

Public Law 115--Third Guam Legislature

1956 (SECOND) Regular Session

G. L. 196

AN ACT

An Act to repeal Sections 25111, 25213, 25210, 25103 and 25216 of the Government Code, to add new Sections 25213, and 25210.1 to the Government Code and to amend Sections 25110, 25212, and 25227 of the Government Code relating to the sale of alcoholic beverages.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 25213 of the Government Code is hereby repealed.

Section 2. A new Section 25213 is hereby added to the Government Code to read:

"Sec. 25213. 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 license, subject however to the reductions specified in Section 25109 of the Government Code, except as hereinafter provided.

1. 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).

2. 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) and compliance with the provisions of this title relating to the issuance of an original license.

3. 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 Finance, 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.

- (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 10 days after the recordation 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.

A copy of the notice of intended transfer, certified by the Department of Finance, shall be filed with the board together with a transfer application.

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 is to be paid for the transfer of the license as 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 a reasonable time after the completion of the transfer of the license.

(4) The provisions of this Section relative to the filing of an application for transfer and on the establishment of escrow shall not apply to any transfer of license made pursuant to subparagraph 1 of Section 25213 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.

(5) 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 transferer 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 transferer or to defraud or injure any creditor of the transferer. This statement shall become part of the application, and any misrep-

sentation contained in the statement shall be considered the misrepresentation of a material fact."

Section 3. Section 25103 of the Government Code is hereby repealed.

Section 4. A new Section 25210.1 is hereby added to the Government Code to read:

"Sec. 25210.1. SAME: SAME: NUMBER. CANCELLATION OR ISSUANCE OF LICENSES IN EXCESS OF AUTHORIZED RATIO: APPLICATIONS: HEARING. The number of premises for which an on-sale general license or an off-sale general license is issued shall be limited to one for each 1,000, or fraction thereof, inhabitants of the municipality in which the premises are situated. No on-sale or off-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.

For purposes of this title, municipality shall mean the geographical area over which a commissioner as defined in Title XVI of the Government Code exercises jurisdiction, while inhabitants shall exclude those residing on military or military contractors' reservations.

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 ratio.

Whenever it is made to appear to the board by satisfactory evidence that the population in any municipality has increased by more than 1,000 or multiples of 1,000 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 do 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 1,000 inhabitants in the municipality since the effective date hereof.

Any person applying for an off-sale general license or on-sale general license on the ground of increased population shall set forth in his application and shall affirmatively show all of the following:

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

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

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

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

- (e) 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.

When an application is filed with the board pursuant to the provision of this 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 his 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."

Section 5. Section 25215 of the Government Code is hereby repealed.

Section 6. Section 25110 of the Government Code is hereby amended to read:

"Sec. 25110. SAME: EXPIRATION DATE: Except for a temporary beer license which the board is authorized to issue for a period not exceeding three days, the licenses specified in Section 25108 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 title. Provided, however, that each licensee shall pay an annual license fee in the amount specified in Section 25108 for issuance of the license, payable on or before the 30th day of June of each 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."

Section 7. Section 25111 of the Government Code is hereby repealed in its entirety.

Section 8. Section 25212 of the Government Code of Guam is hereby amended to read:

"Sec. 25212. SAME: EATING PLACE.

The board shall not allow to continue any on-sale license for a premise described as a public eating place a substantial portion of the business of which has not been the sale or service of food within the previous year or portion of year for which a license fee has been paid."

Section 9. Section 25227 of the Government Code of Guam is hereby amended to read:

"Sec. 25227. 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."

Approved August 16, 1956.