

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2024 (SECOND) Regular Session

VOTING RECORD

| Bill No. 193-37 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and further amended on the Floor. | Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 7, 2024 | | | | | |
|--|---|-----|--------------------------|-------------------------|--------|---------|
| 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

12

1

2

2

Aye

Nay

Not
Voting/
Abstained

Out
During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

JOAQUIN P. TAITAGUE
Clerk of the Legislature

I = Pass

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

Bill No. 193-37 (LS)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement, and
Statistics, Research, and Planning; and further
amended on the Floor.

*

Introduced by:

Joe S. San Agustin
Telo T. Taitague
Roy A. B. Quinata
Dwayne T.D. San Nicolas

**AN ACT TO *ADD* NEW CHAPTERS 10 AND 11 TO
DIVISION 1 OF TITLE 11, GUAM CODE ANNOTATED;
AND *ADD* A NEW CHAPTER 98 TO DIVISION 4 OF
TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING AN ELECTRONIC NICOTINE
DELIVERY SYSTEMS (ENDS) PRODUCT TAX AND
LICENSING, WHICH SHALL BE CITED AS THE “ENDS
EXCISE ACT OF 2024”; AND ESTABLISHING A
DEPARTMENT OF REVENUE AND TAXATION
REVOLVING FUND AND A GUAM MEMORIAL
HOSPITAL AUTHORITY REVOLVING FUND.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that in 2018, the price of cigarettes was Fifteen Dollars (\$15.00) per one hundred
4 (100) cigarettes, and was increased to Four Dollars (\$4.00) per twenty (20)
5 cigarettes. In the course of six (6) years, the tax on cigarettes alone has increased
6 approximately thirty-three percent (33%). *I Liheslaturan Guåhan* notes that

1 currently Guam has no standardized tax regulations for Electronic Nicotine Delivery
2 Systems (ENDS) within the Guam Code Annotated.

3 Therefore, it is the intent of *I Liheslaturan Guåhan* to levy a tax on all ENDS
4 products in Guam on vaping products which may generate new revenue for the
5 government of Guam resulting in additional funding for the Department of Revenue
6 and Taxation (DRT) and the Guam Memorial Hospital Authority (GMHA).

7 **Section 2.** A new Chapter 10 is hereby *added* to Division 1 of Title 11,
8 Guam Code Annotated, to read:

9 **“CHAPTER 10**

10 **ELECTRONIC NICOTINE DELIVERY SYSTEMS (ENDS)**

11 **EXCISE TAX ACT OF 2024**

- 12 Article 1. General Provisions.
- 13 Article 2. Licenses.
- 14 Article 3. Issuance of Licenses.
- 15 Article 4. Prohibition of the Sale or Distribution of ENDS Products to
16 Persons Under Twenty-one (21) Years of Age.
- 17 Article 5. Enforcement.
- 18 Article 6. ENDS Products Excise Tax Law.

19 **ARTICLE 1**

20 **GENERAL PROVISIONS**

- 21 § 10101. Title.
- 22 § 10102. Definitions
- 23 § 10103. Applicability of Commercial Licenses Provisions and
24 Requirements.

25 **§ 10101. Title.**

26 This Chapter shall be known as the “Electronic Nicotine Delivery
27 Systems (ENDS) Excise Act of 2024.”

1 **§ 10102. Definitions.**

2 Unless the context otherwise requires, the definitions set forth herein
3 shall govern the construction and interpretation of this Chapter.

4 (a) *Bona fide importer/exporter* shall mean one having no
5 predisposition otherwise in having possession of such imported or
6 exported ENDS product.

7 (b) *Class* shall mean either a retail or wholesale license.

8 (c) *Director* shall mean the Director of Revenue and Taxation.

9 (d) *Distribute/distribution* shall mean:

10 (1) to give, deliver, sample, or sell;

11 (2) to offer to give, deliver, sample, or sell; or

12 (3) to cause or hire another person to give, deliver,
13 sample, or sell or offer to give, deliver, sample, or sell.

14 (e) *Electronic Nicotine Delivery System (ENDS)* shall mean a
15 non-combustible product that may contain nicotine and that uses a
16 heating element, power source, electronic circuit, or other electronic,
17 chemical, or mechanical means, regardless of shape or size, to produce
18 vapor from a solution or other substance. The term includes an
19 electronic cigarette, electronic cigar, electronic cigarillo, electronic
20 pipe, or similar product or device and a vapor cartridge or other
21 container that may contain nicotine in a solution or other form that is
22 intended to be used with, or in an electronic cigarette, electronic cigar,
23 electronic cigarillo, electronic pipe, or similar product or device.

24 (1) ENDS includes synthetic nicotine and synthetic
25 nicotine products.

