



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

32-14-2357

Office of the Speaker
Judith T. Won Pat, Ed.D.

Date: 12/31/14
Time: 3:15 pm
Received By: [Signature]

2014 DEC 31 PM 3:15
[Signature]

December 31, 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madam Speaker:

Enclosed is Bill No. 429-32 (COR), *An Act to Add a New Article 5A to Chapter 3, Title 11, Guam Code Annotated Relative to Authorizing the Appointment of Deputies to Enforce Guam's Alcoholic Beverage Control Laws*, which I have **vetoed**.

It is known that the inspection of establishments and facilities serving or selling alcoholic beverages is an event that can lead to great tension. I am concerned about the respective liabilities that the Government, the volunteer, and the alcohol-selling establishment may have to each other in the event that an injury incident occurs. Although Bill 429 authorizes certain privileges and immunities to the volunteers as if they were paid, full-time inspectors, nothing in the bill addresses the liability of the other parties.

Finally, I believe that with the support and funding from the Legislature, the ABC Administrator has the ability to retain full-time inspectors who are authorized employees of the Government, thereby averting the necessity of volunteers.

Senseramente,

[Signature]
EDDIE BAZA CALVO

2357

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

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 429-32 (COR)**, "AN ACT TO *ADD* A NEW ARTICLE 5A TO CHAPTER 3, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE APPOINTMENT OF DEPUTIES TO ENFORCE GUAM'S ALCOHOLIC BEVERAGE CONTROL LAWS," was on the 17th day of December, 2014, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker


Attested:


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 21 day of Dec,
2014, at

6:35 o'clock P.M.

APPROVED:


EDWARD J.B. CALVO
I Maga'lahen Guåhan
Assistant Staff Officer
Maga'lahi's Office

Date: DEC 31 2014

Public Law No. _____

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

Bill No. 429-32 (COR)

Introduced by:

Michael F.Q. San Nicolas

T. C. Ada

V. Anthony Ada

FRANK B. AGUON, JR.

B. J.F. Cruz

Chris M. Dueñas

Michael T. Limtiaco

Brant T. McCreadie

Tommy Morrison

T. R. Muña Barnes

R. J. Respicio

Dennis G. Rodriguez, Jr.

Aline A. Yamashita, Ph.D.

Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW ARTICLE 5A TO CHAPTER 3,
TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO
AUTHORIZING THE APPOINTMENT OF DEPUTIES
TO ENFORCE GUAM'S ALCOHOLIC BEVERAGE
CONTROL LAWS.**

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 the

1 enforcement of Guam’s accessible parking laws. Given the current challenges in
2 enforcing Guam’s Alcoholic Beverage Control laws, a program establishing
3 Deputies for the enforcement of these laws could greatly improve compliance.

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

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

10 **“ARTICLE 5A**

11 **ALCOHOLIC BEVERAGE CONTROL DEPUTIES PROGRAM**

12 § 35A00. Creation.

13 § 35A01. Functions and Duties.

14 § 35A02. Recruitment.

15 § 35A03. Training, Equipping and Maintenance of Records.

16 § 35A04. Volunteer: Authority.

17 § 35A05. Same: Eligibility.

18 § 35A06. Same: Oath.

19 § 35A07. Same: Allowance.

20 § 35A08. Same: False Report.

21 § 35A09. Rules and Regulations.

22 **§ 35A00. Creation.**

23 There is hereby created within the Division an Alcoholic Beverage
24 Control Deputies Program, which *shall* be headed by the Administrator. The
25 Administrator, subject to the advice and control of the Alcoholic Beverage
26 Control Board, *shall* be responsible for carrying out the purpose of this

1 Article, and *shall* have such additional duties and responsibilities as are
2 authorized herein, or as may be prescribed by the Board.

