

*I Mina'trentai Sais Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
263-36 (COR)	Committee on Air Transportation, Parks, Tourism, Higher Education, and the Advancement of Women, Youth and Senior Citizens by request of I Kongressun Manhoben Guåhan, the Guam Youth Congress, in accordance with 2 GCA § 7102.	AN ACT TO ADD A NEW CHAPTER 6A TO DIVISION 1 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A LIQUID VAPING PRODUCT TAX AND LICENSING OF THE RETAIL AND WHOLESALE OF DISTRIBUTING ELECTRONIC CIGARETTES WHICH SHALL BE CITED AS THE "GUAM VAPING PRODUCT TAXING AND LICENSING ACT OF 2021"	3/3/22 8:00 a.m.						

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

**Bill No. 263-36 (COR)**

Introduced by:

Committee on Air  
Transportation, Parks, Tourism,  
Higher Education, and the  
Advancement of Women,  
Youth and Senior Citizens.   
by request of I Kongressun  
Manhoben Guåhan, the Guam  
Youth Congress, in accordance  
with 2 GCA § 7102.

**AN ACT TO ADD A NEW CHAPTER 6A TO DIVISION 1 OF  
TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO  
ESTABLISHING A LIQUID VAPING PRODUCT TAX AND  
LICENSING OF THE RETAIL AND WHOLESALE OF  
DISTRIBUTING ELECTRONIC CIGARETTES WHICH SHALL  
BE CITED AS THE “GUAM VAPING PRODUCT TAXING AND  
LICENSING ACT OF 2021”**

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

2 **Section 1. Short Title.** This Act shall be known as the “Guam Vaping  
3 Product Taxing and Licensing Act of 2021”

4 **Section 2. Legislative Finding and Intent.** *I Liheslaturan Guåhan* finds  
5 that vaping and nicotine are essentially harmful for the community, especially for  
6 those that have increased health risks. In coordination with the expansion of the  
7 Natasha Protection Act of 2005, as policy innovators, we continue to look for ways  
8 to keep Guam’s air clean and relatively smoke-free, while encouraging those who

1 smoke or vape to discontinue due to the increased health risk individuals receive  
2 from inhaling the substance from electronic cigarettes. Taxing vaping products in  
3 the same way we tax cigarettes and alcohol could lead to a deterrence in  
4 purchasing the products in the first place. Vaping especially among the youth is  
5 dangerous and could also lead to a life-long addiction to nicotine. The U.S.  
6 Surgeon General Vice Admiral Jerome M. Adams sent an advisory in December  
7 2018 about the “e-cigarette epidemic among youth”. In the advisory, it is stressed  
8 that nicotine usage among adolescents stunts brain development and leads to other  
9 respiratory problems. Also, addiction to nicotine could also pose a threat to switch  
10 over to regular cigarettes, which are more harmful for the body.

11 The tax on vaping products are to go to noteworthy causes, such as the  
12 Territorial Educational Facilities Fund, the Healthy Futures Fund, the Police  
13 Services fund, and the Public Transit Fund, all for usage among the most critical  
14 agencies in the Government of Guam. Through this tax, we hope to invest further  
15 in education, healthcare, public transit, and the men and women in blue who  
16 protect and serve the island.

17 **Section 3.** A new Chapter 6A is hereby *added* to Title 11, Division 1 of the  
18 Guam Code Annotated to read:

19 **“CHAPTER 6A**

20 **THE GUAM VAPING PRODUCT TAXING AND LICENSING”**

21 §6A101. Short Title

22 §6A102. Definitions

23 §6A103. Tax Levied; Vapor Products

24 §6A104. Tax Proceeds

25 §6A105. License required for electronic cigarette distributors

26 §6A106. Classes and Fees

27 §6A107. Same: Term

- 1 §6A108. Same: Renewal
- 2 §6A109. License: Privilege: Limitation
- 3 §6A110. Same: Limitation
- 4 §6A111. Display of License
- 5 §6A112. License: Restrictions
- 6 §6A113. Same: Same: Real Party in Interest
- 7 §6A114. Same: Same: Minors
- 8 §6A115. Same: Same: Prior Revokee
- 9 §6A116. Same: Same: Unqualified
- 10 §6A117. Same: Application
- 11 §6A118. Application: Investigation
- 12 §6A119. Penalties for Selling E-Cigarette Products Without a License.
- 13 §6A120. Rules and Regulations

