

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2024 (SECOND) Regular Session

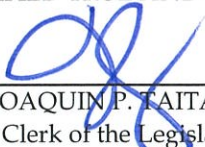
VOTING RECORD

Bill No. 194-37 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and substituted 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	14	1			0	0
	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. 194-37 (LS)

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

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Introduced by:

Sabina Flores Perez
Therese M. Terlaje
Chris Barnett

**AN ACT TO *AMEND* § 6209(c) OF ARTICLE 2, §§ 6306
AND 6308 OF ARTICLE 3, §§ 6401(a), 6403, AND 6405 OF
ARTICLE 4, AND § 6603 OF ARTICLE 6, ALL OF
CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED,
RELATIVE TO UPDATING THE FINES AND
PENALTIES CONCERNING TOBACCO, NICOTINE
AND ELECTRONIC CIGARETTE VIOLATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that from 2018 to 2022, the Department of Revenue and Taxation cited a total of one hundred six (106) violations from tobacco outlets on Guam from a total of three hundred twenty-nine (329) vendors licensed to sale tobacco products. Violations consisted of tobacco sales to those under twenty-one (21) years of age and failing to post “21+ Only Sales” signages for public view.

I Liheslatura further finds that the World Health Organization, Framework Convention on Tobacco Control (WHO-FCTC) recognizes that consistently revisiting violation penalties along with taxation are the two (2) highly effective initiatives to tackle tobacco and nicotine consumption among youth worldwide.

1 *I Liheslatura* finds that Chapter 6 of Title 11, Guam Code Annotated, that was
2 established in October of 1998 through Public Law 24-278, required sellers of
3 tobacco products to obtain tobacco licenses and sought to enforce the prohibition of
4 sales of tobacco products to minors. Twenty-five (25) years later, updates to Chapter
5 6 of Title 11 GCA have included the licensing requirements for the retail and
6 wholesale of tobacco products and the restrictions of tobacco products to
7 manufacturer’s representatives, and tobacco taxation through Public Law 28-170.
8 The passage of Public Law 32-200 restricted the engagement of any sellers to offer
9 any tobacco multi-product discounts and promotions. In 2017, Public Law 34-01
10 defined electronic cigarettes in Chapter 6 of Title 11 GCA, and raised the consumer
11 age of tobacco and nicotine products to twenty-one (21) years of age. Among the
12 many regulations established on Guam, tobacco and nicotine consumption and
13 tobacco marketing strategies continue to evolve, as well as, the need for policy
14 changes.

15 *I Liheslatura* finds that according to the Annual Synar Report published by
16 the Guam Behavioral Health and Wellness Center, as of 2017, there were one
17 hundred six (106) tobacco violations with the majority being first and second time
18 offenders. According to the Department of Revenue and Taxation, as of September
19 2023, there are three hundred forty-seven (347) active retail Tobacco Business
20 Licenses and eight (8) active wholesale tobacco business licenses. Between 2018
21 and 2019, one (1) third-time offender paid a Five Thousand Fifty Dollar (\$5,050.00)
22 penalty and had their tobacco license suspended.

23 Despite a downward trend of violations for selling tobacco and nicotine
24 products without a license or selling tobacco products to minors, data published in
25 August of 2023 finds that consumption of tobacco and nicotine remains higher in
26 Guam compared to the U.S. among adults and youth. Updates to the 2021 State
27 Epidemiological Outcomes Workgroup (SEOW) Epi Profile document the use of

1 electronic nicotine delivery devices or “vaping” is high amongst Guam youth with
2 one (1) in three (3), or 35.2%, of high school students and one (1) in three (3), or
3 34.6%, of middle school students reporting current use. Tobacco use figures display
4 marked disparities across socio-economic gradients with poor and less-educated
5 individuals more likely to smoke than rich and well-educated persons who are less
6 likely to have smoked at all.

7 Therefore, it is the intent of *I Liheslaturan Guåhan* to protect our island’s
8 youth by updating statutes, which are nearly two (2) decades old, to deter non-
9 compliance by increasing fines and suspension of licenses for first time violators for
10 those businesses that sell to minors.

11 **Section 2.** § 6209(c) of Article 2, Chapter 6, Title 11, Guam Code
12 Annotated, is hereby *amended* to read as follows:

13 “(c) Any licensee who violates this Section shall be fined One
14 Hundred Dollars (\$100.00) per violation.”

15 **Section 3.** § 6306 of Article 3, Chapter 6, Title 11, Guam Code Annotated,
16 is hereby *amended* to read as follows:

17 “§ 6306. **Same: Application.**

18 An applicant for a license shall submit the following:

19 (a) an application in writing to the Director, verified
20 under oath; and

21 (b) the license fee(s).”

22 **Section 4.** § 6308 of Article 3, Chapter 6, Title 11, Guam Code Annotated,
23 is hereby *amended* to read as follows:

24 “§ 6308. **Penalties for Selling Tobacco Products Without a**
25 **License.**

26 In addition to any other penalties and fines that may be levied,
27 including those under § 6405 and § 70120 of this Title, any person who

1 violates § 6201 shall be guilty of a misdemeanor as set forth in § 70119
2 of this Title, and punished, notwithstanding § 80.50(c) of Article 3,
3 Chapter 80, Title 9, Guam Code Annotated, as follows:

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

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

8 (c) in the case of three (3) or more violations, a fine of
9 not less than Four Thousand Dollars (\$4,000.00), nor more than
10 Ten Thousand Dollars (\$10,000), and the person shall not be
11 eligible to apply for a license for ten (10) years after the date of
12 the assessment of a fine.”

