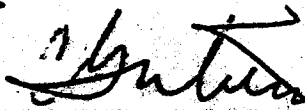


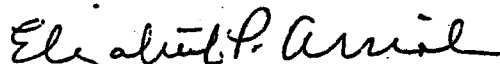
SEVENTEENTH GUAM LEGISLATURE  
1984 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 126, "AN ACT TO ADD NEW SECTIONS 56020.1, 56020.2 AND 56020.3 TO CHAPTER II OF TITLE LX OF THE GOVERNMENT CODE MAKING IT AN UNLAWFUL EMPLOYMENT PRACTICE TO DISCRIMINATE AGAINST DISABLED PERSONS," was on the 10th day of January, 1984, duly and regularly passed.

  
CARL T. C. GUTIERREZ  
Speaker

Attested:

  
ELIZABETH P. ARRIOLA  
Senator and Legislative Secretary

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This Act was received by the Governor this 10<sup>th</sup> day of January 1984, at 2:30 o'clock P.m.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
RICARDO J. BORDALLO  
Governor of Guam

Date:

1/18/84 (6:15 pm)

Public Law No. 17-45

SEVENTEENTH GUAM LEGISLATURE  
1983 (FIRST) Regular Session

Bill No. 126  
Substitute by Committee on Youth,  
Human Resources, Senior Citizens &  
Cultural Affairs

Introduced by:

J. F. Ada  
M. D. A. Manibusan  
A. R. Unpingee

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A. C. Lamorena III  
J. F. Quan  
T. S. Nelson  
E. P. Arriola

AN ACT TO ADD NEW SECTIONS 56020.1, 56020.2 AND  
56020.3 TO CHAPTER II OF TITLE LX OF THE  
GOVERNMENT CODE MAKING IT AN UNLAWFUL  
EMPLOYMENT PRACTICE TO DISCRIMINATE AGAINST  
DISABLED PERSONS.

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

2 Section 1. A new Section 56020.1 is added to the Government Code to  
3 read:

4 "Section 56020.1. Definitions. As used in this Chapter:

5 (a) 'Disability' means any condition or characteristic that renders  
6 a person a disabled person as defined in Subsection (b) of this  
7 Section.

8 (b) 'Disabled person' means any person who:

9 (1) has a physical or mental impairment which substantially  
10 limits one or more major life activities;

11 (2) has a history of, or has been classified as having an  
12 impairment which substantially limits one or more major life  
13 activities;

14 (3) has a physical or mental impairment that does not  
15 substantially limit major life activities but that is treated by  
16 others as constituting such a limitation; or

1 (4) has a physical or mental impairment that substantially  
2 limits major life activities only as a result of the attitudes of  
3 others as having such an impairment.

4 (c) 'Discriminate' or 'discrimination' means to segregate or  
5 unreasonably differentiate in treatment, whether intended or  
6 unintended, or to act in a manner fair in form but discriminatory in  
7 operation based upon disability or use of adaptive devices.

8 (d) 'Major life activities' means functions such as, but not  
9 limited to, caring for one's self, performing manual tasks, walking,  
10 seeing, hearing, speaking, breathing, learning and working.

11 (e) 'Physical' or 'mental impairment' means:

12 (1) any physiological disorder or condition, cosmetic  
13 disfigurement or anatomical loss affecting one or more of the  
14 following body systems: neurological, musculoskeletal, special  
15 sense organs, respiratory, including speech organs, cardio-  
16 vascular, reproductive, digestive genito-urinary, hemic and  
17 lymphatic, skin and endocrine ; or

18 (2) Any mental or physiological disorder, such as mental  
19 retardation, organic brain syndrome, emotional or mental illness  
20 and specific learning disabilities.

21 (f) 'Use of adaptive device' means the utilization of any item to  
22 compensate for a physical or mental impairment, including but not  
23 limited to, braces or other supports, wheel chairs, talking boards,  
24 hearing aids, corrective lenses or seeing eye dogs.

25 (g) 'Qualified individual' means an individual who can perform  
26 the essential functions of the job in question. As applied to a  
27 disabled individual, 'qualified individual' means an individual who, with  
28 reasonable accommodation, can perform the essential functions of the  
29 job in question. Receipt or alleged receipt of treatment for a  
30 disability, whether physical or mental, shall not constitute evidence of  
31 a person's inability to perform the essential functions of a particular  
32 job or position. In addition, uninsurability or increased cost of  
33 insurance under a group or employee insurance plan does not render a  
34 disabled person unqualified.

1           If a disabled person is qualified to perform a particular  
2 occupation by reason of training or experience, the nature of that  
3 occupation shall not be the basis for exception to the unfair or  
4 discriminatory practices prohibited by this Section."

