



OFFICE OF THE GOVERNOR  
TERRITORY OF GUAM

**MAR 25 1998**

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By:	<i>[Signature]</i>
Time:	11:10am
Date:	3-25-98

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

**Refer to  
Legislative Secretary**

Dear Speaker Unpingco:

Enclosed please find a copy of Bill No. 13 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 67 OF TITLE 9, GUAM CODE ANNOTATED, AND TO REPEAL §§80.33 AND §§80.33.1 THROUGH 80.33.10, OF TITLE 9, GUAM CODE ANNOTATED RELATING TO THE REGULATION AND ENFORCEMENT OF CONTROLLED SUBSTANCES AND THE 'DRUG TREATMENT AND ENFORCEMENT' FUND WHICH WAS CREATED TO SUPPORT DRUG TREATMENT AND EDUCATION AND LAW ENFORCEMENT", which I have signed into law today as **Public Law No. 24-149**.

This legislation reorganizes the Chapter of our local law dealing with controlled substances. This new reorganization places more specific responsibility for categorization and management of controlled substances with the Department of Public Health and Social Services, the Guam Police Department, and the Department of Law (Attorney General's Office).

The legislation was reviewed by the local/federal task force of attorneys working in the Prosecution Division of the Guam Attorney General's Office and the Prosecution Division of the U. S. Attorney's Office, specifically on drug enforcement, and a detailed analysis is attached. A number of technical corrections need to be made to the bill, which are addressed in the analysis, and I recommend that the Legislature consult with those who prosecute violations of law concerning controlled substances in order to address the technical corrections.

Very truly yours,

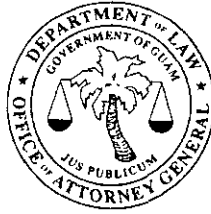
*Madeline Z. Bordallo*  
Madeline Z. Bordallo  
Acting Governor of Guam

Attachments

00709

cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 3-25-98  
Time: 1047  
Rec'd by: *[Signature]*  
Print Name: Charlene Duena



*Ufisinan Hiniråt Abugao*  
*Guåhan*

Carl T.C. Gutierrez  
*Maga'åhi*  
*Governor*

Madeleine Z. Bordallo  
*Tiñente Gubetnadora*  
*Lt. Governor*

**Office of the Attorney General  
of Guam**  
**Prosecution Division**

**Gus F. Diaz**  
*(Akto) Hiniråt Abugao*  
*(Acting) Attorney General*

**Leonardo M. Rapadas**  
*Atkåden Abugådu*  
*Chief Prosecutor*

Mary Louise Wheeler  
Legal Counsel to the Governor  
P.O. Box 2950  
Agana, GU 96910

March 18, 1998

RE: Repeal and Reenactment of 9 G.C.A., Chapter 67, Bill No. 13 (COR)

Dear Ms. Wheeler:

On March 13, 1998, we received Bill 13 (COR) and your questions. I have had an opportunity to discuss the proposed law with Joseph Tock, the Unit Leader of our Prosecution Drug Team. Each of your questions is addressed below.

1. What are the changes in this bill relative to our current laws?

There are many changes to our current law. Some are minor and some are very significant. The changes are as follows:

- a) This Bill removes from the Governor the power to classify controlled substances into the various Schedules and places that power in the hands of the Department of Public Health and Social Services, hereinafter DPHSS. (See Bill No. 13, pages 1 - 19, vs. 9 G.C.A. §67.20)
- b) This Bill removes the various controlled substance Schedules from the body of the law, as currently written in 9 G.C.A. §§67.23 - 67.31 and places them in Appendices A - E.
- c) This Bill eliminates the requirement that the Governor annually revise and republish the various controlled substance Schedules, as required in 9 G.C.A. §67.32 and places that requirement upon the DPHSS, on a periodic basis, at page 18, lines 22 - 25.
- d) This Bill requires that the Department of Administration establish "Controlled Substance Diversion Fund." This fund is not in the current law and will be funded through an appropriation on a continuing basis, not subject to lapse, and are supplemented through



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registration fees for those authorized to dispense controlled substances. The fund is administered through the DPHSS. (See Bill 13, pages 19 and 20.)

- e) This Bill requires that the Office of the Attorney General assist the DPHSS and the Guam Police Department enter into written agreements, arrange for cooperation with State and Federal agencies (essentially establishing a joint program) and report the "outcome of the program" annually to the Governor and the Speaker of the Guam Legislature. (See Bill 13, page 30, lines 13-25)
- f) This Bill repeals 9 G.C.A. §§80.33 through 80.33.1 and reenacts these sentencing provisions as part of Chapter 67. It does not repeal all of the drug sentencing provisions involving incarceration, such as 9 G.C.A. §§80.30.1, 80.31, 80.31.1 or 80.32.
- h) This Bill, on page 31, Section 67.401.1(b)(1) and (2), changes 9 G.C.A. §67.50(b)(1) and (2), by eliminating the distinction between narcotic controlled substances and non-narcotic controlled substances. This is only of importance in sentencing, see (i) below.
- i) This Bill, by eliminating the distinction between narcotic and non-narcotic controlled substances also enhances the sentences for a person convicted of Possession with the Intent to Deliver a Schedule I, II or III controlled substance. The enhanced sentencing is at page 33, Section 67.401.4 and includes a minimum sentence of ten (10) years, which is identical to 9 G.C.A. §80.33(a) for a narcotic controlled substance. However, although the Legislature removed the distinction between narcotic and non-narcotic Possession with Intent to Deliver, in Section 67.401.1(b)(1), as discussed in paragraph (g), above, they then reference a distinction at 67.401.4(e) and then limit the term of imprisonment to not more than five (5) years. This, to say the least, will be very confusing to prosecutors having to apply the law, as well as the Judiciary.
- j) This Bill does not repeal 9 G.C.A. §80.33.2, yet restates this section at page 38, Section 67.401.6.
- k) This Bill does not repeal 9 G.C.A. §§80.33.5 - 80.33.7, yet restates these sections at pages 39 - 44, Sections 67.401.7 and 67.401.9.
- l) Section 67.401.10 is new and provides a penalty for transshipment.
- m) This Bill does not repeal 9 G.C.A. §§80.30.1 and 80.31, yet restates these sections at pages 44 and 45, Sections 67.401.11 and 67.401.12.
- n) Section 67.405 is new and addresses imitation (counterfeit) controlled substances.
- o) Section 67.406 addresses conspiracy, solicitation and attempted crimes. These areas are separately covered in 9 G.C.A. §§ 13.30, 13.20, 13.10, 4.55, 4.60, 4.65 and 4.70. They need not be restated in Chapter 67.
- p) Section 67.407 lessens the potential sentence for drug traffic in school zones.. Our current law, 9 G.C.A. § 80.33.11, calls for an enhancement of "no less than five years". Section 67.407 adds a flat five years. Section 67.407 elaborates on the definition of a school zone



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(previously included in P.L. 23-87) and also sets forth separate punishments.

- q) Section 67.408 is new and forbids the use of a minor to sell controlled substances.
- r) Section 67.409 increases the fines of 9 G.C.A. §80.33.3, but does not repeal §80.33.3.
- s) Section 67.410 is new and addresses money laundering and illegal investment.
- t) Section 67.411 is identical to 9 G.C.A. §80.33.9, but does not repeal §80.33.9.
- u) Section 67.213 is new and requires that a criminal consent to being placed into a rehabilitation program. Currently the Superior Court judges order all persons convicted of drug offenses into drug rehabilitation and treatment. This section would allow a criminal not to consent and therefore avoid drug rehabilitation and treatment.
- v) Section 67.414 is new and requires that all persons convicted of drug offenses pay Five Hundred (\$500.00) to Three Thousand Dollars (\$3,000.00) into a fund for rehabilitation and treatment, in addition to any other fine. While this is noteworthy, the majority of those convicted have been determined by the Court to be indigent and assigned attorneys to represent them. It is doubtful that this is going to be able to be enforced. Also, who collects the penalty, probation or the court?
- w) Section 67.414.1 is new and sets up the Drug Treatment and Enforcement Fund. It requires all drug related fines to be deposited in the Fund, which is to be administered by the Department of Administration. Is this the same "Fund" as alluded to in Section 67.414? If so, the purposes for which funds can be expended are different.
- x) Section 67.501 is almost identical to 9 G.C.A. §67.70. However, Section 67.501(a) limits the personnel from those designated by the Governor, to officers and employees of G.P.D. designated by the Chief of Police. Section 67.501(a)(1) limits the designated officer or employee from carrying a firearm only "in the performance of the officer's or employee's official duties". While this appears to be an intentional limitation by the Legislature, it is probably ill advised since certain drug abusers tend to be hostile (particularly methamphetamine abusers while tweeking) and may intentionally seek out those who have effectuated their arrest or detention.
- y) Section 67.503 is new, and extends to defendants the right to have a jury trial for violations of injunctions or restraining orders. This unheard of in American jurisprudence.
- z) Section 67.504 is new and mandates cooperation with federal authorities. This is already being done through informal arrangements between the Prosecution Division and various federal entities.
- aa) Sections 67.603 exists in our current law, as 9 G.C.A. §67.91. However, there have been modifications. A controlled substance being transshipped through Guam to another location may now only remain in Guam a maximum of seventy-two (72) hours. What happens should a transhipped controlled substance be delayed on Guam in excess of seventy-two (72) hours is unclear. Further, 9 G.C.A. §67.91 required the Governor to



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approve transfers of controlled substances from vessel to vessel within twenty-one (21) days. This has been changed to approval of the Attorney General within thirty (30) days.

- bb) Section 67.604 exists in our current law as 9 G.C.A. §§67.92 and 67.93. The Legislature has combined these two sections to make Section 67.604. At the same time the power to make regulations and "except" certain compounds has been removed from the Governor and transferred to the Attorney General.
- cc) Section 67.605 and 67.606, exist in our current law as 9 G.C.A. §§67.94 and 67.95. Section 67.94 has been renamed in the negative, listing persons who need not register rather than persons required to register. Also, as in many portions of this Bill the power to waive the registration requirement and power to register an applicant has been changed from the Governor to the Attorney General. Also, no grandfather provision exists and this may require registered persons to reapply to the Attorney General.
- dd) Section 67.607 is new. This Section cannot be prosecuted for lack of jurisdiction. The intent and acts will be performed outside of the jurisdictional limits of Guam. Prosecution can occur for actual importation or distribution within Guam, But these crimes are separate and distinct unlawful acts.

Paragraphs g, j, k, m, r, and t, above, all relate to sentencing provisions which have been added to the new Chapter 67, but have not been repealed from Chapter 80 of the current law. Various other Sections, as noted above, transfer power from the Governor to either the DPHSS, the Chief of Police or the Attorney General. A few are either unenforceable or unheard of in American jurisprudence.

- 2. Are the provisions of this Bill the same, similar, or how different, from the drug enforcement laws of the federal government?

Due to time constraints we have not been able to conduct a direct comparison of the federal law with this Bill. However, there exist two glaring inconsistencies between federal law and the drug laws on Guam. These inconsistencies exist in the current law, as well as the proposed law. 9 G.C.A. §67.52 and Section 67.401.2 makes possession of greater than one (1) ounce of marijuana a petty misdemeanor, this includes ANY amount, whether it is 1.5 ounces or 200 pounds. Further, at 9 G.C.A. 80.33(k) and Section 67.401.4 makes a person found guilty of deliver and distribution of less than one (1) pound of marijuana, without remuneration, eligible for a conditional discharge. This, in turn, requires the Prosecution to prove an actual sale. Proof of a sale is difficult because of the reluctance of individuals to testify, except in rare circumstances.

- 3. Are there any changes in sentencing which can be expected under the provisions of the Bill? For example will sentences be longer, shorter, different for different classes or types of drugs?

The sentencing provisions are identical to those that exist in 9 G.C.A. §80.33, with the exception that the enhanced sentencing provisions of the Drug Free School Zone penalty. The potential sentence in Bill 13 (COR) is less than the current law. 9 G.C.A. 80.33.01 states "... the minimum, maximum, and presumptive sentence ... shall be increased by no less than five (5) years." Section 67.407 states, in addition to the sentence prescribed in §67.401.4, a term of five (5) years imprisonment."

In Section 67.213, a criminal under the new law must consent to drug rehabilitation and treatment.



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Currently, drug rehabilitation and treatment is ordered by the court on an involuntary basis in all drug related cases.

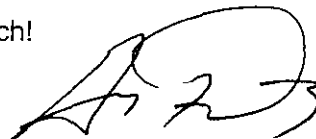
In Section 67.414, an additional monetary penalty is included in all drug convictions ranging from five hundred to three thousand dollars (\$500.00 to \$3,000.00).

4. What would be the likely result of the passage of this Bill, relative to eliminating drug abuse and traffic in illegal drugs?

I do not believe that this Bill would in any way effect illegal drug use or traffic on Guam. It appears to be more of a reorganization of the old law, and a shifting of authority and power, without any substantive change.

If you should have any questions, please do not hesitate to contact me, or Joseph Tock.

Dangkolo na Si Yu'os Ma'ãse' - Thank you very much!



GUS F. DIAZ  
Attorney General (Acting)



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TWENTY-FOURTH GUAM LEGISLATURE  
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 13 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 67 OF TITLE 9, GUAM CODE ANNOTATED, AND TO REPEAL §80.33 AND §§80.33.1 THROUGH 80.33.10, OF TITLE 9, GUAM CODE ANNOTATED RELATING TO THE REGULATION AND ENFORCEMENT OF CONTROLLED SUBSTANCES AND THE "DRUG TREATMENT AND ENFORCEMENT FUND" WHICH WAS CREATED TO SUPPORT DRUG TREATMENT AND EDUCATION AND LAW ENFORCEMENT," was on the 4<sup>th</sup> of February, 1998, duly and regularly passed.



ANTHONY C. BLAZ  
Acting Speaker

Attested:



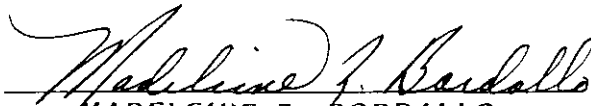
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 13<sup>th</sup> day of March, 1998, at  
9:35 o'clock a.M.



Assistant Staff Officer  
Governor's Office

APPROVED:



MADELEINE Z. BORDALLO  
Acting Governor of Guam

Date: 3/25/98

Public Law No. 24-149

TWENTY-FOURTH GUAM LEGISLATURE  
1997 (FIRST) Regular Session

**Bill No. 13 (COR)**

As amended by the Author and as  
further amended on the Floor.

Introduced by:

L. Leon Guerrero  
J. Won Pat-Borja  
T. C. Ada  
F. B. Aguon, Jr.  
E. Barrett-Anderson  
A. C. Blaz  
J. M.S. Brown  
Felix P. Camacho  
Francisco P. Camacho  
M. C. Charfauros  
E. J. Cruz  
W. B.S.M. Flores  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V  
C. Leon Guerrero  
V. C. Pangelinan  
J. C. Salas  
A. L.G. Santos  
F. E. Santos  
A. R. Unpingco

AN ACT TO REPEAL AND REENACT CHAPTER 67  
OF TITLE 9, GUAM CODE ANNOTATED, AND TO  
REPEAL §80.33 AND §§80.33.1 THROUGH 80.33.10,  
OF TITLE 9, GUAM CODE ANNOTATED  
RELATING TO THE REGULATION AND  
ENFORCEMENT OF CONTROLLED SUBSTANCES  
AND THE "DRUG TREATMENT AND



**ENFORCEMENT FUND" WHICH WAS CREATED  
TO SUPPORT DRUG TREATMENT AND  
EDUCATION AND LAW ENFORCEMENT.**

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

2           **Section 1. Legislative Intent.** The Guam Uniform Controlled  
3 Substances Act (Chapter 67 of Title 9 of the Guam Code Annotated) was  
4 adopted in 1972, and since then, few changes have been made to the Act to  
5 reflect the changing problem of drug abuse. Even though the penalties have  
6 been addressed through tougher sentencing requirements, the crime itself has  
7 always been viewed only as an abuse of "illegal," drugs. Controlled  
8 substance abuse is not limited to the illegal manufacture, distribution and use  
9 of Schedule I controlled substances, but it also includes the transfer of  
10 legitimate controlled substances, listed in Schedules II through V, into the  
11 illegal market. These "legal" controlled substances which, may be readily  
12 available in hospitals and pharmacies for medical treatment, are diverted into  
13 illegal use by individuals by means of prescription forgeries, multiple  
14 physician visits/record alterations, or outright thefts.

15           The National Institute of Drug Abuse, which provides Drug Abuse  
16 Warning Network (DAWN) data, has found that approximately thirty percent  
17 (30%) of all drug overdose injuries and fatalities recorded in emergency rooms  
18 in the United States are caused by drugs that have legal medical uses. In the  
19 1992 data the number of lawful controlled substance emergency cases  
20 exceeded that of heroin, PCP, LSD and amphetamine combined.

21           The Guam Department of Public Health & Social Services ("DPH&SS")  
22 is the lead agency responsible for administering the present Act relating to the

1 manufacture, distribution and dispensing of controlled substances. Through  
2 inspections, record audits and investigations, DPH&SS has discovered  
3 numerous instances of unaccountability of controlled substances by regulated  
4 businesses and practitioners. Of the approximately twenty (20) record audits  
5 and inspections conducted by DPH&SS on regulated businesses in 1992 and  
6 1993, more than half had some form of serious discrepancy ranging from  
7 improper record-keeping to unaccountability of controlled eighteen (18)  
8 substances. In addition, three (3) practitioners and numerous suspected drug  
9 diverters were investigated, and the problems continue to exist.

10 It is the intent of the Twenty-Fourth Guam Legislature to explicitly  
11 acknowledge the existence of diversion of controlled substances and to  
12 address that problem by granting broader enforcement and regulatory powers  
13 to DPH&SS. In addition, it is the intent to direct the Attorney General's  
14 Office, the Guam Police Department and the Department of Mental Health &  
15 Substance Abuse to work hand-in-hand in combating this diversion and  
16 specifically indicate the roles each involved agency will play; update the  
17 scheduled drug listing; broaden criminal activities involved in controlled  
18 substances; create uniformity with Federal law; and to keep the present  
19 criminal penalties intact, with additional penalties added.

20 **Section 2.** Chapter 67 and §§80.33, and 80.33.1 through 80.33.10 of  
21 Title 9 of the Guam Code Annotated, and the "Drug Treatment and  
22 Enforcement Fund," are hereby repealed in their entirety and reenacted to  
23 read as follows:

24 **"CHAPTER 67.**

25 **ARTICLE 1.**

1           **Section 67.100. Definitions.**       As used in this Act:

2           1.   **'Act'** means the Uniform Controlled Substances Act of  
3           Guam.

4           2.   **'Administer,'** unless the context otherwise requires, means  
5           to apply a controlled substance, whether by injection, inhalation,  
6           ingestion or any other means, directly to the body of a patient or  
7           research subject by:

8                   (i)   a practitioner, or in the practitioner's presence, by the  
9                   practitioner's authorized agent; or

10                   (ii) the patient or research subject at the direction and in  
11                   the presence of the practitioner.

12           3.   **'Anabolic Steroid'** means any drug or hormonal substance  
13           chemically and pharmacologically related to testosterone (other than  
14           estrogens, progestin, and corticosteroids) that promotes muscle growth.

15           4.   **'Attorney General'** means the Attorney General of Guam or  
16           any individual he designates.

17           5.   (i)   **'Controlled substance analog'** means a substance the  
18           chemical structure of which is substantially similar to the chemical  
19           structure of a controlled substance listed in or added to Schedule I or II  
20           and:

21                   (A) which has a stimulant, depressant or hallucinogenic  
22                   effect on the central nervous system substantially similar to the  
23                   stimulant, depressant or hallucinogenic effect on the central  
24                   nervous system of a controlled substance included in Schedule I or  
25                   II; or

1 (B) with respect to a particular individual, which the  
2 individual represents or intends to have a stimulant, depressant or  
3 hallucinogenic effect on the central nervous system substantially  
4 similar to the stimulant, depressant or hallucinogenic effect on the  
5 central nervous system of a controlled substance included in  
6 Schedule I or II; but

7 (ii) the term does not include:

8 A) a controlled substance;

9 (B) a substance for which there is an approved new drug  
10 application;

11 (C) a substance with respect to which an exemption is in  
12 effect for investigational use by a particular person under §505 of  
13 the Federal Food, Drug and Cosmetic Act (21 U.S.C. §355) to the  
14 extent conduct with respect to the substance is permitted by the  
15 exemption; or

16 (D) any substance to the extent not intended for human  
17 consumption before an exemption takes effect with respect to the  
18 substance.

19 6. **'Deliver'** or **'Delivery,'** unless the context otherwise  
20 requires, means to transfer a substance, actually or constructively, from  
21 one person to another, whether or not there is an agency relationship.

22 7. **'Department of Mental Health and Substance Abuse'**  
23 **('DMHSA')** means the Director of the Department of Mental Health and  
24 Substance Abuse of the government of Guam, or its successor, or any  
25 individual he designates.

1           8. 'Department of Public Health and Social Services'  
2 ('DPHSS') means the Director of the Department of Public Health and  
3 Social Services of the government of Guam, or its successor, or any  
4 individual of the department he designates.

5           9. 'Dispense' means to deliver a controlled substance to the  
6 ultimate user, patient or research subject by or pursuant to the lawful  
7 order of a practitioner, including the prescribing, administering,  
8 packaging, labeling or compounding necessary to prepare the substance  
9 for that delivery.

10          10. 'Dispenser' means any person who dispenses.

11          11. 'Distribute' means to deliver other than by administering or  
12 dispensing a controlled substance.

13          12. 'Distributor' means a person who distributes.

14          13. 'Drug' means: (i) a substance recognized as a drug in  
15 the official United States Pharmacopoeia, National Formulary, or the  
16 official Homeopathic Pharmacopoeia of the United States, or a  
17 supplement to any of them;

18           (ii) a substance intended for use in the diagnosis, cure,  
19 mitigation, treatment, or prevention of disease in individuals or  
20 animals;

21           (iii) a substance, other than food, intended to affect the  
22 structure or a function of the body of individuals or animals; and

23           (iv) a substance intended for use as a component of an  
24 article specified in this Paragraph. The term does not include a  
25 device or its components, parts or accessories.

1           14. **'Drug Enforcement Administration'** ('DEA') means the  
2 Drug Enforcement Administration of the United States Department of  
3 Justice, or its successor agency.

