


I MINA'TRENTAI UNU NA LIHESLATURAN GUÁHAN
2011 (FIRST) Regular Session

Bill No. 389-31 (cor)

Introduced by:

M. Silva Taijeron 

**AN ACT TO REPEAL CHAPTER 75, TITLE 10 OF THE
GUAM CODE ANNOTATED AND TO ADD A CHAPTER 17
TO TITLE 4 OF THE GUAM CODE ANNOTATED
RELATIVE TO MANDATORY DRUG TESTING FOR ALL
PROSPECTIVE AND CURRENT GOVERNMENT OF
GUAM EMPLOYEES.**

2011 Nov 14 10:10
M. Silva

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
2 that all law enforcement personnel and law enforcement applicants are subject to
3 mandatory drug testing described in Chapter 75, Title 10 of the Guam Code
4 Annotated. *I Liheslaturan Guahan* further finds that all line agencies are subject to
5 the Department of Administration's Drug Free Workplace Program, as
6 implemented in Executive Order 95-26 and amended in Executive Order 2005-18,
7 and that all Judicial employees are subject to the Judiciary of Guam's Drug-Free
8 Workplace Policy. *I Liheslaturan Guahan* also finds that mandatory drug testing
9 for all prospective government of Guam employees, along with reasonable testing
10 of current employees, is integral towards establishing a law abiding workforce and
11 a drug-free work environment.

1 Furthermore, *I Liheslaturan Guahan* finds that all employees must be held
2 to the highest standards possible, especially in the areas of drug dealing and drug
3 use, and that illegal drug usage in the government of Guam will not be accepted.

4 Therefore, it is the intent of *I Liheslaturan Guahan* to *repeal* Chapter 75,
5 Title 10 of the Guam Code Annotated relative to Drug Testing for Law
6 Enforcement personnel, and to *add* a new Chapter 17 to Title 4 of the Guam Code
7 Annotated relative to drug testing for all government of Guam employees and
8 applicants.

9 **Section 2.** Chapter 75, Title 10 of the Guam Code Annotated is hereby
10 *repealed*:

11 ~~**“CHAPTER 75**~~

12 ~~**DRUG TESTING**~~

13 ~~§ 75100. Definition.~~

14 ~~§ 75101. Drug Testing; Applicants for Law Enforcement Positions~~

15 ~~§ 75102. Drug Testing; Current Law Enforcement Personnel~~

16 ~~§ 75103. Periodic Testing in Certain Units.~~

17 ~~§ 75104. Prohibitions; Enforcement Measures.~~

18 ~~§ 75105. Drug Testing/Urinalysis.~~

19 ~~§ 75106. Penalty.~~

20 ~~§ 75107. “Safe Harbor” Exemption.~~

21 ~~**§ 75100. Definition.**~~

22 ~~As used in this Chapter:~~

23 ~~(a) Law enforcement personnel, employee or position means the~~
24 ~~following:~~

25 ~~(1) All sworn members of the Guam Police Department, including~~
26 ~~the Chief of Police;~~

1 ~~(2) All sworn members of the Guam Fire Department, including~~
2 ~~the Fire Chief;~~

3 ~~(3) All officers of the Department of Corrections including the~~
4 ~~Director;~~

5 ~~(4) All Customs Officers of the Customs and Quarantine Agency,~~
6 ~~including the Director;~~

7 ~~(5) Employees of the Department of Youth Affairs who are~~
8 ~~engaged in juvenile detention and rehabilitation, and work~~
9 ~~rehabilitation work as designated by the Director of the Department~~
10 ~~of Youth Affairs, including the Director;~~

11 ~~(6) All Tax Agents Enforcement Officers of the~~
12 ~~Department of Revenue and Taxation, the Attorney General, Deputy~~
13 ~~and Assistant Attorney Generals, and Attorney General Investigators;~~

14 ~~(7) All security officers employed by the government of Guam, or~~
15 ~~performing security work for the government of Guam pursuant to their~~
16 ~~employer's contract, including, but *not* limited to, lock-up guards, security~~
17 ~~for the A. B. Won Pat International Airport Authority, and security for~~
18 ~~the J.D. Leon Guerrero Commercial Port Authority of Guam.~~

19 ~~(8) All Deputy Marshals of the Unified Guam Judiciary, including~~
20 ~~the Chief;~~

21 ~~(9) All Probation Officers and Alternative Sentencing Officers~~
22 ~~of the Unified Guam Judiciary, including the Chief Probation Officer;~~

