

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

2021 (FIRST) Regular Session

VOTING RECORD

Bill No. 116-36 (COR) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Research, Statistics, and Planning; and further amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 4, 2021					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes					✓	✓
Senator Telen Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedro" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres					✓	✓

TOTAL

13

0

2

2

Aye

Nay

**Not
Voting/
Abstained**

**Out
During
Roll Call**

Absent

Excused

CERTIFIED TRUE AND CORRECT:



RENNAE W.C. MENO
Clerk of the Legislature

I = Pass

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2021 (FIRST) Regular Session

Bill No. 116-36 (COR)

As amended by the Committee on Environment, Revenue and Taxation,
Labor, Procurement, and Research, Statistics, and Planning;
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*

Introduced by:

Sabina Flores Perez
Tina Rose Muña Barnes
Joanne Brown
Jose “Pedo” Terlaje
James C. Moylan
Telo T. Taitague
V. Anthony Ada

AN ACT TO *AMEND* §§ 51202, 51204, 51205, AND 51207 OF ARTICLE 2, CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED; TO *AMEND* § 40115(c) OF ARTICLE 1, CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED; AND TO *AMEND* § 77114.3 OF ARTICLE 1, CHAPTER 77, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING AGENCY CAPACITY TO ADDRESS ILLEGAL DUMPING.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that current litter laws need to be updated to recognize dumping as a new category
4 of littering, which also requires increased penalties and enforcement.

5 *I Liheslatura* further finds that illegal dumping constitutes a major threat to
6 our natural environment and the health and safety of the people of Guam. Currently,
7 the penalties for illegal dumping are not equivalent to the threat they pose to Guam.
8 Relatedly, the Guam Environmental Protection Agency, the Mayors Council of

1 Guam, and other Guam agencies currently lack the resources necessary to adequately
2 address littering.

3 *I Liheslatura* finds that there are economic and societal factors that contribute
4 to illegal dumping, such as the inaccessibility of solid waste disposal services to a
5 number of Guam residents. Additionally, consumerism, the import of goods and,
6 conversely, the changing nature of global recycling streams, all play a significant
7 role in the buildup of solid waste on Guam.

8 *I Liheslatura* also finds that requiring anti-littering and recycling education
9 and actions for those violating littering laws can aid in breaking the cycle of littering
10 and illegal dumping by establishing environmental awareness and practices.

11 Therefore, it is the intent of *I Liheslatura* to empower a wider set of
12 apprehending officers and to increase penalties to address littering and illegal
13 dumping; and, the fees from these increased penalties are intended to provide more
14 adequate funding for agencies to proactively address litter.

15 It is also the intent of *I Liheslatura* to reinforce Guam EPA's authority to
16 regulate unpermitted sites where solid waste accumulates, and to couple enhancing
17 enforcement measures with increasing environmental awareness and practices to
18 curb littering and illegal dumping in order to protect the health of our people and
19 environment.

20 **Section 2.** § 51202 of Article 2, Chapter 51, Title 10, Guam Code
21 Annotated, is hereby *amended* to read:

22 **“§ 51202. Definitions.**

23 For the purpose of this Article, the following words shall have the
24 meaning given herein unless their use in the text clearly demonstrates a
25 different meaning:

26 (a) Apprehending Officers shall mean any designated
27 individual with the Department of Parks and Recreation, the

1 Department of Agriculture, the Guam Environmental Protection
2 Agency, the Department of Public Health and Social Services, the
3 Department of Public Works, all village mayors and vice mayors, any
4 peace officer in the Guam Police Department, including the C.A.P.E.
5 volunteers, and Civilian Volunteer Police Reserve volunteers, the A.B.
6 Won Pat International Airport Authority Police, the Port Authority of
7 Guam Police, and the Guam Fire Department's uniformed personnel.

8 (b) Dumping shall mean the deposit of litter in a substantial
9 quantity.