3 **§ 35A01. Functions and Duties.**

4 The general functions and duties of a member of the Alcoholic
5 Beverage Control Deputies Program *shall* be to serve as volunteer
6 inspectors, as defined in § 3111 of this Chapter, under the general
7 supervision of the Administrator.

8 **§ 35A02. Recruitment.**

9 The Administrator *shall* recruit, on an entirely volunteer basis, local
10 residents who desire to make available their services to assist the Division in
11 carrying out its functions. The Board *shall* further promulgate rules and
12 regulations regarding the age, health and other requirements for recruitment
13 purposes, subject to the Fair Labor Standards Act. The Board *shall* have
14 final approval of candidates to serve as Deputies pursuant to this Article.

15 **§ 35A03. Training, Equipping and Maintenance of Records.**

16 The Administrator *shall* devise a training program, approved by the
17 Board, which will provide the members of the Alcoholic Beverage Control
18 Deputies Program training in operational techniques and procedures for the
19 proper enforcement of the Alcoholic Beverage Control laws. The Alcoholic
20 Beverage Control Deputies Program shall maintain a roster of volunteers
21 who have received the training prescribed herein. In order to maintain
22 membership in the Program, each member must keep up with his scheduled
23 training, and no volunteer may remain in the Program if he or she is unable
24 to keep up with or otherwise absorb the training. Additionally, basic supplies
25 and equipment *shall* be provided to assure proper functioning of the
26 Alcoholic Beverage Control Deputies Program, including a continuing
27 program for replacement. Each member *shall* be subject to a mandatory

1 annual assessment of his or her relevant capacities for the proper
2 enforcement of the provisions of this Chapter, failure of which *shall* lead to
3 suspension from the Deputies Program until he or she is able to pass the
4 assessment.

5 **§ 35A04. Volunteer: Authority.**

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

10 **§ 35A05. Same: Eligibility.**

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

13 (a) advocates a change by force or violence in the
14 constitutional form of the Government of the United States or in
15 Guam, or the overthrow of any government in the United States by
16 force, or who has been convicted of or is under indictment or
17 information charging any subversive act against the United States;

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

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

25 **§ 35A06. Same: Oath.**

1 Every volunteer *shall*, upon entering his duties, take an oath, in
2 writing, before a person authorized to administer oaths in Guam, which oath
3 *shall* be substantially as follows:

4 “I _____, do solemnly swear (or
5 affirm) that I will support and defend the Constitution of
6 the United States and the laws of Guam, against all
7 enemies, foreign or domestic; that I will bear true faith
8 and allegiance to the same; that I take this obligation
9 freely, without any mental reservation or purpose of
10 evasion; and that I will well and faithfully discharge the
11 duties upon which I am about to enter and I do further
12 swear (or affirm) that I do not advocate, nor am I am
13 member of any political party or organization that
14 advocates the overthrow of the Government of the United
15 States or of Guam by force or violence; and that during
16 such time as I am a member of the Alcoholic Beverage
17 Control Deputies Program I will not advocate nor
18 become a member of any political party or organization
19 that advocates the overthrow of the Government of the
20 United States or of Guam by force or violence.”

21 **§ 35A07. Same: Allowance.**

22 Each member of the Alcoholic Beverage Control Deputies Program
23 who successfully completes probationary requirements as established by the
24 Board, and who contributes *at least* forty-two (42) hours per month, *shall*
25 receive an allowance of Two Hundred Fifty Dollars (\$250.00) per month, to
26 defray the cost of maintenance of their equipment and uniforms. The

1 Department of Revenue and Taxation *shall* identify funds within their
2 Department appropriations to satisfy the intent of this Section.

3 **§ 35A08. Same: False Report.**

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

16 **§ 35A09. Rules and Regulations.**

17 The Alcoholic Beverage Control Board *shall* promulgate rules and
18 regulations for the implementation of the Alcoholic Beverage Control
19 Deputies Program, pursuant to the Administrative Adjudication Law, within
20 one hundred eighty (180) days from the enactment of this Act.”