

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 232 (EC)

Introduced by:

J. M.S. Brown 

AN ACT TO REPEAL AND REENACT ARTICLE 5
OF CHAPTER 2 OF DIVISION 2 OF TITLE 10,
GUAM CODE ANNOTATED RELATIVE TO
AMENDING THE RECYCLING REVOLVING
FUND AND RECYCLING FEES.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslatura* finds that Public
3 Law Number 25-175, which approved the Solid Waste Management Plan,
4 calls for the imposition of disposal fees on automobiles and white goods to
5 fund the recycling and disposal of these goods. Subsequent mandates have
6 been enacted – Public Law Numbers 27-38, 27-148, 28-05, and 28-58 – to
7 conform to the intent of the Solid Waste Management Plan, which is to
8 address the need to reduce the island's solid waste streams through
9 responsible methods such as recycling in order to extend the lifespan of the
10 planned new sanitary landfill.

11 *I Liheslatura* further finds that while Public Law Number 27-38
12 established the Recycling Revolving Fund, Public Law Numbers 27-148, 28-07

1 and 28-58 were subsequently passed to address complexities manifested
2 during attempts to implement the mandates of the aforementioned statute.
3 The law presented as cumbersome process and it was also realized that there
4 would be unfunded administrative costs associated with collection of the fees.
5 *I Liheslatura* also finds that there was a desire and a recommendation put forth
6 from the community to have the fee assessed as a single charge.

7 **Section 2. Article 5 of Chapter 2 of Division 2 of Title 10 Guam Code**
8 **Annotated is hereby repealed and reenacted to read as follows:**

9 "Article 5"

- 10 §51501. Definitions.
- 11 §51502. Recycling Revolving Fund.
- 12 §51503. Continuing Appropriation.
- 13 §51504. **Administration of the Recycling Fund**
- 14 §51505. **Levy and Collection of Recycling Fees.**
- 15 ~~§51506. Collection of Recycling Fees.~~
- 16 §51507. Recycling Fees.
- 17 §51508. **Authorization for Department of Public Works ("DPW")**~~Guam~~
18 ~~Environmental Protection Agency ("GEPA")~~ to contract with
19 recycling companies.

1 §51509. Authorization for GEPA to administer recycling grants.

2 §51510. Adjustment of Recycling Fees.

3 §51511. Sunset Provisions.

4 §51501. **Definitions.** For purposes of this Article, and except as
5 otherwise provided, the following words and phrases, together with all of the
6 common derivatives thereof, shall have the meaning ascribed to them as
7 follows:

8 (a) *'Administrator'* shall mean the Administrator of the Guam
9 Environmental Protection Agency, or his or her designee.

10 (c) *'Enameled white goods'* shall mean appliances for home or commercial
11 use including, but not limited to, refrigerators, water heaters, air
12 conditioners, washers, dryers, and stoves.

13 (c) *'GEPA'* shall mean the Guam Environmental Protection Agency.

14 (d)" *Gross Vehicle Weight'* or *'Gross Vehicle Weight Rating'* means the
15 value specified by the manufacturer as the loaded weight of a single
16 vehicle.

17 (e) *'Heavy Equipment'* shall mean any equipment, motor vehicle or motor

1 carrier, or non-road motor vehicle with a gross weight or gross vehicle
2 weight of five (5) tons or more.

3 (f) *'Junk Vehicle'* means a motor vehicle, regardless of operating
4 condition, for which the registered owner has declared the said
5 vehicle to have no value, or no use, is abandoned by placing,
6 discarding, or disposing of a vehicle on public or private property
7 without approval by owner(s) of said property for more than seven (7)
8 calendar days, or is no longer registered in accordance to Chapter 7 of
9 Title 16 GCA.

10 (g) *'Motor Vehicle'* or *'motorized vehicle'* shall mean automobiles,
11 automobile truck, automobile wagon, buses, trucks, motorcycles or
12 other self propelled wheeled conveyance that will be primarily for
13 use on Guam's public streets, roads, and highways that are required
14 to be registered with the Motor Vehicles Division, Department of
15 Revenue and Taxation, Government of Guam.

