

I Mina'trentai Singko 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
360-35 (COR)	Mary Camacho Torres Tina Rose Muña Barnes	AN ACT TO AMEND §§ 73108, 73109, 73110, 73111, 73112, 73113, 73116, 73121, 73123, 73133, 73153, 73154, AND 73155 OF CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MANDATING A NOTICE OF ARRIVAL FROM ALL INCOMING VESSELS AND AIRCRAFT TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY AND TO REQUIRING THE ADVANCE PRESENTATION OF MANIFEST INFORMATION TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY, AND TO FURTHER ESTABLISHING PENALTIES IN VIOLATION OF SUCH REQUIREMENTS.	5/19/20 10:07 a.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 360-35 (COR)

Introduced by:

Mary Camacho Torres 

Tina Rose Muña Barnes 

AN ACT TO AMEND §§ 73108, 73109, 73110, 73111, 73112, 73113, 73116, 73121, 73123, 73133, 73153, 73154, AND 73155 OF CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MANDATING A NOTICE OF ARRIVAL FROM ALL INCOMING VESSELS AND AIRCRAFT TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY AND TO REQUIRING THE ADVANCE PRESENTATION OF MANIFEST INFORMATION TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY, AND TO FURTHER ESTABLISHING PENALTIES IN VIOLATION OF SUCH REQUIREMENTS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that proper manifesting is a standard requirement for vessel entry and for the
4 issuance of a permit to unlade at a port of entry. The United States Customs and
5 Border Protection (CBP) currently requires vessel carriers to submit their cargo
6 manifest no later than forty-eight (48) hours *prior* to arrival in the United States (67
7 FR 66325). This advance manifest requirement was implemented by the CBP to
8 more effectively enforce against smuggling via containerized cargo.

9 *I Liheslaturan Guåhan* finds that manifest requirements under Guam law,
10 however, permit that a manifest may be submitted “within four (4) hours *after*

1 arrival” (5 GCA, § 73111). This requirement, listed under the Chapter governing
2 operations and duties of the Guam Customs and Quarantine Agency (CQA), was
3 enacted by the 13th Guam Legislature in the 1970s and has since not been updated
4 to reflect technological advancements and current security concerns.

5 *I Liheslaturan Guåhan* finds that over the past several years, the CQA has
6 reported seizing an increasing number of drugs with over \$64 million in “ice”
7 infiltrating Guam’s ports of entry (CQA Chief Vincent S.N. Perez, 2017). As the
8 “First Line of Defense” for the island of Guam, the CQA is tasked with protecting
9 borders, securing ports of entry, and facilitating trade, commerce, and travel. The
10 information collected via manifest is a vital component of achieving CQA’s mission.
11 While Guam lies outside of CBP jurisdiction, an amendment to CQA law mirroring
12 federal requirements may aid those at Guam’s front line. It is therefore the intent of
13 *I Liheslaturan Guåhan* to strengthen border security by mandating a prior notice of
14 arrival and the advance presentation of manifest information from all incoming
15 vessels and aircraft, and to further quantify the penalties in violation of such
16 requirements.

17 **Section 2.** §§ 73108 through 73113 of Chapter 73, Title 5 Guam Code
18 Annotated are hereby *amended* to read:

19 **“§ 73108. ~~Clearing Vessels.~~ Clearance Requirements.**

20 (a) Any Customs Officer may board and examine any privately owned,
21 privately leased, commercially owned, or commercially leased aircraft, vessel, or
22 contrivance arriving into Guam when it is necessary to carry out the provisions of
23 applicable laws of Guam or the United States, any rule or regulation promulgated
24 thereunder, any regulatory or enforcement agreement entered, or any public health
25 and quarantine purpose, and may further require the master or captain thereof to
26 exhibit for examination by the Customs Officer the manifest or any documents or
27 papers, or any trunk, package or cargo on board, or any compartment, storage area,

1 cabin, galley, cockpit, lavatory, or any section of the vessel or aircraft. Any master,
2 captain, or person on any conveyance shall submit to the lawful instructions of a
3 Customs Officer from the time of boarding until such time the Customs Officer
4 disembarks and authorization to proceed with unloading operations is granted. Any
5 master, captain, or person on any conveyance who fails to abide by lawful
6 instructions or obstructs the official duties of a Customs Officer shall be liable for
7 fines and penalties under this Chapter in addition to appropriate offenses contained
8 in Chapter 55, Title 9 Guam Code Annotated.

