


I MINA'TRENTAI UNO NA LIHESLATURAN GUAHAN  
2011 (FIRST) Regular Session

Bill No. 63-31 (copy)

Introduced by:

Adolpho B. Palacios, Sr. 

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AN ACT TO EXCLUDE LAW ENFORCEMENT PERSONNEL, EMPLOYEES AND POSITIONS FROM THE APPLICATION OF THE PROVISION OF "SAFE HARBOR" UNDER THE GOVERNMENT OF GUAM'S DRUG-FREE WORKPLACE PROGRAM BY ADDING A NEW §75107, TO CHAPTER 75, TITLE 10 GUAM CODE ANNOTATED; AND TO INCLUDE OTHER LAW ENFORCEMENT PERSONNEL UNDER THE TERM "DEFINITION" AS USED IN THIS CHAPTER BY AMENDING §75100(a), CHAPTER 75, TITLE 10 GUAM CODE ANNOTATED.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that  
3 the Department of Administration Drug-Free Workplace Program (DOA/DFWP) was  
4 adopted through Executive Order 95-29 on December 6, 1995. The Drug-Free  
5 Workplace Program provides guidelines for the implementation, enforcement and  
6 administration of the program.

7 The Drug-Free Workplace Program provides for drug testing of government of  
8 Guam employees and prospective employees to ensure compliance with the program.  
9 The DOA/DFWP also provides for counseling and rehabilitation for employees who  
10 voluntarily admit to illegal drug use without the threat of discipline. This provision is  
11 known as "Safe Harbor". "Safe Harbor" is defined in the DOA/DFWP as "A

1 provision of the DFWP which gives an employee a one-time opportunity to  
2 voluntarily identify himself/herself as a user of illegal drugs willing to undertake  
3 counseling and, as necessary, rehabilitation. “Safe Harbor” insulates the employee  
4 from discipline for these admitted, but otherwise unknown, past acts of illegal drug  
5 use. It does not protect the employee from discipline for admitting to drug trafficking  
6 or other drug-related offenses.”

7 Over the years most all government agencies, including autonomous agencies,  
8 have adopted the DOA/DFWP as part of their policy, via a memorandum of  
9 understanding.

10 Although “Safe Harbor” has its benefit in helping employees, *I Liheslaturan*  
11 *Guåhan* believes that it should not be applicable to law enforcement personnel,  
12 employees or positions as the term is defined in §75100(a), Chapter 75, Title 10 Guam  
13 Code Annotated. Employment in these positions demands that a high ethical and  
14 professional code of conduct be adhered to in order to maintain the reputation and  
15 credibility crucial for the performance required by the position. The credibility and  
16 reputation of the employee in these positions would be severely damaged when one is  
17 known to have used illegal drugs. It is essential that “Zero-Tolerance” be the policy  
18 for the positions defined in §75100(a), Chapter 75, Title 10 Guam Code Annotated.

19 It is therefore, the intent of *I Liheslaturan Guåhan* to exclude law enforcement  
20 personnel, employees and positions as the term is defined in §75100(a) from the  
21 application of the provision of “Safe Harbor” under the Department of Administration  
22 Drug-Free Workplace Program by adding a new §75107; and to include other law  
23 enforcement personnel under the “definition” by amending §75100(a), Chapter 75,  
24 Title 10 Guam Code Annotated.

25 **Section 2.** A new §75107 is hereby added to Chapter 75, Title 10 Guam Code  
26 Annotated, to read as follows:

1           **“§75107. “Safe Harbor” Exemption.** Notwithstanding any other  
2 law, rule, executive order, regulation or policy, the provision of “Safe  
3 Harbor” as the term is described in the Department of Administration  
4 Drug-Free Workplace Program as promulgated by Executive Order 95-29  
5 shall not be applicable to law enforcement personnel, employees and  
6 positions, as the term is defined in §75100(a), Chapter 75, Title 10 Guam  
7 Code Annotated.”

8           **Section 3.** §75100(a) of Chapter 75, Title 10 Guam Code Annotated, is hereby  
9 amended to read as follows:

10           **“§75100. Definition.**

11           As used in this Chapter:

12           (a) *Law enforcement personnel, employee or position* means the  
13 following:

14                   (1) All members of the Guam Police Department including  
15 the Chief of Police;

16                   (2) All members of the Guam Fire Department including  
17 the Fire Chief;

18                   (3) All officers of the Department of Corrections including  
19 the director;

20                   (4) All Customs Officers of the Department of Commerce  
21 including the Director;

22                   (5) Employees of the Department of Youth Affairs who are  
23 engaged in juvenile detention and rehabilitation and work  
24 rehabilitation work as designated by the Director of the  
25 Department of Youth Affairs including the Director of Youth  
26 Affairs;

1 (6) All Tax Agents Enforcement Officers from the  
2 Department of Revenue and Taxation, Attorney General, Deputy  
3 and Assistant Attorney Generals, and Attorney General  
4 Investigators;

5 (7) All security officers employed by the Government of  
6 Guam or performing security work for the Government of Guam  
7 pursuant to their employer's contract, including but not limited to  
8 lock-up guards, security for the A. B. Won Pat Guam International  
9 Airport Air Port Authority and security for the Port Authority of  
10 Guam Guam Commercial Port.

11 (8) All Deputy Marshals of the Unified Guam Judiciary,  
12 including the Chief;

13 (9) All Probation Officers and Alternative Sentencing  
14 Officers of the Unified Guam Judiciary, including the Chief  
15 Probation Officer;

16 (10) All Territorial Park Patrol Officers of the Department of  
17 Parks and Recreation, including the Superintendent;

18 (11) All Conservation Officers of the Department of  
19 Agriculture, including the Chief;

20 (12) All Port Authority Police Officers, including the Chief;

21 (13) All Guam International Airport Authority Police  
22 Officers, including the Chief;

23 (14) All Firefighters of the Guam International Airport  
24 Authority, including the Chief."