

*I Mina'Trentai Dos Na Liheslaturan Guahan*  
**Bill Log Sheet**

| <b>BILL NO.</b>    | <b>SPONSOR</b> | <b>TITLE</b>                                                                                                                                                                                                 | <b>DATE INTRODUCED</b> | <b>DATE REFERRED</b> | <b>CMTE REFERRED</b>                                                  | <b>PUBLIC HEARING DATE</b> | <b>DATE COMMITTEE REPORT FILED</b> | <b>STATUS</b>                            |
|--------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|----------------------|-----------------------------------------------------------------------|----------------------------|------------------------------------|------------------------------------------|
| <b>40-32 (COR)</b> | T.C. Ada       | AN ACT TO AMEND §58111, CHAPTER 58, TITLE 10 GCA AND §73110, CHAPTER 73, TITLE 10 GCA, RELATIVE TO THE PENALTY CLASSIFICATION FOR VIOLATIONS OF THE FIRE CODE, AND TO AMEND §58112, CHAPTER 58, TITLE 10 GCA | 2/8/2013<br>4:39 P.M.  | <b>2/8/13</b>        | Committee on Public Safety, Infrastructure, & Maritime Transportation | 2/19/13<br>5:30 p.m.       | 2/21/13<br>9:03 a.m.               | <b>Fiscal Note Requested<br/>2/13/13</b> |



**Senator Thomas C. Ada**

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation  
*I Mina'trentai Dos Na Liheslaturan Guåhan* • 32<sup>nd</sup> Guam Legislature

February 20, 2013

**The Honorable Judith T. Won Pat, Ed.D.**

Speaker  
I Mina'trentai Dos Na Liheslaturan Guåhan  
155 Hesler Place  
Hagåtña, Guam 96910

**VIA: The Honorable Rory J. Respicio**  
Chairperson, Committee on Rules

**RE: Committee Report on Bill No. 40-32 (COR) As Substituted**

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 40-32 (COR), As Substituted – “An act to amend §58111, Chapter 58, Title 10 GCA and §73110, Chapter 73, Title 10 GCA, relative to the penalty classification for violations of the fire code, and to amend §58112, Chapter 58, Title 10 GCA.”

Committee votes are as follows:

- 5   TO DO PASS
- 0   TO NOT PASS
- 0   TO REPORT OUT ONLY
- 0   TO ABSTAIN
- 0   TO PLACE IN INACTIVE FILE

*Si Yu'os ma'åse',*

Thomas C. Ada

2013 FEB 21 AM 9:03



**Senator Thomas C. Ada**

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation  
*I Mina'trentai Dos Na Liheslaturan Guåhan* • 32<sup>nd</sup> Guam Legislature

**COMMITTEE REPORT  
ON**

**Bill No. 40-32 (COR), As Substituted**

**“An act to amend §58111, Chapter 58,  
Title 10 GCA and §73110, Chapter 73,  
Title 10 GCA, relative to the penalty  
classification for violations of the fire  
code, and to amend §58112, Chapter 58,  
Title 10 GCA.”**

**As Substituted by the  
Committee on Public Safety,  
Infrastructure and Maritime Transportation**




## Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation  
*I Mina'trentai Dos Na Liheslaturan Guåhan* • 32<sup>nd</sup> Guam Legislature

February 20, 2013

### MEMORANDUM

To: **All Members**  
Committee on Public Safety, Infrastructure and Maritime Transportation

From: **Senator Thomas C. Ada**   
Committee Chairperson

Subject: **Committee Report on Bill No. 40-32 (COR) As Substituted**

Transmitted herewith for your consideration is the Committee Report on Bill No. 40-32 (COR), As Substituted – “An act to amend §58111, Chapter 58, Title 10 GCA and §73110, Chapter 73, Title 10 GCA, relative to the penalty classification for violations of the fire code, and to amend §58112, Chapter 58, Title 10 GCA.”

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 40-32 (COR), As Introduced
- Copy of Bill No. 40-32 (COR), As Substituted
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- COR Referral of Bill No. 40-32 (COR)
- Notices of Public Hearing
- Public Hearing Agenda

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'åse'!*

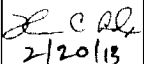

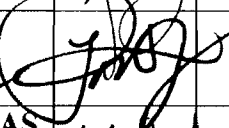




## Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation  
*I Mina'trentai Dos Na Libeslaturan Guåhan* • 32<sup>nd</sup> Guam Legislature

### COMMITTEE VOTE SHEET

**Bill No. 40-32 (COR), As Substituted** – T. C. Ada – An act to amend §58111, Chapter 58, Title 10 GCA and §73110, Chapter 73, Title 10 GCA, relative to the penalty classification for violations of the fire code, and to amend §58112, Chapter 58, Title 10 GCA.

