


I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 30-169(LS)

Introduced by:

Adolpho B. Palacios, Sr.

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AN ACT TO EXCLUDE LAW ENFORCEMENT PERSONNEL, EMPLOYEES AND POSITIONS FROM THE APPLICATION OF THE PROVISION OF "SAFE HARBOR" UNDER THE GOVERNMENT OF GUAM'S DRUG-FREE WORKPLACE PROGRAM BY ADDING A NEW §75107, TO CHAPTER 75, TITLE 10 GUAM CODE ANNOTATED; AND TO INCLUDE OTHER LAW ENFORCEMENT PERSONNEL UNDER THE TERM "DEFINITION" AS USED IN THIS CHAPTER BY AMENDING §75100(a), CHAPTER 75, TITLE 10 GUAM CODE ANNOTATED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Department of Administration Drug-Free Workplace Program (DOA/DFWP) was adopted through Executive Order 95-29 on December 6, 1995. The Drug-Free Workplace Program provides guidelines for the implementation, enforcement and administration of the program.

The Drug-Free Workplace Program provides for drug testing of government of Guam employees and prospective employees to ensure compliance with the program. The DOA/DFWP also provides for counseling and rehabilitation for employees who voluntarily admit to illegal drug use without the threat of discipline. This provision is known as "Safe Harbor". "Safe Harbor" is defined in the DOA/DFWP as "A provision of the DFWP which gives an employee a one-time opportunity to

1 voluntarily identify himself/herself as a user of illegal drugs willing to undertake
2 counseling and, as necessary, rehabilitation. “Safe Harbor” insulates the employee
3 from discipline for these admitted, but otherwise unknown, past acts of illegal drug
4 use. It does not protect the employee from discipline for admitting to drug trafficking
5 or other drug-related offenses.”

6 Over the years most all government agencies, including autonomous agencies,
7 have adopted the DOA/DFWP as part of their policy, via a memorandum of
8 understanding.

9 Although “Safe Harbor” has its benefit in helping employees, *I Liheslaturan*
10 *Guåhan* believes that it should not be applicable to law enforcement personnel,
11 employees or positions as the term is defined in §75100(a), Chapter 75, Title 10 Guam
12 Code Annotated. Employment in these positions demands that a high ethical and
13 professional code of conduct be adhered to in order to maintain the reputation and
14 credibility crucial for the performance required by the position. The credibility and
15 reputation of the employee in these positions would be severely damaged when one is
16 known to have used illegal drugs. It is essential that “Zero-Tolerance” be the policy
17 for the positions defined in §75100(a), Chapter 75, Title 10 Guam Code Annotated.

18 It is therefore, the intent of *I Liheslaturan Guåhan* to exclude law enforcement
19 personnel, employees and positions as the term is defined in §75100(a) from the
20 application of the provision of “Safe Harbor” under the Department of Administration
21 Drug-Free Workplace Program by adding a new §75107; and to include other law
22 enforcement personnel under the “definition” by amending §75100(a), Chapter 75,
23 Title 10 Guam Code Annotated.

24 **Section 2.** A new §75107 is hereby added to Chapter 75, Title 10 Guam Code
25 Annotated, to read as follows:

26 **“§75107. “Safe Harbor” Exemption.** Notwithstanding any other
27 law, rule, executive order, regulation or policy, the provision of “Safe

1 Harbor” as the term is described in the Department of Administration
2 Drug-Free Workplace Program as promulgated by Executive Order 95-29
3 shall not be applicable to law enforcement personnel, employees and
4 positions, as the term is defined in §75100(a), Chapter 75, Title 10 Guam
5 Code Annotated.”

6 **Section 3.** §75100(a) of Chapter 75, Title 10 Guam Code Annotated, is hereby
7 amended to read as follows:

8 **“§75100. Definition.**

9 As used in this Chapter:

10 (a) *Law enforcement personnel, employee or position* means the
11 following:

12 (1) All members of the Guam Police Department including
13 the Chief of Police;

14 (2) All members of the Guam Fire Department including
15 the Fire Chief;

16 (3) All officers of the Department of Corrections including
17 the director;

18 (4) All Customs Officers of the Department of Commerce
19 including the Director;

20 (5) Employees of the Department of Youth Affairs who are
21 engaged in juvenile detention and rehabilitation and work
22 rehabilitation work as designated by the Director of the
23 Department of Youth Affairs including the Director of Youth
24 Affairs;

25 (6) All Tax Agents Enforcement Officers from the
26 Department of Revenue and Taxation, Attorney General, Deputy

1 and Assistant Attorney Generals, and Attorney General
2 Investigators;

3 (7) All security officers employed by the Government of
4 Guam or performing security work for the Government of Guam
5 pursuant to their employer's contract, including but not limited to
6 lock-up guards, security for the A. B. Won Pat Guam International
7 Airport Air-Port Authority and security for the Port Authority of
8 Guam Guam Commercial Port.

9 (8) All Deputy Marshals of the Unified Guam Judiciary,
10 including the Chief;

11 (9) All Probation Officers and Alternative Sentencing
12 Officers of the Unified Guam Judiciary, including the Chief
13 Probation Officer;

14 (10) All Territorial Park Patrol Officers of the Department of
15 Parks and Recreation, including the Superintendent;

16 (11) All Conservation Officers of the Department of
17 Agriculture, including the Chief;

18 (12) All Port Authority Police Officers, including the Chief;

19 (13) All Guam International Airport Authority Police
20 Officers, including the Chief;

21 (14) All Firefighters of the Guam International Airport
22 Authority, including the Chief."