23 ~~(10) All Territorial Park Patrol Officers of the Department of Parks~~
24 ~~and Recreation, including the Superintendent;~~

25 ~~(11) All Conservation Officers of the Department of~~
26 ~~Agriculture, including the Chief;~~

1 ~~(12) All J.D. Leon Guerrero Commercial Port Authority Police~~
2 ~~Officers, including the Chief;~~

3 ~~(13) All A.B. Won Pat International Airport Authority Police~~
4 ~~Officers, including the Chief; and~~

5 ~~(14) All Firefighters of the A.B. Won Pat International Airport~~
6 ~~Authority, including the Chief.~~

7 ~~(b) *Drug test* means a urinalysis test administered under approved~~
8 ~~conditions and procedures to detect drugs.~~

9 ~~(c) *Supervisor* means law enforcement personnel assigned to a~~
10 ~~position having day to day responsibility for supervising subordinates, or~~
11 ~~responsible for commanding a work element.~~

12 ~~(d) *Reasonable objective basis* means an apparent state of facts and/or~~
13 ~~circumstances found to exist upon inquiry by the supervisor, which would~~
14 ~~induce a reasonably intelligent and prudent person to suspect the employee~~
15 ~~was under the influence or using drugs/narcotics; or a reasonable ground~~
16 ~~for suspicion in the existence of facts or circumstances warranting an order~~
17 ~~to submit a drug test.~~

18 ~~(e) *Controlled substance* means a drug, substance or immediate~~
19 ~~precursor in Schedules I through II of 9 GCA Chapter 67, Article 2.~~

20 **~~§ 75101. — Drug Testing; Applicants for Law Enforcement Positions.~~**

21 ~~Applicants for law enforcement positions with the Government of~~
22 ~~Guam, as the term is defined by this Chapter, shall be tested for drug or~~
23 ~~narcotic usage as a condition of employment or as part of their pre-~~
24 ~~employment medical examination. The testing procedure shall contain~~
25 ~~safeguards outlining physician and others involved in the testing procedure.~~
26 ~~The following rules shall apply to said applicants:~~

1 ~~(a) Refusal to take the test, or test results reporting a presence of~~
2 ~~controlled substance, or the use of non-prescription drugs, shall be the~~
3 ~~basis of discontinuing an applicant in the selection process and~~
4 ~~preclude any further consideration for employment.~~

5 ~~(b) Applicants found to be involved in the illegal sale,~~
6 ~~manufacture or distribution of any controlled substance will be~~
7 ~~permanently rejected.~~

8 ~~(c) Applicants demonstrating addiction to any controlled~~
9 ~~substance will be permanently rejected.~~

10 ~~(d) Any improper use of any controlled substance by an applicant~~
11 ~~after application will be grounds for permanent rejection.~~

12 ~~(e) The results of drug tests on applicants for law enforcement~~
13 ~~positions shall be kept confidential and shall not be used as evidence in any~~
14 ~~subsequent criminal prosecution of the applicant.~~

15 **~~§ 75102. Drug Testing; Current Law Enforcement Personnel.~~**

16 ~~All current law enforcement personnel with the Government of~~
17 ~~Guam, as that term is defined in this Chapter, shall be required to submit to~~
18 ~~a drug test as outlined below:~~

19 ~~(a) A supervisor may order a drug test when there is a reasonable~~
20 ~~objective basis, or documentation or allegation that an employee is~~
21 ~~impaired or incapable of performing his or her assigned duties such as~~
22 ~~reduced productivity, excessive vehicle accidents, high absenteeism, or~~
23 ~~other behavior inconsistent with previous performance. The contents of the~~
24 ~~documentation shall be made available to the employee.~~

25 ~~(b) Current law enforcement personnel may be ordered by a~~
26 ~~supervisor to take a drug test:~~

1 ~~(1) — Where the allegation involved the use, or sale of a controlled~~
2 ~~substance; or~~

3 ~~(2) — Where the allegation, involves the actual use of force; or~~

4 ~~(3) — Where there is serious on duty injury to the employee or~~
5 ~~another person.~~

6 ~~(c) — A supervisor who orders a drug test when there is a reasonable~~
7 ~~objective basis for suspecting usage shall forward a report containing the~~
8 ~~facts and circumstances directly to the head of the department or agency.~~

