



GUAM WOMEN'S
CHAMBER OF COMMERCE



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PARTNERS IN PROGRESS

October 5, 2020

Sen. Sabina Perez
35th Guam Legislature
Chair, Committee on Environment, Revenue and Taxation, and Procurement
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Hafa Adai Sen. Perez,

Now that Bill 384-35 has been referred to your committee, the Guam Women's Chamber of Commerce, the Guam Hotel and Restaurant Association, and the Guam Chamber of Commerce respectfully urge that this unique measure be scheduled for a public hearing very soon. This piece of legislation represents the first time that our three organizations have come together in support of an initiative. As you may recall when we met with you back in August, we drafted this measure to help restaurants and bars increase their revenues during the COVID-19 pandemic with the take-out sale of alcoholic beverages along with a food order from the establishment.

The pandemic continues to affect Guam's workforce, having caused over 31,000 layoffs, furloughs, or reduction in employees' work hours, according to the Guam Department of Labor. Tourism is Guam's main economic driver; therefore, most of these layoffs, furloughs, or reduced work hours have occurred in the service industry.

In response to massive layoffs in the hospitality industry stateside, forty-four states have adopted the sale of take-out alcoholic beverages either temporarily through executive order or permanently through statute, because research shows that the sale of pre-packaged or unopened alcoholic beverages along with food items for takeout and/or delivery can provide some measure of increased revenue for establishments and their employees. In response to the pandemic and due to the Department of Public Health and Social Services social distancing requirements, many industries on Guam have been open for curbside pickup or delivery only. The curbside delivery trend appears to be growing, as Fox Business reported in May of this year that food delivery orders nationwide skyrocketed 67 percent in March 2020 and digital restaurant orders jumped 63 percent. The National Restaurant Association noted in July 2020 that state-level polling indicates support

for making the takeout or delivery of alcoholic beverages permanent ranges between 70% and 85%.

Additionally, many of the Guam laws and regulations governing the licensing, sale, and handling of alcoholic beverages have not been updated in decades and do not take into consideration training, technological and sustainability advances in the service industry, or changes in consumer purchasing behavior with the increase in online ordering and curbside pickup and delivery service. The GWCC, GHRA, and Guam Chamber worked with yourself and others senators to draft Bill 384-35 to update, clarify, and/or repeal certain sections in Chapter 3 of Title 11, Guam Code Annotated, allowing for the sale of takeout alcoholic beverages and updating several Alcoholic Beverage Control rules and regulations.

It is important to note that ALL Guam DUI, age regulation, open container, and Responsible Server and Seller Act laws still apply with regard to this legislation. We also noted your concerns with the sealing of take-out alcoholic beverages, adding the phrase “Sealed state refers to a secure lid or cap that does not contain a sipping hole or opening for a straw, or that could otherwise enable consumption without removing the lid/cap.” We believe this phrasing is clear with regard to restrictions on the sealing of the lid, but also leaves room for technologies other than heat-sealing with a plastic seal, as many establishments may do now.

The bill enables only establishments that currently possess a valid liquor license and sell alcoholic beverages to consumers on site, to also be able to sell those alcoholic beverages in an unopened, pre-packaged, or sealed state to consumers as take-out or delivery items included with food orders. Licensees must have a prominent posting (either on the premise, online, or in any way possible to alert consumers or the person transporting the beverage) that states, “Alcoholic beverages packaged by this establishment are open containers and may not be transported in a motor vehicle except in the vehicle’s trunk; or, if there is no trunk, the container may be kept in some other area of the vehicle that is not normally occupied by the driver or passengers (which does not include a utility compartment or glove compartment). Further, such beverages may not be consumed in any area where open containers are prohibited by law.”

The bill includes establishment delivery drivers and third-party delivery drivers in the category of employees allowed to serve alcoholic beverages. Note: the buyer must provide proof of age to the driver in order for the driver to deliver the alcoholic beverage to the buyer.

The bill allows a licensee that holds one class of license (either on-premises license or off-premises license) to host a temporary event of a different license class (i.e., a wine-tasting or other event at which a restaurant or distributor is invited to participate).

The bill allows for an entity hosting an event at an establishment to have wine donated to the event brought into the establishment (with prior permission of the establishment, which can charge a “corking fee”). Previously, this was not allowed.

The bill allows for the sale of alcoholic beverages on-premises at 7:00 a.m. instead of 8:00 a.m., due to a request by golf courses to allow golfers to purchase alcoholic beverages at the golf course before their 8:00 a.m. tee time. Importantly, this change will NOT affect off-premises licensees,

such as grocery stores. Off-premise licensees are restricted from selling alcoholic beverages between 2:00 and 9:00 a.m., per GCA Title 11, Ch. 3, §3417. Due to golf courses holding on-premise licenses, golfers are not permitted to bring in their own alcoholic beverages for consumption on the course.

The bill eliminates outdated size limit restrictions on containers of alcohol allowed in an establishment, allowing establishments to keep containers holding less than an ounce (some recipes call for less than an ounce of a type of alcohol) or more than a gallon (when mass quantities of a recipe are produced (think Red Ball pink martinis or sangria).

The bill eliminates the “no stacking provision,” which technically made illegal the sale of a bottle of wine at a table of two people, or “bucket specials” (whereby a party of three orders a bucket of beer containing six bottles or cans of beer).

The bill allows establishment employees who are required to taste alcoholic beverages for training purposes to do so on-premises during a training session. Previously the law did not allow for on-site consumption, in any amount or for any purpose, by an employee.

It is important to note that his bill does NOT encourage drinking and driving. As mentioned, all DUI and open container laws STILL APPLY, as they do when a person buys a six-pack of beer or a bottle of alcohol at a grocery or mom-and-pop store. Restaurant or bar alcoholic beverages are generally more expensive than those purchased at a grocery store. The dynamic of this bill is such that a person will not be ordering 10 to-go margaritas from a restaurant to consume them en masse. Also, the bill requires that establishments can only sell for take-out or delivery items which are offered on the menu on-premises. Therefore, a restaurant will not be able to sell a six-pack or 12-pack or a case of beer, and will not be competing with grocery stores for quantity purchases.

The GWCC, in collaboration with the GHRA and Guam Chamber, is trying to ***keep as many people as possible employed with this measure***, as is being done in jurisdictions elsewhere in the United States.

We hope that this important piece of legislation will be scheduled for a public hearing shortly, as restaurant owners and employees alike await the opportunity it can provide to keep them employed and bring in more revenue, especially during this most challenging time on our island.

Respectfully,



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