26 (2) The term does not include a product regulated as a
27 drug or device by the United States Food and Drug

1 Administration under Chapter V of the Federal Food, Drug, and
2 Cosmetic Act.

3 (3) The term does not include cannabis products
4 regulated by the Guam Cannabis Industry Act of 2019.

5 (f) *E-liquid* shall mean the solution, substance, or other
6 material used in or with a tobacco substitute that is heated or otherwise
7 acted upon to produce an aerosol, vapor, or other emission to be inhaled
8 or otherwise absorbed by the user, regardless of whether the solution,
9 substance, or other material contains nicotine. The term does not
10 include cannabis and cannabis products that are regulated pursuant to
11 the Guam Cannabis Industry Act of 2019.

12 (g) *Give* shall mean to transfer the possession and ownership
13 of property to another, especially by an act of the owner rather than by
14 inheritance.

15 (h) *License* shall mean a retail license or wholesale license for
16 sales of ENDS products, as defined under this Section.

17 (i) *Minor*, for the purposes of this Chapter, shall mean any
18 person under twenty-one (21) years of age.

19 (j) *Person* shall mean any individual, company, corporation,
20 firm, partnership, organization, estate, trust, limited liability company,
21 limited liability partnership, or other legal entity.

22 (k) *Retail* shall mean the sale of tangible personal property for
23 consumption or use by the purchaser and not for resale.

24 (l) *Retail license* shall mean a license issued by the Director
25 of Revenue and Taxation for the retail sale of ENDS products.

26 (m) *Wholesale* shall mean the importation into or purchase in
27 Guam from a manufacturer or other wholesale license of tangible

1 personal property not for consumption or use by the purchaser, but
2 solely for resale or retail sellers.

3 (n) *Wholesale license* shall mean a license issued by the
4 Director of Revenue and Taxation for the wholesale sale of ENDS
5 products to retailer.

6 **§ 10103. Applicability of Commercial Licenses Provisions and**
7 **Requirements.**

8 The provisions and regulations of Chapters 70 and 72 of Title 11, Guam
9 Code Annotated, shall govern this Chapter in matters and provisions not
10 specifically provided in this Chapter and when relevant.

11 **ARTICLE 2**

12 **LICENSES**

13 § 10201. License: Required.

14 § 10202. Classes and Fees.

15 § 10203. Authorization for Establishment of License Fees.

16 § 10204. Term.

17 § 10205. Renewal.

18 § 10206. Multiple.

19 § 10207. License: Privilege: Limitation.

20 § 10208. Limitation.

21 § 10209. Display of License.

22 **§ 10201. License: Required.**

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

25 (b) It shall be a violation of this Chapter for any person to retail
26 ENDS products without first obtaining a valid retail ENDS license.

1 (c) It shall be a violation of this Chapter for any person to sell ENDS
2 products through a vending machine.

3 (d) It shall be a violation of this Chapter for any person who is
4 directly or indirectly engaged in the business of manufacturing ENDS
5 products to retail ENDS products, directly or indirectly, or hold a retail or
6 wholesale license. It shall not be a violation of this Chapter for any such
7 person engaged in the business of manufacturing ENDS products to sell to a
8 duly licensed ENDS wholesaler.

9 **§ 10202. Classes and Fees.**

10 The Director is authorized to issue the following classes of licenses at
11 the following fees, which shall be paid by the applicant at the time of
12 application:

13 (a) Annual Retail ENDS License: \$500.00

14 (b) Annual Wholesale ENDS License: \$2,000.00

15 **§ 10203. Authorization for Establishment of License Fees.**

16 The Department of Revenue and Taxation is authorized to create a new
17 fee schedule for the purposes of this Chapter every three (3) years, not to
18 exceed a five percent (5%) increase.

19 **§ 10204. Term.**

20 Licenses shall be valid for one (1) year following the date of issuance.

21 **§ 10205. Renewal.**

22 (a) A licensee may renew his or her license at the expiration thereof
23 by the payment of the annual license fee set forth in this Chapter and by filing
24 a renewal application. A licensee who fails to renew his or her license within
25 ninety (90) days following the expiration of the license shall be assessed a late
26 fee of One Hundred Fifty Dollars (\$150.00) and a penalty of Five Dollars
27 (\$5.00) per each calendar day he or she is delinquent, which penalty shall

1 become part of the renewal fee, and his or her license shall be automatically
2 suspended, until all payments for annual fee, late fee, and the daily penalties
3 are paid in full, in which case the license may be reinstated by the Director
4 immediately. Unless the license is reinstated, it is automatically revoked, and
5 the Director shall not issue a license except upon a new application. Any
6 licensee who fails to renew his or her license shall be required to discontinue
7 sales of ENDS products.

