of the licensee;
- (B) The name and description of the licensed premises;
- (C) The class of license and activities authorized; and
- (D) The issuance and expiration date of the license.

3.5. Changes to the Premises, Licensee, Activity or other Pertinent Information.

The applicant shall advise the Bureau in writing of any changes to the information provided under this Part within five (5) days of the change taking effect.

3.6. Effective Date of License and Renewal.

Licenses will remain in effect until the end of the calendar year and must be renewed each calendar year which will include filing a renewal application, paying the \$25 application fee, and being approved by the Director.

4. RECORDS AND REPORTS

4.1. Records Retention Required by Bureau.

The Bureau shall keep searchable records of all its proceedings and business, including the number, class, and location of the premises for all licenses issued, denied, suspended, or revoked. These records shall be open to the public for inspection.

4.2 Reporting Requirement by Bureau.

The Bureau shall render a report to the President and Olbiil Era Kelulau no later than thirty (30) days after the end of each fiscal year, setting forth its tobacco control activities for the preceding calendar year, based on such records. In addition, the Bureau shall provide the President and Olbiil Era Kelulau, at the end of each month, a list of all applications received, licenses issued or denied, and disciplinary actions taken.

4.3. Licensee Reporting Requirement.

Every licensee shall keep and retain for a period of not less than six (6) years after creation, records of all purchases and sales and all income generated and shall make such records available to authorized employees of the Bureau upon request and without court order. Such records shall include receipts and other documentation required to be maintained under Title 40 of the Palau National Code including all records regarding the payment and calculation of gross revenue taxes, wage and salary taxes, and social security contributions.

4.4. Licensee Must Keep Records on Premises.

All records required to be maintained under the Act and these Regulations shall be kept on the licensed premises or in a place that is directly and immediately accessible from the licensed premises.

5. INSPECTION AND PRODUCTION

5.1. Right to Inspect Premises.

To ensure compliance with the provisions of the Act and these Regulations, any authorized employee of the Bureau, Bureau of Public Safety, and Bureau of Public Health shall have the right to enter, inspect, cite violations, and have immediate access to every part of the premise that is licensed to sell or distribute tobacco at any time the licensed premises is being used or is otherwise occupied by an employee or agent of the licensee.

5.2. Right to Inspect Documents.

The right to inspect provided in the Act shall include the right to review, seize, and copy any and all business documents without a court order.

5.3. Noncompliance.

Any person, who denies, attempts to deny or otherwise interferes with the right of authorized employees as stated in 17 PNC 2501 to enter and inspect a licensed premise, shall be guilty of obstructing justice.

6. DISPLAY OF LICENSES

6.1. Conspicuous Location.

Licenses shall be prominently displayed on the licensed premises in a location and manner conducive to inspection by the public at all times which is at a point adjacent to where tobacco products are stored for sale.

7. SALE OR DISTRIBUTION TO MINORS PROHIBITED

7.1. No Distribution of any Tobacco Product to Minors.

No person shall offer to sell, give or otherwise distribute any tobacco product or elaus to minors.

7.2. Identification Required up to 30 Years of Age.

No licensee or employee of a licensee shall sell, give, or otherwise distribute tobacco in any form to any person who appears to be under the age of thirty (30) years of age, unless that person

presents an accepted means of identification which identifies the person as being at least 18 years of age.

8. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

8.1. Smoking Prohibited in Workplace.

An employer must take all reasonably practicable steps to insure that no person smokes at anytime in the workplace. Employers and persons shall not be subject to the provision of this section if the workplace is a place where smoking is permitted under this act.

8.2. Indoor and Outdoor Locations Where Smoking is Prohibited.

No smoking is allowed on or about the indoor and outdoor premises or grounds of all educational facilities (including museums), sports facilities, childcare and adult care facilities, healthcare facilities, and all areas within the designated property or compound in which functions, conferences, or events related to education/school, sports, childcare, adult care or healthcare are being conducted.

