

I MINA' TRENTA I UNO NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 146-31(COR)

Introduced by:

B.J.F. Cruz



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**AN ACT TO PLACE LIMITATIONS ON THE IMPORTATION
OF CIGARETTES AND SMOKELESS TOBACCO PRODUCTS
BY AMENDING §6101 OF ARTICLE 1, §6600 AND §6602 OF
ARTICLE 6, AND BY ADDING A NEW §6603 TO ARTICLE 6
OF CHAPTER 6 OF TITLE 11 OF THE GUAM CODE
ANNOTATED**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. 6101 Article 1 of Chapter 6 of Title 11, Guam Code Annotated, is hereby amended to read as follows:

“§ 6101. **Definitions.** Unless the context otherwise requires, the definitions set forth herein shall govern the construction and interpretation of this Chapter.

(a) ‘Director’ means the Director of Revenue and Taxation.

(b) ‘License’ means Retail License and Wholesale License for sales of tobacco products, as defined under this Section.

(c) ‘Minor’ means any person under eighteen (18) years of age.

(d) ‘Person’ means any individual, company, corporation, firm, partnership, organization, estate, trust, limited liability company, limited liability partnership or other legal entity.

1 (e) 'Retail' means the sale of tangible personal property for consumption or
2 use by the purchaser and not for resale.

3 (f) 'Retail License' means a license issued by the Director of Revenue and
4 Taxation for the retail sale of tobacco products or sale through a vending
5 machine.

6 (g) 'Tobacco product' means any tobacco cigarette, cigar, pipe tobacco,
7 smokeless tobacco, chewing tobacco or any other form of tobacco which
8 may be utilized for smoking, chewing, inhalation or other means of
9 ingestion.

10 (h) 'Vending Machine' means any mechanical, electrical or electronic
11 device that, on insertion of money, tokens or any other form of payment,
12 automatically dispenses tobacco products.

13 (i) 'Wholesale' means the importation into or purchase on Guam from a
14 manufacturer or other wholesale licensee of tangible personal property not
15 for consumption or use by the purchaser but solely for resale or retail
16 wholesale or retail sellers.

17 (j) 'Wholesale License' means a license issued by the Director of Revenue
18 and Taxation for the wholesale sale of tobacco products to retailers.

19 (k) 'Bona fide Importer/Exporter' means one having no predisposition
20 otherwise in having possession of such imported or exported tobacco.'

21 **Section 2.** Section 6600 Article 6 of Chapter 6 of Title 11, Guam Code
22 Annotated, is hereby *amended* to read as follows:

23 **"§ 6600. Who May Import.**

24 **(A) General Rule.** Tobacco products may be brought into Guam from
25 without Guam for delivery or use within Guam only if the tobacco products are
26 imported by or consigned to a licensed wholesaler: and if the importer is licensed

1 with the Guam Department of Revenue and Taxation and recognized as a bonded
2 bona fide importer/exporter of tobacco.

3 **(B) Exemptions.** Cigarettes or smokeless tobacco products satisfying the
4 conditions of any of the following paragraphs shall not be subject to the
5 requirements of Subsection (A) of this section:

6 (1) Personal-use cigarettes or smokeless tobacco products

7 (a) Personal use cigarettes or smokeless tobacco products
8 can only be imported via passenger baggage through the
9 means of A.B. Won Pat International Airport, Anderson
10 Air Force Base Terminal, the Commercial Port of Guam
11 via passenger vessels, and the Guam Main Facility. Any
12 type of freight courier service shall not be deemed as
13 personal cargo.

14 (b) There shall be a maximum of twelve (12) packages of
15 smokeless tobacco and 1,000 cigarettes (5 cartons), not
16 more than Two Hundred (200) of which acquired
17 elsewhere than in such locations, within the returning
18 residents tariff exception from duty and taxes or per bona
19 fide importer/exporter that can be imported into Guam
20 via the entry means identified in (B) Exemptions (a) per
21 month. This exemption shall be applied to all passengers
22 and airline crewmembers.”

23 **Section 3.** 6602 of Article 6 of Chapter 6 of Title 11, Guam Code
24 Annotated, is hereby *amended* to read as follows:

25 “§ 6602. **Penalty.** Whoever transports or imports into Guam for delivery or
26 use in Guam tobacco products in violation of this Article shall be penalized
27 as follows:

1 (a) In the case of a first violation, the person shall be guilty of a
2 misdemeanor and may be fined not more than One Thousand Dollars
3 (\$1,000.00) or imprisoned for not more than one (1) year, or both;

4 (b) In the case of any subsequent violation, the person shall be
5 guilty of a felony of the third degree and shall be fined not more than
6 Ten Thousand Dollars (\$10,000.00) or imprisoned for not more than
7 five (5) years, or both.

8 (c) Any individual who imports cigarettes or smokeless tobacco
9 outside the exemptions identified in this code shall be imposed a fine
10 of three times the value of the commodity which shall be determined
11 by the officer of the Department of Customs and Quarantine at the
12 port of entry. The commodity shall be seized and the violator of this
13 section shall be fined an additional three times the value of the current
14 value of the commodity for the cost of storage, destruction, and
15 administrative fees for cigarettes or smokeless tobacco exceeding the
16 exemption pursuant to § 47.70. of Chapter 47 of Title 9 Guam Code
17 Annotated. This fee shall be deposited into the Customs and
18 Quarantine Forfeiture Fund.”

19 **Section 4.** A new 6603 is hereby *added* to Article 6 of Chapter 6 of Title 11,
20 Guam Code Annotated, to read as follows:

21 **“§6603. Customs and Quarantine Forfeiture Fund.** There is hereby
22 created, separate and apart from other funds of the government of Guam, a
23 fund to be known as the “Customs and Quarantine Forfeiture Fund
24 (hereinafter “the Fund”), which shall be funded by all penalties accumulated
25 by seizures and confiscations at any of the port of entries on the island of
26 Guam. The Fund shall be maintained separate and apart from other funds of
27 the government of Guam and shall be kept in a separate bank account and

1 shall not be subject to any transfer authority of I Māga'lahen Guåhan or I
2 Liheslaturan Guåhan and shall remain in such account until expended by the
3 Customs and Quarantine Agency for purposes of this section. The Director
4 of the Customs and Quarantine Agency shall have programmatic oversight
5 of the Fund, and no expenditure shall be made therefrom without the
6 Director's consent. All proceeds from penalties collected under this section
7 shall be deposited into the Fund and shall not be commingled with the
8 General Fund. Said Fund shall be examined and reported upon by the
9 Director of the Department of Administration as required by law, who shall
10 submit a quarterly report to I Liheslaturan Guåhan. The certifying officer of
11 the Fund shall be the Director of the Customs and Quarantine Agency. The
12 fund shall be used exclusively for the purposes of this Article, or other
13 activities under the management of the Customs and Quarantine Agency.
14 The Director of Customs and Quarantine Agency, subject to the
15 Administrative Adjudication Act, shall promulgate and adopt rules and
16 regulations to implement the provisions of this section of this chapter,
17 including provisions establishing the procedure for collection of penalties
18 and for periodic review of the costs for providing storage, destruction, and
19 administrative fees for cigarettes or smokeless tobacco exceeding the
20 exemption.”

21 **Section 5. Date of Enactment.** This Act shall take effect immediately upon
22 enactment.