| COMMITTEE MEMBERS                                           | SIGNATURE                                                                                      | TO DO<br>PASS | TO NOT<br>PASS | TO REPORT<br>OUT ONLY | TO ABSTAIN | TO PLACE<br>IN<br>INACTIVE<br>FILE |
|-------------------------------------------------------------|------------------------------------------------------------------------------------------------|---------------|----------------|-----------------------|------------|------------------------------------|
| <b>SENATOR THOMAS C. ADA</b><br>Chairperson                 | <br>2/20/13   | ✓             |                |                       |            |                                    |
| <b>SENATOR RORY J. RESPICIO</b><br>Vice Chairperson         |                                                                                                |               |                |                       |            |                                    |
| <b>VICE SPEAKER BENJAMIN J.F. CRUZ</b><br>Member            |               | ✓             |                |                       |            |                                    |
| <b>SENATOR FRANK B. AGUON, JR.</b><br>Member                | <br>2/20/13  | ✓             |                |                       |            |                                    |
| <b>SENATOR MICHAEL F.Q. SAN NICOLAS</b><br>Member           | <br>2/20/13 | ✓             |                |                       |            |                                    |
| <b>SENATOR ALINE A. YAMASHITA, PH.D.</b><br>Minority Member |                                                                                                |               |                |                       |            |                                    |
| <b>SENATOR V. ANTHONY ADA</b><br>Minority Member            | <br>2/20/13 | ✓             |                |                       |            |                                    |
| <b>SENATOR BRANT McCREADIE</b><br>Minority Member           |                                                                                                |               |                |                       |            |                                    |

## COMMITTEE REPORT DIGEST

### I. OVERVIEW

Bill 40-32 (COR) was introduced on February 8, 2013 by Senator Thomas C. Ada and was subsequently referred by the Committee on Rules to the Committee on Public Safety, Infrastructure and Maritime Transportation on February 8, 2013.

The Committee on Public Safety, Infrastructure and Maritime Transportation convened a public hearing on Bill 40-32 (COR) on February 19, 2013 at 5:30 pm in *I Liheslatura's* Public Hearing Room to receive public testimony on the measure.

#### **Public Notice Requirements**

Public Hearing notices were disseminated via email to all senators and all main media broadcasting outlets on February 11, 2013 (5-Day Notice), and again on February 15, 2013 (48-Hour Notice).

#### **Senators Present**

|                                  |                       |
|----------------------------------|-----------------------|
| Senator Thomas C. Ada            | Committee Chairperson |
| Senator Frank B. Aguon, Jr.      | Member                |
| Senator V. Anthony Ada           | Minority Member       |
| Senator Brant McCreadie          | Minority Member       |
| Senator vicente "ben" pangelinan |                       |
| Senator Christopher Dueñas       |                       |
| Senator Thomas Morrison          |                       |

The public hearing was Called-to-Order at 5:31 pm.

### II. SUMMARY OF TESTIMONY AND DISCUSSION

#### **Chief John Wusstig (Acting)**

*Provided oral and written testimony (see attached)*

Mr. Wusstig is currently Battalion Chief and the Acting Fire Chief of the Guam Fire Department (GFD). He states support for Bill 40-32, particularly changing the classification of penalty from "misdemeanor" to "civil violation," to enable the timely adjudication of citations issued by GFD, for fire code violations. Chief Wusstig states that GFD conducts inspections to alleviate fire hazards that can potentially result in physical injury, loss of property, or loss of life. Although GFD attempts to achieve compliance through education, GFD may still need the leverage of penalty assessment to ensure compliance with the Guam Fire Code. Fines will assist Fire Officers in obtaining compliance while performing necessary regulatory function of inspections/investigations associated with the Fire Code. Chief Wusstig closes by re-stating GFD's full support of Bill 40-32.

#### **Phil Tydingco**

*Provided oral testimony*

Mr. Tydingco is the Chief Deputy Attorney General (CDAG) with the Guam Office of the Attorney General. He testifies in support of the bill. States that he has been working with

Sen. Tom Ada's office, as well as with the Guam Fire Department (GFD), and is aware of the situation as explained in the Legislative Findings & Intent of the bill. States that many similar citations exist in the Traffic Court. The enforcement of fire code citations occur in the Traffic Court Violations Bureau of the Judiciary. Current statute classifies the violation of Fire Codes as a Misdemeanor. Procedurally, the adjudication of these violations would require that GFD file the citation with the Attorney General's Office for prosecution. Given the limited manpower resources at the AGO, the prosecution of most fire code violations would most likely be given a low priority than most of the criminal cases handled by the AGO. In effect, the ability to enforce fire code violations would be very much constrained.

CDAG Tydingco clarified that since 1979, the custom and practice in the Judiciary has been to adjudicate the citations in the Traffic Court. However, in January of 2013, the Superior Court issued a Decision & Order that the Traffic Court is not the proper venue for adjudication of fire code violations. Instead, the adjudication of criminal cases should be conducted in Superior Court and must be prosecuted by the AGO or a representative of the AGO. If a guilty verdict is rendered by the Court, the violator would be subject to a \$1,000 fine and up to one year imprisonment, and would have a criminal record for life.

The reclassification of a fire code violation from a "Misdemeanor" to a "Civil Violation", with an associated penalty schedule would be the more practical way to achieve enforcement of the Fire Code. CDAG Tydingco expressed support, and hopes that bill becomes law. Believes that with passage of law, the Fire Prevention Bureau should be able to operate the way they are supposed to function—to ensure compliance and that would be through fines. Punishment as it is now does not necessarily fit the crime; states that loose wires to extinguishers not inspected regularly should not necessarily be cited as a criminal offense and imprisonment.

#### *Discussion*

**Chair Ada** asks CDAG Tydingco to clarify if, since January 2013, the position of the Court has been that if the AGO representative is not present at court at the time, then that was basis for the court to dismiss?

