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<th>BILL NO.</th>
<th>SPONSOR</th>
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<th>FISCAL NOTES</th>
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<tr>
<td>314-35 (LS)</td>
<td>Sabina Flores Perez Tina Rose Muña Barnes Clynton E. Ridgell</td>
<td>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.</td>
<td>3/12/20 8:28 a.m.</td>
<td>Committee on Health, Tourism, Historic Preservation, Land, and Justice</td>
<td>10/6/20 9:00 a.m.</td>
<td>11/27/20 4:55 p.m.</td>
<td>As amended by the Committee on Health, Tourism, Historic Preservation, Land, and Justice</td>
<td>4/20/20</td>
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<th>PUBLIC LAW NO.</th>
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<td>12/7/20</td>
<td>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.</td>
<td>12/17/20</td>
<td>12/17/20</td>
<td>12/29/20</td>
<td>35-134</td>
<td>12/29/20</td>
<td>Received, 12/29/20 Mess and Comm. Doc. No. 35GL-20-2561</td>
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December 29, 2020

HONORABLE TINA ROSE MUÑA BARNES  
Speaker  
I Mina'trentai Singko Na Liheslaturan Guåhan  
35th Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

Re: Bill No. 314-35 (LS) – An Act to Add a New § 34.10(d) and Amend §§ 34.30, 34.40, and 34.50, All of Chapter 34, Title 9, Guam Code Annotated, Relative to the Prevention of Wildfires and Prosecution of Individuals who set Wildfires, Which are a Threat to Persons, Property, and the Environment

Dear Madame Speaker:

Our island has suffered serious damage to our natural environment due to fires in our jungles and grasslands. Fires destroy trees and grass that hold our soil surfaces in place. Once loose, soil and dirt runs off in heavy rains into our streams and eventually empties into our oceans where they can cause damage to the coral reef that protects our coastline. While some of our fires occur naturally or accidentally, many of our fires occur as a result of intentional burning or as a result of failure to take reasonable precautions to guard against them. Bill 314 expands the definitions of arson and criminal mischief to include destruction and damage to forest lands. A community’s values are reflected in the types of behaviors it chooses to punish in its criminal code; Bill No. 314, now Public Law No. 35-134 makes it clear that our community understands the importance of preserving our land for generations of future use.

Senseramente,

LOURDES A. LEON GUERRERO  
I Maga’hågan Guåhan  
Governor of Guam

Enclosure: Bill No. 314-35 (COR) nka P.L. 35-134

cc via email: Sigundo Maga’låhen Guåhan  
Compiler of Laws
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÂGAN GUÂHAN

This is to certify that Bill No. 314-35 (LS), "AN ACT TO ADD A NEW § 34.10(d) AND AMEND §§ 34.30, 34.40, AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION OF WILDFIRES AND PROSECUTION OF INDIVIDUALS WHO SET WILDFIRES, WHICH ARE A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT," was on the 17th day of December 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by I Maga'hågan Guåhan this 17th day of Dec., 2020, at 10:26 o'clock P.M.

Approved:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 12/29/2020

Public Law No. 35-134
AN ACT TO ADD A NEW § 34.10(d) AND AMEND §§ 34.30, 34.40, AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION OF WILDFIRES AND PROSECUTION OF INDIVIDUALS WHO SET WILDFIRES, WHICH ARE A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT.

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

*I Liheslatura* further finds that California has successfully prosecuted arsonists causing forest fires under California’s arson statute since 1979, and three (3) recent cases have upheld the “forest land” provisions within California’s statutes. *See People v. Costella*, 11 Cal. App. 5th 1, 5–7, (Ct. App. 2017), review denied (Aug. 9, 2017), cert. denied, 138 S. Ct. 693 (2018); and *In re J.W.*, No. F076382, 2018 WL 5869651, at *2–5 (Cal. Ct. App. 2018). California previously changed its arson statutes to include “forest land” to “…make the statutes more consistent, more understandable, and easier to prosecute.” *See* David A. Roberti, Chairman, Joint Com. for Revision of the Pen. Code, letter to Governor Edmund G. Brown, Jr., June 25, 1979, Sen. Bill No. 116, Ch. 145. Likewise, it is proposed that “forest land” be added to the Guam arson statutes to make the statutes more consistent and easier to apply. By protecting “forest land,” which includes local jungle and grasslands, *I Liheslatura* aims to keep Guam’s residents, property, and the environment more secure from the dangerous threat of arson. The measure also clarifies that restorative
justice, through the Alternative Service Restitution option that is enabled in current
law, exists as an option for those convicted of wildfire arson to work directly in
reforesting and healing the lands damaged by their actions.

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

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

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

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

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

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

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

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

(b) Arson is a third degree felony.”

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

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

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

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

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

(b) Negligent burning is a misdemeanor. If a person guilty of negligent burning is offered Alternative Service Restitution in accordance with Article 6 of Chapter 80, 9 GCA, the restoration of forest lands is an allowable form of restitution or alternative community service.”

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

“§ 34.50. Criminal Mischief; Defined.
A person commits criminal mischief if:

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

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

(1) recklessly endangers human life; or

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

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

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

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

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