14 **§6A101. Short Title**

15 This Chapter may be cited as “The Guam Vaping Product Taxing and Licensing  
16 Act of 2021.”

17 **§ 6A102. Definitions**

18 (a)'Consumable product' means “e- liquid” or a liquid substance containing  
19 nicotine, as well as varying compositions of flavoring, propylene glycol, vegetable  
20 glycerin, and other ingredients.

21 (b) 'Director' means the Director of Revenue and Taxation or any other  
22 authorized contractor.

23 (c) 'Electronic cigarettes/e-cigarette' means battery-operated products  
24 designed to deliver nicotine, flavor, and other chemicals. They turn nicotine, which  
25 is highly addictive, and other chemicals into a vapor that is inhaled by the user.

26 (d) 'License' means Retail License and Wholesale License for sales of  
27 tobacco products, as defined under this Section.

1 (e) 'Minor' means any person under eighteen (18) years of age.

2 (f) 'Person' means any individual, company, corporation, firm, partnership,  
3 organization, estate, trust, limited liability company, limited liability partnership or  
4 other legal entity.

5 (g) 'Retail' means the sale of tangible personal property for consumption or  
6 use by the purchaser and not for resale.

7 (h) 'Retail License' means a license issued by the Director of Revenue and  
8 Taxation for the retail sale of tobacco products or sale through a vending machine.

9 (i)'Unqualified person' means an individual that does not meet the necessary  
10 requirements including mental status and age requirement (21 and above) to obtain  
11 a license to sell e-cigarettes.

12 (j) 'Wholesale' means the importation into or purchase on Guam from a  
13 manufacturer or other wholesale licensee of tangible personal property not for  
14 consumption or use by the purchaser but solely for resale or retail wholesale or  
15 retail sellers.

16 (k) 'Wholesale License' means a license issued by the Director of Revenue  
17 and Taxation for the wholesale sale of tobacco products to retailers.

18 **§6A103. Tax Levied; Vapor Products**

19 a. Tax on Vapor Products - An excise tax is levied on the wholesale  
20 consumable product at the rate of 40% of the price per product that  
21 allows for the inhalation of consumable vaping products. All invoices for  
22 vapor products issued by manufacturers must state the amount of  
23 consumable product in milliliters.

24 i. Limitation - The taxes imposed under this section do not apply to  
25 the following

26 1. An electronic cigarette sold outside of Guam

27 2. An electronic cigarette sold to the federal government

- 1           b. Primary Liability - The wholesale dealer or retail dealer who first  
2                   acquires or otherwise handles vaping products subject to tax imposed by  
3                   this Chapter is liable for the tax imposed by this Chapter.
- 4           c. Secondary Liability - The retail dealer who acquires non-tax paid vaping  
5                   products subject to the tax imposed by this Chapter from a wholesale  
6                   dealer is liable for any tax due on the vaping products. A retail dealer  
7                   who is liable for tax under this Chapter may not deduct a discount from  
8                   the amount of tax due when reporting the tax.

