

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
16-36 (COR)	Joe S. San Agustin	AN ACT TO AMEND §§ 3123, 3218, 3300, 3413, 3414 AND 3433, AND REPEAL §§ 3428 AND 3432, ALL OF CHAPTER 3, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING AND CLARIFYING STATUTES CONCERNING LICENSING, SALES, AND SERVICE OF ALCOHOLIC BEVERAGES.	1/7/21 1:23 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 16-36 (COR)

Introduced by:

Joe S. San Agustin 

AN ACT TO *AMEND* §§ 3123, 3218, 3300, 3413, 3414 AND 3433, AND *REPEAL* §§ 3428 AND 3432, ALL OF CHAPTER 3, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING AND CLARIFYING STATUTES CONCERNING LICENSING, SALES, AND SERVICE OF ALCOHOLIC BEVERAGES.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
3 that the COVID-19 pandemic of 2020 has taken an immense toll on Guam's
4 economy, with Guam's Department of Labor reporting that over thirty-one thousand
5 (31,000) workers have been laid off, furloughed, or had work hours reduced as a
6 direct result of the pandemic. Tourism is Guam's main economic driver; therefore,
7 most of these layoffs, furloughs, or reduced work hours have occurred in the service
8 industry. In response to the COVID-19 pandemic and due to the Guam Department
9 of Public Health and Social Services social distancing requirements, many industries
10 on Guam have been open for curbside pick-up or delivery only. Only recently have
11 new orders allowed for restaurant in-dining at minimal capacity. Fox Business News
12 reported in May 2020 that there has been a surge in consumers seeking curbside
13 pick-up and other digital ordering experiences, with food delivery orders nationwide
14 skyrocketing sixty-seven percent (67%) in March 2020 and digital restaurant orders

1 jumping sixty-three percent (63%), according to data from the market research firm
2 NPD Group.

3 *I Liheslaturan Guåhan* finds that during this unprecedented time, when our
4 economy is struggling and many industries have resorted to takeout and/or delivery
5 in order to stay afloat, allowing the sale of pre-packaged or unopened alcoholic
6 beverages along with food items for takeout and/or delivery is one (1) option that
7 can provide some measure of increased revenue for these establishments and their
8 employees. The National Institute on Alcohol Abuse and Alcoholism and the
9 National Restaurant Association have documented that currently, forty-four (44)
10 states allow for takeout or delivery of alcoholic beverage sales, either temporarily
11 through executive order or by permanent statute. These orders and statutes allow
12 establishments that currently possess a valid liquor license and sell alcoholic
13 beverages to consumers on site, to also be able to sell those alcoholic beverages in
14 an unopened, pre-packaged, or sealed state to consumers as take-out or delivery
15 items included with food orders. The National Restaurant Association noted in July
16 2020 that state-level polling indicating support for making the takeout or delivery of
17 alcoholic beverages permanent ranges between 70% and 85%. Importantly, all local
18 DUI, age regulation, open container, and Responsible Server and Seller Act laws
19 still apply with regard to the take-out or delivery of alcoholic beverages in every
20 jurisdiction.

21 Additionally, *I Liheslaturan Guåhan* further recognizes that many of the
22 Guam laws and regulations governing the licensing, sale, and handling of alcoholic
23 beverages have not been updated in decades and do not take into consideration the
24 training, technological, and sustainability advances in the service industry, or the
25 changes in consumer purchasing behavior with the increase in online ordering and
26 curbside pick-up and delivery service.

1 In these challenging economic times, the need to support businesses through
2 the updating of laws is paramount. The success of our business entities means jobs
3 for our people that empower themselves and their families. This Act seeks to update,
4 clarify, or repeal certain sections in Chapter 3 of Title 11, Guam Code Annotated,
5 for this purpose.

6 **Section 2.** § 3123 of Article 1, Chapter 3, Title 11, Guam Code Annotated,
7 is hereby *amended* to read:

8 **“§ 3123. Alcohol Employee.**

9 Alcohol employee means a person employed by any on-sale or off-sale
10 licensee who sells or serves alcoholic beverages, or who supervises others
11 who sell or serve alcoholic beverages. This includes, but is not limited to,
12 bartenders, waitresses, waiters, hostesses, hosts, cashiers, checkout clerks,
13 supervisors, and managers of licensees who are holders of Class 4, 5, 6, 7, 9,
14 10, 11, and 12 ABC Licenses, delivery drivers, and third-party delivery
15 drivers.”

16 **Section 3.** § 3218 of Article 2, Chapter 3, Title 11, Guam Code Annotated,
17 is hereby *amended* to read:

18 **“§ 3218. License: Retail: On-Sale.**

19 A person holding a retail dealer’s on-sale license is authorized to sell to
20 consumers for consumption on the premises where sold or as take-out or
21 delivery items included with food orders in an unopened, pre-packaged, or
22 sealed state to consumers, the alcoholic beverages specified by the Board.
23 “Sealed state” refers to a secure lid or cap that does not contain a sipping hole
24 or opening for a straw, or that could otherwise enable consumption without
25 removing the lid or cap. Licensees must have a prominent warning or sign
26 posted on the premise, online, or in any way possible to alert consumers or
27 the person transporting the beverage that states, “Alcoholic beverages

1 packaged by this establishment are open containers and may not be
2 transported, possessed, or stored in a motor vehicle, except if secured in a
3 rear compartment or trunk of the vehicle not normally occupied by the driver
4 or passenger, or a rear compartment which is not immediately accessible to
5 the driver or any other passenger, which does not include a glove or utility
6 compartment, while the vehicle is upon a public highway. Further, such
7 alcoholic beverages may not be consumed in any area where the consumption
8 of alcohol is prohibited by law.”