16 (h) *'Municipal Solid Waste'* is a subset of solid waste and is defined as

1 durable goods (e.g., appliance, batteries, tires), nondurable goods (e.g.,
2 newspapers, books, magazines), containers and packaging, food wastes,
3 yard trimmings, and miscellaneous organic wastes from residential,
4 commercial, and industrial non-process sources.

5 (i) *'Recyclable materials'* means materials which still have useful physical
6 or chemical properties after serving a specific purpose for the same or
7 other purpose. Recyclable materials are as follows:

- 8 (1) batteries (i.e., lead-acid, portable computer batteries,
9 nickel-cadmium, sealed types for power backup);
- 10 (2) automobiles, buses, and trucks or any ~~form of~~ motorized vehicle;
- 11 (3) tires (passenger/commercial);
- 12 (4) enameled white goods;
- 13 (5) home appliances (other small appliances that are not considered
14 enameled white goods);
- 15 (6) glass and plastic bottles;
- 16 (7) foam padding;
- 17 (8) lead;

- 1 (9) metals (ferrous/non-ferrous);
- 2 (10) organic material (i.e., tree trimmings, palm fronds, grass, food
- 3 waste, soiled cardboard);
- 4 (11) paper products;
- 5 (12) wood pallets and scrap wood;
- 6 (13) construction and demolition debris ('C&D');
- 7 (14) x-ray film;
- 8 (15) automobile oil and fluids;
- 9 (16) Freon and other refrigerant gases;
- 10 (17) electronic waste (i.e., computers, circuit boards, televisions,
- 11 and portable phones);
- 12 (18) heavy equipment; and
- 13 (19) other recyclable materials deemed recyclable by GEPA pursuant
- 14 to the Rules and Regulations.
- 15 (k) *'Recycle or Recycling'* means the method by which recovered resources
- 16 are converted for use as raw materials or feedstock to make new products, as
- 17 defined in §51102 (35) of Chapter 51 of Title 10 GCA.

1 (l) *'Recycling Company'* shall mean any business licensed by the
2 Department of Revenue and Taxation, and permitted, as required in Section
3 51104 of Chapter 51 of Title 10 GCA, by the Guam Environmental
4 Protection Agency to conduct business on Guam.

5 (m) *'Recycling Facility'* shall mean all contiguous land, structures, and
6 other appurtenances, and improvements on the land used for the collection,
7 separation, recovery, and sale or reuse of recovered resources that would
8 otherwise be disposed of as municipal solid waste, and is an integral part of
9 a manufacturing process aimed at producing a marketable product made of
10 post consumer material.

11 (n) *'Recycling fee'* shall mean an annual fee levied upon the registered
12 owner of a motor vehicle to assist ~~advanced disposal fee (ADF) imposed on~~
13 ~~goods in for~~ the recycling and disposal of ~~said motor vehicles goods.~~ and
14 other recyclable materials in accordance with this Article.

15 §51502. **Recycling Revolving Fund.** There is hereby created separate
16 and apart from other funds of the government of Guam, a fund known as the
17 Recycling Revolving Fund ('Fund'), which shall be maintained separate and
18 apart from any other funds, including the General Fund of the government of
19 Guam, and

1 independent records and accounts shall be maintained in connection
2 therewith. All revenue deposited in the Fund shall *not* be commingled with
3 General Fund monies and shall be kept in a separate bank account.

4 ~~All proceeds from fees collected in accordance with §51504 of Title 10 of~~
5 ~~the Guam Code Annotated shall be deposited in the Fund, and used~~
6 ~~exclusively for the purposes authorized in this Article. §51507 of Title 10 of~~
7 ~~the Guam Code Annotated~~ All revenue generated from the collection of
8 recycling fees, in accordance with this Article, including interest earned,
9 shall be deposited into the "Recycling Revolving Fund", hereinafter
10 referred to as the "Fund".

