

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
229-37 (COR)	Thomas J. Fisher	AN ACT TO ADD A NEW SECTION TO TITLE 11, CHAPTER 6 OF GUAM CODE ANNOTATED PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS WITHIN THE TERRITORY OF GUAM.	1/5/24 11:28 a.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 229-37 (COR)

Introduced by:

Thomas J. Fisher 

**AN ACT TO ADD A NEW SECTION TO TITLE 11, CHAPTER
6 OF GUAM CODE ANNOTATED PROHIBITING THE SALE
OF FLAVORED TOBACCO PRODUCTS WITHIN THE
TERRITORY OF GUAM.**

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

2 **SECTION 1.** The Guam legislature finds that tobacco use remains the
3 leading cause of preventable disease and death in the United States and in
4 Guam. Tobacco use is a serious public health problem in terms of the human
5 suffering and the loss of life it causes, as well as the financial burden it imposes on
6 society and our health care system.

7 Furthermore, in a 2016 report titled "E-Cigarette Use Among Youth and
8 Young Adults," the United States Surgeon General explained that ninety-five per
9 cent of all smokers start smoking before the age of twenty-one. A 2017 study
10 published in the American Journal of Preventive Medicine found that eighty-one per
11 cent of youth who had previously used a tobacco product reported that the first
12 product they used was flavored. Flavored tobacco products promote youth initiation
13 to tobacco use and push young occasional smokers to become daily smokers by
14 reducing or masking the natural harshness and taste of tobacco smoke and
15 particulates, thereby increasing the appeal of tobacco products. Candy and fruit
16 flavors also improve the taste and reduce the harshness of tobacco products, making

1 them more appealing and easier for beginners to try tobacco products and ultimately
2 become addicted.

3 The legislature further finds that the popularity of electronic cigarettes among
4 youth is alarming. The combination of enticing flavors and nicotine salts allows
5 higher levels of nicotine to be inhaled with less irritation because they have a lower
6 potential of hydrogen, also known as "pH". In the 2016 report titled "E-Cigarette
7 Use Among Youth and Young Adults," the United States Surgeon General stated
8 that, "Compared with older adults, the brain of the youth and young adults is more
9 vulnerable to the negative consequences of nicotine exposure. The effects include
10 addiction, priming for use of other addictive substances, reduced impulse control,
11 deficits in attention and cognition, and mood disorders."

12 While there has been a significant and welcome decline in the use of
13 combustible cigarettes over the last decade, there has been a dramatic increase in the
14 use of electronic smoking devices by Guam's youth. E-cigarette usage, or vaping,
15 in Guam is at an epidemic level.

16 It is no coincidence that the number of electronic cigarette flavors have
17 skyrocketed in recent years. In a 2018 study published in The Journal of Medical
18 Internet Research, the count of flavor labels was reported to have more than doubled
19 from 7,776 in 2013-2014 to 15,586 in 2016-2017. Guam has experienced the
20 heightened promotion of vape products that offer candy and local flavors designed
21 to appeal to the territory's youth. Additionally, many packages are designed to look
22 like candies popular with children, such as Jolly Ranchers and Sour Patch Kids. The
23 legislature additionally finds that young people are disproportionately using flavored
24 tobacco products.

25 Given the significant threat to public health posed by flavored tobacco
26 products, states (including California, Massachusetts, New Jersey, New York, and
27 Rhode Island) and dozens of cities have enacted laws prohibiting the sale of flavored

1 tobacco products. These laws now protect over twenty-five per cent of the United
2 States population. The legislature therefore finds that Guam should also take steps
3 to regulate these products to reduce tobacco-related health disparities and address
4 the youth vaping epidemic.

5 Accordingly, the purpose of this Act is to prohibit the sale or distribution in
6 Guam of flavored tobacco products, and prohibit the mislabeling of products as
7 nicotine-free.

8 **SECTION 2.** Title 11, Chapter 6 of the Guam Code Annotated, is adding
9 a new section to be appropriately designated and to read as follows:

10 **Sale of flavored tobacco products; mislabeling as nicotine-free.**

11 (1) Beginning six (6) months after the enactment of this bill it shall be unlawful for
12 any retailer, or any agent or employee of the retailer, to:

13 (a) Sell, offer for sale, or possess with the intent to sell or offer for sale, a
14 flavored tobacco product; or

15 (b) Mislabel as nicotine-free or sell or market for sale as nicotine-free, any e-
16 liquid product that contains nicotine.