**CDAG Tydingco** responds Yes, the case was dismissed, but the Opinion orders the Bureau not to accept citations issued by the Fire Marshals. Since the Opinion was released, the order was that they (the Bureau) was not to receive any of the tickets or violations that Fire Prevention issued. Not a good thing clearly because then people will know that enforcement is not going on. Stresses importance of legislation, and highlighted the inconsistency that the Court rules say prosecutors should only show up if the other side shows up with a lawyer. In this sense, Traffic Court is kept more as a decriminalized friendly court, and less adversarial. Believes this is a good policy to consider.

**Senator Aguon** states that this is an issue affecting GPD as well, so looks forward to forthcoming legislation addressing this. Commends Chair for moving aggressively on this.

**Senator pangelinan** asks CDAG Tydingco to clarify why Court is not accepting citations. How would this legislation cure the acceptance of citations? What was the driving policy of the decision of the Court to no longer accept the citations?

**CDAG Tydingco** recollects what was said in the Opinion. (1) By law, fire code violations are Misdemeanor criminal violations that warrant the presence of the AGO, or AGO representative, for prosecution. (2) Furthermore, the Traffic Court is a venue for Civil Violations; current statute classifies fire code violation as a misdemeanor, a criminal violation. Therefore, Traffic Court would not be a proper venue, notwithstanding the fact that the Traffic Court has been the venue that has been used for adjudication of fire code violations for decades.

Under the current statute, the adjudication of criminal cases should be conducted in Superior Court and must be prosecuted by the AGO or a representative of the AGO. If a guilty verdict is rendered by the Court, the violator would be subject to a \$1,000 fine and up to one year imprisonment, and would have a criminal record for life. Realistically, the AGO has limited manpower resources; consequently, fire code violations would, in most cases not be filed by the AGO for prosecution.

The reclassification of a fire code violation from a “Misdemeanor” to a “Civil Violation”, with an associated penalty schedule would be the more practical way to achieve enforcement of the Fire Code. CDAG Tydingco expressed support, and hopes that bill becomes law. Believes that with passage of Bill 40-32, the Fire Prevention Bureau should be able to operate they way they are supposed to function—to ensure compliance through the assessment of fines, if warranted. Punishment as it is now does not necessarily fit the crime; states that violations ranging from loose wires to fire extinguishers not being inspected regularly should not necessarily be cited as a criminal offense and imprisonment.

**CDAG Tydingco** said that a fire code violation is classified as a Misdemeanor crime. If there is no prosecutor to prosecute, the Court does not believe it should be prosecuting those cases.

**Senator pangelinan** clarifies that Court is not even accepting the citation. If the Court accepts the citation and the prosecutor is there, then it goes forward. But, currently, Court is not even accepting the citation.

**CDAG Tydingco** responds that is correct.

**Senator pangelinan** asks again how does this cure the acceptance of the citations?

**CDAG Tydingco** responds that by reclassifying fire code violations as civil violations, you don't need prosecutors for civil violations.

**Senator pangelinan** then clarifies so the citation, under current statute, goes directly to Superior Court?



**CDAG Tydingco** clarifies that under the current statute, GFD sends citations to AGO so that AGO can fill out criminal complaints or indictments.

**Senator pangelinan** wants the record to reflect that there is nothing wrong with the statute, the problem now is how it is being enforced, and the decision to be made now is are we going to change this policy?

**CDAG Tydingco** responds Yes.

**Senator pangelinan** asks then because the Fire Code, and adherence to it is for prevention of injury in public spaces, what happens if it is just a civil violation and it is easier to pay off the fine than it is to comply, what is the remedy after that? Further asks, what if the fine is just paid each year, but the effort to correct the violation is never made, and public safety is threatened, is at stake?

**Chief Wusstig** responds to Sen. pangelinan's last question. there is a progression of fees for recurring offenses.

**Senator pangelinan** clarifies that these are brand new fine amounts? What are the current fine amounts for a first offense?

**Chief Wusstig** responds \$75 is the current fine for Fire code violations.

**Senator pangelinan** asks when \$75 fine schedule was adopted?

**Chief Wusstig** responds 1997, and introduces Capt. Joey Manibusan, the lead Code official.

**CDAG Tydingco** adds that Sen. pangelinan raises a good point that might have been overlooked. If single or continuing violation resulted in an injury or death, it may be necessary to amend to turn into a criminal matter from a civil matter, when entering into the fourth violation. Suggests four or more violation within, say, five years of the first violation will move you from Traffic Court to Superior Court, and it will then be a misdemeanor—"scofflaws." Three to five years or whatever sounds appropriate for repeat offenders or scofflaws.

**Senator pangelinan** asks if there is a rationale for raising the fine?

**Chief Wusstig** responds that it was taken out of one of codes that has fines, but rationale seems obvious that if correction isn't made after first violation, the intention is that with the increase in fine, the second violation will likely be avoided.

**Senator pangelinan** asks who receives the fine? Explains that GFD has the ability to cite businesses and individuals in which the direct beneficiary of the proceeds of that citation goes to the citing entity, and in most instances, common practice is that citing entities should not be tempted to cite more tickets because they directly benefit. States that he is not making a statement about the integrity of the fire officials, but rather does not want to see citing entity as direct beneficiary of fines collected from citations issued. Asks that GFD and AGO think about

if whether fine should go directly to citing agency or General Fund, and then appropriation be made to agency from there.

