

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

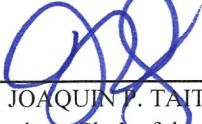
Bill No. 9-37 (COR) As substituted; and amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 31, 2023
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NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett		✓				
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

9	6			0	0
Aye	Nay	Not	Out	Absent	Excused
		Voting/ Abstained	During Roll Call		

CERTIFIED TRUE AND CORRECT:



 JOAQUIN F. TAITAGUE
 Substitute Clerk of the Legislature

I = Pass

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

Bill No. 9-37 (COR)

As substituted; and amended on the Floor.

*

Introduced by:

Dwayne T.D. San Nicolas
Joe S. San Agustin
Roy A. B. Quinata
Tina Rose Muña Barnes
William A. Parkinson
Therese M. Terlaje
Jesse A. Lujan
Thomas J. Fisher

AN ACT TO *AMEND* §§ 58109 AND 58110 OF CHAPTER 58, AND *ADD* A NEW CHAPTER 58B TO DIVISION 3 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE LEGALIZATION AND REGULATION OF THE USE OF CONSUMER-GRADE FIREWORKS.

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

2 **Section 1.** § 58109 of Chapter 58, Division 3, Title 10, Guam Code
3 Annotated, is hereby *amended* to read:

4 “§ 58109. **Fireworks.** The use of consumer-grade or “safe and sane”
5 fireworks shall be permitted in Guam.”

6 **Section 2.** § 58110 of Chapter 58, Division 3, Title 10, Guam Code
7 Annotated, is hereby *amended* to read:

8 “§ 58110. **Same: Exclusion.** The term consumer-grade or “safe and
9 sane” fireworks in § 58109 of this Chapter shall not be construed to include

1 commercial-grade and display fireworks. The Fire Chief shall determine what
2 items fall within this Section.”

3 **Section 3.** A new Chapter 58B is hereby *added* to Division 3 of Title 10,
4 Guam Code Annotated, to read as follows:

5 **“CHAPTER 58B**

6 **USE OF CONSUMER-GRADE FIREWORKS**

7 § 58B300. Legislative Findings and Intent.

8 § 58B301. Definitions.

9 § 58B302. Permissible Uses of Consumer Fireworks.

10 § 58B303. Issuance of Licenses, Permits, Termination, Revocation, Seizure.

11 § 58B304. Permits Requirements.

12 § 58B305. Storage of Consumer Fireworks.

13 § 58B306. Prohibiting Minors From Obtaining Consumer Fireworks.

14 § 58B307. Penalty.

15 **§ 58B300. Legislative Findings and Intent.**

16 *I Liheslaturan Guåhan* finds that numerous statutes have been enacted to
17 stringently regulate the importation, sale, purchase, and use of consumer fireworks.
18 These statutes include §§ 58109 and 58110 of Chapter 58, Division 3, Title 10,
19 Guam Code Annotated, which bans the importation, storage, sale, purchase, and use
20 of all consumer fireworks, also known as “safe and sane” fireworks, with the
21 exception of caps as used in toy pistols and party favors containing comparable
22 small amounts of explosives.

23 *I Liheslaturan Guåhan* finds that the use of consumer-grade or “safe and
24 sane” fireworks were legal and allowed in Guam prior to the enactment of §§ 58109
25 and 58110 of Chapter 58, Division 3, Title 10, Guam Code Annotated. Those who
26 were able to enjoy consumer-grade fireworks prior to their prohibition recall fond
27 memories of familial bonding during holidays and believe them to enhance these

1 bonding experiences. Many families also wish to share these experiences starting
2 with today's generation.

3 In addition to enhancing familial experiences during holidays, consumer-
4 grade fireworks will also create avenues for the residents of the island to open
5 businesses that will sell these fireworks, aiding and promoting economic
6 development in Guam. Legalizing consumer-grade fireworks will create business
7 opportunities for entrepreneurs to capitalize on the need to import and sell these
8 fireworks, contributing to the island's economy.

9 *I Liheslaturan Guåhan* also finds that the prohibition of consumer-grade
10 fireworks is grounded in the concern for public safety and security, but unfortunately,
11 it has led to the illegal and dangerous practice of using actual firearms as a substitute
12 for fireworks. There have been cases where teenagers would steal their parents'
13 firearms and shoot them in the air as a substitute for fireworks. The act of shooting
14 a firearm into the air is not only illegal, but incredibly dangerous due to the fact that
15 bullets shot into the air will come back down with considerably more force and
16 could potentially hit innocent bystanders. If teenagers and the people of Guam had
17 access to consumer-grade fireworks, they would not have to resort to the illegal
18 and dangerous practice of shooting firearms into the air.

