

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
187-37 (LS)	Sabina Flores Perez Chris Barnett	AN ACT TO AMEND § 6201 AND § 6202, REPEAL § 6205, AMEND § 6206, § 6209 OF ARTICLE 2, AND AMEND § 6301 OF ARTICLE 3, REPEAL § 6401 (b), AMEND § 6402 AND RENUMBER AS § 6403 OF ARTICLE 4, AMEND § 6702 (b), 6702 (f), § 6706 (b) AND § 6706 (c), OF ARTICLE 7, REPEAL 6802 (c) AND 6811 OF ARTICLE 8, ALL OF CHAPTER 6 OF TITLE 11, PROHIBITING THE SALES OF TOBACCO, NICOTINE PRODUCTS, AND VAPE PRODUCTS THROUGH VENDING MACHINES ON GUAM.	10/13/23 3:58 p.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 187-37 (LS)

Introduced by:

Sabina Flores Perez *SFP*
Chris Barnett *CB*

AN ACT TO *AMEND* § 6201 AND § 6202, *REPEAL* § 6205, *AMEND* § 6206, § 6209 OF ARTICLE 2, AND *AMEND* § 6301 OF ARTICLE 3, *REPEAL* § 6401 (b), *AMEND* § 6402 AND RENUMBER AS § 6403 OF ARTICLE 4, *AMEND* § 6702 (b), 6702 (r), § 6706 (b) AND § 6706 (c), OF ARTICLE 7, *REPEAL* 6802 (c) AND 6811 OF ARTICLE 8, ALL OF CHAPTER 6 OF TITLE 11, PROHIBITING THE SALES OF TOBACCO, NICOTINE PRODUCTS, AND VAPE PRODUCTS THROUGH VENDING MACHINES ON GUAM.

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

2 **Section 1. Legislative Findings and Intent.**

3 *I Liheslaturan Guåhan* finds that the last tobacco vending machine defined in
4 11 GCA Chapter 6 licensed through the Department of Revenue and Taxation to sale
5 tobacco products was issued in 2015 and expired in June of 2018. At present, there
6 have been no applications and renewals processed at the Department.

7 *I Liheslatura* further finds that in 2010 pursuant to the “Family Smoking
8 Prevention and Tobacco Control Act” (H.R. 1256) banned tobacco vending machine
9 sales nationwide.

10 *I Liheslatura* finds that according to the State Epidemiological Outcomes
11 Workgroup (SEOW) identifies that one of the leading causes of underage tobacco
12 and nicotine use among youth is “accessibility to tobacco and vape products” from

1 vendors licenses to do business on Guam. In August 2023, the State Epidemiological
2 Profile reported that tobacco consumption remains higher in Guam than in the U.S.,
3 for both adults and youth. Although the SEOW indicates an overall decline, Guam
4 still has one of the highest smoking prevalence rates across various States and
5 Territories. Furthermore, SEOW reports out that the decline over a ten-year period
6 in tobacco and nicotine use in Guam is a result of strengthening local policies,
7 enforcement efforts, and increased taxation.

8 Therefore it is the intent of *I Liheslaturan Guåhan* to continue to create
9 safeguards for Guam’s youth by removing all sales of tobacco, nicotine, vape, and
10 vape related products through vending machines in Guam.

11 **Section 2.** § 6201 of Article 2, Chapter 6, Title 11, Guam Code Annotated
12 is hereby *amended* to read:

13 **“§ 6201. License: Required.**

14 (a) It shall be a violation of this Chapter for any person to wholesale
15 tobacco products without first obtaining a valid wholesale tobacco license.

16 (b) It shall be a violation of this Chapter for any person to retail
17 tobacco products without first obtaining a valid retail tobacco license for each
18 premises ~~or vending machine~~ in which tobacco products are sold.

19 (c) It shall be a violation of this Chapter for any person to sell
20 tobacco, vape devices, or vape related products or nicotine products through
21 a vending machine.

22 (d) ~~(e)~~(d) Any person directly or indirectly engaged in the business
23 of manufacturing tobacco products may not retail tobacco products, directly
24 or indirectly, or hold a retail or wholesale license. It shall not be a violation of
25 this Chapter for any such person engaged in the business of manufacturing
26 tobacco products to import, export or sell for resale tobacco products to a duly
27 licensed tobacco wholesaler.”

1 (eb) Any licensee who violates this Section shall be fined Fifty Dollars
2 (\$50.00) per violation.”

3 **Section 7.** § 6301 (a) of Article 3, Chapter 6, Title 11, are hereby *amended*
4 to read:

5 “(a) Except in the case of a vending machine retail license, tThe Director
6 shall not issue a license to any person who then holds a license of another class.”

7 **Section 8.** § 6401(b) of Article 4, Chapter 6, Title 11, is hereby *repealed*:

8 ~~“(b) Vending machines selling tobacco products or electronic~~
9 ~~cigarettes shall be located so that they are accessible only to persons~~
10 ~~over the age of twenty one (21) years, or are under the constant, direct~~
11 ~~supervision and unobstructed line of sight of the person authorizing the~~
12 ~~installation or placement of the tobacco or electronic cigarette vending~~
13 ~~machine upon the premises he or she manages or otherwise controls, or~~
14 ~~his or her agent or employee.~~

15 (1) ~~Said supervising person, who must be at least twenty one (21)~~
16 ~~years of age, shall ensure that persons under twenty one (21)~~
17 ~~years of age do not purchase tobacco products or electronic~~
18 ~~cigarettes from vending machines.~~

19 (2) ~~A person who authorizes the installation or placement of the~~
20 ~~tobacco or electronic cigarette vending machine upon~~
21 ~~premises he or she manages, or otherwise controls, and who~~
22 ~~knows or should know that the tobacco or electronic cigarette~~
23 ~~vending machine will likely be used by persons under twenty-~~
24 ~~one (21) years of age, shall be liable if such persons purchase~~
25 ~~tobacco products or electronic cigarettes from said~~
26 ~~machines.”~~

27 **Section 9.** § 6402 of Article 4, Chapter 6, Title 11, are hereby *amended* and
28 *renumbered* to read:

1 **“§ 64023. Display of Prohibition on Sales of Tobacco Products to**
2 **Persons Under Twenty-one (21) Years of Age.**

3 All licensees shall post notice that this Chapter prohibits the sale of tobacco
4 products to persons under twenty-one (21) years of age.

