



*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
L'ESINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A

RECEIVED  
OFFICE OF THE SPEAKER  
DATE: 6/7/94  
TIME: 3:40 PM  
BY: [Signature]

MAY 25 1994

The Honorable Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 706, which the Governor signed into law on  
March 3, 1994 as Public Law 22-80.

RECEIVED  
LEGISLATIVE DEPT.

Sincerely yours,

FRANK F. BLAS  
Governor,  
Acting

220699

Attachment

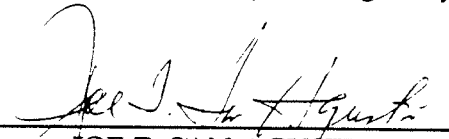


Commonwealth Now!

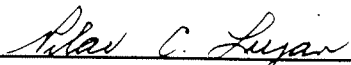
TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 706 (LS), "AN ACT TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW ALCOHOLIC BEVERAGE LICENSEES TO GIVE PREMIUMS OR PROMOTIONAL GIFTS; TO AMEND §3405 OF SAID TITLE TO ALLOW ALCOHOLIC BEVERAGE LICENSEES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NOT-FOR-PROFIT, CHARITABLE CORPORATION; TO AMEND SUBSECTION (c) OF §3430 OF SAID TITLE TO ALLOW ALCOHOLIC BEVERAGE LICENSEES TO GIVE PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS OF ON-SALE OR OFF-SALE PREMISES; TO MAKE A TECHNICAL AMENDMENT TO THE FISCAL YEAR 1994 BUDGET OF THE DEPARTMENT OF EDUCATION SO THAT AS MANY TEACHERS AS ARE PARTICIPATING IN THE AFTER SCHOOL PROGRAM ("DEED") CAN BE PAID FROM THE FUNDS ALREADY APPROPRIATED TO THE DEPARTMENT; AND TO AMEND SECTION 5 OF PUBLIC LAW 22-\_\_\_ (BILL NO. 318) ON ALTERNATE COMPENSATION AND EXCLUSIONS," was on the 18th day of February, 1994, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

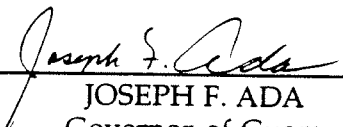
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 23rd day of February, 1994,  
at 4:01 o'clock P.M.

  
\_\_\_\_\_  
Theresa Duenas  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: March 3, 1994

Public Law No. 22-80

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 706 (LS)

As amended by the Committee on  
Ways & Means and as substituted by the  
Committee on Rules

Introduced by:

J. T. San Agustin  
J. P. Aguon  
I. G. Bamba  
V. C. Pangelinan  
C. T. C. Gutierrez  
H. D. Dierking  
T. C. Ada  
E. P. Arriola  
P. C. Lujan  
T. S. Nelson  
A. C. Blaz  
M. D. A. Manibusan  
A. R. Unpingco  
M. Z. Bordallo  
D. Parkinson  
E. D. Reyes  
F. E. Santos  
D. L. G. Shimizu  
D. F. Brooks  
F. P. Camacho  
T. V. C. Tanaka

AN ACT TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW ALCOHOLIC BEVERAGE LICENSEES TO GIVE PREMIUMS OR PROMOTIONAL GIFTS; TO AMEND §3405 OF SAID TITLE TO ALLOW ALCOHOLIC BEVERAGE LICENSEES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NOT-FOR-PROFIT,

CHARITABLE CORPORATION; TO AMEND SUBSECTION (c) OF §3430 OF SAID TITLE TO ALLOW ALCOHOLIC BEVERAGE LICENSEES TO GIVE PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS OF ON-SALE OR OFF-SALE PREMISES; TO MAKE A TECHNICAL AMENDMENT TO THE FISCAL YEAR 1994 BUDGET OF THE DEPARTMENT OF EDUCATION SO THAT AS MANY TEACHERS AS ARE PARTICIPATING IN THE AFTER SCHOOL PROGRAM ("DEED") CAN BE PAID FROM THE FUNDS ALREADY APPROPRIATED TO THE DEPARTMENT; AND TO AMEND SECTION 5 OF PUBLIC LAW 22-\_\_\_\_, (BILL NO. 318) ON ALTERNATE COMPENSATION AND EXCLUSIONS.

