



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

July 1, 2016

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

33-16-1740

Office of the Speaker
Judith T. Won Pat, Ed.D

1 JULY 2016

Date: _____

Time: 4:05

Received By: [Signature]

Dear Madame Speaker:

Attached is Bill No. 141-33 (COR), entitled, "*An act to amend subsection (l) of § 6101 of Article 1; § 6302 of Article 3. . . Relative to clarifying the definition of electronic cigarettes and raising the minimum access to tobacco products and electronic cigarettes to twenty-one (21) years; and to cite this act as the 'Youth Protection Act,'*" which I have **VETOED**.

Among other things, Bill 141-33 purports to reduce smoking-related health care costs by delaying tobacco use by young people, especially high school students, until they are older and presumably wiser. Although the bill is well-intentioned on its face, its effect is quite profound and its policy is ultimately vague and unenforceable.

For one thing, nowhere in the bill is any mention made about how its provisions are to be applied to the military bases and to service members. If a military service member between the ages of 18 and 21 years old is found on base to be in possession of tobacco products in violation of Section 6405 of the bill, will that service member have to attend the Government of Guam-sponsored smoking cessation education program that is described in Section 6406? And what about the cost of this program? Will the Legislature be providing any funding for its creation and administration?

2016 JUL -5 AM 8:58
FANIL

The adverse health risks associated with tobacco and smoking are real and not up for debate. What is troubling with Bill 141-33 is that it constitutes a willful intrusion into the personal lives and choices of our citizens. Starting at 18 years old, men and women can serve in the military and die in the battlefield for the rest of us. At age 18, they can also enter into binding and enforceable contracts for any legal purpose whatsoever. Recently, Public Law 33-12 was enacted to allow minors who are as young as 16 years old to pre-register to vote for their elected officials, including voting for the senators of the Legislature. And with court and parental approval, minors *under* the age of 16 years can have a child and obtain a marriage license. [See, 19 G.C.A. § 3202(b)].

Legislation on purely social issues such as whether to raise the smoking age to 21 is the type perhaps best left to the referendum process and not as presented in Bill 141-33. I feel strongly that the government is not a nanny, and the 15 senators who make up the Legislature do not have the prerogative to tell the thousands of Guamanians old enough to give their life in military service, vote, marry, have children, or sign legally binding contracts that they can't buy a pack of cigarettes. As adults, we each have the right to make our own individual life choices, even if that choice is bad for our health. And it's our personal responsibility to live with whatever choice we ultimately make.

Senseramente,

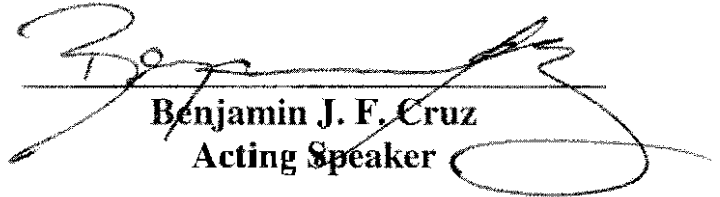


EDDIE BAZA CALVO
Governor of Guam

I MINA 'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA 'LÅHEN GUÅHAN

This is to certify that **Bill No. 141-33 (COR)**, "AN ACT TO AMEND SUBSECTION (I) OF § 6101 OF ARTICLE 1; § 6302 OF ARTICLE 3; AND SECTIONS OF ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF ELECTRONIC CIGARETTES, AND RAISING THE MINIMUM AGE OF LEGAL ACCESS TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO CITE THIS ACT AS THE "YOUTH PROTECTION ACT," was on the 17th day of June 2016, duly and regularly passed.

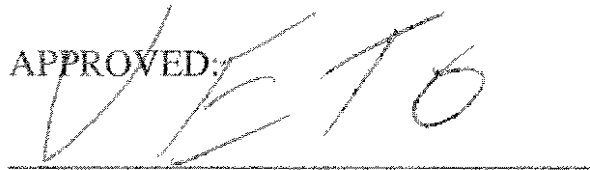

Benjamin J. F. Cruz
Acting Speaker

Attested: 

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 20th day of JUNE, 2016, at 5:35 o'clock P.M.


Assistant Staff Officer
Maga'låhi's Office

APPROVED: 

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: _____

Public Law No. _____

**I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session**

Bill No. 141-33 (COR)

As amended on the Floor.

