

I Mina'trentai Siette Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
186-37 (LS)	Sabina Flores Perez Chris Barnett	AN ACT TO AMEND § 6505, REPEAL AND REENACT § 6506, AND AMEND § 6507 ALL OF ARTICLE 5, CHAPTER 6, TITLE 11, RELATIVE TO UPDATING THE USE OF TOBACCO FEES AND PENALTIES TO PROTECT GUAM YOUTH FROM THE HARMS OF NICOTINE AND TOBACCO USE.	10/13/23 3:58 p.m.						

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

Bill No. 186-37 (LS)

Introduced by:

Sabina Flores Perez *SFP*
Chris Barnett *CB*

AN ACT TO AMEND § 6505, REPEAL AND REENACT § 6506; AND AMEND § 6507 ALL OF ARTICLE 5, CHAPTER 6, TITLE 11, RELATIVE TO UPDATING THE USE OF TOBACCO FEES AND PENALTIES TO PROTECT GUAM YOUTH FROM THE HARMS OF NICOTINE AND TOBACCO USE

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

2 **Section 1. Legislative Findings and Intent.**

3 *I Liheslaturan Guåhan* finds that the Guam Behavioral Health and Wellness
4 Center in collaboration with the Department of Revenue and Taxation found that
5 106 tobacco sales-related infractions were committed by 329 licensed vendors
6 between 2018 and 2022. Violations consisted of sales to those under 21 years of age
7 and failing to post '21+ Only Sales' signages for public view.

8 *I Liheslaturan Guåhan* further finds that in August 2023, the State
9 Epidemiological Profile reported tobacco consumption remains higher in Guam than
10 in the U.S., for both adults and youth. Although the State Epidemiological
11 Outcomes Workgroup's (SEOW) EPI Profile indicates an overall decline, Guam still
12 has one of the highest smoking prevalence rates across various States and Territories.

13 *I Liheslatura* further finds an urgent need to be better stewards of our youth
14 and ensure more positive health outcomes of future generations. Currently, Tobacco-
15 related diseases continue to be the major cause of death in Guam. According to the

1 SEOW, constantly updated local policies are closely associated with reductions in
2 smoking prevalence and smokeless tobacco use. *I Liheslatura* finds that the use of
3 electronic nicotine delivery devices or “vaping” is high amongst Guam youth, with
4 one in four (26.5%) high school students and nearly one in four (23.5%) middle
5 school students reporting current use. Tobacco use figures display marked disparities
6 across socio-economic gradients with poor and less-educated individuals more likely
7 to smoke than rich and well-educated persons who are less likely to have smoked at
8 all.

9 *I Liheslatura* further finds that according to the Tobacco Control Act of 2006,
10 tobacco fees and fines are required to be deposited as follows: thirty percent (30%)
11 to the Department of Parks and Recreation (DPR) Off-Island Sports Fund, which
12 was repealed by Public Law 36-71; twenty percent (20%) to the Health and Human
13 Services Fund; and fifty percent (50%) to the Youth Tobacco Education and
14 Prevention Fund. According to the Department of Administration Division of
15 Accounts, since 2016 the Health and Human Services Fund (HAHS) has had a total
16 of \$12,434,856.26 worth of deposits and the Youth Tobacco Education and
17 Prevention Fund (YTEPF) has had a total of \$2,602,297.81. As of June 2023, the
18 Division reports that the HAHS Fund has an available balance of \$429,855 and the
19 YTEP Fund has an available balance of \$13,294.

20 *I Liheslatura* further finds that the Healthy Future Funds that currently fund
21 youth tobacco education and prevention programs are spread too thin to be effective,
22 leading these essential programs to rely heavily, if not entirely, on federal grants.
23 Furthermore, local tobacco/nicotine education and prevention programs at the Guam
24 Behavioral Health and Wellness Center and the Department of Public Health and
25 Social Services are primarily, if not completely, federally funded.

26 Therefore, it is the intent of *I Liheslaturan Guåhan* to protect Guam’s youth
27 from the harmful effects of tobacco and nicotine products by subsidizing and
28 diversifying funding sources towards government programs that specialize in

1 tobacco and nicotine education, prevention, and treatment. *I Liheslatura* further
2 intends to strengthen local enforcement by redirecting monies collected from fees
3 and penalties to fund tobacco and nicotine education and prevention programs to
4 protect Guam’s youth from the harmful effects of tobacco and nicotine.

