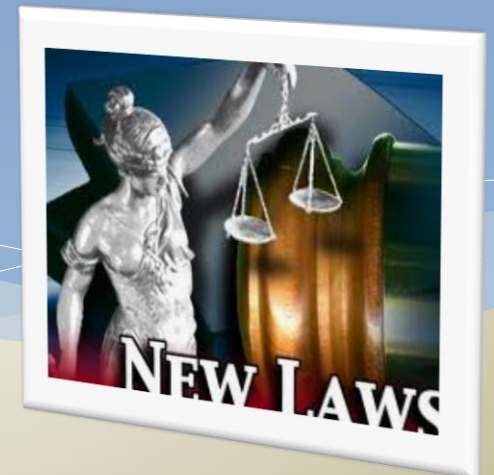


The Trade & Business Licensing Law (2014)

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Introduction

- ❖ The New Trade & Business Licensing Law 2014 will repeal and replace the current Trade & Business Licensing Law (2007 Revision).
- ❖ There are significant modifications evident in the new Law that will prove to address fundamental issues faced by DCI, the local business community and the Trade & Business Licensing Board.

- ❖ This new Law has been in the drafting stage for sometime, however throughout the process input was sought from business and legal professionals, Government entities and various other stakeholders which has produced a comprehensive piece of legislation that will benefit the Cayman Islands business community, economy and citizens.
- ❖ This Legislation was passed in the Legislative Assembly in November 2014.
- ❖ It is anticipated to be implemented summer 2015.

New Definitions

- ❖ “micro business” means a business that employs less than five persons, not including the owner and has an annual gross revenue of two hundred and fifty thousand dollars or less;
- ❖ “small business” means a business that employs up to a maximum of twelve persons, not including the owner, and which has an annual gross revenue of up to seven hundred and fifty thousand dollars;
- ❖ “trade officer” means a public officer in the Department of Commerce and Investment appointed as such.

Balance Board



The Board shall comprise of -

- ❖ (i) a Chairman;
- ❖ (ii) a Deputy Chairman; and
- ❖ (iii) four other members from the private sector; and

the following public officers who shall hold office by virtue of their public service appointment –

- ❖ (i) the Director of Commerce and Investment or designate;
- ❖ (ii) the Director of Planning or designate; and
- ❖ (iii) the Director of Environmental Health of the Department of Environmental Health or designate



Main Benefits

This legislation leads to a more structured business licensing regime by:

- ▣ Providing necessary authority for DCI Enforcement and the Board to function more effectively
- ▣ Offering business comfort and ease of business registration
- ▣ Providing clear obligations to the Board, DCI and Enforcement
- ▣ Providing a regulatory framework for the Liquor Licensing Law, Film Exhibition Control and Second Hand Dealers
- ▣ Curtailing illegal vending

Providing necessary authority for DCI Enforcement and the Board to function more effectively

- ❖ This is a key benefit to the efficient functioning of the Enforcement section, Board and by extension the Department on a whole. Crucial enforcement functions that have been added to the Law are the ticketing of offences, fines levied, ability to obtain search warrants.
- ❖ The ticket system introduced found in Section 35 of the Law identifies ticketable offences and relevant procedures. This is something new to the Trade and Business Licensing regime but pertinent to the effective operations of the Enforcements section.
- ❖ Whilst we have more powers under the Enforcement arm, the main emphasis and design of the Law and focus of the Department is to encourage and foster business within the Cayman Islands.



Offering business comfort and ease of business registration

- ❖ This is a very important aspect of the Law. Our main focus is fostering businesses. In our fast-paced, mainstream society, things may need to be fast-tracked or a decision appealed. These concerns have been addressed in the new Law.
- ❖ Section 21 provides the option for businesses to have an application expedited, allowing a license to be processed and issued within an impressive 5 day period.
- ❖ Another vital component to business functions can be found in Section 36, 37 and 38 which speak about the establishment of the Appeals Tribunal and appeals process, something that has been desired and anticipated.



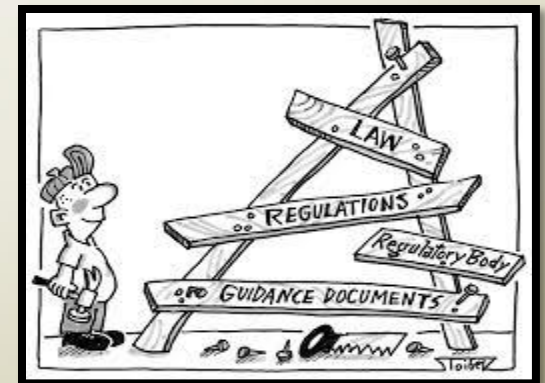
Providing clear obligations to the Board, DCI and Enforcement



- ❖ With the ambiguity and elusive authority of the old law, it was imperative that clear obligations and authorities were set, and as a result Section 6 gives the Board authority to delegate certain functions, which will improve efficiency.
- ❖ These delegations will allow mundane renewal applications to be processed administratively by the Department. This delegation will result in a faster turn-around time for renewals.
- ❖ The Board also has the authority to co-opt persons to give professional advice or opinion on a particular matter, however this person does not have the right to vote. This delegation will give way to efficiency in the decision-making process.

