


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
242-37 (COR)	Therese M. Terlaje	AN ACT TO AMEND §§21101, 21102, 21104, 21107, AND 21115, ALL OF CHAPTER 21, TITLE 10, GUAM CODE ANNOTATED RELATIVE TO SANITARY PERMIT REQUIREMENTS.	2/13/24 12:30 p.m.						

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

Bill No. 242-37(COR)

Introduced by:

Therese M. Terlaje 

**AN ACT TO AMEND §§21101, 21102, 21104, 21107, AND 21115,
ALL OF CHAPTER 21, TITLE 10, GUAM CODE ANNOTATED
RELATIVE TO SANITARY PERMIT REQUIREMENTS.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 the current laws regarding inspections of permitted health-regulated establishments
4 are outdated, using a time period-based requirement versus a risk-based
5 requirement. Most state public health agencies have adopted risk-based monitoring
6 programs which have been found to be an effective and efficient method to
7 conduct compliance inspections of health regulated establishments. A risk-based
8 approach allows for a variable frequency of inspections that will enable inspectors
9 to efficiently spend more time in establishments that pose the greatest potential
10 health risk to the public, thereby ensuring the safety of the people.

11 *I Liheslatura* further finds that certain provisions of Chapter 21 of Title 10
12 GCA needs to be updated and these include amending §21107 to allow a designee
13 in place of the Director for inspection and notices of violation and amends the
14 number of days to correction violations. Lastly, amending §2115 ensures that ABC
15 Licenses are issued and enforced by Department of Revenue and Taxation instead
16 od Department of Public Health and Social Services.

1 “**Section 2.** §21101 of Chapter 21, Title 10, Guam Code Annotated is hereby
2 *amended* to read:

3 “**§ 21101. Sanitary Permit.**

4 It shall be unlawful for any person to operate or open for business:

5 (a) Any establishment or activity defined ~~as a food service establishment,~~
6 ~~temporary food service establishment, mobile food service establishment,~~ or
7 ~~vending machine, as defined in Chapter 23; or Chapter 24;~~

8 ~~(b) Any food establishment as defined in Chapter 24;~~

9 ~~(c)~~(b) Any institutional facility as defined in Chapter 25;

10 ~~(d)~~(c) Any hotel as defined in Chapter 26;

11 ~~(e)~~(d) Any cosmetic establishment as defined in Chapter 27;

12 ~~(f)~~(e) Any public laundry or dry-cleaning establishment as defined in Chapter
13 28;

14 ~~(g)~~(f) Any public swimming as defined in Chapter 29; or

15 ~~(h)~~(g) Any mortuary as defined in Chapter 30, ~~without a valid sanitary permit~~
16 without a valid sanitary permit for such establishment or activity, (hereinafter
17 referred to as "permit"); issued by the Director. Such permit shall be displayed at all
18 times in a conspicuous place in the premises for public view. ~~designated by the~~
19 ~~Director.~~ Only persons who comply with the pertinent provisions of this Part shall
20 be entitled to receive and retain such permit.

21 This Chapter shall not apply to the operation of any establishment, including
22 any market, wayside stand, or roadside stand used exclusively for the sale of (1)
23 fresh, unprocessed fruits, vegetables, and nuts; (2) eggs; (3) live poultry; (4) live pigs;
24 (5) other live animals, except dogs and cats and other such animals as stipulated by
25 the Director, by the original producer thereof in his own property; or ~~(6)~~ (5) liquor
26 or canned or bottled soft drinks.”

1 **Section 3.** §21102 of Chapter 21, Title 10, Guam Code Annotated is hereby
2 *amended* to read:

3 **“§ 21102. Regulations.**

4 (a) The Director shall promulgate regulations as required relative to the
5 physical structure required for sanitary operations of:

6 (1) ~~eating and drinking~~ establishments as defined in Chapter 23;

7 or

8 (2) ~~a food establishment as defined in~~ Chapter 24;

9 (3)~~(2)~~ institutional facilities as defined in Chapter 25;

10 (4)~~(3)~~ hotels as defined in Chapter 26;

11 (5)~~(4)~~ a cosmetic establishments as defined in Chapter 27;

12 (6)~~(5)~~ laundry and dry-cleaning establishments as defined in

13 Chapter 28; ~~and~~

14 (7)~~(6)~~ public swimming pools as defined in Chapter 29; and

15 (6) ~~mortuary~~ mortuaries as defined in Chapter 30.

16 (b) The regulations adopted by the Director shall include requirements
17 for sanitation, plumbing, or drainage.

18 (c) Plans and specifications shall be submitted to the Director in
19 accordance with the requirements established in regulations which shall
20 include at least the following:

21 (1) the total area to be used for the regulated establishment;

22 (2) the rooms in which the regulated activities are to be
23 conducted;

24 (3) the location, number and types of plumbing fixtures including
25 all water supply facility and toilet rooms; and

26 (4) general layout of fixtures and other equipment.

