

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

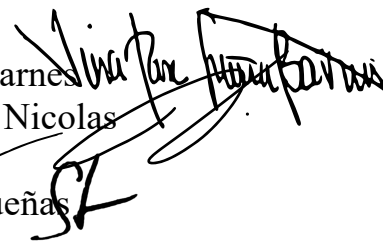
| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | FISCAL NOTES | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | NOTES |
|--------------|---|--|----------------------|---------------|---------------|--------------|---------------------|-----------------------------|-------|
| 176-37 (COR) | Tina Rose Muña Barnes Dwayne T.D. San Nicolas Jesse A. Lujan Christopher M. Dueñas | AN ACT TO AMEND § 73151 OF ARTICLE 1, CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, AND TO ADD NEW § 73127.1, § 73104.1, § 73104.2, § 73104.3, AND § 73104.4 TO ARTICLE 1 OF CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM CUSTOMS AND QUARANTINE AGENCY (COA) TO ADOPT AND IMPLEMENT A CUSTOMS AUTOMATED SYSTEM AND THE HARMONIZED COMMODITY AND CODING SYSTEM (HCCS). | 9/27/23 4:21 p.m. | | | | | | |

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 176-37 (COR)

Introduced by:

Tina Rose Muña Barnes
Dwayne T. D. San Nicolas
Jesse A. Lujan
Christopher M. Dueñas



AN ACT TO AMEND § 73151 OF ARTICLE 1, CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, AND TO ADD NEW § 73127.1, § 73104.1, § 73104.2, § 73104.3, AND § 73104.4 TO ARTICLE 1 OF CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM CUSTOMS AND QUARANTINE AGENCY (CQA) TO ADOPT AND IMPLEMENT A CUSTOMS AUTOMATED SYSTEM AND THE HARMONIZED COMMODITY AND CODING SYSTEM (HCCS).

BE IT ENACTED BY THE PEOPLE OF GUAM.

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that, in order to modernize the Guam Customs and Quarantine Agency (CQA), the agency would need to implement the Harmonized Commodity and Coding System (HCCS). The HCCS is a classification system that is “used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics”, according to the World Customs Organization, and is a system that classifies goods into distinct codes that can be tracked, analyzed, and processed in any country or entries that utilize the HCCS. Implementing the HCCS system into the CQA will bring in many benefits such as reducing expenses related

1 to trade and aiding in the collection and analysis of information needed to fully
2 collect taxes, improve border control and enhance current risk management and
3 threat assessment functions by Government of Guam, improve CQA’s resource
4 management and inspection fee collection, and allow for the creation of a database
5 of all the goods that enter our island. Equipping the CQA with the HCCS system will
6 allow the agency to better protect and serve our island.

7 In an effort to modernize the classification and inspection system of the Guam
8 Customs and Quarantine Agency (CQA), *I Liheslaturan Guåhan* intends to authorize
9 the CQA to develop rules and regulations in order to implement the Harmonized
10 Commodity and Coding System. With this system in place, our island will finally
11 join the ranks of over 200 countries that use the HCCS system and be efficient in its
12 processing and regulation of goods that enter our island.

13 **Section 2.** § 73151 of Article 1, Chapter 73, Title 5, Guam Code Annotated is
14 hereby amended to read as follows:

15 **“§ 73151. Rules and Regulations for Customs, Agriculture, and**
16 **Quarantine Inspection Services Charge and the Customs Harmonized**
17 **Commodity and Coding System.**

18 The Director of Customs and Quarantine Agency, subject to the
19 Administrative Adjudication Act, shall promulgate and adopt rules and
20 regulations to implement the provisions of Section 73145 through
21 75153 of this Chapter;

22 (a) including provisions establishing the procedure for
23 collection of the service charge, and for periodic review of the
24 costs of providing the services, the level of the charges levied,
25 and the amount of reimbursement payable to the Guam Airport
26 Authority, Customs and Quarantine Agency, the Department of
27 Agriculture and/or their agents reflecting the administrative cost

1 of collecting and remitting the charges. The Rules and
2 Regulations shall also provide for such exemptions from the
3 service charge as may be required by applicable law, other
4 regulations, or as may be prescribed by the Director of the
5 Customs and Quarantine Agency. In addition, to the extent the
6 interim charge authorized by § 73146 is determined to have
7 either over collected or under collected the revenue required
8 during the interim period, the final regulations should adjust the
9 service charges accordingly;

10 (b) to introduce the Customs Harmonized Commodity
11 and Coding Schedule that is aligned to the Harmonized
12 Commodity and Coding System maintained by the World
13 Customs Organization;

14 (c) to introduce and implement a Customs Automated
15 System and to authorize the use of the Customs Automated
16 System by registered individuals; and

17 (d) to create provisions and requirements to
18 successfully implement § 73104 and § 73127, applicable to
19 merchandise to be imported, imported merchandise, or
20 merchandise exported.”

