

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2024 (SECOND) Regular Session

VOTING RECORD

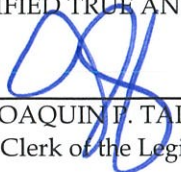
Bill No. 176-37 (COR) As amended by the Committee on Emergency Response, Military and Veteran Affairs, Border Safety and Mayors Council; and further amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building March 22, 2024
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NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher	✓					
Senator Jesse A. Lujan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator William A. Parkinson	✓					
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata	✓					
Senator Joe S. San Agustin	✓					
Senator Dwayne T. D. San Nicolas	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

TOTAL

15	0			0	0
Aye	Nay	Not	Out	Absent	Excused
		Voting/	During		
		Abstained	Roll Call		

CERTIFIED TRUE AND CORRECT:



 JOAQUIN F. TAITAGUE
 Clerk of the Legislature

I = Pass

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

Bill No. 176-37 (COR)

As amended by the Committee on Emergency Response, Military and Veteran Affairs, Border Safety and Mayors Council; and further amended on the Floor.

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Introduced by:

Tina Rose Muña Barnes
Dwayne T.D. San Nicolas
Jesse A. Lujan
Christopher M. Dueñas
Amanda L. Shelton
Joe S. San Agustin
Chris Barnett
Therese M. Terlaje
Roy A. B. Quinata
William A. Parkinson
Frank Blas, Jr.

AN ACT TO *AMEND* § 73151, AND TO *ADD* NEW §§ 73127.1, 73104.1, 73104.2, 73104.3, AND 73104.4 OF ARTICLE 1, CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM CUSTOMS AND QUARANTINE AGENCY TO ADOPT AND IMPLEMENT A CUSTOMS AUTOMATED SYSTEM AND THE HARMONIZED COMMODITY AND CODING SYSTEM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that in order to modernize the Guam Customs and Quarantine Agency
4 (CQA), the agency would need to implement the Harmonized Commodity and
5 Coding System (HCCS). The HCCS is a classification system that is “used by
6 more than 200 countries and economies as a basis for their Customs tariffs and
7 for the collection of international trade statistics,” according to the World

1 Customs Organization, and is a system that classifies goods into distinct codes
2 that can be tracked, analyzed, and processed in any country or entries that utilize
3 the HCCS. Implementing the HCCS system into the CQA will bring in many
4 benefits, such as reducing expenses related to trade and aiding in the collection
5 and analysis of information needed to fully collect taxes, improve border control,
6 and enhance current risk management and threat assessment functions by the
7 government of Guam, improve CQA’s resource management and inspection fee
8 collection, and allow for the creation of a database of all the goods that enter our
9 island. Equipping the CQA with the HCCS system will allow the agency to better
10 protect and serve our island.

11 Therefore, in an effort to modernize the classification and inspection
12 system of the Guam Customs and Quarantine Agency (CQA), *I Liheslaturan*
13 *Guåhan* intends to authorize the CQA to develop rules and regulations in order
14 to implement the Harmonized Commodity and Coding System. With this system
15 in place, our island will finally join the ranks of over two hundred (200) countries
16 that use the HCCS system and be efficient in its processing and regulation of
17 goods that enter our island.

18 **Section 2.** § 73151 of Article 1, Chapter 73, Title 5, Guam Code
19 Annotated, is hereby *amended* to read as follows:

20 **“§ 73151. Rules and Regulations for the Customs,**
21 **Agriculture, and Quarantine Inspection Services Charge and the**
22 **Customs Harmonized Commodity and Coding System.**

23 The Director of Customs and Quarantine Agency, subject to
24 the Administrative Adjudication Act, shall promulgate and adopt
25 rules and regulations to implement the provisions of Section 73145
26 through 75153 of this Chapter:

- 27 (a) including provisions establishing the procedure
28 for collection of the service charge, and for periodic review of
29 the costs of providing the services, the level of the charges

1 levied, and the amount of reimbursement payable to the Guam
2 International Airport Authority, the Customs and Quarantine
3 Agency, the Department of Agriculture and/or their agents
4 reflecting the administrative cost of collecting and remitting
5 the charges. The rules and regulations shall also provide for
6 such exemptions from the service charge as may be required
7 by applicable law, other regulations, or as may be prescribed
8 by the Director of the Customs and Quarantine Agency. In
9 addition, to the extent the interim charge authorized by §
10 73146 is determined to have either over collected or under
11 collected the revenue required during the interim period, the
12 final regulations should adjust the service charges
13 accordingly;

14 (b) to introduce the Customs Harmonized
15 Commodity and Coding Schedule that is aligned to the
16 Harmonized Commodity and Coding System maintained by
17 the World Customs Organization;

18 (c) to introduce and implement a Customs
19 Automated System and to authorize the use of the Customs
20 Automated System by registered individuals; and

21 (d) to create provisions and requirements to
22 successfully implement § 73104 and § 73127 of this Article,
23 applicable to merchandise to be imported, imported
24 merchandise, or merchandise exported.”

