


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 |
|-------------|---|--|------------------------|---------------|---------------|--------------|---------------------|-----------------------------|-------|
| 197-37 (LS) | Committee on Maritime Transportation, Air Transportation, Parks, Tourism, Higher Education and the Advancement of Women, <u>Youth, and Senior Citizens</u> by request of I Kongressun Manhoben Guåhan, the Guam Youth Congress, in accordance with 2 GCA §7102. | AN ACT TO <i>ADD</i> A NEW CHAPTER 10 TO TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A VAPING PRODUCT TAX AND LICENSING OF THE RETAIL AND WHOLESALE DISTRIBUTION OF VAPING PRODUCTS, WHICH SHALL BE CITED AS THE “ <i>STOP ADDICTION THROUGH VAPING EXCISE (S.A.V.E.) ACT OF 2023.</i> ” | 10/31/23 11:34 a.m. | | | | | | |

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

Bill No. 197-37 (LS)

Introduced by:

Committee on Maritime
Transportation, Air
Transportation, Parks, Tourism,
Higher Education, and the
Advancement of Women,
Youth, and Senior Citizens. 

by request of *I Kongressun
Manhoben Guåhan*, the Guam
Youth Congress, in accordance
with 2 GCA § 7102.

**AN ACT TO *ADD* A NEW CHAPTER 10 TO TITLE 11 OF THE
GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING
A VAPING PRODUCT TAX AND LICENSING OF THE
RETAIL AND WHOLESALE DISTRIBUTION OF VAPING
PRODUCTS, WHICH SHALL BE CITED AS THE “*STOP
ADDICTION THROUGH VAPING EXCISE (S.A.V.E.) ACT OF
2023.*”**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 vaping and the inhalation of nicotine are harmful and dangerous for all people,
4 specifically youth. In a recent report by the Guam State Epidemiological Profile,
5 nearly twenty-seven percent (27%) of high school students and almost twenty-four
6 percent (24%) of middle school students have used vaping products. *I Liheslatura*
7 realizes that the true statistics are likely higher due to certain response biases that are
8 present in the report.

1 *I Liheslaturan Guahan* finds that when policies that make using harmful
2 substances like tobacco and cigarettes a burden are enacted and enforced, usage
3 amongst the community decreases. Recommendations from public health officials,
4 physicians, and the community suggest that a tax on vaping products must be levied
5 to deter the usage of these harmful products.

6 *I Liheslaturan Guahan* further finds that in 2018, the United States Surgeon
7 General declared vaping amongst youth a public health crisis and recommended
8 aggressive action to deter the usage of vaping products. *I Liheslatura* owes it to both
9 the people of Guam, and the youth of the island, to do everything in its power to curb
10 the usage of these harmful substances to ensure everyone who calls Guam home is
11 safe and is in the best health possible.

12 While this report is considered recent, there has been a significant uptick in
13 the usage of vaping products. Vaping products and electronic cigarettes were
14 designed to be used to deter smoking, today the largest portion of users of vaping
15 products are people who have never used cigarettes or tobacco. This is guiding our
16 island's health in the wrong direction. It is the intent of *I Liheslaturan Guahan* to
17 deter the usage of vaping by levying a tax on all vaping products in Guam, like the
18 Tobacco Control Act of 2006. It is also the intent of *I Liheslatura* to deter the sale
19 of vaping products by raising the price to consumers through this tax.

20 By levying a tax on vaping products, the Government of Guam will have an
21 additional stream of revenue and can reinvest this money to fund vaping prevention
22 and education programs at various agencies, such as the Department of Public Health
23 and Social Services, Guam Behavioral Health and Wellness Center, and the Guam
24 Department of Education.

25 *I Liheslaturan Guahan* realizes that there have been attempts made to impose
26 stricter policies on vaping products, however, no comprehensive reform 1 has been

1 proposed recently. It is the hope of *I Liheslaturan Guahan* that this issue can be
2 solved once and for all for the people of Guam.