9 (1) Prior Notice Requirement. Under penalty and apart from the
10 manifest requirements provided in this Chapter, masters or their authorized
11 agent of all vessels or aircrafts must provide a notice of arrival with the
12 following information to the appropriate customs port of entry:

13 (A) For Vessels. Forty-eight (48) hours prior to arrival, a
14 notice of arrival containing the following information must be
15 submitted:

16 (i) Vessel name, voyage number and national country
17 of registry;

18 (ii) Type of vessel;

19 (iii) Date of arrival;

20 (iv) Guam seaport of arrival;

21 (v) Break-water/or pilot on board time;

22 (vi) Assigned pier or wharf of berth;

23 (vii) Berth time;

24 (viii) Number of crew and passengers;

25 (ix) Last Port of Entry; and

26 (x) Purpose of arrival into Guam.

1 (B) For Aircraft. Twenty-Four (24) hours prior to arrival,
2 commercial, privately owned, or privately operated aircrafts must
3 submit a notice of arrival containing the following information:

4 (i) Guam airport or airfield of arrival;

5 (ii) Aircraft operating name, flight number, registration
6 number, and country of registration;

7 (iii) Origin and last airport of departure;

8 (iv) Date and estimated time of arrival; and

9 (v) Number of transiting and terminating crew and
10 passengers.

11 (C) Exceptions. Vessel and aircraft arriving into Guam under
12 exigent or emergency circumstances wherein Guam was not their
13 intended destination, are exempted from parts (A) and (B) of this
14 subsection.

15 (b) Any individual who is not a Customs Officer or is not duly authorized
16 by Customs, and who goes on board any vessel, aircraft, or conveyance before entry
17 and clearance has thereto been granted, shall be subject to a penalty as prescribed in
18 § 73133, Chapter 73, Title 5, Guam Code Annotated, or imprisoned not more than
19 six (6) months, or both. The master or pilot of such vessel, aircraft, or conveyance
20 may take such person into custody, and deliver him up forthwith to any Customs
21 Officer or law enforcement officer, to be taken by him before any committing
22 magistrate, to be dealt with according to law.

23 (c) Under penalty as prescribed by this Chapter, no vessel, aircraft, or
24 conveyance may commence any activity or unloading operations without Customs'
25 presence, authorization, or clearance.

26 (d) Departures.

1 (a) (1) No aircraft, vessel or contrivance shall be cleared until her cargo,
2 consigned to Guam, had been landed and properly accounted for.

3 ~~(b)~~ (2) Prior to the departure of any aircraft, vessel, or contrivance, the
4 master shall deposit with the Customs Officer at the port or airport, a manifest
5 of the outward cargo of such vessel or aircraft, specifying the marks and
6 numbers of packages, a description of their contents, with the names of
7 shippers and consignees; and also the names of passengers and their
8 destination. A clearance will then be granted to the vessel or aircraft.

9 **§ 73109. Definitions.**

10 (a) Vessel — The word *vessel* means a craft used, or capable of being used,
11 for transportation on the water, and includes every description of watercraft or other
12 contrivance used, or capable of being used as a means of transportation on the water,
13 but does not include aircraft.

14 (b) Aircraft — The word *aircraft* means any craft now known or hereafter
15 invented for transportation use in the air, and includes every description of craft or
16 other contrivance used or capable of being used as a means of transportation in flight
17 or in the air.

18 (c) Merchandise — The word *merchandise* means goods, wares and
19 chattels of every description and includes merchandise the importation of which is
20 prohibited.

21 ~~(e)~~ (d) Person — The word *person* includes ~~partnerships, associations and~~
22 ~~corporations~~ any individual, firm, co-partnership, joint venture, association,
23 corporation, trust or any group or combination action as a unit and the plural, as well
24 as the singular number as may be appropriate.

25 ~~(d)~~(e) Master — The word *master* means the person having the command of
26 the aircraft, vessel, or contrivance.