9 ~~(d) — Test results reporting the presence of a controlled substance, or~~
10 ~~the use of prescription drugs without a prescription, or the abuse of any~~
11 ~~over the counter drugs, will be submitted as a part of a complaint by the~~
12 ~~supervisor to the head of the department or agency.~~

13 ~~**§ 75103. Periodic Testing in Certain Units.**~~

14 ~~Current law enforcement personnel assigned to drug or narcotics~~
15 ~~enforcement units, vice unit, intelligence unit or internal affairs shall be~~
16 ~~required in addition to § 75102 of this Chapter to submit to periodic~~
17 ~~announced drug test at the direction of their supervisor. Prior to~~
18 ~~assignments to these units, law enforcement personnel shall execute a~~
19 ~~written agreement of release stating that he or she fully consents to any~~
20 ~~medical, physical, psychotic, psychological or other testing, including urine~~
21 ~~and/or blood for controlled substances. In addition, the agreement or~~
22 ~~release shall give the department or agency permission to review the~~
23 ~~employees' medical records relating to fitness for performance. The~~
24 ~~department head shall select the date and time when each employee~~
25 ~~assigned to the narcotics, vice, intelligence and internal affairs units~~

1 will be tested. The tests shall be administered randomly at least three (3)
2 times a year without advance notice.

3 **§ 75104. Prohibitions; Enforcement Measures.**

4 All law enforcement personnel as that term is defined in this Chapter
5 shall not take any narcotics or dangerous substance unless prescribed by a
6 person licensed to practice medicine. Law enforcement personnel who are
7 required to take prescription medicine shall notify their immediate
8 supervisors in writing of the medication prescribed and the nature of the
9 injuries. Any statutory defined illegal use of drugs by law enforcement
10 personnel, whether at or outside law enforcement employment, will not be
11 tolerated.

12 Law enforcement personnel who have a reasonable basis to believe
13 that another law enforcement personnel is illegally using a controlled
14 substance shall report the facts and circumstances immediately to their
15 supervisor.

16 Failure to comply with the intent or provisions of this section may be
17 used as grounds for disciplinary action. Refusal by law enforcement
18 personnel to take the required drug test or comply with the provisions of
19 this Chapter will result in immediate relief from law enforcement duties
20 pending disposition of any administrative personnel action.

21 **§ 75105. Drug Testing/Urinalysis.**

22 (a) Obtaining Urine Samples

23 (1) The employee designated to give a sample must be positively
24 identified prior to any sample being obtained.

25 (2) The room where the sample is obtained must be private and
26 secure with documentation maintained that the area has been searched and

1 is free of any foreign substance. An observer of the appropriate sex shall be
2 present for direct observation to insure the sample is from the employee
3 and was actually passed at the time noted on the record. Specimen
4 collection will occur in a medical setting, and the procedures should not
5 demean, embarrass, or cause physical discomfort to the employee.

6 (3) An interview with the employee prior to the test will serve to
7 establish use of drugs currently taken under medical supervision.

8 (4) Specimen samples shall be sealed, labeled and checked against
9 the identity of the employee to insure the results match the testee. Samples
10 shall be stored in a secured and refrigerated atmosphere until tested or
11 delivered to the testing lab representative.

12 (b) Processing Urine Samples

13 (1) The testing or processing phase shall consist of a two step
14 procedure.

15 A. Initial screening, and

16 B. Confirmation step

17 (2) The urine sample is first tested using a screening procedure. A
18 specimen testing positive will undergo an additional confirmation test. An
19 initial positive; rather, it should be classified as confirmation pending.

20 (3) The confirmation procedure should be technologically
21 different than the initial screening test. Notification of test results to the
22 supervisor or internal affairs investigator will be held until the confirmation
23 test results are obtained. In those cases where the second test confirms the
24 presence of drugs or drugs in the sample, the sample will be retained for six
25 (6) months to allow further testing in case of dispute.