8 (b) Additionally, any licensee who fails to renew his or her license
9 within ninety (90) days and continues operation of business shall constitute a
10 refusal and failure to obtain a license under the provisions of Division 3. The
11 licensee shall be subject to an injunction issued by the Superior Court of Guam
12 and to prosecution pursuant to § 70119 of Chapter 70, Title 11, Guam Code
13 Annotated.

14 **§ 10206. Multiple.**

15 A person applying for a retail license to operate more than one (1)
16 premise shall obtain a separate retail license for each premise and shall pay
17 the fee for each premise.

18 **§ 10207. License: Privilege: Limitation.**

19 A licensee is limited to the privileges conferred by the license and is
20 not authorized to exercise any other privileges.

21 **§ 10208. Limitation.**

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

25 **§ 10209. Display of License.**

26 (a) A licensee for sales of ENDS products shall prominently display

1 the license on each licensed premise.

2 (b) Any licensee who violates this Section shall be fined One
3 Hundred Dollars (\$100.00) per violation.

4 **ARTICLE 3**

5 **ISSUANCE OF LICENSES**

6 § 10301. License: Restrictions.

7 § 10302. Real Party in Interest.

8 § 10303. Persons Under the Age of Twenty-one (21) Years.

9 § 10304. Prior Revocation.

10 § 10305. Unfit Person.

11 § 10306. Application.

12 § 10307. Penalties for Selling ENDS Products Without a License.

13 **§ 10301. License: Restrictions.**

14 (a) The Director shall not issue a license to any person who then
15 holds an ENDS license of another class.

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

22 **§ 10302. Real Party in Interest.**

23 The Director shall not issue a license of any class to an applicant who
24 is not the real party in interest.

25 **§ 10303. Persons Under the Age of Twenty-one (21) Years.**

26 The Director shall not issue a license of any class to a person who is
27 under twenty-one (21) years of age.

1 **§ 10304. Prior Revocation.**

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

6 **§ 10305. Unfit Person.**

7 A license shall not be issued or renewed of any class within this Chapter
8 should the Director deem the applicant to be ineligible or the premise does not
9 comply, based on the provisions of this Chapter.

10 **§ 10306. Application.**

11 (a) An applicant for a license shall submit a written application,
12 which shall specify types of ENDS products to be sold or distributed, to the
13 Director, verified under oath and accompanied by the license fee.

14 (b) Upon receipt of an application for a license and the license fee,
15 the Director shall determine whether the applicant is eligible, and the premises
16 comply based on the provisions of this Chapter.

17 **§ 10307. Penalties for Selling ENDS Products Without a License.**

18 In addition to any other penalties and fines that may be levied, including
19 those under § 10403 and § 10404 of this Chapter and § 70120 of this Title,
20 any person who violates § 10201 of this Chapter shall be guilty of a
21 misdemeanor as set forth in § 70119 of this Title, and punished,
22 notwithstanding § 80.50(c) of Article 3, Chapter 80, Title 9, Guam Code
23 Annotated, as follows:

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

26 (b) in the case of a second violation, by a fine of Two
27 Thousand Dollars (\$2,000.00);

1 (c) in the case of three (3) or more violations, a fine of not less
2 than Four Thousand Dollars (\$4,000.00), nor more than Ten Thousand
3 Dollars (\$10,000.00), and the person shall not be eligible to apply for a
4 license for ten (10) years after the date of assessment of a fine.

5 **ARTICLE 4**

6 **PROHIBITION OF THE SALE OR DISTRIBUTION OF ENDS**

7 **PRODUCTS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE**

8 § 10401. Acceptable Forms of Identification.

9 § 10402. Prohibition of the Sale of ENDS products to Persons Under
10 Twenty-one (21) Years of Age.

11 § 10403. Penalties for Selling ENDS Products to Persons Under Twenty-
12 one (21) Years of Age.

13 § 10404. Prohibition of the Distribution of ENDS Products to Persons
14 Under Twenty-one (21) Years of Age and Penalties.

15 § 10405. Display of Prohibition on Sales of ENDS Products to Persons
16 Under Twenty-one (21) Years of Age.

17 § 10406. Licensee Responsible for Employee Actions.

18 § 10407. Persons Under Twenty-one (21) Years of Age Prohibited from
19 Possession, Use and Purchase of ENDS Products.

20 § 10408. Tobacco Education for Persons under Twenty-one (21) Years of
21 Age.

22 **§ 10401. Acceptable Forms of Identification.**

23 The following are the only acceptable instruments of identification as
24 required by this Chapter:

25 (a) a valid unexpired driver's license issued by any state,
26 territory or possession of the United States;

- 1 (b) an official identification issued by the federal or a state
- 2 government with the individual's photograph and signature;
- 3 (c) an armed forces identification card;
- 4 (d) a valid, unexpired passport; and
- 5 (e) an alien registration receipt card (green card).

