

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2007 (FIRST) Regular Session

Bill No. 65(FC)

Introduced by:

A. B. PALACIOS, SR.



AN ACT RELATIVE TO ENHANCING THE COMPLIANCE AND ENFORCEMENT CAPABILITY OF REGULATORY OFFICIALS WITHIN THE DEPARTMENT OF REVENUE AND TAXATION ON THE SALE OF ALCOHOLIC BEVERAGES BY BUSINESS ESTABLISHMENTS AND OTHERS THROUGH UPDATING SAID PROVISIONS AND ESTABLISHING PENALTIES THEREIN; THROUGH ADDING §3122 AND AMENDING §3414, §3612, §3613 AND REPEALING §3614 ALL OF CHAPTER 3, TITLE 11, GUAM CODE ANNOTATED, AND FURTHER AMENDING SUBSECTION “(b)” OF §2105, CHAPTER 2, TITLE 3, GUAM ADMINISTRATIVE RULES AND REGULATIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.**

2 *I Liheslaturan Guåhan* finds that it has been many years since the
3 provisions pertaining to the licensing of businesses and establishments that
4 sell alcoholic beverages have been updated to allow for more effective and
5 comprehensive compliance and enforcement by the appropriate personnel
6 within the Department of Revenue and Taxation. An example provided
7 recently by enforcement officials from the Department of Revenue and

1 Taxation has been the suggestion for the establishment of a schedule of fines
2 and penalties that can be assessed to the business or establishment for non-
3 compliance with existing mandates. This assessment can be initially
4 considered prior to any revocation of a business license, and it would enhance
5 the regulatory official's ability to ensure proper and timely compliance with
6 all rules, regulations and laws pertaining to the sell of alcoholic beverages.

7 Therefore, this legislation would amend specific provisions relative to
8 the licensing of businesses and others in the sale of alcoholic beverages, and
9 allow for improved compliance and enforcement by the pertinent government
10 regulatory personnel. Through these updates and changes, proper officials
11 will be provided with necessary enforcement mechanisms that would enhance
12 their ability to assure the community that appropriate and necessary
13 restrictions are being applied in the operational activities of these businesses
14 for the benefit of the island community.

15 **Section 2. Addition and Amendments of appropriate sections within**
16 **Chapter 3, Title 11, Guam Code Annotated, all pertaining to the Operational**
17 **Requirements and Restrictions of the Sale of Alcoholic Beverages and the**
18 **Attainment of such Licenses.**

19 A.) A new section §3122 of is hereby added to Chapter 3, Article 1,
20 Title 11, Guam Code Annotated, to read as follows:

21 **"§3122. Closed.** Closed means that the premise(s) shall be
22 vacated by all persons immediately after the 'authorized' hours of sale in
23 section §3414. Hours of Sale. On Sale Premises, of this Chapter."

1 B.) §3414. of Chapter 3, Article 4, Title 11, Guam Code Annotated,
2 Relative to Hours of Sale and On-Sale Premise is hereby amended to read as
3 follows:

4 “§3414. **Hours of Sale. On Sale Premises.** An On-Sale licensee shall
5 not sell or serve any person any alcoholic beverages after 2:00 a.m., except that
6 preceding New Year’s Day, the selling time shall be 2:00 a.m., on Saturdays,
7 Sundays and Holidays the selling time shall be 4:00 a.m. Provided, however
8 that all alcoholic beverages must be consumed within fifteen (15) minutes of
9 the time permitted for the sale thereof **and premise(s) will be closed**
10 **thereafter.** A licensee may begin selling or serving alcoholic beverages at 8:00
11 a.m., Monday through Sunday inclusive.”