1 ~~(4) The testing method selected shall be capable of identifying~~
2 ~~marijuana, cocaine, and every major drug or abuse including heroin,~~
3 ~~amphetamines, and barbiturates. Personnel utilized for testing will be~~
4 ~~certified as qualified to conduct urinalysis, or adequately trained.~~

5 ~~(5) Employees who have participated in the drug test program,~~
6 ~~where no drugs were found, shall receive a letter stating that no illegal~~
7 ~~drugs were found. If the employee request, such a copy of the letter will be~~
8 ~~placed in the employees personnel file.~~

9 ~~(c) Chain of Evidence Storage~~

10 ~~(1) Where a positive is received, urine specimens shall be~~
11 ~~maintained under secured storage for a period of not less than six (6)~~
12 ~~months.~~

13 ~~(2) Each step in the collecting and processing of the urine~~
14 ~~specimens shall be documented to establish procedural integrity and chain~~
15 ~~of evidence.~~

16 ~~**§ 75106. Penalty.**~~

17 ~~Any person who knowingly tampers with a drug test or a report of a~~
18 ~~drug test required by this Chapter shall be guilty of a misdemeanor.~~

19 ~~**§ 75107. “Safe Harbor” Exemption.**~~

20 ~~Notwithstanding any other law, rule, executive order, regulation or~~
21 ~~policy, the provision of “Safe Harbor,” as the term is described in the~~
22 ~~Department of Administration Drug-Free Workplace Program as~~
23 ~~promulgated by Executive Order 95-29, shall not be applicable to law~~
24 ~~enforcement personnel, employees and positions, as the term is defined in~~
25 ~~§75100(a), Chapter 75, Title 10, Guam Code Annotated, and shall not be~~

1 applicable to all Test Designated Positions (TDP) of the government of
2 Guam.”

3 **Section 3.** A new Chapter 17, Title 4 Guam Code Annotated is hereby
4 *added* to read:

5 **“CHAPTER 17**
6 **DRUG TESTING**

7 § 17100. Minimum Testing Required.

8 § 17101. Definition.

9 § 17102. Drug Testing; Applicants for Employment in the Government
10 of Guam.

11 § 17103. Drug Testing; Current Government of Guam Employees.

12 § 17104. Periodic Testing in Certain Units.

13 § 17105. Prohibitions; Enforcement Measures.

14 § 17106. Drug Testing/Urinalysis.

15 § 17107. Penalty.

16 § 17108. “Safe Harbor” Exemption.

17 **§ 17100. Minimum Drug Testing Required.**

18 The provisions of this chapter outline the minimal amount of drug
19 testing required for government employees and applicants. This does not
20 prohibit the Department of Administration, or other appropriate agency or
21 branch of government, from establishing their own drug testing policy,
22 provided that these policies do not conflict with the provisions of this
23 chapter.

24 **§ 17101. Definition.**

25 As used in this Chapter:

1 (a) Applicant means any person, excluding all those running for an
2 elected office in the government of Guam, who is seeking employment in
3 the government of Guam, whether it is through classified or unclassified
4 service, in the Executive, Legislative, and Judicial Branches, including all
5 autonomous agencies.

6 (b) Employee means any person, excluding elected officials, who is
7 currently employed by the Executive, Legislative, or Judicial Branch of the
8 government of Guam, including all autonomous agencies.

9 (c) Law enforcement personnel means the following:

10 (1) All sworn members of the Guam Police Department, including
11 the Chief of Police;

12 (2) All sworn members of the Guam Fire Department, including
13 the Fire Chief;

14 (3) All officers of the Department of Corrections including the
15 Director;

16 (4) All Customs Officers of the Customs and Quarantine Agency,
17 including the Director;

18 (5) Employees of the Department of Youth Affairs who are
19 engaged in juvenile detention and rehabilitation, and work
20 rehabilitation work as designated by the Director of the Department
21 of Youth Affairs, including the Director;

22 (6) All Tax Agents Enforcement Officers of the
23 Department of Revenue and Taxation, the Attorney General, Deputy
24 and Assistant Attorney Generals, and Attorney General Investigators;

25 (7) All security officers employed by the government of Guam, or
26 performing security work for the government of Guam pursuant to their

1 employer's contract, including, but *not* limited to, lock-up guards, security
2 for the A. B. Won Pat International Airport Authority, and security for
3 the J.D. Leon Guerrero Commercial Port Authority of Guam.

4 (8) All Deputy Marshals of the Unified Guam Judiciary, including
5 the Chief;

6 (9) All Probation Officers and Alternative Sentencing Officers
7 of the Unified Guam Judiciary, including the Chief Probation Officer;

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

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

12 (12) All Jose D. Leon Guerrero Commercial Port Authority Police
13 Officers, including the Chief;

14 (13) All A.B. Won Pat International Airport Authority Police
15 Officers, including the Chief; and

16 (14) All Firefighters of the A.B. Won Pat International Airport
17 Authority, including the Chief.

