

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session
VOTING RECORD

Bill No. 297-36 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 28, 2022					
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

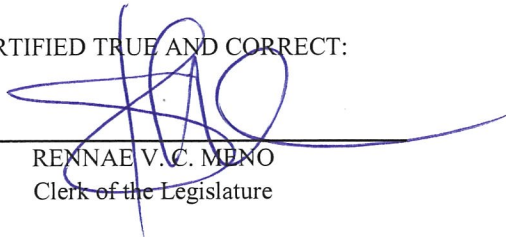
Not
Voting/
Abstained

Out
During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



RENNAE V. C. MENO
Clerk of the Legislature

I = Pass

1 § 3802. Nondiscrimination with Regard to Reasonable Accommodations
2 Related to Pregnancy or Childbirth.

3 § 3803. General Enforcement.

4 § 3804. Administrative Process and Penalties.

5 § 3805. Civil Process.

6 § 3806. Rules and Regulations.

7 **§ 3801. Definitions.**

8 (a) *Employee* means any individual employed by an employer.

9 (b) *Employer* means either of the following:

10 (1) any person (including any individual, association, partnership,
11 corporation, company, entity, or organized group of persons acting directly or
12 indirectly in the interest of an employer in relation to an employee) who
13 directly employs fifteen (15) or more persons to perform services for a wage
14 or salary; or

15 (2) the government of Guam, and any governmental entity,
16 department, agency, commission, instrumentality, or public corporation, but
17 excluding the United States government.

18 (c) *Reasonable accommodations* means:

19 (1) making existing facilities used by employees readily accessible
20 to and usable by individuals with any type of disability; and

21 (2) job restructuring, part-time or modified work schedules,
22 reassignment to a vacant position, acquisition or modification of equipment
23 or devices, appropriate adjustment or modifications of examinations, training
24 materials or policies, the provision of qualified readers or interpreters, and
25 other similar accommodations for individuals with any type of disability.

26 (d) *Known limitation* means a physical or mental condition arising out of
27 pregnancy or childbirth that the employee or employee's representative has

1 communicated through a certified document provided by a healthcare provider to
2 the employer whether or not such condition meets the definition of disability
3 specified in Section 3 of the Americans with Disabilities Act of 1990.

4 **§ 3802. Nondiscrimination with Regard to Reasonable**
5 **Accommodations Related to Pregnancy or Childbirth.**

6 (a) It shall be unlawful for any employer to not make reasonable
7 accommodations to the known limitations related to the pregnancy or childbirth of
8 an employee, unless such employer can demonstrate that the accommodation would
9 impose an undue hardship on the operation of the business of such employer.

10 (b) It shall be unlawful for any employer to require an employee affected
11 by pregnancy or childbirth to accept an accommodation other than any reasonable
12 accommodation.

13 (c) It shall be unlawful for any employer to deny employment opportunities
14 to an employee if such denial is based on the need of the employer to make
15 reasonable accommodations to the known limitations related to the pregnancy or
16 childbirth of a qualified employee.

17 (d) It shall be unlawful for any employer to require an employee to take
18 leave, whether paid or unpaid, if another reasonable accommodation can be provided
19 to the known limitations related to the pregnancy or childbirth of an employee.

20 (e) It shall be unlawful for any employer to take adverse action in terms,
21 conditions, or privileges of employment against an employee on account of the
22 employee requesting or using a reasonable accommodation to the known limitations
23 related to the pregnancy or childbirth of the employee.

24 **§ 3803. General Enforcement.**

25 The Fair Employment Practice Division shall have all necessary enforcement
26 and investigative powers to enforce the provisions of this Act, and the Director of
27 the Department of Labor shall establish due process policies and be the Hearing

1 Officer in any appeals relative to the enforcement actions or fines initiated under this
2 Act by the Fair Employment Practice Division.

3 **§ 3804. Administrative Process and Penalties.**

4 (a) A person claiming to be aggrieved by a violation of this Act may file
5 an administrative complaint with the Guam Department of Labor (Department), in
6 accordance with rules and regulations promulgated by the Department.

7 (b) Any administrative complaint made under the provisions of this Act
8 must be made within ninety (90) days of the denial of accommodations towards the
9 employee.

10 (c) The Director of Labor shall be the Hearing Officer in any appeals
11 relative to enforcement actions initiated by the Fair Employment Practice Office.

12 (d) The Department may refer any unpaid penalties to the Department of
13 Revenue and Taxation, or other appropriate licensing entities, who shall require that
14 all penalties under this Act be paid in full before renewing a business license.

15 (e) Any administrative complaints made directly with the U.S. Department
16 of Labor will automatically supersede local filing.

17 (f) The Guam Department of Labor is hereby authorized to issue the
18 following fines for violations of this Act:

19 (1) a fine of up to One Thousand Dollars (\$1,000.00) for the first
20 offense; and

21 (2) a fine not less than One Thousand Dollars (\$1,000.00) but not
22 greater than Two Thousand Dollars (\$2,000.00) for subsequent offenses.

23 (g) The Department is hereby authorized to take into consideration
24 penalties ranging from written warning, training, retraining, and subsequent fines
25 mentioned in Subsection (f)(2) of this Section.

26 (h) Any penalty fines for violations of this Act shall be collected by the
27 Department of Labor. Fines collected by the Department under the provisions of this

1 Section shall be deposited in the Manpower Development Fund to be employed
2 exclusively for the training programs and enforcement operations within the Fair
3 Employment Practice Office.

4 (i) The Guam Department of Labor may develop a training program and/or
5 a plan for providing training resources for employers and their representatives, such
6 as the hiring authorities or human resource officers. The program may include a
7 mandatory posting in each employer’s premises, developed by the Department,
8 which notifies employees of this Act and other labor laws.

9 **§ 3805. Civil Process.**

10 (a) Any person alleging a violation of this Act may bring a civil action in
11 the Superior Court for such legal or equitable relief as will effectuate the purpose of
12 this Act.

13 (b) In any action brought to enforce this Act, the court shall have
14 jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate
15 the purposes of this Act, including, without limitation, judgements compelling
16 employment, recovery of attorney fees, reinstatement or promotion, or enforcing the
17 liability for amounts deemed to be unpaid wages.

18 **§ 3806. Rules and Regulations.**

19 The Guam Department of Labor shall promulgate rules and regulations in
20 accordance with outlining the procedures by which it will accept, investigate, and
21 adjudicate complaints of “Pregnant Workers Fairness Act” violations, and the
22 enforcement of the provisions of this Act. All rules and regulations shall comply
23 with the Administrative Adjudication Law, as required under Article 3 Chapter 9 of
24 Title 5, Guam Code Annotated.”

25 **Section 3. Effective Date.** This Act shall be effective one (1) year after
26 enactment.