6 **§ 10402. Prohibition of the Sale of ENDS products to Persons Under**
7 **Twenty-one (21) Years of Age.**

8 (a) It shall be a violation of this Chapter for a licensee to sell ENDS
9 products to any person under twenty-one (21) years of age.

10 (1) Licensees of ENDS products shall require persons to
11 provide acceptable photographic identification and proof of being
12 twenty-one (21) years of age or older prior to the sale of ENDS
13 products.

14 (2) The sale of ENDS products to any person under twenty-
15 one (21) years of age, or its possession by such person, is prohibited,
16 and shall be regulated and enforced pursuant to this Chapter.

17 (b) A licensee or an employer may distribute ENDS products to any
18 employee who handles ENDS products in the course of the commercial
19 distribution or sale of said products.

20 (c) In any proceeding for the suspension or revocation of any
21 license, and based upon a violation of this Section, proof that the defendant
22 licensee or his or her agent or employee demanded and was shown an
23 identification card before furnishing any ENDS product to any person under
24 twenty-one (21) years of age shall be a defense to the charges.

25 **§ 10403. Penalties for Selling ENDS Products to Persons Under**
26 **Twenty-one (21) Years of Age.**

1 (a) In addition to any other penalties and fines that may be levied,
2 any person who violates § 10402 of this Chapter shall be penalized as follows:

3 (1) in the case of a first violation, the person shall be fined
4 Two Thousand Dollars (\$2,000.00) and the license shall be suspended
5 for ninety (90) days;

6 (2) in the case of a second violation, the person shall be fined
7 Four Thousand Dollars (\$4,000.00) and the license shall be suspended
8 for one hundred eighty (180) days;

9 (3) in the case of three (3) or more violations, the person shall
10 be fined not less than Ten Thousand Dollars (\$10,000.00) and not more
11 than Twenty Thousand Dollars (\$20,000.00), the license shall be
12 revoked, and the licensee shall be ineligible to apply for a new license
13 for ten (10) years after the effective date of revocation.

14 (b) Failure to pay a fine levied under this Section within thirty (30)
15 days of the date the fine becomes effective shall result in continued suspension
16 of the license until such fines are paid.

17 (c) During any suspension or revocation of a license under this
18 Section, the licensee shall not sell ENDS products and shall remove all ENDS
19 products from all areas covered by the suspended or revoked license. In
20 addition, any new application for a license to sell ENDS products while a
21 licensee is suspended under this Section shall be denied.

22 (d) All ENDS products sold over the counter shall be displayed and
23 located where they shall be inaccessible to persons under twenty-one (21)
24 years of age. Any vendor who violates this provision shall pay a penalty of
25 One Thousand Dollars (\$1000.00).

26 **§ 10404. Prohibition of the Distribution of ENDS Products to Persons**
27 **Under Twenty-one (21) Years of Age and Penalties.**

1 (a) No person twenty-one (21) years of age or older shall distribute,
2 nor knowingly give or otherwise make available any ENDS product to a
3 minor. A person violates this Section who gives or otherwise makes available
4 an ENDS product to a person under the age of twenty-one (21) with the
5 knowledge that the person to whom the ENDS product is made available.

6 (b) A person violates this Section who owns, occupies, or controls
7 premises on which ENDS products are consumed by any person under twenty-
8 one (21) years of age, and who knows of ENDS products by persons under
9 twenty-one (21) years of age on such premises, and who reasonably could
10 have prohibited or prevented such ENDS usage and consumption.

11 (c) Any person who violates this Section shall be guilty of a
12 misdemeanor as set forth in § 70119, Chapter 70 of this Title, and punished,
13 notwithstanding § 80.50(c) of Article 3, Chapter 80, Title 9, Guam Code
14 Annotated, as follows:

15 (1) the first violation shall be punishable by a fine of not more
16 than Two Thousand Dollars (\$2,000.00) or by imprisonment for not
17 more than one (1) year; and

18 (2) subsequent violations shall be punishable by a fine of
19 Three Thousand Dollars (\$3,000.00) or by imprisonment for not more
20 than one (1) year, or both.

21 (d) GBHWC, in partnership with the Department of Revenue and
22 Taxation, shall promulgate administrative rules and regulations to comply
23 with the mandates of this Section, within ninety (90) days of enactment. Said
24 rules and regulations shall be implemented twelve (12) months after *I*
25 *Liheslaturan Guåhan*'s approval.