**Chair Ada** asks where fines go to today? Existing law states that fees go to the FLAME Fund. Is there any other situation where GFD would collect penalties from a non-compliant citizen, other than through the courts? For example, would you be able to give a citation to a business and then he pays GFD?

**Chief Wusstig** responds that the Court has set up the system; there is accountability in the issuance of tickets—the Court receives it, they take out their administrative fees, the monies go to the FLAME Fund, which GFD is not able to access alone. Adds that the citizen is able to challenge in court, and thus the Court will be able to collect if needed.

**Senator McCreadie** asks what currently happens now with misdemeanor violations? If this bill becomes law, will it be retroactive to the Decision and Order (D&O) issued on January 10, 2013?

**CDAG Tydingco** responds that there is a statutory legislative principle that if legislature must make clear that it is retroactive. When this law goes into effect, it will only apply going forward. If citation was issued before law goes into effect, it will still be viewed as a criminal misdemeanor, but no one is adjudicating that, or it could be sent to AGO, and they have up to one year to exercise prosecutorial discretion to file a criminal case.

**Senator McCreadie** asks if there is a number of violators since the D & O was issued in January?

**Chief Wusstig** responds that GFD has stopped issuing citations since January 10. States that GFD still has inspections are still in effect, but no fines are collected or citations are issued. States that most important method of compliance is through education, outreach, through programs and through inspectors who go out and educate.

**CDAG Tydingco** adds that they've communicated with GFD and that if there is an egregious case AGO should be informed so that criminal charges can be filed. Recommends that bill be amended to include criminal penalty for repeat offender, fourth or more.

**Chair Ada** clarifies that after the third offense, within say a three year period, the violation should be deemed a misdemeanor?

**CDAG Tydingco** responds Yes, shall be punishable as a misdemeanor crime or petty misdemeanor—your decision what level of punishment should be. Petty misdemeanor – 0-60 days in jail, max fine \$500 or misdemeanor – 0-1 year jail, max \$1000 fine.

**Senator Morrison** asks are most violators contractors?

**Chief Wusstig** responds No, most are parking violations (blocking of hydrants, fire lanes).

**Chair Ada** concludes hearing. The public hearing was adjourned at 6:06 pm.

### **III. FINDINGS AND RECOMMENDATIONS**

The Committee on Public Safety, Infrastructure and Maritime Transportation has substituted Bill 40-32 (COR) with the following significant changes:

- In Sections 2 (b) and 3 (b), each offense following the first offense of the same fire code is subject to increasing penalties, with the fourth offense of the same fire code within a 12-month period deemed punishable as a misdemeanor.

The Committee on Public Safety, Infrastructure and Maritime Transportation hereby reports out Bill 40-32 (COR), As Substituted by the Committee, with the recommendation **TO PASS**.

**I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN**  
**2013 (First) Regular Session**

Bill No. 40-32 (COR)

Introduced by:

T. C. Ada  
B. J. Cruz  
R. J. Respicio

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**AN ACT TO AMEND §58111, CHAPTER 58, TITLE 10 GCA  
AND §73110, CHAPTER 73, TITLE 10 GCA, RELATIVE TO  
THE PENALTY CLASSIFICATION FOR VIOLATIONS OF  
THE FIRE CODE, AND TO AMEND §58112, CHAPTER 58,  
TITLE 10 GCA.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 §58111 (Penalty), Ch 58 (Fire Prevention), 10 GCA and §73110 (Penalty), Ch 73 (Fire  
4 Prevention), 10 GCA state that “*Violation of any provision of this Chapter is a*  
5 *misdemeanor.*”

6 *I Liheslaturan Guåhan* further finds that §30109(a), Ch 30, 5 GCA states: “*The*  
7 *Attorney General is the public prosecutor and, by himself, a deputy or assistant shall: (a)*  
8 *Conduct on behalf of the Government of Guam the prosecution of offenses against the*  
9 *laws of Guam which are prosecuted in any of the courts of Guam, the District Court of*  
10 *Guam, and any appeals therefrom.*”

11 *I Liheslatura Guåhan* also finds that on January 10, 2013, the Superior Court of  
12 Guam issued a Decision and Order that in the absence of representation from the  
13 Attorney General’s Office, citations issued under Ch 58 and Ch 73, 10 GCA that the  
14 “*Traffic Violations Bureau (TVB), Courts and Ministerial Division of the Superior Court*  
15 *of Guam cease and desist from accepting Uniform Summons and Citation complaints*  
16 *based on violations of any section of the [Guam] Fire Code until such time as the*  
17 *inconsistencies between statute and rule are resolved.*”

1 It is therefore the goal of *I Liheslatura* to rectify this situation by reclassifying the  
2 violations of the Fire Code as Civil offenses, with increasing penalties for each  
3 recurrence.

4 **Section 2.** §58111, Chapter 58, 10 GCA is hereby amended to read:

5 **§ 58111. Penalty.**

6 a. Violation of any provision of this Chapter is a ~~misdemeanor~~ civil  
7 violation.

8 b. Each violation shall be subject to the following penalties:

9 i. First Offense \_\_\_\_\_ up to \$100

10 ii. Second Offense \_\_\_\_\_ up to \$400 but not less than \$100

11 iii. Third Offense \_\_\_\_\_ no less than \$1,000

12 c. All fines shall be deposited into the Fire, Life and Medical Emergency  
13 Fund ('FLAME') pursuant to §72106, Ch 72, 10 GCA.