8.3. Smoking in Enclosed Places Prohibited with Exception.

No person may smoke tobacco in any form in any enclosed place in the Republic including any building, government or otherwise with the exception of:

- (a) Private residences, including house boats or other vessels used as a personal living residence, except for private residences licensed as family day care homes during the hours of operation as family day care homes and in those areas where children are present;
- (b) Guest room accommodation in a hotel, motel, or similar transient lodging unless prohibited by the establishment;
- (c) For specific medical research;
- (d) Any portion of a restaurant, bar, club, hotel or motel which is designated as allowing smoking and in which the smoking area is structurally separated from the non-smoking area and vented in a manner to prevent circulation of air from the smoking area into the non-smoking area.

8.4. Smoking on all Flights Prohibited.

Smoking is not allowed on all flights taking off from or flying into Palau.

**9. TOBACCO DISTRIBUTOR LICENSE-RETAIL:
DISTRIBUTION OF TOBACCO PRODUCTS TO CONSUMERS**

9.1. Prohibited Locations for Sale.

- (A) Tobacco products cannot be sold on or about the indoor and outdoor premises or grounds of all educational facilities, sports facilities, childcare and adult care facilities, healthcare facilities, and all areas within the designated property or compound in which functions, conferences, or events related to education/school, sports, childcare, adult care or healthcare are being conducted.
- (B) Tobacco products cannot be sold in government owned or leased or funded offices, facilities, and meeting rooms; or in any enclosed location that does not include an exception as stated in Section 8.3.
- (C) Tobacco products cannot be sold within 50 feet from the grounds of a school.

9.2. Sign Requirement.

- (A) Every person that holds a Tobacco Distributor License-Retail must post signs as described in 9.2.(C) on all premises at which the holder is permitted by that licence to sell tobacco products.
- (B) The signs must be posted in a conspicuous manner at a point adjacent to where tobacco products are stored for sale.
- (C) The signs must inform the public that sale of tobacco to minors is prohibited and that the use of tobacco and the inhaling of second hand smoke is detrimental to ones health and the health of others as it can cause Cancer, Chronic Obstructive Pulmonary Disease, Stroke, Coronary Heart Disease, and other health issues. The content of the signs must be chosen from the approved list provided by the Bureau of Public Health.
- (D) Signs shall be in both English and Palauan languages. These statements can be posted on either one or two signs.

9.3. Concealment of Tobacco Products.

All tobacco and tobacco products must not be in public view at any premises in which retail, wholesale, Import and or manufacturing tobacco licenses are valid with the exception of the sale of tobacco products at duty free stores located at the Palau National Airport.

9.4. Selling Single Sticks or Samples Prohibited.

- (A) Selling single sticks are prohibited. Sales of cigarettes require that they be sold in the original package containing at least 20 cigarettes no shorter than 2.4 inches in length.
- (B) Giving away free tobacco in any form is prohibited.

9.5. Mail Order or Internet Sales Prohibited.

Tobacco products shall not be sold or furnished through the mail or through any means by which the age of the purchaser or recipient of the tobacco product cannot be verified.

9.6. Tobacco Products Sold Must Conform with Packaging Requirements.

No person shall sell or offer for sale a tobacco product unless the package conforms with the prescribed requirements including a health message taking up at least 30% of the principal display areas of the tobacco package and a list of harmful constituents of the product both of which are stated in a clear and visible manner.

9.7. Cannot Sell Products which Can Influence Minors Toward Tobacco Use.

No person shall distribute any product that is likely to appeal to children that evokes an association with a tobacco product, including but not limited to, candy or gum cigarettes or other sweets or snacks in the form of tobacco products.

9.8. Vending Machines Prohibited.

No tobacco product shall be placed in a vending machine. It shall be unlawful to use a vending machine to distribute or attempt to distribute any tobacco products.

