


I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 379-31(con)

Introduced by:

B.J.F. Cruz 

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**AN ACT AMEND § 7118.1 OF TITLE 22 OF THE GUAM
CODE ANNOTATED; RELATIVE TO CERTIFICATION
AND EMPLOYMENT OF NON-IMMIGRANT ALIEN
TEMPORARY WORKERS AND RELATED RULES AND
FINES.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 7118.1 of Title 22 of the Guam Code Annotated is hereby
amended to read as follows:

**“§ 7118.1. Temporary Labor Certification for Non-
immigrant Workers; Restrictions; Penalties.**

(a) The Director of Labor, pursuant to the Administrative Adjudication Law, shall promulgate rules and regulations to establish operating guidelines for the certification and employment of non-immigrant alien temporary workers in Guam (the *Rules*). Such Rules shall establish the conditions under which such workers may be temporarily employed and housed in Guam because of a need for their skills which are not readily available in Guam. The Rules shall be periodically reviewed by the Department of Labor (the *Department*), at least once every two (2) years, and shall include the following:

(i) A temporary labor certification issued by the Department shall be limited to one (1) employer and only to

1 those projects approved by the Department, shall be non-
2 transferable, and shall be valid only for the specific activity
3 designated in the certificate and only for the occupation
4 specified for each temporary worker covered by the certificate.

5 ~~(ii) Civil penalties for violations of the Rules by an~~
6 ~~employer or by a temporary worker, not to exceed a fine of Five~~
7 ~~Hundred Dollars (\$500) per person for each such violation.~~

8 (ii) Civil penalties for violations of the Rules by an
9 employer, not less than One Thousand Five Hundred Dollars
10 (\$1500) per person for each such violation.

11 (iii) Civil penalties for violations of the Rules by a
12 temporary worker, not to exceed a fine of Five Hundred Dollars
13 (\$500) per person for each such violation.

14 (b) Any employer who is a persistent violator of the Rules is
15 guilty of a misdemeanor, and upon conviction shall be imprisoned for
16 not more than six (6) months or shall pay a fine of ~~not more than Ten~~
17 ~~Thousand Dollars (\$10,000)~~ not less than Twenty-five Thousand
18 Dollars (\$25,000), or shall suffer both such imprisonment and fine.

19 (c) *Persistent violator* means an employer who commits, with
20 criminal negligence as defined in 9 GCA § 4.30, a second violation of
21 the Rules and who has been cited and fined for a previous violation
22 within any twelve (12) month period immediately preceding the
23 second violation.

24 (d) Any employer with a temporary labor certification found
25 guilty of intentionally or knowingly violating 44017 of this Chapter,
26 or of the Rules, in addition to any sanctions imposed under such §
27 7118 and § 7118.1, may have his temporary labor certification

1 suspended and be disbarred from any temporary labor certification
2 program for a period not exceeding three (3) years.

3 (e) Fines collected by the Department under the provisions of
4 this section shall be deposited in the Manpower Development Fund to
5 be employed exclusively for the surveillance and enforcement
6 operations within the Alien Labor and Processing Certification
7 Division and other divisions at the Department of Labor with similar
8 tasks. The Director of Labor shall complete an annual report of all
9 expenditures and activities under this subsection to the Legislature.

10 (f) A quota for temporary construction workers ("H-2Bs") shall
11 be established by the Governor of Guam to confine the number of
12 such temporary workers to existing job vacancies.

13 (g) No person will be granted a certification to employ such
14 nonimmigrant alien workers without first obtaining a permit for a
15 workers' dormitory from the Department of Public Health and Social
16 Services, except that employers employing a minimum number of
17 such workers or workers planning to live with relatives may obtain an
18 exemption from the dormitory requirement from the Department. No
19 such permit shall be granted in violation of the zoning law. An
20 applicant for such a permit must submit complete, detailed plans of
21 the dormitory, site plans and must demonstrate compliance with all
22 applicable health and safety requirements. No employer may withhold
23 from his workers' wages any funds to cover the cost of meals and
24 housing unless the workers' housing, the kitchen and dining facilities,
25 and the kitchen workers have all necessary health and Department
26 permits, and only after the written consent of the worker, which
27 consent shall be filed with the Department. The Director of Public

1 Health and Social Services, in coordination with the Guam
2 Environmental Protection Agency and the Department, shall cause to
3 be inspected every workers' dormitory at least once every three (3)
4 months.

5 (h) The Department in cooperation with the Department of
6 Public Health and Social Services, the Guam Environmental
7 Protection Agency, the Department of Revenue and Taxation and the
8 Guam Contractors License Board shall have all necessary
9 investigative powers to carry out the provisions of this section.

10 (i) No employer of temporary workers regulated under this
11 section may withhold such workers' passports, control such workers'
12 behavior during non-working hours, or deduct from such workers'
13 wages taxes due governments other than the government of Guam or
14 of the United States, except as such deductions are authorized by
15 treaty.

16 (j) In addition to the other penalties provided in this section,
17 any employer who violates any of the provisions of this section may
18 be sued for civil damages by any worker adversely affected by such
19 violations, and if such damages are established at trial, such damages
20 shall be trebled and the worker shall be entitled to reasonable
21 attorney's fees to be paid by the employer.”