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

2           **Section 1. Legislative findings.** The Legislature finds that the health of  
3 tourism and the visitor industry is vital to the continuing economic prosperity  
4 of Guam and its people. Guam has invested heavily, through qualifying  
5 certificate and loan programs of the Guam Economic Development  
6 Authority, the Tourist Attraction Fund, appropriations to the Guam Visitors  
7 Bureau, and through many other means, to encourage the development of  
8 first-class tourist facilities and to promote Guam as a first-class tourist  
9 destination. One of the premier attractions that Guam has historically had to  
10 offer and which has been prominently featured in the efforts to promote  
11 Guam as a tourist destination is the island's "duty-free" status, since Guam is  
12 not within the customs territory of the United States. In addition to foreign-  
13 make goods, the sale of liquor, wine and other alcoholic beverages has  
14 historically been one of the mainstays of the tourist retail industry, and  
15 tourism-related sales of liquor, wine and other alcoholic beverages have  
16 generated substantial tax revenues for the territory as well as revenues  
17 needed to support the employment of many Guam residents in the liquor

1 distribution and wholesale industry. The advantage Guam has enjoyed in  
2 connection with this duty-free status has been eroded, however, over the past  
3 few years due to changes in the liquor distribution systems in Japan and other  
4 countries, the substantial reductions in the duties payable on liquor brought  
5 home by visitors to Guam, the proliferation of discount stores, the practice of  
6 parallel markets, grey markets, and other factors. As a consequence, local  
7 retailers and wholesalers of liquor, wine and other alcoholic beverages have  
8 been rendered less competitive and are struggling to develop new marketing  
9 and promotional strategies to compete effectively against heightened  
10 competition and to maintain their historic levels of sales. In order to protect  
11 these businesses and the substantial tax and other government revenue  
12 generated by them, changes in the alcoholic beverage laws of Guam are  
13 necessary. Such changes would clarify the legality of various promotional  
14 and marketing strategies and techniques.

15 **Section 2.** §3404 of Title 11, Guam Code Annotated, is hereby amended  
16 to read as follows:

17 **“§3404. Premiums or gifts forbidden: exception.** A licensee  
18 shall not give, directly or indirectly, any premiums or gifts with the  
19 sale of any alcoholic beverages; provided, however, that on-sale and  
20 off-sale licensees may give premiums or promotional gifts in  
21 connection with the sale of alcoholic beverages, subject to any  
22 limitations that may be imposed on such gifts by regulation adopted  
23 by the Board.”

24 **Section 3.** §3405 of Title 11, Guam Code Annotated, is hereby amended  
25 to read as follows:

26 **“§3405. Alcoholic beverages: gifts forbidden: exception.**  
27 Subject to any limitations that may be imposed by regulation adopted

1 by the Board, no person shall offer or give any alcoholic beverages to  
2 any person in conjunction with the operation of any business, except  
3 that any person, including a licensee, may serve and provide, at no  
4 charge, food and alcoholic and non-alcoholic beverages to persons  
5 attending special promotions, grand openings, special gatherings,  
6 and similar occasions. In addition, any licensee may donate for  
7 charitable events alcoholic and non-alcoholic beverages to any not-  
8 for profit, charitable corporation or association which has a current  
9 certificate of tax exemption from the government of Guam.

10 **Section 4.** Subsection (c) of §3430 of Title 11, Guam Code Annotated, is  
11 hereby amended to read as follows:

12 “(c) Furnish, give, lend, rent, or sell directly or indirectly any  
13 equipment, fixtures, or supplies other than alcoholic beverages,  
14 draught beer dispensers, or indoor signs, and promotional gifts and  
15 supplies, in accordance with regulation prescribed by the Board, to  
16 any person engaged in operating, owning or maintaining any on-  
17 sale or off-sale premises.”

18 **Section 5.** Technical amendment to the Department of Education’s  
19 fiscal year 1994 budget for the DEED program. The budget for the  
20 Department of Education, first contained in Chapter II of Public Law 21-136  
21 and reenacted in Public Law 22-41, shall contain a note at the bottom of page  
22 79 which shall be an administrative provision for the Division  
23 “ELEMENTARY” and Section “ELEMENTARY ADMINISTRATION” of the  
24 Department of Education’s budget for Fiscal Year 1994, to read:

25 “NOTE: OF THE \$2,194,979, TOTAL APPROPRIATION, THE SUM OF  
26 \$541,763 IS TO IMPLEMENT THE AFTER SCHOOL PROGRAM (“DEED”)  
27 AT THE FIVE (5) ELEMENTARY SCHOOLS, (MERIZO, TALOFOFO, J.P.

1 TORRES, H.S TRUMAN AND L.B. JOHNSON/TAMUNING) FOR THE  
2 TEACHERS WHO ARE PROVIDING THE AFTER SCHOOL SERVICES IN  
3 THE PROGRAM, AT THE HOURLY RATE OF PAY, AND FOR ONE (1)  
4 FTE, ADMINISTRATIVE ASSISTANT."

