

*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
<b>195-37 (LS)</b>	Sabina Flores Perez Therese M. Terlaje Chris Barnett	AN ACT TO ADD § 6101 (m) AND § 6101 (n) TO ARTICLE 1, § 6408 AND § 6409 TO ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REGULATING TOBACCO AND NICOTINE ADVERTISEMENTS.	10/25/23 4:31 p.m.						

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

**Bill No. 195-37 (LS)**

Introduced by:

Sabina Flores Perez *SFP*  
Therese M. Terlajg *TMT*  
Chris Barnett *CB*

**AN ACT TO *ADD* § 6101 (m) AND § 6101 (n) TO ARTICLE 1, § 6408 AND § 6409 TO ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REGULATING TOBACCO AND NICOTINE ADVERTISEMENTS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Family Smoking Prevention and Tobacco Control Act of 2009 (H.R. 1256)  
4 expanded the ability of the Food and Drug Administration (FDA) to regulate tobacco  
5 product advertisements nationwide. In 2016, this measure was expanded to include  
6 electronic nicotine delivering devices (ENDS).

7 *I Liheslatura* finds that the State Epidemiological Outcomes Workgroup  
8 (SEOW) published the Epi Profile in August of 2023 findings that tobacco-related  
9 diseases are the major cause of death in Guam today. The Guam Youth Risk  
10 Behavior Surveillance (YRBS) System sourced data for tobacco, alcohol, and drug  
11 use and other risky behaviors amongst Guam's youth enroll in public schools, which  
12 came to about 30,000 students at the time of the data collection. The Epi Profile  
13 reported one in four (26.5%) high school students and nearly on ein four (23.5%)  
14 middle school students reported current use. Tobacco control policies are closely  
15 associated with reductions in smoking prevalence and smokeless tobacco use.

1 Though data shows Guam’s tobacco consumption is on the decline, the many data  
2 sources are unable to capture tobacco users switching to “smoking alternatives” such  
3 as vape or ENDS products.

4 *I Liheslatura* further finds that most cigarette and smokeless tobacco  
5 advertising is prohibited in television, radio, billboard, transit ads, and transit station  
6 ads pursuant to the Federal Trade Commission regulations and provisions of the  
7 Tobacco Master Settlement Agreement. E-cigarettes, however, did not exist when  
8 these laws and agreements were adopted when they are subject to federal and state  
9 consumer protection laws prohibiting unfair and deceptive trade practices, as well  
10 as a narrow set of FDA regulations prohibiting false and misleading advertising and  
11 authorized modified risk claims. State and local policies restricting tobacco  
12 advertising can address gaps in federal policy and play a role in limiting exposure to  
13 tobacco product advertisements, which may decrease youth initiation and the  
14 ongoing use of these harmful products. In Guam, indirect advertising for all types of  
15 tobacco and nicotine products is still prevalent inside retail stores, on store windows,  
16 and in store parking lots. This marketing often targets children and adolescents.  
17 Studies have shown that even brief exposure to tobacco advertising can influence  
18 the attitudes and perceptions of youth about smoking and the use of tobacco  
19 products.

20 *I Liheslatura* further finds that in 2019 the Department of Revenue and  
21 Taxation reported to the Guam Behavioral Health and Wellness Center’s Annual  
22 Synar Report that there were 329 Active Retail Tobacco (Nicotine) Licenses, 30 of  
23 these vendors were also reported being in violation of 11 GCA Chapter 6 by selling  
24 tobacco and nicotine products to minors that are 21 years of age or younger and  
25 failing to post a the “Must be 21+” pursuant to 11 GCA Ch. 6, Article 4. As of  
26 September 2023, there are currently 347 Active Retail Tobacco Business Licenses  
27 and 8 Active Wholesale Tobacco Business Licenses on Guam.