4           15. **'Guam Police Department'** ('GPD') means the Chief of  
5 Police of the Guam Police Department of Guam, or its successor, or any  
6 individual he designates.

7           16. **'Immediate Precursor'** means a substance:

8           (i) that the Department of Public Health and Social  
9 Services has found to be, and by rule has designated to be, the  
10 principal compound used, or produced primarily for use, in the  
11 manufacture of a controlled substance;

12           (ii) that is an immediate chemical intermediary used or  
13 likely to be used in the manufacture of the controlled substance;  
14 and

15           (iii) the control of which is necessary to prevent, curtail or  
16 limit the manufacture of the controlled substance.

17           17. **'Inventory'** means all factory and branch stocks in finished  
18 form of a controlled substance manufactured or otherwise acquired by a  
19 registrant, whether in bulk, commercial containers or contained in  
20 pharmaceutical preparations in the possession of the registrant,  
21 including stocks held by the registrant under separate registration as a  
22 manufacturer, importer, exporter or distributor, and a list of such.

23           18. **'Isomer'** means an optical isomer, but in §67.100(21)(v)  
24 Appendix A: A.(12) and A.(34), and Appendix B: A.(4) of this Act, the  
25 term includes a geometric isomer; in Appendix A: A.(1), A.(8) and

1 A.(42), and Appendix D: C. of this Act the term includes a positional  
2 isomer; and in Appendix A: A.(35) and C., and Appendix C: A. of this  
3 Act the term includes a positional or geometric isomer.

4 19. 'Manufacture' means to produce, prepare, propagate,  
5 compound, convert or process a controlled substance, directly or  
6 indirectly, by extraction from substances of natural origin, chemical  
7 synthesis, or a combination of extraction and chemical synthesis, and  
8 includes packaging or repackaging of the substance or labeling or  
9 relabeling of its container. The term does not include the preparation,  
10 compounding, packaging, repackaging, labeling or relabeling of a  
11 controlled substance:

12 (i) by a practitioner as an incident to the practitioner's  
13 administering or dispensing of a controlled substance in the  
14 course of the practitioner's professional practice; or

15 (ii) by a practitioner, or by the practitioner's authorized  
16 agent under the practitioner's supervision, for the purpose of, or as  
17 an incident to, research, teaching, or chemical analysis and not for  
18 sale.

19 20. 'Marijuana,' means all parts of the plant *Cannabis*, whether  
20 growing or not; its seeds; the resin extracted from any part of such plant;  
21 and every compound, salt, derivative, mixture or preparation of the  
22 plant, or its seeds or resin. The term does not include the mature stalks  
23 of the plant; fiber produced from the stalks; oil or cake made from the  
24 seeds of the plant; any other compound, salt, derivative, mixture or  
25 preparation of the mature stalks, except resin extracted therefrom; fiber,

1 oil or cake; or the sterilized seed of the plant which is incapable of  
2 germination.

3 21. 'Narcotic drug' means any of the following, however  
4 manufactured:

5 (i) Opium, opium derivative and any derivative of either,  
6 including any salts, isomers and salts of isomers of them that are  
7 theoretically possible within the specific chemical designation, but  
8 not isoquinoline alkaloids of opium;

9 (ii) synthetic opiate and any derivative of synthetic opiate,  
10 including any isomers, esters, ethers/salts, and salts of isomers,  
11 esters, and ethers of them that are theoretically possible within the  
12 specific chemical designation;

13 (iii) poppy straw and concentrate of poppy straw;

14 (iv) coca leaves, except coca leaves and extracts of coca  
15 leaves from which cocaine, ecgonine and derivatives of ecgonine,  
16 or their salts, have been removed;

17 (v) cocaine, or any salt, isomer or salt of isomer of cocaine;

18 (vi) cocaine base;

19 (vii) ecgonine, or any derivative, salt, isomer or salt of  
20 isomer of ecgonine; and

21 (viii) compound, mixture or preparation containing any  
22 quantity of a substance listed in this Paragraph.

23 22. 'Narcotic Treatment Program' ('NTP') means a program  
24 engaged in maintenance and/or detoxification treatment with narcotic  
25 drugs.



1           23. **'Opiate'** means a substance having an addiction-forming or  
2 addiction-sustaining liability similar to morphine or being capable of  
3 conversion into a drug having addiction-forming or addiction-  
4 sustaining liability. The term includes opium, opium derivatives and  
5 synthetic opiates. The term does not include, unless specifically  
6 scheduled as a controlled substance pursuant to §67.201, the  
7 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
8 (dextromethorphan). The term includes the racemic and levorotatory  
9 forms of dextromethorphan.

10           24. **'Opium poppy'** means the plant of the species *Papaver*  
11 *somniferum* L., except its seeds.

12           25. **'Person'** means an individual, corporation, business trust,  
13 estate, trust, partnership, association, joint venture, government or  
14 governmental subdivision or agency, or any other legal or commercial  
15 entity.

16           26. **'Pharmacist'** means any pharmacist licensed on Guam to  
17 practice his/her profession and any other person (e.g. pharmacist  
18 intern) authorized by Guam to practice under the supervision of a  
19 pharmacist licensed on Guam.

20           27. **'Physician, dentist, veterinarian and podiatrist'** means any  
21 persons who are licensed to practice those respective professions in  
22 Guam.

23           28. **'Poppy straw'** means all parts, except the seeds, of the  
24 opium poppy, after mowing.

1           29. **'Practitioner'** means a physician, dentist, veterinarian,  
2 scientific investigator, pharmacist, pharmacy, hospital, or other person  
3 licensed, registered, or otherwise permitted, by Guam, to distribute,  
4 dispense, conduct research with respect to, administer, or use in  
5 teaching or chemical analysis, a controlled substance in the course of  
6 professional practice or research.

7           30. **'Prescription'** means an order for medication which is  
8 dispensed to or for an ultimate user, but does not include an order for  
9 medication which is dispensed for immediate administration to the  
10 ultimate user (e.g. an order to dispense a drug to a bed patient for  
11 immediate administration in a hospital is not a prescription).

12           31. **'Production,'** unless the context otherwise requires, includes  
13 the manufacturing of a controlled substance and the planting,  
14 cultivating, growing or harvesting of a plant from which a controlled  
15 substance is derived.

16           32. **'Registrant'** means any person registered pursuant to this  
17 Act.

18           33. **'State'** means a state of the United States, the District of  
19 Columbia, the Commonwealth of Puerto Rico or a territory or insular  
20 possession subject to the jurisdiction of the United States, including  
21 Guam.

22           34. **'Ultimate user'** means an individual who lawfully possesses  
23 a controlled substance for the individual's own use or for the use of a  
24 member of the individual's household or for administering to an animal  
25 owned by the individual or by a member of the individual's household.



1           (d) After considering the factors enumerated in Subsection (b),  
2 DPHSS shall make findings with respect to them and adopt and publish  
3 a rule controlling the substance upon finding the substance has a  
4 potential for abuse.

5           (e) DPHSS, without regard to the findings required by  
6 Subsection (d) or §§67.204, 67.206, 67.208, 67.210 and 67.212, or the  
7 procedures prescribed by Subsections (a) - (d), may add an immediate  
8 precursor to the same schedule in which the controlled substance of  
9 which it is an immediate precursor is placed or to any other schedule. If  
10 DPHSS designates a substance as an immediate precursor, substances  
11 that are precursors of the controlled precursor are not subject to control  
12 solely because they are precursors of the controlled precursor.

13           (f) If a substance is designated, rescheduled or deleted as a  
14 controlled substance under Federal law, DPHSS shall similarly treat the  
15 substance under this Act after the expiration of thirty (30) days from the  
16 date of publication in the Federal Register of a final order designating  
17 the substance as a controlled substance or rescheduling or deleting the  
18 substance or from the date of issuance of an order of temporary  
19 scheduling under §508 of the Federal Dangerous Drug Diversion  
20 Control Act of 1984 [21 U.S.C. §811(h)], unless within the thirty (30) day  
21 period, DPHSS or an interested party objects to the treatment of the  
22 substance. If no objection is made, DPHSS shall adopt and publish,  
23 without making the determinations or findings required by Subsections  
24 (a) - (d) or §§67.204, 67.206, 67.208, 67.210 or 67.212, a final rule treating  
25 the substance. If an objection is made, DPHSS shall make a

1 determination with respect to the treatment of the substance as  
2 provided by Subsections (a) - (d). Upon receipt of an objection to the  
3 treatment by DPHSS, DPHSS shall publish notice of the receipt of the  
4 objection, and action by DPHSS under this Act is stayed until DPHSS  
5 adopts a rule as provided by Subsection (d).

6 (g) DPHSS, by rule and without regard to the requirements of  
7 Subsections (a) - (c), may schedule a substance in Schedule I, whether or  
8 not the substance is substantially similar to a controlled substance  
9 included in Schedule I or II, if DPHSS finds that scheduling of the  
10 substance on an emergency basis is necessary to avoid an imminent  
11 hazard to the public safety and the substance is not in any other  
12 schedule or no exemption or approval is in effect for the substance  
13 under §505 of the Federal Food, Drug and Cosmetic Act [21 U.S.C.  
14 §3551]. Upon receipt of notice under §67.214, DPHSS shall initiate  
15 scheduling of the controlled substance analog on an emergency basis  
16 pursuant to this Subsection. The scheduling of a substance under this  
17 Subsection expires one (1) year after the adoption of the scheduling rule.  
18 With respect to the finding of an imminent hazard to the public safety,  
19 DPHSS shall consider whether the substance has been scheduled on a  
20 temporary basis under Federal law or factors set forth in Subsections  
21 (b)(4), (5) and (6), and may also consider clandestine importation,  
22 manufacture or distribution, and, if available, information concerning  
23 the other factors set forth in Subsection (b). A rule may not be adopted  
24 under this Subsection until DPHSS initiates a rulemaking proceeding  
25 under Subsections (a) - (d) with respect to the substance. A rule adopted

1 under this Subsection lapses upon the conclusion of the rulemaking  
2 proceeding initiated under Subsections (a) - (d) with respect to the  
3 substance.

4 (h) Authority of DPHSS to control under this Section does not  
5 extend to distilled spirits, wine, malt beverages or tobacco.

6 **Section 67.202. Nomenclature.** The controlled substances  
7 listed in or added to the schedules in Appendices A, B, C, D and E of  
8 this Act are listed or added by any official, common, usual, chemical or  
9 trade name used.

10 **Section 67.203. Schedule I.** Unless specifically excepted by  
11 Guam or Federal laws, or Guam or Federal regulation, or more  
12 specifically included in another schedule, Schedule I controlled  
13 substances are listed in Appendix A of this Act.

14 **Section 67.204. Schedule I Tests.** DPHSS shall add, in  
15 accordance with §67.201(a), a substance to Schedule I upon finding that  
16 the substance:

17 (1) has a high potential for abuse;

18 (2) has no currently accepted medical use in treatment in  
19 the United States; and

20 (3) lacks accepted safety use under medical supervision.

21 (b) DPHSS may add a substance to Schedule I without making  
22 the findings required by Subsection (a) if the substance is controlled  
23 under Schedule I of the Federal Controlled Substances Act by a Federal  
24 agency as the result of an international, treaty, convention or protocol.

1           **Section 67.205. Schedule II.** Unless specifically excepted by  
2 Guam or Federal law, or Guam or Federal regulation, or more  
3 specifically included in another schedule, Schedule II controlled  
4 substances are listed in Appendix B of this Act.

5           **Section 67.206. Schedule II Tests.** DPHSS shall add, in  
6 accordance with §67.201(a), a substance to Schedule II upon finding that:

7                   (1) the substance has a high potential for abuse;

8                   (2) the substance has currently accepted medical use in  
9 treatment in the United States, or currently accepted medical use  
10 with severe restrictions; and

11                   (3) the abuse of the substance may lead to severe  
12 psychological or physical dependence.

13           (b) DPHSS may add a substance to Schedule II without making  
14 the findings required by Subsection (a) if the substance is controlled  
15 under Schedule II of the Federal Controlled Substances Act by a Federal  
16 agency as the result of an international treaty, convention or protocol.

17           **Section 67.207. Schedule III.** Unless specifically excepted by  
18 Guam or Federal law, or regulation or more specifically included in  
19 another schedule, Schedule III controlled substances are listed in  
20 Appendix C of this Act.

21           **Section 67.208. Schedule III Tests.** DPHSS shall add, in  
22 accordance with §67.201(a), a substance to Schedule III upon finding  
23 that:

24                   (1) the substance has a potential for abuse less than the  
25 substances included in Schedules I and II;

1           (2) the substance has currently accepted medical use in  
2 treatment in the United States; and

3           (3) abuse of the substance may lead to moderate or low  
4 physical dependence or high psychological dependence.

5           (b) DPHSS may add a substance to Schedule III without making  
6 the findings required by Subsection (a) if the substance is controlled  
7 under Schedule III of the Federal Controlled Substances Act by a Federal  
8 agency as the result of an international treaty, convention or protocol.

9           **Section 67.209. Schedule IV.** Unless specifically excepted by  
10 Guam or Federal law, or Guam or Federal regulation, or more  
11 specifically included in another schedule, Schedule IV controlled  
12 substances are listed in Appendix D of this Act.

13           **Section 67.210. Schedule IV Tests.** DPHSS shall add, in  
14 accordance with §67.201(a), a substance to Schedule IV upon finding  
15 that:

16           (1) the substance has a low potential for abuse relative to  
17 substances included in Schedule III;

18           (2) the substance has currently accepted medical use in  
19 treatment in the United States; and

20           (3) abuse of the substance may lead to limited physical  
21 dependence or psychological dependence relative to substances  
22 included in Schedule III.

23           (b) DPHSS may add a substance to Schedule IV without making  
24 the findings required by Subsection (a) if the substance is controlled  
25 under Schedule IV of the Federal Controlled Substances Act by a



1 Federal agency as the result of an international treaty, convention or  
2 protocol.

3 **Section 67.211. Schedule V.** Unless specifically excepted by  
4 Guam or Federal law, or Guam or Federal regulation or more  
5 specifically included in another schedule, Schedule V controlled  
6 substances are listed in Appendix E of this Act.

7 **Section 67.212. Schedule V Tests.** DPHSS shall add a  
8 substance, in accordance with §67.201(a), to Schedule V upon finding  
9 that:

10 (1) the substance has a low potential for abuse relative to  
11 substances included in Schedule IV;

12 (2) the substance has currently accepted medical use in  
13 treatment in the United States; and

14 (3) abuse of the substance may lead to physical  
15 dependence or psychological dependence relative to the  
16 substances included in Schedule IV.

17 DPHSS may add a substance to Schedule V without being  
18 required to make the findings required by Subsection (a) if the substance  
19 is controlled under Schedule V of the Federal Controlled Substances Act  
20 by a Federal agency as the result of an international treaty, convention,  
21 or protocol.

22 **Section 67.213. Publishing of Schedules.** DPHSS may  
23 publish updated schedules periodically. Failure to publish updated  
24 schedules is not a defense for any administrative or judicial proceeding  
25 under this Act.

1           **Section 67.214. Controlled Substance Analog Treated as**  
2 **Schedule I Substance.** A controlled substance analog, to the extent  
3 intended for human consumption, must be treated, for the purposes of  
4 this Act, as a substance included in Schedule I. Within twenty (20) days  
5 after the initiation of prosecution with respect to a controlled substance  
6 analog by indictment or information, the Attorney General shall notify  
7 DPHSS of information relevant to emergency scheduling as provided  
8 for in §67.201(g). After final determination that the controlled substance  
9 analog should not be scheduled, no prosecution relating to that  
10 substance as a controlled substance analog may be commenced or  
11 continued.

### 12                                   **ARTICLE 3.**

#### 13                   **REGULATION OF MANUFACTURE, DISTRIBUTION AND** 14 **DISPENSING OF CONTROLLED SUBSTANCES.**

15           **Section 67.301. Rules.** (a) DPHSS shall adopt rules and  
16 charge reasonable fees relating to the registration and control of the  
17 manufacture, distribution and dispensing of controlled substances in  
18 Guam.

19           (b) The fees provided for in this Section shall be collected to  
20 combat diversion of controlled substances and must be forwarded to the  
21 Department of Administration for the use provided in Subsection (c).  
22 The Department of Administration shall establish the '*Controlled*  
23 *Substances Diversion Fund*' where fees shall be deposited.

1 (c) Moneys collected under the 'Controlled Substances  
2 Diversion Fund' account shall be utilized by the Department of Public  
3 Health and Social Services for their use of:

4 (1) existing programs, or created, in monitoring of  
5 controlled substances to identify and detect its diversion;

6 (2) acquiring equipment and supplies, and entering into  
7 contracts, necessary to monitor controlled substances; and

8 (3) training of employees assigned to administer the Act.

9 (c) Moneys in the account are appropriated on a continuing  
10 basis and are not subject to lapsing and related appropriations  
11 restraints.

12 (d) The Department of Public Health and Social Services shall  
13 administer expenditures from the fund. Expenditures may be made  
14 only for the monitoring of controlled substances through acquisition of  
15 equipment and supplies, entering into contracts, and training of  
16 employees administering the Act to keep them abreast of new and  
17 changing information regarding controlled substances and related  
18 matters. Moneys from the Fund may not supplant other local, state or  
19 Federal funds.

20 **Section 67.302. Registration Requirements.** (a) A

21 person who manufactures, distributes or dispenses a controlled  
22 substance within Guam or who proposes to engage in the manufacture,  
23 distribution or dispensing of a controlled substance within Guam, shall  
24 obtain annually a registration issued by DPHSS in accordance with rules  
25 adopted by DPHSS.

1 (b) A person registered by DPHSS under this Act to  
2 manufacture, distribute, dispense or conduct research with controlled  
3 substances may possess, manufacture, distribute, dispense or conduct  
4 research with controlled substances to the extent authorized by the  
5 registration and in conformity with this Article.

6 (c) The following persons need not register and may lawfully  
7 possess controlled substances under this Act:

8 (1) an agent or employee of a registered manufacturer,  
9 distributor or dispenser of a controlled substance if the agent or  
10 employee is acting in the usual course of business or employment;

11 (2) a common or contract carrier or warehouseman, or an  
12 employee thereof, whose possession of any controlled substance is  
13 in the usual course of business or employment; and

14 (3) an ultimate user or a person in possession of a  
15 controlled substance pursuant to a lawful order of a practitioner or  
16 in lawful possession of a substance included in Schedule V.

17 (d) DPHSS, by rule, may waive the requirement for registration  
18 of certain manufacturers, distributors or dispensers upon finding it  
19 consistent with the public health and safety.

20 (e) A separate registration is required for each principal place of  
21 business or professional practice where the applicant manufactures,  
22 distributes or dispenses controlled substances.

23 (f) DPHSS may inspect the establishment of a registrant or  
24 applicant for registration in accordance with rules adopted by DPHSS.

1           **Section 67.303. Registration.** (a) DPHSS shall register an  
2 applicant to manufacture or distribute substances included in Schedules  
3 I through V, unless DPHSS determines that the issuance of the  
4 registration would be inconsistent with the public interest. In  
5 determining the public interest, DPHSS shall consider the following  
6 factors:

7           (1) maintenance of effective controls against diversion of  
8 controlled substances into other than legitimate medical, scientific  
9 research or industrial channels;

10           (2) compliance with Federal and local law;

11           (3) promotion of technical advances in the art of  
12 manufacturing controlled substances and the development of new  
13 substances;

14           (4) convictions of the applicant under laws of another  
15 country or Federal or state laws relating to a controlled substance;

16           (5) past experience of the applicant in the manufacture or  
17 distribution of controlled substances, and the existence in the  
18 applicant's establishment of effective controls against diversion of  
19 controlled substances into other than legitimate medical, scientific,  
20 research or industrial channels;

21           (6) furnishing by the applicant of false or fraudulent  
22 material in an application filed under this Act;

23           (7) suspension or revocation of the applicant's Federal  
24 registration or the applicant's registration in another state to

1 manufacture, distribute or dispense controlled substances as  
2 authorized by Federal law; and

3 (8) any other factors relevant to and consistent with the  
4 public health and safety.

5 (b) Registration under Subsection (a) entitles a registrant to  
6 manufacture or distribute a substance included in Schedule I or II only if  
7 it is specified in the registration.

8 (c) A practitioner must be registered with DPHSS before  
9 dispensing a controlled substance or conducting research with respect to  
10 a controlled substance included in Schedules II through V. DPHSS need  
11 not require separate registration under this Article for a practitioner  
12 engaging in research with non-narcotic substances included in  
13 Schedules II through V if the registrant is already registered under this  
14 Article in another capacity. A practitioner registered under Federal law  
15 to conduct research with a substance included in Schedule I may  
16 conduct research with the substance in Guam upon furnishing DPHSS  
17 evidence of the Federal registration.

18 (d) A manufacturer or distributor registered under the Federal  
19 Controlled Substances Act (21 U.S.C. §801, *et seq.*) may submit a copy of  
20 the Federal application as an application for registration as a  
21 manufacturer or distributor under this Section. DPHSS may require a  
22 manufacturer or distributor to submit information in addition to the  
23 application for registration under the Federal act.

24 (e) A dispenser of narcotic drugs to a narcotic drug dependent  
25 person, as defined in §67.308.2(a), registered under the Federal

1        Controlled Substances Act (21 U.S.C. §801, *et seq.*) may submit a copy of  
2        the Federal application as an application for registration as a dispenser  
3        of narcotic drugs to a drug dependent person under this Section.  
4        DPHSS may require a dispenser to submit information in addition to the  
5        application for registration under the Federal act.

6                **Section 67.304.     Suspension or Revocation of Registration.**

7                (a)    DPHSS may suspend or revoke a registration under §67.303  
8        to manufacture, distribute or dispense a controlled substance upon  
9        finding that the registrant has:

10                (1)    furnished false or fraudulent material information in  
11        an application filed under this Act;

12                (2)    been convicted of a felony under state or Federal law  
13        relating to a controlled substance;

14                (3)    had the registrant's Federal registration suspended or  
15        revoked and is no longer authorized by Federal law to  
16        manufacture, distribute or dispense controlled substances; or

17                (4)    committed an act that would render registration under  
18        §67.303 inconsistent with the public interest as determined under  
19        that Section.

20                (b)    DPHSS may limit revocation or suspension of a registration  
21        to the particular controlled substance with respect to which grounds for  
22        revocation or suspension exist.

