










I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 118-32 (cor)

Introduced by:

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**AN ACT RELATIVE TO ALCOHOL BEVERAGE CONTROL,
TO BE KNOWN AS “THE RESPONSIBLE ALCOHOL SALES
AND SERVICE ACT”, BY ADDING NEW §§ 3123, 3124 AND
3125 TO ARTICLE 1, CHAPTER 3, 11 GCA; TO AMEND §
3207, AND ADD §§ 3212.1, 3230, 3231, AND 3232 TO ARTICLE
2, CHAPTER 3, 11 GCA; TO AMEND 11 GCA §3613; AND,
ADD A NEW (h) TO §2105, ADD A NEW (c) TO § 2106, ADD A
NEW (c) TO §2107, AND ADD A NEW §2111, ALL OF 3 GAR
CHAPTER 2 [ALCOHOLIC BEVERAGE CONTROL BOARD].**

2013 MAY 16 AM 9:27

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative findings and intent. *I Mina'Trentai DOS Na Liheslaturan Guåhan* finds hundreds of bars, clubs, stores and restaurants across the island engage in the sale and service of alcoholic beverages thousands of times a day. For the individuals and corporations that hold these licenses the sale of alcoholic beverages can be a very lucrative business. These license holders also play a key role in the hospitality and retailing sectors of Guam's economy, providing jobs for our people and tax revenue for the government.

The privilege to sell alcoholic beverages also comes with certain responsibilities, including adherence to the rules and regulations the government enacts to protect the health and safety of all who live and visit here.

1 *I Mina'Trentai DOS Na Liheslaturan Guåhan* also finds that there is
2 abundant statistical and anecdotal evidence pointing to unacceptably high levels of
3 criminal and societal problems that can be traced to the irresponsible sale, service,
4 and consumption of alcoholic beverages.

5 This evidence includes arrest data provided by GPD and the published
6 results of unannounced and undercover enforcement actions conducted by ABC
7 that shows there are many employees, both those who are licensed by ABC and
8 those who are not ABC licensed, who routinely ignore, willfully violate, or fail to
9 understand their legal responsibilities when serving or selling alcoholic beverages.

10 High on the list of complaints are service to minors, after hour sales, and
11 sales to intoxicated individuals at both on-premises and off-premises licensed
12 establishments.

13 *I Mina'Trentai DOS Na Liheslaturan Guåhan* finds further that there is
14 growing public impatience with people who consume alcoholic beverages outside
15 off-premise licensed stores and other public places where the consumption of
16 alcoholic beverages is prohibited at all hours of the night and day.

17 *I Mina'Trentai DOS Na Liheslaturan Guåhan* finds that there is also great
18 public concern about persistent problems such as drunk drivers who injure and/or
19 kill people on our roadways; intoxicated individuals involved in assaults, fights,
20 stabbings, shootings or other crimes, and underage drinking; including instances
21 where these problems can be traced back to the irresponsible sale and service of
22 alcoholic beverages.

23 There have been many efforts to combat these problems from both the
24 public and private sectors of the community, but yet these problems still negatively
25 impact the quality of life for those who live here and tarnish our island's reputation
26 in the eyes of Guam's visitors.

27 *I Mina'Trentai DOS Na Liheslaturan Guåhan* finds that generally these
28 alcohol enforcement programs overlook the importance of the proper education

1 and training of point of sale employees, both servers and sellers, their supervisors
2 and managers.

3

4 It is the intent of *I Mina'Trentai DOS Na Liheslaturan Guåhan* to provide
5 for the proper education and training of point of sale employees, both servers and
6 sellers, their supervisors and managers, by joining the dozens of other U.S. states
7 that mandate responsible server/seller training for workers who serve or sell
8 alcoholic beverages, their supervisors, and managers.

9 It is the intent of *I Mina'Trentai DOS Na Liheslaturan Guåhan* to ensure that
10 those licensed to serve or sell alcoholic beverages to the public, in particular
11 holders of Class 4, 5, 6, 7, 9, 10, 11, and 12 ABC Licenses, have in their employ
12 servers and sellers appropriately trained to comply with Guam's ABC laws.

