

RALPH DLG. TORRES
Governor



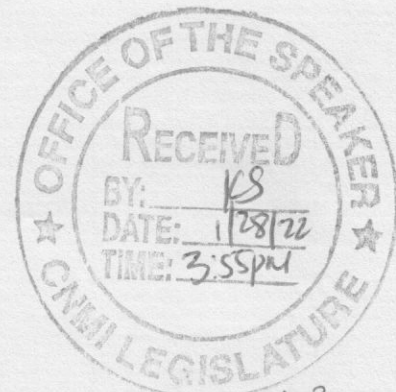
GOV. COMM. **22-109**
(HOUSE)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

The Honorable Edmund S. Villagomez
Speaker
House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

January 28, 2022

The Honorable Jude U. Hofschneider
President
The Senate
Twenty-Second Northern Marianas
Commonwealth Legislature
Saipan, MP 96950



Dear Speaker Villagomez and Senate President Hofschneider:

This is to inform you that I have vetoed **House Bill 22-55, HS1**, entitled, "To establish a separate license for online sales of alcoholic beverages.", which was passed by the House of Representatives and the Senate of the Twenty-Second Northern Marianas Commonwealth Legislature.

The bill intends to establish a new category of liquor licensing under the statutory code to allow online sales of alcoholic beverages. In the Attorney General comments regarding the bill, he has expressed several serious concerns regarding the bill's failure to address the need to establish an effective enforcement regime to ensure that liquor purchased online does not fall in the hands of those under 21 years of age, as door-to-door delivery would be permitted. I share the A.G.'s apprehensions in this regard.

According to the A.G., House Bill 22-55, HS1 "calls for a self-policing system based on the assumption that most licenses will comply with the restrictions. Such a system typically relies on hefty penalties and monetary fines as a deterrence against non-compliance. The bill does not provide for any enhanced enforcement provisions beyond what is already provided by statute. In fact, it is not entirely clear whether the penalties and sanctions provided for in 4 CMC §§ 5553 and 5559 will apply to an Online Sale Licensee who fails to comply with the restrictions set forth in each of those sections."

The A.G. further states that, "[u]nlike Sections 5545(f) and (h), the language used in the new Sections 5545(g) and (i) only specifies compliance as to subsections (a) and (b) of sections 5553 and 5559. No mention is made whether the penalty provisions in the subsequent subsections will apply to a non-compliant Online Sale Licensee. The absence of such language is significant. Without an articulated rational basis, the bill will create a double standard of enforcement that

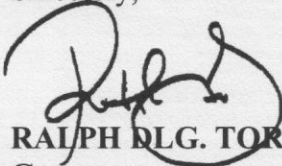
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differentiates between non-online liquor sale licensees and online liquor sale licensees.”

I request that the Legislature take steps to address the great ambiguities in the language of H.B. 22-55, HS1 referencing compliance with existing provisions of the alcoholic beverage control statutes. Further, I reiterate the Attorney General’s comment that “[o]nline liquor sales should be subject to the same, if not more stringent licensing system, given the nature of e-commerce business and the operational costs and difficulties of monitoring compliance.”

For the abovementioned reasons, I must respectfully exercise my constitutional authority to veto this bill.

Sincerely,



RALPH DLG. TORRES
Governor

cc: Press Secretary

Special Assistant for Programs and Legislative Review

Special Assistant for Administration

Attorney General

Office of Public Auditor

Division of Alcohol Beverage and Tobacco Control, Department of Commerce



*Twenty-Second Legislature
of the
Commonwealth of the Northern Mariana Islands*

IN THE HOUSE OF REPRESENTATIVES

FIRST REGULAR SESSION

APRIL 23, 2021

REPRESENTATIVE LEILA H.F.C. STAFFLER OF SAIPAN, PRECINCT 5 (*for herself*, Representative Vicente C. Camacho,) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 22-55, HS1

AN ACT

**TO ESTABLISH A SEPARATE LICENSE FOR ONLINE SALES OF
ALCOHOLIC BEVERAGES.**

The Bill was referred to the House Committee on Commerce and Tourism, which submitted Standing Committee Report 22-31; adopted 10/29/2021.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, OCTOBER 29, 2021;**
with amendments in the form of H. B. No. 22-55, HS1 and transmitted to **THE SENATE.**

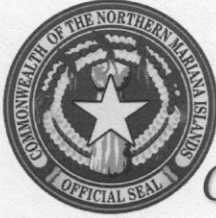
The Bill was referred to the Senate Committee on Resources, Economic Development and Programs.

THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, DECEMBER 15, 2021;
without amendments and returned to **THE HOUSE OF REPRESENTATIVES.**

THE BILL WAS FINALLY PASSED ON OCTOBER 29, 2021.



Linda B. Muña, House Clerk



Twenty-Second Legislature
of the
Commonwealth of the Northern Mariana Islands
IN THE HOUSE OF REPRESENTATIVES

FIFTH DAY, SECOND REGULAR SESSION

OCTOBER 29, 2021

H. B. No. 22-55, HS1

AN ACT

**TO ESTABLISH A SEPARATE LICENSE FOR ONLINE SALES OF
ALCOHOLIC BEVERAGES.**

**BE IT ENACTED BY THE TWENTY-SECOND NORTHERN
MARIANAS COMMONWEALTH LEGISLATURE:**

SECTION 1. FINDINGS AND PURPOSES.

1 The Legislature finds that licenses to sell alcoholic beverages are limited to
2
3 manufacturers, wholesale agents, retail dealer's on-sale, retail dealers off-sale, and so forth.
4 Due to ongoing technological advancements, the Legislature also finds that the option to buy
5 and/or sell alcoholic beverages online have also become possible. Despite such possible option
6 and pursuant to the current language of the aforementioned statute, the ability to engage in
7 online selling alcoholic beverages is not permitted. In accordance with ongoing globalization,
8 it is imperative to amend certain statutes to allow for the issuance of a license for the online
9 sale of alcoholic beverages to provide interested applicants with additional commercial

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1 opportunities. The Legislature finds that such opportunity will provide great economic
2 convenience to our Commonwealth for the benefit of future generations and commercial
3 activities to come.

4 Therefore, the purpose of this Act is to establish a separate license for online sales of
5 alcoholic beverages.

6 **SECTION 2. AMENDMENT.**

7 4 CMC §5511 is hereby amended by adding a new subsection (m) to read as follows:

8 “(m) “Online Sale License” means a license covering an electronic business (e-
9 business) that offers services through electronic commerce (e-commerce) to sale
10 alcoholic beverage products via internet online shopping.”

11 **SECTION 3. AMENDMENT.**

12 4 CMC §5513 is hereby amended to read as follows:

13 “§5513. Regulations.

14 The Department of Commerce is authorized to promulgate rules and regulations
15 to implement the intent and provisions of Title 4, Division 5, Chapter 5 of the
16 Commonwealth Code.”

17 **SECTION 4. AMENDMENT.**

18 4 CMC §5526 is hereby amended to read as follows:

19 “§5526. Classes and Fees.

20 The Secretary of Commerce shall have the authority to create a new Class-7
21 Special Liquor License and a new Class-8 Special Casino Liquor License and a new
22 Class 9 Special Electronic Gaming Liquor License and to promulgate application filing

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and license fees for the following class of licenses only:

Class 1 Manufacturer's License Annual Sampling Fee

Class 2 Wholesale Agent's License Annual Sampling Fee

Class 3 Retail Dealer's On-Sale License: Beer and Wine

General

General (if Class A Restaurant license holder) Annual Sampling Fee

Class 4 Retail Dealer's Off-Sale License: Beer and Wine

General

Annual Sampling Fee

Class 5 Temporary Beer License

Class 6 Club License

Class 7 Special Liquor License

Class 8 Special Casino Liquor License

Class 9 Special Electronic Gaming Liquor License

Class 10 Online Alcoholic Beverage License"

SECTION 5. AMENDMENT.

Title 4, Division 5, Chapter 5, Article 2 is hereby amended by adding a new section 5545 to read as follows:

"§5545. Online Sale Licensee: Authorized Sales, Limitations and Prohibitions.

(a) A person holding a Class 10 Online Alcoholic Beverage License (Online Sale License) shall be authorized and limited only within the CNMI and may sell to consumers alcoholic beverages via means of online electronic commerce (e-commerce)

HOUSE BILL 22-55, HS1

1 specified by the CNMI Alcohol Beverage and Tobacco Control (ABTC Division).
2 Provided however, that prior to obtaining such license, the applicant shall register
3 his/her online business with the CNMI Department of Commerce, ABTC Division
4 online portal.