5 **Section 2.** § 6505 of Article 5 of Chapter 6, Title 11, Guam Code Annotated
6 is hereby *amended* to read:

7 **“§ 6505. Use of Collected Fees and Penalties for Youth Programs.**

8 All fines and fees assessed and collected under this Chapter shall be
9 distributed and deposited promptly in the following manner by the Director ~~on the~~
10 ~~final working day of the months of March, June, September, and December of each~~
11 ~~year:~~

12 (a) ~~thirty percent (30%) to the Department of Parks and Recreation Off-~~
13 ~~Island Sports Fund; twenty percent (20%) to the Better Public Service~~
14 ~~Fund for the Department of Revenue and Taxation’s Compliance~~
15 ~~Branch to assist with compliance of tobacco and nicotine laws, rules and~~
16 ~~regulations pursuant to this Chapter;~~

17 (b) ~~twenty percent (20%)~~ thirty percent (30%) to the Health and
18 Human Services Fund for the Department of Public Health and Social
19 Services Division of Public Health’s Bureau of Non-Communicable
20 Disease for the purposes of providing tobacco and nicotine education
21 and prevention services, comprehensive cancer, breast cancer, and
22 cervical cancer care; and

23 (c) ~~fifty percent (50%)~~ fifty percent (50%) to the Youth Tobacco
24 Education and Prevention Fund.”

25 **Section 3.** § 6506 of Article 5 of Chapter 6, Title 11, Guam Code Annotated
26 is hereby *repealed and reenacted* to read:

27 **“§ 6506. — Youth Tobacco Education and Prevention Fund.**

1 ~~There is created, separate and apart from any other funds of the government~~
2 ~~of Guam, under the administration and control of the Director, the Youth Tobacco~~
3 ~~Education and Prevention Fund (‘YTEPF’). ‘YTEPF’ shall be held in an account or~~
4 ~~accounts at a Guam financial institution, or institutions separate and apart from all~~
5 ~~other accounts and funds of the government of Guam and shall not be subject to the~~
6 ~~transfer authority of *I Maga’lahen Guåhan*. One hundred percent (100%) of the~~
7 ~~funds in the YTEPF shall be used by the Guam Behavioral Health and Wellness~~
8 ~~Center for youth compliance monitoring and tobacco and drug prevention and~~
9 ~~education programs.~~

10 **§ 6506. Youth Tobacco Education and Prevention Fund.**

11 There is created a non-lapsing, revolving fund, hereafter referred to as the
12 “Youth Tobacco Education and Prevention Fund” (YTEPF), which shall be
13 maintained separate and apart from any other funds of the government of Guam.
14 Independent records and accounts shall be maintained in connection therewith and
15 shall be administered by the director of the Guam Behavioral Health and Wellness
16 Center (GBHWC). One hundred percent (100%) of the funds in the YTEPF shall be
17 used by the Guam Behavioral Health and Wellness Center’s Prevention and Training
18 Branch (PEACE) for tobacco and drug compliance monitoring, prevention and
19 education programs. The Director of GBHWC shall submit annually expenditure
20 reports to *I Liheslaturan Guåhan*. The YTEPF shall not be subject to the transfer
21 authority of *I Maga’hågan Guåhan*. All monies in the YTEPF are hereby
22 appropriated to the GBHWC’s PEACE Prevention and Training Branch to be
23 expended in accordance with this Section.”

24 **Section 4.** § 6507 of Article 5 of Chapter 6, Title 11, Guam Code Annotated
25 is hereby *amended* to read:

26 **“§ 6507. Reporting.**

27 The Director of the Department of Revenue and Taxation shall report monthly
28 to the Guam Behavioral Health and Wellness Center (~~‘DMHSA’~~) (GBHWC) a list

1 of all licenses granted and renewed, including the names and street addresses of the
2 business ~~or the location of the vending machines~~, the number of violations
3 processed, the name of business with violations, and the penalties imposed, and any
4 other information that the Director and ~~DMHSA~~ GBHWC agree upon.”

5 **Section 5. Severability.** If any provision of this Act or its application to
6 any person or circumstance is found to be invalid or inorganic, such invalidity shall
7 not affect other provisions or applications of this Act that can be given effect without
8 the invalid provision or application, and to this end the provisions of this Act are
9 severable.

10 **Section 6. Enactment Date.** This Act shall be effective upon enactment.