13 Under the law employees who serve or sell alcoholic beverages have legally
14 mandated responsibilities including but not limited to preventing the sale of
15 alcoholic beverages to persons under 21 years of age, recognizing falsified
16 identification documents, denial of service to intoxicated or unruly person, and the
17 enforcement of hours of service and sale of alcoholic beverages.

18 The legislature recognizes that these employees are being asked to fill a
19 vitally important role in keeping our island safe and the transactions they conduct
20 can have extraordinary and even tragic consequences at the point of sale and
21 beyond, yet there is no standardized classroom training to help them understand
22 and execute their responsibilities or keep them mindful of the key role they play in
23 the upholding of community standards related to the service and sale of alcoholic
24 beverages.

25 It is the intent of *I Mina'Trentai DOS Na Liheslaturan Guåhan* for
26 standardized server/seller classroom training to be widely available and easily
27 accessible for employees who serve or sell alcoholic beverages workers and for
28 that training to be a requirement for obtaining an ABC Alcohol Employee License.

1 **Section 2.** A new §3123, §3124, and §3125 are added to Article 1 of
2 Chapter 3, Title 11, Guam Code Annotated, to read:

3 “**§ 3123. Alcohol Employee.** Alcohol employee means a person employed
4 by any on-sale or off-sale Licensee who sells or serves alcoholic beverages, or who
5 supervises others who sell or serve alcoholic beverages. This includes, but is not
6 limited to, bartenders, waitresses, waiters, hostesses, hosts, cashiers, check out
7 clerks, supervisors, and managers of holders of Class 4, 5, 6, 7, 9, 10, 11, and 12
8 ABC Licenses.

9 **§ 3124. Alcohol Server/Seller Training Program.** Alcohol server/seller
10 training program means a classroom only educational program offered by a non-
11 profit organization, community college, or university that has been approved by the
12 Administrator under regulations promulgated by the Board. Such regulations *shall*
13 include, but not be limited to, the content of the program, certification of
14 instructors of the program, and testing and methods of presentation, and as further
15 provided pursuant to 3 GAR Chapter 2 [Alcoholic Beverage Control Board].

16 **§3124.1. Delegation of Authority.** (a) The Administrator, with the
17 approval of the Board, may enter into an agreement with a non-profit organization,
18 community college, or university with an authorized program to conduct an
19 Alcohol Server/Seller Training program on behalf of the Board, to include:

- 20 (1) Verification of qualifications;
- 21 (2) The collection of fees for application and licensure, as provided
22 pursuant to §3207 of this Chapter, on behalf of the Board,
23 notwithstanding 3 GAR §2101(d), which shall not be applicable in
24 this instance;
- 25 (3) The issuance of a Guam Alcohol Beverage Control Alcohol
26 Employee License on behalf of the Board; and

(4) The accounting and remittance of requisite fees collected for application and licensure, the full sum of which shall be paid to the Treasurer of Guam; the act of which shall be deemed compliant with 11 GCA, Chapter 3, §3515.

(b) Prior to remitting the fees collected pursuant to this Section to the Treasurer, the authorized non-profit organization, community college, or university shall deduct and retain from the fees collected the cost for tuition for the Alcohol Server/Seller Training program.

§ 3125. Manager. All class 4 on-sale establishments shall have a duly registered manager or assistant manager on the premises, in the absence of the licensee, and during the hours from 7:00 p.m. daily until closing.