17 (2) Any flavored tobacco product found in a retailer's possession that is in violation
18 of this section shall be considered contraband, promptly seized, subject to immediate
19 forfeiture and destruction or disposal, and shall not be subject to replevin; and
20 provided that the cost of proper disposal of electronic smoking devices and e-liquids
21 as hazardous waste or otherwise, shall be borne by the retailer.

22 (3) Any retailer and any agent or employee of a retailer who violates this section
23 shall be subject to a fine not to exceed \$500. Any subsequent violation shall subject
24 the offender to a fine of not less than \$500 nor more than \$2,000.

25 (4) For the purposes of this section:

26 "Cigarette" means any roll for smoking made wholly or in part of tobacco,
27 irrespective of size and shape and whether or not the tobacco is flavored, adulterated,

1 or mixed with any other ingredient, the wrapper or cover of which is made of paper
2 or any other substance or material except tobacco.

3 "Distinguishable" means perceivable by either the sense of sight, smell or
4 taste.

5 "Electronic smoking device" means any device that may be used to deliver
6 any aerosolized or vaporized substance to the person inhaling from the device,
7 including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
8 Electronic smoking device includes any component, part, or accessory of the device,
9 and also includes any substance that may be aerosolized or vaporized by such device,
10 whether or not the substance contains nicotine. Electronic smoking device does not
11 include drugs, devices, or combination products authorized for sale by the U.S. Food
12 and Drug Administration, as those terms are defined in the Federal Food, Drug, and
13 Cosmetic Act.

14 "Entity" means one or more individuals, a limited liability company,
15 corporation, a partnership, an association, or any other type of business.

16 "Flavored tobacco product" means any tobacco product that imparts: a taste
17 or smell, other than the taste or smell of tobacco, distinguishable by an ordinary
18 consumer either prior to or during the consumption of such tobacco products,
19 including but not limited to the taste or smell of fruit, chocolate, vanilla, honey,
20 candy cocoa, dessert, alcohol beverage, mint, wintergreen, menthol, herb or spice,
21 or a cooling or numbing sensation distinguishable by an ordinary consumer either
22 prior to or during the consumption of such tobacco product.

23 "Presumptive flavored tobacco product" means any communication by or on
24 behalf of the manufacturer or retailer of a tobacco product that indicates that the
25 product imparts: a taste or smell other than the taste or smell of tobacco; or a cooling
26 or numbing sensation, constitutes presumptive evidence of a violation of this section.

1 Presumptive evidence may include but is not limited to the use of terms such as
2 “cool”, “chill”, “ice”, “fresh”, or “frost” to describe the product.

3 “Labeling” means written, printed, pictorial, or graphic matter upon a tobacco
4 product or any of its packaging.

5 “Packaging” means a pack, box, carton, or container of any kind, or if no other
6 container, any wrapping, including cellophane, in which a tobacco product is sold or
7 offered for sale to a consumer.

8 “Retailer” means an entity which sells, offers for sale, or exchanges or offers
9 to exchange tobacco products to consumers for any form of consideration. The term
10 “retailer” includes the owner of a tobacco retail location.

11 “Tobacco product” means any product containing, made of, or derived from
12 tobacco or nicotine that is intended for human consumption or is likely to be
13 consumed, whether inhaled, absorbed, or ingested by any other means, including but
14 not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; or
15 any electronic smoking device and any substances that may be aerosolized or
16 vaporized by such device, whether or not the substance contains nicotine; or
17 any component, part, or accessory of (1) or (2), whether or not any of these contains
18 tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp
19 wraps, hookahs, mouthpieces, and pipes. Tobacco product does not mean drugs,
20 devices, or combination products authorized for sale by the U.S. Food and Drug
21 Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic
22 Act.

23 “Tobacco retail location” means any premises where tobacco products are sold
24 or distributed to a consumer, including but not limited to any store, bar, lounge, cafe,
25 stand, outlet, vehicle, cart, location, vending machine, or structure.”

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1 **SECTION 3.** Severability. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held invalid, the invalidity does
3 not affect other provisions or applications of the Act that can be given effect without
4 the invalid provision or application, and to this end the provisions of this Act are
5 severable.