5 (b) A person holding an Online Sale License shall establish an online customer
6 registration platform containing the following:

7 (1) Full name of the person placing the online order

8 (2) Mailing Address

9 (3) Physical location of residence

10 (4) Contact number

11 (5) Email address

12 (6) Upload an electronic copy of the person's (buyer's) valid identification
13 document (ID), i.e., driver's license or passport for purpose of verifying the person's
14 age who is placing the online order.

15 (c) A person holding an Online Sale License shall be prohibited from shipping
16 any alcoholic beverage products to consumers via postal mail or any means of parcel
17 services (via air or surface).

18 (d) A person holding a Class-10 Online Alcoholic Beverage License shall have
19 an established business premises within the CNMI for consumers to directly pick up
20 their online orders of alcoholic beverages or have an agent directly deliver the alcoholic
21 beverage products at the consumer's designated location.

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(1) The Secretary of Commerce shall establish a sub-classified license, a Class-10 Deliver Service (DS) License, for the delivery of alcoholic beverages ordered online, which the license fee shall not be more than the actual Class-10 Online Alcoholic Beverage License fee. The Secretary of Commerce may promulgate through regulations a reasonable licensing fee for the Class-10 Online Alcoholic Beverage License and Class-10 Deliver Service (DS) License.

(2) The Class-10 Online Alcoholic Beverage License holder shall separately apply for the Class-10 (DS) license, if the licensee will provide delivery services on all three islands (Saipan, Tinian and Rota).

(3) The licensee or his/her agent shall verify through a valid identification document (ID) to ensure that the person who is picking up the alcoholic beverages or who is receiving the alcoholic beverages upon delivery is 21 years of age or older.

(e) A person holding an Online Sale License may offer his/her online business services for 24 hours. Provided however, that the pick up or delivery services shall be made between the hours from 7:00 a.m. to 10:00 p.m.

(f) A person holding an Online Sale License shall comply with the provisions set forth in 4 CMC 5531.

(g) A person holding an Online Sale License shall comply with the provisions set forth in 4 CMC §5553 (a), (b).

(h) A person holding an Online Sale License shall comply with the provisions set forth in 4 CMC §5557.

HOUSE BILL 22-55, HS1

1 (i) A person holding an Online Sale License shall comply with the provisions
2 set forth in 4 CMC §5559 (a), (b).

3 (j) The Secretary of Commerce shall promulgate regulations with respect to
4 persons holding a Class 10 Online Alcoholic Beverage License to be consistent with
5 the intent of this chapter in this article.

6 (k) Any violations relating to the Class-10 Online Alcoholic Beverage License
7 shall be applicable to the fines and penalties set forth in 4 CMC § 5601.”

8 **SECTION 6. SEVERABILITY.**

9 If any provisions of this Act or the application of any such provision to any person or
10 circumstance should be held invalid by a court of competent jurisdiction, the remainder of this
11 Act or the application of its provisions to persons or circumstances other than those to which
12 it is held invalid shall not be affected thereby.

13 **SECTION 7. SAVINGS CLAUSE.**

14 This Act and any repealer contained herein shall not be construed as affecting any
15 existing right acquired under contract or acquired under statutes repealed or under any rule,
16 regulation, or order adopted under the statutes. Repealers contained in this Act shall not affect
17 any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not
18 have the effect of terminating, or in any way modifying, any liability, civil or criminal, which
19 shall already be in existence on the date this Act becomes effective.

1 **SECTION 8. EFFECTIVE DATE.**

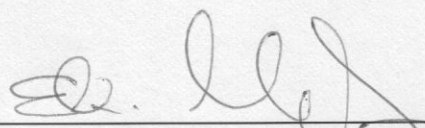
2 This Act shall take effect upon its approval by the Governor, or its becoming law
3 without such approval.

Attested to by:



Linda B. Muña, House Clerk

Certified by:



SPEAKER EDMUND S. VILLAGOMEZ
House of Representatives
22nd Northern Marianas Commonwealth Legislature

Disapproved this **28th** day of **January**, 2021



RALPH DLG. TORRES

Governor

Commonwealth of the Northern Mariana Islands