23                (c)    If a registration is suspended or revoked, DPHSS may place  
24        under seal all controlled substances owned or possessed by the  
25        registrant at the time of suspension or the effective date of the

1 revocation order. No disposition may be made of substances under seal  
2 until the time for taking an appeal has elapsed or until all appeals have  
3 been concluded unless a court, upon application, orders the sale of  
4 perishable substances and the deposit of the proceeds of the sale with  
5 the court. When a revocation order becomes final, the court may order  
6 the controlled substances forfeited to DPHSS.

7 (d) DPHSS may seize or place under seal any controlled  
8 substance owned or possessed by a registrant whose registration has  
9 expired or who has ceased to practice or do business in the manner  
10 permitted by the registration. The controlled substance must be held for  
11 the benefit of the registrant or the registrant's successor in interest.  
12 DPHSS shall notify a registrant, or the registrant's successor in interest,  
13 whose controlled substance is seized or placed under seal, of the  
14 procedures to be followed to secure the return of the controlled  
15 substance and the conditions under which it will be returned. DPHSS  
16 may not dispose of a controlled substance seized or placed under seal  
17 under this Subsection until the expiration of one hundred eighty (180)  
18 days after the controlled substance was seized or placed under seal.  
19 Costs incurred by seizing, placing under seal, maintaining custody and  
20 disposing of any controlled substance under this Subsection may be  
21 recovered from the registrant, any proceeds obtained from the  
22 disposition of the controlled substance, or from both. All monies  
23 collected from this Section shall be deposited in the Controlled  
24 Substances Diversion Fund, as provided in §67.301.



1           **Section 67.305.    Order to Show Cause.**    (a)   Before  
2   denying, suspending, revoking or refusing to renew a registration,  
3   DPHSS shall serve upon the applicant or registrant an order to show  
4   cause why registration should not be denied, suspended or revoked, or  
5   the renewal refused. The order must state its grounds and direct the  
6   applicant or registrant to appear before DPHSS at a specified time and  
7   place not less than thirty (30) days after the date of service of the order.  
8   In case of a refusal to renew a registration, the order must be served not  
9   later than thirty (30) days before expiration of the registration. The  
10  proceedings must be conducted in accordance with the Administrative  
11  Adjudication Law, 5 GCA §9100, *et seq.* The proceedings do not  
12  preclude any criminal prosecution or other proceeding. A proceedings  
13  to refuse to renew a registration does not affect the existing registration,  
14  which remains in effect until completion of the proceedings.

15           (b)   DPHSS may suspend, without an order to show cause, a  
16  registration simultaneously with the institution of proceedings under  
17  §67.304, or if renewal, of registration is refused, upon finding that there  
18  is an imminent danger to the public health and safety which warrants  
19  the action. The suspension continues in effect until the conclusion of the  
20  proceedings, including judicial review, unless earlier by DPHSS or  
21  dissolved by a court of competent jurisdiction.

22           **Section 67.306.    Records of Registrants.**    A person registered  
23  to manufacture, distribute or dispense controlled substances under this  
24  Act shall keep records and maintain inventories in compliance with  
25  Federal law, and rules adopted by DPHSS.

1           **Section 67.307. Order Forms.** A registrant may distribute a  
2 substance included in Schedule I or II to another registrant only by  
3 means of an order form. Compliance with Federal law respecting order  
4 forms constitutes compliance with this Section.

5           **Section 67.308.1. Prescriptions.** As used in this Section,  
6 'medical treatment' includes dispensing or administering a narcotic  
7 drug for pain, including intractable pain; however, this does not include  
8 dispensing any controlled substance to a fighting cock or a competitive  
9 racing dog for their performance or appearance enhancement.

10           (b) A person may dispense a controlled substance only as  
11 provided in this Section.

12           (c) Except when dispensed directly by a practitioner, other than  
13 a pharmacy, to an ultimate user, a substance included in Schedule II  
14 may not be dispensed without the written prescription of a practitioner  
15 and pursuant to rules adopted by DPHSS. A prescription for a Schedule  
16 II, III, IV or V substance shall not be filled by a pharmacist more than  
17 seven (7) days after its date of issuance; however, refill(s) indicated on a  
18 prescription submitted within the seven (7) days for controlled  
19 substance listed in Schedule III, IV or V, may be filled after the seven (7)  
20 days of issuance. Any original prescription in need of being filled after  
21 the seven (7) days shall be renewed by a practitioner.

22           (d) In an emergency, as defined by rules of DPHSS, a substance  
23 included in Schedule II may be dispensed upon oral prescription of a  
24 practitioner, reduced promptly to writing, signed by the practitioner,  
25 and filed by the pharmacy. The pharmacy shall keep prescriptions in

1 conformity with §67.306. A prescription for a substance included in  
2 Schedule II may not be refilled.

3 (e) Except when dispensed directly by a practitioner, other than  
4 a pharmacy, to an ultimate user, a substance included in Schedule III or  
5 IV, which is a prescription drug as determined under this Act, may not  
6 be dispensed without a written or oral prescription of a practitioner.  
7 The prescription must not be refilled more than six (6) months after its  
8 date unless renewed by the practitioner.

9 (f) A substance included in Schedule V may be distributed or  
10 dispensed only for a medical purpose, including medical treatment or  
11 authorized research.

12 (g) A practitioner may dispense or deliver a controlled  
13 substance to or for an individual or animal only for medical treatment or  
14 authorized research in the ordinary course of that practitioner's  
15 profession.

16 (h) No civil or criminal liability or administrative sanction may  
17 be imposed on a pharmacist for action taken in reliance on a reasonable  
18 belief that an order purporting to be a prescription was issued by a  
19 practitioner in the usual course of professional treatment or in  
20 authorized research.

21 (i) An individual practitioner may not dispense a substance  
22 included in Schedule II, III or IV for that individual practitioner's  
23 personal use except in a medical emergency.

24 **Section 67.308.2. Administering or Dispensing of Narcotic**  
25 **Drugs.** (a) 'Narcotic drug dependent' means an individual who

1           physiologically needs heroin or a morphine-like drug to prevent the  
2           onset of signs of withdrawal.

3           (b)    The administering or dispensing, but not prescribing, of  
4           narcotic drugs listed in any schedule to a narcotic drug dependent  
5           person for 'detoxification treatment' or 'maintenance treatment' as  
6           defined in §102 of the Federal Controlled Substances Act (21 U.S.C.  
7           §802) shall be deemed to be within the meaning of the term 'in the  
8           course of his professional practice or research' in §308(e) and §102(20) of  
9           the Federal Controlled Substances Act (21 U.S.C. §828(e)); provided, that  
10          the practitioner is separately registered with the United States Attorney  
11          General as required by §303(g) of the Federal Controlled Substances Act  
12          (21 U.S.C. §823(g)) and then thereafter complies with the regulatory  
13          standards imposed relative to treatment qualification, security, records  
14          and unsupervised use of drugs pursuant to the Federal Controlled  
15          Substances Act.

16          (c)    Nothing in this Section shall prohibit a physician who is not  
17          specifically registered to conduct a narcotic treatment program from  
18          administering, but not prescribing, narcotic drugs to a person for the  
19          purpose of relieving acute withdrawal symptoms when necessary while  
20          arrangements are being made for referral for treatment. Not more than  
21          one (1) day's medication may be administered to the person or for the  
22          person's use at one time. Such emergency treatment may be carried out  
23          for not more than three (3) days and may not be renewed or extended.  
24          This Section is not intended to impose any limitations on a physician or  
25          authorized hospital staff member to administer or dispense narcotic

1 drugs in a hospital to maintain or detoxify a person as an incidental  
2 adjunct to medical or surgical treatment of conditions other than  
3 addiction, or to administer or dispense narcotic drugs to persons with  
4 intractable pain in which no relief or cure is possible or none has been  
5 found after reasonable efforts.

6 **Section 67.309. Diversion Prevention and Control.** (a) In  
7 this Section, 'diversion' means the transfer of a controlled substance  
8 from a lawful to an unlawful channel of distribution or use.

9 (b) DPHSS may periodically prepare and make available to  
10 other state regulatory, licensing and law enforcement agencies a report  
11 on the patterns and trends of distribution, diversion and abuse of  
12 controlled substances.

13 (c) DPHSS and the Guam Police Department, with the  
14 assistance of the Attorney General, shall enter into written agreements  
15 with state and Federal agencies to improve identification of sources of  
16 diversion and to improve enforcement of and compliance with this Act  
17 and other laws and regulations pertaining to unlawful conduct  
18 involving controlled substances. An agreement must specify the roles  
19 and responsibilities of each agency that has information or authority to  
20 identify, prevent or control drug diversion and drug abuse. DPHSS,  
21 GPD and the Attorney General shall arrange for cooperation and  
22 exchange of information among agencies and with other states and the  
23 Federal government. DPHSS, GPD and the Attorney General shall  
24 report annually to the Governor and to the Speaker of the Guam  
25 Legislature on the outcome of the program with respect to its effect on

1 distribution and abuse of controlled substances, including  
2 recommendations for improving control and prevention of the diversion  
3 of controlled substances in Guam.

4 **ARTICLE 4.**

5 **OFFENSES AND PENALTIES.**

6 **Section 67.401.1. Possession, Etc. for Illegal Delivery,**  
7 **Dispensing or Manufacturing; Defined; Punishments Classified**  
8 **According to Drug Class Involved.** (a) Except as  
9 authorized by this Act, it shall be unlawful for any person knowingly or  
10 intentionally:

11 (1) to manufacture, deliver or possess with intent to  
12 manufacture, deliver or dispense a controlled substance; or

13 (2) to manufacture, or deliver, or possess with intent to  
14 manufacture or deliver, a controlled substance that, or the  
15 container or labeling of which, without authorization, bears the  
16 trademark, trade name, or other identifying mark, imprint,  
17 number, or device, or a likeness thereof, of a manufacturer,  
18 distributor, or dispenser, other than the person who  
19 manufactured, distributed or dispensed the substance.

20 (b) Any person who violates Subsection (a) with respect to:

21 (1) a substance classified in Schedule I, II or III shall be  
22 guilty of a felony of the first degree and shall not be eligible for  
23 work release or educational programs outside the confines of  
24 prison.

1           (2) a substance classified in Schedule IV or V shall be  
2 guilty of a felony of the second degree, provided that any person  
3 convicted under this Subsection receiving a term of imprisonment  
4 shall not be eligible for work release or educational programs  
5 outside the confines of prison.

6           **Section 67.401.2.    Illegal Possession; Defined and Punishment.**

7           (a) It is unlawful for any person knowingly or intentionally to  
8 possess a controlled substance, unless such substance was obtained  
9 directly from, or pursuant to, a valid prescription or order of a  
10 practitioner while acting in the course of his professional practice, or  
11 except as otherwise authorized by the Act.

12           (b) Any person who violates Subsection (a) with respect to:

13               (1) any controlled substance except marijuana shall be  
14 guilty of a felony of the third degree.

15               (2) more than one (1) ounce of marijuana shall be guilty of  
16 a petty misdemeanor.

17               (3) one (1) ounce or less of marijuana shall be guilty of a  
18 violation and punished by a fine of One Hundred Dollars  
19 (\$100.00).

20           **Section 67.401.3.    Penalties in Addition to Any Civil Penalties.**

21           Penalties imposed for violation of this Act and civil remedies  
22 provided under this Act are in addition to, and not in lieu of, any civil  
23 remedy, administrative penalty or sanction otherwise authorized by  
24 law.

1           **Section 67.401.4. Prison Terms for Drug Offenders.** Any  
2 person who is convicted of an offense pursuant to §67.401.1 of this Act  
3 shall be sentenced as follows:

4           (a) If he is guilty of an offense pursuant §67.401.1(b)(1) of this  
5 Act, he shall be sentenced to imprisonment for not less than ten (10) nor  
6 more than twenty (20) years and may, in addition, be fined not more  
7 than Fifty Thousand Dollars (\$50,000.00). The sentence shall include a  
8 special parole term of not less than three (3) years in addition to such  
9 term of imprisonment. Imposition or execution of such sentence shall  
10 not be suspended and probation shall not be granted. Parole or work  
11 release shall not be granted to the offender until he has served at least  
12 ten (10) years of his sentence or imprisonment.

13           (b) If he is guilty of an offense pursuant to §67.401.1(b)(1) of this  
14 Act and if he has been convicted on one (1) or more felonies under any  
15 provision of this Act, any law of the United States relating to controlled  
16 substances or for any offense under state or foreign law relating to  
17 narcotic drugs listed in Schedule I as per Appendix A of this Act or  
18 Schedule II as per Appendix B of this Act which offense would be a  
19 felony under this Act and one (1) or more of the convictions are final, he  
20 shall be sentenced to a term of imprisonment which shall not be less  
21 than fifteen (15) years and which may be up to life imprisonment, and  
22 may, in addition, be fined not more than One Hundred Thousand  
23 Dollars (\$100,000.00). The sentence, if for a term of years, shall include a  
24 special parole term of not less than six (6) years in addition to such term  
25 of imprisonment. Imposition of execution of such sentence shall not be



1 suspended, and probation shall not be granted. Parole or work release  
2 shall not be granted to the offender until he has served at least fifteen  
3 (15) years of his sentence of imprisonment.

4 (c) If he is guilty of an offense pursuant to §67.401.1(a) of this  
5 Act committed while he was released on bail pursuant to Chapter 40 of  
6 Title 8 of the Guam Code Annotated, *Criminal Procedure*, on a charge of  
7 violating §67.401.1(a), he shall be sentenced to a term of imprisonment  
8 which shall not be less than fifteen (15) years and which may be up to  
9 life imprisonment and, in addition, may be fined not more than One  
10 Hundred Thousand Dollars (\$100,000.00). The sentence, if for a term of  
11 years, shall include a special parole term of not less than six (6) years in  
12 addition to such term of imprisonment. Imposition or execution of such  
13 sentence shall not be suspended and probation shall not be granted.  
14 Parole or work release shall not be granted to the offender until he has  
15 served at least fifteen (15) years of sentence of imprisonment.

16 (d) The imposition of a minimum term of imprisonment and the  
17 prohibitions against suspension of sentence and granting of probation  
18 and requirement for service of a minimum term of imprisonment prior  
19 to granting parole as prescribed by Subsections (a), (b) and (c) of this  
20 Section shall not apply in the case of a person whom the court  
21 determines violated §67.401.1(a) of this Act for the primary purpose of  
22 enabling him to obtain a narcotic drug which he requires for his  
23 personal use because of his addiction to such drug.

24 (e) If he is guilty of an offense involving a controlled substance  
25 listed in Schedule I or II of this Act which is not a narcotic drug or a

1 controlled substance listed in Schedule III of this Act he shall be  
2 sentenced to a term of imprisonment of not more than five (5) years and  
3 may be fined not more than Fifteen Thousand Dollars (\$15,000.00). The  
4 sentence shall include a special parole term of not less than two (2) years  
5 in addition to such term of imprisonment. Imposition or execution of  
6 such sentence shall not be suspended and probation shall not be  
7 granted.

8 (f) If he is guilty of an offense involving a controlled substance  
9 listed in Schedule I or II of this Act which is not a narcotic drug or a  
10 controlled substance in Schedule III of this Act and if he has been  
11 convicted of one (1) or more prior offenses punishable under the  
12 provisions of Subsection (e) of this Section, a felony under any provision  
13 of this Act, any law of the United States, a state or foreign jurisdiction  
14 relating to narcotic drugs, marijuana, or depressant or stimulant  
15 substances and one (1) or more of the convictions are final, he shall be  
16 sentenced to a term of imprisonment of not more than ten (10) years  
17 and, in addition, may be fined not more than Thirty Thousand Dollars  
18 (\$30,000.00). The sentence shall include a special parole term of at least  
19 two (2) years in addition to such term of imprisonment. Imposition or  
20 execution of such sentence shall not be suspended and probation shall  
21 not be granted. Parole or work release shall not be granted to the  
22 offender until he has served at least ten (10) years of his sentence of  
23 imprisonment.

24 (g) If he is guilty of an offense involving a controlled substance  
25 listed in Schedule IV of this Act he shall be sentenced to a term of

1 imprisonment of not more than three (3) years and may, in addition, be  
2 fined not more than Ten Thousand Dollars (\$10,000.00). The sentence  
3 shall include a special parole term of not less than one (1) year in  
4 addition to such term of imprisonment. Imposition or execution of such  
5 sentence shall not be suspended and probation shall not be granted.

6 (h) If he is guilty of an offense involving a controlled substance  
7 listed in Schedule IV of this Act and if he has been convicted of a felony  
8 under a provision of this Act; or a law of the United States, a state or  
9 foreign jurisdiction relating to narcotic drugs, marijuana, or depressant  
10 or stimulant substances, and such convictions are final, then he shall be  
11 sentenced to a term of imprisonment of not more than six (6) years and,  
12 in addition, may be fined not more than Twenty Thousand Dollars  
13 (\$20,000.00). The sentence shall include a special parole term of at least  
14 two (2) years in addition to such term of imprisonment. Imposition or  
15 execution of such sentence shall not be suspended and probation shall  
16 not be granted.

17 (i) If he is guilty of an offense involving a controlled substance  
18 listed in Schedule V of this Act he shall be sentenced to a term of  
19 imprisonment of not more than one (1) year or a fine of not more than  
20 Five Thousand Dollars (\$5,000.00), or both. Imposition or execution of  
21 such sentence shall not be suspended and probation shall not be  
22 granted.

23 (j) If he is guilty of an offense involving a controlled substance  
24 listed in Schedule V of this Act and if he has been convicted of a felony  
25 under a provision of this Act, or a law of the United States, a state or

1 foreign jurisdiction relating to narcotic drugs, marijuana, or depressant  
2 or stimulant substances, and such convictions are final, then he shall be  
3 sentenced to a term of imprisonment of not more than two (2) years or a  
4 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.  
5 Imposition or execution of such sentence shall not be suspended and  
6 probation shall not be granted.

7 (k) Notwithstanding the provisions of this Section, any person  
8 who is guilty of an offense pursuant to §67.401.1(a) of this Act by  
9 distributing less than one (1) pound of marijuana for no remuneration  
10 shall be sentenced as provided in §67.412 of this Act.

11 (l) A special parole term imposed under the provisions of  
12 §67.407 of this Act may be revoked if its terms and conditions are  
13 violated. In such circumstances the original term of imprisonment shall  
14 be increased by the period of the special parole term and the resulting  
15 new term of imprisonment shall not be diminished by the time which  
16 was spent on special parole. A person whose special parole term has  
17 been revoked may be required to serve all or part of the remainder of  
18 the new term of imprisonment. A special parole term provided for in  
19 §67.407 of this Act shall be, in addition to, and not in lieu of, any other  
20 parole provided for by law.

21 (m) The Court may, in its sole discretion and after consultation  
22 with the Attorney General, reduce the minimum sentence of  
23 imprisonment by not more than twenty percent (20%) of the minimum  
24 term established by law of a person sentenced pursuant to Subsections  
25 (a), (b) or (c) of this Section if it finds such person was a pusher and if

1 such person offers credible and necessary evidence as to the identity of  
2 his supplier, supervisor or as to the source of his supply of drugs. As  
3 used in this Subsection, "pusher" means a person not engaged in a  
4 continuing criminal enterprise as defined in §67.409 of this Act and who  
5 sells controlled substances in such a manner that the majority of the  
6 sales are to ultimate users of said controlled substances.

7 **Section 67.401.5. Fines for Drug Offenses.** Any person who is  
8 guilty of an offense pursuant to §67.402(a) of this Act may, in addition to  
9 imprisonment for felony of the third degree, be fined not more than  
10 Twenty-five Thousand Dollars (\$25,000.00) except that if any person  
11 commits such offense after previously being convicted of one (1) or  
12 more prior offenses involving §67.402(a) of this Act, or for a felony  
13 under any other provision of this Act or other law of the United States,  
14 state or foreign jurisdiction relating to narcotic drugs, marijuana, or  
15 depressant or stimulant substances, and one (1) or more of the  
16 convictions have become final, such person may, in addition to  
17 imprisonment for felony of the third degree, be fined not more than  
18 Fifty Thousand Dollars (\$50,000.00).

19 **Section 67.401.6. Additional Fines in Drug Offenses.** Any  
20 person who is guilty of an offense pursuant to §67.403(a) of this Act  
21 may, in addition to imprisonment for felony of the third degree, be fined  
22 not more than Thirty Thousand Dollars (\$30,000.00); is except that if any  
23 person commits such offense after previously being convicted of one (1)  
24 or more offenses pursuant to §67.403(a) of this Act or for any felony  
25 under any other provision of this Act or other law of the United States,

1 state or foreign jurisdiction relating to narcotic drugs, marijuana, or  
2 depressant or stimulant substances, and one (1) or more of the  
3 convictions have become final, such person shall be sentenced to a term  
4 of imprisonment of not more than eight (8) years and, in addition, may  
5 be fined not more than Sixty Thousand Dollars (\$60,000.00).

6 **Section 67.401.7. Information for Sentencing.** Except as  
7 otherwise provided in Chapter 80 of Title 9 of the Guam Code  
8 Annotated, no limitation shall be placed in the information concerning  
9 the background, character and conduct of a person convicted of an  
10 offense which the Superior Court of Guam may receive and consider for  
11 the purpose of imposing an appropriate sentence under this Act.

12 **Section 67.401.8. Establishing Previous Convictions.** (a)(1)  
13 No person who stands convicted of an offense  
14 under §§67.401.1 - 67.401.3 or §§67.402 - 67.408 or §§67.410 - 67.412 of  
15 this Act shall be sentenced to increased punishment by reason of one (1)  
16 or more prior convictions unless, before trial or before entry of a pleas of  
17 guilty, the Attorney General files an information with the Court, and  
18 serves a copy of such information on the person or counsel for the  
19 person, stating the previous conviction to be relied upon. Upon a  
20 showing by the Attorney General that facts regarding prior convictions  
21 could not by due diligence be obtained prior to trial or before entry of a  
22 plea of guilty, the Court may postpone the trial or the taking of the plea  
23 of guilty for a reasonable period for the purpose of obtaining such facts.  
24 Clerical mistakes in the information may be amended at any time prior  
25 to the pronouncement of sentence.

1           (2) An information may not be filed under this Section if  
2           the increased punishment which may be imposed is imprisonment  
3           for a term of excess of three (3) years, unless the person either  
4           waived or was afforded prosecution by indictment for the offense  
5           for which such increased punishment may be imposed.