3 **Section 2.** A new Chapter 10 is hereby *added* to Title 11 of the Guam Code
4 Annotated, to read:

5 **“CHAPTER 10**

6 **STOP VAPING THROUGH EXCISE TAX (S.A.V.E.) ACT OF 2023**

7 Article 1. General Provisions

8 Article 2. Licenses.

9 Article 3. Issuance of Licenses.

10 Article 4. Enforcement.

11 Article 5. Vaping Products Excise Tax Law.

12 Article 6. Stamping of Vaping Products.

13
14 **ARTICLE 1**

15 **GENERAL PROVISIONS**

16
17 §10101. Title.

18 §10102. Definitions.

19 §10103. Applicability of Commercial Licenses Provisions and
20 Requirements.

21
22 **§10101. Title.** This Chapter shall be known as the ‘Stop Addiction through
23 Vaping Excise 21 Act of 2023,’ or as the ‘S.A.V.E. Act of 2023.’

24
25 **§10102. Definitions.** Unless the context otherwise requires, the definitions set
26 forth herein shall govern the construction and interpretation of this Chapter.

27 (a) ‘Director’ shall mean the Director of Revenue and Taxation.

1 (b) ‘License’ shall mean Retail License and Wholesale License for sales of
2 vaping products, as defined under this section.

3 (c) ‘Minor’ shall mean any person under eighteen (18) years of age.

4 (d) ‘Person’ shall mean any individual, company, corporation, firm,
5 partnership, organization, estate, trust, limited liability company, limited liability
6 partnership, or other legal entity.

7 (e) ‘Retail’ shall mean the sale of tangible personal property for consumption
8 or use by the purchaser and not for resale.

9 (f) ‘Retail License’ shall mean a license issued by the Director of Revenue
10 and Taxation for the retail sale of vaping products or sale through a vending machine.

11 (g) ‘Stamp’ shall mean a stamp printed, manufactured, or made by authority
12 of the Department, as provided in this Chapter, that is issued, sold, or circulated by
13 the Department, and by the use of which the tax levied under this Chapter is paid.

14 (h) ‘Vaping Product’ and ‘electronic cigarette’ shall mean a battery-operated
15 product that is designed to deliver nicotine, flavor, and other chemicals. This
16 definition shall also include all products that turn nicotine and other chemicals into
17 a vapor that is inhaled by the user. This definition shall further include paraphernalia
18 that is used to facilitate and enhance vapor inhalation through devices that include
19 but are not limited to, electronic cigarettes and vaping devices.

20 (i) ‘Vending Machine’ shall mean any mechanical, electrical, or electronic
21 device that, on approval of payment through money, tokens, cashless means, or any
22 other form of payment, automatically dispenses vaping products.

23 (j) ‘Wholesale’ shall mean the importation into or purchase in Guam from a
24 manufacturer or other wholesale license of tangible personal property not for
25 consumption or use by the purchaser, but solely for resale or retail sellers.

26 (k) ‘Wholesale License’ shall mean a license issued by the Director of
27 Revenue and Taxation for the wholesale sale of vaping products to retailers.

1 (1) 'Bona fide Importer/Exporter' shall mean one having no predisposition
2 otherwise in having possession of such imported or exported vaping product.

3
4 **§ 10103. Applicability of Commercial Licenses Provisions and**
5 **Requirements.** The provisions and regulations of Chapters 70 and 72 of Title 11 of
6 the Guam Code Annotated shall govern this Chapter in matters and provisions not
7 specifically provided in this Chapter and when relevant.

8
9 **ARTICLE 2**

10 **LICENSES**

11
12 § 10201. License: Required.

13 § 10202. Classes and Fees.

14 § 10203. Term.

15 § 10204. Renewal.

16 § 10205. Vending Machines.

17 § 10206. Multiple.

18 § 10207. License: Privilege: Limitation.

19 § 10208. Limitation.

20 § 10209. Display of License.

21
22 **§ 10201. License: Required.**

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

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

1 (c) It shall be a violation of this Chapter for any person who is directly or
2 indirectly engaged in the business of manufacturing vaping products to retail vaping
3 products, directly or indirectly, or holds a retail or wholesale license. It shall not be
4 a violation of this Chapter for any such person engaged in the business of
5 manufacturing vaping products to a duly licensed vaping wholesaler.