Section 3: §3207 of Article 2, Chapter 3, Title 12, Guam Code Annotated, is amended, to read:

“§ 3207. Licenses: Classes and Fees. The Board is authorized to issue the following classes and kinds of licenses at the following fees:

Class 1. Manufacturer’s license	\$100.00 per year
Class 2. Agent’s license	\$250.00 per year
Class 3. Wholesale dealer’s license	\$1,000.00 per year
Class 4. Retail dealer’s on-sale license:	
Beer	\$300.00 per year
General	\$1,000.00 per year
Wine	\$300.00 per year
Manager/Assistant Manager	<u>\$60.00 per 3 years</u> \$25.00 per year
<u>Alcohol Employee</u> Waiter/Waitress	<u>\$60.00 per 3 years</u> \$15.00 per year

1	Class 5. Retail dealer's off-sale license:	
2	Beer	\$200.00 per year
3	General	\$1,000.00 per year
4	<u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
5		
6	Class 6. Special Alcoholic license	\$25.00 per year
7	<u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
8	Class 7. Temporary beer license	\$ 20.00 per day
9	but not to exceed	\$100.00 per event
10	<u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
11		
12	Class 8. Public warehousemen's license	\$50.00 per year
13	Class 9. Club license	\$500.00 per year
14	<u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
15	Class 10. Temporary general license \$ 50.00 per day, but not to exceed	
16	\$100.00 per event	
17	<u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
18	Class 11. Microbrewery-pub restaurant license \$1,000.00 per year	
19	<u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
20	Class 12. Mobile License:	
21	(a) Limousine Service – per vehicle	\$ 750.00 per year
22	(b) Charter Vehicle (Vans) – per vehicle	
23	Up to ten (10) passengers	\$500.00 per year
24	(c) Charter Vehicle (Vans) - per vehicle	
25	More than ten (10) passengers	\$750.00 per year
26	(d) Buses -per vehicle	\$1,000.00 per year
27	(e) <u>Alcohol Employee</u>	<u>\$60.00 per 3 years</u>
28	<u>Class 13. Alcohol Server/Seller training program</u>	<u>\$200.00 per year</u>

1 **Section 4:** A new §3212.1 is added to Article 2, Chapter 3, Title 12, Guam
2 Code Annotated, is hereby amended, to read:

3 **“§ 3212.1. Alcohol Employee License, Term and Portability.** Except as
4 otherwise provided for a violation as provided pursuant to this Chapter, the License
5 for an Alcohol Employee *shall*:

- 6 (a) be valid for a term of three (3) years;
- 7 (b) be portable to additional or other premises;
- 8 (c) be on the employee at all times when performing any duties
9 involving the service or sale of any class of alcohol, as provided
10 for and defined pursuant to Article 1 of this Chapter; and
- 11 (d) include the declaration that the holder has completed ABC Board
12 approved “Alcohol Server/Seller Training Program.
- 13 (e) be issued by the Alcohol Server/Seller training program.”

14 **Section 5:** A new §3230, §3231, and §3232 are added to Article 2 of
15 Chapter 3, Title 12, Guam Code Annotated, to read:

16 **“§ 3230. Alcohol Employee License.**

17 (a) An Alcohol Employee License shall be required for all persons who sell
18 or serve, supervise or manage those who sell or serve alcoholic beverages for
19 holders of Class 4, 5, 6, 7, 9, 10, 11, and 12 ABC Licenses.

20 (b) A Temporary Alcohol Employee License may be issued to an employee
21 who has registered for an ABC Board approved Alcohol Server/Seller Training
22 Program. The Temporary Alcohol Employee License expires in 30 days or when
23 the Alcohol Employee License is issued, whichever is sooner.

24 (1) A dated receipt from an ABC Board approved Alcohol
25 Server/Seller Training Program indicating enrollment and the scheduled
26 date, time, and location of training shall be considered a Temporary Alcohol

1 Employee License. The receipt shall also state, “Temporary Alcohol
2 Employee License”, and shall contain the notation that the temporary license
3 *shall* expire within thirty (30) days of issuance.