1 (e) (f) Day — The word *day* means the time from 8:00 a.m. to 5:00 p.m. [or
2 from 0800 hours to 1700 hours].

3 (f) (g) Night — The word *night* means the time from 5:00 p.m. to 8:00 a.m.
4 [the next day] [1700 hours to 0800 hours the next day].

5 (g) (h) Collector — The word *Collector* means the ~~Collector of Customs and~~
6 ~~includes Assistant Collector of Customs, Deputy Collector of Customs~~ Director of
7 Customs, sworn Customs Officers, and any persons authorized to perform the duties
8 of the Collector of Customs.

9 (i) Entry — The word *entry* means the manner of submitting the required
10 documentation or electronic data required by this Chapter to the appropriate
11 Customs Office to secure the release of imported or exported merchandise, clearance
12 of arriving or departing conveyances, and arriving individuals with customs.

13 § 73110. **Manifest.** The master of every aircraft, vessel, or contrivance
14 arriving in Guam shall have on board ~~his vessel~~ a manifest ~~of~~ for passengers, crew
15 and cargo destined for Guam, signed by such master under oath ~~as~~ at to the truth of
16 the statement therein contained. Failure to provide such manifests in the prescribed
17 manner and or requirements constitutes a penalty as contained herein. Such
18 manifests shall contain all of the following information as required:

19 (a) For Vessels

20 (1) Cargo Manifest:

21 (A) The names of the ports or places at which the merchandise
22 was taken on board.

23 (B) The name, description and build of the vessel, the true
24 measure or tonnage thereof, the port to which such vessel belongs and
25 the name of the master of such vessel.

26 (C) A detailed account of all merchandise destined for Guam
27 on board such vessel, with the marks and numbers of each package, and

1 the number and description of the packages according to their usual
2 name or denomination, such as barrel, keg, hogshead, case or bag.

3 (D) The names of the persons to whom such packages are
4 respectively consigned in accordance with the bills of lading issued
5 therefor.

6 (E) The names of the several passengers and crew aboard the
7 vessel, stating whether cabin or steerage passengers, with their
8 baggage, specifying the number and description of the pieces of
9 baggage belonging to each and a list of all baggage not accompanied
10 by passengers.

11 (F) An account of the sea stores and ship's stores on board the
12 vessel.

13 (G) If the vessel is from the United States port the manifest
14 shall be certified by the Collector of the port sailing. If from a foreign
15 port, by the United States consul or commercial agent of the port. If
16 there is no United States consul or agent, then by the foreign
17 government consul or agent ~~of any nation at peace with the United~~
18 ~~States.~~

19 (2) Crew and Passenger Manifest:

20 (A) Full name (last, first, and, if available, middle);

21 (B) Date of birth;

22 (C) Gender (F = female; M = male);

23 (D) Citizenship;

24 (E) Country of residence;

25 (F) Status on board the vessel;

26 (G) Travel document type (e.g., P = passport; A = alien
27 registration card);

1 (H) Passport number, if a passport is required;

2 (I) Passport country of issuance, if a passport is required;

3 (J) Passport expiration date, if a passport is required;

4 (K) United States of America Alien registration number,
5 where applicable;

6 (L) Address while in the United States (number and street,
7 city, state, and zip code), except that this information is not required for
8 U.S. citizens, lawful permanent residents, or persons who are in transit
9 to a location outside the United States;

10 (M) Vessel Name and Voyage Number;

11 (N) Date of vessel arrival; and

12 (O) Manifest for Crew and Passengers shall be separated and
13 distinguishable.

14 (b) For Aircraft

15 (1) Cargo Manifest. All Cargo onboard aircraft either terminating or
16 transiting Guam, to include revenue and non-revenue cargo shall be presented
17 to Customs in the format as follows:

18 (A) The name, address and telephone number of each importer
19 or consignee; and the name, address and telephone number of the
20 shipper to such importer or consignee, unless the Collector determines
21 that the confidentiality of any particular information is necessary for
22 the good of the Agency or national security;

23 (B) Airway Bill of Lading Number of each cargo destined for
24 Guam;

25 (C) The general description of the cargo;

26 (D) The number of packages and gross weight;

27 (E) The name of the aircraft carrier and flight number;

1 (F) The port of loading;

2 (G) The port of discharge; and

3 (H) The country of origin of the shipment;

4 (2) Crew and Passenger Manifest. The master or agent of each
5 privately owned, privately operated, commercially owned, or commercially
6 leased aircraft arriving into Guam from any place outside of Guam must
7 transmit to the Agency an electronic passenger, crew, and cargo manifests
8 aboard the flight. The electronic manifest must be transmitted as required by
9 regulation to the Customs Office in Charge of the clearance for the arriving
10 aircraft.