5 Section 2. A new Section 56020.2 is added to the Government Code to  
6 read:

7           "Section 56020.2. Discriminatory practices against disabled  
8 persons made unlawful; offenses defined. It shall be an unlawful  
9 employment practice or unlawful discrimination:

10           (a) For an employer to refuse to hire or employ or promote or to  
11 bar or discharge from employment, any qualified individual because of  
12 his disability or use of adaptive devices provided that an employer may  
13 refuse to hire an individual for good cause relating to the ability of  
14 the individual to perform the work in question;

15           (b) For an employer to discriminate against any individual in  
16 compensation or in the terms, conditions or privileges of employment  
17 because of disability or use of adaptive devices;

18           (c) For an employer or employment agency to print, circulate or  
19 cause to be printed or circulated any statement, advertisement or  
20 publication or to use any form of application for employment or to make  
21 any inquiry in connection with prospective employment, which  
22 expresses, directly or indirectly, any limitation, specification or  
23 discrimination as to disability or use of adaptive devices, unless based  
24 on a bona fide occupational qualification;

25           (d) For any labor organization to exclude or expel from its  
26 membership any person or to discriminate in any way against any of  
27 its members, employer or employees because of disability or use of  
28 adaptive devices;

29           (e) For any employer, labor organization or employment agency  
30 to discharge, expel, or otherwise discriminate against any person  
31 because he has opposed any practice forbidden by this Chapter, or  
32 because he has filed a complaint, testified or assisted in any  
33 proceeding respecting the employment practices and discrimination  
34 prohibited under this Chapter; and

1 (f) For any person whether an employer, employee or not, to  
2 aid, abet, incite, compel or coerce the doing of any of the practices  
3 forbidden by this Chapter, or attempt to do so."

4 Section 3. A new Section 56020.3 is added to the Government Code to  
5 read:

6 "Section 56020.3. Exceptions. (a) An employer shall  
7 accommodate a known disability of an employee or applicant for  
8 employment unless the employer demonstrates that the accommodations  
9 would impose an undue hardship in the conduct of business.

10 (b) This Chapter shall not apply to the employment of any  
11 individual by a parent, spouse or child or of an individual in domestic  
12 service, or where, as part of his or her employment, the individual  
13 resides in the personal residence of the employer or renders a  
14 personal service to the employer or members of his or her family.

15 (c) This Chapter shall not apply to the use of qualifications  
16 based upon disability when the qualification is a bona fide occupational  
17 qualification, certified by the Office of Equal Employment Opportunity  
18 in advance of the use. The exceptions permitted in this Section based  
19 on bona fide occupational qualifications shall be strictly construed."

20 Section 4. Chapter II, Section 10 of P. L. 17-25 as further amended  
21 by Section 23 of P. L. 17-26 is amended to read as follows:

22 "Section 10. For the purposes of controlling and appropriating  
23 ~~personnel services lapses accrued during the fiscal year ending~~  
24 September 30, 1984, there is hereby established within the Government  
25 of Guam a special fund known as the 'Personnel Services Lapse Fund.'  
26 The Personnel Services Lapse Fund shall be under the administration  
27 of the Director of Administration except that personnel services lapses  
28 of the Department of Education which accrue during Fiscal Year 1984  
29 shall be under the administration of the Director of Education who  
30 shall be authorized to expend funds for personnel services without  
31 necessity for reappropriation by the Legislature provided that any  
32 expenditures made by the Department must be reported to the  
33 Legislature within fifteen (15) days of such expenditure(s). As to all  
34 other departments and agencies, no monies shall be expended

1 therefrom except by appropriation of the Legislature. Within fifteen  
2 (15) days after each payday period, the Director of Administration and  
3 the certifying officers of the various departments and agencies within  
4 the government of Guam with the exception of the Department of  
5 Education are hereby directed to calculate wage and salary lapses  
6 caused by vacant positions and positions for which the present  
7 compensation is less than the maximum authorized by the Budget and  
8 the fiscal year ending September 30, 1984 and the Director of  
9 Administration shall cause to be transferred to the Personnel Services  
10 Lapse Fund such amounts as represent vacant positions and positions  
11 for which the present compensation is less than the maximum  
12 authorized by the budget for fiscal year ending September 30, 1984.  
13 The Personnel Services Lapse Fund shall cease and terminate on  
14 September 30, 1984 and monies in said Fund at such time shall be  
15 covered into the General Fund including any unexpended surplus of  
16 lapsed personnel services funds under the administration of the  
17 Department of Education."

18 Section 5. Section 6950.6 of Title VII-A of the Government Code of  
19 Guam is amended to read as follows:

20 "Section 6950.6. Policy Against Advance Payments. With the  
21 exception of off-island orders of the Department of Education, no  
22 procurement shall be made under this Title which shall require advance  
23 payment."

24 Section 6. Subsection (h) of Section 4, Chapter I of Public Law 17-25  
25 is amended to read:

26 (h) No more than twenty-five percent (25%) of the appropriations  
27 for personnel services may be expended for any quarter of the fiscal  
28 year provided however that the Department of Education, the Guam  
29 Community College and the University of Guam shall be exempted from  
30 the provisions of this subsection."