

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 429-32 (000)

Introduced by:

Michael F.Q. San Nicolas 

AN ACT TO AUTHORIZE THE APPOINTMENT OF DEPUTIES TO ENFORCE THE GUAM'S ALCOHOLIC BEVERAGE CONTROL LAWS, BY ADDING A NEW ARTICLE 5A TO CHAPTER 3, TITLE 11, GUAM CODE ANNOTATED.

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


2 **Section 1. Short Title.** This Act *shall* be cited as the "Responsible
3 Alcoholic Beverage Control Deputies Act".

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that Alcoholic Beverage Control is currently enforced primarily by members of the
6 Alcoholic Beverage Control Board. The Community Assisted Policing Effort
7 (CAPE) volunteers are authorized to issue citations for littering and enforcement of
8 Guam's accessible parking law. Given the current challenges in enforcing Guam's
9 Alcoholic Beverage Control laws, a program establishing Deputies for the
10 enforcement of these laws could greatly improve compliance.

11 It is therefore the intent of *I Liheslaturan Guåhan* to authorize the
12 Administrator to establish an Alcoholic Beverage Control Deputies Program to
13 assist the Board in the enforcement of Guam's Alcoholic Beverage Control laws,
14 by adding a new Article 5A to Chapter 3, Title 11, Guam Code Annotated.

15 **Section 3. Alcoholic Beverage Control Deputies Program.** A *new* Article
16 5A is hereby *added* to Chapter 3, Title 11, Guam Code Annotated, to read:

17 **"ARTICLE 5A**

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1 **ALCOHOLIC BEVERAGE CONTROL DEPUTIES PROGRAM**

2
3 § 35A00. Creation.

4 § 35A01. Functions and Duties.

5 § 35A02. Recruitment.

6 § 35A03. Training, Equipping and Maintenance of Records.

7 § 35A04. Volunteer: Authority.

8 § 35A05. Same: Eligibility.

9 § 35A06. Same: Oath.

10 § 35A07. Same: Allowance.

11 § 35A08. Rules and Regulations.

12
13 **§ 35A00. Creation.**

14 There is hereby created within the Division an Alcoholic Beverage
15 Control Deputies Program, which shall be headed by the Administrator. The
16 Administrator, subject to the advice and control of the Alcoholic Beverage
17 Control Board, shall be responsible for carrying out the purpose of this
18 Article, and shall have such additional duties and responsibilities as are
19 authorized herein, or as may be prescribed by the Board.

20 **§ 35A01. Functions and Duties.**

21 The general functions and duties of the Alcoholic Beverage Control
22 Deputies Program shall be to serve as volunteer inspectors, as defined in
23 §3111 of this Chapter, under the general supervision of the Administrator.

24 **§ 35A02. Recruitment.**

25 The Administrator shall recruit on an entirely volunteer basis, local
26 residents who desire to make available their services to assist the Division in
27 carrying out its functions. The Board shall further promulgate rules and

1 regulations regarding the age, health and other requirements for recruitment
2 purposes, subject to the Fair Labor Standards Act. The Board shall have
3 final approval of candidates to serve as Deputies pursuant to this Article.

4 **§ 35A03. Training, Equipping and Maintenance of Records.**

5 The Administrator shall devise a training program, approved by the
6 Board, which will provide the members of the Alcoholic Beverage Control
7 Deputies Program training in operational techniques and procedures for the
8 proper enforcement of the Alcoholic Beverage Control laws. The Alcoholic
9 Beverage Control Deputies Program shall maintain a roster of volunteers
10 who have received the training prescribed herein. In order to maintain
11 membership in the Program, each member must keep up with his scheduled
12 training, and no volunteer may remain in the Program if he or she is unable
13 to keep up with or otherwise absorb the training. Additionally, basic supplies
14 and equipment shall be provided to assure proper functioning of the
15 Alcoholic Beverage Control Deputies Program, including a continuing
16 program for replacement. Each member shall be subject to a mandatory
17 annual assessment of his or her relevant capacities for the proper
18 enforcement of the provisions of this Chapter, failure of which shall lead to
19 suspension from the Deputies Program until he or she is able to pass the
20 assessment.