6
7 **§ 10202. Classes and Fees.** The Director is authorized to issue the following
8 classes of licenses at the following fees, which shall be paid by the applicant at the
9 time of application:

- | | | |
|----|---|-------------------|
| 10 | (a) <u>Annual Retail License:</u> | <u>\$200.00</u> |
| 11 | (b) <u>Annual Vending Machine Retail License:</u> | <u>\$100.00</u> |
| 12 | (c) <u>Annual Wholesaler License:</u> | <u>\$2,000.00</u> |

13
14 **§ 10203. Term.** Licenses shall be issued on an annual basis and shall expire
15 on the thirty-first (31st) day of March following the date of issuance. The full fee
16 shall be paid for any fraction of the year for which a license is issued.

17
18 **§ 10204. Renewal.**

19 (a) A licensee may renew his or her license at the expiration thereof by the
20 payment of the annual license fee set forth in this Chapter and by filing a renewal
21 application. A licensee who fails to renew his or her license on or before the thirtieth
22 (30th) day of June of each year shall be assessed a late fee of one hundred dollars
23 (\$100.00) and a penalty of Two Dollars (\$2.00) per each calendar day he or she is
24 delinquent, which penalty shall become part of the renewal fee, and his or her license
25 shall be automatically suspended, unless all payments for annual fee, late fee, and
26 the daily penalty are paid in full on or before the thirty-first (31st) day of July of that
27 year, in which case the license may be reinstated by the Director immediately.

1 (b) Additionally, any licensee who fails to renew his or her license on or
2 before the thirty-first (31st) day of July shall be subject to an injunction issued by
3 the Superior Court of Guam and to prosecution under Title 11 GCA § 70119. Such
4 failure to renew while continuing the operation of the business shall constitute
5 refusal and failure to obtain a license under the provisions of Division 3 of this Title.

6
7 **§ 10205. Vending Machines.**

8 (a) The owner of a vending machine shall obtain a retail license and pay the
9 fee required for each vending machine.

10 (b) The owner of a vending machine who violates Subsection (a) of this
11 section shall be fined One-Hundred-Fifty Dollars (\$150.00) per violation.

12
13 **§ 10206. Multiple.** A person applying for retail licenses to operate more than
14 one (1) premise, or more than one (1) vending machine, shall obtain a separate retail
15 license for each premise and each vending machine, and shall pay the fee prescribed
16 for each premise and each vending machine.

17
18 **§ 10207. License: Privilege: Limitation.** A licensee is limited to the
19 privileges conferred by the license and is not authorized to exercise any other
20 privileges.

21
22 **§ 10208. Limitation.** A licensee is limited to the premises for which the
23 license is issued and is not authorized to exercise the privileges conferred by the
24 license at other premises.

25 **§ 10209. Display of License.**

26 (a) A licensee for sales of vaping products, excluding sales through vending
27 machines, shall prominently display the license on each licensed premise.

1 **(b) A licensee for vending machine sales of vaping products shall affix a retail**
2 **license decal furnished by the Director in a prominent position on each vending**
3 **machine.**
4

5 **ARTICLE 3**
6 **ISSUANCE OF LICENSES**
7

8 **§ 10301. License: Restrictions.**

9 **§ 10302. Real Party in Interest.**

10 **§ 10303. Persons Under the Age of Twenty-One (21) Years.**

11 **§ 10304. Prior Revoke.**

12 **§ 10305. Unfit Person.**

13 **§ 10306. Application.**

14 **§ 10307. Penalties for Selling Vaping Products Without a License.**

15
16 **§ 10301. License: Restrictions.**

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

19 **(b) No wholesaler within or outside of Guam, nor any officer, thereof, nor any**
20 **subsidiary, affiliate, or other entity in which a wholesaler holds any ownership or**
21 **interest, directly or indirectly by stock or ownership, interlocking directors,**
22 **trusteeship, loan, mortgage, or lien on any real or personal property, shall hold any**
23 **vaping license other than a wholesaler's license in Guam.**

24 **§ 10302. Real Party in Interest.** The Director shall not issue a license of any
25 **class to an applicant who is not the real party in interest.**
26

1 § 10303. Persons Under the Age of Twenty-One (21) Years. The Director
2 shall not issue a license of any class to a person who is under twenty-one (21) years
3 of age.

