

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
123-36 (COR) As amended by the Committee on Public Accountability, Human Resources, the Guam Buildup, Hagåtña Revitalization, Regional Affairs, Public Libraries, Telecommunications, and Technology; and further amended on the Floor.	V. Anthony Ada Joanne Brown Frank Blas Jr. Sabina Flores Perez Christopher M. Dueñas Telo T. Taitague Clynton E. Ridgell Therese M. Terlaje	AN ACT TO AMEND § 2108 OF CHAPTER 2, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO REQUIRING EMPLOYEES WHO RESIGN FROM GOVERNMENT OF GUAM EMPLOYMENT TO SUBMIT TO DRUG TESTING TO RETAIN RE-EMPLOYMENT RIGHTS IF SAID RESIGNATION WAS TENDERED SUBSEQUENT TO THE EMPLOYER'S ANNOUNCEMENT OF DRUG TESTING.	4/14/21 3:09 p.m.	4/20/21	Committee on Public Accountability, Human Resources, the Guam Buildup, Hagåtña Revitalization, Regional Affairs, Public Libraries, Telecommunications, and Technology	9/23/21 10:00 a.m.	3/17/22 4:29 p.m. As amended by the Committee on Public Accountability, Human Resources, the Guam Buildup, Hagåtña Revitalization, Regional Affairs, Public Libraries, Telecommunications, and Technology	Request: 4/21/21  Waiver: 4/21/21	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	VETOED	NOTES		
	3/25/22	AN ACT TO AMEND § 2108 OF CHAPTER 2, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING EMPLOYEES WHO RESIGN FROM GOVERNMENT OF GUAM EMPLOYMENT TO SUBMIT TO DRUG TESTING TO RETAIN RE-EMPLOYMENT RIGHTS IF SAID RESIGNATION WAS TENDERED SUBSEQUENT TO THE EMPLOYER'S ANNOUNCEMENT OF DRUG TESTING.	4/1/22	4/1/22	4/13/22	4/11/22	Received: 4/12/22 Mess and Comm. Doc. No. 36GL-22-1910		

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN  
OFFICE OF THE GOVERNOR OF GUAM

April 11, 2022

Doc Type: 36GL-22-1910  
OFFICE OF THE SPEAKER  
THERESE M. TERLAJE

**HONORABLE THERESE M. TERLAJE, Speaker**  
*I Mina'trentai Sais Na Liheslaturan Guåhan*  
36<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

04-11-2022

Time: 11:31 a.m.  
Received: [Signature]

**Re: BILL NO. 123-36 (COR) – AN ACT TO AMEND § 2108 OF CHAPTER 2, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING EMPLOYEES WHO RESIGN FROM GOVERNMENT OF GUAM EMPLOYMENT TO SUBMIT TO DRUG TESTING TO RETAIN RE-EMPLOYMENT RIGHTS IF SAID RESIGNATION WAS TENDERED SUBSEQUENT TO THE EMPLOYER'S ANNOUNCEMENT OF DRUG TESTING**

*Hafa Adai* Madame Speaker,

In the case *Skinner v. Railway Labor Executives' Assn.*, the U.S. Supreme Court held that the drug testing of employees, if done by a government agency or at the direction of a government agency, was a "search" under the Fourth Amendment of the U.S. Constitution. This means that to meet the Constitution's requirement that all searches must be reasonable, any testing is required to be based on individualized suspicion of wrongdoing. This requires specific information that an employee is under the influence of drugs or alcohol before an employee could be subjected to a drug test.

Also in *Skinner*, the Supreme Court concluded that an exception to the individualized suspicion requirement existed in situations where the individual participated in an industry that is "regulated pervasively to ensure public safety," and the drug testing was related to protecting the public safety. This type of testing is permissible for individuals in law enforcement and public safety agencies, as well as those in other agencies such as mass transit or school bus drivers.

Under the government of Guam's Drug-Free Workplace Program, which was developed in 1995, government of Guam agencies are not allowed to "announce random drug testing within a department." Pursuant to this program, employees who are subject to random drug testing are listed as working in testing designated positions. These employees are informed in writing when they begin their employment that their position is a testing designated position, and that within thirty (30) days of receiving the written notice, they are subject to random drug testing.

In order to comply with applicable U.S. Supreme Court opinions, random testing is only allowed for employees in testing designated positions. Drug testing for all other Government of Guam employees must be based on a reasonable suspicion that the employee is using drugs at work, has

To: Speaker Terlaje  
Fr: Governor of Guam  
Date: April 11, 2022  
Re: Vetoed Bill. No. 123-36 (COR)

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been involved in a workplace accident, or that the employee has violated safety rules in the workplace.

Government of Guam agencies do not possess powers that the authors of Bill No. 123-36 assume they do. Bill No. 123-36 as written, would not be enforceable, because agencies cannot announce random testing for all employees, as the bill requires, a prerequisite to the bill's requirement of testing to retain reemployment rights. Further, a person attempting to use their reemployment rights is already required to pass a pre-employment drug test. This pre-employment test is more effective in protecting the people of Guam than a provision of a statute that is unenforceable without violating the United States Constitution.