10 (c) Litter shall mean discarded, used or leftover solid
11 materials, including, but not limited to, garbage, trash, rubbish, refuse,
12 paper, containers, bulky metallic waste, packing or construction
13 materials, or carcasses of dead animals.

14 (d) Littering shall mean willful or negligent throwing,
15 dropping, placing, depositing, or sweeping, allowing, or causing such
16 acts, of any litter on land or water, in other than appropriate storage
17 containers or areas designated for such purpose.

18 (e) Substantial quantity shall mean a gross, uncompressed
19 volume of litter equal to or greater than thirty-two (32) gallons or 4.28
20 cubic feet.

21 (f) Vehicle shall mean a device in, upon, or by which any
22 person or property may be propelled, moved, or drawn upon a highway,
23 except a device moved by human or animal power.

24 (g) Watercraft shall mean any boat, ship, vessel, barge or
25 other floating craft.”

26 **Section 3.** § 51204 of Article 2, Chapter 51, Title 10, Guam Code
27 Annotated, is hereby *amended* to read:

1 **“§ 51204. Litter Control Revolving Fund.**

2 (a) There is established a fund to be known as the Litter Control
3 Revolving Fund, which shall be maintained separate and apart from any other
4 fund of the government of Guam and shall be administered by the
5 Administrator. Independent records and accounts shall be maintained in
6 connection therewith. Except as provided in 5 GCA § 40115 seventy percent
7 (70%) of all assessments, fines, bail forfeitures, and other funds collected or
8 received pursuant to this Article shall be deposited in the Litter Control
9 Revolving Fund and used for the administration and implementation of this
10 Article; for education programs and advertisement promotions aimed at
11 increasing awareness of litter and defacement problems and promoting
12 recycling; for the placement of anti-litter and anti-graffiti signs around the
13 island; for the purchase of supplies and equipment to assist with enforcement;
14 for the clean-up of litter and defacement from public highways, streets, alleys,
15 roads, bridges, buildings, signs, restrooms, public recreational areas, or other
16 public lands; and for assistance with recycling efforts. Five percent (5%) shall
17 be deposited in the Judicial Building Fund; and twenty-five percent (25%)
18 shall be deposited in the Guam Beautification Fund as provided in 21 GCA §
19 77114.3.

20 (b) Fifty percent (50%) of any fine collected or received pursuant to
21 this Article shall be transferred to the agencies and departments of
22 apprehending officers assisting with the enforcement and implementation of
23 this Article. Such partner agencies and departments receiving monies from the
24 Litter Control Revolving Fund under this Section are subject to periodic audits
25 of said funds at the direction of the Board.”

26 **Section 4.** § 51205 of Article 2, Chapter 51, Title 10, Guam Code
27 Annotated, is hereby *amended* to read:

1 **“§ 51205. Prohibited Activities.**

2 (a) It shall be unlawful for any person to willfully or negligently
3 deposit, throw, leave, or abandon any litter upon any public highway, street,
4 alley or road, upon public parks or recreation areas, or upon any other public
5 property, except as designated for such use, or upon property owned by
6 another person without written permission of the owner and a permit issued
7 by the Guam Environmental Protection Agency, or into any bay, channel,
8 harbor, river, creek, stream, reservoir, coastal waters, or other waters of Guam.

9 (b) It shall be unlawful for any person to dump litter in substantial
10 quantities upon any public highway, street, alley, or road, upon public parks
11 or recreation areas, or upon any other public property, except as designated
12 for such use, or upon property owned by another person without written
13 permission of the owner and a permit issued by the Guam Environmental
14 Protection Agency, or into any bay, channel, harbor, river, creek, stream,
15 reservoir, coastal waters, or other waters of Guam.