4
5 § 10304. Prior Revoke. Except in the case of a license revoked for non-
6 payment of a renewal fee, the Director shall not issue a license of any class to any
7 person who has held a license of any class which was revoked within a five (5) year
8 period prior to the date of the application.

9
10 § 10305. Unfit Person. The Director shall not issue a license of any class to
11 any person the Director deems unfit to hold a license.

12
13 § 10306. Application.

14 (a) An applicant for a license shall apply in writing to the Director, verified
15 under oath and accompanied by the license fee.

16 (b) Upon receipt of an application for a license and the license fee, the Director
17 shall investigate whether the applicant and the premises qualify for a license.

18
19 § 10307. Penalties for Selling Vaping Products Without a License. In
20 addition to any other penalties and fines that may be levied, including those under §
21 6405 and § 70120 of this Title, any person who violates § 6201 shall be guilty of a
22 misdemeanor as set forth in § 70119 of this Title, and punished as follows:

23 (a) in the case of a first violation, by a fine of Five-Hundred Dollars (\$500.00);

24 (b) in the case of a second violation, by a fine of One-Thousand Dollars
25 (\$1,000.00);

26 (c) in the case of three (3) or more violations, a fine of not less than Two-
27 Thousand Dollars (\$2,000.00), nor more than Five-Thousand Dollars (\$5,000.00),

1 and the person shall not be eligible to apply for a license for seven (7) years after the
2 date of assessment of a fine.

3
4 **ARTICLE 4**
5 **ENFORCEMENT**

6
7 § 10401. Enforcement, Notice, and Hearing.

8 § 10402. Publication and Distribution of Laws and Rules.

9 § 10403. Use of Collected Fees and Penalties for Youth Programs.

10 § 10404. Report.

11
12 **§ 10401. Enforcement, Notice, and Hearing.** The Director shall enforce this
13 Chapter following provisions and regulations as described in Article 5 of Chapter 6
14 of this Title.

15
16 **§ 10402. Publication and Distribution of Laws and Rules.** The Director
17 shall compile and provide a copy of the laws and rules concerning retail vaping
18 product sales to every new licensee at no charge.

19
20 **§ 10403. Use of Collected Fees and Penalties for Youth Programs.** All fines
21 and fees assessed and collected under this Chapter shall be distributed and deposited
22 in the following manner by the Director on the final working day of the months of
23 March, June, September, and December of each year:

24 (a) fifty percent (50%) to the Youth Tobacco Education and Prevention Fund;

25 (b) thirty percent (30%) to the Health and Human Services Fund;

26 (c) twenty percent (20%) to the Department of Revenue and Taxation for the
27 administration of this Chapter.

1
2 **§ 10404. Report.**

3 (a) The Director shall report monthly to the Guam Behavioral Health and
4 Wellness Center a list of all licenses granted and renewed, including the names and
5 street addresses of the business or the location of the vending machines, the number
6 of violations processed, and the penalties imposed, and any other information that
7 the Director and Guam Behavioral Health and Wellness Center agree upon.

8 (b) The Superintendent of the Guam Department of Education shall report
9 quarterly to the Guam Behavioral Health and Wellness Center and the Department
10 of Public Health and Social Services regarding the usage of vaping products in Guam
11 public schools. This report shall include, but not be limited to, the percentage and
12 number of students found using vaping products and the Guam Department of
13 Education’s actions taken to mitigate and reduce the usage of vaping products in its
14 facilities.

15
16 **ARTICLE 5**

17 **VAPING PRODUCT EXCISE TAX LAW**

18
19 § 10501. Tax Levied on Vaping Products.

20 § 10502. Tax Proceeds.

21
22 **§ 10501. Tax Levied on Vaping Products.**

23 (a) An excise tax shall be levied on the wholesale and retail sale of vaping
24 products, as defined in this Code, at the rate of forty percent (40%) of the price per
25 product. All invoices for vaping products issued by manufacturers must state the
26 amount of consumable product in milliliters.

