

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 404-30 (LS)

Introduced by:

Brant McCreadie

D. G. RODRIGUEZ

**AN ACT TO AMEND §74103 AND §74104, AND TO
ADD A NEW §74110 TO CHAPTER 74, TITLE 11
GUAM CODE ANNOTATED RELATIVE TO
ESTABLISHING MANDATORY INSPECTION AND
CERTIFICATION OF ALL NONFERROUS METAL
PROPERTY PRIOR TO A TRANSACTION OF SALE
AT A SCRAP METAL BUSINESS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 Public Law 29-70 greatly increased the reporting requirements for scrap metal
4 businesses in an effort to curb the rash of copper wire and other nonferrous metal
5 thefts occurring in our community. However, *I Liheslaturan Guåhan* further finds that
6 scrap metal dealers have failed to properly maintain records of nonferrous metal
7 transactions. Clearly, the “honor system” currently in place, which requires scrap
8 metal dealers to obtain information from individuals looking to sell copper and other
9 metals, is not working. As such, *I Liheslaturan Guåhan* finds that responsible
10 regulation is needed to provide an additional layer of inspection to curb copper wire
11 theft.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend §74103 and
13 §74104, and to add a new §74110 of Chapter 74, Title 11 Guam Code Annotated
14 relative to establishing mandatory inspection of all nonferrous metal property before
15 being sold to scrap metal businesses.

1 **Section 2.** Subsections (b) and (c) of §74103 of Chapter 74, Title 11 Guam
2 Code Annotated are hereby *amended* to read:

3 (b) For every transaction that involves nonferrous metal property, every
4 scrap metal business doing business in Guam shall require from the person with
5 whom a transaction is being made to sign a declaration. The declaration may be
6 included as part of the transactional record required under Subsection (1) of this
7 Section, or on a receipt for the transaction. The declaration must state
8 substantially the following:

9 “I, the undersigned, affirm under penalty of law that the
10 property that is subject to this transaction is not, to the best of
11 my knowledge, stolen property.”

12 The declaration must be signed and dated by the person with whom the
13 transaction is being made. An employee of the scrap metal business must
14 witness the signing and dating of the declaration and sign the declaration
15 accordingly before any transaction may be consummated.

16 Additionally, every scrap metal business shall require each person with
17 whom a transaction is being made to provide a copy of a satisfactory certificate
18 of inspection from the Department of Revenue and Taxation pursuant to §74110
19 of this Chapter.

20 (c) The record and declaration required under this Section, including the
21 satisfactory certificate of inspection from the Department of Revenue and
22 Taxation provided to the scrap metal business pursuant to §74110 of this
23 Chapter, must be open to the inspection of any commissioned local or federal
24 law enforcement officer of Guam or any government department or agency at
25 all times during the ordinary hours of business or at reasonable times if ordinary
26 hours of business are not kept, and must be maintained wherever that business

1 is conducted for one (1) year following the date of the transaction.”

2 **Section 3.** Subsection (a) of §74104, Chapter 74, Title 11 Guam Code
3 Annotated is hereby *amended* to read:

4 “(a) No scrap metal business may enter into a transaction to purchase or
5 receive non-ferrous metal property from any person who cannot produce the
6 following:

7 (1) at least one (1) piece of current government-issued picture
8 identification, including a valid driver's license or identification card
9 issued by any jurisdiction; and

10 (2) a copy of a satisfactory certificate of inspection from the
11 Department of Revenue and Taxation, as mandated by §74110 of this
12 Chapter. Only nonferrous metal property properly inspected and
13 identified in the certificate of inspection shall be eligible for sale or
14 delivery to a scrap metal business.

15 **Section 4.** §74110 of Chapter 74, Title 11 Guam Code Annotated is hereby
16 *added* to read:

17 **“§74110. Inspection Mandatory.**

18 (a) No nonferrous metal property may be purchased or received by a
19 scrap metal business without first being inspected and certified by the
20 Department of Revenue and Taxation. Only nonferrous metal property
21 accounted for in this inspection shall be eligible for sale or delivery to a scrap
22 metal business.

23 (b) The Department of Revenue and Taxation shall draft rules and
24 procedures to conduct inspections of nonferrous metal property, and shall
25 obtain and keep records of the following information:

1 (1) the name and signature of the person who possesses the
2 nonferrous metal property being brought in for inspection;

3 (2) the street address and telephone number of the person who
4 possesses the nonferrous metal brought in for inspection;

5 (3) the time, date, and location, of the inspection;

6 (4) the estimated monetary value of all nonferrous metal property
7 being inspected;

8 (5) the name of the individual performing the inspection;

9 (6) a description of the motor vehicle and license plate number of
10 the motor vehicle used to bring the nonferrous metal property for
11 inspection;

12 (7) the current driver's license number or other government issued
13 picture identification card number of the person or a photocopy of the
14 person's drivers license or other government-issued picture identification
15 card;

16 (8) a compiled list of each item brought in for inspection; and

17 (9) a photographic record of the items brought in for inspection.

18 (c) At the time of inspection, the Department of Revenue and Taxation
19 shall require each person to complete a declaration affirming their rightful
20 ownership and possession of all nonferrous metal property brought in for
21 inspection. No certificate shall be issued without a properly filled out
22 declaration.

23 (d) Upon satisfactory completion of inspection, the Department shall
24 issue a certificate of inspection, which each person shall provide to the scrap
25 metal business before any transaction may occur. Any person who does not

1 receive a valid certificate from the Department of Revenue and Taxation shall
2 not be eligible to sell any nonferrous metal property.

3 (e) Copies of all records and certificates of inspection for non-ferrous
4 metal property shall be remitted each month to the Guam Police Department
5 and the Attorney General's Office.

6 (f) The Department of Revenue and Taxation shall establish appropriate
7 fees for inspection of nonferrous metal property.

8 (g) Nothing in this Section prohibits the Department of Revenue and
9 Taxation from obtaining additional information it deems appropriate with
10 regards to the proper certification of nonferrous metal property.

11 (h) Nothing in this Section shall prohibit the Department of Revenue and
12 Taxation from entering into a contract with a qualified entity to conduct the
13 inspections on their behalf, granted that proper procedures and safeguards are
14 put in place to ensure the validity of the inspections.”

15 **Section 5. Effective Date.** This Act shall be effective immediately upon
16 enactment.

17 **Section 6. Severability.** *If* any provision of this Law or its application to any
18 person or circumstance is found to be invalid or contrary to law, such invalidity shall
19 *not* affect other provisions or applications of this Law which can be given effect
20 without the invalid provisions or application, and to this end the provisions of this
21 Law are severable.