5 Section 6. Section 5 of Public Law 22-\_\_\_(Bill No. 318) is amended to  
6 read as follows:

7 "Section 5. (a) **Alternative compensation.** The Governor is  
8 authorized to offer to an affected landowner any one (1) of the  
9 following or combination thereof: (a) Direct compensation at either  
10 fair market value of the land when taken or its current fair market  
11 value, as the landowner prefers; (b) area-for-area exchange; or  
12 (c) credit toward territorial income taxes due or to become due.

13 (b) **Exclusions.** Landowners who have voluntarily deeded  
14 their properties to the government of Guam for easements or who  
15 have otherwise voluntarily transferred their title of their property to  
16 the government of Guam shall not be eligible for compensation  
17 under this Act."

# TWENTY-SECOND GUAM LEGISLATURE

1994 (SECOND) Regular Session

Date: \_\_\_\_\_

## VOTING SHEET

(AS REVISED)

Bill No. 756

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francis E.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

21



Twenty-Second Guam Legislature

155 Hesler Street  
Pacific Arcade  
Agana, Guam 96910  
Telephone: (671) 472-3407 thru 9  
Fax: 477-3161



Chairman, Committee  
on Ways & Means

Vice-Chairman, Committee  
on Rules

Vice-Chairman, Committee  
on Tourism & Transportation

**CARL T.C. GUTIERREZ**  
Senator

December 6, 1993

Honorable Speaker Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Legislative Temporary Building  
Agana, Guam 96910

Dear Mr. Speaker:


The Committee on Ways & Means wishes to report out its findings on **BILL NO. 706**, "AN ACT TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PREMIUM OR PROMOTIONAL GIFTS; TO AMEND SUBSECTION (c) OF §3430 OF SAID CODE TO ALLOW THE LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS OF ON-SALE OR OFF-SALE PREMISES; TO AMEND §3405 OF SAID CODE TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NON-PROFIT, CHARITABLE CORPORATION", to the full Legislature with the recommendation to do Pass as Amended.

The Committee Voting Record is as follows:

TO PASS:	<u>12</u>
NOT TO PASS:	<u>0</u>
ABSTENTIONS:	<u>0</u>
INACTIVE FILE:	<u>0</u>

Copies of the Committee Report and all pertinent documents are attached for your information.

Sincerely,

  
**CARL T. C. GUTIERREZ**  
Chairman

Attachments

Twenty-Second Guam Legislature  
Committee on Ways & Means  
**VOTING SHEET**

BILL NO.  
706

AN ACT TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO GIVER PREMIUM OR PROMOTIONAL GIFTS; TO AMEND SUBSECTION (c) OF §3430 OF SAID CODE TO ALLOW THE LICENSEES OF ALCOHOLIC BEVERAGES TO GIVER PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS ON-SALE OR OFF-SALE PREMISES; TO AMEND §3405 OF SAID CODE TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NON-PROFIT, CHARITABLE CORPORATION.

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
<i>[Signature]</i> Senator Carl T. C. GUTIERREZ Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Herminia D. DIERKING Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Thomas C. ADA Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator John P. AGUON Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Elizabeth P. ARRIOLA Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator J. George BAMBA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Anthony C. BLAZ Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Pilar C. LUJAN Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mafilyn D. A. MANIBUSAN Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted S. NELSON Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Vicente C. PANGELINAN Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator David L.G. SHIMIZU Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Senator Antonio R. UNPINGCO Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i> Speaker Joe T. SANAGUSTIN Ex-Officio Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMITTEE ON WAYS AND MEANS  
COMMITTEE REPORT ON**

**BILL NO. 706**

**AN ACT TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PREMIUM OR PROMOTIONAL GIFTS; TO AMEND SUBSECTION (c) OF §3430 OF SAID CODE TO ALLOW THE LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS OF ON-SALE OR OFF-SALE PREMISES; TO AMEND §3405 OF SAID CODE TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NON-PROFIT, CHARITABLE CORPORATION.**

**PURPOSE AND ESSENTIAL ELEMENTS**

Bill No. 706 contains four sections. The first section contains Legislative findings concerning the visitor industry, and the popularity of the sale of liquor, wine, and other alcoholic beverages in the visitor industry, especially as products available with a "duty free" status. The findings point out that the advantages previously enjoyed as "duty free" status of items brought back to Japan and other countries, has been eroded, and that alcoholic beverage distributors need other mechanisms to promote and market their products. The intent is that free promotions, such as wine tastings, and so forth, would be an attraction in the visitor industry, as well as acquaint visitors with certain available products.