9 **Section 4.** § 3300 of Article 3, Chapter 3, Title 11, Guam Code Annotated,
10 is hereby *amended* to read:

11 **“§ 3300. License: Restrictions.**

12 (a) Except in the case of an on-sale ~~beer~~ license, off-sale ~~beer~~
13 license, public warehouseman’s license or temporary ~~beer~~ license, the Board
14 shall not issue a license to any person who is then holding a license of another
15 class. The Board may issue an on-sale ~~beer~~ license and off-sale ~~beer~~ license
16 to one (1) person, a public warehouseman’s license to any person holding a
17 manufacturer’s license or wholesaler’s license and a temporary ~~beer~~ license
18 to any on-sale or off-sale licensee.

19 (b) No manufacturer within or outside Guam or any officer,
20 subsidiary, affiliate or other entity in which a manufacturer holds any
21 ownership or interest, directly or indirectly by stock ownership, interlocking
22 directors, trusteeship, loan, mortgage or lien on any real or personal property,
23 shall hold any alcoholic beverage license other than a manufacturer’s license
24 in Guam.”

25 **Section 5.** § 3413 of Article 4, Chapter 3, Title 11, Guam Code Annotated,
26 is hereby *amended* to read:

27 **“§ 3413. Same: Consumption Forbidden.**

1 Unless authorized by a license issued for the premises and sold by the licensee,
2 a person shall not consume any unauthorized alcoholic beverages on any premises
3 where alcoholic beverages are sold, nor except as prescribed by the Board by
4 regulation, on any premises open to or used by the public, with the exception that a
5 licensee may allow a person or entity to bring-your-own off-premise wine bottles
6 onto the premises with advance permission, to be served by the licensee, wherein
7 the person or entity may be charged a “corkage fee” set by the licensee in advance.
8 No person shall consume alcoholic beverages at any bus stops, bus shelters, or any
9 facility provided for students waiting for bus transportation to and from school. All
10 monies collected from citations issued pursuant to this Section shall be deposited in
11 the Police Services Fund.”

12 **Section 6.** § 3414 of Article 4, Chapter 3, Title 11, Guam Code Annotated,
13 is hereby *amended* to read:

14 **“§ 3414. Hours of Sale: On-Sale Premises.**

15 An on-sale licensee shall not sell or serve any person any alcoholic
16 beverages between the hours of 2:00 a.m. and ~~§~~7:00 a.m.; provided, however,
17 that all alcoholic beverages must be consumed within fifteen (15) minutes of
18 the time permitted for the sale thereof and premise(s) shall be closed no later
19 than 3:00 a.m. thereafter. A licensee may begin selling or serving alcoholic
20 beverages at ~~§~~7:00 a.m., Monday through Sunday, inclusive.”

21 **Section 7.** § 3428 of Article 4, Chapter 3, Title 11, Guam Code Annotated,
22 is hereby *repealed*.

23 ~~“§3428. Same: Size Limited: On-Sale.~~

24 ~~A licensee shall not deliver to any on-sale licensee nor shall any on-sale~~
25 ~~licensee have in his possession distilled spirits in packages containing more~~
26 ~~than one gallon or less than one ounce.”~~

1 **Section 8.** § 3432 of Article 4, Chapter 3, Title 11, Guam Code Annotated,
2 is hereby *repealed*.

3 ~~“§3432. **Stacking Drinks Prohibited.**~~

4 ~~No on-sale licensee or agent thereof shall serve more than one drink at~~
5 ~~any one time to any individual; provided, however, that beer served with a~~
6 ~~drink of distilled spirits shall be considered a part of such drink.”~~

7 **Section 9.** § 3433 of Article 4, Chapter 3, Title 11, Guam Code Annotated,
8 is hereby *amended* to read:

9 **“§ 3433. Consumption of Alcoholic Beverages by Licensees and**
10 **Employees While on Duty Prohibited.**

11 No employee, owner, manager, or agent thereof of any licensed
12 premises shall consume or be permitted to consume any alcoholic beverage
13 while on duty ~~on such premises~~ in such public areas where alcoholic
14 beverages are served or sold. Consumption is permitted for training purposes
15 only.”

16 **Section 10. Severability.** If any provision of this Act or its application to any
17 person or circumstance is found to be invalid or contrary to law, such invalidity shall
18 not affect other provisions or applications of this Act that can be given effect without
19 the invalid provision or application, and to this end the provisions of this Act are
20 severable.

21 **Section 11. Effective Date.** This Act shall be effective upon enactment.