14  
15 **Section 3.** §73110, Chapter 73, 10 GCA is hereby amended to read:

16 **§ 73110. Penalty.**

17 a. Violation of any provision of this Chapter is a ~~misdemeanor~~ civil  
18 violation.

19 b. Each violation shall be subject to the following penalties:

20 i. First Offense \_\_\_\_\_ up to \$100

21 ii. Second Offense \_\_\_\_\_ up to \$400 but not less than \$100

22 iii. Third Offense \_\_\_\_\_ no less than \$1,000

23 c. All fines shall be deposited into the Fire, Life and Medical Emergency  
24 Fund ('FLAME') pursuant to §72106, Ch 72, 10 GCA.

25  
26 **Section 4.** §58112, Chapter 58, 10 GCA is hereby amended to read:

27 **“§ 58112. Fire Prevention Code.**

28 Inspection of premises and areas authorized by this Chapter shall be in accordance  
29 with §73111, Chapter 73, 10 GCA. ~~the Fire Prevention Code issued by the~~  
30 ~~American Insurance Association. Standards and requirements for fire prevention~~

1           ~~as set out in said Fire Prevention Code shall apply in Guam in the absence of~~  
2           ~~specific provisions of this Chapter.”~~

3  
4           **Section 5. Severability.** If any of the provisions of this law or its application to  
5 any person or circumstance is found to be invalid or contrary to law, such invalidity shall  
6 not affect other provisions or applications of this law which can be given effect without  
7 the invalid provisions or application, and to this end the provisions of this law are  
8 severable.

9           **Section 6. Effective Date.** This Act shall become effective upon enactment.

*I MINA 'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
**2013 (First) Regular Session**

Bill No. 40-32 (COR)

As Substituted by the Committee on Public Safety,  
Infrastructure and Maritime Transportation

Introduced by:

T. C. Ada  
B. J. Cruz  
R. J. Respicio

---

**AN ACT TO AMEND §58111, CHAPTER 58, TITLE 10 GCA  
AND §73110, CHAPTER 73, TITLE 10 GCA, RELATIVE TO  
THE PENALTY CLASSIFICATION FOR VIOLATIONS OF  
THE FIRE CODE, AND TO AMEND §58112, CHAPTER 58,  
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**1 BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 §58111 (Penalty), Ch 58 (Fire Prevention), 10 GCA and §73110 (Penalty), Ch 73 (Fire  
4 Prevention), 10 GCA state that “*Violation of any provision of this Chapter [fire codes] is*  
5 *a misdemeanor.*”

6           *I Liheslaturan Guåhan* further finds that §30109(a), Ch 30, 5 GCA states: “*The*  
7 *Attorney General is the public prosecutor and, by himself, a deputy or assistant shall: (a)*  
8 *Conduct on behalf of the Government of Guam the prosecution of offenses against the*  
9 *laws of Guam which are prosecuted in any of the courts of Guam, the District Court of*  
10 *Guam, and any appeals therefrom.*”

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12 Guam issued a Decision and Order that in the absence of representation from the  
13 Attorney General’s Office, citations issued under Ch 58 and Ch 73, 10 GCA that the  
14 “*Traffic Violations Bureau (TVB), Courts and Ministerial Division of the Superior Court*  
15 *of Guam cease and desist from accepting Uniform Summons and Citation complaints*  
16 *based on violations of any section of the [Guam] Fire Code until such time as the*  
17 *inconsistencies between statute and rule are resolved.*”

1           It is therefore the goal of *I Liheslatura* to rectify this situation by reclassifying the  
2 violations of the Fire Code as Civil offenses, with increasing penalties for each  
3 recurrence.

4           **Section 2.** §58111, Chapter 58, 10 GCA is hereby amended to read:

5           **§ 58111. Penalty.**

6           a. Violation of any provision of this Chapter is a ~~misdemeanor~~ civil  
7           violation.

8           b. Each violation shall be subject to the following penalties:

9                   i. First Offense of a fire code shall be subject to a penalty of up to  
10                   \$100

11                   ii. Second Offense of the same fire code within a 12-month period  
12                   shall be subject to a penalty of up to \$400 but not less than  
13                   \$100

14                   iii. Third Offense of the same fire code within a 12-month period  
15                   shall be subject to a penalty of no less than \$1,000

16                   iv. Fourth Offense of the same fire code within a 12-month period  
17                   shall be punishable as a misdemeanor

18           c. All fines shall be deposited into the Fire, Life and Medical Emergency  
19           Fund ('FLAME') pursuant to §72106, Ch 72, 10 GCA.

20  
21           **Section 3.** §73110, Chapter 73, 10 GCA is hereby amended to read:

22           **§ 73110. Penalty.**

23           a. Violation of any provision of this Chapter is a ~~misdemeanor~~ civil  
24           violation.

25           b. Each violation shall be subject to the following penalties:

26                   i. First Offense of a fire code shall be subject to a penalty of up to  
27                   \$100

28                   ii. Second Offense of the same fire code within a 12-month period  
29                   shall be subject to a penalty of up to \$400 but not less than \$100

30                   iii. Third Offense of the same fire code within a 12-month period shall  
31                   be subject to a penalty of no less than \$1,000



1                   iv. Fourth Offense of the same fire code within a 12-month period  
2                   shall be punishable as a misdemeanor

3                   c. All fines shall be deposited into the Fire, Life and Medical Emergency  
4                   Fund ('FLAME') pursuant to §72106, Ch 72, 10 GCA.

