

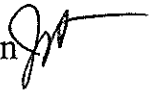
*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
384-35 (COR)	Joe S. San Agustin	AN ACT TO AMEND §3123, §3218, §3300 (a), §3413, §3414, AND §3433; AND TO 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 ALCOHOL BEVERAGES.	7/27/20 4:39 p.m.						

*I MINA TRENDAI SINGKO NA LIHESLATURAN GUÅHAN*  
**2020 (SECOND) Regular Session**

**Bill No. 384-35 (COR)**

Introduced by:

Joe S. San Agustin 

**AN ACT TO AMEND §3123, §3218, §3300 (a), §3413, §3414, AND §3433; AND TO 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 ALCOHOL 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 31,000 workers  
5 have been laid off, furloughed or had work hours reduced as a direct result of the  
6 pandemic. Tourism is Guam's main economic driver; therefore most of these  
7 layoffs, furloughs, or reduced work hours have occurred in the service industry. In  
8 response to the COVID-19 pandemic and due to Guam Department of Public Health  
9 and Social Services social distancing requirements, many industries on Guam have  
10 been open for curbside pick-up or delivery only. Fox Business reported in May 2020  
11 that there has been a surge in consumers seeking curbside pick-up and other digital  
12 ordering experiences, with food delivery orders nationwide skyrocketing 67 percent  
13 in March 2020 and digital restaurant orders jumping 63 percent, according to data  
14 from the market research firm NPD Group.

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

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

24            In these challenging economic times, the need to support businesses through  
25 the update of laws is paramount. The success of our business entities means jobs for  
26 our people that empower themselves and their families. This act seeks to update,

1 clarify, or repeal certain sections in Chapter 3 of Title 11, Guam Code Annotated for  
2 this purpose.

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

5 **“§ 3123. Alcohol Employee.**

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

12 **Section 3.** §3218 of Chapter 3 of Title 11, Guam Code Annotated is hereby  
13 *amended* to read:

14 **“§3218 License: Retail: On-Sale.**

15 A person holding a retail dealer’s on-sale license is authorized to sell to  
16 consumers for consumption on the premises or in an unopened, pre-packaged, or  
17 sealed state to consumers as take-out or delivery items included with food orders  
18 where sold the alcoholic beverages specified by the Board. ‘Sealed state’ refers to a  
19 secure lid or cap that does not contain a sipping hole or opening for a straw, or that  
20 could otherwise enable consumption without removing the lid/cap. Licensees must  
21 have a prominent posting (either on the premise, online, or in any way possible to  
22 alert consumers or the person transporting the beverage) that states, “Alcoholic  
23 beverages packaged by this establishment are open containers and may not be  
24 transported in a motor vehicle except in the vehicle’s trunk; or, if there is no trunk,  
25 the container may be kept in some other area of the vehicle that is not normally  
26 occupied by the driver or passengers (which does not include a utility compartment

1 or glove compartment). Further, such beverages may not be consumed in any area  
2 where open containers are prohibited by law.

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

5 **“§3300 License: Restrictions.**

6 (a) Except in the case of an on-sale ~~beer~~ license, off-sale ~~beer~~ license,  
7 public warehouseman’s license or temporary ~~beer~~ license, the Board shall not issue  
8 a license to any person who is then holding a license of another class. The Board  
9 may issue an on-sale ~~beer~~ license and off-sale ~~beer~~ license to one person, a public  
10 warehouseman’s license to any person holding a manufacturer’s license or  
11 wholesaler’s license and a temporary ~~beer~~ license to any on-sale or off-sale licensee.

12 (b) No manufacturer within or outside the territory of Guam or any officer,  
13 subsidiary, affiliate or other entity in which a manufacturer holds any ownership or  
14 interest, directly or indirectly by stock ownership, interlocking directors, trusteeship,  
15 loan, mortgage or lien on any real or personal property, shall hold any alcoholic  
16 beverage license other than a manufacturer’s license in the territory of Guam.”

17 **Section 6.** §3413 of Chapter 3 of Title 11, Guam Code Annotated is hereby  
18 *amended* to read:

19 **“§ 3413. Same: Consumption Forbidden.**

20 Unless authorized by a license issued for the premises and sold by the licensee,  
21 a person shall not consume any unauthorized alcoholic beverages on any premises  
22 where alcoholic beverages are sold, nor except as prescribed by the Board by  
23 regulation, on any premises open to or used by the public, with the exception that a  
24 licensee may allow a person or entity to bring-your-own off-premise wine bottles  
25 onto the premises with advance permission, to be served by the licensee, wherein  
26 the person or entity may be charged a ‘corkage fee’ set by the licensee in advance.

1 No person shall consume alcoholic beverages at any bus stops, bus shelters, or any  
2 facility provided for students waiting for bus transportation to and from school.

3 All monies collected from citations issued pursuant to this Section shall be  
4 deposited in the Police Services Fund.”

5 **Section 7.** §3414 of Chapter 3 of Title 11, Guam Code Annotated is hereby  
6 *amended* to read:

7 **“§3414. Hours of Sale: On-sale Premises.**

8 An on-sale licensee shall not sell or serve any person any alcoholic beverages  
9 between the hours of 2:00 a.m. and ~~8~~7:00 a.m. provided, however, that all alcoholic  
10 beverages must be consumed within fifteen (15) minutes of the time permitted for  
11 the sale thereof and premise(s) shall be closed no later than 3:00 a.m. thereafter. A  
12 licensee may begin selling or serving alcoholic beverages at ~~8~~7:00 a.m., Monday  
13 through Sunday, inclusive.

14 **Section 8.** §3428 of Chapter 3 of Title 11, Guam Code Annotated is hereby  
15 *repealed*:

16 ~~**“§3428. Same: Size Limited: On-Sale.**~~

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

20 **Section 9.** §3432 of Chapter 3 of Title 11, Guam Code Annotated is hereby  
21 *repealed*:

22 ~~**“§3432. Stacking Drinks Prohibited.**~~

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

26 **Section 10.** §3433 of Chapter 3 of Title 11, Guam Code Annotated is hereby  
27 *amended* to read:

1           **“§3433. Consumption of Alcoholic Beverages by Licensees and**  
2 **Employees While on Duty Prohibited.**

3           No employee, owner, manager or agent thereof of any licensed premises shall  
4 consume or be permitted to consume any alcoholic beverage while on duty ~~on such~~  
5 premises in such public areas where alcoholic beverages are served or sold.  
6 Consumption is permitted for training purposes only.

7           **Section 11. Severability.** If any provision of this Act or its application to  
8 any person or circumstance is found to be invalid or contrary to law, such invalidity  
9 *shall not* affect other provisions or applications of this Act that can be given effect  
10 without the invalid provision or application, and to this end the provisions of this  
11 Act are severable.

12           **Section 12. Effective Date.** This Act *shall* be effective immediately upon  
13 enactment.