1           The World Health Organization, Framework Convention on Tobacco Control  
2 (WHO-FCTC) recognizes that adolescents are uniquely vulnerable to nicotine  
3 addiction, and rates of youth tobacco use in Guam remain high. Although Guam  
4 implemented legislation for tobacco and nicotine access to the age of 21 years of age  
5 in 2017 (P.L. 34-01) our island’s youth still remain exposed to direct and indirect  
6 marketing of tobacco and nicotine companies in Guam. Exposure to tobacco and  
7 nicotine marketing is associated with increased susceptibility to use, and use of  
8 cigarettes among the island’s adolescents. The findings from a study conducted by  
9 the WHO-FCTC supports the regulatory efforts to strengthen the implementation of  
10 national restrictions on tobacco marketing. The WHO-FCTC is an international  
11 legally binding treaty that provides evidence-based comprehensive approaches on  
12 tobacco and nicotine control in countries around the globe. The overarching goals of  
13 the WHO-FCTC is to establish baselines of change, not ceilings.

14           Therefore it is the intent of *I Liheslaturan Guåhan* to safeguard our island’s  
15 youth by establishing certain restrictions around tobacco and nicotine  
16 advertisements, promotions, and sponsorships.

17           **Section 2.** A new §§ (m) and (n) to §6101 to Article 1, Chapter 6, Title 11,  
18 Guam Code Annotated are hereby *added* to read as:

19           “(m) *Nicotine Replacement Therapy Products*, means nicotine patches, gum,  
20 lozenges, and prescription medication approved by the U.S. Food and Drug  
21 Administration for the purpose of tobacco/nicotine cessation.

22           (n) *Point-of-Sale* means a physical place within a retail establishment where  
23 a transaction is made between the establishment and the customer for goods or  
24 services.”

25           **Section 3.** § 6408 and § 6409 to Article 4, Chapter 6, Title 11, Guam Code  
26 Annotated are hereby *added* to read as:

27           “§ 6408. Restrictions of Tobacco and E-Cigarette Advertisements.

1        It shall be a violation of this Chapter to advertise or market tobacco products  
2 or e-cigarettes defined in § 6102:

3        (a) through means of local television, radio, general publication in  
4 newspapers and magazines, billboards, electronic billboards, transit ads,  
5 and transit stations; and

6        (b) within six (6) feet of a *Point-of-Sale*.

7        (c) *Nicotine Replacement Therapy* products shall be exempt from § 6408

8        (a).

9        **§ 6409. Enforcement and Penalties.**

10        (a) In addition to any other penalties and fines that may be levied, any  
11 person who violates § 6408 of this Chapter shall be penalized as follows:

12            (1) In the case of the first violation, the person shall be fined Two  
13 Thousand Dollars (\$2,000.00) and the license shall be suspended for ninety  
14 (90) days;

15            (2) in the case of a second violation, the person shall be fined Five  
16 Thousand Dollars (\$5,000.00) and the license shall be suspended for One  
17 Hundred Eighty (180) days;

18            (3) in the case of three (3) or more violations, the person shall be  
19 fined Ten Thousand Dollars (\$10,000.00) and the license shall be revoked.  
20 The revoked retailer shall be ineligible to apply for a new license for two (2)  
21 years after the effective date of the revocation.

22        (b) Failure to pay a fine levied under this Section after suspension pursuant  
23 to Subsection (a) of this Section shall result in continued suspension of the  
24 licensee's license until such fines are paid.

25        (c) During any suspension or revocation of a license under this Section, the  
26 licensee shall not sell tobacco products and shall remove all tobacco products from  
27 all areas covered by the suspended license. In addition, any new application for a

1 license to sell tobacco products while a licensee is suspended under this Section shall  
2 be denied.

3 (d) All tobacco products sold over the counter shall be displayed and  
4 located where they shall be inaccessible to persons under twenty-one (21) years of  
5 age. Any vendor who violates this provision shall pay a penalty of Two Thousand  
6 Dollars (\$2,000.00).

7 (e) any person who is in violation of this Section, shall obtain certification  
8 from the Guam Behavioral Health and Wellness Center or the Department of Public  
9 Health and Social Services, who shall administer an education program, that  
10 includes, but is not limited to, information of Guam laws and regulations pertaining  
11 to tobacco and nicotine products, and prevention and cessation of tobacco and  
12 nicotine use. Certificates shall be submitted to the Department of Revenue and  
13 Taxation upon completion and prior to licensure.”

14 **Section 5. Enactment Date.** This act shall be effective upon enactment.

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