9           **§6A104. Tax Proceeds**

10 All monies collected from the taxes levied in this Chapter shall be disbursed to the  
11 following Special Revenue Funds:

- 12           a) Twenty percent (20%) of the monies collected under the tax levied by this  
13                   Chapter shall be deposited into the Territorial Educational Facilities Fund  
14                   (TEFF).
- 15           b) Twenty-five percent (25%) of the monies collected under the tax levied by  
16                   this Chapter shall be deposited into the Healthy Futures Fund.
- 17           c) Twenty-five percent (25%) of the monies collected under the tax levied by  
18                   this Chapter shall be deposited into the Youth Tobacco Education and  
19                   Prevention Fund.
- 20           d) Fifteen percent (15%) of the monies collected under the tax levied by this  
21                   Chapter shall be deposited into the Police Services Fund.
- 22           e) Ten percent (10%) of the monies collected under the tax levied by this  
23                   Chapter shall be deposited in the Public Transit Fund.
- 24           f) Five percent (5%) of the monies collected under the tax levied by this  
25                   Chapter shall be deposited in the Department of Revenue and Taxation.

1 g) If any of these special funds are eliminated by Legislation, then the  
2 percentage given to the fund eliminated shall be split evenly among the  
3 remaining special funds.

4 **§6A105. License required for electronic cigarette distributors**

- 5 a) Any person who distributes electronic cigarettes, vape, or any types of  
6 electronic nicotine delivery systems, within the island of Guam shall first obtain  
7 a permit from the Department of Revenue and Taxation.
- 8 b) It shall be a violation of this Chapter for any person to retail or wholesale  
9 electronic cigarettes, vape, or any types of electronic nicotine delivery system  
10 without first obtaining a valid electronic cigarette retail or wholesale license.
- 11 c) A permit shall be valid only for the location specified in the permit application.
- 12 d) A permit is not transferable or assignable and shall be renewed annually.

13 **§6A106. Classes and Fees.**

14 The Director is authorized to issue the following classes of licenses at the  
15 following fees, which shall be paid by the applicant at the time of application:

16 (a) Annual Retail License: \$100.00;

17 (b) Annual Wholesaler License: \$ 1,000.00.

18 **§6A107. Same: Term.** Licenses shall be issued on an annual basis and shall  
19 expire on the thirty-first (31st) day of March following the date of issuance. The  
20 full fee shall be paid for any fraction of the year for which a license is issued.

21 **§6A108. Same: Renewal.** A licensee may renew his license at the expiration  
22 thereof by the payment of the annual license fee set forth in this Chapter and by  
23 filing a renewal application. A licensee who fails to renew his license on or before  
24 the thirtieth (30th) day of June of each year shall be assessed a late fee of Twenty  
25 Dollars (\$20.00) and a penalty of One Dollar (\$1.00) per each calendar day he is  
26 delinquent, which penalty shall become part of the renewal fee, and the license is  
27 automatically suspended, unless all payments for annual fee, late fee and the daily

1 penalty are paid in full on or before July 31 of that year, in which case the license  
2 may be reinstated by the Director immediately. Unless the license is so reinstated,  
3 it is automatically revoked and the Director shall not issue a license except upon a  
4 new original application. Any licensee who fails to renew his or her license on or  
5 before the thirty-first (31st) day of July shall be required to discontinue the sales of  
6 tobacco products.

7 Additionally, any licensee who fails to renew his or her license on or before  
8 the thirtieth (30th) day of April shall be subject to an injunction issued by the  
9 Superior Court of Guam and to prosecution under Title 11 G.C.A. §70119. Such  
10 failure to renew while continuing the operation of the business shall constitute  
11 refusal and failure to obtain a license pursuant to Division 3 of this Title.

12 **§6A109. License: Privilege: Limitation.** A licensee is limited to the  
13 privileges conferred by the license and is not authorized to exercise any other  
14 privileges.

15 **§6A110. Same: Limitation.** A licensee is limited to the premises for which  
16 the license is issued and is not authorized to exercise the privileges conferred by  
17 the license at other premises.

18 **§6A111. Display of License.**

19 a) A licensee for sales of electronic cigarette products (including vape  
20 juice containing nicotine), excluding sales through vending machines,  
21 shall prominently display the license on each licensed premise.

22 b) Any licensee who violates this Section shall be fined Fifty Dollars  
23 (\$50.00) per violation.

