

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
88-35 (COR)	Tina Rose Muña Barnes	AN ACT TO AMEND § 72157(b) OF CHAPTER 72, TITLE 11 GUAM CODE ANNOTATED AND §§ 24101 AND 24102 AND ADD A NEW § 24108 TO CHAPTER 24, TITLE 10, GUAM CODE ANNOTATED RELATIVE TO EXEMPTING HOME KITCHENS LICENSED AS A HOME INDUSTRY FROM SANITATION LAWS AND STIPULATING REQUIREMENTS FOR THESE HOME KITCHENS.	4/12/19 4:48 p.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 88-35 (COR/LS)

Introduced by:

Tina Rose Muña Barnes

AN ACT TO AMEND § 72157(b) OF CHAPTER 72, TITLE 11 GUAM CODE ANNOTATED AND §§ 24101 AND 24102 AND ADD A NEW § 24108 TO CHAPTER 24, TITLE 10, GUAM CODE ANNOTATED RELATIVE TO EXEMPTING HOME KITCHENS LICENSED AS A HOME INDUSTRY FROM SANITATION LAWS AND STIPULATING REQUIREMENTS FOR THESE HOME KITCHENS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds that the culture and economy of Guam is fruitful grounds for cottage food businesses selling unique homemade food items. Almost every state has adopted some form of cottage food laws, where entrepreneurs can make and sell certain foods in their home kitchens. This concept has always existed on Guam, with many families selling cultural food products like guguria and rosketti to other family members and friends. A cottage food industry will not only serve as a new economy for our island but act as a way for families to preserve family recipes of cultural food items while receiving an income.

I Liheslaturan Guahan further finds that many families sell their homemade food products “under the table” to avoid having their home kitchen scrutinized by

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1 the Department of Health and Social Services. In addition, many families may not
2 have access to the capital or the capabilities necessary to convert their home
3 kitchen into a commercial kitchen. This does a disservice to their future business
4 when their homemade food product is not available to be tested on the open
5 market.

6 *I Liheslaturan Guahan* further finds that allowing these families to legally
7 operate will stimulate entrepreneurial activity and grow small businesses.
8 Therefore, it is the intent of *I Liheslaturan Guahan* to give families the opportunity
9 to make and sell their homemade food products in a home kitchen, by eliminating
10 any requirement for homes to follow sanitation laws.

11 **Section 2.** § 72157(b) of Chapter 72, Title 11, Guam Code Annotated is
12 *amended* to read:

13 “(b) Home Industry License. Any person who does business as a home
14 industry shall obtain a home industry license. The annual fee for a home industry
15 license is Twenty-five Dollars (\$25.00) for each business licenseable activity at
16 each location. A person applying for a home industry license shall not be required
17 to receive endorsements from the Department of Land Management, the
18 Department of Labor, the Department of Revenue and Taxation and from the
19 Department of Public Works. However, when the license is for food preparation,
20 the health certificate for persons handling food and the health certificate for the
21 suitability of the place of preparation shall be required, except when the home
22 industry meets the requirements under 10 GCA § 24102(d). For purposes of this
23 Section, no person may qualify for a home industry license if he employs in his
24 business persons other than family members and if such business is not actually
25 conducted in his own home. A person qualifying for a home industry license under

1 this Section may engage in the manufacture of products and wholesale sales
2 without obtaining any other business licenses.

3 **Section 3.** § 24101 of Chapter 24, Title 10, Guam Code Annotated is
4 amended to read:

5 **§ 24101. Definitions.**

6 As used in this Chapter:

7 (a) Commercial consumption means the use of food in a food establishment,
8 food processing plant, catering services, and retail food store.

9 (b) Food establishment means and includes every establishment or place
10 which is used or occupied as a baker, confectionery, cannery, dairy, creamery,
11 packing house, grocery, supermarket, meat or poultry market, fruit or vegetable
12 market, delicatessen, beverage plant, slaughter house, poultry processing plant, fish
13 processing plant, frozen food processing plant, bottling plant, food refrigeration
14 locker plant, ice plant, ice cream or frozen dessert plant, public market, food
15 warehouse or for the production, processing, manufacture, preparation for sale,
16 canning, bottling, packing, packaging, storage, sale or distribution of any food.

17 (c) Informed end user means an individual who purchases from a home
18 industry a food product for noncommercial consumption and has been informed
19 the home industry food product is produced and packaged in a noncommercial
20 kitchen and the product is not regulated or inspected by a state or local health
21 department.

22 (d) Potentially hazardous means requiring temperature control due to the
23 capacity to support the rapid and progressive growth of infectious microorganisms
24 or the growth of toxic microorganisms.

1 **Section 4.** § 24102 of Chapter 24, Title 10, Guam Code Annotated, is
2 amended to read:

3 § 24102. Exclusions. Food establishment does not include:

4 (a) An eating and drinking establishment as defined in Chapter 23 of
5 this Part;

6 (b) Any establishment for the killing of livestock for private
7 consumption of the products and not for sale to others; and

8 (c) Any establishment, including any market, wayside stand or
9 roadside stand, used exclusively for the sale of fresh, unprocessed fruits,
10 vegetables, nuts, eggs, live poultry, live pigs or other live animals except
11 dogs and cats, by the original producer thereof in his own property; or
12 liquor, canned and bottled soft drinks.

13 “(d) any establishment licensed as a Home Industry under 11 GCA §
14 72157(b), for the preparation of food, provided:

15 (1) the Home Industry prepares food in a kitchen in a residential
16 dwelling;

17 (2) sells food only and directly to the informed end user of the
18 product;

19 (3) the foods prepared are not potentially hazardous;

20 (4) the product bears a label with the following information:

21 (A) the name, phone number, and address of the Home
22 Industry;

1 (B) the ingredients of the product in descending order by
2 weight;

3 (C) any applicable allergen warnings as specified under
4 federal labeling requirements;

5 (D) the following statement, “This product is homemade
6 and not prepared in a facility that is regularly inspected by the
7 Department of Public Health and Social Services”;

8 (4) no sales are conducted online or sold to any commercial
9 entity or institution for commercial consumption;

10 (5) the annual gross sales of foods prepared at the home
11 industry does not exceed Twenty Thousand Dollars (\$20,000); and

12 (6) each individual handling food has a health certificate.”

13 **Section 5.** A new § 24108 is added to Chapter 24, Title 10, Guam Code
14 Annotated to read:

15 **§ 24108. Home Industry - Food Handling.**

16 (a) The Department may develop and publish a list of acceptable food
17 products considered not potentially hazardous.

18 (b) The Department may promulgate rules and regulations guiding the
19 labeling requirements under § 24102(d)(3) under this Chapter.

20 (c) Notwithstanding § 24102(d) of this Chapter, the Director may require an
21 entity licensed under 11 GCA § 72157(b) as a home industry handling food to
22 comply with the provisions under Chapter 21 of Title 10, Guam Code Annotated, if
23 said entity fails to comply with any provision or regulation governing food

1 handling in a Home Industry or fails to maintain their home in a clean, healthful,
2 and sanitary condition.

3 **Section 6. Severability.** If any provision of this Act or its application to any
4 person or circumstance is held invalid, the invalidity *shall not* affect other
5 provisions or applications of this Act which can be given effect without the invalid
6 provision or application, and to this end the provision of this Act is severable.

7 **Section 6. Effective Date.** This Act shall become effective upon enactment.