26 **§ 10405. Display of Prohibition on Sales of ENDS Products to Persons**
27 **Under Twenty-one (21) Years of Age:**

1 All licensees shall post notice that this Chapter prohibits the sale of
2 ENDS products to persons under twenty-one (21) years of age.

3 (a) In the case of a retail operation, notices shall be publicly
4 and conspicuously displayed in the licensee's place of business in
5 letters at least two inches (2") in height.

6 (b) Any licensee who violates this Section shall be fined Five
7 Hundred Dollars (\$500.00) per violation.

8 **§ 10406. Licensee Responsible for Employee Actions.**

9 Acts or omissions of an agent or employee of a licensee that violate any
10 provisions of this Chapter shall be deemed to be acts or omissions of the
11 licensee.

12 **§ 10407. Persons Under Twenty-one (21) Years of Age Prohibited**
13 **from Possession, Use and Purchase of ENDS Products.**

14 It shall be a violation of this Chapter for any person under twenty-one
15 (21) years of age to use or be in possession of ENDS products or to attempt
16 to purchase ENDS products using false identification.

17 **§ 10408. Tobacco Education for Persons under Twenty-one (21) Years**
18 **of Age.**

19 Any person under twenty-one (21) years of age who violates § 10407
20 of this Article shall attend an education program on ENDS products to include
21 cessation information, and to complete community service administered by
22 the Guam Behavioral Health and Wellness Center, the Department of Public
23 Health and Social Services, the Department of Education, or other
24 government agencies with similar programs approved by one of these
25 agencies.

26 **ARTICLE 5**
27 **ENFORCEMENT**

- 1 § 10501. Enforcement.
- 2 § 10502. Notice.
- 3 § 10503. Hearing.
- 4 § 10504. Publication and Distribution of Laws and Rules.
- 5 § 10505. Use of Collected Fees and Penalties.
- 6 § 10506. Report.
- 7 **§ 10501. Enforcement.**

8 The Director shall enforce this Chapter in cooperation with the Guam
9 Behavioral Health and Wellness Center. Any person may register a complaint
10 pursuant to this Chapter with the Director. The Director shall notify any
11 establishment or individual of a complaint made pursuant to this Chapter and
12 shall keep a record of that notification.

13 (a) The Director shall conduct random, unannounced
14 inspections at retail sites and may enlist the assistance of persons who
15 are between twelve (12) and seventeen (17) years of age, upon written
16 consent of their parents or legal guardians. Participation in these
17 enforcement activities by a minor shall not constitute a violation of §
18 10405 of this Chapter, and the minor is immune from prosecution and
19 penalties, or under any other provision of law prohibiting the purchase
20 of ENDS and its products by minors.

21 (b) The Director shall enact and publish guidelines for the use
22 of minors in inspections conducted pursuant to this Section, which shall
23 include, but not be limited to, all of the following:

24 (1) the Director may, upon written consent of their
25 parents or legal guardians, enlist the services of minors who are
26 between twelve (12) and seventeen (17) years of age in random
27 inspections to determine if sales of ENDS and its products are

1 being made to minors;

2 (2) a photograph or video recording of the minor shall
3 be taken prior to each inspection or shift of inspections and
4 retained by the Director for the purpose of verifying appearances;

5 (3) the Director may use video recording equipment
6 when conducting the inspections to record and document illegal
7 sales or attempted sales;

8 (4) the minor, if questioned by the licensee or his agents
9 about his or her age, shall state his actual age and shall present a
10 true and correct identification if verbally asked to present it. The
11 minor's failure to provide true and correct identification, if
12 requested, shall be a defense to any action pursuant to this
13 Chapter;

14 (5) the minor shall be supervised by a regularly
15 employed peace officer or an adult duly authorized by the
16 Director during the inspection;

17 (6) following the sale or attempted sale, the peace
18 officer or adult supervising the minor shall reenter the retail
19 establishment and inform the seller of the random inspection and
20 identify the minor to the seller; and

21 (7) failure to comply with the procedures set forth in
22 this Section shall be a defense to any action brought pursuant to
23 this Chapter.

24 **§ 10502. Notice.**

25 Prior to the revocation or suspension of a license issued under this
26 Chapter, the Director shall provide a notice to the defendant, via certified mail,
27 return receipt requested. The notice shall contain the following information:

- 1 (a) the name and title of the person issuing the notice;
- 2 (b) the date on which the fine, suspension or revocation will
- 3 become effective;
- 4 (c) the reason for the fine, revocation or suspension;
- 5 (d) that the licensee may request a hearing regarding the fine,
- 6 revocation or suspension;
- 7 (e) that the person must request a hearing in person or in
- 8 writing via certified mail, return receipt requested, and received by the
- 9 Director within ten (10) days after receipt of the notice; and
- 10 (f) that failure to appear in person or through mail received
- 11 by the Director within ten (10) days after receipt of the notice, or by the
- 12 notice's return by the U.S. Postal Service, shall be a waiver of the right
- 13 to a hearing and the fine, revocation or suspension will become
- 14 effective on the date specified in the notice.