19 A collaboration between several different authorities and proper enforcement
20 of the rules and regulations of the industry's supply chain at every level with severe
21 yet reasonable penalties is vital to achieve the successful regulation of the industry.
22 With proper enforcement mechanisms in place, the effective regulations of the "safe
23 and sane" fireworks industry through precautionary advice, measures, and awareness
24 of the general public is critical for the importation, sell, purchase and use of "safe and
25 sane" fireworks. The common ground for many jurisdictions is the concern for
26 public safety which has imposed stringent measures deriving from prior events or

1 particular circumstances within the territory, state or country; e.g., fireworks use has
2 been abused or misused.

3 *I Liheslaturan Guåhan* intends to legalize consumer-grade or “safe and
4 sane” fireworks while enacting stringent regulations and penalties to prevent misuse
5 and abuse of these fireworks.

6 **§ 58B301. Definitions.**

7 (a) *Aerial devices* means any fireworks containing one hundred
8 thirty (130) milligrams or less of explosive materials that produces an
9 audible or visible effect and is designed to rise then detonate and explode in
10 the air. Its use is prohibited by any person who does not have a permit for display
11 fireworks issued by the Guam Fire Department. Aerial devices classified as
12 fireworks under UN0336 and UN0337 by the United States Department of
13 Transportation as set forth in Title 49 Code of Federal Regulation includes
14 fireworks items commonly known as skyrockets, missile-type rockets, bottle
15 rockets, helicopters, roman candles, dago bombs, torpedoes, flying pigs, and
16 jumping jacks. These fireworks move about the ground further than a radius of
17 a twelve (12) feet circle as measured from the point where the item was placed
18 and ignited.

19 (b) *Consumer-grade fireworks* means fireworks which are intended
20 for retail sale and use by the general public and are considered as Division
21 1.4G explosives by the U.S Department of Transportation. Ignition of these
22 fireworks produce visible and audible effects for entertainment. It is designed
23 to spin rapidly or to be stationary on or near the ground and can include one (1)
24 or more effects such as emitting smoke, shower of colored sparks, whistling,
25 crackling, and fizzing effects, and flutter and balls of single or multicolored
26 sparks. Consumer fireworks are manufactured in single paper cylinders not
27 exceeding one and one-half (1½) inches in length, excluding the fuse, are

1 one quarter (1/4) of an inch in diameter, and contain a charge of not more
2 than fifty (50) milligrams of pyrotechnic composition. Consumer-grade
3 fireworks consist of snakes, sparklers, fountains, and cylindrical or cone
4 fountains that emit effects up to a height not greater than twelve (12) feet above
5 the ground, illuminating torches, whistles, toy smoke devices, wheels, and
6 ground spinners that, when ignited, remain in a circle with a radius of not more
7 than twelve (12) feet as measured from the point where the item was placed,
8 ignited or set off, and novelty and combination fireworks that are designed to
9 produce the same or similar effects detailed in this Subsection. Consumer-grade
10 fireworks do not include firework devices and kits or components that are
11 banned by the U.S. Consumer Product Safety Commission in 16 CFR §
12 1500.17.

13 (c) *Articles pyrotechnic* means pyrotechnic devices designed with
14 similar chemical composition and construction as fireworks for professional
15 use and are not intended for consumer use. Articles pyrotechnics meet the
16 weight limits for consumer fireworks; however, they are not labeled as such and
17 are classified as UN0431 or UN0432 under 49 CFR § 172.101 by the United
18 States Department of Transportation.

19 (d) *Class 1.3G explosives* means large fireworks designed primarily
20 to produce audible or visible effects by combustion, deflagration, or
21 detonation, and are formerly known as Class B, Special Fireworks, or Display
22 Fireworks according to the U.S. Consumer Product Safety Commission.

23 (e) *Display* means the use of aerial devices, display fireworks, or
24 article pyrotechnic for any activities.

25 (f) *Display fireworks* means any fireworks designed primarily for
26 exhibition display by producing visible or audible effects and are classified
27 as display fireworks in the regulations of the United States Department of

1 Transportation, designated as UN0333 or UN0335. Display fireworks
2 include salutes containing more than forty (40) grams of pyrotechnic
3 compositions and other display pieces which exceed the limits of explosive
4 materials classified as consumer fireworks. This term also includes fused set
5 pieces containing components which exceed fifty (50) milligrams of salute
6 powder together. The use of display fireworks shall be prohibited for use by
7 any person who does not have a display permit issued by the Guam Fire
8 Department.