4 **§ 3231. Manager License.** An Alcohol Beverage Control Manager License
5 shall be required for all managers or assistant managers. Every manager must
6 provide the Board and their employer with proof that the manager has successfully
7 completed an ABC Board approved Alcohol Server/Seller Training Program.
8 Proof for the employer shall be satisfied by the possession of a valid Alcohol
9 Beverage Control Manager or Assistant Manager License which shall include the
10 declaration, that the holder has completed and ABC Board approved “Alcohol
11 Server/Seller Training Program.

12 **§ 3232. Alcohol Server/Seller Training Program License.** An Alcohol
13 Server/Seller training program license shall be issued to alcohol server/seller
14 training programs that have been approved by the administrator.”

15 **SECTION 6:** Section 3613 of Article 6, Chapter 3, Title 11, Guam Code
16 Annotated, is amended, to read:

17 **“§ 3613. Same: Hearing.**

18 (a) The Board, upon receipt of the report required in §3612, shall, as soon
19 as practicable, hold a hearing on such report.

20 (b) The Board shall impose a penalty on a licensee found guilty of
21 violating any of the provisions of this Chapter amounting to One Thousand Five
22 Hundred Dollars (\$1,500.00) for the first offense; Two Thousand Five Hundred
23 Dollars (\$2,500.00) for the second offense; and Three Thousand Five Hundred
24 Dollars (\$3,500.00) for the third offense. For the fourth offense, the Board may
25 impose a penalty of up to Ten Thousand Dollars (\$10,000.00), but not less than

1 Five Thousand Dollars (\$5,000.00), and a forty-eight (48) hour suspension for
2 every subsequent offense. Contingent on the severity of any violation, the Board
3 may use its discretion and suspend or revoke the license of any licensee found
4 guilty of violating any of the provisions of this Chapter.

5 (c) In addition to the ~~aforementioned~~ fines in Subsection (b) of this
6 Section, the Board shall suspend, for a period of not less than thirty (30) days and
7 no more than ninety (90) days, the license of any licensee found guilty of violating
8 §3413 of this Chapter as a second offense. The Board shall revoke the license of
9 any licensee found guilty of violating §3413 of this Chapter as a third offense.

10 (d) The Board shall suspend an Alcohol Employee's license for Seven (7)
11 days for a first offense of §3212.1(c) and (d), and/or §3230, of this Chapter; A
12 suspension of an Alcohol Employee's license for Fourteen (14) days and a One
13 Hundred Fifty Dollar (\$150) fine for a second offense, and revocation of the
14 employee's Alcohol Employee Server/Seller Training Card for the third offense."

15 **Section 7:** A new Subsection (h) is added to §2105 of Chapter 2, Title 3,
16 Guam Administrative Rules and Regulations, to read:

17 “(h) Class 4, class 5, class 6, class 7, class 9, class 10, class 11 and class 12
18 ABC Licensees shall not hire or employ any employee that does not have a valid
19 Alcohol Employee License from an approved server/seller training program twelve
20 (12) months from the effective date of this act, provided, however:

21 (1) a current, ABC License shall continue to be valid until expiration,
22 but licensee shall be required to have taken the Alcohol Server/Seller
23 training program prior to license renewal. Further, the unexpired license
24 *shall not* be portable, as provided pursuant to §3212.1(b) which only applies
25 to a licensee who has passed an Alcohol Server/Seller training program.”

1 **Section 8:** A new subsection (c) is added to §2107 of Chapter 2, Title 3,
2 Guam Administrative Rules and Regulations, to read:

3 “(c) The Administrator shall approve classroom alcohol server/seller
4 training programs that meet the regulations duly promulgated by the Board
5 pursuant to 11 GCA §3124.”

6 **Section 9:** A new Section §2111 is added to Chapter 2, Title 3, Guam
7 Administrative Rules and Regulations, to read:

8 **“§ 2111. Responsibilities of Alcohol Server/Seller Training Programs.**

9 (a) No alcohol server/seller training program will offer or conduct alcohol
10 server/seller training classes until they have received written approval from the
11 administrator.

12 (b) All alcohol server/seller training programs shall apply for approval from
13 the Administrator by submitting their complete program, including instructor
14 manuals, student manuals, videos and any other materials that are used for the
15 program.