15 **§ 10503. Hearing.**

16 Except as otherwise specifically provided for herein, the Director shall

17 conduct any proceedings required by this Chapter in accordance with the

18 Administrative Adjudication Law, and shall have all of the powers granted in

19 said law.

20 (a) Upon receipt of the request for a hearing as provided in §

21 10501, supra, a hearing shall be held before a Hearing Officer appointed

22 by the Director in accordance with the Administrative Adjudication

23 Law. The hearing shall be conducted within forty-eight (48) hours of

24 receipt of the request, not including holidays, Saturdays, and Sundays.

25 The hearing may be set for a later date if the applicant or licensee so

26 requests.

27 (b) At the hearing the applicant, defendant or licensee may

1 contest the denial, fine, revocation or suspension.

2 (c) If the Hearing Officer finds that the applicant is not
3 eligible for a license, the Hearing Officer shall declare the license
4 application denied. If the Hearing Officer finds that the fine, suspension
5 or revocation is in accordance with this Chapter, the fine, suspension or
6 revocation shall take effect immediately. The action of the Hearing
7 Officer is final.

8 (d) If the applicant or licensee does not appear at the
9 scheduled hearing in person, or through a representative as allowed by
10 the Hearing Officer, the Hearing Officer shall affirm the denial, fine,
11 revocation or suspension of the licensee or applicant.

12 **§ 10504. Publication and Distribution of Laws and Rules.**

13 The Director shall compile and provide a copy of the laws and rules
14 concerning retail ENDS product sales to every new licensee at no charge.

15 **§ 10505. Use of Collected Fees and Penalties.**

16 All fines and fees assessed and collected under this Chapter shall be
17 distributed and deposited within fifteen (15) days of the following month in
18 which the fines and fees were collected, in the following manner by the
19 Director of the Department of Revenue and Taxation:

20 (a) twenty percent (20%) to the Better Public Service Fund for
21 the Department of Revenue and Taxation to assist with compliance and
22 enforcement of tobacco and ENDS laws, rules, and regulations
23 pursuant to this Chapter;

24 (b) thirty percent (30%) to the Health and Human Services
25 Fund for the Department of Public Health and Social Services, Division
26 of Public Health, Bureau of Non-Communicable Diseases for the
27 purpose of providing tobacco and ENDS prevention and education

1 programs, comprehensive cancer, breast cancer, and cervical cancer
2 care; and

3 (c) fifty percent (50%) to the Youth Tobacco Education and
4 Prevention Fund pursuant to § 6506 of Chapter 6, Title 11, Guam Code
5 Annotated.

6 **§ 10506. Report.**

7 (a) The Director of the Department of Revenue and Taxation shall
8 submit a report monthly to the Guam Behavioral Health and Wellness center
9 (GBHWC) of all licenses granted and renewed, including the names and street
10 addresses of the business, the number of violations processed, the name of the
11 business with violations, and the penalties imposed, and any other information
12 that the Director and GBHWC agree upon.

13 (b) The Superintendent of the Guam Department of Education at the
14 start of each school year, and on a quarterly basis, shall submit to the Speaker
15 of *I Liheslaturan Guåhan*, GBHWC, and DPHSS a written report consisting
16 of, but not limited to, the total number of infractions by students found in
17 possession of ENDS products, the number of students found using ENDS
18 products, how the students came into possession of ENDS products, what
19 mediation efforts were facilitated by GDOE, and the outcome of mediation
20 efforts for each student infraction.

21 **ARTICLE 6**

22 **ENDS PRODUCT EXCISE TAX LAW**

23 § 10601. Tax Levied on ENDS Products.

24 § 10602. Tax Proceeds.

25 **§ 10601. Tax Levied on ENDS Products.**

26 (a) An excise tax shall be levied on the final retail sale of ENDS
27 products, as defined in this Chapter, at the rate of ten percent (10%) of the

1 price per product. The excise tax beginning in the second year after enactment
2 shall increase to the rate of twenty percent (20%).

3 (b) Taxes levied under this Section shall not apply to the ENDS
4 products sold outside of Guam.

5 (c) An excise tax is imposed on the purchase of ENDS products and
6 must be visible as a line item at the point of sale on the receipt.

7 (d) Taxes levied shall be paid by the twentieth (20th) day of the
8 following month.

