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<td>187-37</td>
<td>Sabina Flores Perez, Chris Barnett</td>
<td>AN ACT TO AMEND § 6201 AND § 6202, REPEAL § 6205, AMEND § 6206, § 6209 OF ARTICLE 2, AND AMEND § 6301 OF ARTICLE 3, REPEAL § 6401 (b), AMEND § 6402 AND RENUMBER AS § 6403 OF ARTICLE 4, AMEND § 6702 (b), § 6702 (d), § 6704 (b) AND § 6706 (b) OF ARTICLE 7; REPEAL § 6802 (c) AND § 6811 OF ARTICLE 8, ALL OF CHAPTER 6 OF TITLE 11, PROHIBITING THE SALE OF TOBACCO, NICOTINE PRODUCTS, AND VAPE PRODUCTS THROUGH VENDING MACHINES IN GUAM.</td>
<td>10/13/23 3:58 p.m.</td>
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AN ACT TO AMEND § 6201 AND § 6202, REPEAL § 6205, AMEND § 6206, § 6209 OF ARTICLE 2, AND AMEND § 6301 OF ARTICLE 3, REPEAL § 6401 (b), AMEND § 6402 AND RENUMBER AS § 6403 OF ARTICLE 4, AMEND § 6702 (b), 6702 (r), § 6706 (b) AND § 6706 (c), OF ARTICLE 7, REPEAL 6802 (c) AND 6811 OF ARTICLE 8, ALL OF CHAPTER 6 OF TITLE 11, PROHIBITING THE SALES OF TOBACCO, NICOTINE PRODUCTS, AND VAPE PRODUCTS THROUGH VENDING MACHINES ON GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Lihesluran Guåhan finds that the last tobacco vending machine defined in 11 GCA Chapter 6 licensed through the Department of Revenue and Taxation to sale tobacco products was issued in 2015 and expired in June of 2018. At present, there have been no applications and renewals processed at the Department.

I Liheslatura further finds that in 2010 pursuant to the “Family Smoking Prevention and Tobacco Control Act” (H.R. 1256) banned tobacco vending machine sales nationwide.

I Liheslatura finds that according to the State Epidemiological Outcomes Workgroup (SEOW) identifies that one of the leading causes of underage tobacco and nicotine use among youth is “accessibility to tobacco and vape products” from
vendors licenses to do business on Guam. In August 2023, the State Epidemiological Profile reported that tobacco consumption remains higher in Guam than in the U.S., for both adults and youth. Although the SEOW indicates an overall decline, Guam still has one of the highest smoking prevalence rates across various States and Territories. Furthermore, SEOW reports out that the decline over a ten-year period in tobacco and nicotine use in Guam is a result of strengthening local policies, enforcement efforts, and increased taxation.

Therefore it is the intent of I Liheslaturan Guåhan to continue to create safeguards for Guam’s youth by removing all sales of tobacco, nicotine, vape, and vape related products through vending machines in Guam.

Section 2. § 6201 of Article 2, Chapter 6, Title 11, Guam Code Annotated is hereby amended to read:

“§ 6201. License: Required.

(a) It shall be a violation of this Chapter for any person to wholesale tobacco products without first obtaining a valid wholesale tobacco license.

(b) It shall be a violation of this Chapter for any person to retail tobacco products without first obtaining a valid retail tobacco license for each premises or vending machine in which tobacco products are sold.

(c) It shall be a violation of this Chapter for any person to sell tobacco, vape devices, or vape related products or nicotine products through a vending machine.

(d) Any person directly or indirectly engaged in the business of manufacturing tobacco products may not retail tobacco products, directly or indirectly, or hold a retail or wholesale license. It shall not be a violation of this Chapter for any such person engaged in the business of manufacturing tobacco products to import, export or sell for resale tobacco products to a duly licensed tobacco wholesaler.”
Section 3. §6202 of Article 2 of Chapter 6, Title 11, Guam Code Annotated is hereby amended to read:

“§ 6202. Same: Fees.

(a) Annual Retail License: $ 100.00;
(b) Annual Vending Machine Retail License: $ 40.00;
(c) Annual Wholesaler License: $ 1,000.00.”

Section 4. §6205 of Article 2, Chapter 6, Title 11 is hereby repealed:

“§ 6205. Same: Vending Machines.

(a) The owner of a vending machine shall obtain a retail license and pay the fee required for each vending machine.
(b) The owner of a vending machine who violates Subsection (a) of this Section shall be fined Fifty Dollars ($50.00) per violation.”

Section 5. §6206 of Article 2, Chapter 6, Title 11 is hereby amended to read:

“§ 6206. Same: Multiple.

A person applying for retail licenses to operate more than one (1) premise or more than one (1) vending machine shall obtain a separate retail license for each premise and each vending machine, and shall pay the fee prescribed for each premise and each machine.”

Section 6. § 6209 of Article 2, Chapter 6, Title 11, are hereby amended to read:

“§ 6209. Display of License.

(a) A licensee for sales of tobacco products, excluding sales through vending machines, shall prominently display the license on each licensed premise.
(b) The licensee for vending machines sales of tobacco products shall affix a retail license decal furnished by the Director in a prominent position on each vending machine.
(eb) Any licensee who violates this Section shall be fined Fifty Dollars ($50.00) per violation.”

Section 7. § 6301 (a) of Article 3, Chapter 6, Title 11, are hereby amended to read:

“(a) Except in the case of a vending machine retail license, the Director shall not issue a license to any person who then holds a license of another class.”