***For these reasons, I veto Bill No. 123-36.***

*Senseremente,*



**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*

Governor of Guam

Enclosure: VETOED Bill No. 123-36 (COR)

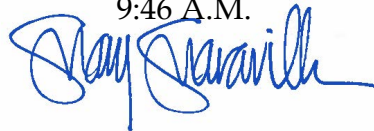
cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*  
Compiler of Laws

**COMMITTEE ON RULES**

**RECEIVED:**

April 13, 2022

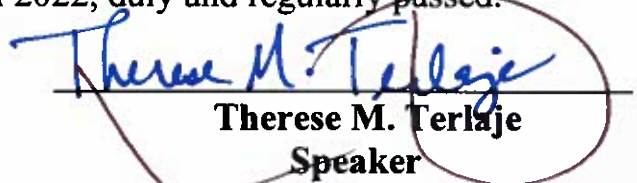
9:46 A.M.



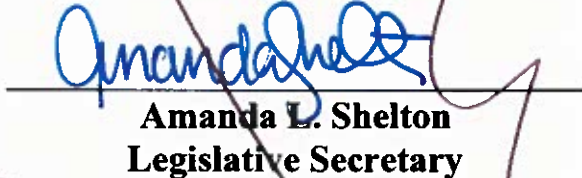
***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

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

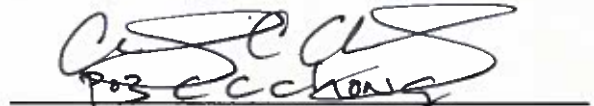
This is to certify that **Bill No. 123-36 (COR)**, "AN ACT TO *AMEND* § 2108 OF CHAPTER 2, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING EMPLOYEES WHO RESIGN FROM GOVERNMENT OF GUAM EMPLOYMENT TO SUBMIT TO DRUG TESTING TO RETAIN RE-EMPLOYMENT RIGHTS IF SAID RESIGNATION WAS TENDERED SUBSEQUENT TO THE EMPLOYER'S ANNOUNCEMENT OF DRUG TESTING," was on the 1<sup>st</sup> day of April 2022, duly and regularly passed.

  
**Therese M. Terlaje**  
**Speaker**

Attested:

  
**Amanda L. Shelton**  
**Legislative Secretary**

This Act was received by *I Maga'hågan Guåhan* this 1 day of April,  
2022, at 9:39 o'clock P.M.

  
**Assistant Staff Officer**  
***Maga'håga's Office***

APPROVED:

\_\_\_\_\_  
**Lourdes A. Leon Guerrero**  
***I Maga'hågan Guåhan***

Date: 4/11/2022

Public Law No. \_\_\_\_\_

2022-16200  
RCUD AT CENTRAL FIL  
APR 4 '22 AM 9:00  
**Flaine Tajalle**

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN***  
**2021 (FIRST) Regular Session**

**Bill No. 123-36 (COR)**

As amended by the Committee on Public Accountability,  
Human Resources, Guam Buildup, Hagåtña Revitalization,  
Regional Affairs, Public Libraries, Telecommunications,  
and Technology; and further amended on the Floor.

Introduced by:

V. Anthony Ada  
Joanne Brown  
Frank Blas Jr.  
Sabina Flores Perez  
Christopher M. Dueñas  
Telo T. Taitague  
Clynton E. Ridgell  
Therese M. Terlaje  
James C. Moylan  
Tina Rose Muña Barnes  
Telen Cruz Nelson  
Joe S. San Agustin  
Amanda L. Shelton  
Jose “Pedro” Terlaje  
Mary Camacho Torres

**AN ACT TO *AMEND* § 2108 OF CHAPTER 2, TITLE 4,  
GUAM CODE ANNOTATED, RELATIVE TO  
REQUIRING EMPLOYEES WHO RESIGN FROM  
GOVERNMENT OF GUAM EMPLOYMENT TO SUBMIT  
TO DRUG TESTING TO RETAIN RE-EMPLOYMENT  
RIGHTS IF SAID RESIGNATION WAS TENDERED  
SUBSEQUENT TO THE EMPLOYER’S  
ANNOUNCEMENT OF DRUG TESTING.**

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

**Section 1.** § 2108 of Chapter 2, Title 4, GCA is *amended* to read as follows:

**“§ 2108. Re-Employed Employees.**

1           (a)   Former classified employees of government of Guam who were  
2           in good standing at the time of resignation may be hired at not less than the  
3           salary they earned at their former position if they apply for the same or  
4           comparable job in the same department. This re-employment credit privilege  
5           must be exercised within a four (4) year period, and employees must pass drug  
6           testing upon re-employment. The employee may waive this privilege.

7           (b)   Notwithstanding any other provision of law or administrative or  
8           personnel rules and regulations, any employee who resigns his or her position  
9           within thirty (30) days of an announcement of any government sponsored drug  
10          testing within the employee's department that would subject the employee to  
11          a drug testing, shall submit to and pass said drug testing prior to resignation  
12          or forfeit all re-employment rights in Subsection (a) of this Section."