24 **§6A112. License: Restrictions.**

25 (a) No wholesaler within or outside of Guam, nor any officer, thereof, nor  
26 any subsidiary, affiliate or other entity in which a wholesaler holds any ownership  
27 or interest, directly or indirectly by stock ownership, interlocking directors,

1 trusteeship, loan, mortgage or lien on any real or personal property, shall hold any  
2 electronic cigarette license other than a wholesaler's license in Guam.

3 **§6A113. Same: Same: Real Party in Interest.** The Director shall not issue  
4 a license of any class to an applicant who is not the real party in interest.

5 **§6A114. Same: Same: Minors.** The Board shall not issue a license of any  
6 class to a person under eighteen (18) years of age.

7 **§6A115. Same: Same: Prior Revokee.** Except in the case of a license  
8 revoked for non-payment of a renewal fee, the Director shall not issue a license of  
9 any class to any person who held a license of any class which was revoked within a  
10 one (1) year period prior to the date of the application.

11 **§6A116. Same: Same: Unqualified.** The Director shall not issue a license  
12 of any class to any person the Director deems unqualified to hold a license.

13 **§6A117. Same: Application.** An applicant for a license shall submit an  
14 application in writing to the Director, verified under oath and accompanied by the  
15 license fee.

16 **§6A118. Application: Investigation.** Upon receipt of an application for a  
17 license and the license fee, the Director shall investigate whether the applicant and  
18 the premises qualify for a license.

19 **§6A119. Penalties for Selling E-Cigarette Products Without a License.**  
20 Any person who violates §6A105 shall be guilty of a misdemeanor and punished as  
21 follows:

22 (a) in the case of a first violation, by a fine of Two Hundred Fifty Dollars  
23 (\$250.00);

24 (b) in the case of a second violation, by a fine of Five Hundred Dollars  
25 (\$500.00);

26 (c) in the case of three (3) or more violations, a fine of not less than One  
27 Thousand Dollars (\$1,000.00), nor more than Two Thousand Five Hundred Dollars

1 (\$2,500.00), and the person shall not be eligible to apply for a license for five (5)  
2 years after the date of the assessment of a fine.

3 **§6A120. Rules and Regulations**

4 With the approval of the Governor, the Director of Revenue and Taxation may  
5 make such reasonable rules and regulations, not inconsistent with law, for the  
6 collection of taxes or the correction of errors in dealing with the taxes levied under  
7 this Chapter.”

8 **Section 4. Severability.** If any provision of this Act or its application to any  
9 person or circumstance is held invalid, the invalidity *shall not* affect other  
10 provisions or applications of this Act that can be given effect without the invalid  
11 provision or application; to this end the provisions of this Act are severable.

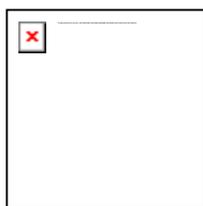
12 **Section 5. Effective Date.** This Act *shall* become effective on January 1,  
13 2022.

**From:** Office of Senator Amanda L. Shelton <officeofsenatorshelton@guamlegislature.org>  
**Sent:** Wednesday, March 2, 2022 4:52 PM  
**To:** Clerks; Rennae Meno  
**Subject:** GYC Bills for Introduction  
**Attachments:** GYC Bill 3-33 Introduced by ALS.pdf; GYC Bill 3-33 Introduced by ALS.docx; GYC Bill 12-33 Introduced by ALS.pdf; GYC Bill 12-33 Introduced by ALS.docx; GYC Bill No. 16-33 Introduced by ALS.pdf; GYC Bill No. 16-33 Introduced by ALS.docx

Hafa Adai,

Kindly review the attached **GYC Bills for Introduction**.

Respectfully,



**A-Ichea N. Yamada** | *Research Policy Analyst*

**Office of the People • Senator Amanda L. Shelton**

Legislative Secretary & Chairwoman, Committee on Air Transportation, Parks, Tourism, Higher Education, and the Advancement of Women, Youth, and Senior Citizens

**36th Guam Legislature**

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