

I Mina'trentai Sietta 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 |
|-------------|--|--|-----------------------|---------------|--|----------------------------------|---------------------|-----------------------------|-------|
| 194-37 (LS) | Sabina Flores Perez Therese M. Terlaje Chris Barnett | AN ACT TO <i>AMEND</i> § 6209 (c) OF ARTICLE 2, <i>AMEND</i> § 6306 AND § 6308 OF ARTICLE 3, <i>AMEND</i> § 6401, § 6402, AND § 6405, ALL OF ARTICLE 4, AND <i>AMEND</i> § 6603 OF ARTICLE 6, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING FINES AND PENALTIES FOR TOBACCO AND NICOTINE VIOLATIONS. | 10/25/23 4:31 p.m. | 10/27/23 | Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning | Request: 10/27/23 11/6/23 | | | |



COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

November 6, 2023

To: **Joaquin P. Taitague**
Substitute Clerk of the Legislature

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 194-37 (LS)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 194-37 (LS).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



Bureau of Budget & Management Research
Fiscal Note of Bill No. 194-37 (LS)

AN ACT TO AMEND § 6209 (c) OF ARTICLE 2, AMEND § 6306 AND § 6308 OF ARTICLE 3, AMEND § 6401, § 6402, AND § 6405, ALL OF ARTICLE 4, AND AMEND § 6603 OF ARTICLE 6, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING FINES AND PENALTIES FOR TOBACCO AND NICOTINE VIOLATIONS.

Department/Agency Appropriation Information

| | |
|---|---|
| Dept./Agency Affected: Department of Revenue and Taxation (DRT) | Dept./Agency Head: Dafne Mansapit-Shimizu, Director |
| Department's General Fund (GF) appropriation(s) to date: | \$14,532,027 |
| Department's Other Fund appropriation(s) to date: Banking and Insurance Enforcement Fund (\$395,271); Better Public Service Fund (\$1,315,540); Tax Collection Enhancement Fund (\$1,046,640) | <u>\$2,757,451</u> |
| Total Department/Agency Appropriation(s) to date: | \$17,289,478 |

Fund Source Information of Proposed Appropriation

| | General Fund: | Special Fund: | Total: |
|---------------------------------|---------------|---------------|------------|
| FY 2023 Unreserved Fund Balance | \$0 | \$0 | \$0 |
| FY 2024 Adopted Revenues | \$0 | \$0 | \$0 |
| FY 2024 Appro. (P.L. 37-42) | \$0 | \$0 | \$0 |
| Sub-total: | \$0 | \$0 | \$0 |
| Less appropriation in Bill | \$0 | \$0 | \$0 |
| Total: | \$0 | \$0 | \$0 |

Estimated Fiscal Impact of Bill

| | One Full Fiscal Year | For Remainder of FY 2024 (if applicable) | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|--------------|----------------------|--|------------|------------|------------|------------|
| General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Special Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Total | 1/ | \$0 | \$0 | \$0 | \$0 | \$0 |

- Does the bill contain "revenue generating" provisions? /X/ Yes // No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A // Yes // No
If no, what is the additional amount required? \$ _____ /X/ N/A
- Does the Bill establish a new program/agency? // Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A // Yes // No
Is there a federal mandate to establish the program/agency? // Yes /X/ No
- Will the enactment of this Bill require new physical facilities? // Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? /X/ Yes // No
If no, indicate reason: /X/ Yes // Other
/X/ Requested agency comments not received by due date: DRT

Analyst: Raymond Rieta Date: 11/3/23 Director: Lester L. Carlson, Jr. Date: **NOV 03 2023**
 Raymond Rieta, BMA III ms

Notes:
 1/ See Additional Comments.

Bureau of Budget & Management Research
Comments on Bill No. 194-37 (LS)

Bill No. 194-37 proposes to amend subsections within Chapter 6, Title 11, Guam Code Annotated (GCA) relative to updating fines and penalties for tobacco and nicotine violations. The intention of the Bill is to require training and certification for businesses who sell tobacco and nicotine products to promote compliance with tobacco control laws and regulations and to deter non-compliance by increasing fines and suspension of licenses for first time violators for those businesses that sell to minors.

Amendments to the existing law include the following:

- § 6209. Display of license. – Fines for violations of this section increases from \$50 to \$100 per violation.
- § 6306. Application. – Applicant must submit a certificate of completion from a program administered by the Guam Behavioral Health and Wellness Center (GBHWC) or the Department of Public Health and Social Services (DPHSS) pertaining to information on the rules and regulations of the sale of tobacco and nicotine products.
- § 6308. Penalties for Selling Tobacco Products Without a License. – First violation of this section increases from \$250 to \$5,000; second violation increases from \$500 to \$10,000 and loss of eligibility to apply for license for 2 years after date of fine assessment.
- § 6402. Display of Prohibition on Sales of Tobacco Products to Persons Under 21 years of Age. – Fines for violation of this section increases from \$50 to \$500 per violation.
- § 6405. Penalties for Selling or Distributing Tobacco Products to Persons Under 21 years of Age. – First violation of this section increases from \$1,000 to \$5,000 with license suspended for 90 days; second violation increases from \$2,000 to \$10,000 with license suspended for 180 days; 3 or more violations increases from \$5,000 to \$20,000 with revocation of license and ineligibility to apply for new license for 5 years. Penalties for violations of § 6405 (d) increases from \$250 to \$2,000.

The Bill further amends § 6603 whereas any individual who imports tobacco products outside the exemptions identified in Article 6 shall be imposed a fine of 3x the taxable assessment and the commodity shall be seized and the violator shall be fined an additional 3x the value of the current value of the commodity for the cost of storage, destruction, and administrative fees. The Bill also amends the depositing of this fee according to the following: 50% in the Customs Local Forfeiture Account (CLFA); and 50% in the Youth Tobacco Education and Prevention Fund (YTEPF). As per § 6505, all fines and fees assessed and collected under Chapter 6 shall be distributed and deposited in the following manner: 30% to the Department of Parks and Recreation Off-Island Sports Fund; 20% to the Health and Human Services Fund; and 50% to the Youth Tobacco Education and Prevention Fund (YTEPF). Furthermore, § 6506 states that 100% of the funds in the YTEPF shall be used by the GBHWC for youth compliance monitoring and tobacco and drug prevention and education programs. Nevertheless, absent information from the Department of Revenue and Taxation (DRT) relative to current fines and penalties assessed for tobacco and nicotine violations as well as information relative to the CLFA and the YTEPF, the Bureau is unable to ascertain the fiscal impact of increasing the fines and penalties as proposed in this legislation.