18 (d) *Drug test* means a urinalysis test administered under approved
19 conditions and procedures to detect drugs.

20 (e) *Supervisor* means an employee assigned to a position having
21 day-to-day responsibility for supervising subordinates, or responsible for
22 commanding a work element.

23 (f) *Reasonable objective basis* means an apparent state of facts
24 and/or circumstances found to exist upon inquiry by an employee, which
25 would induce a reasonably intelligent and prudent person to suspect that an
26 employee or supervisor was under the influence or using drugs/narcotics;

1 or a reasonable ground for suspicion in the existence of facts or
2 circumstances warranting an order to submit a drug test.

3 (g) *Controlled substance* means a drug, substance or immediate
4 precursor in Schedules I through II of 9 GCA Chapter 67, Article 2.

5 **§ 17102. Drug Testing; Applicants for Employment in the**
6 **Government of Guam.**

7 Applicants for any new entry position with the Government of
8 Guam, as the term is defined by this Chapter, shall be tested for drug or
9 narcotic usage as a condition of employment or as part of their pre-
10 employment medical examination. The testing procedure shall contain
11 safeguards outlining physician and others involved in the testing procedure.

12 The following rules shall apply to said applicants:

13 (a) Refusal to take the test, or test results reporting a presence of
14 controlled substance, or the use of non-prescription drugs, shall be the
15 basis of discontinuing an applicant in the selection process and
16 preclude any further consideration for employment.

17 (b) Applicants found to be involved in the illegal sale,
18 manufacture or distribution of any controlled substance will be
19 permanently rejected.

20 (c) Applicants demonstrating addiction to any controlled
21 substance will be permanently rejected.

22 (d) Any improper use of any controlled substance by an applicant
23 after application will be grounds for permanent rejection.

24 (e) The results of drug tests on applicants shall be kept confidential
25 and shall not be used as evidence in any subsequent criminal prosecution of
26 the applicant.

1 **§ 17103. Drug Testing; Current Government of Guam Personnel.**

2 All current employees with the Government of Guam, as that term is
3 defined in this Chapter, shall be required to submit to a drug test as
4 outlined below:

5 (a) A supervisor may order a drug test when there is a reasonable
6 objective basis, or documentation or allegation that an employee is
7 impaired or incapable of performing his or her assigned duties such as
8 reduced productivity, excessive vehicle accidents, high absenteeism, or
9 other behavior inconsistent with previous performance. The contents of the
10 documentation shall be made available to the employee.

11 (b) Current employees may be ordered by a supervisor to take a
12 drug test:

13 (1) Where the allegation involved the use, or sale of a
14 controlled substance; or

15 (2) Where the allegation, involves the actual use of force; or

16 (3) Where there is serious on-duty injury to the employee or
17 another person.

18 (c) A supervisor who orders a drug test when there is a reasonable
19 objective basis for suspecting usage shall forward a report containing the
20 facts and circumstances directly to the head of the department or agency.

21 (d) Test results reporting the presence of a controlled substance, or
22 the use of prescription drugs without a prescription, or the abuse of any
23 over the counter drugs, will be submitted as a part of a complaint by the
24 supervisor to the head of the department or agency.

25 (e) An employee who believes they have a reasonable objective
26 basis that a supervisor has illicitly used a controlled substance, as defined

1 in this chapter, shall have the means to inform their agency's respective
2 personnel office of their suspicions. Thereafter, an investigation regarding
3 the alleged illicit drug use shall occur, and it will be the responsibility of
4 the personnel office to fully and impartially conduct the investigation in the
5 manner set forth in this chapter. If the subsequent investigation warrants
6 that a supervisor take a drug test, the personnel office will ensure that the
7 drug test is properly administered.

8 **§ 17104. Periodic Testing in Certain Units.**

9 Current law enforcement personnel assigned to drug or narcotics
10 enforcement units, vice unit, intelligence unit or internal affairs shall be
11 required, in addition to § 17103 of this Chapter, to submit to periodic
12 announced drug tests at the direction of their supervisor. Prior to
13 assignments to these units, law enforcement personnel shall execute a
14 written agreement of release stating that he or she fully consents to any
15 medical, physical, psychotic, psychological or other testing, including urine
16 and/or blood for controlled substances. In addition, the agreement or
17 release shall give the department or agency permission to review the
18 employees' medical records relating to fitness for performance. The
19 department head shall select the date and time when each employee
20 assigned to the narcotics, vice, intelligence and internal affairs units
21 will be tested. The tests shall be administered randomly at least three (3)
22 times a year without advance notice.