21 **Section 3.** A new § 73127.1 is hereby *added* to Article 1, Chapter 73, Title 5,
22 Guam Code Annotated, to read as follows:

23 **“§ 73127.1 Penalty: Incorrect Entry. (a) Any person who makes an entry**
24 **that is incorrect or defective in a material particular or misleads the officer in any**
25 **material particular which is likely to affect his or her duties, is guilty of a violation**
26 **provided, that the person proves that all reasonable steps were taken to ensure that**
27 **the entry was not incorrect or defective;**

1 **(b)** Any person who is guilty of a violation under Subsection (a) shall be
2 subject to a penalty not to exceed \$5,000, or an amount equal to twenty-five percent
3 (25%) of the value of the article, whichever amount is lesser for the first violation;

4 **(c)** Any person who is guilty of a violation under Subsection(a) shall be
5 subject to a penalty not to exceed \$10,000 or an amount equal to fifty percent (50%)
6 of the value of the article, whichever amount is lesser for the second violation;

7 **(d)** Any person who is guilty of a violation under Subsection (a) shall be
8 subject to a penalty not to exceed \$30,000 or an amount equal to seventy-five percent
9 (75%) of the value of the article, whichever amount is lesser for the third or more
10 violations.

11 **(e)** Any fines or penalties collected or paid due to being found guilty of a
12 violation of Subsection (a) shall be deposited into the Customs Fines and Penalties
13 Revolving Fund created under § 73153 of this Article.”

14 **Section 4.** A new § 73104.1 is hereby *added* to Article 1, Chapter 73, Title 5,
15 Guam Code Annotated, to read as follows:

16 **“§ 73104.1. Classification of Merchandise for the Purpose of Entry**

17 **Compliance.**

18 **(a)** For the purpose of entry clearance and taxes, exemptions,
19 or drawbacks applicable to imported or exported goods under Title 11
20 of Guam Code Annotated, such goods shall be classified using the
21 Harmonized Commodity and Coding System (HCCS) of classification
22 and its related Explanatory Notes as maintained by the World Customs
23 Organization.

24 **(b)** The rate of taxes, exemptions, or drawbacks applicable to
25 goods to be imported, goods imported, or goods to be exported shall
26 correspond to the classification of the goods in the Customs

1 Harmonized Commodity and Coding Classification Schedule
2 Regulation.

3 (c) An importer, licensee, or owner of the goods required to
4 make an entry for goods under this Act shall correctly classify imported
5 goods in accordance with § 73104.1(a) of this Chapter.”

6 **Section 5.** A new § 73104.2 is hereby *added* to Article 1, Chapter 73, Title 5,
7 Guam Code Annotated, to read as follows:

8 **“§ 73104.2. Access to the Customs Harmonized Commodity and**
9 **Coding Classification Schedule.**

10 (a) The Director of Guam Customs and Quarantine Agency
11 shall:

12 (1) ensure that the Customs Harmonized Commodity
13 and Coding Classification Schedule, as amended, is published on
14 the Guam Customs and Quarantine Agency website and is
15 publicly available free of charge; and

16 (2) ensure that copies of the Customs Harmonized
17 Commodity and Coding Classification Schedule, as amended,
18 are available for purchase at a reasonable price.

19 (b) Nothing in this Section prevents the Director of Guam
20 Customs and Quarantine Agency from making other information
21 available along with the Harmonized Commodity and Coding
22 Classification Schedule. The Director of Customs shall ensure that it is
23 clearly indicated that the other information are not part of the Customs
24 Harmonized Commodity and Coding Classification.”

25 **Section 6.** A new § 73104.3 is hereby *added* to Article 1, Chapter 73, Title 5,
26 Guam Code Annotated, to read as follows:

1 “§ 73104.3. Amendments to the Harmonized Commodity and
2 Coding System (HCCS).

3 (a) The Director of the Guam Customs and Quarantine
4 Agency may, in accordance to 5 GCA Chapter 9, amend the Customs
5 Harmonized Commodity and Coding Schedule for uniformity with
6 amendments approved by the World Customs Organization.

7 (b) No amendment made under this Section shall alter the
8 taxes, exemptions, or drawbacks duty applicable to goods classified
9 under any item or heading in the Harmonized Commodity and Coding
10 Schedule.”

11 **Section 7.** A new § 73104.4 is hereby *added* to Article 1, Chapter 73, Title 5,
12 Guam Code Annotated, to read as follows:

13 “§ 73104.4. Customs Automated System and Information Sharing.

14 (a) Only individuals designated by the Director of Guam
15 Customs and Quarantine Agency may access the Customs Automated
16 System to carry out any duties pursuant to this Act or any other statutory
17 provisions of Guam Law.

18 (b) Notwithstanding any other provision of law, the Director
19 of Guam Customs and Quarantine Agency, through a memorandum of
20 agreement, may permit access to records or information collected under
21 this Chapter to other Government of Guam agencies for the
22 performance of their official duties. Accessibility will require the
23 integration of the agency’s regulating or enforcement processes into the
24 Customs Automated System, and, for uniformity, incorporate the
25 Harmonized Commodity and Coding Schedule for identification of
26 merchandise the agencies regulate.

1 (c) Through such agreements to access records or information
2 collected under this Chapter, the Director of Guam Customs and
3 Quarantine Agency may institute reasonable fees for the sustainability,
4 upgrades, and maintenance of the Harmonized Commodity and Coding
5 Schedule and the Customs Automated System.”

6 **Section 8. Effective Date.** This Act shall become effective upon enactment.

7 **Section 9. Severability.** *If* any of the provisions of this Act or the application
8 thereof to any person or circumstance is held invalid, such invalidity *shall not* affect
9 any other provision or application of this Act which can be given effect without the
10 invalid provision or application, and to this end the provisions of this Act are
11 severable.