5  
6                   **Section 4.** §58112, Chapter 58, 10 GCA is hereby amended to read:

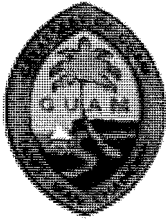
7                   **“§ 58112. Fire Prevention Code.**

8                   Inspection of premises and areas authorized by this Chapter shall be in accordance  
9                   with §73111, Chapter 73, 10 GCA. ~~the Fire Prevention Code issued by the~~  
10                  ~~American Insurance Association. Standards and requirements for fire prevention~~  
11                  ~~as set out in said Fire Prevention Code shall apply in Guam in the absence of~~  
12                  ~~specific provisions of this Chapter.”~~

13  
14                  **Section 5. Severability.** If any of the provisions of this law or its application to  
15                  any person or circumstance is found to be invalid or contrary to law, such invalidity shall  
16                  not affect other provisions or applications of this law which can be given effect without  
17                  the invalid provisions or application, and to this end the provisions of this law are  
18                  severable.

19                  **Section 6. Effective Date.** This Act shall become effective upon enactment.





**GUAM FIRE DEPARTMENT**  
**DIPATTAMENTON GUAFI GUAHAN**  
*Professionalism \* Respect \* Integrity \* Dedication \* Empathy*



Eddie Baza Calvo  
Governor

John L. Wusstig  
Acting Fire Chief

Ray Tenorio  
Lt. Governor

February 15, 2013

Honorable Senator Thomas C. Ada  
Chairman, Committee on Public Safety,  
Infrastructure & Maritime Transportation  
I Mina'Trentai Dos Na Liheslaturan Guahan  
Suite 207, Ada Plaza Center  
173 Aspinall Avenue  
Hagatna, Guam 96910

Buenas yan Hafa Adai,

My name is John Wusstig, I am a Battalion Chief with the Guam Fire Department and I'm currently the Acting Fire Chief. I would like to thank the Legislature for the opportunity to provide testimony in favor of Bill 40-32 "AN ACT TO AMEND §58111 OF CHAPTER 58 OF TITLE 10 GCA AND §73110 OF CHAPTER 73 OF TITLE 10 GCA, RELATIVE TO THE PENALTY CLASSIFICATION FOR VIOLATIONS OF THE FIRE CODE, AND TO REPEAL §58112 of Chapter 58 OF Title 10 GCA".

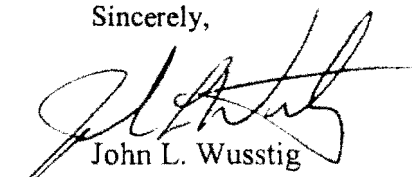
The Guam Fire Department supports Bill 40-32 as it addresses the importance in changing the language in the law from a **misdemeanor** to a **civil violation**, thus maintaining our ability to provide enforcement of the Fire Code as well as continue to provide assurance to the community that public safety is a high priority.

The Guam Fire Department is not capable of alleviating all citizen hazards that can potentially lead to situations that inflict injury, loss of property, or life. However, with proper legislation, the government can provide the mechanism through fees and fines, which will assist in Fire Code compliance.

The fines will assist our Fire Officers in obtaining compliance while performing the necessary regulatory function of inspections/investigations associated with the Fire Code. Fire Code compliance and our ability to enforce it properly benefits the building owner, its employees, its occupants/customers, and most especially our First Responders who respond to all types of emergency situations at these facilities.

In closing, The Guam Fire Department is in full support of Bill 40-32 and its importance of changing the language in the law from a **misdemeanor** to a **civil violation with assessment of fines**.

Sincerely,



John L. Wusstig  
Acting Fire Chief



## COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

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Member

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Senator  
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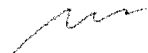
Senator  
Aline Yamashita  
Member

February 8, 2013

### MEMORANDUM

**To:** **Rennae Meno**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From:** **Senator Rory J. Respicio**   
*Majority Leader & Rules Chair*

**Subject:** **Referral of Bill No. 40-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 40-32(COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

*Si Yu'os Ma'åse!*

Attachment

*I Mina'Trentai Dos Na Liheslaturan Guahan*  
**Bill Log Sheet**

| BILL NO.    | SPONSOR  | TITLE                                                                                                                                                                                                        | DATE INTRODUCED       | DATE REFERRED | CMTE REFERRED                                                         | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | STATUS |
|-------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------|-----------------------------------------------------------------------|---------------------|-----------------------------|--------|
| 40-32 (COR) | T.C. Ada | AN ACT TO AMEND §58111, CHAPTER 58, TITLE 10 GCA AND §73110, CHAPTER 73, TITLE 10 GCA, RELATIVE TO THE PENALTY CLASSIFICATION FOR VIOLATIONS OF THE FIRE CODE, AND TO AMEND §58112, CHAPTER 58, TITLE 10 GCA | 2/8/2013<br>4:39 P.M. | 2/8/13        | Committee on Public Safety, Infrastructure, & Maritime Transportation |                     |                             |        |



## Senator Thomas C. Ada


Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation

*I Mina'trentai Dos Na Liheslaturan Guahan* • 32<sup>nd</sup> Guam Legislature

February 11, 2013

### MEMORANDUM

To: All Senators, Media

From: Senator Thomas C. Ada, Chairperson   
Committee on Public Safety, Infrastructure, and Maritime Transportation

Subject: **Public Hearing Notice: February 19, 2013**

Please be advised that the Committee on Public Safety, Infrastructure, and Maritime Transportation is holding a public hearing on Tuesday, February 19, 2013, at 5:30 pm. This hearing will take place in the Public Hearing Room of *I Liheslaturan Guahan*, and will be broadcast on local television, MCV channel 13 and GTA channel 21.