Section 2 of the Bill amends §3403 of Title 11, Guam Code Annotated, by making an exception to the prohibition on the giving away of alcoholic beverages as premiums or gifts, as long as regulations adopted by the Alcoholic Beverage Control Board are followed.

Section 3 amends Subsection (c) of §3430 of Title 11, Guam Code Annotated, provides for an exemption to the prohibition contained in that section against activities prohibited for manufacturers, agents, or wholesalers of alcoholic beverages. The exemption allows for manufacturers, agents, and wholesalers of alcoholic beverages to give free promotional gifts and supplies to retailers, or on-sale and off-sale operators.

Section 4. amends §3405 of Title 11, Guam Code Annotated, providing that the prohibition against the giving away of alcoholic beverages is lifted so long as the alcoholic beverages are given away subject to any limitations that may be imposed by the Alcoholic Beverage Control Board, and that the alcohol be given away at special promotions, grand openings, special gatherings, and similar occasions, and additionally may be donated to any registered charitable organization.

## PUBLIC HEARING

The Committee on Ways and Means conducted a public hearing on Tuesday, November 30, 1993 at 9:00 a.m. in the Legislative Public Hearing Room to gather testimony on Bill No. 703. Present at the hearing were the Chairman, Senator Carl T. C. Gutierrez, who conducted the hearing, being joined by Senators T. C. Ada, and J. G. Bamba.

## TESTIMONY

Three businesses submitted written testimony at the time of the public hearing, although no one appeared in person to testify orally at the time that the bill was called.

The following written testimony was received in favor of passage of the bill, and is attached to this report:

1. **Mr. Albert T. Perez, General Manager of Topsy Distributing Company,** submitted written testimony in favor of the bill.
2. **Mr. Gerry S. A. Perez, President, DFS Guam Division,** submitted written testimony in favor of the bill, explaining that "liquor wholesale and retail sales on Guam today are under siege" due to the strong competition from Japan and elsewhere. The Japanese wholesale and retail distribution structure has changed, giving more opportunity for discount outlets to that market.

Mr. Perez points out in his testimony that the present practice of providing appetizers or chasers in connection with the sale of liquor is technically in violation of current law, and the modification provided in Bill 706 would make it clear that this practice is legal.

Mr. Perez also points out that Guam is in competition with other destinations, such as Saipan, for liquor distribution, and that on Saipan, marketing techniques such as the offering of carrying bags and other items in connection with the sale of liquor. Mr. Perez indicates that the passage of Bill 706 would not solve every problem, but would enhance the industry, and provide job security to those employed in this business, and assist in abating the erosion of tax revenues derived from this sector of the economy.

- 3) **Mr. Eduardo A. Calvo, on behalf of Mid Pacific Liquor Distributing Corporation,** provided written testimony in support of Bill 703, with one modification. Mid Pacific Liquor Distributing Corporation would like to see the words "draught beer dispensers, or" put back into §3430 of Title 11, Guam Code Annotated, as the bill removes those words from that section in Section 3 of the bill.

## COMMITTEE ACTION

The Committee on Ways and Means, after consideration of the testimony offered at the public hearing, decided to include the recommendation of Mic Pacific Liquor Distributing Corporation in the bill to report out to the full Legislature, which is to

add back in the words "draught beer dispensers, or" in §3430 of Title 11, Guam Code Annotated.

The Committee decided also to add an amendment to make an allowance in the FY 1994 budget of the Department of Education to allow for the payment of as many teachers as are involved in the After School Program (DEED) to be paid for this part time work from the money already appropriated.

### **COMMITTEE RECOMMENDATION**

The Committee on Ways and Means wishes to report out Bill 706 to the full legislature to **do pass, as amended.**

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No 706

As amended by the Committee on  
Ways and Means

Introduced by:

J. T. San Agustin  
J. P. Aguon  
J. G. Bamba  
V. C. Pangelinan  
C. T. C. Gutierrez  
H. D. Dierking  
T. C. Ada  
E. P. Arriola  
P. C. Lujan  
T. S. Nelson  
A. C. Blaz  
M. D. A. Manibusan  
A. R. Unpingco