9 **§ 10602. Tax Proceeds.**

10 All monies collected from the taxes levied in this Chapter are hereby
11 appropriated and shall be disbursed to the following:

12 (a) five percent (5%) of monies collected under the tax levied
13 by this Chapter shall be deposited to the Health and Human Services
14 Fund of the Department of Public Health and Social Services, Division
15 of Public Health, Bureau of Non-Communicable Diseases for the
16 purpose of providing tobacco and ENDS prevention, education, and
17 cessation programs, comprehensive cancer, breast cancer, and cervical
18 cancer care;

19 (b) five percent (5%) of monies collected under the tax levied
20 by this Chapter shall be deposited to the Youth Tobacco Education and
21 Prevention Fund pursuant to § 6506 of Chapter 6, Title 11, Guam Code
22 Annotated;

23 (c) thirty percent (30%) of the monies collected under the tax
24 levied by this Chapter shall be deposited to the Department of Revenue
25 and Taxation Revolving Fund to assist with enforcement within the
26 Compliance Branch; and

1 (d) sixty percent (60%) of the monies collected under the tax
2 levied by this Chapter shall be deposited to the Guam Memorial
3 Hospital Authority (GMHA) Revolving Fund for the purposes of
4 operations, repairs, maintenance, and vendor payments.”

5 **Section 3.** A new Chapter 11 is hereby *added* to Division 1 of Title 11,
6 Guam Code Annotated, to read:

7 **“CHAPTER 11**
8 **DEPARTMENT OF REVENUE AND TAXATION (DRT)**
9 **REVOLVING FUND**

- 10 § 11101. Short Title.
11 § 11102. Department of Revenue and Taxation (DRT) Revolving Fund.
12 § 11103. Deposits / Continuing Appropriation.
13 § 11104. Allocations and Use of Funds; Authorized.
14 § 11105. Submission of Detailed Report of Expenditures on a Quarterly
15 Basis.
16 § 11106. Guam Annual Audit Review and Report.

17 **§ 11101. Short Title.**

18 This Chapter may be cited as the “Department of Revenue and Taxation
19 (DRT) Revolving Fund.”

20 **§ 11102. Department of Revenue and Taxation (DRT) Revolving**
21 **Fund.**

22 (a) Notwithstanding any other provision of law, there is hereby
23 created, separate and apart from other funds and accounts of the government
24 of Guam, a fund known as the Department of Revenue and Taxation (DRT)
25 Revolving Fund (Fund). The Fund shall not be commingled with the General
26 Fund or any other fund or account of the government of Guam, and shall be
27 kept in a separate bank account, to be used by the Department of Revenue and

1 Taxation for the purposes of compliance and enforcement of tobacco and
2 ENDS laws, rules, regulations, and the implementation of other mandates.
3 The Fund, to include any monies in the Fund dedicated and dispersed for
4 purposes specified in this Act, shall be deemed appropriated and shall not be
5 subject to the transfer authority of *I Maga'hågan Guåhan*.

6 (b) The Fund shall be financed by thirty percent (30%) of the excise
7 tax collected from the Electronic Nicotine Delivery Systems (ENDS) Excise
8 Tax Act of 2024 found in Chapter 10 of this Title.

9 **§ 11103. Deposits / Continuing Appropriation.**

10 All monies collected for products and services rendered by the
11 Department of Revenue and Taxation shall be accounted for and deposited
12 into the Fund and shall be available to pay for the expenses of the Department
13 of Revenue and Taxation for the purposes of compliance and enforcement of
14 tobacco and ENDS laws, rules, regulations, and the implementation of other
15 mandates pertaining to the Compliance Branch. All monies in the Fund shall
16 be deemed appropriated, shall not lapse, and shall not be subject to
17 appropriation constraints in order to be expended.

18 **§ 11104. Allocations and Use of Funds; Authorized.**

19 All monies deposited in the Fund shall be available to be expended and
20 shall be used solely in support of the functions of and to pay the expenses of
21 the Department of Revenue and Taxation. The Fund may also be used for, but
22 is not limited to, the following expenses which shall be directly and solely
23 applicable to the functions and operations of the Department of Revenue and
24 Taxation:

25 (a) payment(s) for operations of the Department of Revenue
26 and Taxation Compliance Branch for the purposes of compliance and
27 enforcement of tobacco and ENDS laws, rules, regulations, and the

1 implementation of other mandates.

2 **§ 11105. Submission of Detailed Report of Expenditures on a**
3 **Quarterly Basis.**

4 The Director of the Department of Revenue and Taxation shall submit
5 to *I Liheslaturan Guåhan* and *I Maga'hågan Guåhan* a detailed report of the
6 expenditures of the DRT Revolving Fund on a quarterly basis.