1 (b) Taxes levied under this section shall not apply to the following vaping
2 products sold outside of Guam.

3 (c) The wholesaler dealer or retail dealer who first acquires or otherwise
4 handles vaping products subject to tax imposed by this Chapter shall be liable for
5 the tax levied in this Chapter. The retail dealer who acquires non-tax paid vaping
6 products subject to the tax levied by this Chapter from a wholesale dealer is liable
7 for any tax due on the vaping product. A retail dealer who is liable for tax under this
8 Chapter shall not deduct a discount from the amount of tax due when reporting the
9 tax.

10
11 § 10502. Tax Proceeds. All monies collected from the taxes levied in this
12 Chapter shall be disbursed to the following Special Revenue Funds:

13 (a) twenty-five percent (25%) of the monies collected under the tax levied by
14 this Chapter shall be deposited into the Territorial Educational Facilities Fund Guam
15 Educational Facilities Fund.

16 (b) thirty-five percent (35%) of the monies collected under the tax levied by
17 this Chapter shall be deposited into the Healthy Futures Fund.

18 (c) fifteen percent (15%) of the monies collected under the tax levied by this
19 Chapter shall be deposited into the Police Services Fund.

20 (d) fifteen percent (15%) of the monies collected under the tax levied by this
21 Chapter shall be deposited into the Guam Behavioral Health and Wellness Center.

22 (e) ten percent (10%) of the monies collected under the tax levied by this
23 Chapter shall be deposited into the Department of Revenue and Taxation.

24 (f) If any of these special funds are eliminated by legislation, the percentage
25 given to the fund eliminated shall be divided evenly amongst the remaining special
26 funds.

27

1 ARTICLE 6

2 STAMPING OF VAPING PRODUCTS

3
4 § 10601. Payment of Tax Through the Use of Stamps.

5 § 10602. Affixation; Required Prior to Distribution; Method and Manner.

6 § 10603. Department to Furnish: Stamps, Their Designs, Specifications,
7 and Denominations.

8 § 10604. Purchase of Stamps.

9 § 10605. Price.

10 § 10606. Unused Stamps; Cancellation of Stamps.

11 § 10607. Transfer of Stamps.

12 § 10608. Unlicensed Possession or Use of Stamps.

13 § 10609. Counterfeiting Stamps.

14 § 10610. Sale or Purchase of Vaping Products Without Stamps; Fines and
15 Penalties.

16 § 10611. Vending of Unstamped Vaping Products.

17 § 10612. Exemptions.

18 § 10613. Forfeiture.

19 § 10614. Deceptive Trade Practices.

20 § 10615. Public Enforcement.

21 § 10616. Private Enforcement.

22
23 **§ 10601. Payment of Tax Through the Use of Stamps.** The tax imposed
24 under this Chapter upon the sale or use of vaping products shall be paid by licensees
25 through the use of stamps.
26

1 § 10602. Affixation; Required Prior to Distribution; Method and
2 Manner.

3 (a) A licensee or the authorized agent or designee of a licensee shall affix a
4 stamp to the exterior of each package of a vaping product prior to distribution.

5 (b) No individual vaping product may be sold or offered for sale to the general
6 public unless affixed with the stamp required under this Section.

7 (c) No package of a vaping product may be placed or stored in a vending
8 machine unless affixed with the stamp required under Subsection (a) of this Section.

9 (d) The Department may adopt rules regarding the method and manner of
10 affixing stamps to a package of a vaping product.

11 (e) For the purpose of allowing compensation for the costs necessarily
12 incurred in affixing the proper tax stamps to each package of vaping products prior
13 to distribution, each licensee or authorized agent or a designee of a licensee
14 purchasing stamps from the Department may purchase the stamps at a reduction of
15 four-tenths of one percent (0.4%) of the denominated value of each stamp purchased.
16 The reduction shall be the only discount allowed to purchasers from the Department.
17 If a purchaser does not comply with all of the provisions of Guam law, the licensee
18 shall pay the full denominated value of the stamps purchased until the licensee has
19 complied.