AN ACT TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PREMIUM OR PROMOTIONAL GIFTS; TO AMEND SUBSECTION (c) OF §3430 OF SAID CODE TO ALLOW THE LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS OF ON-SALE OR OFF-SALE PREMISES; TO AMEND §3405 OF SAID CODE TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NON-PROFIT, CHARITABLE CORPORATION, AND TO PROVIDE A TECHNICAL AMENDMENT TO THE FISCAL YEAR 1994 BUDGET OF THE DEPARTMENT OF EDUCATION SO THAT AS MANY TEACHERS AS ARE PARTICIPATING IN THE AFTER SCHOOL PROGRAM (DEED) CAN BE PAID FROM THE FUNDS ALREADY APPROPRIATED TO THE DEPARTMENT.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1           Section 1. **Legislative findings.** The Legislature finds that the  
2 health of tourism and the visitor industry are vital to the continuing  
3 economic prosperity of the territory of Guam and its people. Guam has  
4 invested heavily, through the Guam Economic Development Authority's  
5 qualifying certificate and loan programs, the Tourist Attraction Fund,  
6 appropriations to the Guam Visitors Bureau and through many other  
7 means, to encourage the development of first-class tourist facilities and to  
8 promote Guam as a first-class tourist destination. One of the premier  
9 attractions that Guam has historically had to offer and which has been  
10 prominently featured in the efforts to promote Guam as a tourist  
11 destination is the island's "duty-free" status, since Guam is not within the  
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14 historically been one of the mainstays of the tourist retail industry, and  
15 tourism-related sales of liquor, wine and other alcoholic beverages have  
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18 distribution and wholesale industry. The advantage Guam has enjoyed in  
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20 past few years due to changes in the liquor distributions systems in Japan  
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22 brought home by visitors to Guam, the proliferation of discount stores, the  
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24 consequence, retailers and wholesalers of liquor, wine and other alcoholic  
25 beverages have been rendered less competitive and are struggling to  
26 develop new marketing and promotional strategies to compete effectively  
27 against heightened competition and to maintain their historic levels of

1 sales. In order to protect these businesses and the substantial tax and  
2 other government revenue generated by them, changes in the alcoholic  
3 beverage laws of Guam are necessary. Such changes would permit and  
4 clarify the legality of various promotional and marketing strategies and  
5 techniques.

6 Section 2. §3404 of Title 11, Guam Code Annotatèd, is hereby  
7 amended to read as follows:

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9 give, directly or indirectly, any premiums or gifts with the sale of any  
10 alcoholic beverages; provided, however, that on-sale and off-sale licensees  
11 may give premium or promotional gifts in connection with the sale of  
12 alcoholic beverages, subject to any limitations that may be imposed on  
13 such gifts by regulation adopted by the Board."

14 Section 3. Subsection (c) of §3430 of Title 11, Guam Code Annotated,  
15 is hereby amended to read as follows:

16 "(c) Furnish, give, lend, rent, or sell directly to indirectly any  
17 equipment, fixtures, or supplies other than alcoholic beverages, draught  
18 beer dispensers, or indoor signs, and promotional gifts and supplies in  
19 accordance with regulation prescribed by the Board, to any person engaged  
20 in operating, owning or maintaining any on-sale or off-sale premises."

21 Section 4. §3405 of Title 11, Guam Code Annotated, is hereby  
22 amended to read as follows:

23 "§3405. Alcoholic beverage: gift forbidden. Subject to any limitations  
24 that may be imposed by regulation adopted by the Board, [A person shall  
25 not offer nor] no person shall offer or give any alcoholic beverages to any  
26 person in conjunction with the operation of any business, except that any  
27 person, including a licensee, may serve and provide, at no charge, food and



1 alcoholic and non-alcoholic beverages to persons attending special  
2 promotions, grand openings, special gatherings, and similar occasions. In  
3 addition, any licensee may donate alcoholic and non-alcoholic beverages to  
4 any non-profit, charitable corporation or association which has a current  
5 certificate of tax exemption from the territory of Guam for charitable  
6 events."

7 Section 5. Technical amendment to the Department  
8 of Education's fiscal year 1994 budget for the DEED program.

9 The budget for the Department of Education, first contained in Chapter II of Public  
10 Law 21-136 and reenacted pursuant to Public Law 22-41, shall contain a note at the  
11 bottom of page 79, which shall be an administrative provision for the Division  
12 "ELEMENTARY" and Section "ELEMENTARY ADMINISTRATION" of the  
13 Department of Education's budget for Fiscal Year 1994, to read:

14 "NOTE: OF THE \$2,194,979, TOTAL APPROPRIATION, THE SUM OF \$541,763  
15 IS TO IMPLEMENT THE AFTER SCHOOL PROGRAM (DEED) AT THE FIVE (5)  
16 ELEMENTARY SCHOOLS, (MERIZO, TALOFOFO, J. P. TORRES, H. S. TRUMAN  
17 AND L. B. JOHNSON/TAMUNING) FOR THE TEACHERS WHO ARE  
18 PROVIDING THE AFTER SCHOOL SERVICES IN THE PROGRAM, AT THE  
19 HOURLY RATE OF PAY, AND FOR ONE (1) FTE, ADMINISTRATIVE  
20 ASSISTANT."