11 **Section 51503. Continuing Appropriation.** All revenues from the
12 Recycling Revolving Fund are hereby appropriated to the Guam
13 Environmental Protection Agency to fund ~~recycling operations costs~~
14 ~~associated with the administration and implementation of as authorized in~~
15 ~~this Article. §51507 of Title 10 of the Guam Code Annotated.~~

16 **Section 51504. Administration of the Recycling Revolving Fund**

1 The Administrator of GEPA shall administer the Fund and shall
2 encumber all amounts available in the Fund as expeditiously as possible for
3 the purposes of assisting (enhancing) recycling of recyclable materials
4 ~~stated in this Article.~~ GEPA shall administer the Fund in accordance with
5 this Article to cause the following material/waste to be recycled or
6 otherwise disposed according to the following priority:

7 (a) First Priority - junk vehicles, tires, batteries, waste oil, white
8 goods/appliances,

9 (b) Second Priority – paper, cardboard, plastic, and glass,

10 (c) Third Priority - other recyclable materials as determined by the
11 Administrator.

12 (d) Not more than one FTE employee at Guam EPA to implement
13 and administer this article.

14 The Guam EPA shall transfer to the Solid Waste Operations Fund,
15 established under Section 51118(f), an amount necessary to certify contracts
16 administered by the Department of Public Works in accordance with this
17 Article. DPW shall encumber all costs for the implementation of Section

1 51507 with the use of all transferred amounts from the fund. The
2 Administrator of Guam EPA shall withhold the transfer funds in the event
3 implementation of Section 51508 and other applicable requirements of 10
4 GCA Chapter 51 are not met or until all noncompliance issues associated
5 with contracts funded by the Recycling Revolving Fund have been
6 resolved. The Fund shall be subject to audits by the Public Auditor.

7 **§51505. Levy and Collection of Recycling Fees.** There is hereby
8 levied a Recycling Fee which ~~and~~ shall be paid and collected upon the annual
9 registration of all motor vehicles by the Department of Revenue and
10 Taxation Division of Motor Vehicles through the vehicle registration
11 system. ~~importation for resale of all recyclable materials defined under~~
12 ~~§51501 of this Article.~~

13 ~~§51505. — Collection of Recycling Fees.~~ The Department of Revenue
14 and Taxation ~~Guam Customs and Quarantine Agency~~ shall collect the
15 Recycling Fees mandated by this Article and transmit the fees to the Fund.
16 ~~on:~~

17 (a) ~~recyclable materials imported for resale, which comes in at~~

1 ~~the Jose D. Leon Guerrero Commercial Port of Guam, or any other~~
2 ~~seaport in Guam, to be collected *prior* to release, *except* as~~
3 ~~otherwise provided by this Act;~~

4 ~~(b) — recyclable materials imported for resale which comes in as~~
5 ~~freight or unaccompanied baggage at the Antonio B. Won Pat~~
6 ~~International Airport, Guam, or any other airport in Guam, to be~~
7 ~~collected *prior* to release, *except* as otherwise provided by this Act;~~
8 ~~and~~

9 ~~(c) — recyclable materials imported for resale which comes in as freight~~
10 ~~or accompanied baggage at the A. B. Won Pat International~~
11 ~~Airport, Guam, or any other airport in Guam, to be collected *prior*~~
12 ~~to release, *except* as otherwise provided by this Act.~~

13 ~~The Guam Environmental Protection Agency is authorized to~~
14 ~~promulgate rules and regulations in accordance with the Administrative~~
15 ~~Adjudication Law to enforce the intent of this Law. In enacting the rules~~
16 ~~and regulations required by this Section, GEPA shall comply with Title~~
17 ~~5 GCA, Section 9301 regarding an economic impact statement. The~~

1 Bureau of Statistics and Plans shall perform said economic impact
2 statement at the request of GEPA so that GEPA may submit said
3 statement together with the regulations to *I Liheslaturan Guåhan.*"

4
5 **§51507. Recycling Fees.** The Recycling Fees authorized in §51505

6 are hereby imposed as follows:

7 (a) *Twenty Five Dollars (\$25.00) annually* ~~Two Hundred Dollars~~

8 ~~(\$200.00)~~ for each automobile, bus, and truck registered by the

9 Department of Revenue and Taxation through the annual

10 vehicle registration system.