9 (g) *Class 1.4G explosives* means consumer fireworks intended for
10 use by the general public and are formerly known as Class C Common
11 Fireworks according to the U.S. Consumer Product Safety Commission.

12 (h) *Fireworks* means any composition or device that produces a
13 visible or an audible effect by combustion, deflagration, or detonation that
14 meets the definition of consumer fireworks or display fireworks as defined
15 in this Section and in the regulations of the United States Department of
16 Transportation set forth in Title 49 Code of Federal Regulation (CFR).

17 (i) *Pyrotechnics* means devices intended for professional use with
18 similarities to consumer fireworks in construction and chemical composition.
19 Pyrotechnics meet the weight limits of consumer fireworks but are not
20 labeled as such. Articles pyrotechnic fall under this category.

21 (j) *Safe and sane fireworks* means fireworks that are designed to
22 remain on or near the ground, spin rapidly, emit smoke, release a shower,
23 flutter, or balls of colored sparks, or produce whistling, crackling, and fizzing
24 effects. Safe and sane fireworks can include such combination of items that
25 contain one (1) or more of these effects that are intended for use by the public.

26 **§ 58B302. Permissible Uses of Consumer Fireworks.**

27 (a) It is unlawful for any person, firm, corporation, association, or

1 organization to sell or offer for sale any fireworks, except as expressly
2 permitted under the terms of this Section.

3 (b) No fireworks shall be ignited or set off within fifty (50) feet of
4 any building, structure, or wildland areas.

5 (c) The Guam Fire Department shall conduct a study on the effects
6 of fireworks on public safety after three (3) years of enactment of this Chapter.
7 This study may be used to determine if amendments to this Chapter are
8 warranted.

9 **§ 58B303. Issuance of Licenses, Permits, Termination, Revocation,**
10 **Seizure.**

11 (a) No person, firm, corporation, association, or organization shall
12 sell fireworks without first having obtained a license thereof (“Consumer
13 Fireworks License”). Prior to issuance of the CFL, the requesting party shall
14 fulfill all licensing and fire safety requirements outlined by the Guam Fire
15 Department.

16 (b) Upon expiration of a Consumer Fireworks License, a qualified
17 person, firm, corporation, association, or organization shall be required to
18 obtain a new license, unless terminated due to the following:

19 (1) failure to comply with any provision or applicable
20 regulatory statutes, rules, and regulations in the business of retailing safe
21 and sane fireworks;

22 (2) a safety violation that, in the determination of the Guam
23 Fire Department, created a potential to endanger the public; or

24 (3) failure to maintain the requirements of the Consumer
25 Fireworks License.

26 (c) Failure or refusal to comply with any of the provisions or
27 applicable regulatory statutes, rules, or regulations detailed in this Chapter

1 shall result in the termination or revocation of the Consumer Fireworks
2 License. Termination or revocation of the Consumer Fireworks License shall
3 be immediate if deemed in violation of this Section. The Fire Chief or his or
4 her authorized representatives shall have the authority to revoke or terminate
5 the license for a period of time not less than twelve (12) months and not over
6 eighteen (18) months. The license will also be revoked or terminated if the
7 conduct of the operation is deemed inimical to public safety.

8 (d) Any person engaged in the selling of consumer fireworks shall
9 be eighteen (18) years of age or older.

10 (e) At least one (1) person twenty-one (21) years of age or older
11 shall be in attendance and in charge of the permitted sales of consumer
12 fireworks.

13 (f) All permits shall be non-transferrable

14 (g) No person, firm, corporation, association or organization
15 holding a Consumer Fireworks License shall be allowed to sell firecrackers
16 in a packet size larger than two thousand (2,000) individual units.

17 (h) The Fire Chief, his or her authorized representatives, or any
18 other public entity authorized by statute to enforce government regulations
19 may seize any fireworks described in this Chapter.

20 **§ 58B304. Permits Requirements.**

21 (a) Any person in the business of importing, dealing, distributing,
22 storing, or otherwise receiving consumer fireworks shall obtain a license from
23 the Guam Fire Department by no later than ten (10) business days. The Guam
24 Fire Department shall create distinct licenses for fireworks distributors or
25 wholesalers and fireworks retailers.

26 (b) No person, firm, corporation, association, or organization shall
27 sell any consumer fireworks to any persons under the age of eighteen (18).