9.9. Consumers Prohibited from Handling Tobacco Products Prior to Sale.

A consumer cannot handle a tobacco product prior to the purchase of a tobacco product without assistance of a sales clerk or other employee of the seller.

9.10. No Person Can Allow a Minor to Sell or Handle Tobacco Products.

9.11. Sale of any Items Identifying with a Tobacco Product Brand or Manufacturer Prohibited.

It is prohibited to sell any item that contains any writing, picture, image, graphic, message, or other matter in whole or part, that is commonly identified or associated with tobacco, a tobacco brand, manufacturer, or seller.

9.12. Register of all Holders of Tobacco Retail Licenses.

The Bureau must keep a register of persons who hold tobacco retail licenses. The register is to be made available for inspection and copying of information during normal business hours at the request of any person. Inspection of the register must be free of charge. The Bureau may wish to make the register available in electronic form. The register shall include the following information at a minimum:

- (a) The names and addresses of those holding tobacco retail licenses;
- (b) The date of issuance and expiration of those licenses;
- (c) The addresses of all premises from which tobacco products may be sold pursuant to tobacco retail licenses.

10. REQUIRED SIGNAGE

10.1. Dimensions and Descriptions of Signs.

The signs as required in 9.2 must be at least 18 in. x 18 in. and the letters are each at least 1 inch high in Arial Bold font on a contrasting background that is to be easily read by the public.

10.2. Signs Required in Public Places.

The occupier of a smoke-free area must display in a conspicuous manner near the entrance of the smoke-free area a sign(s) stating that smoking is not permitted which contains a no smoking symbol.

11. RESTRICTIONS ON ADVERTISING, PROMOTION, AND SPONSORSHIP

11.1. Tobacco Advertising Prohibited.

No person shall advertise or otherwise promote tobacco, any tobacco brand, manufacturer, or seller by any direct or indirect means.

11.2. Tobacco Sponsorships Prohibited.

11.3. Tobacco Incentives Prohibited.

No person can offer coupons, rebates, gifts, prizes, giveaways, sweepstakes, lottery, contests, or the like, as consideration for the purchase of a tobacco product.

11.4. Brand-Stretching Prohibited.

No person shall advertise, display, or sell any non-tobacco item that is commonly identified or associated with a tobacco brand, manufacturer, or seller. Such items include clothes, hats, bags, umbrellas, clocks, ashtrays, matches, lighters, coasters, display racks, or sales counter mats.

12. RESTRICTIONS ON MANUFACTURING AND IMPORTING

12.1. Must be Manufactured in Packages with at least 20 Cigarettes at least 2.4 inches in Length.

12.2. Must be Imported or Exported in its Original Package.

12.3. Requirement Contained on the Package.

No person shall manufacture any tobacco product unless the package containing the product conforms with the prescribed requirements including a health message and a list of harmful constituents of the product which is stated in a clear and visible manner taking up at least 30% of the principal display areas of the tobacco package.

12.4. Cannot Mislead Public.

No person shall package or label tobacco products in a manner that allows a consumer or purchaser of tobacco products to be deceived or misled; for example, using such terms as "light" or "mild."

12.5. Cannot Manufacture any Products Associated with Smoking or Chewing Tobacco which Can Influence Minors.

No person shall manufacture any product that is likely to appeal to children that evokes an association with a tobacco product, including but not limited to, candy or gum cigarettes or other sweets or snacks in the form of tobacco products.

13. SUSPENSION AND REVOCATION OF LICENSES

13.1. Power of the Director.

Notwithstanding any other provision of the Act or any regulation issued pursuant to the Act, the Director may revoke a license when he/she has reason to believe that a suspension of a license is the only option to prevent further violations of the Act or Regulations, or when he/she believes that revocation is in the best interest of the Republic.

13.2. Requirement of the Bureau of Public Safety.

The Bureau of Public Safety shall provide to the Director a copy of every citation issued alleging a violation of any provision of the Act or regulation.