NOV 03 '93

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 706 (LS)

Introduced by:

  
J. T. San Agustin

J. P. Aguon 

I. G. Bamba 

V. C. Pangelinan 

AN ACT TO TO AMEND §3404 OF TITLE 11, GUAM CODE ANNOTATED, TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PREMIUM OR PROMOTIONAL GIFTS; TO AMEND SUBSECTION (c) OF §3430 OF SAID CODE TO ALLOW THE LICENSEES OF ALCOHOLIC BEVERAGES TO GIVE PROMOTIONAL GIFTS AND SUPPLIES TO OWNERS OF ON-SALE OR OFF-SALE PREMISES; TO AMEND §3405 OF SAID CODE TO ALLOW LICENSEES OF ALCOHOLIC BEVERAGES TO PROVIDE FREE FOOD AND BEVERAGES TO PERSONS ATTENDING SPECIAL PROMOTIONS, GRAND OPENINGS, AND SIMILAR OCCASIONS AND TO DONATE BEVERAGES TO ANY NON-PROFIT, CHARITABLE CORPORATION.

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

2 Section 1. Legislative findings. The Legislature finds that the health of  
3 tourism and the visitor industry are vital to the continuing economic  
4 prosperity of the territory of Guam and its people. Guam has invested  
5 heavily, through the Guam Economic Development Authority's qualifying  
6 certificate and loan programs, the Tourist Attraction Fund, appropriations to  
7 the Guam Visitors Bureau and through many other means, to encourage the  
8 development of first-class tourist facilities and to promote Guam as a first-  
9 class tourist destination. One of the premier attractions that Guam has

1 historically had to offer and which has been prominently featured in the  
2 efforts to promote Guam as a tourist destination is the island's "duty-free"  
3 status, since Guam is not within the customs territory of the United States. In  
4 addition to foreign-made fashion goods, the sale of liquor, wine and other  
5 alcoholic beverages has historically been one of the mainstays of the tourist  
6 retail industry, and tourism-related sales of liquor, wine and other alcoholic  
7 beverages have generated substantial tax revenues for the territory as well  
8 as revenues needed to support the employment of many Guam residents in  
9 the liquor distribution and wholesale industry. The advantage Guam has  
10 enjoyed in connection with this duty-free status has been eroded, however,  
11 over the past few years due to changes in the liquor distribution systems in  
12 Japan and other countries, substantial reductions in the duties payable on  
13 liquor brought home by visitors to Guam, the proliferation of discount stores,  
14 the practice of parallel markets, grey markets, and other factors. As a  
15 consequence, retailers and wholesalers of liquor, wine and other alcoholic  
16 beverages have been rendered less competitive and are struggling to develop  
17 new marketing and promotional strategies to compete effectively against  
18 heightened competition and to maintain their historic levels of sales. In order  
19 to protect these businesses and the substantial tax and other government  
20 revenue generated by them, changes in the alcoholic beverage laws of Guam  
21 are necessary. Such changes would permit and clarify the legality of various  
22 promotional and marketing strategies and techniques.

23       **Section 2. §3404 of Title 11, Guam Code Annotated, is hereby amended**  
24 **to read as follows:**

25               **"§3404. Premiums or gifts forbidden; Exception.** A licensee  
26               **shall not give, directly or indirectly, any premiums or gifts with the**  
27               **sale of any alcoholic beverages; provided, however, that on-sale and**

1 off-sale licensees may give premium or promotional gifts in  
2 connection with the sale of alcoholic beverages, subject to any  
3 limitations that may be imposed on such gifts by regulation adopted  
4 by the Board."

5 Section 3. Subsection (c) of §3430 of Title 11, Guam Code Annotated, is  
6 hereby amended to read as follows:

7 "(c) Furnish, give, lend, rent, or sell directly or indirectly any  
8 equipment, fixtures, or supplies other than alcoholic beverages,  
9 [~~draught beer dispensers, or~~] indoor signs, and promotional gifts and  
10 supplies in accordance with regulation prescribed by the Board, to  
11 any person engaged in operating, owning or maintaining any on-  
12 sale or off-sale premises."

