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<td>186-37 (LS)</td>
<td>Sabina Flores Perez Chris Barnett</td>
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<td>10/13/23 3:58 p.m.</td>
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Bill No. 186-37 (LS)

Introduced by:

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

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

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

I Liheslatura further finds an urgent need to be better stewards of our youth and ensure more positive health outcomes of future generations. Currently, Tobacco-related diseases continue to be the major cause of death in Guam. According to the
SEOW, constantly updated local policies are closely associated with reductions in smoking prevalence and smokeless tobacco use. *I Liheslatura* finds that the use of electronic nicotine delivery devices or “vaping” is high amongst Guam youth, with one in four (26.5%) high school students and nearly one in four (23.5%) middle school students reporting current use. Tobacco use figures display marked disparities across socio-economic gradients with poor and less-educated individuals more likely to smoke than rich and well-educated persons who are less likely to have smoked at all.

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as follows: thirty percent (30%) to the Department of Parks and Recreation (DPR) Off-Island Sports Fund, which was repealed by Public Law 36-71; twenty percent (20%) to the Health and Human Services Fund; and fifty percent (50%) to the Youth Tobacco Education and Prevention Fund.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

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

Therefore, it is the intent of *I Lihesluran Guåhan* to protect Guam’s youth from the harmful effects of tobacco and nicotine products by subsidizing and diversifying funding sources towards government programs that specialize in
tobacco and nicotine education, prevention, and treatment. I Liheslatura further intends to strengthen local enforcement by redirecting monies collected from fees and penalties to fund tobacco and nicotine education and prevention programs to protect Guam’s youth from the harmful effects of tobacco and nicotine.

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

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

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

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

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

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

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

“§ 6506. Youth Tobacco Education and Prevention Fund.”
There is created, separate and apart from any other funds of the government of Guam, under the administration and control of the Director, the Youth Tobacco Education and Prevention Fund (‘YTEPF’). ‘YTEPF’ shall be held in an account or accounts at a Guam financial institution, or institutions separate and apart from all other accounts and funds of the government of Guam and shall not be subject to the transfer authority of I Mga’lahen Guåhan. One hundred percent (100%) of the funds in the YTEPF shall be used by the Guam Behavioral Health and Wellness Center for youth compliance monitoring and tobacco and drug prevention and education programs.

§ 6506. Youth Tobacco Education and Prevention Fund.

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

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

“§ 6507. Reporting.

The Director of the Department of Revenue and Taxation shall report monthly to the Guam Behavioral Health and Wellness Center (‘DMHSA’) (GBHWC) a list
of all licenses granted and renewed, including the names and street addresses of the
business or the location of the vending machines, the number of violations
processed, the name of business with violations, and the penalties imposed, and any
other information that the Director and DMHSA GBHWC agree upon.”

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

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