11 (A) Full name (last, first, and, if available, middle);

12 (B) Date of birth;

13 (C) Gender (F = female; M = male);

14 (D) Citizenship;

15 (E) Country of residence;

16 (F) Status on board the aircraft;

17 (G) Travel document type (e.g., P = passport; A = alien
18 registration card);

19 (H) Passport number, if a passport is required;

20 (I) Passport country of issuance, if a passport is
21 required;

22 (J) Passport expiration date, if a passport is required;

23 (K) United States of America Alien registration
24 number, where applicable;

25 (L) Address while in the United States (number and
26 street, city, state, and 126 zip code), except that this information

1 is not required for U.S. citizens, lawful permanent residents, or persons
2 who are in transit to a location outside the United States;

3 (M) Passenger Name Record locator, if available;

4 (N) Industry code of where transportation to Guam
5 commenced;

6 (O) Industry code of final port/place of destination for in-
7 transit passengers;

8 (P) Airline carrier code;

9 (Q) Flight number;

10 (R) Passenger revenue status (revenue or revenue-exempt);

11 (S) Total number of revenue passengers and non-revenue;

12 (T) Specific reason for revenue-exempt status for each
13 revenue-exempt passenger reported;

14 (U) Date of aircraft arrival; and

15 (V) Manifest for Crew and Passengers shall be separated and
16 distinguishable.

17 (c) Discrepancies. If any discrepancy that occurs in any way with respect
18 to any manifest or bill of lading data, the owner or operator of the vessel, aircraft, or
19 contrivance, or any party responsible for such discrepancy, shall be liable for any
20 fine or penalty prescribed by law with respect to such discrepancy or violation. The
21 Agency may take appropriate action against any of the parties.

22 (d) Public Disclosure of Certain Manifest Information. The Collector, in
23 order to allow for the timely dissemination and publication of the information listed,
24 shall adhere to the provisions as set in the *Sunshine Reform Act of 1999*, Chapter 10
25 of Title 5, Guam Code Annotated. In accordance with the 5 GCA Chapter 10, and
26 when requested, the Collector shall make available for public disclosure the
27 following information:

- 1 (1) The general character of the cargo;
- 2 (2) The number of packages and gross weight;
- 3 (3) The port of loading;
- 4 (4) The port of discharge; and
- 5 (5) The country of origin of the shipment.

6 **§ 73111. Manifest Delivered to Customs Officer.**

7 ~~Within four (4) hours after arrival, the~~ The master of a vessel from a foreign
8 ~~port or place required to make entry, owner or authorized agent of an aircraft, vessel,~~
9 ~~or other contrivance required to make entry, shall deliver~~ submit to the Customs
10 Officer, ~~two (2) copies of the manifest and he shall also deliver to said Customs~~
11 ~~Officer a true and correct copy of any correction of such manifest filed on entry of~~
12 ~~his vessel.~~ the required manifests in the times set forth in this subsection as well as
13 the format and manner as prescribed in § 73110. Times set forth for delivery of each
14 manifest are as follows:

15 (a) Aircraft. The master, owner, or authorized agent of any aircraft entering
16 Guam required to make entry shall submit to the Customs Officer the passenger,
17 crew, and cargo manifest immediately upon departure from the airport or place of
18 origin. The manifests must be transmitted electronically as required by §73110 to
19 the Customs Office.

20 (b) Vessels. The master, owner, or authorized agent of any vessel entering
21 Guam required to make entry shall submit to the Customs Officer the passenger,
22 crew, and cargo manifest no later than forty-eight (48) hours after the vessel or
23 contrivance departs the port or place of origin, with the exception of vessels arriving
24 from the Commonwealth of the Northern Mariana Islands wherein the manifests
25 must be transmitted immediately upon departure. The manifests must be transmitted
26 electronically as required by §73110 to the Customs Office.