20
21 § 10603. Department to Furnish: Stamps, Their Designs, Specifications,
22 and Denominations. The Department shall furnish stamps for sale to licensees.
23 Stamps shall be of such designs and specifications, and the Department may
24 prescribe denominations as it sees fit.

25
26 § 10604. Purchase of Stamps. A licensee may enter or apply to the
27 Department to purchase stamps beginning one hundred eighty (180) days from the

1 date of enactment of this Act. A licensee may authorize a designee to purchase
2 stamps. Such authorization shall be in writing and shall continue until written notice
3 revoking the designation is provided to the Department.

4
5 **§ 10605. Price.**

6 (a) Stamps shall be sold at their denominated values as provided for herein.

7 (b) Payment for the stamps shall be made no later than the twentieth (20th)
8 day of the month following the month in which the stamps were purchased from the
9 Department.

10 (c) Any taxpayer under this Section may delay the payment of taxes in
11 accordance with the provisions under 11 GCA § 26601(c) relative to vaping products
12 held and sold out of a bonded warehouse. Payment for the stamps for vaping
13 products held and sold out of a bonded warehouse shall be made no later than the
14 twentieth (20th) day of the month following the month in which the stamps and
15 associated vaping products were issued and sold out of the bonded warehouse.

16
17 **§ 10606. Unused Stamps; Cancellation of Stamps.** The Department shall
18 adopt rules for a refund or credit to a licensee in the amount of the denominated
19 values of any unused stamps. The Department may provide by rule for the
20 cancellation of stamps.

21
22 **§ 10607. Transfer of Stamps.** Unused stamps shall not be sold, exchanged,
23 or in any manner negotiated or transferred by a licensee to another person. Any
24 person who violates this Section shall be subject to a fine of not less than One-
25 Thousand Dollars (\$1,000.00) and not more than Two-Thousand Dollars
26 (\$2,000.00) for each violation.

1 **§ 10608. Unlicensed Possession or Use of Stamps.** A person who is not
2 licensed under this Chapter and who knowingly possesses or uses a stamp shall be
3 guilty of a third (3rd) degree felony.
4

5 **§ 10609. Counterfeiting Stamps.** A person shall be guilty of a third (3rd)
6 degree felony if the person:

7 (a) intentionally or knowingly makes, alters, or reuses a stamp; or

8 (b) knowingly possesses or distributes a stamp that has been falsely made,
9 unauthorized, altered, or reused.
10

11 **§ 10610. Sales or Purchase of Vaping Products Without Stamps; Fines**
12 **and Penalties.**

13 (a) A person shall be guilty of a third (3rd) degree felony if the person:

14 (1) is not a licensee, and knowingly possesses, keeps, stores, acquires, or
15 transports two hundred (200) or more vaping products that do not have stamps
16 affixed to the vaping product's packaging as required by this Article; or

17 (2) knowingly sells one hundred (100) or more vaping 16 products that do not
18 have stamps affixed to the vaping product's packaging as required by this Article.

19 (b) A person shall be guilty of a misdemeanor if the person:

20 (1) is not a licensee, and knowingly possesses, keeps, stores, acquires, or
21 transports one hundred (100) or more vaping products that do not have stamps
22 affixed to the vaping product's packaging as required by this Article; and

23 (2) knowingly sells less than one hundred (100) vaping products that do not
24 have stamps affixed to the vaping product's packaging as required by this Article.

25 (c) In addition to any other authorized disposition, a person found in violation
26 of:

1 (1) Subsection (a) is subject to a fine in an amount not to exceed One-Hundred
2 Thousand Dollars (\$100,000); and

3 (2) Subsection (b) is subject to a fine in an amount not to exceed Fifty-
4 Thousand Dollars (\$50,000).

5
6 **§ 10611. Vending of Unstamped Vaping Products.**

7 (a) Any person who knowingly places for sale in a vaping product vending
8 machine any vaping products not contained in vaping product packages to which are
9 affixed stamps as required by this Article shall be guilty of a third (3rd) degree
10 felony.