13.3. Reasons for Suspension or Revocation.

A license can be suspended or revoked depending on the circumstances of the violation. The severity will depend upon the nature of the violation and harm caused by the violation. Such reasons for a suspension or revocation of a tobacco license could occur as:

- (A) A result of the owner being convicted of a felony;
- (B) The severity of one violation;
- (C) The culmination of more than one less severe violation;
- (D) Not following the requirements in obtaining a tobacco license.

13.4. Hearing.

Prior to each such suspension or revocation, the Director shall hold a hearing in accordance with the Republic of Palau Administrative Procedures Act to determine the duration of the suspension or whether revocation is appropriate. In determining whether suspension is appropriate, the Director shall consider all relevant facts including the number of citations issued, the gravity of the offense(s), and remedial action(s) taken by the licensee, if any.

13.5. Written Decision for Suspension or Revocation Required.

The Director shall issue a decision in writing within fifteen (15) days after the hearing. Such decision shall include the following:

- (A) A designation of record which shall identify all documents and materials relied upon by the Director in reaching his determination;
- (B) Findings of fact which shall thoroughly describe the improper conduct; and
- (C) The action taken which shall concisely state whether the license has been suspended or revoked or whether no action has been taken. If the action is suspension, the decision shall list the effective date, length, and other terms and conditions of the suspension.

13.6. Duration of Suspension.

The Director may suspend any license issued pursuant to the Act, for a period not to exceed one year, after making a determination that the licensee, or employee or agent, committed the violation(s) constituting the basis for the suspension. Fees for a license shall not be refunded if a license is revoked.

14. ILLICIT TRADE IN TOBACCO PRODUCTS

All forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, buying and selling contraband cigarettes are prohibited. This provision will be enforced pursuant to the Customs Regulations, any applicable law, and these regulations. Any contraband, counterfeit or illicit tobacco product may be seized by any person authorized to issue citations and make arrests, and may be destroyed without compensation to the producer, owner, shipper, or any other person according to the Customs Regulations, Law, and Procedure.

15. OFFENSES AND PENALTIES

15.1. Offenses and Penalties (A) – (P). Any person who –

- (A) Sells, exports, imports, or manufactures tobacco without holding a requisite license(s) or without acting under the authority of a person who holds such license(s); or

- (B) Sells tobacco in Violation of the Act or these regulations including selling a tobacco product to a minor or allowing a minor to sell or handle a tobacco product, unless such penalty is otherwise identified in Section 15; or
- (C) Sells, exports, imports, or manufactures tobacco during a period in which a tobacco license(s) or national business license has been suspended under the law or these regulations; or
- (D) Fails to display a copy of the tobacco license(s) as required by law or these regulations; or
- (E) Sells, exports, imports, or manufactures tobacco without a national business license; or
- (F) Places tobacco or tobacco products in a vending machine; or
- (G) Does not comply with all licensing requirements in relation to licensing of tobacco retailers, wholesalers, importers, or manufactures as stated in the Act or regulations

commits an offense and is subject to, –

- (a) An administrative, civil, and/or criminal penalty or penalties such as a suspension or revocation of a tobacco or business license or payment of an appropriate license fee; and/or
 - (b) A fine up to \$5,000 but not less than \$1,000; and/or
 - (c) Imprisonment of not more than 15 days.
- (H) Fails to post signs in accordance with the Act and regulations

commits an offense and is subject to,-

- (a) An administrative, civil, and/or criminal penalty or penalties such as a suspension or revocation of a tobacco or business license; and/or
 - (b) A fine up to \$500 but not less than \$100 and/or
 - (c) Imprisonment of not more than 15 days.
- (I) Exports, imports, or manufactures tobacco products or non-tobacco products in violation of the Act or regulations; or

- (J) Fails to conceal tobacco products in retail stores or locations with the exception of duty free stores located at the Palau National Airport; or
- (K) Holds tobacco sweepstakes, contests, offers tobacco products as gifts, prizes, samples, offering coupons or rebates for tobacco products; or in any other way;
- (L) Advertises, promotes, sponsors, tobacco or tobacco products

commits an offense and is subject to,-

- (a) An administrative, civil, and/or criminal penalty or penalties such as a suspension or revocation of a tobacco or business license; and/or
- (b) A fine up to \$20,000 but not less than \$1,000; and/or
- (c) Imprisonment of not more than 30 days.