1 (c) A permit shall be required to sell any consumer fireworks with a
2 fee payment of Four Hundred Sixty-five Dollars (\$465.00) for a permit.

3 (d) All permits and licenses shall be posted in the establishment and
4 shall be visible to the public.

5 (e) Any person who sells, imports, and delivers consumer fireworks
6 shall keep a record book in which the time of each sale, delivery, and
7 importation of consumer fireworks were conducted.

8 (f) The record book shall be kept on file for not less than a period of
9 four (4) years and shall be subject to examination at all times upon proper
10 demand by any duly authorized law enforcement officer or duly authorized
11 personnel of the Guam Fire Department or his or her authorized
12 representatives.

13 (g) No person, firm, corporation, association, or organization shall
14 sell any consumer fireworks unless:

15 (1) Every fireworks device or the packaging in which they are
16 sold has the word "CAUTION" or "WARNING".

17 (2) Every fireworks device or the packaging in which they are
18 sold displays a statement of hazard designed to warn the user of the
19 specific aspect of the item's operation that may result in the potential
20 for injury. A statement of hazard includes statements such as:
21 "FLAMMABLE, SHOOTS FLAMING BALLS WITH REPORTS,
22 SPINS ON GROUND, EMITS SHOWERS OF SPARKS, etc."

23 (3) Every fireworks device or the packaging in which they are
24 sold are conspicuously labeled with country of origin, the name and
25 place of business of the manufacturer, packer, distributor, or seller.

26 **§ 58B305. Storage of Consumer Fireworks.**

1 (a) Any person, firm, corporation, association, or organization
2 which stores consumer fireworks shall notify the Guam Fire Department of
3 the consumer fireworks that are being stored, the type, and the location of
4 each site where they are stored. Such notifications shall be made orally at the
5 end of the day in which storage of the consumer fireworks commenced and
6 in writing within forty-eight (48) hours from the time such storage
7 commenced.

8 (b) The facility in which consumer fireworks are stored shall be
9 in accordance to guidelines set by the Guam Fire Department.

10 (c) Shipments of consumer fireworks must receive approval from the
11 Guam Fire Department fifteen (15) calendar days prior to the
12 shipment's arrival; and

13 (d) shall meet all fire and safety codes.

14 **§ 58B306. Prohibiting Minors From Obtaining Consumer Fireworks.**

15 (a) Any person, firm, corporation, association, or organization
16 which sells, gives, or purchases consumer fireworks for a minor or allows a
17 minor to set off or ignite any consumer fireworks shall be deemed in violation
18 of this Chapter and are subject to penalties thereunder:

19 (1) First Offense: Penalty of up to One Hundred Dollars (\$100);

20 (2) Second Offense: Offense of the same fire code provision
21 within a twelve (12)-month period shall be subject to a penalty of up
22 to Four Hundred Dollars (\$400), but not less than One Hundred Dollars
23 (\$100).

24 (3) Third Offense: Offense of the same fire code provision
25 within a twelve (12)-month period shall be punishable as a
26 misdemeanor and the business license and permit shall be suspended
27 for up to one (1) year.

1 (b) Minors shall only be allowed to ignite or set off consumer
2 fireworks under the expressed permission and immediate supervision and
3 control of the parent(s), guardian(s), or a supervising adult.

4 **§ 58B307. Penalty.**

5 (a) Any person, firm, corporation, association or organization in the
6 business of importing, dealing, distributing, selling, storing, or otherwise
7 receiving consumer fireworks deemed in violation of this Chapter are subject
8 to penalties and fines. Each violation shall be subject to the following
9 penalties:

10 (1) First Offense shall be subject to a penalty of up to One
11 Hundred Dollars (\$100);

12 (2) Second Offense of the same fire code provision within a
13 twelve (12)-month period shall be subject to a penalty of up to
14 Four Hundred Dollars (\$400), but not less than One Hundred
15 Dollars (\$100);

16 (3) Third Offense of the same fire code provision within a
17 twelve (12) month period shall be subject to a penalty of Five
18 Thousand Dollars (\$5,000).

19 (b) All fines shall be deposited into a Fund which shall be used for
20 enforcement and programs to educate consumers in the proper and legal use
21 of fireworks.”

22 **Section 4. Severability.** If any provision of this Act or its application to any
23 person or circumstance is found to be invalid or inorganic, such invalidity shall not
24 affect other provisions or applications of this Act that can be given effect without
25 the invalid provision or application, and to this end the provisions of this Act are
26 severable.

27 **Section 5. Effective Date.** This Act shall be effective upon enactment.