25 **Section 3.** A new § 73127.1 is hereby *added* to Article 1 of Chapter 73,
26 Title 5, Guam Code Annotated, to read as follows:

27 **“§ 73127.1. Authority to Establish Fines and Fees.**

1 The Director is authorized to establish and amend fines and fees in
2 accordance with the Administrative Adjudication Law, pertaining to this Act. The
3 rules and regulations shall include provisions that:

4 (a) allow Guam Customs and Quarantine Agency to deny entry
5 or re-export cargo and goods that have been incorrectly declared under the
6 Harmonized Commodity and Coding System;

7 (b) prescribe tiered fines based on the cumulative number of
8 offenses made by a responsible party;

9 (c) consider separate administrative actions for consumers who
10 rely on third parties to import goods into Guam and importers who engage
11 in purposeful deception when declaring goods being brought into Guam
12 under the Harmonized Commodity and Coding System;

13 (d) require fines or penalties collected or paid due to being found
14 guilty of violations outlined in these rules and regulations shall be
15 deposited into the Customs Fines and Penalties Revolving Fund created
16 under § 73153 of this Article;

17 (e) Address any other pertinent administrative provisions
18 necessary to carry out the Harmonized Commodity and Coding System.”

19 **Section 4.** A new § 73104.1 is hereby *added* to Article 1 of Chapter 73,
20 Title 5, Guam Code Annotated, to read as follows:

21 “§ 73104.1. **Classification of Merchandise for the Purpose of Entry**
22 **Compliance.**

23 (a) For the purpose of entry clearance and taxes, exemptions, or
24 drawbacks applicable to imported or exported goods under Title 11, Guam
25 Code Annotated, such goods shall be classified using the Harmonized
26 Commodity and Coding System (HCCS) of classification and its related
27 Explanatory Notes as maintained by the World Customs Organization.

28 (b) The rate of taxes, exemptions, or drawbacks applicable to
29 goods to be imported, goods imported, or goods to be exported shall

1 correspond to the classification of the goods in the Customs Harmonized
2 Commodity and Coding Classification Schedule Regulation.

3 (c) An importer, licensee, or owner of the goods required to make
4 an entry for goods under this Act shall correctly classify imported goods in
5 accordance with § 73104.1(a) of this Article.”

6 **Section 5.** A new § 73104.2 is hereby *added* to Article 1 of Chapter 73,
7 Title 5, Guam Code Annotated, to read as follows:

8 **“§ 73104.2. Access to the Customs Harmonized Commodity and**
9 **Coding Classification Schedule.**

10 (a) The Director of Guam Customs and Quarantine Agency shall:

11 (1) ensure that the Customs Harmonized Commodity and
12 Coding Classification Schedule, as amended, is published on the
13 Guam Customs and Quarantine Agency website and is publicly
14 available free of charge; and

15 (2) ensure that copies of the Customs Harmonized
16 Commodity and Coding Classification Schedule, as amended, are
17 available for purchase at a reasonable price.

18 (b) Nothing in this Section prevents the Director of Guam
19 Customs and Quarantine Agency from making other information available
20 along with the Harmonized Commodity and Coding Classification
21 Schedule. The Director of Customs shall ensure that it is clearly indicated
22 that the other information are not part of the Customs Harmonized
23 Commodity and Coding Classification.”

24 **Section 6.** A new § 73104.3 is hereby *added* to Article 1, Chapter 73,
25 Title 5, Guam Code Annotated, to read as follows:

26 **“§ 73104.3. Amendments to the Harmonized Commodity and**
27 **Coding System (HCCS).**

28 (a) The Director of the Guam Customs and Quarantine Agency
29 may, in accordance to 5 GCA Chapter 9, amend the Customs Harmonized

1 Commodity and Coding Schedule for uniformity with amendments
2 approved by the World Customs Organization.

3 (b) No amendment made under this Section shall alter the taxes,
4 exemptions, or drawbacks duty applicable to goods classified under any
5 item or heading in the Harmonized Commodity and Coding Schedule.”

6 **Section 7.** A new § 73104.4 is hereby *added* to Article 1, Chapter 73,
7 Title 5, Guam Code Annotated, to read as follows:

8 “§ 73104.4. **Customs Automated System and Information Sharing.**

9 (a) Only individuals designated by the Director of Guam
10 Customs and Quarantine Agency may access the Customs Automated
11 System to carry out any duties pursuant to this Act or any other statutory
12 provisions of Guam law.

13 (b) Notwithstanding any other provision of law, the Director of
14 Guam Customs and Quarantine Agency, through a memorandum of
15 agreement, may permit access to records or information collected under
16 this Article to other government of Guam agencies for the performance of
17 their official duties. Accessibility will require the integration of the
18 agency’s regulating or enforcement processes into the Customs Automated
19 System, and, for uniformity, incorporate the Harmonized Commodity and
20 Coding Schedule for identification of merchandise the agencies regulate.

21 (c) Through such agreements to access records or information
22 collected under this Article, the Director of Guam Customs and Quarantine
23 Agency may institute reasonable fees for the sustainability, upgrades, and
24 maintenance of the Harmonized Commodity and Coding Schedule and the
25 Customs Automated System.”

26 **Section 8. Effective Date.** This Act shall be effective upon enactment.

27 **Section 9. Severability.** If any provision of this Act or its application to
28 any person or circumstance is found to be invalid or inorganic, such invalidity
29 shall not affect other provisions or applications of this Act that can be given effect

- 1 without the invalid provision or application, and to this end the provisions of this
- 2 Act are severable.