16 (c) The curriculum of an alcohol server/seller training program *shall*
17 include, at a minimum, all of the following topics:

- 18 (1) The ethics and responsibilities of serving alcoholic beverages;
19 (2) Basic alcohol content among different types of drinks containing
20 alcoholic liquor;
21 (3) The clinical effects of alcohol including the identification of
22 progressive stages of intoxication and the visible signs associated with
23 each stage;
24 (4) Variables associated with visible intoxication, including the rate of
25 drinking, tolerance, weight, food consumption, gender, and use of
26 other drugs;

- 1 (5) Procedures for monitoring consumption, personal skills to prevent
2 intoxication and intervention procedures;
- 3 (6) Acceptable forms of personal identification, techniques for
4 determining the validity of identification, and procedures for dealing
5 with fraudulent identification;
- 6 (8) Personal skills to assess the need to ask for identification based on
7 appearance and company policy;
- 8 (9) The identification of potential third-party sales and furnishing of
9 alcoholic liquor to minors by persons 21 years of age or over;
- 10 (10) The understanding of possible legal, civil, and administrative
11 consequences of violations of this act, the rules of the Board, and
12 other pertinent laws;
- 13 (11) How to identify at place of employment spirits and other alcoholic
14 beverage products not intended for resale or commercial distribution
15 outside of military bases, and procedures for reporting these violations
16 to the Board;
- 17 (12) The understanding of Guam laws pertaining to minors attempting to
18 purchase, minors in possession, and third-party sales or furnishing of
19 alcoholic liquor by adults to minors;
- 20 (13) Knowledge of the legal hours of alcohol service and occupancy;
- 21 (14) Identification of signs of prohibited activities, such as gambling,
22 solicitation for prostitution and drug sales; and
- 23 (15) Any other pertinent laws as determined by the Board or
24 Administrator;

25 (d) The alcohol server/seller training program shall administer a
26 comprehensive examination to participants of the program, including individuals
27 seeking certification as instructors within the program. The examination shall
28 thoroughly test the individual's knowledge and competency in the curriculum

1 topics required by the board. The minimum passing grade for the examination
2 participants in the program shall be not less than 75%. For instructor certification
3 the passing grade shall be not less than 85% for instructors. All tests shall be
4 approved by the Administrator.

5 (e) The alcohol server/seller training program shall issue an Alcohol
6 Employee License to the student who successfully completes the program.
7 Certification shall be valid for term of three (3) years.

8 (f) The alcohol server/seller training program shall issue an instructor
9 certification card to all instructors that have been certified by the program that shall
10 be valid for a term of three (3) years and shall notify the board or administrator.
11 The alcohol server/seller training program shall immediately notify the Board or
12 Administrator when an instructor is no longer certified by the program.

13 (g) The alcohol server/seller training program shall make available all
14 records of students, instructors and certifications to the Board and the
15 Administrator.

16 (h) The Administrator may rescind approval of any server/seller training
17 program that fails to continue to meet these requirements or fails to pay the yearly
18 fee set by the Board.

19 (i) The administrator shall not approve online alcohol server/seller training
20 programs.”

21 **Section 10: Effective Date.** This act *shall* become immediately effective
22 upon enactment.

23 **Section 11. Phased implementation for enforcement.** (a) The Board *shall*
24 promulgate the requisite rules and regulations mandated pursuant to 11GCA §3124

1 within one-hundred-fifty (150) calendar days of the effective date of this Act.

2 (b) With the approval by the Administrator of a classroom alcohol
3 server/seller training program, and the actual commencement of program
4 availability, *then*, the compliance, enforcement and penalty provisions of this Act
5 *shall* become effective within twelve (12) calendar months of the effective date of
6 this act.

7 **Section 12: 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
9 invalidity shall *not* affect other provisions or applications of this Law which can be
10 given effect without the invalid provisions or applications, and to this end the
11 provisions of this Law are severable.