The agenda is as follows:

**Bill 40-32 (COR) - T. C. Ada, B. J. Cruz, R. J. Respicio**

An act to amend §58111, Chapter 58, Title 10 GCA and §73110, Chapter 73, Title 10 GCA, relative to the penalty classification for violations of the Fire Code, and to amend §58112, Chapter 58, Title 10 GCA.

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until February 20, 2013, 12:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.

*Si Yu'os Ma'ase.*



Senator Tom Ada

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## Public Hearing: First Notice

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**Nicole Santos** <nsantos@senatorada.org>

Mon, Feb 11, 2013 at 4:42 PM

To: phnotice@guamlegislature.org

Cc: Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Coy Torres <coy@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai, Senators,

Please see attached notice from Senator Tom Ada regarding Bill 40-32 (COR), relative to the reclassification of Fire Code violations.

Best regards,  
Nicole

—  
Nicole Santos  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
I Mina'trentai Dos Na Liheslaturan Guåhan - 32nd Guam Legislature  
671-473-3301



**PH-First Notice-all senators.pdf**

512K



Senator Tom Ada

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## Public Hearing: First Notice

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Nicole Santos <nsantos@senatorada.org>

Mon, Feb 11, 2013 at 4:43 PM

To: Media <media@senatorada.org>

Cc: Jimmy Camacho <jcamacho@senatorada.org>, Cyrus Luhr <cyrus@senatorada.org>, Coy Torres <coy@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai,


Please see attached notice (pdf and word file) from Senator Tom Ada regarding Bill 40-32 (COR), relative to the reclassification of Fire Code violations. Also, please find Bill 40-32 (COR) attached for your reference.


Should you have any questions, please call our office at 473-3301.


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### 3 attachments

 **PH-First Notice-all senators.pdf**  
512K

 **PH-First Notice-all senators.doc**  
216K

 **Bill 40-32 (COR)-GFD Penalties.pdf**  
283K





Senator Tom Ada

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## Public Hearing: First Notice

---

**Nicole Santos** <nsantos@senatorada.org>

Mon, Feb 11, 2013 at 4:50 PM

To: John Wusstig <john.wusstig@gfd.guam.gov>

Cc: Edward Artero <edward.artero@gfd.guam.gov>, Joey Manibusan <guamfireinspector@gmail.com>, Phil Tydingco <ptydingco@guamag.org>, Zerlyn Palomo <zpalomo@guamag.org>, Patrick Mason <pmason@guamag.org>, Richard Martinez <rmartinez@guamcourts.org>, Jessica Cruz <jcruz@guamcourts.org>, Jenbel Manibusan <jmanibusan@guamcourts.org>, Nicole Santos <nsantos@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>

Hafa adai, Chief Wusstig,

Please see attached notice from Senator Tom Ada regarding Bill 40-32 (COR), relative to the reclassification of Fire Code violations. Also, please find Bill 40-32 (COR) attached for your reference.

Feel free to forward this notice to those I might have missed here. Should you have any questions, please call our office at 473-3301.


Best regards,


Nicole

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### 2 attachments

 **PH-First Notice-all senators.pdf**  
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 **Bill 40-32 (COR)-GFD Penalties.pdf**  
283K



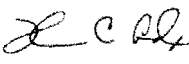
## Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation  
*I Mina'trentai Dos Na Liheslaturan Guåhan* • 32<sup>nd</sup> Guam Legislature

February 15, 2013

### MEMORANDUM

To: All Senators, Media

From: Senator Thomas C. Ada, Chairperson   
Committee on Public Safety, Infrastructure, and Maritime Transportation

Subject: **Public Hearing Notice: February 19, 2013**

Please be advised that the Committee on Public Safety, Infrastructure, and Maritime Transportation is holding a public hearing on Tuesday, February 19, 2013, at 5:30 pm. This hearing will take place in the Public Hearing Room of *I Liheslaturan Guåhan*, and will be broadcast on local television, MCV channel 13 and GTA channel 21.

The agenda is as follows:

**Bill 40-32 (COR) - T. C. Ada, B. J. Cruz, R. J. Respicio**

An act to amend §58111, Chapter 58, Title 10 GCA and §73110, Chapter 73, Title 10 GCA, relative to the penalty classification for violations of the Fire Code, and to amend §58112, Chapter 58, Title 10 GCA.

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until February 20, 2013, 12:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.

*Si Yu'os Ma'ase.*



Office of  
Senator Tom Ada

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## Public Hearing: Second Notice

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**Nicole Santos** <nsantos@senatorada.org>

Fri, Feb 15, 2013 at 10:13 AM

To: phnotice@guamlegislature.org

Cc: Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Coy Torres <coy@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai, Senators,

Please see attached notice from Senator Tom Ada regarding Bill 40-32 (COR), relative to the reclassification of Fire Code violations.

