


**MINA TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session**

Bill No. 307 -31 (LS)

Introduced by:

D. G. RODRIGUEZ, JR. 

AN ACT TO ESTABLISH THE ADMINISTRATIVE RULES AND REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE TO THE GUAM FOOD CODE, UNDER A NEW ARTICLE 4A- GUAM FOOD CODE, OF CHAPTER 4- PUBLIC HEALTH AND SANITATION, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS PROVIDED PURSUANT TO A NEW §23101.1 ADDED TO CHAPTER 23, PART 1, DIVISION 2, TITLE 10, GUAM CODE ANNOTATED.

2011 SEP 16 PM 12: 22


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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan*
3 *Guåhan* finds that the administrative rules and regulations for food service
4 establishments and operations within the food service industry is in the
5 public interest as such pertains to health and safety.

6 *I Liheslaturan Guåhan* finds that the proposed administrative rules
7 and regulations pursuant to this Act establishing the Guam Food Code, as
8 provided pursuant to Chapter 1, Division 1, Title 10, Guam Code Annotated,
9 is appropriate and necessary. However, *I Liheslaturan Guåhan* finds that
10 there is need for a clearer statutory policy mandate specifically authorizing
11 the establishment of a Guam Food Code. This is accomplished by adding a
12 new §23101.1 to Chapter 23, Part 1, Division 2, Title 10, Guam Code
13 Annotated, mandating the *Promulgation of Rules and Regulations*

1 health by providing to consumers food that is safe, unadulterated, and
2 honestly presented; as provided pursuant to Section 2 of this Act.

3 *I Liheslaturan Guåhan* takes due note that pursuant to the mandate of
4 Executive Order 2000-20, the Department of Public Health and Social
5 Services (DPHSS) has been coordinating the operations of the Guam Food
6 Safety Task Force (GFSTF) since 2004 to promote food safety and to
7 develop a comprehensive food safety plan with the assistance of the task
8 force. The members of the GFSTF include representatives from the DPHSS,
9 other local and federal regulatory agencies, Guam Legislature, healthcare
10 community, food industry, social welfare organization, academia, and the
11 military.

12 Further, E.O. 2000-20 outlined 8 missions of the GFSTF, and one of
13 the missions required the task force to advise and recommend to the DPHSS
14 the adoption and implementation of a food code. After several meetings,
15 discussion, and reviews by the GFSTF, the initial draft of the Guam Food
16 Code, crafted by the DPHSS, was adopted by the members in August 2006.
17 This draft closely mirrored the 2001 Model Food Code, which was
18 developed by the U.S. Food and Drug Administration. Over the next two
19 years, DPHSS attempted to finance the Economic Impact Statement that was
20 required of all proposed regulations seeking promulgation pursuant to the
21 Administrative Adjudication Law (AAL).

22 In January 2008, at the request and encouragement of the GFSTF,
23 DPHSS began revising and updating the draft Guam Food Code to reflect
24 the 2005 Model Food Code. The final proposed Guam Food Code was
25 finally completed in 2010; however, the Economic Impact Statement could
26 still not be conducted due to financial constraints. As a result, a public
27 hearing could not be pursued in accordance to the AAL.

1 During the May 19, 2010 Quarterly Meeting of the GFSTF, a motion
2 was made and approved by the members to transmit the proposed Guam
3 Food Code to the 30th Guam Legislature’s Committee on Health & Human
4 Services, which at the time had oversight of the DPHSS (and is also a
5 member of the GFSTF representing the 30th Guam Legislature). The
6 members sought to have the proposed Code adopted via legislation rather
7 than wait for DPHSS to acquire the funding for the Economic Impact
8 Statement. The proposed food code has now, once again, been submitted to
9 the 31st Guam Legislature for consideration.

10 Further, *I Liheslaturan Guåhan* takes due note that the Department of
11 Public Health & Social Services, in spearheading the Guam Food Task
12 Force in the development of the proposed guidelines addressed herein, made
13 a good faith effort to be inclusive of the affected stakeholders in the food
14 service industry. The proposed rules and regulations is a work product
15 which has to great extent incorporated input from affected stakeholders in
16 the industry.

17 It is the intent of *I Liheslaturan Guåhan* to provide for the initial
18 establishment of the administrative rules and regulations for Guam Food
19 Code.

20 Further, so as to insure that the rules adopted pursuant to this Act
21 remain pertinent to and consistent with the needs of the community, it is the
22 intent of *I Liheslaturan Guåhan* to provide an authorization and mandate for
23 the Department of Public Health & Social Services to regularly review the
24 rules adopted pursuant to this Act, and as appropriate promulgate
25 amendments thereto pursuant to Article 3 - Rule Making Procedures, of
26 Chapter 9, Title 5, Guam Code Annotated.

27 **Section 2.** A new §23101.1 is hereby added to Chapter 23, Part 1,

1 Division 2, Title 10, Guam Code Annotated, to read:

2 **“§23010.1. Promulgation of Rules and Regulations Establishing**
3 **the Guam Food Code.** The Director shall develop and promulgate rules
4 and regulations relative to establishing a Guam Food Code. The purpose of
5 the Guam Food Code shall be to safeguard public health and provide to
6 consumers food that is safe, unadulterated, and honestly presented. The
7 Code shall, at a minimum, establish definitions; sets standards for
8 management and personnel, food operations, and equipment and facilities;
9 and provides for food establishment plan review, permit issuance,
10 inspection, employee restriction, and permit suspension.”

11 **Section 3. Adoption of Rules.** Notwithstanding any other provision
12 of law, rule, regulation and Executive Order, the rules and regulations of the
13 Department of Public Health & Social Services for the Guam Food Code,
14 attached hereto and incorporated as **Exhibit “A”**, is hereby *adopted* by *I*
15 *Mina’Trentai Na Liheslaturan Guåhan*, and shall be codified under a new
16 Article 4A- Guam Food Code, of Chapter 4- Public Health and Sanitation,
17 Division 1, Title 26, Guam Administrative Rules and Regulations.

18 **Section 4. Amendment of Rules.** The Department of Public Health
19 & Social Services *shall*, at a minimum of every five years, and pursuant to
20 Article 3- Rule Making Procedures, of Chapter 9, Title 5, Guam Code
21 Annotated, review and amend the administrative rules and regulations
22 adopted pursuant to Section 3 of this Act.

23 **Section 5. Severability.** *If* any provision of this Act or its application
24 to any person or circumstance is found to be invalid or contrary to law, such
25 invalidity shall *not* affect other provisions or applications of this Act which
26 can be given effect without the invalid provisions or application, and to this

1 end the provisions of this Act are severable.

2 **Section 6. Effective Date.** The administrative rules and regulations
3 adopted pursuant to Section 3 of this Act, and all other provisions of this
4 Act, shall become immediately effective upon enactment.