- (M) Smokes or allows its patrons to smoke in a smoke-free area;

commits an offense and is subject to,-

- (a) An administrative, and/or civil fine such as a suspension or revocation of a tobacco or business license; and/or
- (b) A fine up to \$100 but not less than \$25.

- (N) Smokes or assists or allows its patrons to smoke on an airline flight

commits an offense and is subject to,-

- (a) An administrative, civil, and/or criminal penalty or penalties such as a suspension or revocation of a tobacco or business license; and/or
- (b) A fine up to \$1,000 but not less than \$100; and/or
- (c) Imprisonment of not more than 30 days.

- (O) Makes any threat of physical or economic harm against anyone who is implementing or complying with the Act or regulations, asserting their right to a smoke-free environment or someone reporting a violation under the Act or regulations

commits an offense and is subject to,-

- (a) An administrative, civil, and/or criminal penalty or penalties such as a suspension or revocation of a tobacco or business license; and/or
 - (b) A fine up to \$5,000 but not less than \$1,000; and/or
 - (c) Imprisonment of not more than 15 days.
- (P) Commits an act of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and/or buying and/ or selling contraband cigarettes

commits an offense and is subject to,-

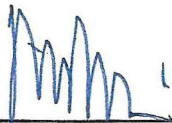
- (a) An administrative, civil, and/or criminal penalty or penalties such as a suspension or revocation of a tobacco or business license; and/or
- (b) A fine up to \$50,000; and/or
- (c) Imprisonment of not more than 5 years.

15.2. Responsibility of Enforcement.

Enforcement will be conducted as a joint effort with the Bureau of Public Safety, Bureau of Public Health, and the Bureau of Revenue, Customs, and Taxation.

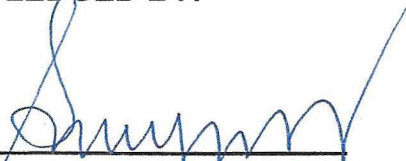
- A. Bureau of Public Safety will issue citations for all violations as stated in 15.1.
- B. Bureau of Revenue, Customs, and Taxation will enforce violations concurrent with the Bureau of Public Safety as to 15.1(P). This Bureau may deputize officers in its office to enforce licensing violations contained in Sections 15.1 A, B, C, D, E, G, and I concurrent with the Bureau of Public Safety.
- C. Bureau of Public Health will enforce no smoking in flights on airlines between points coming and leaving the Republic of Palau, enforce the prohibition of all terms of illicit trade of tobacco, and enforce no smoking in public places.

ADOPTED BY:



Kerai Mariur
Vice-President & Minister of Finance
Ministry of Finance
Republic of Palau

ACKNOWLEDGED BY:



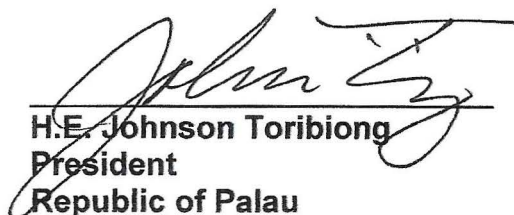
Stevenson J. Kuartei, M.D.
Minister of Health
Ministry of Health, ROP



John C. Gibbons
Minister of Justice
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APPROVED BY:

DATED: June 28, 2012



H.E. Johnson Toribiong
President
Republic of Palau