

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
263-36 (COR)	Committee on Air Transportation, Parks, Tourism, Higher Education, and the Advancement of Women, Youth and Senior Citizens by request of I Kongressun Manhoben Guåhan, the Guam Youth Congress, in accordance with 2 GCA § 7102.	AN ACT TO ADD A NEW CHAPTER 6A TO DIVISION 1 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A LIQUID VAPING PRODUCT TAX AND LICENSING OF THE RETAIL AND WHOLESALE OF DISTRIBUTING ELECTRONIC CIGARETTES WHICH SHALL BE CITED AS THE "GUAM VAPING PRODUCT TAXING AND LICENSING ACT OF 2021"	3/3/22 8:00 a.m.					3/11/22	



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guåhan

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March 11, 2022

MEMO

To: Rennae Meno
Clerk of the Legislature

From: Vice Speaker Tina Rose Muña Barnes
Chairperson, Committee on Rules

Re: Fiscal Note on Bill No. 263-36 (COR)

Håfa adai,

Attached, please find the fiscal note for the following bill:

Bill No. 263-36 (COR)

Please forward the same to Management Information Services (MIS) for posting on our website.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.



Bureau of Budget & Management Research
Fiscal Note of Bill No. 263-36 (COR)

AN ACT TO ADD A NEW CHAPTER 6A TO DIVISION 1 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A LIQUID VAPRING PRODUCT TAX AND LICENSING OF THE RETAIL AND WHOLESALE OF DISTRIBUTING ELECTRONIC CIGARETTES WHICH SHALL BE CITED AS THE "GUAM VAPING PRODUCT TAXING AND LICENSING ACT OF 2021"

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Revenue and Taxation (DRT)	Dept./Agency Head: Dafne Mansapit-Shimizu, Director
Department's General Fund (GF) appropriation(s) to date:	\$12,065,785
Department's Other Fund appropriation(s) to date: Banking and Insurance Enforcement Fund (\$478,857); Better Public Service Fund (\$1,291,037); Tax Collection Enhancement Fund (\$808,767)	\$2,578,661
Total Department/Agency Appropriation(s) to date:	\$14,644,446

Fund Source Information of Proposed Appropriation

	General Fund:	Special Fund:	Total:
FY 2021 Unreserved Fund Balance	\$0	\$0	\$0
FY 2022 Adopted Revenues	\$0	\$0	\$0
FY 2022 Appro. (P.L. 36-54)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2022 (if applicable)	FY 2023	FY 2024	FY 2025	FY 2026
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
See Additional Comments 1/	1/	1/	1/	1/	1/	1/
Total	1/	1/	1/	1/	1/	1/

- Does the bill contain "revenue generating" provisions? /X/ Yes / / No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No
If no, what is the additional amount required? \$ /X/ N/A
- Does the Bill establish a new program/agency? / / Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? DRT /X/ Yes / / No
If no, indicate reason: / / Other
/ / Requested agency comments not received by due date:

Analyst:  Raymond Reta, BMA II	Date: 3/10/22	Director:  Lester L. Carlson, Jr., Director	Date: MAR 11 2022
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Notes:
1/ See Additional Comments.

Bureau of Budget & Management Research
Comments on Bill No. 263-36 (COR)

Bill No. 263-36 is an act to add a new Chapter 6A to Division 1 of Title 11 Guam Code Annotated, relative to establishing a liquid vaping product tax and licensing of the retail and wholesale of distributing electronic cigarettes (E-cigarettes) which shall be cited as the “Guam Vaping Product Taxing and Licensing Act of 2021”. Sections of the Bill include the following:

- §6A103 proposes an excise tax to be levied on the wholesale consumable product at the rate of 40% of the price per product that allows for the inhalation of consumable vaping products. All invoices for vapor products issued by manufacturers must state the amount of consumable product in milliliters.
- §6A104 disburses the taxes levied among the following Special Revenue Funds and to the Department of Revenue and Taxation (DRT) accordingly: Territorial Educational Facilities Fund - 20%, Healthy Futures Fund - 25%, Youth Tobacco Education and Prevention Fund – 25%, Police Services Fund – 15%, Public Transit Fund – 10%, and DRT – 5%.
- §6A105 stipulates that any person who distributes E-cigarettes, vape, or any type of electronic nicotine delivery system within Guam must first obtain a non-transferable or assignable permit from DRT, valid only for the location specified in the permit application and to be renewed annually.
- §6A106 establishes the classes of the annual licensing fees to be issued: Retail - \$100 & Wholesale - \$1,000.
- §6A119 sets the penalty for those selling E-cigarette products without a license, in violation of §6A105, as a misdemeanor punishable with fines of \$250 for 1st violations, \$500 for 2nd violations, and \$1,000, nor more than \$2,500 for 3 or more violations.

Fiscal comments received from DRT are highlighted as follows:

- The Bill appears inconsistent with definitions and taxation authority broadly applicable in Title 11, Chapters 6 and 26, Guam Code Annotated.
- DRT recommends taxes on vapor products be based on volume, as opposed to the price indicated on invoices as stated in the Bill, due to volume being directly related to consumption.
- Because vapor products can be sold by entities having both a retail and a tobacco license, the department has no specific parsed-out vaping industry sales information to project anticipated revenues, as such information is lumped in with entities covered under the Tobacco Control Act of 2006.
- DRT further concludes that should Bill No. 263-36 become enacted, additional costs for implementation will be incurred by the department as follows:
 - Estimated Administrative costs to Implement \$53,144
 - Equivalent of 1 FTE (plus benefits) at the Business Privilege Tax Branch \$30,000
 - Creation and programming of BR (Business Registration) form for on-line use for this purpose \$83,144