7 The report shall, at a minimum, contain:

8 (a) all expenditures and encumbrances (monthly and year to
9 date);

10 (b) funds received;

11 (c) status of accounts receivable for outstanding debts and/or
12 delinquent payment obligations owed to the Department of Revenue
13 and Taxation; and

14 (d) any and all other pertinent information relative to the
15 Fund.

16 **§ 11106. Guam Annual Audit Review and Report.**

17 The DRT Revolving Fund shall be included in the government of Guam
18 annual audit review and report.”

19 **Section 4.** A new Chapter 98 is hereby *added* to Division 4 of Title 10,
20 Guam Code Annotated, to read:

21 **“CHAPTER 98**

22 **GUAM MEMORIAL HOSPITAL AUTHORITY REVOLVING FUND**

23 § 98101. Short Title.

24 § 98102. Guam Memorial Hospital Authority Revolving Fund.

25 § 98103. Deposits / Continuing Appropriation.

26 § 98104. Allocations and Use of Funds; Authorized.

1 § 98105. Submission of Detailed Report of Expenditures on a Quarterly
2 Basis.

3 § 98106. Guam Annual Audit Review and Report.

4 **§ 98101. Short Title.**

5 This Chapter may be cited as the “Guam Memorial Hospital Authority
6 (GMHA) Revolving Fund.”

7 **§ 98102. Guam Memorial Hospital Authority Revolving Fund.**

8 (a) Notwithstanding any other provision of law, there is hereby
9 created, separate and apart from other funds and accounts of the government
10 of Guam, a fund known as the Guam Memorial Hospital Authority (GMHA)
11 Revolving Fund (Fund). The Fund shall not be commingled with the General
12 Fund or any other fund or account of the government of Guam, and shall be
13 kept in a separate bank account, as provided pursuant to this Chapter, to be
14 used by the Guam Memorial Hospital Authority for the purposes authorized.
15 The Fund, to include any monies in the Fund dedicated and dispersed for
16 purposes specified in this Act, shall be deemed appropriated and shall not be
17 subject to the transfer authority of *I Maga'hågan Guåhan*.

18 (b) The Fund shall be financed by sixty percent (60%) of the excise
19 tax collected from the Electronic Nicotine Delivery Systems (ENDS) Excise
20 Tax Act of 2024 in Chapter 10, Title 11 GCA.

21 **§ 98103. Deposits / Continuing Appropriation.**

22 All monies collected for products and services rendered by the Guam
23 Memorial Hospital Authority shall be accounted for and deposited into the
24 Fund and shall be available to pay for the expenses of the Guam Memorial
25 Hospital Authority. All monies in the Fund shall be deemed appropriated,
26 shall not lapse, and shall not be subject to appropriation constraints in order
27 to be expended.

1 **§ 98104. Allocations and Use of Funds; Authorized.**

2 All monies deposited in the Fund shall be available to be expended and
3 shall be used solely in support of the functions of and to pay the expenses of
4 the Guam Memorial Hospital Authority. The Fund may also be used for, but
5 is not limited to, the following expenses which shall be directly and solely
6 applicable to the functions and operations of the Guam Memorial Hospital
7 Authority:

8 (a) payment(s) for operations of the Guam Memorial Hospital
9 Authority;

10 (b) payment(s) for vendors;

11 (c) payment(s) for any other expenses, which if remains
12 unpaid may result in an emergency situation within the Guam Memorial
13 Hospital Authority, as approved by the Administrator; and

14 (d) payments for repairs and maintenance of the Guam
15 Memorial Hospital Authority.

16 **§ 98105. Submission of Detailed Report of Expenditures on a**
17 **Quarterly Basis.**

18 The Administrator of the Guam Memorial Hospital Authority shall
19 submit to *I Liheslaturan Guåhan* and *I Maga'hågan Guåhan* a detailed report
20 of the expenditures of the GMHA Revolving Fund on a quarterly basis.

21 The report shall, at a minimum, contain:

22 (a) all expenditures and encumbrances (monthly and year to
23 date);

24 (b) funds received;

25 (c) status of accounts receivable for outstanding debts and/or
26 delinquent payment obligations owed to the Guam Memorial Hospital
27 Authority; and

1 (d) any and all other pertinent information relative to the
2 Fund.

3 **§ 98106. Guam Annual Audit Review and Report.**

4 The GMHA Revolving Fund shall be included in the government of
5 Guam annual audit review and report.”

6 **Section 5. Severability.** If any provision of this Act or its application to any
7 person or circumstance is found to be invalid or inorganic, such invalidity shall not
8 affect other provisions or applications of this Act that can be given effect without
9 the invalid provision or application, and to this end the provisions of this Act are
10 severable.

11 **Section 6. Effective Date.** This Act shall be effective six (6) months after
12 enactment.