13 Section 4. §3405 of Title 11, Guam Code Annotated, is hereby amended  
14 to read as follows:

15 "§3405. Alcoholic beverage: gift forbidden. Subject to any  
16 limitations that may be imposed by regulation adopted by the Board,  
17 [A] no person shall [~~not~~] offer [~~not~~] or give any alcoholic beverages to  
18 any person in conjunction with the operation of any business, except  
19 that any person, including a licensee, may serve and provide, at no  
20 charge, food and alcoholic and non-alcoholic beverages to persons  
21 attending special promotions, grand openings, special gatherings,  
22 and similar occasions. In addition, any licensee may donate alcoholic  
23 and non-alcoholic beverages to any non-profit, charitable  
24 corporation or association which has a current certificate of tax  
25 exemption from the territory of Guam for charitable events."



*"Where Quality Is Always Higher Than Price"*  
**IMPORTERS \* DISTRIBUTORS \* WHOLESALERS**

LOCATION: ROUTE 8, MAITE  
MAILING ADDRESS: P.O. BOX EP, AGANA, GUAM 96910 TLX: (721) 6478 EEPSONS GM FAX: (671) 477-2701 & 477-2717

TEL: (671) 472-6215  
(671) 472-6095

November 29, 1993

Senator Carl T.C. Guterrez  
Chairman  
Committee on Ways and Means  
22nd Guam Legislature  
155 Hesler Place  
Agana, Guam 96910

Dear Senator Guterrez,

It is an opportunity for me to express my comments in favor of Bill 706 amending certain provisions in our local Compliance ABC codes.

As we all are aware recent strides focusing on tourist visitor attraction have been exerted by government and business leaders.

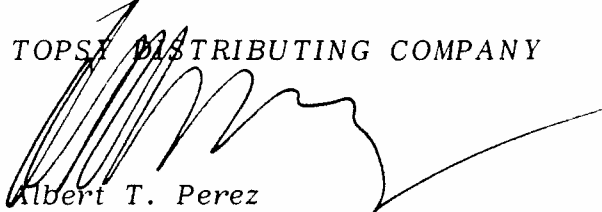
Being a wholesale distributor and being sensitive to the pulse of the economy, I expect that the passage of this bill will enhance a plus situation in the sales of wine and spirits through the uses of promotional gift items and other initiatives incorporated in the intent of the bill.

I am sure that other wholesalers share in the same manner.

Thank you for your invitation.

Sincerely,

TOPSY DISTRIBUTING COMPANY



Albert T. Perez  
General Manager

ATP/ec



Gerald S. A. Peres  
Division President

November 26, 1993

(via facsimile)

Senator Carl T.C. Guterrez  
Chairman  
Committee on Ways and Means  
22nd Guam Legislature  
155 Hesler Place  
Agana, Guam 96910

Dear Senator Guterrez,

Thank you for inviting me to testify on Bill 706, concerning certain changes in Guam's Liquor Code. I am unable to attend the hearing because of my involvement in JATA this year and I will be in Tokyo on the date of the hearing. I am writing this letter, therefore, to give you our point of view on this measure and to request that it be read into the record.

We at DFS totally concur with the legislative findings outlined in Section 1 of the bill. One of the premier attractions Guam offers is the ambiance of shopping "duty free" because the island is outside the customs jurisdiction of the United States. Tourist retailing in Guam has been a significant part of the economy. In addition to foreign-made fashion merchandise, the sale of liquor, wine and other alcoholic beverages has been an extremely important part of the tourist retail industry. Substantial tax revenues have been derived from this retail activity and many local jobs have been created both in the retail as well as the liquor distribution and wholesale sectors. Recent changes in the market, however, have placed in jeopardy not only these jobs but also certain revenues derived from the sale of various alcoholic products.

Liquor wholesale and retail sales on Guam today are under siege. Competition from Japan and elsewhere have been especially ferocious, but we here in Guam have been placed at a severe disadvantage by outdated laws which impair creative and competitive marketing programs. If enacted into law, Bill 706 would give local wholesalers and retailers the tools to compete effectively against foreign competition.

DFS Guam  
A Division of DFS Group I. P.

P. O. Box 7746  
Tamuning, Guam  
96911

Telephone (671) 646-6761  
Telex 743-1539 / 721 6379  
Facsimile (671) 646-1505



Because Japan is our primary (80%+) tourist market, liquor sales to visiting Japanese have been the most impacted in recent years. Japan's wholesale and retail distribution structure have been greatly liberalized in recent years, creating the opportunity for more discount outlets in markets previously serviced only by the small neighborhood shops. This change is expected to accelerate as the desire for "good value" becomes increasingly ingrained in the consumer mind set, unlike in past years when prestige brands were more important.