1 (c) Any master, owner, or authorized agent who fails to deliver such copy
2 of the manifest or correction thereof shall be ~~guilty of a violation~~ subject to a penalty
3 as prescribed in § 73133, Chapter 73, Title 5, Guam Code Annotated.

4 **§ 73112. Penalty.**

5 ~~If there is any merchandise or baggage on board such vessel which is not~~
6 ~~included in or which does not agree with the manifest, the master of the vessel shall~~
7 ~~make a post entry thereof and deliver a copy to the Customs Officers and for failure~~
8 ~~to do so shall be guilty of a violation.~~

9 **[Repealed.]**

10 **§ 73113. Vessels Not Required to Make Entry Vessel Exemptions.**

11 ~~The following vessels shall not be required to make entry at the Customs~~
12 ~~House:~~

13 ~~(1)(a) Vessels of war and public vessels employed for the conveyance of~~
14 ~~letters and dispatches and not permitted by the laws of the nations to which they~~
15 ~~belong to be employed in the transportation of passengers or merchandise.~~

16 (1) Shall submit to the Customs Officer an affidavit of self-
17 inspection report immediately upon arrival.

18 (2) Shall comply with all other applicable federal laws enforced by
19 the Guam Customs & Quarantine Agency.

20 ~~(2) Yachts of fifteen gross tons or under not permitted by law to carry~~
21 ~~merchandise or passengers for hire.~~

22 ~~(3)(b) Vessels arriving in distress or for the purpose of taking on bunker coal,~~
23 ~~bunker oil, or necessary sea stores and which shall depart within twenty-four (24)~~
24 ~~hours after arrival without having landed or taken on board any passengers or any~~
25 ~~merchandise other than bunker coal, bunker oil, or necessary sea stores, *provided,*~~
26 ~~that the master, owner, or agent of such vessel shall report under oath to the Collector~~

1 the hour and date of arrival and departure and the quantity of bunker coal, bunker
2 oil, or necessary sea stores taken on board.”

3 **Section 3.** §73116 of Chapter 73, Title 5 Guam Code Annotated is hereby
4 *amended* to read:

5 **“§ 73116. Unloading Prohibition.**

6 (a) Except as otherwise provided (relating to vessels not required to enter),
7 no merchandise, passengers or baggage shall be unloaded from any vessel until entry
8 of such vessel has been made and a permit for the unloading of the same issued by
9 the Collector; *provided*, that the master may make a preliminary entry of a vessel by
10 making oath or affirmation to the truth of the statements contained in the vessel’s
11 manifest as provided in § 73110, Chapter 73, Title 5, Guam Code Annotated, and
12 ~~delivering~~ submitting the manifest to the Customs Officer as provided in § 73111,
13 Chapter 73, Title 5, Guam Code Annotated, but the making of such preliminary entry
14 shall not excuse the master from making formal entry of his vessel at the Customs
15 House, as provided in these regulations. After the entry, preliminary or otherwise,
16 of any vessel, the Collector may issue a permit to the master of the vessel, to unload
17 merchandise or baggage but except as provided in subsection (b) of this section,
18 merchandise or baggage so unladen shall be retained at the place of unloading until
19 entry therefor is made and a permit for its delivery granted. Any merchandise or
20 baggage so unladen from any vessel for which entry is not made ~~within forty-eight~~
21 ~~(48) hours from the time of the entry of the vessel, unless a longer time is granted~~
22 ~~by the Collector,~~ shall be sent to the Customs storehouse and held as unclaimed at
23 the risk and expense of the consignee in the case of merchandise and of the owner
24 in case of baggage, until entry thereof is made. A master in violation of this Section
25 shall be subject to a penalty as prescribed in § 73133, Chapter 73, Title 5, Guam
26 Code Annotated.

1 (b) The Collector of Customs is authorized to issue special permits for
2 delivery, prior to formal entry thereof, of perishable articles and other articles, the
3 immediate delivery of which is necessary.”