6           (b) If the Attorney General files an information under this  
7           Section, the Court shall after conviction, but before pronouncement of  
8           sentence inquire of the person with respect to whom the information  
9           was filed whether he affirms or denies that he has been previously  
10          convicted as alleged in the information, and shall inform him that any  
11          challenge to a prior conviction which is not made before sentence is  
12          imposed may not thereafter be raised to attach the sentence.

13          (c)(1) If the person denies any allegation of the information  
14          of prior conviction or claims that any conviction alleged is invalid, he  
15          shall file a written response to the information. A copy of the response  
16          shall be served upon the Attorney General. The Court shall hold a  
17          hearing to determine any issues raised by the response which would  
18          except the person from increased punishment. The failure of the  
19          Attorney General to include in the information the complete criminal  
20          record of the person or any facts in addition to the convictions to be  
21          relied upon shall not constitute grounds for invalidating the notice  
22          given in the information required by §67.401.8(a)(1). The hearing shall  
23          be before the Court without a jury and either party may introduce  
24          evidence. Except as otherwise provided in §67.401.8(c)(2), the Attorney  
25          General shall have the burden of proof beyond a reasonable doubt on

1 any issue of fact. At the request of either party, the Court shall enter  
2 findings of fact and conclusions of law.

3 (2) A person claiming that a conviction alleged in the  
4 information was obtained in violation of applicable provisions of the  
5 Constitution of the United States or the Organic Act of Guam shall set  
6 forth his claim and the factual basis therefore with particularity in his  
7 response to the information. The person shall have the burden of proof  
8 by a preponderance of the evidence on any issue of fact raised by the  
9 response. Any challenge to a prior conviction not raised by response to  
10 the information before an increased sentence is imposed in reliance  
11 thereon shall be waived, unless good cause be shown for failure to make  
12 a timely challenge.

13 (d)(1) If the person files no response to the information or if  
14 the court determines, after hearing, that the person is subject to  
15 increased punishment by reason of prior convictions, the Court shall  
16 proceed to impose sentence.

17 (2) If the Court determines that the person has not been  
18 convicted as alleged in the information, that a conviction alleged in the  
19 information is invalid, or that the person is otherwise not subject to an  
20 increased sentence as matter of law, the Court shall, at the request of the  
21 Attorney General, postpone sentence to allow an appeal from that  
22 determination. If no such request is made, the Court shall impose  
23 sentence. The person may appeal from an order postponing sentence as  
24 if sentence had been pronounced and a final judgment of conviction  
25 entered.



1 (e) No person who stands convicted of an offense under  
2 §§67.401.1 - 67.401.3 or §§67.402 - 67.408 or §§67.410 - 67.412 of this Act  
3 may challenge the validity of any prior conviction alleged under this  
4 Section which occurred more than five (5) years before the date of the  
5 information alleging such prior conviction.

6 **Section 67.401.9. Importation and Exportation Penalties.**

7 (a) Any person who:

8 (1) contrary to §§67.601 or 67.602 of this Act, knowingly or  
9 intentionally imports or exports a controlled substance; or

10 (2) contrary to §67.604 of this Act, knowingly or  
11 intentionally brings or possesses on board a vessel or aircraft a  
12 controlled substance; or

13 (3) contrary to §67.608 of this Act, manufacturers who  
14 distribute a controlled substance shall be punished as provided in  
15 §67.401.9(b).

16 (b)(1) In the case of an offense under Subsection (a) of this  
17 Section involving a controlled substance listed in Schedules I, II, III, IV  
18 or V of this Act which is a narcotic, the person guilty of such an offense  
19 shall be imprisoned not less than ten (10) years nor more than twenty  
20 (20) years and may, in addition, be fined not more than Fifty Thousand  
21 Dollars (\$50,000.00). The sentence shall include a special parole term of  
22 not less than three (3) years in addition to such terms of imprisonment.

23 (2) In the case of an offense under Subsection of this Section  
24 with respect to a controlled substance other than a narcotic drug listed  
25 in Schedules I, II, III, IV or V of this Act, the person guilty of such

1 offense shall be imprisoned for not less than three (3) years nor more  
2 than ten (10) years and may, in addition, be fined not more than Fifteen  
3 Thousand Dollars (\$15,000.00). The sentence shall, in addition to such  
4 term of imprisonment, include:

5 (A) a special parole term of not less than two (2) years if  
6 such controlled substance is listed in Schedules I, II or III of this  
7 Act, or

8 (B) a special parole term of not less than one (1) year if  
9 such controlled substance is listed in Schedule IV of this Act.

10 (c) The minimum term of imprisonment prescribed by  
11 Subsection (b)(1) of this Section shall not apply in the case of a person  
12 whom the Court determines violated Subsection (a)(1) of this Section for  
13 the primary purpose of enabling him to obtain a narcotic drug which he  
14 requires for his personal use because of his addiction to such drug. The  
15 Court shall take into consideration the amount of the controlled  
16 substance imported in determining if the offender's primary purpose is  
17 importation or exportation for his own use.

18 (d) In the case of any sentence under this Section, imposition or  
19 execution of such sentence shall not be suspended and probation shall  
20 not be granted nor shall parole or work release be granted until the  
21 person has served the minimum term of imprisonment.

22 A special parole term imposed under this Section or §67.411 of this  
23 Act may be revoked if its terms and conditions are violated. In such  
24 circumstances, the original term of imprisonment shall be increased by  
25 the period of the special parole term and the resulting new term of

1 imprisonment shall not be diminished by the time which was spent on  
2 special parole. A person whose special parole term has been revoked  
3 may be required to serve all or part of the remainder of the new term of  
4 imprisonment. The special term provided for in this Section and in  
5 §67.411 of this Act is in addition to and not in lieu of any other parole  
6 provided for by law.

7 **Section 67.401.10. Transshipment and In-Transit Shipment**  
8 **Penalties.**

9 Any person who is guilty of an offense pursuant to §67.603 of this Act  
10 shall be subject to the following penalties:

11 (1) Except as provided in §67.401.10(2), any such person  
12 shall, with respect to any such offense, be fined not more than  
13 Twenty-five Thousand Dollars (\$25,000.00).

14 (2) If such an offense is prosecuted by an information or  
15 indictment which alleges and the trier of fact specifically finds that  
16 the offense was committed knowingly or intentionally, the  
17 defendant shall be sentenced to imprisonment for not more than  
18 one (1) year or a fine of not more than Twenty-five Thousand  
19 Dollars (\$25,000.00), or both.

20 **Section 67.401.11. Mandatory Sentencing for Persons**  
21 **Convicted of a Third-Degree Felony Relative to the Possession of**  
22 **Methamphetamine.**

23 Except as stipulated in §67.401.12, the Court shall impose a sentence of  
24 imprisonment of no less than three (3) years and no more than five (5)  
25 years, and a fine of Fifteen Thousand Dollars (\$15,000.00), on persons

1 convicted of a third-degree felony under the provisions of §67.401.2  
2 when the controlled substance the person is convicted of possessing is  
3 the substance known as methamphetamine. Sentence in these cases  
4 shall also include mandatory community service of no less than one  
5 hundred and fifty (150) hours, mandatory enrollment and attendance in  
6 a drug rehabilitation program at the Department of Mental Health and  
7 Substance Abuse and a mandatory term of probation of five (5) years.

8 **Section 67.401.12. Mandatory Sentencing for First-Time**  
9 **Offenders of a Third-Degree Felony Relative to the Possession of**  
10 **Methamphetamine.**

11 In cases where §67.401.11 is applicable to the sentencing of a person, a  
12 person who has not been previously convicted of a felony relative to the  
13 possession of any controlled substance and has been convicted of a  
14 felony for the first time relative to possession of methamphetamine shall  
15 be sentenced to a term of imprisonment of no more than three (3) years  
16 and a fine of Five Thousand Dollars (\$5,000.00). Sentence in these cases  
17 must also include mandatory community service of no less than one  
18 hundred and fifty (150) hours, mandatory enrollment and attendance in  
19 a drug rehabilitation program at the Department of Mental Health and  
20 Substance Abuse or any other drug rehabilitation program approved by  
21 the Superior Court, and a mandatory term of probation of five (5) years.

22 **Section 67.402. Prohibited Acts B; Penalties.** (a) A  
23 person shall not knowingly or intentionally:

1           (1) Distribute or dispense a controlled substance in  
2 violation of §§67.308.1 and 67.308.2, if said person is subject to  
3 Article 3.

4           (2) Manufacture a controlled substance not authorized by  
5 that person's registration, or distribute or dispense a controlled  
6 substance not authorized by that person's registration to another  
7 registrant or other authorized person, if the said manufacturer,  
8 distributor or dispenser is a registrant.

9           (3) Refuse or fail to make, keep or furnish any record,  
10 notification, order form, statement, invoice or information  
11 required under this Act.

12           (4) Refuse entry into any premises for an inspection  
13 authorized by this Act.

14           (5) Who is a manufacturer or distributor, or agent or  
15 employee of a manufacturer or distributor, to deliver a controlled  
16 substance to a person who will possess or distribute a controlled  
17 substance in violation of this Act.

18           (6) Keep, maintain, manage, control, rent, lease or make  
19 available for use any store, shop, warehouse, dwelling, building,  
20 vehicle, vessel, aircraft, room, enclosure, or other structure or  
21 place, which the person knows is resorted to for the purpose of  
22 keeping for distribution, transporting for distribution, or  
23 distributing controlled substances in violation of this Act.

24           (b) Any person who violates this Section is guilty of a felony of  
25 the third degree.

1           **Section 67.403. Prohibited Acts C; Penalties.**     (a) A

2 person shall not knowingly or intentionally:

3           (1) distribute a controlled substance included in Schedule  
4 I or II, except pursuant to an order form required by §67.307, if  
5 said person is a registrant;

6           (2) use in the course of the manufacture, distribution or  
7 dispensing of a controlled substance, or to use for the purpose of  
8 acquiring or obtaining a controlled substance, a registration  
9 number that is fictitious, revoked, suspended or issued to another  
10 person;

11           (3) acquire or obtain possession of a controlled substance  
12 by is misrepresentation, fraud, forgery, deception or subterfuge;

13           (4) furnish false or fraudulent material information in, or  
14 omit material information from, an application, report or other  
15 document required to be kept or filed under this Act, or a record  
16 required to be kept by this Act; or

17           (5) possess a false or fraudulent prescription or alter an  
18 otherwise valid prescription with intent to obtain a controlled  
19 substance.

20           (b) Any person who violates this Section is guilty of a felony of  
21 the third degree.

22           **Section 67.404. Counterfeit Substance Prohibited; Penalty.**

23           (a) A person may not knowingly or intentionally make or  
24 distribute or possess a punch, die, plate, stone or other thing designed  
25 to print, imprint or reproduce the trademark, trade name, or other

1 identifying mark, imprint, or device of another or a likeness of any of  
2 the foregoing upon any drug or container or labeling of it without  
3 authorization.

4 (b) Any person who violates this Section is guilty of a felony of  
5 the third degree.

6 **Section 67.405. Imitation Controlled Substances Prohibited;**  
7 **Penalty.** (a) A person may not knowingly or intentionally deliver,  
8 or possess with intent to deliver, a noncontrolled substance representing  
9 it to be a controlled substance.

10 (b) A person may not knowingly or intentionally deliver or  
11 possess with intent to deliver, a noncontrolled substance intending it to  
12 be used or distributed as a controlled substance or under circumstances  
13 in which the person has reasonable cause to believe that the  
14 noncontrolled substance will be used or distributed for use as a  
15 controlled substance.

16 (c) It is not a defense that the accused believed the  
17 noncontrolled substance to be a controlled substance.

18 (d) A person who violates this Section is guilty of a felony of the  
19 second degree.

20 **Section 67.406. Conspiracy; Solicitation; Attempt; Penalty.**  
21 Any person who conspires, solicits or attempts to commit any offense  
22 defined in this Act shall be punished as prescribed for the commission  
23 of the offense which was the object of the conspiracy, solicitation or  
24 attempt.

1           **Section 67.407.       Distribution to Individual Under Age 18;**  
2           **Distribution Near Schools or Colleges; Penalties.** (a) Any person  
3           who is at least eighteen (18) years of age who is found guilty of an  
4           offense pursuant to §67.401.1(a)(1) of this Act by distributing a  
5           substance listed in Schedule I or II as per Appendices A and B of this  
6           Act which is a narcotic drug to a person under eighteen (18) years of age  
7           shall be sentenced to serve, in addition to the sentence prescribed by  
8           §67.401.4, a term of five (5) years of imprisonment. Imposition or  
9           execution of such sentence shall not be suspended and probation shall  
10          not be granted. Parole or work release shall not be granted until the  
11          offender has served the additional five (5) year sentence prescribed by  
12          this Subsection.

13          (b) Any person who is at least eighteen (18) years of age who is  
14          guilty of an offense pursuant to §67.401.1(a)(1) of this Act by  
15          distributing any non-narcotic controlled substance listed in Schedule I or  
16          II as per Appendices A and B of this Act, or a substance listed in  
17          Schedules III, IV or V as per Appendices C - E of this Act to a person  
18          under eighteen (18) years of age shall be sentenced to serve, in addition  
19          to the minimum sentence prescribe by §67.401.4 of this Act, three (3)  
20          years of imprisonment. Imposition of execution of such sentence shall  
21          not be suspended and probation shall not be granted. Parole or work  
22          release shall not be granted until the offender has served the additional  
23          three (3) years prescribed by this Subsection.

24          (c) An individual may not violate §67.401.1(a)(1) of this Act by  
25          distributing a substance listed in Schedule I or II as per Appendices A



1 and B of this Act which is a narcotic drug, in or on, or within one  
2 thousand feet (1,000') of, the real property comprising a public  
3 playground, a public or private elementary or secondary school, a  
4 public vocational school, or public or private college or university. An  
5 individual who violates this Subsection shall be sentenced to serve, in  
6 addition to the minimum sentence prescribed by §67.401.4 of this Act, a  
7 term of five (5) years of imprisonment. Imposition or execution of such  
8 sentence shall not be suspended and probation shall not be granted.  
9 Parole or work release shall not be granted until the offender has served  
10 the additional five (5) years prescribed by this Subsection.

11 (d) An individual may not violate §67.401.1(a)(1) of this Act by  
12 distributing any non-narcotic controlled substance listed in Schedule I or  
13 II as per Appendices A and B of this Act or a substance listed in  
14 Schedules III, IV or V as per Appendices C - E of this Act, in or on, or  
15 within one thousand feet (1000) of, the real property comprising a public  
16 playground, a public or private elementary or secondary school, a  
17 public vocational school, or public or private college or university. An  
18 individual who violates this Subsection shall be sentenced to serve, in  
19 addition to the minimum sentence prescribed by §67.401.4 of this Act, a  
20 term of three (3) years of imprisonment. Imposition or execution of such  
21 sentence shall not be suspended and probation shall not be granted.  
22 Parole or work release shall not be granted until the offender has served  
23 the additional three (3) years prescribed by this Subsection.

1 (e) It is not a defense to a violation of Subsections (a) and (b)  
2 that the accused did not know the age of an individual to whom a  
3 controlled substance was distributed.

4 (f) It is not a defense to a violation of Subsections (c) or (d) that  
5 the accused did not know the distance involved.

6 **Section 67.408. Employment or Use of Individual Under 18**  
7 **Years of Age in Drug Operations; Penalties.** (a) Any person who is  
8 eighteen (18) or more years of age shall not knowingly or intentionally  
9 employ, hire, use, persuade, induce, entice or coerce an individual  
10 under eighteen (18) years of age to violate or assist in avoiding detection  
11 or apprehension for a violation of this Act.

12 (b) Any person who violates Subsection (a) is guilty of a felony  
13 of the first degree, and shall be sentenced, in addition to the minimum  
14 sentence prescribe by §67.401.4 of this Act, three (3) years of  
15 imprisonment. Imposition or execution of such sentence shall not be  
16 suspended and probation shall not be granted. Parole or work release  
17 shall not be granted until the offender has served the additional three (3)  
18 years prescribed by this Subsection.

19 (c) It is not a defense to a violation of this Section that the  
20 accused did not know the age of a protected individual.

21 **Section 67.409. Continuing Criminal Enterprise.** (a)

22 It shall be unlawful for any person knowingly  
23 or intentionally to engage in a continuing criminal enterprise relative to  
24 a controlled substance. A person is engaged in a continuing enterprise  
25 relative to a controlled substance if:

1           (1) he commits an offense under any provision of this Act  
2 and the offense is a felony; and

3           (2) such offense is part of a continuing series of offenses  
4 pursuant to this Act:

5           (i) which are undertaken by such person in concert  
6 with two (2) or more other persons with respect to whom  
7 such person occupies a position of organizer, a supervisory  
8 position or any other position of management; and

9           (ii) from which such persons obtain substantial  
10 income or resources.

11           (b) Any person convicted of engaging in a continuing criminal  
12 enterprise in violation of Subsection (a) shall be sentenced to a term of  
13 imprisonment which shall not be less than twenty (20) years and which  
14 may be up to life imprisonment, to a fine of not more than Five  
15 Hundred Thousand Dollars (\$500,000.00) and to the forfeiture described  
16 in §67.409(c), except that if any person engages in such activity after one  
17 (1) or more prior convictions of him under this Section have become  
18 final, he shall be sentenced to a term of imprisonment which shall not be  
19 less than thirty (30) years and which may be up to life imprisonment, to  
20 a fine of not more than One Million Dollars (\$1,000,000) and to the  
21 forfeiture prescribed in §67.409(c).

22           (c) Any person who is convicted of engaging in a continuing  
23 criminal enterprise relative to a controlled substance shall forfeit to the  
24 government of Guam:

25           (1) the profits obtained by him in such enterprise; and

1           (2) any of his interest in, claims against or property or  
2 contractual rights of any kind affording a source of influence over  
3 such enterprise.

4           (d) In the case of any sentence imposed under this Section,  
5 imposition or execution of such sentence shall not be suspended and  
6 probation shall not be granted. Parole or work release shall not be  
7 granted to the offender until the offender has served at least fifteen (15)  
8 years of his sentence of imprisonment.

9           (e) The Superior Court of Guam shall have jurisdiction to enter  
10 such restraining orders or prohibitions or to take such other actions,  
11 including the acceptance of satisfactory performance bonds in  
12 connection with any property or other interest subject to forfeiture  
13 under this Section as it shall deem proper.

14           **Section 67.410. Money Laundering and Illegal Investment;**  
15 **Penalty.** (a) A person shall not knowingly or intentionally receive  
16 or acquire proceeds, or engage in transactions involving proceeds,  
17 known to be derived from a violation of this Act.

18           (b) A person shall not knowingly or intentionally give, sell,  
19 transfer, trade, invest, conceal, transport or otherwise make available  
20 anything of value that the person knows is intended to be used to  
21 commit or further the commission of a violation of this Act.

22           (c) A person shall not knowingly or intentionally direct, plan,  
23 organize, initiate, finance, manage, supervise or facilitate the  
24 transportation or transfer of proceeds that the person knows are derived  
25 from a violation of this Act.

1           (d) A person shall not knowingly or intentionally conduct a  
2 financial transaction involving proceeds derived from a violation of this  
3 Act if the transaction is designed in whole or in part to conceal or  
4 disguise the nature, location source, ownership or control of the  
5 proceeds that the person knows are derived from a violation of this Act,  
6 or to avoid a transaction reporting requirement under state or Federal  
7 law.

8           (e) Any person who is convicted of this Section is guilty of  
9 felony of the first degree.

10           **Section 67.411.       Second or Subsequent Offenses; Penalties.**

11           (a)(1) Any person convicted of an offense under Article 6 of  
12 this Act with respect to a controlled substance listed in Schedule I or II  
13 of this Act which is a narcotic drug, if it is the offender's second or  
14 subsequent offense, the person shall be sentenced to a term of  
15 imprisonment which may not be less than twenty (20) years and which  
16 may be up to life imprisonment and may, in addition, be fined not more  
17 than One Hundred Thousand Dollars (\$100,000.00). The sentence, if for  
18 a term of years, shall include a special parole term of not less than six (6)  
19 years in addition to such other term of imprisonment. In the case of any  
20 sentence under this Paragraph, imposition or execution of such sentence  
21 shall not be suspended and probation shall not be granted. Parole or  
22 work release shall not be granted to the offender until he has served at  
23 least twenty (20) years of his sentence of imprisonment.

24           (2) Any person who committed an offense under Article 6 of  
25 this Act with respect to a controlled substance listed in Schedule I or II

1 of this Act which is a narcotic drug while such person was released on  
2 bail pursuant to Chapter 40 of Title 8 of the Guam Code Annotated,  
3 *Criminal Procedure*, in a charge of an offense under Article 6 of this Act  
4 shall be sentenced to a term of imprisonment which may not be less  
5 than twenty (20) years and which may be up to life imprisonment and  
6 may, in addition, be fined not more than One Hundred Thousand  
7 Dollars (\$100,000.00). The sentence, if for a term of years, shall include a  
8 special parole term of not less than six (6) years in addition to such term  
9 of imprisonment. In the case of any sentence under this Paragraph,  
10 imposition or execution of such sentence shall not be suspended and  
11 parole shall not be granted. Parole or work release shall not be granted  
12 to the offender until he has served at least twenty (20) years of his  
13 sentence of imprisonment.

14 (3) The minimum term of imprisonment prescribed in  
15 Paragraphs (1) and (2) of this Subsection shall not apply in the case of a  
16 person who the Court determines violated Article 6 of this Act for the  
17 primary purpose of enabling him to obtain a narcotic drug which he  
18 requires for his personal use because of his addiction to such drug. The  
19 Court shall take into consideration the amount of the controlled  
20 substance imported in determining if the offender's primary purpose is  
21 importation or exportation for his own use.

22 (b) For purposes of this Section, a person shall be considered  
23 convicted of a second or subsequent offense if, prior to the commission  
24 of such offense, he was convicted of one (1) or more felonies under any  
25 provision of this Act or law of the United States, a state or foreign

1 jurisdiction relating to narcotic drugs, marijuana or depressant or  
2 stimulant drugs.

3 (c) Section 67.401.8 of this Act shall apply with respect to any  
4 proceeding to sentence a person under this Section.

