


MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

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Bill No. 299-30(COR)

Introduced by:

Judith T. Won Pat, Ed.D. 
T. R. MUÑA BARNES

**AN ACT TO ADD ARTICLE 7 TO CHAPTER 41 OF
TITLE 17 OF THE GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING THE “INDIVIDUALS
WITH SIGNIFICANT DISABILITIES VENDING ACT.”**

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

2 **Section 1.** This Act shall be cited as the “*Individuals with Significant*
3 *Disabilities Vending Act.*”

4 **Section 2.** Article 7 of Chapter 41, Division 5 of Title 17 of the Guam Code
5 Annotated is hereby *added* to read as follows:

6 **“CHAPTER 41.**

7 **Article 7.**

8 **Individuals with Significant Disabilities Vending Act.**

9 **Section 41701. Statement of Policy and Legislative Intent.**

10 **Section 41702. Definitions.**

11 **Section 41703. Rules and Regulations.**

12 **Section 41704. Certification.**

13 **Section 41705. Vending Facility.**

1 **Section 41706. Government Agency.**

2 **Section 41707. Property Manager.**

3 **Section 41708. Exemptions.**

4 **Section 41709. Annual Report.**

5 **Section 41710. Grandfather Clause.**

6
7 **Section 41701. Statement of Policy and Legislative Intent.**

8 The purpose of the Individuals with Significant Disabilities Vending Act is to
9 establish public policy for the government of Guam to provide *maximum*
10 opportunities to individuals with significant disabilities by providing expanded
11 opportunities to participate fully in the social and economic life of the
12 Community and to engage in entrepreneurial enterprise.

13 **Section 41702. Definitions.** For the purposes of this Article,
14 the following terms shall have the meanings indicated herein:

15 (a) ‘*Individual with significant disability*’ means a severe
16 chronic disability of a person that is attributable to a mental or physical
17 impairment or combination of mental and physical impairments:

18 (1) is likely to continue indefinitely; *and*

19 (2) results in substantial functional limitations in two (2)
20 or more of the following areas of major life activity: seeing,
21 hearing, self-care, receptive and expressive language, learning,
22 mobility, self-direction, capacity for independent living and
23 economic self-sufficiency.

24 (b) ‘*Certified vendors*’ means and includes:

1 (1) public or private nonprofit Guam corporations
2 operating community rehabilitation programs serving individuals
3 with significant disabilities, which also are in compliance with 17
4 G.C.A. § 41208 and duly certified by the Department of Integrated
5 Services for Individuals with Disabilities ('DISID') to operate a
6 vending facility in a public building or public facility;

7 (2) a Guam private business, which is one hundred
8 percent (100%) owned by one (1) or more individuals with
9 significant disabilities and duly certified by DISID to operate a
10 vending facility; the owner(s) must actively participate in
11 managing the business in a public building or public facility; *or*

12 (3) a Guam private business in which seventy-five
13 percent (75%) or greater of its labor force is comprised of
14 individuals with significant disabilities and duly certified by
15 DISID to operate a vending facility in a public building or public
16 facility as certified vendors. Each employed individual with
17 significant disabilities shall be compensated following the current
18 prevailing wages established by the Guam Department of Labor,
19 and in no circumstances fall below the Federal minimum wage
20 standard. Certified vendors shall be subject to year-to-year re-
21 certification for vending facility operations under this Article.

22 (c) '*Vending facility*' means automatic vending machines, snack
23 bars, cart services, shelters, counter or other manually operated facilities
24 for the sale of newspapers, periodicals, confections, tobacco products,
25 food, beverages, or other such articles or services dispensed or provided

1 automatically or manually whether prepared on or off the premises in
2 accordance with all applicable laws.

3 (d) ‘*Public building*’ or ‘*public facility*’ means any building or
4 location owned or leased by any branch, agency, department or division
5 of the government of Guam, including any autonomous agency or public
6 corporation.

7 (e) ‘*Government agency*’ means any branch, agency,
8 department or division of the government of Guam, including any
9 autonomous agency or public corporation.

10 (f) ‘*Property manager*’ means a person who is in control of or
11 responsible for the maintenance, operation, protection and management
12 of a public building or public facility.