11 ~~which shall be paid at time of resale;~~

12 (b) *Three Dollars (\$3.00)* for each motorcycle and trailer registered

13 by the Department of Revenue and Taxation through the annual

14 vehicle registration system. ~~tire;~~

15 (c) *Thirty Dollars (\$30.00)* for each heavy equipment registered by

16 the Department of Revenue and Taxation through the annual

17 vehicle registration system. ~~Five Dollars (\$5.00) for each~~

1 ~~enameled white goods with a volume at least 300 cubic inches~~
2 ~~(4,916.12 cubic centimeters), but no more than or equal to 1,000~~
3 ~~cubic inches (16,387.1 cubic centimeters);~~

4 ~~(d) — Enameled White Goods — Reserved.~~

5 ~~(e) — Fifty Dollars (\$50.00) for each enameled white goods with a~~
6 ~~volume~~

7 ~~over 1,000 cubic inches (16,387.1 cubic centimeters);~~

8 ~~(f) — Five Dollars (\$5.00) for each battery for a motorized boat,~~
9 ~~automobile, truck, bus, or heavy equipment;~~

10 ~~(g) — Three Hundred Dollars (\$300.00) for each heavy equipment; and~~

11 ~~(h) — Consumers who return to a recycling center any item upon which~~
12 ~~a recycling fee has been imposed shall receive a refund for such return in a~~
13 ~~percentage as determined by the Rules and Regulations established by §51505~~
14 ~~of this Article.~~

15 **“§51507. Authorization for DPW to Contract with Recycling**
16 **Companies.**

1 (a) The Department of Public Works is authorized, in
2 accordance with the applicable procurement laws, to enter into contracts
3 with recycling companies for the collection, recycling, disposal,
4 **processing, or any combination thereof** of automobiles, buses, heavy
5 equipment, trucks, batteries, tires, white goods, and other recyclable
6 materials, and as required in, or in accordance with **Articles 3 and 4 of**
7 **Title 10 GCA, Chapter 51.**

8 (b) Successful offerors for contracts authorized under this
9 Section shall perform all work under this Article in compliance with all
10 applicable laws, including those of this Chapter, and Rules and
11 Regulations of GEPA and the Department of Public Works as may be
12 established. At a minimum, the Department of Public Works shall
13 ensure that all offerors include, as part of their written offers, **proof of**
14 **current valid permits, certification of compliance with Title 10 GCA**
15 **Chapter 51, and a plan to remove collected recyclable materials,**
16 **including abandoned vehicles, from Guam's waste stream."**

1 §51508. Authorization for GEPA to Administer Recycling
2 Grants.

3 (c) GEPA is authorized to award recycling grants from the fund to
4 support recycling efforts, including education, technical
5 assistance, collection, recycling, or disposal.

6 (d) The cumulative amount of grants authorized by this section
7 shall be submitted to *I Liheslaturan Guahan* for budget
8 approval.

9 (e) GEPA shall establish grant eligibility criteria and guidelines for
10 Community Recycling Grants in accordance with the
11 Administrative Adjudication Law, to properly implement the
12 grant program.

13 §51509. Adjustment of Recycling Fees.

14 The Administrator shall review the fee every 24 months and is authorized
15 to adjust the fee by not more than 25 percent up or down, subject to the
16 approval of the GEPA Board of Directors and no less than 45 days public
17 notice of the intent to adjust the fee. The Administrator shall report the

1 findings and any recommended amendments to I Liheslaturan Guåhan, if
2 necessary.

3 §51511. Sunset Provision.

4 This article shall sunset ten years from the effective date of enactment and
5 all remaining funds, which are unencumbered at the time of sunset shall be
6 transferred to the General Fund.