16 (c) **Apprehension for Violation.** Apprehension for violation of
17 prohibitions may be initiated by an apprehending officer who witnessed an
18 offense or discovered an article bearing a person’s name on the property of
19 another, or on any public property, except as designated for such use, or by
20 any private citizen who witnessed an offense or discovered incriminating
21 evidence, and who is willing to make the initial charge and testify for the
22 government.

23 (d) Any person who shall witness the throwing, dumping, or
24 depositing of litter from a vehicle or watercraft which is in violation of
25 prohibitions may report the date, time of day, and location of the littering and
26 the license registration number to apprehending officers. The registration
27 number as recorded shall constitute prima facie evidence that the littering was

1 done by the person to whom such vehicle or watercraft is registered. Nothing
2 in this Section shall be construed to modify or change the burden of the
3 government to prove the defendant guilty beyond a reasonable doubt.

4 (e) Any person who violates this Section while occupying a motor
5 vehicle which is moving or located on public property or a public right of way
6 shall be deemed to have committed a violation not only of this Section, but of
7 16 GCA, Chapter 3, Article 3 (Rules of the Road) and shall be guilty of a petty
8 misdemeanor.”

9 **Section 5.** § 51207 of Article 2, Chapter 51, Title 10, Guam Code
10 Annotated, is hereby *amended* to read:

11 **“§ 51207. Penalties.**

12 (a) Any person in violation of § 51205(a) of this Article shall be
13 fined Two Hundred Dollars (\$200.00) for the first offense, Three Hundred
14 Dollars (\$300.00) for the second offense, and Five Hundred Dollars (\$500.00)
15 for the third and subsequent offenses.

16 (1) In addition to the fine pursuant to Subsection (a) of this
17 Section, the court shall require the offender to pick up litter or conduct
18 anti-littering and recycling outreach or activities, or both, under the
19 supervision of the Guam Environmental Protection Agency, or its
20 designee, for eight (8) hours for the first offense, for sixteen (16) hours
21 for the second offense, and for thirty-two (32) hours for the third and
22 subsequent offenses.

23 (b) Any person in violation of § 51205(b) of this Article shall be
24 fined Five Hundred Dollars (\$500.00) for the first offense, Seven Hundred
25 Fifty Dollars (\$750.00) for the second offense, and One Thousand Dollars
26 (\$1,000.00) for the third and subsequent offenses.

1 (1) In addition to the fine pursuant to this Subsection (b), the
2 court shall require the offender to pick up litter or conduct anti-littering
3 and recycling outreach or activities, or both, under the supervision of
4 the Guam Environmental Protection Agency, or its designee, for forty
5 (40) hours for the first offense, sixty (60) hours for the second offense,
6 and one hundred (100) hours for the third and subsequent offenses.

7 (c) Any person convicted of any litter offense may also be required
8 by the court to pay the cost of removing the litter they caused. The Superior
9 Court of Guam shall transfer all money collected to pay fines imposed under
10 this Section to the Litter Control Revolving Fund established in § 51204 of
11 this Article. Any peace officer, as that term is defined in § 5.55 of Article 2,
12 Chapter 5, 8 GCA, may issue a citation for a litter offense.

13 (d) A person charged with a first violation may avoid a court hearing
14 by posting bail in the amount of the minimum fine or paying such prescribed
15 fine as the Traffic Court Division of the Superior Court of Guam shall
16 prescribe.

17 (e) When the risk of fire is determined to be high, in accordance with
18 the provisions of 10 GCA § 63704, any person convicted of a violation of this
19 Chapter for discarding a cigarette, lit or unlit, from a moving or stationary
20 motor vehicle, during the time the risk of fire is determined to be high, shall
21 be subject to two (2) times the fine or community service penalties prescribed
22 herein in this Section, or both.

23 (f) Any person convicted of violating this Section shall not be
24 relieved from any charges that may arise as a consequence of a violation of
25 this Section.”