Introduced by:

B. J.F. Cruz
T. C. Ada
Mary Camacho Torres
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Brant T. McCreddie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND SUBSECTION (1) OF § 6101 OF
ARTICLE 1; § 6302 OF ARTICLE 3; AND SECTIONS OF
ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM
CODE ANNOTATED, RELATIVE TO CLARIFYING THE
DEFINITION OF ELECTRONIC CIGARETTES, AND
RAISING THE MINIMUM AGE OF LEGAL ACCESS TO
TOBACCO PRODUCTS AND ELECTRONIC
CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO
CITE THIS ACT AS THE "YOUTH PROTECTION ACT."**

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

2 **Section 1. Clarification of the Definition of Electronic Cigarettes**
3 **Relative to Prohibiting the Sale or Distribution of Tobacco Products to Persons**

1 **Under Twenty-one (21) Years of Age.** Subsection (l) of § 6101 (Definitions) of
2 Article 1, Chapter 6 of Title 11, Guam Code Annotated, is hereby *amended* to read:

3 “(l) Electronic cigarettes, also known as e-cigarettes, are battery-
4 operated products designed to deliver nicotine, flavor and other chemicals.
5 They turn nicotine, which is highly addictive, and other chemicals into a vapor
6 that is inhaled by the user. For the purposes of this Chapter, and the prohibition
7 pertaining solely to a person under the minimum age of legal access pursuant
8 to §§ 6400 and 6405 of Article 4, tobacco products *shall* also be deemed to
9 include and *shall* be similarly applicable to electronic cigarettes, including any
10 refill, cartridge, and any other component of an electronic cigarette.”

11 **Section 2. Tobacco Licensee Must Be Twenty-one (21) Years of Age.** §
12 6302 of Article 3, Chapter 6 of Title 11, Guam Code Annotated, is hereby *amended*
13 to read:

14 “§ 6302. **Same: Same: Persons Under the Age of Twenty-one (21)**
15 **Years.**

16 The Board *shall not* issue a license of any class to a person under twenty-
17 one (21) years of age.”

18 **Section 3. Sale or Distribution to Persons Under Twenty-one (21) Years**
19 **of Age Prohibited.** Article 4 of Chapter 6 of Title 11, Guam Code Annotated, is
20 hereby *amended* to read:

21 “ARTICLE 4

22 **SALE OR DISTRIBUTION TO PERSONS UNDER TWENTY-ONE YEARS**
23 **OF AGE PROHIBITED**

24 § 6400. Sale or Distribution of Tobacco Products to Persons Under
25 Twenty-one (21) Years of Age Prohibited.

26 § 6401. Acceptable Forms of Identification.

1 § 6402. Display of Prohibition on Sales of Tobacco Products to
2 Persons Under Twenty-one (21) Years of Age.

3 § 6403. Licensee Responsible for Employee Actions.

4 § 6404. Penalties for Selling or Distributing Tobacco Products to
5 Persons Under Twenty-one (21) Years of Age.

6 § 6405. Persons Under Twenty-one (21) Years of Age Prohibited
7 from Possession, Use and Purchase of Tobacco Products.

8 § 6406. Tobacco Education for Persons Under Twenty-one (21)
9 Years of Age.

10 **§ 6400. Sale or Distribution of Tobacco Products to Persons**
11 **Under Twenty-one (21) Years of Age Prohibited.**

12 It *shall* be a violation of this Chapter for any person to sell or distribute
13 tobacco products or electronic cigarettes to any person under twenty-one (21)
14 years of age. It *shall not* be a violation of this Chapter for any person to refuse
15 to sell or distribute tobacco products or electronic cigarettes to any person
16 whom the seller or the distributor reasonably believes to be under twenty-
17 seven (27) years of age, and who is unable to produce acceptable photographic
18 identification and proof that he is over the age of twenty-one (21) years.

19 The sale or distribution of electronic cigarettes to any person under
20 twenty-one (21) years of age, or its possession by such person, is prohibited
21 and *shall* be regulated and enforced pursuant to this Chapter. Any provision
22 of this Chapter applicable to the regulation and prohibition of the sale or
23 distribution of tobacco products to any person under twenty-one (21) years of
24 age, or possession by such person, *shall* be applicable to electronic cigarettes,
25 and any other component of an electronic cigarette, and *shall* be regulated and
26 enforced in the same manner as tobacco products, to include the applicability
27 of all penalties and fines.

1 (a) Vending machines selling tobacco products or electronic
2 cigarettes *shall* be located so that they are accessible *only* to persons
3 over the age of twenty-one (21) years, or are under the constant, direct
4 supervision and unobstructed line of sight of the person authorizing the
5 installation or placement of the tobacco or electronic cigarette vending
6 machine upon the premises he manages or otherwise controls, or his
7 agent or employee. Said supervising person, who *must* be at least
8 twenty-one (21) years of age, *shall* ensure that persons under twenty-
9 one (21) years of age *do not* purchase tobacco products or electronic
10 cigarettes from vending machines. A person who authorizes the
11 installation or placement of the tobacco or electronic cigarette vending
12 machine upon premises he manages, or otherwise controls, and who
13 knows or should know that the tobacco or electronic cigarette vending
14 machine will likely be used by persons under twenty-one (21) years of
15 age, *shall* be liable if such persons purchase tobacco products or
16 electronic cigarettes from said machines.