12 C.) §3612 of Chapter 3, Article 6, Title 11, Guam Code Annotated, is
13 hereby amended to read as follows:

14 “§3612. **Same: Penalty. Temporary.** Upon filing of a sworn written
15 report with the Administrator by an inspector setting forth the grounds for
16 the suspension or revocation of a license, the Administrator ~~may temporarily~~
17 ~~suspend any license pending a regular hearing by the Board. No temporary~~
18 ~~suspension by the Administrator shall exceed forty-eight (48) hours.~~ **shall**
19 **impose a penalty fine of \$750.00 for the first offense; a penalty of \$1,500.00**
20 **for a second offense; a penalty of \$2,500.00 for the third offense; and a**
21 **penalty of \$3,000.00 for the fourth offense with immediate suspension of**
22 **the business liquor license and restrict the use of the premises for such**
23 **activity not to exceed forty-eight (48) hours. All financial penalties assessed**

1 to a business establishment as provided herein shall be paid within ten (10)
2 calendar days from the date such fine is imposed; if unpaid within the
3 designated timeframe, said business liquor license shall be automatically
4 suspended. Upon suspension, no business liquor licensed establishment
5 shall be authorized to re-open said activity until such time that the full sum
6 of the financial penalty is remitted. The Administrator shall upon
7 temporarily suspending a license immediately notify the Board in writing of
8 his action and transmit to the Board the report of the inspector, including the
9 names of all the witnesses.”

10 D.) §3613 of Chapter 3, Article 6, Title 11, Guam Code Annotated, is
11 hereby amended to read as follows:

12 “§3613. Same: Hearing. The Board upon receipt of the report
13 required in §3612 shall, as soon as practicable, hold a hearing on such report.
14 The Board may approve the imposition of a penalty not exceeding those
15 specified in §3612 and may suspend or revoke the license of any licensee
16 found guilty of violating any of the provisions of this Chapter. The Board
17 may also in the event the Administrator fails to suspend a license within
18 five (5) days after the filing of a written report by an inspector, may hold a
19 hearing on such report and may suspend or revoke any license.”

20 E.) Repeal of §3614, of Chapter 3, Article 6, Title 11, Guam Code
21 Annotated (Provisions incorporated into subsection §3613 of Chapter 3
22 herein).

23 §3614 of Chapter 3, Article 6, Title 11, Guam Code Annotated, is hereby

1 repealed in its entirety.

2 F.) Amend subsection "(b)" of §2105 of Chapter 2, Title 3, Guam
3 Administrative Rules and Regulations, relative to Business Regulations.

4 Subsection "(b)" of §2105, Chapter 2, Title 3, Guam Administrative
5 Rules and Regulations, on the Responsibility of a Licensee, is hereby amended
6 to read as follows:

7 "(b). All Class 4, On-Sale establishments shall have a duly registered
8 manager or assistant manager or registered designated responsible person
9 on the premises, in the absence of the licensee, and during the hours from 7:00
10 p.m. daily until closing. The manager or assistant manager or designated
11 responsible person shall be capable and competent in maintenance of order
12 and responsible for compliance with pertinent laws and regulations as
13 pertains to the licensed premises. Should the duly registered manager or
14 assistant manager, or responsible person be absent from the premises at
15 7:00 p.m. until closing daily, the premises shall be 'CLOSED' immediately
16 until such date and time that one of the stated persons herein is present on
17 the premises. In the event the premises remains open in violation of this
18 requirement, the licensee shall pay a penalty of \$100.00 for each violation."

19 Section 3. Funds Generated to Support Compliance and Regulatory
20 Activities of the Alcoholic Beverage Control Board of the Department of
21 Revenue and Taxation.

22 All funds generated as a result of the fines or penalties imposed herein
23 shall be appropriated by I Liheslaturan Guahan and re-directed to the

1 Department of Revenue and Taxation for the express use by the Alcoholic
2 Beverage Control Board and its assigned personnel for compliance and
3 regulatory activities. The Chairman of the Alcoholic Beverage Control Board,
4 in consultation with the Director of the Department of Revenue and Taxation,
5 shall present in the Department's annual budgetary submission to I
6 Liheslaturan Guahan the sums highlighted herein to be generated from the
7 penalties, with emphasis for the funds to be directed for alcoholic beverage
8 license enforcement and other regulatory activities.

9 **Section 4. Severability.** If any of the provisions of this Act or the
10 application thereof to any person or circumstance is held invalid, such
11 invalidity shall not affect any other provision or application of this Act which
12 can be given effect without the invalid provision or application, and to this
13 end the provisions of this Act are severable.