1 (d) No person shall construct, reconstruct or alter any ~~of the~~ regulated
2 establishments without first obtaining a Sanitary Permit ~~permit~~ from the
3 Department. To apply for a permit, the applicant must submit complete,
4 detailed plans of the regulated establishment, site plans and any other
5 information as required by the Director. Construction, reconstruction or
6 alteration shall not be started until the plans for the establishment are approved
7 by the Director or his designee. The requirements of this Subsection are in
8 addition to the building permit program administered by the Department of
9 Public Works. Permit issuance and approval by the Director of Public Health
10 and Social Services does not relieve the applicant from the obligation and
11 responsibility of obtaining all necessary and required Public Works building
12 permits.

13 (e) Before any person shall commence to operate or open for business
14 any establishment or activity listed in Subsection (a) of this Section, he shall
15 notify the Director in writing of his intent to operate. The Director or his
16 designee shall review the plans and specifications and inspect the location to
17 determine whether plans have been in compliance with the regulations
18 promulgated and other provisions of this Part.

19 (f) If the application is for a temporary food service establishment, then
20 it shall also include the inclusive dates of the proposed operation which shall
21 not exceed six (6) months.”

22 **Section 4.** §21104 of Chapter 21, Title 10, Guam Code Annotated is hereby
23 *amended* to read:

24 **“§ 21104. Inspection.**

25 Notwithstanding any other provision of law, the Director or his
26 designee shall inspect an establishment or activity subject to this Chapter at a
27 frequency based upon the policy adopted by him or her that takes into

1 consideration its existing resources and the health-risk the establishments pose
2 to the public, such as the number and type of people served, potential for
3 disease transmission and injuries, and history of non-compliance. ~~As often as~~
4 ~~may be deemed necessary and, at least once every three (3) months, the~~
5 ~~Director shall inspect every establishment or activity subject to this Chapter.~~
6 The date of each inspection shall be noted on the permit. The person in charge
7 shall upon request permit access to all parts of the establishment and shall
8 permit examination and copying of any or all records and persons employed.”

9 **Section 5.** §21107 of Chapter 21, Title 10, Guam Code Annotated is hereby
10 *amended* to read:

11 **“§ 21107. Issuance of Notices.**

12 Whenever the Director or his designee makes an inspection and
13 discovers that any of the applicable law or rule has been violated, he shall
14 notify the permit holder or operator of such violations by means of an
15 inspection report form or other written notice. In such notification, the
16 Director or his designee shall:

17 (a) Set forth the specific violations found, together with the demerit
18 score of the establishment;

19 (b) Establish a specific and reasonable period of time for correction of
20 the violations found, in accordance with the following provision:

21 (1) when the demerit score of the establishment is twenty (20) or
22 less, all violations of ~~two (2) or~~ one (1) to four (4) demerits must be
23 corrected within a period of time not to exceed thirty (30) calendar
24 days; or

25 (2) when the demerit score of the establishment is more than
26 twenty (20) but not more than forty (40), all items of ~~two (2) or~~ one (1)

1 to four (4) demerit points must be corrected within a period of time not
2 to exceed fifteen (15) calendar days; or

3 (3) when ~~one (1) or more~~ any six (6) demerit point items is cited
4 ~~are in violation~~, regardless of the final demerit score, such items must
5 be corrected within a period of time not to exceed ten (10) calendar
6 days; and

7 (4) when the demerit score of the establishment is more than
8 forty (40), the ~~sSanitary pPermit~~ shall be immediately suspended; and

9 (5) in the case of temporary food service establishments,
10 violations must be corrected within a specified period of time not to
11 exceed twenty-four (24) hours. Failure to comply with such notice shall
12 result in the immediate suspension of the permit.

13 (c) State that failure to comply with any notice issued in accordance
14 with the provisions of any applicable laws, rules or regulations may result in
15 immediate suspension of the permit or the establishment downgraded; and

16 (d) State that an opportunity for appeal from any notice or inspection
17 findings will be provided if a written request for a hearing is filed with the
18 Director within the period of time established in the notice for corrections.”

19 **Section 6.** §2115 of Chapter 21, Title 10, Guam Code Annotated is hereby
20 *amended* to read:

21 **“§ 2115. Automatic Suspension of Alcoholic Beverage**
22 **License and Business License.**

23 Upon the suspension or revocation of a permit, the Director is to notify
24 the Department of Revenue and Taxation the name and location of that
25 business. ~~appropriate enforcement action any alcoholic beverage license~~
26 previously issued to the permit holder with respect to the same premises shall
27 thereby be automatically suspended and it shall be unlawful to operate under

1 ~~such alcoholic beverage or business license during the period of suspension~~
2 ~~or after the revocation. This Section shall not be construed to preclude any~~
3 ~~action under the Alcoholic Beverage Control Law or Business License Law~~
4 ~~for enforcement of the provisions of such law.”~~

5 **Section 7. Severability.** If any portion of this Act is for any reason held
6 invalid or unconstitutional by any court of competent jurisdiction, such portion shall
7 be deemed a separate provision and shall not affect the validity of the remaining
8 portions of the Act.

9 **Section 8. Effective Date.** This Act shall take effect on the date of enactment.