17 (b) A licensee or an employer may distribute tobacco products
18 or electronic cigarettes to any employee who handles tobacco products
19 or electronic cigarettes in the course of the commercial distribution or
20 sale of the products. In any proceeding for the suspension or revocation
21 of any license, and based upon a violation of this Section, proof that the
22 defendant licensee, or his agent or employee, demanded and was shown
23 an identification card, before furnishing any tobacco product or
24 electronic cigarette to any person under twenty-one (21) years of age,
25 *shall* be a defense to the charges.
26
27

1 **§ 6401. Acceptable Forms of Identification.**

2 The following are the only acceptable instruments of identification as
3 required by § 6400:

4 (a) a valid unexpired driver's license issued by any state,
5 territory or possession of the United States;

6 (b) an official identification issued by the federal or a state
7 government with the individual's photograph and signature;

8 (c) an armed forces identification card;

9 (d) a valid, unexpired passport; and

10 (e) an alien registration receipt card (green card).

11 **§ 6402. Display of Prohibition on Sales of Tobacco Products to**
12 **Persons Under Twenty-one (21) Years of Age.**

13 All licensees *shall* post a notice that this Chapter prohibits the sale of
14 tobacco products to persons under twenty-one (21) years of age.

15 (a) In the case of a retail operation, notices *shall* be publicly
16 and conspicuously displayed in the licensee's place of business in
17 letters at least two inches (2") in height.

18 (b) In the case of a vending machine, the licensee *shall* affix
19 to the front of each vending machine a sign in letters at least one-half
20 inch (1/2") in height.

21 (c) Any licensee who violates this Section *shall* be fined Fifty
22 Dollars (\$50.00) per violation.

23 **§ 6403. Licensee Responsible for Employee Actions.**

24 Acts or omissions of an agent or employee of a licensee that violate any
25 provisions of this Chapter *shall* be deemed to be acts or omissions of the
26 licensee.

1 **§ 6404. Penalties for Selling or Distributing Tobacco Products**
2 **to Persons Under Twenty-one (21) Years of Age.**

3 (a) In addition to any other penalties and fines that may be levied,
4 any person who violates § 6400 of this Chapter *shall* be penalized as follows:

5 (1) in the case of a first violation in any five (5) year period,
6 the person *shall* be fined Five Hundred Dollars (\$500.00) and *shall* be
7 notified, in writing, of penalties levied for further violations;

8 (2) in the case of a second violation in any five (5) year period,
9 the person *shall* be fined One Thousand Dollars (\$1,000.00) and, in the
10 case of a licensee, the license *shall* be suspended for ninety (90) days;

11 (3) in the case of a third violation in any five (5) year period,
12 the person *shall* be fined Two Thousand Five Hundred Dollars
13 (\$2,500.00) and, in the case of a licensee, the license *shall* be suspended
14 for one hundred eighty (180) days;

15 (4) in the case of four (4) or more violations within any five
16 (5) year period, the person *shall* be fined Five Thousand Dollars
17 (\$5,000.00) and, in the case of a licensee, the license *shall* be revoked.
18 The revoked retailer *shall* be ineligible to apply for a new license for
19 two (2) years after the effective date of the revocation.

20 (b) Failure to pay a fine levied under this Chapter within thirty (30)
21 days of the date the fine becomes effective *shall* result in suspension of the
22 licensee's license until such fines are paid.

23 (c) During any suspension or revocation of a license under this
24 Section, the licensee *shall not* sell tobacco products and *shall* remove all
25 tobacco products from all areas covered by the suspended license. In addition,
26 any new application for a license to sell tobacco products while a licensee is
27 suspended under this Chapter *shall* be denied.

1 (d) All tobacco products sold over the counter *shall* be displayed and
2 located where they *shall* be inaccessible to persons under twenty-one (21)
3 years of age. Any vendor who violates this provision *shall* be fined Two
4 Hundred Fifty Dollars (\$250.00).

5 **§ 6405. Persons Under Twenty-one (21) Years of Age**
6 **Prohibited from Possession, Use and Purchase of Tobacco Products.**

7 It *shall* be a violation of this Chapter for any person under twenty-one
8 (21) years of age to use or be in possession of tobacco products, or to attempt
9 to purchase tobacco products using false identification.

10 **§ 6406. Tobacco Education for Persons Under Twenty-one**
11 **(21) Years of Age.**

12 Any person under twenty-one (21) years of age who violates § 6405 of
13 this Chapter *shall* attend an education program on tobacco products, to include
14 smoking cessation information administered by the Guam Behavioral Health
15 and Wellness Center, the Department of Public Health and Social Services,
16 the Department of Education, or any other government agency with similar
17 programs approved by one of these agencies.”

18 **Section 4. Effective Date; Application.** This Act *shall* take effect on
19 January 1, 2017.