4 **Section 4.** §73121 of Chapter 73, Title 5 Guam Code Annotated is hereby
5 *amended* to read:

6 **“§ 73121. Sale of Merchandise; Storage; Fees, Lien, Sale.**

7 Any imported merchandise in the possession of the Collector of Customs, or
8 properly entered or otherwise, remaining in government custody from than five (5)
9 to ten (10) fourteen (14) calendar days (including Sundays or holidays) after receipt
10 therein and except when delay in removal may be caused by some failure on the part
11 of the government, shall be liable to a ~~storage charge of fifty cents (\$0.50) per diem~~
12 ~~or fraction thereof per ton (2,000 pounds or 40 cubic feet) or fraction thereof for each~~
13 ~~day thereafter (excluding Sundays and holidays)~~ flat rate fee of fifty U.S. dollars
14 (\$50.00) upon seizure or until such time the Director of Customs promulgates a fee
15 schedule for said subsection.

16 The Collector may direct removal at any time when efficient operation of the
17 Customs Warehouse may necessitate such removal. The above rates of storage
18 charges will then become effective on the fifth day following the order to remove
19 the merchandise concerned. Any storage charges shall constitute a lien against the
20 property for payment of all storage charges before removal. Storage charges shall be
21 paid every ten (10) days and if not so done and whenever charges against such
22 merchandise shall have accrued in an amount equal to two-thirds the entered value
23 of the merchandise in question, it shall be subject to seizure and sale by the
24 government in the same manner and subject to the same conditions as prescribed in
25 § 73120 of this Chapter.

1 Stores not removed within thirty (30) days after the Collector has directed
2 their removal shall be subject to sale at public auction in the manner prescribed in §
3 73120 of this Chapter.”

4 **Section 5.** §73123 of Chapter 73, Title 5 Guam Code Annotated is hereby
5 *amended* to read:

6 **“§ 73123. Sale of Merchandise.**

7 Destruction by Authorities. Except as otherwise provided, any merchandise
8 abandoned or forfeited to the government under the preceding or any other provision
9 of this Chapter, which is subject to internal revenue tax and which the Collector shall
10 be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith
11 destroyed instead of being sold at auction. Importers of abandoned or forfeited
12 merchandise set for destruction shall be liable and billed the full cost of destruction.”

13 **Section 6.** §73133 of Chapter 73, Title 5 Guam Code Annotated are hereby
14 *amended* to read:

15 **“§ 73133. Penalty. Penalties and Fines. Penalties for violations of arrival,**
16 **reporting, entry, and clearance requirements.**

17 ~~Any master of any vessel who does not produce the manifest to the officer~~
18 ~~demanding the same shall be guilty of a violation, and if any merchandise is found~~
19 ~~on board on or after having been unloaded from such vessel which is not included~~
20 ~~or described in said manifest or does not agree therewith, the master of such vessel~~
21 ~~or the owner of such vessel shall be liable to a penalty equal to the value of the~~
22 ~~merchandise so found or unladen, and any merchandise belonging or consigned to~~
23 ~~the master or other officer or to any of the crew of such vessel shall be subject to~~
24 ~~forfeiture, and if any merchandise described in such manifest is not found on board~~
25 ~~the vessel the master or other person in charge or the owner of such vessel shall be~~
26 ~~guilty of a violation; *provided*, that if the Collector shall be satisfied that the manifest~~
27 ~~was lost or mislaid without intentional fraud, or was defaced by accident, or is~~

1 ~~incorrect by reason of clerical error or other mistake and that no part of the~~
2 ~~merchandise not found on board was unshipped or discharged except as specified in~~
3 ~~the report of the master, said penalties shall not be incurred.~~

4 (a) Unlawful Act

5 (1) Failure to comply with §§ 73104, 73106, 73107, 73108, 73110,
6 and 73111 of this Chapter;

7 (2) Failure to present or transmit, electronically or otherwise, any
8 forged, altered, or false document, paper, information, data or manifest to the
9 Customs Service without revealing the facts; or

10 (3) Failure to make entry or to obtain clearance as required.

11 (b) Civil Penalty. Any master, person in charge, or aircraft pilot who
12 commits any violation listed under § 73133, Chapter 73, Title 5, Guam Code
13 Annotated, is liable for a civil penalty of Five Thousand Dollars (\$5,000) for the first
14 violation, and Ten Thousand Dollars (\$10,000) for each subsequent violation, and
15 any conveyance used in connection with any such violation is subject to seizure and
16 forfeiture.