26 **Section 6.** § 40115(c) of Article 1, Chapter 40, Title 5, Guam Code
27 Annotated, is hereby *amended* to read:

1 “(c) To fine violators of sanitary and health laws and to cite violators
2 of litter and defacement laws and regulations. Such citations shall be
3 accompanied by an order to appear at the Traffic Court Division of the
4 Superior Court of Guam, pursuant to § 51206 of Article 2, Chapter 51, 10
5 GCA. The Traffic Court shall have the authority to impose a fine to those
6 found guilty of violating such laws and regulations.

7 (1) Any person in violation of § 51205(a) of Article 2, Chapter
8 51, 10 GCA shall be fined Two Hundred Dollars (\$200.00) for the first
9 offense, Three Hundred Dollars (\$300.00) for the second offense, and
10 Five Hundred Dollars (\$500.00) for the third and subsequent offenses.

11 (A) In addition to the fine pursuant to Subsection (c)(1)
12 of this Section, the court shall require the offender to pick up
13 litter or perform community service, or both, under the
14 supervision of the Mayor, or in the Mayor’s absence, the Vice
15 Mayor, for eight (8) hours for the first offense, sixteen (16) hours
16 for the second offense, and thirty-two (32) hours for the third and
17 subsequent offenses.

18 (2) A person in violation of § 51205(b) of Article 2, Chapter
19 51, 10 GCA shall be fined Five Hundred Dollars (\$500.00) for the first
20 offense, Seven Hundred Fifty Dollars (\$750.00) for the second offense,
21 and One Thousand Dollars (\$1000.00) for the third and subsequent
22 offenses.

23 (A) In addition to the fine pursuant to Subsection (c)(2)
24 of this Section, the court shall require the offender to pick up
25 litter or perform community service, or both, under the
26 supervision of the Mayor, or in the Mayor’s absence, the Vice
27 Mayor, for forty (40) hours for the first offense, sixty (60) hours

1 for the second offense, and one hundred twenty (120) hours for
2 the third and subsequent offenses.

3 (3) A person convicted of any litter offense under this Section
4 may also be required by the court to pay the cost of removing the litter
5 they caused.

6 The Superior Court of Guam shall transfer all money collected to pay
7 fines imposed under this Section in the following manner: fifty percent (50%)
8 to the Litter Control Revolving Fund established in § 51204 of Article 2,
9 Chapter 51, Title 10, Guam Code Annotated, and fifty percent (50%) to the
10 Municipal Litter and Defacement Fund.

11 The community service may include cleaning of roadsides and public
12 grounds, and the cleaning of public buildings and facilities; anti-littering and
13 recycling educational outreach; and assisting with recycling efforts within the
14 municipality in which the violation took place. Such community service shall
15 be assigned by the Mayor, or in the Mayor’s absence, by the Vice Mayor. Any
16 decision or action of the Mayor or Vice Mayor pursuant to the authority of
17 this Section may be appealed to the Superior Court of Guam within thirty (30)
18 days of the date of such decision or action.”

19 **Section 7.** § 77114.3 of Article 1, Chapter 77, Title 21, Guam Code
20 Annotated, is hereby *amended* to read:

21 **“§ 77114.3. Guam Beautification Fund.**

22 There is established a fund to be known as the Guam Beautification
23 Fund which shall be maintained separate from any other funds of the
24 government of Guam. Independent records and accounts shall be maintained
25 by the Department of Administration in connection therewith. Twenty-five
26 percent (25%) of assessments, fines, bail forfeitures and other funds collected
27 or received pursuant to § 51204 of Article 2, Chapter 51, Title 10, Guam Code

1 Annotated, and subject to the conditions of § 40115 of Title 5, Guam Code
2 Annotated, shall be deposited in the Guam Beautification Fund and used for
3 landscaping, for planting of grass, shrubs, trees and flowers, for other
4 improvements to public recreational areas or other public lands, for clean-ups,
5 for anti-littering, recycling educational outreach, and for assisting with
6 recycling efforts.”

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