13 **Section 41703. Rules and Regulations.** DISID shall adopt
14 rules and regulations necessary for the implementation of this Article, and any
15 further amendments thereof shall follow the Administrative Adjudication Law,
16 5 G.C.A. § 9100 *et seq.*

17 **Section 41704. Certification.** DISID shall act and function as the
18 certification authority for this Article.

19 (a) Any certification granted pursuant hereto may be terminated
20 by DISID *if* DISID determines that the vending facility is *not* being
21 operated in accordance with prescribed rules. A notice shall be provided
22 to the Department of Revenue and Taxation to enforce the cessation of
23 activities at that public building or public facility.

24 (b) In order to promote the employment and self-sufficiency of
25 individuals with significant disabilities on Guam, government agencies

1 shall, upon the request of DISID, give preference to a licensee in the
2 operation of vending facilities in public buildings or public facilities.
3 Space for the vending facility shall be provided without charge.

4 (c) DISID shall notify all certified vendors, in writing or
5 appropriate alternative format to communicate with individuals with
6 significant disabilities, of the availability of vending facilities in this
7 program. Such notice shall include, but *not* be limited to, a description
8 of the type of facility, its characteristics and its geographic location; the
9 type of building in which the facility is located; the date of availability;
10 the business telephone number of the current operator, when applicable;
11 and the availability of public transportation. The notice shall contain a
12 deadline for responses, which is *no less than* fourteen (14) days after
13 issuance.

14 (d) DISID shall work with the University of Guam's Small
15 Business Development Center, existing Co-op programs, school-to-work
16 programs or other community rehabilitation programs to assist in the
17 development of a small business plan to allow for growth and funding
18 for the vending facility.

19 (e) DISID shall work with on-Guam and off-Guam support
20 networks or training center entities available to individuals with
21 disabilities to ensure delivery of training in a timely manner.

22 **Section 41705. Vending Facility.** No business shall be offered
23 or granted any vending facility by any property manager to operate a vending
24 facility in any public building or public facility, *unless* DISID is notified of the
25 proposed vending facility. DISID and the Government Agency shall determine

1 in good faith whether a certified vendor is capable or cannot satisfactorily
2 provide for such vending services. The property manager shall give public
3 notice upon such determination encouraging certified vendors to apply for the
4 available vending facility.

5 **Section 41706. Government Agency.** *If* DISID determines that a
6 public building or public facility is suitable for the operation of a vending
7 facility by a certified vendor, the government agency with authority over the
8 public building or public facility shall provide the space at no expense to the
9 certified vendor. In the absence of any utility metering devices for the
10 allocated space, the certified vendor shall negotiate with that Government
11 Agency the fair value, *if* applicable, the compensation for utilities used.

12 **Section 41707. Property Manager.** The property manager shall
13 notify DISID *at least* ninety (90) days *prior* to the initiation of any new
14 construction, expansion, leasing, or acquisition of public building or public
15 facility occupied, or to be occupied, by a government agency. The property
16 manager shall notify DISID *at least* ninety (90) days *prior* to the expiration of
17 any existing vending contract whether such vending facility is suitable for
18 operation by a certified vendor.

19 **Section 41708. Exemptions.** This Article shall not apply to the
20 Department of Education public school facilities. Vending facilities applicable
21 to food services as a direct service to patients, institutionalized persons,
22 inmates or wards are *exempted* under this Article for the Department of
23 Corrections and Department of Youth Affairs, Guam Memorial Hospital
24 Authority, and the Department of Mental Health and Substance Abuse by this
25 Article.

1 **Section 41709. Annual Report.** The Director of DISID shall make
2 an annual report to *I Maga'lahen Guåhan* and to *I Liheslaturan Guåhan* within
3 one hundred and twenty (120) days at the termination of each fiscal year,
4 reporting upon the progress made, and containing a detailed analysis with
5 respect to the administration of the Individuals with Significant Disabilities
6 Vending Act.

7 **Section 41710. Grandfather Clause.** Existing businesses located
8 within any public building or public facility shall *not* be displaced, and shall be
9 allowed to continue such business operation. Any business grandfathered in by
10 this Section that ceases or forfeits their operations, activities or business license
11 shall be subjected to comply with this Act.”

12 **Section 3. Severability.** *If* any provision of this Law or its application to
13 any person or circumstance is found to be invalid or contrary to law, such invalidity
14 shall *not* affect other provisions or applications of this Law which can be given effect
15 without the invalid provisions or application, and to this end the provisions of this
16 Law are severable.