5 **Section 67.412. Conditional Discharge and Dismissal for**  
6 **First Offenders; Permitted.** Whenever any person who has not  
7 previously been convicted of an offense under this Act or under any  
8 statute of the United States or of any State relating to narcotic drugs,  
9 marijuana or stimulant, depressant or hallucinogenic drugs, pleads  
10 guilty to or is found guilty of possession of a controlled substance under  
11 §67.401.2 (a), the Court, without entering a judgment of guilt and with  
12 the consent of the accused, may defer further proceedings and place him  
13 on probation upon terms and conditions. Upon violation of a term or  
14 condition, the Court may enter an adjudication of guilty and proceed as  
15 otherwise provided. Upon fulfillment of the terms and conditions, the  
16 Court shall discharge such person and dismiss the proceedings against  
17 him. Discharge and dismissal under this Section shall be without Court  
18 adjudication of guilt and shall not be deemed a conviction for purposes  
19 of disqualifications or disabilities imposed by law upon conviction of a  
20 crime. Discharge and dismissal under this Section may occur only once  
21 with respect to any person.

22 (b) Upon the dismissal of such person and discharge of the  
23 proceedings against him under Subsection (a), such person may apply to  
24 the Court for an order to expunge from all official records, other than  
25 the nonpublic records to be retained by the Court solely for the purposes

1 of use by the Courts in determining whether or not, in subsequent  
2 proceedings, such person qualifies under this Section, all recordation  
3 relating to his arrest, indictment or information, trial, finding of guilty  
4 and dismissal and discharge pursuant to this Section. If the Court  
5 determines after hearing, that such person was dismissed and the  
6 proceedings against him discharged, it shall enter such order. The effect  
7 of such order shall be to restore such person, in the contemplation of the  
8 law, to the status he occupied before such arrest or indictment or  
9 information. No person as to whom such order has been entered shall  
10 be held thereafter under any provision of any law to be guilty of perjury  
11 or otherwise giving a false statement by reason of his failure to recite or  
12 acknowledge such arrest, or indictment or information, or trial in  
13 response to any inquiry made of him for any purpose.

14 **Section 67.412.1. No Conditional Discharge and Dismissal**  
15 **Permitted for Offenses Involving Methamphetamine.** The  
16 provisions of §67.412 shall not apply in the case of a violation defined as  
17 third degree felony in §67.401.2 that involves the controlled substance  
18 known as methamphetamine.

19 **Section 67.413. Treatment Option for Violation of Act.** If  
20 an individual is adjudicated guilty of a violation of this Act for which  
21 the individual is eligible for probation, the Court may impose a sentence  
22 authorized by this Act, may place the individual on probation as  
23 authorized by this Section, or may impose a combination of a sentence  
24 and probation as authorized by this Section. The Court, with the  
25 consent of the individual and with the consent of a treatment facility



1 having inpatient or outpatient programs for the treatment of drug  
2 dependent individuals, may place the individual, if found by the Court  
3 to be in need of treatment, on probation upon terms and conditions,  
4 including participation in a treatment program of the facility. The Court  
5 shall order treatment for the period the treatment facility considers  
6 necessary. Treatment or a combination of a sentence and probation,  
7 including treatment may not exceed the maximum sentence allowable  
8 unless the convicted individual consents to continued treatment. Upon  
9 violation of a term or condition, including failure to participate in the  
10 treatment program, the Court may revoke the probation and proceed as  
11 otherwise provided. Upon fulfillment of the terms and conditions,  
12 including attendance and successful completion of the treatment  
13 program, the Court shall terminate the probation.

14 **Section 67.414. Assessment for Education and Treatment;**  
15 **Appropriation of Moneys.** (a) A person convicted of a violation of  
16 this Act, and every individual placed on probation under §67.412, must  
17 be assessed for each offense a sum of not less than Five Hundred Dollars  
18 (\$500.00) nor more than Three Thousand Dollars (\$3,000.00). The  
19 assessment is in addition to and not in lieu of any fine, restitution, other  
20 assessment, or forfeiture authorized or required by law.

21 (b) The assessment provided for in this Section must be  
22 collected as provided for collection of restitution and must be forwarded  
23 to the Probation Department as provided in Subsection (c).

24 (c) Moneys collected under this Section must be forwarded to  
25 the Probation Department for deposit in the Drug Treatment and

1 Enforcement Fund. Moneys in the fund are appropriated on a  
2 continuing basis and are not subject to lapsing and related  
3 appropriations restraints.

4 (d) The Probation Department shall administer expenditures  
5 from the fund. Expenditures may be made only for drug abuse  
6 education, prevention and treatment services. Moneys from the fund  
7 may not supplant other local, state or Federal funds.

8 **Section 67.414.1. Drug Treatment and Enforcement Fund.**

9 All fines collected by the Superior Court of Guam for violation of  
10 this Act shall be placed in a special fund maintained by the Department  
11 of Administration separately from the General Fund to be called the  
12 '*Drug Treatment and Enforcement Fund.*' Funds so placed shall be used  
13 exclusively for the support of drug treatment and education programs  
14 in Guam, as well as support of law enforcement efforts, subject to  
15 appropriation for those purposes by the Guam Legislature.

16 **ARTICLE 5.**

17 **ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.**

18 **Section 67.501. Powers of Enforcement Personnel. (a)**

19 An officer or employee of GPD designated by the Chief of Police  
20 may:

21 (1) carry firearms in the performance of the officer's and  
22 employee's official duties;

23 (2) execute and serve search warrants, arrest warrants,  
24 administrative inspection warrants, subpoenas and summons  
25 issued under the authority of Guam;

1           (3) make arrests without warrant for an offense under this  
2 Act committed in the officer's presence, or if the officer or  
3 employee has probable cause to believe that the individual to be  
4 arrested has committed or is committing a violation of this Act  
5 which may constitute a felony;

6           (4) make seizures of property pursuant to this Act; and

7           (5) perform other law enforcement duties the Chief of  
8 Police assigns.

9           (b) An employee of DPHSS designated by the Director of  
10 DPHSS may:

11           (1) execute and serve search warrants, administrative  
12 inspection warrants, subpoenas and summonses issued under the  
13 authority of Guam;

14           (2) make seizures of property pursuant to this Act; and

15           (3) if necessary, perform other duties of enforcement  
16 under this Act, as assigned by the Director of DPHSS.

17           **Section 67.502. Administrative Inspections and Warrants and**  
18 **Search is Warrant.** (a) In this Section, "controlled premises"  
19 means:

20           (1) places where persons registered or exempted from  
21 registration requirements under this Act are required to keep  
22 records; and

23           (2) places, including factories, warehouses, establishments  
24 and conveyances, in which persons registered or exempted from  
25 registration requirements under this Act are permitted to hold,

1 manufacture, compound, process, sell, deliver or otherwise  
2 dispose of a controlled substance.

3 (b) The procedure for issuance and execution of administrative  
4 inspection warrants is as follows:

5 (1) A judge of the Guam Superior Court, upon proper  
6 oath or affirmation showing probable cause, may issue warrants to  
7 conduct administrative inspections of controlled premises  
8 authorized by this Act or rules adopted under this Act, and  
9 seizures of property appropriate to the inspections. For the  
10 purpose of issuance of an administrative inspection warrant,  
11 probable cause exists upon showing a valid public interest in the  
12 effective enforcement of this Act, or rules adopted under this Act,  
13 sufficient to justify administrative inspection of the area, premises,  
14 building or conveyance in the circumstances specified in the  
15 application for the warrant.

16 (2) A warrant may issue only upon an affidavit of a  
17 designated officer or employee having knowledge of the facts  
18 alleged, sworn to before the judge and establishing the grounds  
19 for issuing the warrant. If the judge is satisfied that grounds for  
20 the application exist or that there is probable cause to believe they  
21 exist, the judge shall issue a warrant identifying the area,  
22 premises, building or conveyance to be inspected, the purpose of  
23 the inspection, and, if appropriate, the type of property to be  
24 inspected, if any. The warrant must:

1 (i) state the grounds for its issuance and the name  
2 of each individual whose affidavit has been taken in support  
3 thereof;

4 (ii) be directed to an individual authorized by  
5 §67.501 to execute it;

6 (iii) command the individual to whom it is directed  
7 to inspect the area, premises, building or conveyance  
8 identified for the purpose specified and, if appropriate,  
9 direct the seizure of the property specified;

10 (iv) identify the item or types of property to be  
11 seized, if any; and

12 (v) direct that it be served during normal business  
13 hours and designate the judge to whom it must be returned.

14 (3) A warrant issued pursuant to this Section must be  
15 executed and returned within ten (10) days after its date unless,  
16 upon a showing of a need for additional time, the Court orders  
17 otherwise. If property is seized pursuant to a warrant, a copy  
18 must be given to the person from whom or from whose premises  
19 the property is taken, together with a receipt for the property  
20 taken. The return of the warrant must be made promptly,  
21 accompanied by a written inventory of any property taken. The  
22 inventory must be made in the presence of the individual  
23 executing the warrant and of the person from whose possession or  
24 premises the property was taken, if present, or in the presence of  
25 at least one (1) credible individual other than the individual

1 executing the warrant. A copy of the inventory must be delivered  
2 to the person from whom or from whose premises the property  
3 was taken and to the applicant for the warrant; and

4 (4) The judge who has issued a warrant shall attach to the  
5 warrant a copy of the return and all papers returnable in  
6 connection therewith and file them with the clerk of the Guam  
7 Superior Court in which the inspection was made.

8 (c) DPHSS and GPD may make administrative inspections of  
9 controlled premises in accordance with the following provisions:

10 (1) if authorized by an administrative inspection warrant  
11 issued pursuant to Subsection (b), an officer or employee  
12 designated by DPHSS and GPD, upon presenting the warrant and  
13 appropriate credentials to the owner, operator or agent in charge,  
14 may enter controlled premises for the purpose of conducting an  
15 administrative inspection;

16 (2) if authorized by an administrative inspection warrant,  
17 an officer or employee designated by DPHSS and GPD may:

18 (i) inspect and copy records required by this Act to  
19 be kept;

20 (ii) inspect, within reasonable limits and in a  
21 reasonable manner, controlled premises and all pertinent  
22 equipment, finished and unfinished material, containers and  
23 labeling found therein, and, except as provided in Paragraph  
24 (4), all other things therein, including records, files, papers,

1 processes, controls and facilities bearing on violation of this  
2 Act; and

3 (iii) inventory any stock of a controlled substance  
4 therein and obtain samples thereof;

5 (3) This Section does not prevent the inspection without a  
6 warrant of books and records pursuant to an administrative  
7 subpoena issued in accordance with §9217 of Title 5 of the Guam  
8 Code Annotated, nor does it prevent entries and administrative  
9 inspections, including seizures of property, without a warrant:

10 (i) if the owner, operator or agent in charge of the  
11 controlled premises consents;

12 (ii) in situations presenting imminent danger to  
13 health or safety as determined by DPHSS and/or GPD;

14 (iii) in situations involving inspection of conveyances  
15 if there is reasonable cause to believe that the mobility of the  
16 conveyance makes it impracticable to obtain a warrant;

17 (iv) in an emergency or other exceptional  
18 circumstance where time or opportunity to apply for a  
19 warrant is lacking; or

20 (v) in all other situations in which a warrant is not  
21 constitutionally required.

22 (4) An inspection authorized by this Section may not  
23 extend to financial data, sales data other than shipment data or  
24 pricing data, unless the owner, operator or agent in charge of the  
25 controlled premises consents in writing.

1           **Section 67.502.1. Items Subject to Forfeiture for Violation of this**  
2 **Act.** (a) The following shall be subject to forfeiture and no property  
3 right shall exist in them:

4           (1) all controlled substances which have been or are  
5 intended to be manufactured, distributed, dispensed, acquired or  
6 held in violation of the provisions of this Act;

7           (2) all raw materials, products and equipment of any kind  
8 which are used, or intended for use, in manufacturing,  
9 compounding, processing, delivering, importing or exporting any  
10 controlled substance in violation of the provisions of this Act;

11           (3) all property which is used, or intended for use, as a  
12 container for property described in Paragraphs (1) and (2);

13           (4) all conveyances including aircraft, vehicles or vessels,  
14 which are used, or intended for use, to transport, or in any manner  
15 to facilitate the transportation, sale, receipt, possession or  
16 concealment of property described in Paragraphs (1) or (2), except  
17 that:

18           (i) no conveyance used by any person as a common  
19 carrier in the transaction of business as a common carrier  
20 shall be forfeited under the provisions of this Act, unless it  
21 shall appear that the owner or other person in charge of such  
22 conveyance was a consenting party or privy to a violation of  
23 this Act; and

24           (ii) no conveyance shall be forfeited under the  
25 provisions of this Section by reason of any act or omission



1 established by the owner thereof to have been committed or  
2 omitted without his knowledge or consent;

3 (iii) a conveyance is not subject to forfeiture for a  
4 violation of §67.401.2; and

5 (iv) a forfeiture of a conveyance encumbered by a  
6 *bona fide* security interest of the secured party if he neither  
7 had knowledge of nor consented to the act or omission.

8 (5) all books, records and research, including formulas,  
9 microfilm, tapes and data which are used, or intended for use, in  
10 violation of this Act;

11 (6) all moneys, negotiable instruments, securities or other  
12 things of value furnished or intended to be furnished by any  
13 person in exchange for a controlled substance in violation of this  
14 Act, all proceeds traceable to such an exchange, and all moneys,  
15 negotiable instruments, securities used or intended to be used to  
16 facilitate any violation of this Act, shall be forfeited to the criminal  
17 justice agency making the seizure; and

18 (7) all firearms which are visible, carried during or used in  
19 furtherance of a violation of this Act.

20 (b) Any property subject to forfeiture under this Act may be  
21 seized by GPD upon process issued by the Superior Court, except that  
22 seizure without such process may be made when:

23 (1) the seizure is incident to an arrest or a search under a  
24 search warrant or an inspection under an administrative  
25 inspection warrant;

1           (2) the property subject to seizure has been the subject of a  
2 prior judgment in a criminal injunction or forfeiture proceeding  
3 based upon this Act;

4           (3) GPD or DPHSS has probable cause to believe that the  
5 property is directly or indirectly dangerous to health or safety; or

6           (4) GPD or DPHSS has probable cause to believe that the  
7 property has been use or intended to be used in violation of this  
8 Act.

9           In the event of seizure pursuant to this Subsection, proceedings  
10 under Subsection (c) shall be instituted promptly.

11           (c) Property taken or detained under this Section shall not be  
12 repleviable; but shall be deemed to be in the custody of the GPD or  
13 DPHSS only to the orders and decrees of the Court. Whenever property  
14 is seized under the provisions of this Act, GPD or DPHSS may:

15                   (1) place the property under seal; or

16                   (2) remove the property to a place designated by him.

17           (d) Whenever property is forfeited under this Act GPD or  
18 DPHSS may:

19                   (1) retain the property for official use;

20                   (2) sell any forfeited property which is not required to be  
21 destroyed by law and which is not harmful to the public; the  
22 proceeds shall be used for payment of all property expenses of the  
23 proceedings for forfeiture and sale, including expenses of seizure,  
24 maintenance of custody, advertising and Court costs;

1           (3) require the property to be taken into custody and  
2 removed for disposition in accordance with law; or

3           (4) forward it to DEA for disposition; such disposition  
4 may include delivery for medical or scientific use to any Federal or  
5 state agency under regulations of the Attorney General of the  
6 United States.

7           (e) All substances listed in Schedule I that are possessed,  
8 transferred, sold or offered for sale in violation of the provisions of this  
9 Act shall be deemed contraband and seized and summarily forfeited to  
10 the government of Guam. Similarly, all substances listed in Schedule I  
11 which are seized or come into the possession of the government of  
12 Guam, the owners of which are unknown, shall be deemed contraband  
13 and summarily forfeited to the government of Guam:

14           (1) All species of plants from which controlled substances  
15 in Schedules I and II may be derived which have been planted or  
16 cultivated in violation of this Act, or of which the owners or  
17 cultivators are unknown, of which are wild growths, may be  
18 seized and summarily forfeited to the government of Guam.

19           (2) The failure, upon demand by GPD of the person in  
20 occupancy or in control of land or premises upon which such  
21 species of plants are growing or being stored, to produce an  
22 appropriate registration, or proof that he is the holder thereof,  
23 shall constitute authority for the seizure and forfeiture.

24           **Section 67.502.2. Search Warrant May Be Served Any Time.**

1 A search warrant relating to offenses involving controlled substances  
2 may be served at any time of the day or night if the judge or magistrate  
3 issuing the warrant is satisfied that there is probable cause to believe  
4 that grounds exist for the warrant.

5 **Section 67.503. Injunctions.** (a) The Guam Superior  
6 Court has jurisdiction to restrain or enjoin violations of this Act.

7 (b) The defendant may demand trial by jury for an alleged  
8 violation of an injunction or restraining order under this Section.

9 **Section 67.504. Cooperative Arrangements and**  
10 **Confidentiality.** (a) The Attorney General, DPHSS and

11 GPD shall cooperate with Federal and other state agencies in  
12 discharging their responsibilities concerning traffic in controlled  
13 substances and in suppressing the abuse of controlled substances. To  
14 this end, the Attorney General, DPHSS and GPD may:

15 (1) arrange for the exchange of information among  
16 governmental officials concerning the use and abuse of controlled  
17 substances;

18 (2) coordinate and cooperate in training programs  
19 concerning controlled substance law enforcement at local and state  
20 levels;

21 (3) cooperate with the Drug Enforcement Administration  
22 by establishing a centralized unit to accept, catalog, file and collect  
23 statistics, including records of drug dependent persons and other  
24 controlled substance law offenders within Guam, and make the  
25 information available for Federal, state and local law enforcement

1 purposes, but may not furnish the name or identity of a patient or  
2 research subject whose identity could not be obtained under  
3 Subsection (c); and

4 (4) conduct programs of eradication aimed at destroying  
5 wild growth or unlawful propagation of plant species from which  
6 controlled substances may be extracted.

7 (b) Results, information and evidence received from the DEA  
8 relating to the regulatory functions of this Act, including results of  
9 inspections conducted by it, may be relied and acted upon by DPHSS  
10 and GPD in the exercise of its regulatory functions under this Act.

11 (c) A practitioner engaged in medical practice or research is not  
12 required or compelled to furnish the name or identity of a patient or  
13 research subject to DPHSS, nor may the practitioner be compelled in any  
14 state or local civil, criminal, administrative, legislative or other  
15 proceedings to furnish the name or identity of an individual that the  
16 practitioner is obligated to keep confidential; provided however, that  
17 nothing herein shall be construed to prevent DPHSS from conducting a  
18 triplicate prescription program or any other drug monitoring program  
19 pursuant to rules adopted by DPHSS.

20 **Section 67.505.1. Proof of Exemption and Exception Upon**  
21 **Defendant: Failure to Show Registration Cause for Forfeiture.**

22 (a) It shall not be necessary for the government to negate any  
23 exemption or exception in this Act in any complaint, information,  
24 indictment or other pleading or in any trial, hearing or other proceeding

1 under this Act. The burden of proof of any such exemption or exception  
2 shall be upon the person claiming its benefit.

3 (b) In the absence of proof that a person is the duly authorized  
4 holder of an appropriate registration or order form issued under this  
5 Act, he shall be presumed not to be the holder of such registration or  
6 form, and the burden of proof shall be upon him to rebut such  
7 presumption.

8 **Section 67.505.2. Burden of Proof; Liabilities.** (a)(1) It shall  
9 not be necessary for the government to negate any exemption or  
10 exception in this Act in any complaint, information, indictment or other  
11 pleading or in any trial, hearing or other proceeding under this Act. The  
12 burden of proof of any such exemption or exception shall be upon the  
13 person claiming its benefit.

14 (2) In the case of a person charged under §67.401.1 of this  
15 Act with the possession of a controlled substance, any label  
16 identifying such substance for purposes of §503(b)(2) of the  
17 Federal Food, Drug and Cosmetic Act [21 USC §353(b)] shall be  
18 admissible in evidence and shall be prima facie evidence that such  
19 substance was obtained pursuant to a valid prescription from a  
20 practitioner while acting in the course of his professional practice.

21 (b) In the absence of proof that a person is the duly authorized  
22 holder of an appropriate registration or order form issued under this  
23 Act, he shall be presumed not to be the holder of such registration or  
24 form and the burden of going forward with the evidence with respect to  
25 such registration or form shall be upon him.

1           (c) The burden of going forward with the evidence to establish  
2 that a vehicle, vessel or aircraft used in connection with controlled  
3 substances in Schedule I was used in accordance with the provisions of  
4 this Act shall be on the persons engaged in such use.

5           **Section 67.506. Judicial Review.** Final determinations,  
6 findings and conclusions of DPHSS under this Act are subject to review  
7 under the Administrative Adjudication Law, Title 5 Guam Code  
8 Annotated §9100, *et seq.*

9           **Section 67.507. Education and Research.** (a) DPHSS or the  
10 Department of Mental Health and Substance Abuse, or both, may carry  
11 out education programs designed to prevent and deter misuse and  
12 abuse of controlled substances. In connection with these programs  
13 DPHSS and DMHSA may:

14           (1) promote better recognition of the problems of misuse  
15 and abuse of controlled substances within the regulated industry  
16 and among interested groups and organizations;

17           (2) assist the regulated industry and interested groups  
18 and organizations in contributing to the reduction of misuse and  
19 abuse of controlled substances;

20           (3) consult with interested groups and organizations to  
21 aid them in solving administrative and organizational problems;

22           (4) evaluate procedures, projects, techniques and controls  
23 conducted or proposed as part of educational programs on misuse  
24 and abuse of controlled substances;

1           (5) disseminate the results of research on misuse and  
2 abuse of controlled substances to promote a better public  
3 understanding of what problems exist and what can be done to  
4 alleviate them; and

5           (6) assist in the education and training of state and local  
6 law enforcement officials in their efforts to control misuse and  
7 abuse of controlled substances.

8           (b) GPD, DPHSS and DMHSA may encourage research on  
9 misuse and abuse of controlled substances. In connection with the  
10 research, and in furtherance of the enforcement of this Act, GPD,  
11 DPHSS and DMHSA may:

12           (1) establish methods to assess accurately the effects of  
13 controlled substances and identify and characterize those with  
14 potential for abuse;

15           (2) make studies and undertake programs of research to:

16           (i) develop new or improved approaches,  
17 techniques, systems, equipment and devices to strengthen  
18 the enforcement of this Act;

19           (ii) determine patterns of misuse and abuse of  
20 controlled substances and the social effects thereof; and

21           (iii) improve methods for preventing, predicting,  
22 understanding and dealing with the misuse and abuse of  
23 controlled substances; and

24           (3) enter into contracts with public agencies, institutions  
25 of higher education and private organizations or individuals for



1 the purpose of conducting research demonstrations, or special  
2 projects that bear directly on misuse and abuse of controlled  
3 substances.