11 (b) In addition to any other authorized disposition, a person found in violation
12 of Subsection (a) shall be fined in an amount not to exceed One Hundred Thousand
13 Dollars (\$100,000).

14
15 **§ 10612. Exemptions.**

16 (a) No vaping product tax stamp shall be required to be paid upon vaping
17 products that are sold for personal use at sales outlets operated under the regulations
18 of the armed services of the United States; provided, that it shall be unlawful for any
19 person, including members of the armed services of the United States, to purchase
20 such tax-exempt vaping products for purposes of resale.

21 (1) Any person who intentionally, knowingly, or recklessly resells, or offers
22 for resale, tax-exempt vaping products purchased at sales outlets operated under the
23 regulations of the armed services of the United States shall be guilty of a violation
24 of this Article, and punishable as provided in § 10610 or § 10611 of this Article.

25 (2) For the purposes of this Section, ‘person’ means one (1) or more people,
26 a company, a corporation, a partnership, or any combination of individuals.

1 (b) No vaping product tax stamp shall be required to be paid upon vaping
2 products that are sold outside of Guam, including vaping products sold for export
3 outside of Guam and vaping products sold through duty-free outlets located at the
4 A.B. Won Pat International Airport Guam which are intended to be transported
5 outside of Guam by outgoing travelers; provided, that it shall be unlawful for any
6 person to purchase such tax-exempt vaping products for purposes of resale on Guam.

7 (c) Unless otherwise exempt from taxes by this Chapter, it shall be presumed
8 that all vaping products are subject to the tax imposed by this Chapter, unless the
9 contrary is established, and the burden of proof that they are not taxable shall be
10 upon the person having possession of them.

11
12 **§ 10613. Forfeiture.** Any vaping product unlawfully possessed, kept, stored,
13 acquired, transported, sold, imported, offered, received, or distributed in violation of
14 this Chapter may be seized and confiscated by any order of the Attorney General,
15 and ordered forfeited.

16
17 **§ 10614. Deceptive Trade Practices.** Any violation of this Chapter shall
18 constitute an unfair method of competition, and unfair and deceptive acts or practices
19 in the conduct of any trade or commerce under 5 GCA § 32101 et seq. and shall be
20 subject to a civil penalty as provided in Guam law. Each vaping product sold in
21 violation of this Chapter shall constitute a separate violation.

22 **§ 10615. Public Enforcement.**

23 (a) Public enforcement of this Article is under the jurisdiction of the Attorney
24 General. The Attorney General may seek assistance in the enforcement of this
25 Article from other law enforcement agencies. This includes:

26 (1) any peace officer as defined by 8 GCA § 5.55; and

1 (2) a Citizen Assisted Police Enforcement (CAPE) volunteer as provided
2 pursuant to 10 GCA § 77302.

3 (b) The Attorney General and the Guam Police Department may seize and
4 confiscate any vaping product that is possessed, kept, stored, retained, held, owned,
5 received, transported, imported, or caused to be imported, acquired, distributed, sold,
6 or offered for sale in violation of this Article.

7 (c) Any vaping product unlawfully possessed, kept, stored, received, held,
8 owned, acquired, retained, transported, imported, or caused to be imported,
9 distributed, sold, or offered for sale, in violation of this Article, shall be forfeited as
10 contraband and may be seized through any legal process available to the Attorney
11 General. Any vaping product forfeited as provided in this Section shall be ordered
12 destroyed.

13 (d) Notwithstanding the existence of other remedies at law, the Attorney
14 General may apply for a temporary or permanent injunction restraining any person
15 from violating or continuing to violate this Article. The injunction shall be issued
16 without bond.

17
18 § 10616. Private Enforcement. This Section shall be enforced following
19 provisions and regulations as described in Article 8 of Chapter 6 of this Title.”

20 **Section 3. Severability.** If any provision of this Act or its application to any
21 person or circumstance is held invalid, the invalidity shall not affect other provisions
22 or applications of this Act that can be given effect without the invalid provision or
23 application; to this end the provisions of this Act are severable.

24 **Section 4. Effective Date.** This Act shall be effective on April 1, 2024.