

*I MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN*  
2015 (FIRST) REGULAR SESSION

Bill No. 141 -33 (COR)

Introduced by:

B. J.F. Cruz 

AN ACT TO *AMEND* ITEM (I) OF § 6101 OF ARTICLE 1, § 6302 OF ARTICLE 3, AND SECTIONS UNDER ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED; RELATIVE TO CLARIFYING THE DEFINITION OF ELECTRONIC CIGARETTES, RAISING THE MINIMUM AGE OF LEGAL ACCESS TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO TWENTY-ONE (21) YEARS, AND CITING THIS ACT AS “YOUTH PROTECTION ACT OF 2015”.

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

1           Section 1. Clarification of Definition of Electronic Cigarettes Relative to  
2 Prohibition Sale or Distribution of Tobacco Products to Persons Under  
3 Twenty-One (21) Years of Age. Item (I) of § 6101 (Definitions), Article 1,  
4 Chapter 6, Title 11 of the Guam Code Annotated is hereby *amended* to read:

5           “(I) *Electronic cigarettes*, also known as e-cigarettes, are battery-  
6 operated products designed to deliver nicotine, flavor and other chemicals.  
7 They turn nicotine, which is highly addictive, and other chemicals into a  
8 vapor that is inhaled by the user. For the purposes of this Chapter, and the  
9 prohibition pertaining solely to a person under the minimum age of legal  
10 access pursuant to §§ 6400 and 6405, tobacco products *shall* also be deemed  
11 to include and *shall* be similarly applicable to electronic cigarettes, including  
12 any refill, cartridge, and any other component of an electronic cigarette.”

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1           § 6400. Sale or Distribution of Tobacco Products to ~~Minors~~  
2           Persons Under Twenty-One (21) Years of Age Prohibited.

3           It *shall* be a violation of this Chapter for any person to sell or  
4           distribute tobacco products or electronic cigarettes to ~~minors~~any  
5           person under twenty-one (21) years of age. It *shall* not be a violation  
6           of this Chapter for any person to refuse to sell or distribute tobacco  
7           products or electronic cigarettes to any person whom the seller or the  
8           distributor reasonably believes to be under twenty-seven (27) years of  
9           age, and who is unable to produce acceptable photographic  
10          identification and proof that he is over the age of ~~eighteen(18)~~twenty-  
11          one(21)years.

12          The sale or distribution of electronic cigarettes to ~~minors~~any  
13          person under twenty-one (21) years of age, or its possession by a  
14          ~~minor~~such person, is prohibited and *shall* be regulated and enforced  
15          pursuant to this Chapter. Any provision of this Chapter applicable to  
16          the regulation and prohibition of the sale or distribution of tobacco  
17          products to a ~~minor~~any person under twenty-one (21) years of age, or  
18          possession by a ~~minor~~such person, *shall* be applicable to electronic  
19          cigarettes and any other component of an electronic cigarette, and  
20          *shall* be regulated and enforced in the same manner as tobacco  
21          products, to include the applicability of all penalties and fines.

22          (a) Vending machines selling tobacco products or electronic  
23          cigarettes *shall* be located so that they are accessible only to persons  
24          over the age of ~~eighteen(18)~~twenty-one(21) years, or are under the  
25          constant, direct supervision and unobstructed line of sight of the  
26          person authorizing the installation or placement of the tobacco or  
27          electronic cigarette vending machine upon the premises he manages

1 or otherwise controls, or his agent or employee. Said supervising ~~adult~~  
2 person, who *must* be at least twenty-one (21) years of age, *shall*  
3 ensure that ~~minors~~ persons under twenty-one (21) years of age do not  
4 purchase tobacco products or electronic cigarettes from vending  
5 machines. A person who authorizes the installation or placement of  
6 the tobacco or electronic cigarette vending machine upon premises he  
7 manages, or otherwise controls, and who knows or should know that  
8 the tobacco or electronic cigarette vending machine will likely be used  
9 by ~~minors~~ persons under twenty-one (21) years of age, *shall* be liable  
10 if ~~minors~~ such persons purchase tobacco products or electronic  
11 cigarettes from said machines.

12 (b) A licensee or an employer may distribute tobacco products  
13 or electronic cigarettes to any employee who handles tobacco  
14 products or electronic cigarettes in the course of the commercial  
15 distribution or sale of the products. In any proceeding for the  
16 suspension or revocation of any license, and based upon a violation of  
17 this Section, proof that the defendant licensee or his agent or  
18 employee demanded and was shown, before furnishing any tobacco  
19 product or electronic cigarette to a ~~minor~~ any person under twenty-one  
20 (21) years of age, an identification card, *shall* be a defense to the  
21 charges.