23 **§ 17105. Prohibitions; Enforcement Measures.**

24 No employees shall take any narcotics or dangerous substances unless
25 prescribed by a person licensed to practice medicine. Employees who are
26 required to take prescription medicine shall notify their immediate

1 supervisors in writing of the medication prescribed and the nature of the
2 injuries. Any statutory defined illegal use of drugs by employees, whether
3 at or outside their place of employment, will not be tolerated.

4 Employees who have a reasonable basis to believe that another
5 employee is illegally using a controlled substance shall report the facts
6 and circumstances immediately to their supervisor.

7 Failure to comply with the intent or provisions of this section may be
8 used as grounds for disciplinary action. Refusal by an employee to take the
9 required drug test or comply with the provisions of this Chapter will result
10 in immediate relief from duties pending disposition of any administrative
11 personnel action.

12 **§ 17106. Drug Testing/Urinalysis.**

13 (a) Obtaining Urine Samples

14 (1) The employee designated to give a sample must be positively
15 identified prior to any sample being obtained.

16 (2) The room where the sample is obtained must be private and
17 secure with documentation maintained that the area has been searched and
18 is free of any foreign substance. An observer of the appropriate sex shall be
19 present for direct observation to insure the sample is from the employee
20 and was actually passed at the time noted on the record. Specimen
21 collection will occur in a medical setting, and the procedures should not
22 demean, embarrass, or cause physical discomfort to the employee.

23 (3) An interview with the employee prior to the test will serve to
24 establish use of drugs currently taken under medical supervision.

25 (4) Specimen samples shall be sealed, labeled and checked against
26 the identity of the employee to insure the results match the testee. Samples

1 shall be stored in a secured and refrigerated atmosphere until tested or
2 delivered to the testing lab representative.

3 (b) Processing Urine Samples

4 (1) The testing or processing phase shall consist of a two step
5 procedure.

6 A. Initial screening, and

7 B. Confirmation step

8 (2) The urine sample is first tested using a screening procedure. A
9 specimen testing positive will undergo an additional confirmation test. An
10 initial positive; rather, it should be classified as confirmation pending.

11 (3) The confirmation procedure should be technologically
12 different than the initial screening test. Notification of test results to the
13 supervisor or internal affairs investigator will be held until the confirmation
14 test results are obtained. In those cases where the second test confirms the
15 presence of drugs or drugs in the sample, the sample will be retained for six
16 (6) months to allow further testing in case of dispute.

17 (4) The testing method selected shall be capable of identifying the
18 following: marijuana, cocaine, heroin, amphetamines, barbiturates and all
19 other controlled substances. Personnel utilized for testing will be certified
20 as qualified to conduct urinalysis, or adequately trained.

21 (5) Employees who have participated in the drug test program,
22 where no drugs were found, shall receive a letter stating that no illegal
23 drugs were found. If the employee request, such a copy of the letter will be
24 placed in the employees personnel file.

25 (c) Chain of Evidence-Storage

1 (1) Where a positive is received, urine specimens shall be
2 maintained under secured storage for a period of not less than six (6)
3 months.

4 (2) Each step in the collecting and processing of the urine
5 specimens shall be documented to establish procedural integrity and chain
6 of evidence.

7 **§ 17107. Penalty.**

8 Any person who knowingly tampers with a drug test or a report of a
9 drug test required by this Chapter shall be guilty of a misdemeanor.

10 **§ 17108. “Safe Harbor” Exemption.**

11 Notwithstanding any other law, rule, executive order, regulation or
12 policy, the provision of “Safe Harbor,” as the term is described in the
13 Department of Administration Drug-Free Workplace Program as
14 promulgated by Executive Order 95-29, shall not be applicable to law
15 enforcement personnel, employees and positions, as the term is defined in
16 §17101(c), Chapter 17, Title 4, Guam Code Annotated, and shall not be
17 applicable to all Test Designated Positions (TDP) of the government of
18 Guam.”

19 **Section 4. Enactment.** The provisions of this Act shall become effective
20 ninety (90) days upon enactment.

21 **Section 5. Severability.** *If* any provision of this Law or its application to
22 any person or circumstance is found to be invalid or contrary to law, such
23 invalidity shall *not* affect other provisions or applications of this Law which can
24 be given effect without the invalid provisions or application, and to this end the
25 provisions of this Law are severable.