Best regards,

--

Nicole Santos  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
I Mina'trentai Dos Na Liheslaturan Guåhan - 32nd Guam Legislature  
671-473-3301



**PH-Second Notice-all senators.pdf**

512K



*... the spirit of ...*  
Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

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## Public Hearing: Second Notice

---

**Nicole Santos** <nsantos@senatorada.org>

Fri, Feb 15, 2013 at 10:15 AM

To: Media <media@senatorada.org>

Cc: Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Coy Torres <coy@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai,

Please see attached notice (pdf and word file) from Senator Tom Ada regarding Bill 40-32 (COR), relative to the reclassification of Fire Code violations. Also, please find Bill 40-32 (COR) attached for your reference.

Should you have any questions, please call our office at 473-3301.

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### 3 attachments



**PH-Second Notice-all senators.pdf**  
512K



**PH-Second Notice-all senators.doc**  
217K



**Bill 40-32 (COR)-GFD Penalties.pdf**  
283K

**UPDATED 2013.02.11**

**32GL Senators:**

"Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, "Benjamin JF Cruz" <senator@senatorbjcruz.com>, "Tina Rose Muna Barnes" <tinamunabarnes@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>"Thomas C. Ada" <tom@senatorada.org>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "vicente 'ben' pangelinan" <senbenp@guam.net>,"Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Michael F. Q. San Nicolas" <responsibleguam@gmail.com>, "V. Anthony Ada" <tony@tonyada.com >, "Christopher M. Duenas" <duenasenator@gmail.com>, "Michael T. Limtiaco" <mike@mikelimtiaco.com>, "Brant McCreadie" <brantforguam@gmail.com>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Aline A. Yamashita, Ph.D" <aline4families@gmail.com>,

**32GL Senator Staff**

therese@judiwonpat.com, frank@judiwonpat.com, rob@judiwonpat.com, jason@judiwonpat.com, wil@judiwonpat.com, steve@judiwonpat.com, faith@judiwonpat.com, senator@senatorbjcruz.com, carlos.pangelinan@senatorbjcruz.com, mike.lidia@senatorbjcruz.com, chris.carillo@senatorbjcruz.com, sgflores@tinamunabarnes.com, jblas@tinamunabarnes.com, jean@tinamunabarnes.com, Vparriola1@gmail.com, etajalle@guamlegislature.org, tjtaitano@cs.com, mlwheeler2000@yahoo.com, phillipsguam@gmail.com, avon.guam@gmail.com, jennifer.lj.dulla@gmail.com, marymaravilla19@gmail.com, chechsantos@gmail.com, committee@frankaguonjr.com, admin@frankaguonjr.com, cipo@guamlegislature.org, chris.budasi@guamlegislature.org, aokada@guamlegislature.org, smendiola@guamlegislature.org, avillaverde@guamlegislature.org, ahernandez@guamlegislature.org, sonedera-salas@guamlegislature.org, berthaduenas@gmail.com, emqcho@gmail.com, senatorsannicolas@gmail.com, alerta.jermaine@gmail.com, louise@tonyada.com, pete@tonyada.com, ed@tonyada.com, val@tonyada.com, santos.duenas@gmail.com, mcarlson@guamlegislature.org, ang.duenas@gmail.com, angela.lgrios@gmail.com, mike@mikelimtiaco.com, conedera@mikelimtiaco.com, cos@senatormorrison.com, manuela@senatormorrison.com, ryanjames@senatormorrison.com, tanya4families@gmail.com, lou4families@gmail.com, evelyn4families@gmail.com, jcamacho@senatorada.org, cyrus@senatorada.org, nsantos@senatorada.org, Juliette@senatorada.org, office@senatorada.org, coy@senatorada.org, tom@senatorada.org , carlaborja.73@gmail.com, baza.matthew@gmail.com, senatordrodriguez@gmail.com, clifton@toduguam.com, cherbert.senatordrodriguez@gmail.com, rfteehan@yahoo.com, amanda@toduguam.com, nicole@toduguam.com, joe@toduguam.com, jmesngon.senatordrodriguez@gmail.com, sitarose2@yahoo.com, meia@toduguam.com, menchu@toduguam.com



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| <a href="#">rgibson@k57.com</a>               | <a href="#">rgibson@k57.com</a>               | Member |
| <a href="#">sabrina@kuam.com</a>              | <a href="#">sabrina@kuam.com</a>              | Member |
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| <a href="#">thebigshow@spbgum.com</a>         | <a href="#">thebigshow@spbgum.com</a>         | Member |
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| <a href="#">therese@mvguam.com</a>            | <a href="#">therese@mvguam.com</a>            | Member |
| <a href="#">lina@marianamedia.com</a>         | <a href="#">lina@marianamedia.com</a>         | Member |
| <a href="#">zita@mvguam.com</a>               | <a href="#">zita@mvguam.com</a>               | Member |

1 - 28



## Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation  
*I Mina'trentai Dos Na Liheslaturan Guåhan* • 32<sup>nd</sup> Guam Legislature

### AGENDA

#### PUBLIC HEARING

Tuesday, February 19, 2013

Public Hearing Room, *I Liheslaturan Guåhan*

The agenda is as follows:

**5:30 pm**

**Bill 40-32 (COR) - T. C. Ada, B. J. Cruz, R. J. Respicio**

An act to amend §58111, Chapter 58, Title 10 GCA and §73110, Chapter 73, Title 10 GCA, relative to the penalty classification for violations of the Fire Code, and to amend §58112, Chapter 58, Title 10 GCA.

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