4 (c) DPHSS and DMHSA, with the approval of the Attorney  
5 General, may authorize persons engaged in research on the use and  
6 effects of controlled substances to withhold the names and other  
7 identifying characteristics of individuals who are the subjects of the  
8 research. A person who obtains this authorization is not compelled in  
9 any civil, criminal, administrative, legislative or other proceeding to  
10 identify the individuals who are the subjects of research for which the  
11 authorization was obtained.

12 (d) DPHSS and DMHSA with the approval of the Attorney  
13 General, may authorize the possession and distribution of controlled  
14 substances by persons engaged in research. A person who obtains this  
15 authorization is exempt from state prosecution for possession and  
16 distribution of controlled substances to the extent of the authorization.

17 **Section 67.508. Findings of Fact: Appeal Permitted.** All final  
18 determinations, findings and conclusions of the Attorney General under  
19 this Act are final and conclusive decisions of the matters involved. Any  
20 person aggrieved by such decision may obtain review of the decision in  
21 the Superior Court. Findings of fact by the Attorney General, if  
22 supported by substantial evidence are conclusive.

23 **ARTICLE 6.**

24 **IMPORTATION AND EXPORTATION.**

1           **Section 67.600.     Definition.**   For the purpose of this Article,  
2           the term "import" means, with respect to any article, any bringing in or  
3           introduction of any such article into any area on Guam.

4           **Section 67.601.     Importation of Controlled Substances.**

5           (a) Except for a person registered pursuant to §67.606 of this Act or  
6           exempted pursuant to §67.604 or §67.605 of this Act, it shall be unlawful  
7           and punishable as a felony of the first degree to import into Guam any  
8           controlled substance listed in Schedule I or II of this Act or any narcotic  
9           drug listed in Schedules III, IV or V of this Act, except that:

10                   (1)   such amounts of crude opium and coca leaves as the  
11                   Attorney General finds to be necessary to provide for medical,  
12                   scientific or other legitimate purposes; and

13                   (2)   such amounts of any controlled substance listed in  
14                   Schedule I or II of this Act or any narcotic drug listed in Schedule  
15                   III, IV or V of this Act, that the Attorney General finds to be  
16                   necessary to provide for the medical, scientific or other legitimate  
17                   needs of Guam:

18                           (i)   during an emergency in which domestic supplies  
19                           of such substance or drug are found by the Attorney General  
20                           to be inadequate; or

21                           (ii)   in any case in which the Attorney General finds  
22                           that competition among domestic manufacturers of the  
23                           controlled substance is inadequate and will not be rendered  
24                           adequate by the registration of additional manufacturers

1 under Article 3 of this Act, may be so imported under such  
2 regulations as the Attorney General prescribe.

3 No crude opium may be so imported for the purpose of  
4 manufacturing heroin or smoking opium.

5 (b) It shall be unlawful and punishable as a felony of the third  
6 degree to import into Guam from any place outside thereof any non-  
7 narcotic controlled substance listed in Schedules III, IV or V of this Act,  
8 unless such non-narcotic controlled substance:

9 (1) is imported for medical, scientific or other legitimate  
10 uses; and

11 (2) is imported pursuant to such notification or  
12 declaration requirements as the Attorney General may, by rule,  
13 prescribe.

14 (c) In addition to the amount of coca leaves authorized to be  
15 imported into Guam under Subsection (a) of this Section, the Attorney  
16 General may permit the importation of additional amounts of coca  
17 leaves.

18 All cocaine and ecgonine, and all salts, derivatives and  
19 preparations from which cocaine or ecgonine may be synthesized or  
20 made, contained in such additional amounts of coca leaves imported  
21 under this Subsection shall be destroyed under the supervision of an  
22 authorized representative of the Attorney General.

23 **Section 67.602. Exportation of Controlled Substances.**

1           (a) It shall be unlawful and punishable as a felony of the first  
2 degree to export from Guam any narcotic drug listed in Schedule I, II, III  
3 or IV of this Act unless:

4           (1) it is exported to a country which is a party to:

5           (i) the International Opium Convention of 1912 for  
6 the Suppression of the Abuses of Opium, Morphine, Cocaine  
7 and Derivative Drugs or to the International Opium  
8 Convention signed at Geneva on February 19, 1925; or

9           (ii) the Convention for Omitting the Manufacture  
10 and Regulating the Distribution of Narcotic Drugs  
11 concluded at Geneva, July 13, 1931, as amended by the  
12 protocol signed at Lake Success on December 11, 1946, and  
13 the protocol bringing under international control drugs  
14 outside the scope of the Convention of July 13, 1931, for  
15 limiting the manufacturing and regulating the distribution  
16 of narcotic drugs, as amended by the protocol signed at Lake  
17 Success on December 11, 1946, signed in Paris, November 19,  
18 1948; or

19           (iii) the Single Convention on Narcotic Drugs, 1961,  
20 signed in New York, March 30, 1961;

21           (2) such country has instituted and maintains, in  
22 conformity with conventions to which it is a party, a system for  
23 the control of imports of narcotic drugs which the Attorney  
24 General deems adequate;

1           (3) the narcotic drug is consigned to a holder of such  
2 permits or licenses as may be required under the laws of the  
3 country of import and a permit or license to import such drug has  
4 been issued by the country of import;

5           (4) substantial evidence is furnished to the Attorney  
6 General by the exporter that (i) the narcotic drug is to be applied  
7 exclusively to medical or scientific uses within the country of  
8 import, and (ii) there is an actual need for the narcotic drug for  
9 medical or scientific uses within such country; and

10           (5) a permit to export the narcotic drug in each instance  
11 has been issued by the Attorney General.

12           (b) Notwithstanding Subsection (a) of this Section, the Attorney  
13 General may authorize any narcotic drug, including crude Opium and  
14 coca leaves, listed in Schedules I, II, III or IV of this Act to be exported  
15 from Guam to a country which is a party to any of the international  
16 instruments mentioned in Subsection (a) of this Section if the particular  
17 drug is to be applied to a special scientific purpose in the country of  
18 destination and the authorities of such country will permit the  
19 importation of the particular drug for such purpose.

20           (c) It shall be unlawful and punishable as a felony of the third  
21 degree to export from Guam any non-narcotic controlled substance  
22 listed in Schedule I or II of this Act unless:

23           (1) there is furnished, before export, to the Attorney  
24 General documentary proof that importation is not contrary to the  
25 laws or regulations of the country of destination;

1           (2) a special controlled substance invoice, in triplicate,  
2 accompanies the shipment setting forth such information as the  
3 Attorney General may prescribe to identify the parties to the  
4 shipment and the means of shipping; and

5           (3) two (2) additional copies of the invoice are forwarded  
6 to the Attorney General before the controlled substance is  
7 exported from Guam.

8           **Section 67.603. Transshipment and In-Transit Shipment of**  
9 **Controlled Substances.** Notwithstanding §§67.601, 67.602 and  
10 67.605 of this Act: (a) A controlled substance listed in Schedule I of the  
11 Act, may:

12           (1) be imported into Guam for transshipment to another  
13 country, provided the controlled substance does not remain on  
14 Guam for more than seventy-two (72) hours and all necessary  
15 security controls are provided to prevent theft; or

16           (2) be transferred or transshipped from one (1) vessel or  
17 aircraft to another vessel or aircraft within Guam for immediate  
18 exportation if and only if it is so imported, transferred or  
19 transshipped (i) for scientific, medical or other legitimate  
20 purposes in the country of destination and (ii) with the prior  
21 written approval of Attorney General, which shall be granted or  
22 denied within thirty (30) days of the request.

23           (b) A controlled substance listed in Schedules II, III or IV of this  
24 Act may be so imported, transferred or transshipped if and only if

1 advance notice is given to the Attorney General in accordance with rules  
2 of the Attorney General.

3 **Section 67.604. Possession on Board Vessel or Aircraft**  
4 **Arriving in or Departing from Guam.** (a) It shall be unlawful and  
5 punishable as a felony of the first degree for any person to bring or  
6 possess on board any vessel or aircraft arriving in or departing from  
7 Guam a controlled substance listed in Schedule I or II of this Act, unless  
8 such substance or drug is a part of the cargo entered in the manifest or  
9 part of the official supplies of the vessel or aircraft.

10 (b) Exempted from §§67.601(a) and (b), and §67.602 of this Act is  
11 any individual who has a controlled substance, except a substance listed  
12 in Schedule I, in his possession for his personal medical use or for  
13 administration to an animal accompanying him, if he lawfully obtained  
14 such substance from a practitioner in the ordinary course of that  
15 practitioner's profession.

16 (c) The Attorney General may, by rule, except any compound,  
17 mixture or preparation containing any depressant or stimulant  
18 substance listed in Schedule III of this Act or listed in Schedule IV or V  
19 from the application of all or any part of this Article if: (1) the  
20 compound, mixture or preparation contains one (1) or more active  
21 medicinal ingredients not having a depressant or stimulant effect on the  
22 central nervous system, and (2) such ingredients are included therein in  
23 such combinations, quantity, proportion or concentration as to vitiate  
24 the stimulant or depressant effect on the central nervous system.

25 **Section 67.605. Persons Not Required to Register.**

1           (a) The following persons shall not be required to register under  
2 the provisions of this Section and may lawfully possess a controlled  
3 substance:

4           (1) an agent or employee of any importer or exporter  
5 registered under §67.606 of this Act if such agent or employee is  
6 acting in the usual course of his business or employment;

7           (2) a common or contract carrier or warehouseman or an  
8 employee thereof whose possession of any controlled substance is  
9 in the usual course of his business or employment; or

10           (3) an ultimate user who possesses such substance for a  
11 purpose specified in §67.100 (#34) of this Act and in conformity  
12 with an exemption granted under §67.604.

13           (b) The Attorney General may, by rule, waive the requirement  
14 for registration of certain importers and exporters if the Attorney  
15 General finds it consistent with the public health and safety, and may  
16 authorize any such importer or exporter to possess controlled  
17 substances for purposes of importation and exportation.

18           **Section 67.606. Registration Requirements.** (a) The  
19 Attorney General shall register an applicant to import or export a  
20 controlled substance listed in Schedule I or II if the Attorney General  
21 determines that such registration is consistent with the public interest  
22 and with United States obligations under international treaties,  
23 conventions or protocols in effect on the effective date of this Section. In  
24 determining the public interest, the factors enumerated in Paragraphs  
25 (1) - (8) of §67.303(a) of this Act shall be considered.



1           (b) Registration granted under Subsection (a) of this Section  
2 shall not entitle a registrant to import or export controlled substances  
3 listed in Schedule I or II of this Act other than those specified in the  
4 registration.

5           (c) The Attorney General shall register an applicant to import a  
6 controlled substance listed in Schedule III, IV or V unless the Attorney  
7 General determines that the issuance of such registration is inconsistent  
8 with the public interest. In determining the public interest, the factors  
9 enumerated in Paragraphs (1) - (8) of §67.303 (a) of this Act shall be  
10 considered.

11           (d) No registration shall be issued under this part for a period in  
12 excess of one (1) year. Unless the rules of the Attorney General  
13 otherwise provide, §§67.302(f), 67.304 and 67.306 of this Act shall apply  
14 to persons registered under this Section to the same extent such Sections  
15 apply to persons registered under §67.303.

16           (e) The Attorney General is authorized to promulgate rules and  
17 charge reasonable fees relating to the registration of importers and  
18 exporters of controlled substances under this Section.

19           (f) Persons registered by the Attorney General under this  
20 Section to import or export controlled substances may import or export,  
21 and, for the purpose of so importing or exporting, may possess, such  
22 substances to the extent authorized by their registration and in  
23 conformity with the other provisions of this Act.

1 (g) A separate registration shall be required at each principal  
2 place of business where the applicant imports or exports controlled  
3 substances.

4 (h) Except in emergency situations as described in  
5 §67.601(a)(2)(i) of this Act, prior to issuing a registration under this  
6 Section to a bulk manufacturer of a controlled substance listed in  
7 Schedule I or II of this Act and prior to issuing a rule under §67.601(a) of  
8 this Act authorizing the importation of such a substance, the Attorney  
9 General shall give manufacturers holding registrations for the bulk  
10 manufacture of the substance an opportunity for a hearing.

11 **Section 67.607. Manufacture or Distribution for Purposes of**  
12 **Unlawful Importation.** It shall be unlawful and punishable, as a  
13 felony of the first degree, for any person to manufacture or distribute a  
14 controlled substance listed in Schedule I or II of this Act:

15 (1) intending that such substance be unlawfully imported  
16 into Guam; or

17 (2) knowing that such substance will be unlawfully  
18 imported into Guam.

19 This Section is intended to reach acts of manufacture or of distribution  
20 committed outside the territorial jurisdiction of Guam. The Superior  
21 Court of Guam shall have jurisdiction over persons violating provisions  
22 of this Article.

23 **Section 67.608. Application of Federal Law and Cooperative**  
24 **Agreement Between Local and Federal Enforcement Agencies.**

25 Unless there is a positive conflict between this Act and the Federal

1 Drug Abuse Prevention and Control Act so that the two (2) cannot  
2 consistently stand together, the U.S. Congress has provided (21 U.S.C.  
3 §901) that there is no intent on the part of Congress to occupy the field  
4 in which that provision operates, including criminal penalties to the  
5 exclusion of any state or territorial law on the same subject matter which  
6 would otherwise be within the authority of the state or territory.

7 It is the Guam Legislature's intent that local agencies charged by  
8 the Governor with the enforcement of this Act, shall cooperate to the  
9 fullest extent with any Federal agency charged with enforcement of the  
10 Federal Act, (21 USC Chapter 13).

#### 11 ARTICLE 7.

#### 12 MISCELLANEOUS.

13 **Section 67.701. Prospective Application.** This Act applies to  
14 violations of law, seizures and forfeiture, injunctive proceedings,  
15 administrative proceedings and investigations that occur following the  
16 effective date of this Act.

17 **Section 67.702. Pending Proceedings.** (a) This Act does  
18 not affect or abate a prosecution for a violation of law occurring before  
19 the effective date of this Act. If the offense being prosecuted is similar to  
20 one set out in Article 4, the penalties under Article 4 apply if they are  
21 less than those under former law.

22 (b) This Act does not affect a civil seizure, forfeiture or  
23 injunctive proceeding commenced before the effective date of this Act.

24 (c) An administrative proceeding under laws that are  
25 superseded by this Act must be continued and brought to a final

1 determination in accordance with the laws and rules in effect before the  
2 effective date of this Act. A substance controlled under superseded law,  
3 but which is not listed in Appendices A, B, C, D or E is automatically  
4 controlled without further proceedings and must be added in the  
5 appropriate schedule.

6 (d) DPHSS shall initially permit a person to register who owns  
7 or operates an establishment engaged in the manufacture, distribution  
8 or dispensing of a controlled substance before the effective date of this  
9 Act and who is registered or licensed in Guam.

10 **Section 67.703. Continuation of Rules; Application to**  
11 **Existing Relationships.** Orders issued and rules adopted under any  
12 law affected by this Act and in effect on the effective date of this Act and  
13 not in conflict with this Act continue in effect until modified,  
14 superseded or repealed. Rights and duties that matured, penalties that  
15 were incurred and proceedings that were begun before the effective date  
16 of this Act continue in effect and are not affected by §67.709.

17 **Section 67.704. Continuing Criminal Enterprise; Civil Action.**

18 (a) The Attorney General may maintain a civil action against a  
19 person who violates §67.411 to obtain a judgment for damages in an  
20 amount equal to the gross income and the value of assets acquired  
21 directly or indirectly by the person by reason of violation of §67.411,  
22 together with costs incurred for resources and personnel used in the  
23 investigation and prosecution of the proceedings through which liability  
24 was established.

1           (b) The standard of proof in actions brought under this Section  
2 is a preponderance of the evidence.

3           **Section 67.705. Statute of Limitations.** A civil action under  
4 this Act must be commenced within seven (7) years after the claim for  
5 relief became known or should have become known, excluding any time  
6 during which a party is out of Guam or in confinement, or during which  
7 criminal proceedings relating to a party are in progress.

8           **Section 67.706. Short Title.** This Act may be cited as the  
9 *'Guam Uniform Controlled Substances Act.'*

10          **Section 67.707. Severability Clause.** If any provision of  
11 this Act or its application to any person or circumstance is held invalid,  
12 the invalidity does not affect other provisions or applications of this Act  
13 which can be given effect without the invalid provision or application,  
14 and to this end the provisions of this Act are severable.

15          **Section 67.708. Effective Date.** This Act takes effect  
16 thirty (30) days after enactment.

## APPENDIX A

A. Any of the following synthetic opiates, including any isomers, esters, ethers, salts, and salts of isomers, esters, and others of them that are theoretically possible within the specific chemical designation:

(1) acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide);

(2) acetylmethadol;

(3) allylprodine;

(4) alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

(5) alphameprodine;

(6) alphamethadol;

(7) alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidiny]-N-phenylpropanamide);

(9) benzethidine;

(10) betacetylmethadol;

(11) beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropamide);

(12) beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);

(13) betameprodine;

(14) betamethadol;

- 1 (15) betaprodine;
- 2 (16) clonitazene;
- 3 (17) dextromoramide;
- 4 (18) diampromide;
- 5 (19) diethylthiambutene;
- 6 (20) difenoxin;
- 7 (21) dimenoxadol;
- 8 (22) dimepheptanol;
- 9 (23) dimethylthiambutene;
- 10 (24) dioxaphetyl butyrate;
- 11 (25) dipipanone;
- 12 (26) ethylmethylthiambutene;
- 13 (27) etonitazene;
- 14 (28) etoxeridine;
- 15 (29) furethidine;
- 16 (30) hydroxypethidine;
- 17 (31) ketobemidone;
- 18 (32) levomoramide;
- 19 (33) levophenacymorphan;
- 20 (34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 21 piperidyl]-N-phenylpropanamide);
- 22 (35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-
- 23 piperidinyl]-N-phenylpropanamide);
- 24 (36) morpheridine;
- 25 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

- 1 (38) noracymethadol;  
2 (39) norlevorphanol;  
3 (40) normethadone;  
4 (41) norpipanone;  
5 (42) para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-  
6 4-piperidiny] propanamide;  
7 (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);  
8 (44) phenadoxone;  
9 (45) phenampromide;  
10 (46) phenomorphan;  
11 (47) phenoperidine;  
12 (48) piritramide;  
13 (49) proheptazine;  
14 (50) properidine;  
15 (51) propiram;  
16 (52) racemoramide;  
17 (53) thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-  
18 propanamide);  
19 (54) tilidine; and  
20 (55) trimeperidine.

21 B. Any of the following opium derivatives, including any salts,  
22 isomers and salts of isomers of them that are theoretically possible within the  
23 specific chemical designation:

- 24 (1) acetorphine;  
25 (2) acetyldihydrocodeine;



- 1 (3) benzylmorphine;
- 2 (4) codeine methylbromide;
- 3 (5) codeine-N-Oxide;
- 4 (6) cyprenorphine;
- 5 (7) desomorphine;
- 6 (8) dihydromorphine;
- 7 (9) drotebanol;
- 8 (10) etorphine (except hydrochloride salt);
- 9 (11) heroin;
- 10 (12) hydromorphanol;
- 11 (13) methyldesorphine;
- 12 (14) methyldihydromorphine;
- 13 (15) morphine methylbromide;
- 14 (16) morphine methylsulfonate;
- 15 (17) morphine-N-oxide;
- 16 (18) myrophine;
- 17 (19) nicocodeine;
- 18 (20) nicomorphine;
- 19 (21) normorphine;
- 20 (22) pholcodine; and
- 21 (23) thebacon.

22 C. Material, compound, mixture or preparation containing any  
23 quantity of the following hallucinogenic substances, including any salts,  
24 isomers, and salts of isomers of them that are theoretically possible within the  
25 specific chemical designation:

- 1           (1) Alpha-ethyltryptamine (other names: etryptamine; Monase;  
2 alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET;  
3 and AET);
- 4           (2) 4-bromo-2,5-dimethoxy-amphetamine (other names: 4-  
5 bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-  
6 DMA);
- 7           (3) 4-bromo-2,5-dimethoxyphenethylamine (other names: 2-(4-  
8 bromo-2,5-dimethoxyphenyl)-i-aminoethane; alpha-desmethyl DOB;  
9 2C-B, Nexus);
- 10          (4) 2,5-dimethoxyamphetamine (other names: 2,5-dimethoxy-  
11 alpha-methylphenethylamine; 2,5-DMA);
- 12          (5) 2,5-dimethoxy-4-ethylamphet-amine;
- 13          (6) 4-methoxyamphetamine (other names: 4-methoxy-alpha-  
14 methylphenethylamine; paramethoxyamphetamine, PMA);
- 15          (7) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 16          (8) 4-methyl-2,5-dimethoxy-amphetamine (other names: 4-  
17 methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; and STP);
- 18          (9) 3,4-methylenedioxy amphetamine;
- 19          (10) 3,4-methylenedioxymethamphetamine (MDMA);
- 20          (11) 3,4-methylenedioxy-N-ethylamphetamine (other names: N-  
21 ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,  
22 MDE, MDEA);
- 23          (12) N-hydroxy-3,4-methylenedioxyamphetamine (other names:  
24 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-  
25 hydroxy MDA);

- 1 (13) 3, 4, 5-trimethoxy amphetamine;
- 2 (14) bufotenine (other names: 3-(beta-Dimethylaminoethyl)-5-
- 3 hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-
- 4 dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine);
- 5 (15) diethyltryptamine (other names: N,N-Diethyltryptamine;
- 6 DET);
- 7 (16) dimethyltryptamine (other names: DMT);
- 8 (17) ibogaine (other names: (7-Ethyl-6,6Beta, 7, 8, 9, 10, 12, 13-
- 9 octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b]
- 10 indole; tabernanthe iboga);
- 11 (18) lysergic acid diethylamide;
- 12 (19) marihuana;
- 13 (20) mescaline;
- 14 (21) parahexyl (other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-
- 15 tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);
- 16 (22) peyote (all parts of the plant presently classified botanically
- 17 as *Lophophora williamsii* Lemaire, whether growing or not, its seeds, any
- 18 extract from any part of the plant, and every compound manufacture,
- 19 salts, derivative, mixture, or preparation of such plant, its seeds or
- 20 extracts);
- 21 (23) N-ethyl-3-piperidyl benzilate;
- 22 (24) N-methyl-3-piperidyl benzilate;
- 23 (25) psilocybin;
- 24 (26) psilocyn;
- 25 (27) tetrahydrocannabinols;

1 (28) ethylamine analog of phencyclidine (other names: N-ethyl-  
2 1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine, N-(1-  
3 phenylcyclohexyl) ethylamine; cyclohexamine, PCE);

4 (29) pyrrolidine analog of phencyclidine (other names: 1-(1-  
5 phenylcyclohexyl)-pyrrolidine, PCPy; PHP);

6 (30) thiophene analog of phencyclidine (other names: 1-[1-(2-  
7 thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP;  
8 TCP); and

9 (31) TCPy (other name: 1-[1-(2-thienyl)cyclohexyl] pyrrolidine.