17 (c) Criminal Penalty. In addition to being liable for a civil penalty under
18 subsection (b) of this Section, any master, person in charge , or aircraft pilot who
19 intentionally commits any violation listed in subsection (a) of this Section is, upon
20 conviction, liable for a fine of not more than Two Thousand Dollars (\$2,000) or
21 imprisonment for one (1) year, or both; except that if the conveyance has, or is
22 discovered to have had, on board any merchandise (other than sea stores or the
23 equivalent for conveyances other than vessels) the importation of which into Guam
24 is prohibited, such individual is liable for an additional fine of not more than Ten
25 Thousand Dollars (\$10,000) or imprisonment for not more than five (5) years, or
26 both.

1 (d) Additional Civil Penalty. If any merchandise (other than sea stores or
2 the equivalent for conveyances other than a vessel) is imported or brought into Guam
3 in or aboard a conveyance which was not properly reported or entered, the master,
4 person in charge, or aircraft pilot shall be liable for a civil penalty equal to the value
5 of the merchandise and the merchandise may be seized and forfeited unless properly
6 entered by the importer or consignee. If the merchandise consists of any controlled
7 substance listed in Title 9 Guam Code Annotated, the master, person in charge, or
8 aircraft pilot shall be liable to the penalties prescribed in that Section.”

9 **Section 7.** §§ 73153 through 73155 of Chapter 73, Title 5 Guam Code
10 Annotated are hereby *amended* to read:

11 **“§73153. Customs Fines and Penalties Revolving Fund.**

12 (a) Fund Established. There is hereby established within the Customs and
13 Quarantine Agency, a fund to be known as the ‘Customs Fines and Penalties
14 Revolving Fund’ which shall be separate and apart from other funds in the
15 government of Guam, and for which independent records shall be maintained. The
16 Director of Customs is hereby authorized to expend collected funds without
17 appropriation.

18 (b) Deposits. All money received in accordance with this Section as it
19 relates to fines and penalties shall be deposited into the Customs Fines and Penalties
20 Revolving Fund.

21 (c) Authorized Expense(s). All expenses authorized by the Director of
22 Customs to be used solely for the Customs and Quarantine Agency shall be paid
23 from the Customs Fines and Penalties Revolving Fund.

24 (d) Report. In the first January after the enactment of this Act, and every
25 six (6) months thereafter, the Director of Customs and Quarantine shall prepare and
26 transmit via *I Maga’håga/Maga’lahen Guåhan* [Governor of Guam] to the Speaker
27 of *I Liheslaturan Guåhan* [Guam Legislature] a detailed report on the status of the

1 Customs Fines and Penalties Revolving Fund to include an itemization of
2 expenditures charged against the Fund.

3 **§73154. Penalties and Payments.**

4 (a) Payments Due. All person(s) found in violation and issued a penalty or
5 fine under §73133, Chapter 73, Title 5, Guam Code Annotated, shall make payments
6 to the ‘Treasurer of Guam’ immediately.

7 (b) Interest Penalty. Each person found in violation and issued a penalty or
8 fine under §73133, Chapter 73, Title 5, Guam Code Annotated, who fails to make
9 payment for such penalty or fine within thirty (30) days of the date of issued penalty
10 or fine, shall pay an interest penalty of fifteen percent (15%) per annum to the
11 Treasurer of Guam, on the amount of past due or balance thereof. No interest penalty
12 shall be assessed on payments made in full on or before the thirtieth (30th) day from
13 the date payments are due.

14 (c) Unpaid Interest. Interest penalty applicable under § 73154(b) which
15 remains unpaid shall accrue to the balance due for purposes of computing current
16 interest due.

17 **§~~73153~~73155 Severability.** If any provision of ~~Sections 73145 through 73153~~
18 Article 1 of this Chapter or the application thereof to any person or circumstance is
19 held found to be invalid or contrary to law, such invalidity *shall not* affect other
20 provisions or applications of the Chapter that can be given effect without the invalid
21 provision or application, and to this end the provisions of this Chapter are severable.”

22 **Section 8.** This Act shall take effect immediately upon enactment.