5 (a) In the case of a retail operation, notices shall be publicly and
6 conspicuously displayed in the licensee’s place of business in letters at least
7 two inches (2”) in height.

8 ~~(b) In the case of vending machine, the licensee shall affix to the front~~
9 ~~of each vending machine a sign in letters at least one-half inch (1/2”) in~~
10 ~~height.~~

11 ~~(eb)~~ Any licensee who violates this Section shall be fined Fifty Dollars
12 (\$50.00) per violation.”

13 **Section 10.** §6702 (b) of Article 7, Chapter 6, Title 11, Guam Code
14 Annotated is hereby *amended* to read as:

15 “(b) *Business location or place of business* means the entire premises
16 occupied by a retail tobacco permit applicant or an entity required to hold a retail
17 tobacco permit under this Chapter; and *shall* include, but is not limited to, any store,
18 stand, outlet, vehicle, cart, location, ~~vending machine~~, or structure from which
19 cigarettes or tobacco products are sold or distributed to a consumer.”

20 **Section 11.** § 6702 (r) of Article 7, Chapter 6, Title 11, Guam Code
21 Annotated is hereby *amended* to read as:

22 “(r) *Retail sale or tobacco retailing* means the practice of selling cigarettes
23 or tobacco products to consumers ~~and includes the sale of cigarettes or tobacco~~
24 ~~through a vending machine.~~”

25 **Section 12.** § 6706 (b) and 6706 (c) of Article 7, Chapter 6, Title 11, Guam
26 Code Annotated is hereby *amended* to read as:

1 “(b) The Department and/or the Attorney General may inspect the
2 operations, premises, and storage areas of any entity engaged in the sale of cigarettes;
3 ~~or the contents of a specific vending machine~~, during regular business hours.

4 (1) This inspection shall include inspection of all statements, books,
5 papers, and records in whatever format, including electronic format,
6 pertaining to the acquisition, possession, transportation, sale, or use of
7 packages of cigarettes and tobacco products other than cigarettes, to verify the
8 accuracy of the payment of taxes imposed by this Chapter, and of the contents
9 of cartons and shipping or storage containers to ascertain that all individual
10 packages of cigarettes have an affixed stamp of proper denomination as
11 required by this Chapter.

12 (2) This inspection may also verify that all stamps were produced
13 under the authority of the Department. Every entity in possession of any
14 books, papers, and records, and the entity’s agents and employees, are directed
15 and required to give the Department and/or the Attorney General the means,
16 facilities, and opportunities for the examinations.

17 (3) For the purposes of this Chapter, “entity” means one (1) or more
18 individuals, a company, a corporation, a partnership, an association, or any
19 other type of legal entity.

20 (c) If the Department or the Attorney General has reasonable cause to
21 believe and does believe that cigarettes, stamps, or counterfeit stamps are being
22 acquired, possessed, transported, kept, sold, or offered for sale in violation of this
23 Chapter, the Department or the Attorney General may investigate or search the
24 vehicle or premises in which the cigarettes, stamps, or counterfeit stamps are
25 believed to be located. If cigarettes, stamps, or counterfeit stamps are found in a
26 vehicle, or premises, ~~or vending machine~~ in violation of this Chapter, the
27 cigarettes, ~~vending machine~~, vehicle, stamps, counterfeit stamps, or other tangible
28 personal property containing those cigarettes, stamps, or counterfeit stamps and

1 any books and records in possession of the entity in control or possession of the
2 cigarettes, stamps, or counterfeit stamps may be seized by the Department or the
3 Attorney General and are subject to forfeiture.”

4 **Section 13.** §6802 (c) of Article 8, Chapter 6, Title 11, Guam Code
5 Annotated is hereby *repealed*:

6 “(c) ~~No cigarette package may be placed or stored in a vending machine~~
7 ~~unless affixed with the stamp required under Subsection (a) of this~~
8 ~~Section.~~”

9 **Section 14.** §6811 of Article 8, Chapter 6, Title 11, Guam Code Annotated
10 is hereby *repealed*:

11 ~~“§ 6811. Vending of Unstamped Cigarettes.~~

12 ~~(a) Any person who knowingly places for sale in a cigarette vending~~
13 ~~machine any cigarettes not contained in a cigarette packages to which~~
14 ~~are affixed stamps as required by this Article shall be guilty of a third~~
15 ~~(3rd) degree felony.~~

16 ~~(b) In addition to any other authorized disposition, a person found in~~
17 ~~violation of Subsection (a0) may be fined in an amount not to exceed~~
18 ~~Fifty Thousand Dollars (\$50,000).”~~

19 **Section 15.** The Guam Compiler of Law shall renumber the Chapter as
20 needed.

21 **Section 16. Severability.** If any provision of this Act or its application
22 to any person or circumstance is found to be invalid or inorganic, such invalidity
23 shall not affect other provisions or applications of this Act that can be given effect
24 without the invalid provision or application, and to this end the provisions of this
25 Act are severable.

26 **Section 17. Enactment Date.** This act shall be effective upon enactment.