Section 8. § 6401(b) of Article 4, Chapter 6, Title 11, is hereby repealed:

“(b) Vending machines selling tobacco products or electronic cigarettes shall be located so that they are accessible only to persons over the age of twenty-one (21) years, or are under the constant, direct supervision and unobstructed line of sight of the person authorizing the installation or placement of the tobacco or electronic cigarette vending machine upon the premises he or she manages or otherwise controls, or his or her agent or employee.

(1) Said supervising person, who must be at least twenty-one (21) years of age, shall ensure that persons under twenty-one (21) years of age do not purchase tobacco products or electronic cigarettes from vending machines.

(2) A person who authorizes the installation or placement of the tobacco—or electronic—cigarette vending machine upon premises he or she manages, or otherwise controls, and who knows or should know that the tobacco or electronic cigarette vending machine will likely be used by persons under twenty-one (21) years of age, shall be liable if such persons purchase tobacco products—or electronic cigarettes—from said machines.”

Section 9. § 6402 of Article 4, Chapter 6, Title 11, are hereby amended and renumbered to read:
“§ 64023. Display of Prohibition on Sales of Tobacco Products to Persons Under Twenty-one (21) Years of Age.

All licensees shall post notice that this Chapter prohibits the sale of tobacco products to persons under twenty-one (21) years of age.

(a) In the case of a retail operation, notices shall be publicly and conspicuously displayed in the licensee’s place of business in letters at least two inches (2”) in height.

(b) In the case of vending machine, the licensee shall affix to the front of each vending machine a sign in letters at least one-half inch (1/2”) in height.

(eb) Any licensee who violates this Section shall be fined Fifty Dollars ($50.00) per violation.”

Section 10. §6702 (b) of Article 7, Chapter 6, Title 11, Guam Code Annotated is hereby amended to read as:

“(b) Business location or place of business means the entire premises occupied by a retail tobacco permit applicant or an entity required to hold a retail tobacco permit under this Chapter; and shall include, but is not limited to, any store, stand, outlet, vehicle, cart, location, vending machine, or structure from which cigarettes or tobacco products are sold or distributed to a consumer.”

Section 11. § 6702 (r) of Article 7, Chapter 6, Title 11, Guam Code Annotated is hereby amended to read as:

“(r) Retail sale or tobacco retailing means the practice of selling cigarettes or tobacco products to consumers and includes the sale of cigarettes or tobacco through a vending machine.”

Section 12. §6706 (b) and 6706 (c) of Article 7, Chapter 6, Title 11, Guam Code Annotated is hereby amended to read as:
“(b) The Department and/or the Attorney General may inspect the
operations, premises, and storage areas of any entity engaged in the sale of cigarettes,
or the contents of a specific vending machine, during regular business hours.

(1) This inspection shall include inspection of all statements, books,
papers, and records in whatever format, including electronic format,
pertaining to the acquisition, possession, transportation, sale, or use of
packages of cigarettes and tobacco products other than cigarettes, to verify the
accuracy of the payment of taxes imposed by this Chapter, and of the contents
of cartons and shipping or storage containers to ascertain that all individual
packages of cigarettes have an affixed stamp of proper denomination as
required by this Chapter.

(2) This inspection may also verify that all stamps were produced
under the authority of the Department. Every entity in possession of any
books, papers, and records, and the entity’s agents and employees, are directed
and required to give the Department and/or the Attorney General the means,
facilities, and opportunities for the examinations.

(3) For the purposes of this Chapter, “entity” means one (1) or more
individuals, a company, a corporation, a partnership, an association, or any
other type of legal entity.

(c) If the Department or the Attorney General has reasonable cause to
believe and does believe that cigarettes, stamps, or counterfeit stamps are being
acquired, possessed, transported, kept, sold, or offered for sale in violation of this
Chapter, the Department or the Attorney General may investigate or search the
vehicle or premises in which the cigarettes, stamps, or counterfeit stamps are
believed to be located. If cigarettes, stamps, or counterfeit stamps are found in a
vehicle, or premises, or vending machine in violation of this Chapter, the
cigarettes, vending machine, vehicle, stamps, counterfeit stamps, or other tangible
personal property containing those cigarettes, stamps, or counterfeit stamps and
any books and records in possession of the entity in control or possession of the
cigarettes, stamps, or counterfeit stamps may be seized by the Department or the
Attorney General and are subject to forfeiture.”

Section 13. §6802 (c) of Article 8, Chapter 6, Title 11, Guam Code
Annotated is hereby repealed:
“(c) No cigarette package may be placed or stored in a vending machine
unless affixed with the stamp required under Subsection (a) of this
Section.”

Section 14. §6811 of Article 8, Chapter 6, Title 11, Guam Code Annotated
is hereby repealed:
“§ 6811. Vending of Unstamped Cigarettes.
(a) Any person who knowingly places for sale in a cigarette vending
machine any cigarettes not contained in a cigarette packages to which
are affixed stamps as required by this Article shall be guilty of a third
(3rd)-degree felony.
(b) In addition to any other authorized disposition, a person found in
violation of Subsection (a) may be fined in an amount not to exceed
Fifty Thousand Dollars ($50,000).”

Section 15. The Guam Compiler of Law shall renumber the Chapter as
needed.

Section 16. 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 17. Enactment Date. This act shall be effective upon enactment.