Providing a regulatory framework for the Liquor Licensing Law, Film Exhibition Control and Second Hand Dealers Law

- ❖ Inefficiencies have been identified in certain areas of the various other Laws governed by DCI. Therefore, based on some of the functions and responsibilities found in this new Law, it can be used as a regulatory framework to address these issues when reviewing, writing and/or re-writing the Laws or regulations.



Curtailing Illegal Vending

- ❖ Illegal vending is one of the many issues faced by the DCI due to the lack of proper legislation. This has a negative effect on the business landscape for example:
 - Illegal vending is being conducted at Public Beaches and Roadways throughout the Islands and some vendors are aggravating tourist to buy products and the unscrupulous vendors have a negative impact on the Island's image and reputation.
 - This new Law affords the Enforcement arm powers that will help to curtail illegal vending which was non-existent prior to this new Law



Affects of Illegal Vending

Changing Landscape:

- ❖ The increase in unregulated roadside vending is of concern as it continues to go unchecked. If left unchecked it will create a change in the cultural and business landscape of the Islands.
- ❖ The fact that such numbers are increasing cannot be ignored, especially in a time where persons in the islands are increasingly facing financial hardships

Contravention of the Law

- ❖ 17 (2) A person who commits an offence and is liable on summary conviction –
 - (a) in the case of a first offence to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both; or
 - (b) in the case of a second or subsequent offence to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- ❖ 17 (3) Where the Board reasonably suspects or is informed that a person is contravening subsection (1), a trade officer may lay before a Magistrate or a Justice of the Peace an information on oath setting out the grounds for the suspicion and apply for the issue of a warrant to search the premises

Licensing Requirements

❖ 18 (2) An application pursuant to subsection (1) shall be:
accompanied by –

- Annual Return for companies
- Caymanian Status for individuals
- Police Clearance for individuals – Grant of License
- Bank Reference – Grant of License
- Approval for use of a public place
- Evidence of Pension, planning, health, other information

Tickets

SCHEDULE 2 (Section 35)

TICKETABLE OFFENCES

Description of ticketable offence

Section Fixed Penalty

1. Carrying on a trade or business in or from within the Islands without a valid licence (first offence only). Any further contravention of this provision shall not be considered as a ticketable offence.

17(1) \$500

2. Destroying or altering or causing to be destroyed or altered, any document, record, equipment or other property found in the course of a search.

17(6)(a) \$2,500

3. Hindering or obstructing or preventing or interfering with a trade officer or police officer in the exercise of any power under this Law

17(6)(b) \$2,500

Tickets Con't

- | | | | |
|----|--|----------|---------|
| 4. | Failing to remove all advertising in contravention of section 17 | 17(6)(c) | \$500 |
| 5. | Failing to comply with a condition or restriction | 21(4) | \$1000 |
| 6. | Failing to display licence as required | 22(1) | \$100 |
| 7. | Failing to notify Board of change of address | 26(1) | \$100 |
| 8. | Hindering or obstructing or preventing or interfering with the Board in the exercise of its powers under section 28. | 28(2)(a) | \$2,500 |

Tickets Con't

9. Failing without reasonable excuse to answer any question relating to any register, book, record or other document or any relevant matter when required to do so by the Board. 28(2)(b) \$2,500
10. Failing to comply with a direction of the Board. 28(5) \$1,000
11. Using the word “licensed” in juxtaposition with any word describing a trade or business carried out by the licensee on the ground only that the licensee is licensed under this Law. 34(1) \$2,500

Summary

This new Law will promote ease of business, with fair regulatory compliance and transparency.

The changes found in the new Trade and Business Licensing Law, 2014 will address the following:

- ❖ Delegation of duties from the Board to DCI
- ❖ Enforcement Powers
- ❖ Correct Ambiguities
- ❖ Provide Penalties and introduction of a ticketing system
- ❖ Create a Process of Appeals
- ❖ Creates the ability to revoke and suspend licenses
- ❖ Allows for the granting of incentives to small and micro businesses





**DEPARTMENT OF
COMMERCE & INVESTMENT**

CAYMAN ISLANDS GOVERNMENT

THE END

Thank you for your attention!