10 D. Material, compound, mixture or preparation containing any  
11 quantity of the following substances having a depressant effect on the central  
12 nervous system, including any salts, isomers and salts of isomers of them that  
13 are theoretically possible within the specific chemical designation:

14 (1) mecloqualone; and

15 (2) methaqualone.

16 E. Material, compound, mixture or preparation containing any  
17 quantity of the following substances having a stimulant effect on the central  
18 nervous system, including their salts, isomers and salts of isomers:

19 (1) Aminorex (other names: aminoxaphen; 2-amino-5-phenyl-2-  
20 oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine);

21 (2) Cathinone (other names: 2-amino-1-phenyl-1-propanone,  
22 alpha-aminopropiophenone, 2-aminopropiophenone, and  
23 norephedrone);

24 (3) Fenethylamine;

1           (4)   Methcathinone (other names: 2-(methylamino)-  
2   propiophenone; alpha-(methylamino)propiofenone; 2-(methylamino)-  
3   1-phenylpropan-1-one; alpha-N-methylaminopropiophenone;  
4   monomethylpropion; ephedrone; N-methylcathinone; methylcathinone;  
5   AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts  
6   of optical isomers);

7           (5)   (+/-)cis-4-methylaminorex   (other   name:   (+/-)cis-4,5-  
8   dihydro-4-methyl-5-phenyl-2-oxazolamine);

9           (6)   N-ethylamphetamine; and

10          (7)   N,N-dimethylamphetamine (other   name:   N,N-alpha-  
11   trimethylphenethylamine).

1 APPENDIX B

2 A. Any of the following substances, however manufactured:

3 (1) Opium and opium derivative, and any salt, compound  
4 derivative, or preparation of opium or opium derivative, excluding  
5 apomorphine, dextrorphan, nalbuphine, butorphanol, nalmefene,  
6 naloxone, and naltrexone, but including:

- 7 (A) raw opium;
- 8 (B) opium extracts;
- 9 (C) opium fluid;
- 10 (D) powdered opium
- 11 (E) granulated opium;
- 12 (F) tincture of opium;
- 13 (G) codeine;
- 14 (H) ethylmorphine;
- 15 (I) etorphine hydrochloride;
- 16 (J) hydrocodone;
- 17 (K) hydromorphone;
- 18 (L) metopon;
- 19 (M) morphine;
- 20 (N) oxycodone
- 21 (O) oxymorphone;
- 22 (P) thebaine;

23 (2) A salt, compound, derivative, or preparation that is  
24 chemically equivalent or identical with any of the substances listed in  
25 Subparagraph (1), but not isoquinoline alkaloids of opium;

1           (3) Opium poppy and poppy straw;

2           (4) Coca leaves and any salt, compound, derivative, or  
3 preparation of coca leaves, including cocaine and ecgonine and their  
4 salts, isomers, derivatives, and salts of isomers and derivatives, and any  
5 salt, compound, derivative, or preparation that is chemically equivalent  
6 or identical with any of the substances listed in this subparagraph, but  
7 not including decocainized coca leaves or extractions of coca leaves  
8 which do not contain cocaine or ecgonine; and

9           (5) Concentrate of poppy straw (the crude extract of poppy  
10 straw in either liquid, solid, or powder form which contains the  
11 phenanthrene alkaloids of the opium poppy)

12        B. Any of, the following synthetic opiates, including any isomers,  
13 esters, ethers, salts, and salts of isomers, esters, and ethers of them that are  
14 theoretically possible within the specific chemical designation:

15           (1) alfentanil;

16           (2) alphaprodine;

17           (3) anileridine;

18           (4) bezitramide;

19           (5) carfentanil;

20           (6) bulk dextropropoxyphene (non-dosage forms);

21           (7) dihydrocodeine;

22           (8) diphenoxylate;

23           (9) fentanyl;

24           (10) isomethadone;

25           (11) levomethorphan;

- 1 (12) levorphanol;
- 2 (13) metazocine;
- 3 (14) methadone;
- 4 (15) methadone-intermediate, 4-cyano-2-dimethylamino-4,4-
- 5 diphenyl butane;
- 6 (16) moramide-intermediate, 2-methyl-3-morpholino-1, I-
- 7 diphenylpropane-carboxylic acid;
- 8 (17) pethidine (meperidine);
- 9 (18) pethidine-intermediate-A, 4-cyano-1-methyl-4-
- 10 phenylpiperidine;
- 11 (19) pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-
- 12 carboxylate;
- 13 (20) pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-
- 14 carboxylic acid;
- 15 (21) phenazocine;
- 16 (22) piminodine;
- 17 (23) racemethorphan;
- 18 (24) racemorphan;
- 19 (25) sufentanil; and
- 20 (26) levo-alphaacetylmethadol (other names: levo-alpha-
- 21 acetylmethadol, levomethadyl acetate, LAAM).

22 C. Material, compound, mixture, or preparation containing any  
23 quantity of the following substances, their salts, isomers, or salts of isomers,  
24 having a stimulant effect on the central nervous system:

- 25 (1) amphetamine;



- 1 (2) methamphetamine;
- 2 (3) phenmetrazine; and
- 3 (4) methylphenidate;

4 D. Material, compound, mixture, or preparation containing any  
5 quantity of the following substances having a depressant effect on the central  
6 nervous system, including any salts, isomers, and salts of isomers of them that  
7 are theoretically possible within the specific chemical designation:

- 8 (1) amobarbital;
- 9 (2) pentobarbital;
- 10 (3) phencyclidine; and
- 11 (4) secobarbital;
- 12 (5) glutethimide;

13 E. Dronabinol (synthetic) in sesame oil and encapsulated in a soft  
14 gelatin capsule in a U.S. Food and Drug Administration approved drug  
15 product (other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-  
16 trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-  
17 tetrahydrocannabinol);

18 F. Nabilone ((another name for nabilone: (+/-)-trans-3-(1, 1-  
19 dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-  
20 dibenzo[b,d]pyran-9-one)); and

21 G. Material, compound, mixture, or preparation containing any  
22 quantity of the following substances:

- 23 (1) Immediate precursor to amphetamine and  
24 methamphetamine: phenylacetone (other names: phenyl-2-propanone;  
25 P2P; benzyl methyl ketone; methyl benzyl ketone);

- 1
  - 2
  - 3
- (2) Immediate precursors to phencyclidine (PCP):
- (i) 1-phenylcyclohexylamine; and
  - (ii) 1-piperidinocyclohexanecarbonitrile (PCC)

1 **APPENDIX C**

2 A. A material, compound, mixture, or preparation containing any  
3 quantity of the following substances having a stimulant effect on the central  
4 nervous system, including any salts, isomers, and salts of isomers of them that  
5 are theoretically possible within the specific chemical designation:

6 (1) a compound, mixture, or preparation in dosage unit form  
7 containing any stimulant substance included in Schedule II and which  
8 was listed as an excepted compound on August 25, 1971, pursuant to  
9 the federal Controlled Substances Act, and any other drug of the  
10 quantitative composition shown in that list for those drugs or which is  
11 the same except for containing a lesser quantity of controlled substances;

12 (2) benzphetamine;

13 (3) chlorphentermine;

14 (4) clortermine; and

15 (5) phendimetrazine;

16 B. A material, compound, mixture, or preparation containing any  
17 quantity of the following substances having a depressant effect on the central  
18 nervous system:

19 (1) a compound, mixture, or preparation containing any of the  
20 following drugs or their salts and one or more other active medicinal  
21 ingredients not included in any schedule:

22 (A) amobarbital;

23 (B) secobarbital; and

24 (C) pentobarbital;

1           (2) any of the following drugs, or their salts, in suppository  
2 dosage form, approved by the federal Food and Drug Administration  
3 for marketing only as a suppository:

4                   (A) amobarbital;

5                   (B) secobarbital, and

6                   (C) pentobarbital;

7           (3) a substance containing any quantity of a derivative of  
8 barbituric acid or any salt of a derivative of barbituric acid;

9                   (4) chlorhexadol;

10                  (5) lysergic acid;

11                  (6) lysergic acid amide;

12                  (7) methyprylon;

13                  (8) sulfondiethylmethane;

14                  (9) sulfonethylmethane;

15                  (10) sulfonmethane; and

16                  (11) tiletamine and zolazepam or any of their salts (other names  
17 for a tiletamine-zolazepam combination product: Telazol; other names  
18 for tiletamine: 2-(ethylamino)-2-(2-thienyl) -cyclohexanone; other names  
19 for zolazepam: 4-(2 -fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-  
20 [3,4-e][1,41-diazepin-7(lH)-one; flupyrazapon);

21           C. Nalorphine; and

22           (D) A material compound, mixture, or preparation containing any of  
23 the following narcotic drugs, or their salts calculated as the free anhydrous  
24 base or alkaloid, in limited quantities as set forth below:

1 (1) not more than 1.8 grams of codeine per 100 milliliters or not  
2 more than 90 milligrams per dosage unit, with an equal or greater  
3 quantity of an isoquinoline alkaloid of opium;

4 (2) not more than 1.8 grams of codeine per 100 milliliters or not  
5 more than 90 milligrams per dosage unit, with one or more active,  
6 nonnarcotic ingredients in recognized therapeutic amounts;

7 (3) not more than 300 milligrams of dihydrocodeinone  
8 (hydrocodone) per 100 milliliters or not more than 15 milligrams per  
9 dosage unit, with a fourfold or greater quantity of an isoquinoline  
10 alkaloid of opium;

11 (4) not more than 300 milligrams of dihydrocodeinone  
12 (hydrocodone) per 100 milliliters or not more than 15 milligrams per  
13 dosage unit, with one or more active-nonnarcotic ingredients in  
14 recognized therapeutic amounts;

15 (5) not more than 1.8 grams of dihydrocodeine per 100  
16 milliliters or not more than 90 milligrams per dosage unit, with one or  
17 more active, nonnarcotic ingredients in recognized therapeutic amounts;

18 (6) not more than 300 milligrams of ethylmorphine per 100  
19 milliliters or not more than 15 milligrams per dosage unit, with one or  
20 more active, nonnarcotic ingredients in recognized therapeutic amounts;

21 (7) not more than 500 milligrams of opium per 100 milliliters or  
22 per 100 grams, or not more than 25 milligrams per dosage unit, with one  
23 or more active, nonnarcotic ingredients in recognized therapeutic  
24 amounts; and

1           (8) not more than 50 milligrams of morphine per 100 milliliters  
2 or per 100 grams with one or more active, nonnarcotic ingredients in  
3 recognized therapeutic amounts.

4 E. Anabolic Steroids.

5           (1) Boldenone, Chlorotestosterone (4-chlortestosterone),  
6 Clostebol, Dehydrochlormethyltestosterone; Dihydrotestosterone (4-  
7 dihydrotestosterone), Drostanolone, Ethylestrenol, Fluoxymesterone,  
8 Formebolone (formebolone), Mesterolone, Methandienone,  
9 Methandranone, Methandriol, Methandrostenolone, Methenolone,  
10 Methyltestosterone, Mibolerone, Nandrolone, Norethandrolone,  
11 oxandrolone, Oxymesterone, oxymetholone, Stanolone, Stanozolol,  
12 Testolactone, Testosterone, Trenobolone; and

13           (2) Any salt, ester, or isomer of a drug or substance described or  
14 listed in (1), if that salt, ester, or isomer promotes muscle growth.  
15 Except such term does not include an anabolic steroid which is  
16 expressly intended for administration through implants to cattle or  
17 other nonhuman species and which has been approved by the Secretary  
18 of Health and Human Services for such administration. If any person  
19 prescribes, dispenses, or distributes such steroid for human use, such  
20 person shall be considered to have prescribed, dispensed, or distributed  
21 an anabolic steroid within the meaning of this paragraph.

22           DPHSS may exempt by rule a compound, mixture, or preparation  
23 containing a stimulant or depressant substance listed in subsections A and B  
24 from the application of all or part of this Act, if the compound, mixture, or  
25 preparation contains one or more active medicinal ingredients not having a

1 stimulant or depressant effect on the central nervous system and the  
2 admixtures are in combinations, quantity, proportion, or concentration that  
3 vitiate the potential for abuse of the substances having a stimulant or  
4 depressant effect on the central nervous system.

1 APPENDIX D

2 A. A material, compound, mixture, or preparation containing any of  
3 the following narcotic drugs, or their salts calculated as the free anhydrous  
4 base or alkaloid, in limited quantities as set forth below:

5 (1) not more than 1 milligram of difenoxin and not less than 25  
6 micrograms of atropine sulfate per dosage unit;

7 (2) dextropropoxyphene (dosage forms); and

8 (3) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-  
9 diphenyl-3-methyl-2-propionoxybutane);

10 B. A material, compound, mixture, or preparation containing any  
11 quantity of the following substances having a depressant effect on the central  
12 nervous system, including any salts, isomers, and salts of isomers of them that  
13 are theoretically possible within the specific chemical designation:

14 (1) alprazolam;

15 (2) barbital;

16 (3) bromazepam;

17 (4) camazepam;

18 (5) chloral betaine;

19 (6) chloral hydrate;

20 (7) chlordiazepoxide;

21 (8) clobazam;

22 (9) clonazepam;

23 (10) clorazepate;

24 (11) clotiazepam;

25 (12) cloxazolam;



- 1 (13) delorazepam;
- 2 (14) diazepam;
- 3 (1.5) estazolam;
- 4 (16) ethchlorvynol;
- 5 (17) ethinamate;
- 6 (18) ethyl loflazepate;
- 7 (19) fludiazepam;
- 8 (20) flunitrazepam;
- 9 (21) flurazepam;
- 10 (22) halazepam;
- 11 (23) haloxazolam;
- 12 (24) ketazolam;
- 13 (25) lorazepam;
- 14 (26) lorazepam;
- 15 (27) lormetazepam;
- 16 (28) mebutamate;
- 17 (29) medazepam;
- 18 (30) meprobamate;
- 19 (31) methohexital;
- 20 (32) methylphenobarbital (mephobarbital);
- 21 (33) midazolam;
- 22 (34) nimetazepam;
- 23 (35) nitrazepam;
- 24 (36) nordiazepam;
- 25 (37) oxazepam;

- 1 (8) phentermine;
- 2 (9) pipradrol; and
- 3 (10) SPA ((-)-i-dimethylamino-1,2-diphenylethane);

4 E. A material, compound, mixture, or preparation containing any  
5 quantity of the following substance, including its salts:

- 6 (1) pentazocine
- 7 (2) butorphanol (including its optical isomers)

8 F. DPHSS may exempt by rule any compound, mixture, or  
9 preparation containing a depressant substance listed in subsection B from the  
10 application of all or part of this Act, if the compound, mixture, or preparation  
11 contains one or more active medicinal ingredients not having a depressant  
12 effect on the central nervous system and the admixtures are in combinations,  
13 quantity, proportion, or concentration that vitiate the potential for abuse of  
14 the substances having a depressant effect on the central nervous system.



1

(1) pyrovalerone.

26  
94-149



# Committee on Judiciary, Public Safety and Consumer Protection

## Twenty-Fourth Guam Legislature

Senator  
**Elizabeth Barrett-Anderson**  
Chairperson

Senator  
**John C. Salas**  
Vice-Chairman

Senator  
**Anthony C. Blaz**  
Member

Senator  
**Joanne M.S. Brown**  
Member

Senator  
**Mark Forbes**  
Member

Senator  
**Edwardo J. Cruz, M.D.**  
Member

Senator  
**Vicente C. Pangelinan**  
Member

Senator  
**Frank Blas Aguon, Jr.**  
Member

November 19, 1997

**SPEAKER ANTONIO R. UNFINGCO**  
Twenty-Fourth Guam Legislature  
155 Hester St.  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Public Safety and Consumer Protection, to which was referred **Bill No. 13**, wishes to report back to the Legislature with its recommendation **TO DO PASS Bill No. 13 as amended by the Author.**

The voting record is as follows.

8	TO PASS
---	NOT TO PASS
---	ABSTAIN
---	TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated

Sincerely,

*E. Barrett-Anderson*  
**ELIZABETH BARRETT-ANDERSON**  
Chairperson

Attachments

# COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND CONSUMER PROTECTION

TWENTY-FOURTH GUAM LEGISLATURE

173 ASPINALL AVENUE, ADA PLAZA CENTER SUITE 108A, AGANA, GUAM 96910



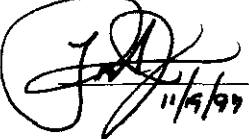
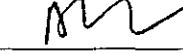
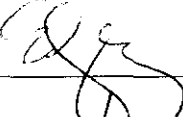
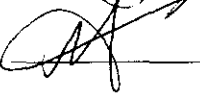

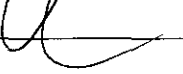
SENATOR ELIZABETH BARRETT-ANDERSON  
Chairperson

SENATOR JOHN C. SALAS  
Vice-Chairperson

SPEAKER ANTONIO R. UNPINGCO  
Ex-Officio Member

## VOTING SHEET

### Bill No. 13 As Amended by the Author: An Act Relative to the Regulation and Enforcement of Controlled Substances.

<u>COMMITTEE MEMBERS</u>	<u>INITIAL</u>	<u>TO PASS</u>	<u>NOT PASS</u>	<u>ABSTAIN</u>
1). Sen. Elizabeth Barrett-Anderson Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2). Sen. John C. Salas Vice-Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3). Sen. Frank B. Aguon, Jr. Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4). Sen. Anthony C. Blaz Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5). Sen. Joanne M.S. Brown Member	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6). Sen. Edwardo J. Cruz M.D. Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7). Sen. Mark Forbes Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8). Sen. Vicente C. Pangelinan Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9). Speaker Antonio Unpingco Ex-Officio Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**TWENTY FOURTH GUAM LEGISLATURE**  
**Committee on Judiciary, Public Safety and Consumer Protection**  
**ELIZABETH BARRETT-ANDERSON, CHAIRPERSON**

**Committee Report**  
on

**Bill No. 13: AN ACT TO REPEAL AND REENACT CHAPTER 67 OF TITLE 9, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 80.30.1, SECTION 80.31.1, SECTION 80.33 AND SECTIONS 80.33.1 THROUGH 80.33.10 OF TITLE 9, GUAM CODE ANNOTATED RELATING TO THE REGULATION AND ENFORCEMENT OF CONTROLLED SUBSTANCES AND THE "DRUG TREATMENT AND ENFORCEMENT FUND" WHICH WAS CREATED TO SUPPORT DRUG TREATMENT AND EDUCATION AND LAW ENFORCEMENT.**

**I. SUMMARY**

The Committee on Judiciary, Public Safety and Consumer Protection held a public hearing on Wednesday, April 9, 1997 at 2:00 p.m. on Bill No. 13 at the Legislative Public Hearing room. Public Notice was announced in the April 2nd and April 8th, 1997 issues of the Pacific Daily News.

Committee Senators Present:

Senator Elizabeth Barrett-Anderson, Chairperson  
Senator Vicente Pangelinan  
Senator Frank Aguon

Senators Present:

Senator Lou Leon Guerrero  
Senator Mark Charfauros  
Senator Francisco Camacho  
Senator Judith Won Pat-Borja

Providing Public Testimony on the Bill:

Elena A. Scragg, **Oral/written**  
Jeanette Tanos, **Oral/written**  
Phillip J. Tydingco, **Oral/written**  
Thomas Nadean **Oral**

**Purpose:**

The Bill repeals and reenacts 9 GCA Chapter 67, the Uniform Controlled Dangerous Substances Act, which was first adopted by the Guam Legislature in 1972. The updated Act focuses more attention than does existing law on drug abuse involving the diversion of legal controlled substances into the illegal market by persons using forged prescriptions, altered records, multiple doctor visits and thefts.

The bill states the intent to explicitly acknowledge the existence of the diversion of controlled substances and to address that problem by granting broader enforcement and regulatory powers to the lead agency, the Department of Public Health and Services (DPHSS). Its further intent is to direct the Attorney General, Guam Police Department, and DPHSS to work closely together, spelling out their respective roles; to update the drug schedules; to revise and add new criminal provisions; and to create uniformity with federal drug laws.

**Relationship to Existing Law:**

The updated Act would continue the comprehensive statutory coverage of controlled substances of the existing law, while enacting provisions dealing more expressly with drug abuse that involves the illicit diversion of legal drugs into the illegal market.

**II. Summary of Testimony**

**ELENA SCRAGG  
DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE, DIRECTOR**

Ms. Scragg testified in support of Bill No. 13. Ms. Scragg testified that Bill 13 would dramatically increase the accountability of controlled substances and provide for a funding source for the treatment of drug addicts. Ms. Scragg testified that more resources may be necessary to carry out the research and educational programs described in the bill.

**JEANETTE TANOS  
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**



Ms. Tanos testified on behalf of the Dental Board and Pharmacy Board, she stated that both Boards support Bill 13 as written.

**PHILLIP TYDINGCO  
DEPARTMENT OF LAW, CHIEF PROSECUTOR (ACTING)**

Mr. Tydingco testified that the prosecutors need more time to review the Bill. Mr. Tydingco stated that the prosecutors have brought to his attention that some of the sentencing provisions of the Bill may need to be addressed. Mr. Tydingco cited as an example the current law makes a distinction between narcotic and non-narcotic with penalties differing for each, "ice" would be classified as a non-narcotic substance and have a lessor penalty. Mr. Tydingco stated that the code is in need of an update. Mr. Tydingco testified that enhanced sentencing for repeat offenders should be considered.