21 **§ 35A04. Volunteer: Authority.**

22 Whenever the Alcoholic Beverage Control Deputies Program, and the
23 members thereof are rendering assistance to the Division, such volunteers
24 shall have the same powers, duties, rights, privileges and immunities, as if
25 they were paid, full-time inspectors.

26 **§ 35A05. Same: Eligibility.**

1 No person shall be a volunteer member of the Alcoholic Beverage
2 Control Deputies Program established under this Article who:

3 (a) advocates a change by force or violence in the constitutional
4 form of the Government of the United States or in this Territory or the
5 overthrow of any government in the United States by force, or who
6 has been convicted of or is under indictment or information charging
7 any subversive act against the United States,

8 (b) has been convicted of a felony, of a crime involving moral
9 turpitude, to include a violation under Chapter 52 of Title 9, Guam
10 Code Annotated, or of driving under the influence pursuant to Chapter
11 18 of Title 16, Guam Code Annotated or equivalent offense, or

12 (c) is an employee or owner of an establishment for which an
13 alcoholic beverage license has been issued under this Chapter.

14 **§ 35A06. Same: Oath.**

15 Every volunteer shall, entering upon his duties, take an oath, in
16 writing, before a person authorized to administer oaths in this Territory,
17 which oath shall be substantially as follows:

18 ‘I _____, do solemnly swear (or affirm) that I
19 will support and defend the Constitution of the United States and the
20 laws of the territory of Guam, against all enemies, foreign or
21 domestic; that I will bear true faith and allegiance to the same; that I
22 take this obligation freely, without any mental reservation or purpose
23 of evasion; and that I will well and faithfully discharge the duties
24 upon which I am about to enter and I do further swear (or affirm) that
25 I do not advocate, nor am I am member of any political party or
26 organization that advocates the overthrow of the Government of the
27 United States or of this Territory by force or violence; and that during

1 such time as I am a member of the Alcoholic Beverage Control
2 Deputies Program I will not advocate nor become a member of any
3 political party or organization that advocates the overthrow of the
4 Government of the United States or of this Territory by force or
5 violence.'

6 **§ 35A07. Same: Allowance.**

7 Each member of the Alcoholic Beverage Control Deputies Program
8 who successfully completes probationary requirements as established by the
9 Board, and who contributes at least forty-two (42) hours per month, shall
10 receive an allowance of Two Hundred Fifty Dollars (\$250) per month, to
11 defray the cost of maintenance of their equipment and uniforms. The
12 Department of Revenue and Taxation shall identify funds within their
13 department appropriations to satisfy the intent of this Section.

14 **§ 35A08. Same: False Report.**

15 A member of the Alcoholic Beverage Control Deputies Program who
16 makes a false verbal or written report shall be subject to disciplinary action,
17 including which may include removal from the Program. Any alleged
18 violations of the provisions of Chapter 52 of Title 9, Guam Code Annotated
19 shall be reported by the Administrator to the Office of the Attorney General.
20 Any member who has been indicted of a felony, of a crime involving moral
21 turpitude, of driving under the influence pursuant to Chapter 18 of Title 16,
22 Guam Code Annotated or equivalent offense, or a violation of Chapter 52 of
23 Title 9, Guam Code Annotated, shall be suspended from the program until
24 the case is dismissed or a decision is entered. If the member is found guilty,
25 he shall be removed from the program and become permanently ineligible to
26 become a member.

27 **§ 35A09. Rules and Regulations.**

1 The Alcoholic Beverage Control Board shall promulgate rules and
2 regulations for the implementation of the Alcoholic Beverage Control
3 Deputies Program pursuant to the Administrative Adjudication Law within
4 one hundred eighty (180) days from the enactment of this Act.”