

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
314-35 (LS)	Sabina Flores Perez Tina Rose Muña Barnes Clynton E. Ridgell	AN ACT TO AMEND §§ 34.10, 34.30, 34.40 AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION AND PROSECUTION OF WILDFIRES AS A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT.	3/12/20 8:28 a.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 314-35 (LS)

Introduced by:

Sabina Flores Perez *SFP*
Tina Rose Muña Barnes *TRB*
Clynton E. Ridgell *A*

AN ACT TO AMEND §§ 34.10, 34.30, 34.40 AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION AND PROSECUTION OF WILDFIRES AS A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that purposefully set wildfires pose a significant threat to life, homes, businesses,
4 and property of the people of Guam, in addition to Guam’s wildlife and environment.
5 As such, the illegal burning of “forest land” must be added as an additional
6 prohibited action under Guam’s arson statute in order to prevent and prosecute this
7 dangerous practice. The language for the definition of “forest land” as proposed in
8 this measure is derived from the California Penal Code, and has been in use in
9 California since 1979. California added “forest land” to its arson statute in 1979
10 because of the severe risk of forest fires and “...in many instances a person who sets
11 fire to a wildland area creates a greater threat to life and property than many of the
12 single building unoccupied structures that are the subject of arson.” (Cal. Dept. of
13 Forestry, Analysis of Sen. Bill No. 116 (1979 Gen. Sess.) June 26, 1979.) Guam’s
14 residents have similarly had several close brushes with forest fires in recent months

1 and years, and Guam, like California, has population living in close proximity to
2 brush and forested areas.

3 *I Liheslatura* further finds that California has successfully prosecuted
4 arsonists causing forest fires under the California’s arson statute since 1979, and
5 three recent cases have upheld the “forest land” provisions within California’s
6 statutes (See *People v. Costella*, 11 Cal. App. 5th 1, 5–7, 217 Cal. Rptr. 3d 343, 346–
7 48 (Ct. App. 2017), review denied (Aug. 9, 2017), cert. denied sub nom; *Costella v.*
8 *California*, 138 S. Ct. 693, 199 L. Ed. 2d 569 (2018); and *In re J.W.*, No. F076382,
9 2018 WL 5869651, at *2–5 (Cal. Ct. App. Nov. 9, 2018)). California previously
10 changed its arson statutes to include “forest land” to “...make the statutes more
11 consistent, more understandable, and easier to prosecute.” (See David A. Roberti,
12 Chairman, Joint Com. for Revision of the Pen. Code, letter to Governor Edmund G.
13 Brown, Jr., June 25, 1979, Sen. Bill No. 116, Ch. 145 (Roberti letter).) Likewise, it
14 is proposed that “forest land” be added to the Guam arson statutes to make the
15 statutes more consistent and easier to apply, as well as to help keep Guam’s
16 residents, property, and the environment more secure from this significant threat.

17 **Section 2.** A new § 34.10(d) is hereby *added* to Chapter 34, Title 9, Guam
18 Code Annotated, to read:

19 “(d) *Forest land* means any brush covered land, cut-over land, forest,
20 grasslands, jungle, or woods.”

21 **Section 3.** § 34.30 of Chapter 34, Title 9, Guam Code Annotated is *amended*
22 to read:

23 **“§ 34.30. Arson; Defined & Punished.**

24 (a) A person is guilty of *arson* if under circumstances not amounting
25 to aggravated arson he starts a fire or causes an explosion, whether on his own
26 property, ~~or~~ another’s property, or forest land:

27 (1) with the intention of defrauding an insurer; or

1 (2) in reckless disregard of a risk that his conduct will damage
2 or destroy the property of another; or

3 (3) in reckless disregard of a risk that his conduct will damage
4 or destroy forest land.

5 (b) Arson is a third degree felony.”

6 **Section 4.** § 34.40 of Chapter 34, Title 9, Guam Code Annotated is *amended*
7 to read:

8 **“§ 34.40. Negligent Burning; Defined & Punished.**

9 (a) A person is guilty of *negligent burning* if he:

10 (1) negligently starts a fire or causes an explosion whether on
11 his own property, ~~or~~ another’s, or forest land, and thereby negligently
12 endangers human life, or negligently places the property of another or
13 forest land in danger of damage or destruction; or

14 (2) having started a fire, whether negligently or not, and
15 knowing that its spread will endanger the life ~~of~~ or property of another,
16 or forest land, either fails to take reasonable measures to put out or
17 control the fire, or fails to give a prompt fire alarm.

18 (b) Negligent burning is a misdemeanor.”

19 **Section 5.** § 34.50 of Chapter 34, Title 9, Guam Code Annotated is *amended*
20 to read:

21 **“§ 34.50. Criminal Mischief; Defined.**

22 A person commits *criminal mischief* if:

23 (a) under circumstances not amounting to arson he damages
24 or destroys property with the intention of defrauding an insurer; or

25 (b) he intentionally tampers with the property of another or
26 forest land and thereby:

27 (1) recklessly endangers human life; or

1 (2) recklessly causes or threatens a substantial
2 interruption or impairment of any public utility service; or

3 (c) he intentionally damages the property of another or forest
4 land; or

5 (d) he intentionally damages the motor vehicle of another.”

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

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