The number of discount liquor stores in Japan has grown from about 170 outlets in the Spring of 1990 to well over 1,000 stores today (over 1,300 expected by year end 1993). Once a suburban characteristic, these discounters are now proliferating urban areas and more of the traditional mom and pop outlets are being converted into discount franchises. Additionally, Japanese supermarket chains will also become more aggressive in selling liquor as the government continues to liberalize laws that would enable them to trade in greater volume. Easing restrictions on supermarket liquor licenses will certainly increase the sale of imported spirits and place even greater pressure on Guam's ability to match prices, assortments, service, and creative marketing.

Bill 706 will not solve all of our problems in Guam, but will certainly give us the latitude to encourage marketing incentives and other techniques designed to promote liquor sales to tourists.

Subject to ABC Board Regulation, the bill will allow promotional and marketing programs that provide gifts with purchase as well as an opportunity to taste products being sold. The intent of prohibiting gifts with purchase of alcoholic beverages was to suppress the sale of liquor by denying sellers the opportunity to provide incentives for such purchases. By enabling local wholesalers and retailers to provide incentives associated with the sale of their products, much of the sting from foreign competition can be abated. Subject again to ABC Board Regulation, the bill will also allow businesses to donate alcoholic and non-alcoholic beverages to non-profit charitable organizations, thereby providing a side benefit to many fundraising events.

Finally, many on sale licensees provide appetizers or chasers in connection with the sale of liquor during happy hour. Technically speaking, this would be in violation under current law. Bill 706 would clarify this issue and clearly render the current prevailing practice legal. The same concern applies to wholesalers and manufacturers who provide retailers and consumers with various forms of promotional and marketing items, such as baseball caps, umbrellas, ashtrays, matches, coasters, napkins, etc. Local retailers would like to encourage the sale of liquor gift sets by adding carrying bags or other valuable items in connection with such sales. This marketing technique increases sales in places where this practice is allowed (i.e. Saipan).



In conclusion, we at DFS, endorse Bill 706 and encourage the Legislature to enact it into law as quickly as possible. The end results of such enactment are to enhance the job security of those employed in the liquor wholesale and retail establishments, and to also help abate the erosion in tax revenues derived from this segment of the economy.

Sincerely,

**GERRY S.A. PEREZ**  
President  
DFS Guam Division

GSAP/aci:11261000



**CALVO AND CLARK**  
**ATTORNEYS AT LAW**  
SUITE 202, FIRST SAVINGS AND LOAN BUILDING  
655 S. MARINE DRIVE, TAMUNING, GUAM 96911  
TEL (671) 646-9355 • FAX (671) 646-9403

**EDUARDO A. CALVO**  
**ARTHUR B. CLARK**

November 29, 1993

**VIA FACSIMILE TRANSMISSION**

477-3161

The Honorable Carl C. Gutierrez  
Chairman  
Committee on Ways & Means  
155 Hesler Street  
Pacific Arcade  
Agana, Guam 96910

**RE: BILL NO. 706**

Dear Senator Gutierrez:

Thank you for your letter of November 23, 1993 to John T. Calvo, General Manager, Mid Pacific Liquor Distributing Corporation ("Mid Pac"). John has passed on the draft of Bill No. 706 to me to respond on behalf of Mid Pac. Enclosed are twenty-five (25) copies of this letter which will serve as Mid Pac's testimony on Bill No. 706.

Subject to one modification, Mid Pac is in support of Bill No. 706. It is our strong feeling that the proposed modifications to the existing law will be a positive factor in enhancing Guam as a tourist destination. Further, the new law would also provide an additional means to enhance the success of island special events and charitable fund-raisers.

There is a provision, however, shown to be deleted on the draft bill which we ask be included as part of the law. Specifically, under Section 3 of the draft bill Subsection (c) of §3430 of Title 11, Guam Code Annotated, shows that the words "draught beer dispensers, or", line 9, will be deleted. We ask that this language not be deleted. The deletion of "draught beer dispensers" from Bill No. 706 adds nothing to the proposed law and is inconsistent with the purpose for the proposed law.

The Honorable Carl C. Gutierrez  
November 29, 1993  
Page 2

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Again, we appreciate your request for our input. Should you have any questions, or require any further information or comments, please do not hesitate to let me know. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Eduardo A. Calvo', written over a horizontal line.

Eduardo A. Calvo



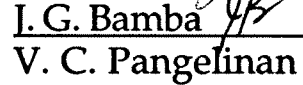
EAC:dh  
cc: John T. Calvo  
MID PAC\D30380.LTR

NOV 03 '93


TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 706 (LS)

Introduced by:

  
 J. T. San Agustin  
  
 J. P. Aguon  
  
 I. G. Bamba  


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 V. C. Pangelinan

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