22 **§ 6401. Acceptable Forms of Identification.**

23 The following are the only acceptable instruments of  
24 identification as required by §6400:

25 (a) a valid unexpired driver's license issued by any state,  
26 territory or possession of the United States;

1 (b) an official identification issued by the Federal or a state  
2 government with the individual's photograph and signature;

3 (c) an armed forces identification card;

4 (d) a valid, unexpired passport; and

5 (e) an alien registration receipt card (green card).

6 **§ 6402. Display of Prohibition on Sales of Tobacco Products**  
7 **to Minors Persons Under Twenty-One (21) Years of Age.**

8 All licensees *shall* post notice that this Chapter prohibits the  
9 sale of tobacco products to ~~minors~~ persons under twenty-one (21)  
10 years of age.

11 (a) In the case of a retail operation, notices *shall* be publicly and  
12 conspicuously displayed in the licensee's place of business in letters at  
13 least two inches (2") in height.

14 (b) In the case of vending machine, the licensee *shall* affix to  
15 the front of each vending machine a sign in letters at least one-half  
16 inch (1/2") in height.

17 (c) Any licensee who violates this Section *shall* be fined Fifty  
18 Dollars (\$50.00) per violation.

19 **§ 6403. Licensee Responsible for Employee Actions.**

20 Acts or omissions of an agent or employee of a licensee that  
21 violate any provisions of this Chapter *shall* be deemed to be acts or  
22 omissions of the licensee.

23 **§6404. Penalties for Selling or Distributing Tobacco Products to**  
24 **Minors Persons Under Twenty-One (21) Years of Age.**

25 (a) In addition to any other penalties and fines that may be  
26 levied, any person who violates § 6400 of this Chapter *shall* be  
27 penalized as follows:

1 (1) in the case of a first violation in any five (5) year  
2 period, the person *shall* be fined Five Hundred Dollars  
3 (\$500.00) and *shall* be notified, in writing, of penalties levied  
4 for further violations;

5 (2) in the case of a second violation in any five (5) year  
6 period, the person *shall* be fined One Thousand Dollars  
7 (\$1,000.00) and, in the case of a licensee, the license *shall* be  
8 suspended for ninety (90)days;

9 (3) in the case of a third violation in any five (5) year  
10 period, the person *shall* be fined Two Thousand Five Hundred  
11 Dollars(\$2,500.00) and, in the case of a licensee, the license  
12 *shall* be suspended for one hundred eighty (180) days;

13 (4) in the case of four (4) or more violations within any  
14 five (5) -year period, the person *shall* be fined Five Thousand  
15 Dollars(\$5,000.00) and, in the case of a licensee, the license  
16 *shall* be revoked. The revoked retailer *shall* be ineligible to  
17 apply for a new license for two (2) years after the effective date  
18 of the revocation.

19 (b) Failure to pay a fine levied under this Chapter within thirty  
20 (30)days of the date the fine becomes effective *shall* result in  
21 suspension of the licensee's license until such fines are paid.

22 (c) During any suspension or revocation of a license under this  
23 Section, the licensee *shall* not sell tobacco products and *shall* remove  
24 all tobacco products from all areas covered by the suspended license.  
25 In addition, any new application for a license to sell tobacco products  
26 while a licensee is suspended under this Chapter *shall* be denied.

1 (d) All tobacco products sold over the counter *shall* be  
2 displayed and located where they *shall* be inaccessible to ~~minors~~  
3 persons under twenty-one (21) years of age. Any vendor who violates  
4 this provision *shall* pay a penalty of Two Hundred Fifty  
5 Dollars(\$250.00).

6 **§ 6405.~~Minors~~Persons Under Twenty-One (21) Years of Age**  
7 **Prohibited from Possession, Use and Purchase of Tobacco Products.**

8 It *shall* be a violation of this Chapter for any ~~minor~~person  
9 under twenty-one (21) years of age to use or be in possession of  
10 tobacco products or to attempt to purchase tobacco products using  
11 false identification.

12 **§ 6406. Tobacco Education for ~~Minors~~Persons Under Twenty-One**  
13 **(21) Years of Age.**

14 Any ~~minor~~person under twenty-one (21) years of age who  
15 violates § 6405 of this Chapter *shall* attend an education program on  
16 tobacco products to include smoking cessation information  
17 administered by the Guam Behavioral Health and Wellness Center,  
18 the Department of Public Health and Social Services, the Department  
19 of Education or other government agencies with similar programs  
20 approved by one of these agencies.”

21 **Section 4. Effective Date; Application.** This Act *shall* take effect on  
22 January1, 2016.