13 **Section 5.** § 6401(a) of Article 4, Chapter 6, Title 11, Guam Code
14 Annotated, is hereby *amended* to read as follows:

15 “(a) It shall be a violation of this Chapter for any person to sell or
16 distribute tobacco products or electronic cigarettes to any person under
17 twenty-one (21) years of age. Retailers of tobacco products or electronic
18 cigarettes shall require persons to provide acceptable photographic
19 identification and proof of being twenty-one (21) years of age or older prior
20 to sale.

21 (1) The sale or distribution of electronic cigarettes to any
22 person under twenty-one (21) years of age, or its possession by such
23 person, is prohibited and shall be regulated and enforced pursuant to
24 this Chapter.

25 (2) Any provision of this Chapter applicable to the regulation
26 and prohibition of the sale or distribution of tobacco products to any
27 person under twenty-one (21) years of age, or possession by such

1 person, shall be applicable to electronic cigarettes, and any other
2 component of an electronic cigarette, and shall be regulated and
3 enforced in the same manner as tobacco products, to include the
4 applicability of all penalties and fines.”

5 **Section 6.** The second § 6402 of Article 4, Chapter 6, Title 11, Guam Code
6 Annotated, is renumbered as § 6403 and is hereby *amended* to read as follows:

7 **“§ 6403. Display of Prohibition on Sales of Tobacco Products**
8 **and Electronic Cigarettes to Persons Under Twenty-one (21) Years of**
9 **Age.**

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

12 (a) In the case of a retail operation, notices shall be
13 publicly and conspicuously displayed in the licensee’s place of
14 business in letters at least two inches (2”) in height.

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

17 **Section 7.** § 6405 of Article 4, Chapter 6, Title 11, Guam Code Annotated,
18 is hereby *amended* to read as follows:

19 **“§ 6405. Penalties for Selling or Distributing Tobacco Products**
20 **and Electronic Cigarettes to Persons Under Twenty-one (21) Years of**
21 **Age.**

22 (a) In addition to any other penalties and fines that may be
23 levied, any person who violates § 6401 of this Chapter shall be
24 penalized, notwithstanding § 80.50 (c) of Article 3, Chapter 80, Title 9,
25 Guam Code Annotated, as follows:

26 (1) In the case of a first violation, the person shall be
27 fined Two Thousand Dollars (\$2,000.00), and the license shall

1 be suspended for ninety (90) days and shall be notified, in
2 writing, of penalties levied for further violations;

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

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

12 (b) Failure to pay a fine levied under this Section after
13 suspension pursuant to Subsection (a) of this Section shall result in
14 continued suspension of the licensee's license until such fines are paid.

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

22 (d) All tobacco products sold over the counter shall be
23 displayed and located where they shall be inaccessible to persons under
24 twenty-one (21) years of age. Any vendor who violates this provision
25 shall pay a penalty of One Thousand Dollars (\$1,000.00).”

26 **Section 8.** § 6603 of Article 6, Chapter 6, Title 11, Guam Code Annotated,
27 is hereby *amended* to read as follows:

1 **“§ 6603. Penalty.**

2 Whoever transports or imports into Guam for delivery or
3 commercial use in Guam tobacco products or electronic cigarettes in
4 violation of this Article shall be penalized as follows:

5 (a) in the case of a first violation, the person, owner or
6 consignee shall be guilty of a misdemeanor and shall be fined
7 One Thousand Dollars (\$1,000.00) or imprisoned for not more
8 than one (1) year, or both;

9 (b) in the case of any subsequent violation, the person,
10 owner or consignee shall be guilty of a felony of the third degree
11 and shall be fined Ten Thousand Dollars (\$10,000.00) or
12 imprisoned for not more than five (5) years, or both.

13 (c) any individual who imports tobacco products
14 outside the exemptions identified in this Article shall be imposed
15 a fine of three (3) times the taxable assessment, which shall be
16 determined using the tax rate established in § 26603 of Article 6,
17 Chapter 26, Title 11, Guam Code Annotated, by the Officer of
18 the Customs and Quarantine Agency at the port of entry. The
19 commodity shall be seized, and the violator of this Section shall
20 be fined additionally the same amount as the taxable assessment
21 for the cost of storage, destruction, and administrative fees for
22 tobacco products or electronic cigarettes exceeding the
23 exemption pursuant to Title 9, Guam Code Annotated, § 47.70.
24 This fee shall be deposited according to the following:

25 (1) fifty percent (50%) in the Customs Local
26 Forfeiture Account (CLFA); and

1 (2) fifty percent (50%) in the Youth Tobacco
2 Education and Prevention Fund (YTEP Fund).

3 (d) The Customs and Quarantine Agency shall maintain
4 a database of all individuals who are in violation of this Section
5 to determine and administer subsequent violation charges.”

6 **Section 9. Effective Date.** This Act shall be effective upon enactment.

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