**DENNIS RODRIGUEZ  
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, DIRECTOR**

Mr. Rodriguez testified in support of Bill 13. Mr. Rodriguez stated that currently the Department has one person to enforce the law; however, the Department has found violations of the law during the inspection of stores. Mr. Rodriguez stated that prescription drugs were being sold off the shelf and that the incidents were reported to the Attorney General's Office.

**THOMAS NADEAL  
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, PROGRAM  
MANAGER**

The Department has come across prescription type medication on the floor of various retail stores, appropriate action was taken and the articles were removed from the shelf.

### **III. Findings and recommendations**

The Chairperson of the Committee on Judiciary, Public Safety and Consumer Protection expressed her willingness to accept additional testimony as several testifiers expressed a desire to further study the Bill and comment appropriately, as of November 1997 no additional testimony was submitted to the Committee; however, the author did submit amendments that were incorporated into the Bill. Therefore, the Committee on Judiciary, Public Safety and Consumer Protection moves forward with Bill 13 as amended by the author finding support for passage and presents its report on Bill No. 13 as amended by the author with the recommendation **TO DO PASS**.

# TWENTY-FOURTH GUAM LEGISLATURE

## PUBLIC HEARING

**SENATOR ELIZABETH BARRETT-ANDERSON**

**Chairperson, Committee on Judiciary, Public Safety and Consumer Protection**

## WITNESS SIGN-IN SHEET

Committee Hearing Room, 173 Aspinall Ave., Ada Plaza Center, Suite 108A, Agana, Guam 96910  
 Wednesday, April 9, 1997  
 Public Hearing on Bill No. 13

NAME(Please print)	ORGANIZATION	Bill(s) to Testify On	ORAL/WRITTEN	FOR/AGAINST List Bill Number
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1	<del>ELIEN A SCRAGG</del>		<del>13</del>	<del>ORAL &amp; WRITTEN</del>	
2	ELIEN A SCRAGG		13	ORAL & WRITTEN	
3	<del>DEANETTE TANDOS</del>		<del>13</del>	<del>ORAL</del>	<del>FOR</del>
4	DEANETTE TANDOS	Rental Bd. Pharmacy Bd.	13	ORAL/WITTEN	FOR
5	DENNIS G. RODRIGUEZ	DPHSS	13	written	FOR
6	PHIL LYDGE		13	ORAL/WRITTEN	
7	THOMAS NADEAU	DPHSS	13	ORAL	FOR
8	MILB WILLIAMS	DPHSS	6		
9					
10					
11					
12					
13					
14					
15					
16					



## DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE

790 Gov. Carlos G. Camacho Road, Tamuning, Guam 96911 • Tel: (671) 647-5445/5330 • Fax: (671) 649-6948

April 7, 1997

Senator Elizabeth Barrett-Anderson  
Chairman, Committee on Judiciary, Public Safety and Consumer Protection  
24th Guam Legislature  
Ada Plaza Center, Suite 108-A  
173 Aspinal Avenue  
Agana, Guam 96932

Dear Senator Barrett-Anderson:

Buenas yan Hafa Adai!

This agency appreciates the opportunity to provide input on Bill 13, Relative to the Regulation and Enforcement of Controlled Substances and the "Drug Treatment and Enforcement Fund."

The process of doing so has been rather overwhelming given the vastness of the document and the limited amount of time to prepare. The input hereby provided is based on areas found of importance to this agency's duties and responsibilities.

This department is supportive of Bill 13 as it dramatically increases the accountability of controlled substances and provides an additional source of funding for the treatment of drug addictions.

Significant to this agency is Section 67.401.11, line 17, which should provide for other substances as well, please keep in mind there are millions of dollars being poured into research to develop more dangerous drugs (cheaper, faster, more difficult to overcome, e.g., Ecstasy); in addition, the mandatory enrollment and attendance in a drug rehabilitation program at DMHSA as part of the sentencing is being practiced by the court already, however, **there are long waiting lists at this agency due to a substantial increase (approx. 72% Jan. '96 to Feb. '97) in demand for services for drug and alcohol services, with a decrease rather than an increase in financial and human resources.**

Furthermore, the lack of community understanding of the nature of treatment processes of addiction - high demands, high expectations without providing the necessary tools (funding & human resources), has created a very self-defeating community outcome.



Commonwealth Now!

Going back to the mandatory clause, the court has the ability to also include mandatory sentence to attend other community programs. Immediately upon sentencing, attendance to AA/NA/AL-ANON meetings is necessary. This agency has started to include this provision while individuals are on "the waiting list." It certainly separates those who are "serious about recovering" and those who are "simply complying with the system."

Section 67.414.1, "Shall be used exclusively for the support of drug treatment and education programs in the Territory of Guam, as well as support of law enforcement efforts, subject to appropriation for those purposes by the Guam Legislature." It is hereby suggested that more concreteness be directed toward the distribution (%) of the funding per agency, as well as insuring that there is no duplication of services. Not doing so will put this agency in the middle of competing for funding with enforcement agencies whereby given the powers in place, money may not be diverted for treatment.

On page 78, please note that the DMHSA is not adequately equipped to perform research as indicated, on an on-going basis as this is a very intricate, time-consuming task requiring highly qualified scientists.

On page 76, Section (a) 67.506, "Carrying out education programs designed to prevent and deter misuse and abuse of controlled substances." Caution is hereby expressed regarding the duplication of services by different agencies rather than building/enhancing/adding to what DMHSA is already carrying out, with very very limited resources (served over 30,000 people last year).

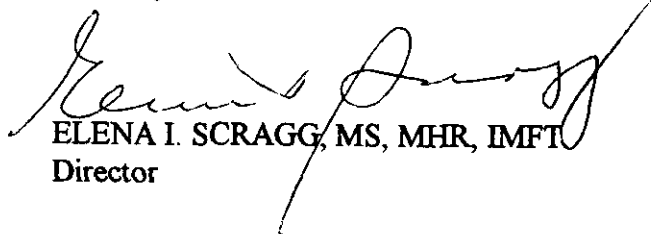
Section 67.409, "Carrying out education programs designed to prevent and deter misuse and abuse of controlled substances." More research needs to be directed on this section, there is I believe, federal requirements that include a percentage of properties seized during a drug-bust go into treatment rather than enforcement alone.

In regards to the intent as it refers to the tighter control of controlled substances by DPHSS, this agency is in full support.

Thank you again, for including this department in your request for input. If possible, please allow more time so more extended and thorough testimony can be developed.

Dangkulu Na Si Yu'us Ma'ase.

Sincerely,



ELENA I. SCRAGG, MS, MHR, IMFT  
Director



*Ufisinan Hiniråt Abugao*  
*Tiritorian Guåhan*

**Carl T.C. Gutierrez**  
*Maga'dhi*  
*Governor*

**Madeleine Z. Bordallo**  
*Tiffente Gubetnadora*  
*Lt. Governor*

**Office of the Attorney General**  
**Territory of Guam**  
**Prosecution Division**

**Calvin E. Holloway, Sr.**  
*Hiniråt Abugao*  
*Attorney General*

**Phillp J. Tydingco**  
*Atkåden Abugådu*  
*(Acting) Chief Prosecutor*

April 9, 1997

HONORABLE ELIZABETH BARRETT-ANDERSON  
Chairperson, Committee on Judiciary and  
Criminal Justice & Environmental Affairs  
Twenty-Fourth Guam Legislature  
Agana, Guam

Subject: Repeal and Reenactment of the Uniformed Controlled  
Substances Act (Bill No. 13)

Dear Madam Chairperson:

Buenas Yan Saluda!

The Office of the Attorney General as well as its Prosecution Division in particular support the intent of the bill to update the many regulatory, law enforcement and drug education, prevention and treatment provisions of the Uniformed Controlled Substances Act (Title 9 G.C.A. Chapter 67) which has been in effect since its promulgation nearly twenty-five years ago in 1972. Indeed, the present version has involved the consultation of this office with respect to the Department of Public Health and Social Services as well as other agencies.

However, the Prosecution Division only recently received Bill No. 13 in its present version consisting of 114 pages on or about late Monday afternoon, April 7, 1997 and respectfully request that we be



Commonwealth Now!

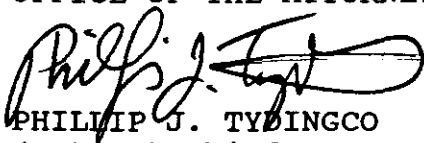
Letter to Hon. Elizabeth Barrett-Anderson  
Subject: Bill 13  
April 9, 1997  
Page 2

allowed to submit the written input of our prosecutors assigned to the drug law enforcement task force at a later date because they as well as the new Acting Chief Prosecutor require more time to review the bill, especially the criminal offenses and penalties provisions in additions to others.

Your cooperation and appreciation in this matter will be most appreciated.

Dångkolo na Si Yu'os Ma'åse' - Thank you very much!

OFFICE OF THE ATTORNEY GENERAL

  
By: PHILLIP J. TYDINGCO  
(Acting) Chief Prosecutor

G:\HOME\TYDINGCO\BILL#13.WPD



**DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**  
GOVERNMENT OF GUAM  
P.O. BOX 2816  
AGANA, GUAM 96910



**Testimony on Bill No. 13 - An Act to repeal and reenact Chapter 67 of Title 9, Guam Code Annotated, and to repeal Section 80.30.1, Section 80.31.1, Section 80.33 and Sections 80.33.1 through 80.33.10 of Title 9, Guam Code Annotated relating to the regulation and enforcement of controlled substances and the "Drug Treatment and Enforcement Fund" which was created to support drug treatment and education and law enforcement.**

My name is Dennis G. Rodriguez, Director of the Department of Public Health & Social Services. I am here to present testimony on Bill 13. Our Department supports the intent of Bill No. 13 which would repeal the present Uniform Controlled Substances Act, 9 GCA, Chapter 67. However, we would like to raise some issues for consideration or clarification.

For correctness, we recommend that on Page 3, Article I, line 15: delete the words "Intent and". The section delineating Legislative intent is found on Page 1.

Article II, Section 67.201, Item (a) (page 12) states that DPHSS shall administer ... and may add substances to or delete or reschedule substances listed ... pursuant to the Administrative Adjudication Law, 5 GCA section 9100, *et seq.* We have a concern that the Administrative Adjudication Law process generally takes a long time to complete. The Department is requesting clarification if there is a different process that may be used in order to expedite any changes that need to be made.

Page 14, lines 2 - 13 speak about "objections". We would like to have clarified, the minimum acceptable grounds/basis on which an objection can be made. We are concerned that without appropriate legislative guidance on this issue, there could be a lot of time wasted on frivolous objections being made that will unnecessarily tie up the process and cause the problem to continue.

Page 14, lines 18 -19 states "If DPHSS finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to ...". What constitutes an "emergency basis"? The mechanism by which the scheduling is to be done is not clear. What is the authority that is to be used to "add" a substance to the list. What is the timeframe within which the Department can act to add a substance to the list? The proposed bill does not define how this is to be done.

On Page 20, item (b), the language should be modified to state that monies collected from established fees for registration, manufacture, distribution and dispensing of controlled



substances shall be deposited into a special account established by the Department of Administration for the Department of Public Health & Social Services. The Department of Administration is authorized to establish accounts.

On Page 24, lines 8 - 11, the Bill talks about "if the practitioner is registered under federal law to conduct research with Schedule I drugs he/she may conduct research within the Territory with the substance upon furnishing DPHSS with evidence of federal registration". We are unclear if the intent here is to relieve the practitioner of the responsibility to officially register with the Department of Public Health & Social Services because of reciprocity. Is the intent to use the federal registration documentation in lieu of actually completing the application form? This section needs to be clarified.

On Page 25, section "b", we raise the question about limiting the revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist? Why should we allow this. If there are reasons for the revocation or suspension and if we are saying that there is a significant problem with the abuse of controlled substances, why then are we going to "reward" the registrant by allowing them to continue to make other substances. We need to send a strong and clear message that we will not tolerate abuses of controlled substances.

On Page 26, lines 16 - 21 refer to DPHSS being authorized to recover costs for seizing, placing under seal, maintaining custody and disposing of any controlled substance from the registrant. We would like clarification on where those recovered costs will be placed. Will those monies be deposited to the General Fund or to the Controlled Substances Diversion Fund?

On Page 27, lines 2 - 3 and lines 5 - 6, we are concerned that the way it is presently worded could leave room for different interpretations. Specifically, "not less than 30 days after the date of service of the order" is not clear. Is the intent to have the registrant/applicant respond within 30 days or 30 days after the order is served to them. The same rationale applies to lines 5 - 6 as well... "the order must be served not later than 30 days before the expiration of the registration". Does the department have up to 30 days to issue the order to the registrant or is the intention that the Department must serve the order at least 30 days prior to the expiration of the registration. It is possible in the first instance that DPHSS can issue the order 1 or 2 days prior to expiration which would not give reasonable notice time for the registrant to respond. It would seem more appropriate to give the registrant at least 30 days notice to comply with the order.

On Page 29, lines 22 - 26, subsection "h" appears to be too open or vague. The standard should be that if the Pharmacist has any reason to question a prescription, he/she has a



duty and responsibility to contact the practitioner to verify the prescription. The Department recommends that all penalties from Section 67.401.4 inclusive and subsequent to it should include mandatory enrollment in a drug rehabilitation and drug abuse education for all offenders. There is no language in these sections that addresses this. Although most sentences could theoretically include this provision, there should be no room allowed to get around this.

The proposed revisions, beginning on Page 40 and in subsequent sections, state that fines that can be imposed for violations of provisions of this Act. There is reference to "special accounts" that are to be established and are separate from one another which are not subject to usual guidelines related to operation accounts. Rather than establishing separate accounts for different agencies for fines or fees collected, we recommend that one account be established. This account can be used for the activities related to drug education, prevention and treatment as necessary. The account should be administered by a designated department/agency and can be used by other agencies such as the Attorney General and the Department of Mental Health and Substance Abuse for these specific purposes.

Page 59, lines 15 - 17 deal with placing an individual "on probation upon terms and conditions". We are concerned that this language is too vague. We believe that there should be a minimum standard that is set even for those individuals who may have violated this Act for the first time. We recommend that a minimum level be set such as a mandatory drug rehabilitation if needed and concurrent drug education or counseling program to be entered into for a defined period of time.

Section 67.414 deals with assessments that are to be levied on individuals convicted of violations of this Act. There is a range of \$500.00 to \$3,000.00 that is separate from any other fines that are allowed by this Act. The monies collected shall be forwarded to the Probation Department for drug abuse education, prevention and treatment programs. This account is to be administered by the Probation Office.

One concern we have on this particular section is why there is a range for the assessment. This should be standardized and should be the maximum amount allowed. If we are serious about the problem of drug abuse on this island, we need to make it very expensive for those individuals who violate any provisions of this Act.

Another concern is that a special account is to be established for use by the Probation Section. There is a problem in government with overlap of functions by different departments for limited resources. It would be better to have one department administer an overall account that is established to meet the objectives of drug abuse education,

prevention and treatment. We need to focus our efforts collaboratively.

One last issue on this particular section is the enforcement of the monetary assessment. What other provisions are there if the individual is unable to pay the fines or assessments. What are the criteria by which this determination is to be made. Can real assets be seized and auctioned off to pay for the fines or assessments?

Section 67.501 relates to Powers of Enforcement. We believe that the Directors of the designated agencies should be the ones to execute warrants, summonses or subpoenas. There have been recent events that clearly indicate that there should be top-level knowledge prior to such actions being undertaken.

The Department would like to raise the concern that there are no provisions for underage offenders. It is likely that students are involved in this problem as well. They may have access to these controlled substances and may try to "make money" by selling it to their classmates. I believe that we could be ignoring a significant problem with controlled substance abuse in the schools. There should be provisions that deal with this potentially big but silent problem.

These concerns were identified upon our initial review of the Bill. We will continue to review this document. If additional issues are identified, we will forward these to the Committee. Thank you for the opportunity to present our testimony on Bill 13.



DENNIS G. RODRIGUEZ  
Director, DPHSS

APR 09 1997



## GUAM BOARD OF EXAMINERS FOR PHARMACY

Department of Public Health & Social Services  
Government of Guam  
P.O. Box 2816  
Agana, Guam 96910

April 9, 1997

Honorable Senator Elizabeth Barrett-Anderson  
Chairperson, Committee on Judiciary,  
Public Safety, and Consumer Protection  
Twenty-Fourth Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Senator Barrett-Anderson,


The Guam Board of Examiners for Pharmacy endorses the passage of Bill 13:

AN ACT TO REPEAL AND REENACT CHAPTER 67 OF TITLE 9, GUAM CODE ANNOTATED, AND TO REPEAL §80.30.1, §80.31.1, §80.33 AND §§80.33.1 THROUGH 80.33.10, OF TITLE 9, GUAM CODE ANNOTATED RELATING TO THE REGULATION AND ENFORCEMENT OF CONTROLLED SUBSTANCES AND THE "DRUG TREATMENT AND ENFORCEMENT FUND" WHICH WAS CREATED TO SUPPORT DRUG TREATMENT AND EDUCATION AND LAW ENFORCEMENT.

More importantly, the Board supports Section 67.308.1 Prescriptions which states that "...a prescription for Schedule II, III, IV, or V substance shall not be filled by a pharmacist more than seven (7) days after its date of issuance; ..."

On behalf of the Guam Board of Examiners for Pharmacy, I solicit your support to endorse Bill 13 in its entirety to repeal and reenact the Guam Uniform Controlled Substances Act (the Act).

Dangkulo na Si Yu'us Maase.

  
MILDRED M. GABRIEL, R.Ph.  
CHAIRPERSON



# GUAM BOARD OF DENTAL EXAMINERS

7 April 1997

Senator Elizabeth Barrett-Anderson, Chairperson  
Committee on Judiciary, Public Safety and Consumer Protection  
24th Guam Legislature  
Suite 108-A  
Ada Plaza Center  
173 Aspinal Ave.  
Agana, GU 96910

Dear Senator Barrett-Anderson;

RE: Testimony on Bill # 13


Through its role in the regulation of dental practice in the territory, the Guam Board of Examiners for Dentistry understands the importance of this bill for the management of controlled substances in the territory.

The Guam Board of Examiners for Dentistry states its support and approval for Bill # 13, the Uniform Controlled Substances Bill, as written.

Sincerely,

John N. van der Pyl, DDS, Chairman  
Guam Board of Examiners for Dentistry

Published in the issues of the Pacific Daily News  
on April 2, and 8, 1997.

<p><b>Senator Elizabeth Barrett-Anderson</b> Chairperson, Committee on Judiciary, Public Safety &amp; Consumer Protection</p>	
<p><b>NOTICE OF PUBLIC HEARING</b> The Committee will hold Public Hearings on Wednesday, April 9, 1997, at 10am and 2pm in the Public Hearing Room of the Guam Legislature, 155 Hesler Street in Agana.</p>	
<p>Time : 10:00am</p>	
<p><b>PUBLIC HEARING ON:</b> Bill No. 151 in its original version and its version as substituted by the Author. Relative to establishing the Guam Police Department. Introduced by Senator Elizabeth Barrett-Anderson</p>	
<p>Time: 2:00pm</p>	
<p><b>PUBLIC HEARING ON:</b> Bill No. 13. Relative to the regulation and enforcement of controlled substances and the "Drug Treatment and Enforcement Fund." Introduced by Senator Lou Leon Guerrero Bill No. 67 - Relative to promoting greater truth in sentencing in the Territory of Guam. Introduced by Senator Mark Forbes Bill No. 84 - Relative to requiring the director of the Department of Corrections to adopt and promulgate rules and regulations in accordance with the Administrative Adjudication Act. Introduced by Senator Mark Charfauros</p>	
<p><b>THE PUBLIC IS INVITED TO PRESENT WRITTEN AND/OR ORAL TESTIMONY, YOU MAY ALSO E-MAIL YOUR TESTIMONY TO ebanderson@kuentos.guam.net</b></p>	

*Wasapali*  
*3/21/97*

**FISCAL NOTE**  
**BUREAU OF BUDGET AND MANAGEMENT RESEARCH II**

**BBMR-F7**

Bill Number: 13 Date Received: 3/31/97  
 Amendatory Bill: Yes Date Reviewed: 4/10/97  
 Department/Agency Affected: Public Health & Social Services  
 Department/Agency Head: Donnis Rodriguez  
 Total FY Appropriation to Date: \$62,267,784

**Bill Title (preamble):**

*An act to repeal and reenact Chapter 67 of Title 9, GCA, and to repeal subsections 80.30.1, 80.31.1, 80.33 and 80.33.1 through 80.33.10, of Title 9, GCA relating to the regulation and enforcement of controlled substances and the "Drug Treatment and Enforcement Fund" which was created to support drug treatment and education and law enforcement.*

Change in Law: An act to repeal and reenact

**Bill's Impact on Present Program Funding:**

Increase   x   Decrease \_\_\_\_\_ Reallocation \_\_\_\_\_ No Change \_\_\_\_\_

**Bill is for:**

Operations   x   Capital Improvement \_\_\_\_\_ Other \_\_\_\_\_

**FINANCIAL/PROGRAM IMPACT**

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Health and Welfare			

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? \_\_\_\_\_ -- IF NO, ADD'L AMOUNT REQUIRED \$ \_\_\_\_\_  
 AGENCY/PERSON/DATE CONTACTED: \_\_\_\_\_

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						

ANALYST Christine D.F. Quichocho DATE 4/11/97 DIRECTOR Joseph Rivera DATE 4/14/97  
 Christine D.F. Quichocho *Joseph El Rivera, Acting*

**FOOTNOTE:**

*Bill No. 13 as introduced by Senator Lou Leon Guerrero authorizes the Department of Public Health & Social Services to be the lead agency in the administration of the Uniform Controlled Dangerous Substances Act and other inter-related agencies in the program areas of Health and Welfare and Public Safety. Pursuant to 9 GCA, Chapter 67, the Governor oversees the current program mandates. The proposed legislation transfers the authority to the respective agencies and departments. The act addresses the standards and schedules to be used in the determination of a substance as a controlled substance, the regulation in the manufacture, distribution, and dispensing of controlled substances, the enforcement and administrative procedures, the importation and exportation of controlled substances and lastly, the offenses and penalties in the illegal manufacture, distribution and dispensing of controlled substances. Implementation costs of the changes in the Act will come from the affected agencies operating budgets.*