



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 27 1995

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

Via: Office of Speaker Don Parkinson

Dear Speaker Nelson:

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>[Signature]</i>
Time	9:10 am
Date	6.28.95

Enclosed please find a copy of Substitute Bill No. 98 (LS), "AN ACT TO AMEND SUBSECTION (b) OF §34.60, TO REPEAL AND REENACT SUBSECTION (c) OF §34.50, TO REPEAL AND REENACT §34.70, TO REPEAL AND REENACT SUBSECTION (c) OF §34.60, TO ADD A NEW SUBSECTION (d) TO §34.60, TO ADD A NEW §34.80, ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, AND TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT, BROAD-TIPPED MARKERS OR OTHER SPRAY-PAINTING DEVICES TO MINORS", which I have signed into law today as **Public Law No. 23-27**.

An anti-graffiti bill was enacted into law pursuant to Public Law 22-149 by the Twenty-Second Guam Legislature, however, Substitute Bill No. 98 goes further, prohibiting the sale of spray paint and broad-tipped markers to minors and providing for a comprehensive anti-graffiti program.


The business community is solidly behind the removal of the graffiti problem. In fact, I have had a meeting with members of the business community, and they have actually been willing to pull spray paint off of their shelves and lock up these materials instead of displaying them openly in their stores in order to deal with this very serious problem. Additionally, non-profit organizations, such as the Guahan Lions Club under the leadership of Monito S. Co, President, and Emelio Y. Uy, Immediate Past President, have generously donated their time and energy to eliminate graffiti. Many in the private sector have endorsed the ban on sale to minors of items that are commonly used to create graffiti. When young people, or adults, damage public or private property by creating eye-sores for residents and

visitors alike, they exhibit lack of respect for their island home and also damage Guam's economic base.

Many island residents are also damaged by graffiti marks on their buildings, fences, and other structures. This is expensive to remove and demoralizing to those residents who are trying to keep up their properties.

I am very hopeful that the implementation of this law will have the desired results.

Very truly yours,



Carl T. C. Gutierrez

Attachment
230522

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 98 (LS), "AN ACT TO AMEND SUBSECTION (b) OF §34.60, TO REPEAL AND REENACT SUBSECTION (c) OF §34.50, TO REPEAL AND REENACT §34.70, TO REPEAL AND REENACT SUBSECTION (c) OF §34.60, TO ADD A NEW SUBSECTION (d) TO §34.60, TO ADD A NEW §34.80, ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, AND TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT, BROAD-TIPPED MARKERS OR OTHER SPRAY-PAINTING DEVICES TO MINORS," was on the 6th day of June, 1995, duly and regularly passed. The Bill received twenty votes to pass, with one member off-island.



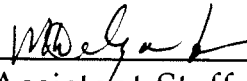
DON PARKINSON
Speaker

Attested:



JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 16 day of June, 1995,
at 10:30 o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 6-27-95

Public Law No. 23-27

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 98 (LS)

As substituted by the author.

Introduced by:

A. C. Lamorena V
C. A. Leon Guerrero
A. C. Blaz
T. C. Ada
J. P. Aguon
E. Barrett-Anderson
J. M. S. Brown
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
L. Leon Guerrero
T. S. Nelson
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND SUBSECTION (b) OF §34.60, TO REPEAL AND REENACT SUBSECTION (c) OF §34.50, TO REPEAL AND REENACT §34.70, TO REPEAL AND REENACT SUBSECTION (c) OF §34.60, TO ADD A NEW SUBSECTION (d) TO §34.60, TO ADD A NEW §34.80, ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, AND TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT, BROAD-

TIPPED MARKERS OR OTHER SPRAY-PAINTING
DEVICES TO MINORS.

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

2 **Section 1.** Subsection (b) of §34.60 of Title 9, Guam Code Annotated, is
3 hereby amended to read:

4 "(b) A violation of subsection (a) of §34.50 is a third degree
5 felony if the defendant's conduct causes or is intended to cause
6 pecuniary loss in excess of Five Hundred Dollars (\$500.00), a
7 misdemeanor if the defendant's conduct causes or is intended to
8 cause pecuniary loss in excess of Fifty Dollars (\$50.00), and a petty
9 misdemeanor if the defendant's conduct causes or is intended to
10 cause pecuniary loss in excess of Twenty-four Dollars (\$24.00).
11 Otherwise, criminal mischief is a violation."

12 **Section 2.** Subsection (c) of §34.50 of Title 9, Guam Code Annotated, is
13 hereby repealed and reenacted to read:

14 "(c) He intentionally damages the property of another; or"

15 **Section 3.** §34.70 of Title 9, Guam Code Annotated, is hereby repealed
16 and reenacted to read:

17 **"§34.70. Graffiti Prohibited.**

18 (a) Definitions. For the purpose of this section, the following
19 terms apply:

20 (1) "Broad-tipped indelible marker" means any felt tip
21 marker, or similar implement, which contains a fluid which is
22 not water soluble and which has a flat or angled writing
23 surface one-half inch or greater.

24 (2) "Bona fide evidence of majority" means a document
25 issued by a federal, state, county or municipal government or
26 agency thereof, including but not limited to, a motor vehicle
27 operator's license, or registration certificate issued under the
28 Federal Selective Service Act, a passport, or an identification
29 card issued to a member of the armed forces which identifies
30 an individual and provides proof of the age of such individual.

31 (3) "Owner" means any and all persons with legal and/or
32 equitable title to real property in the Territory of Guam as their

1 names and addresses are shown upon the records of the
2 Department of Revenue of Taxation.

3 (4) "Supervising Adult" means an individual eighteen (18)
4 years of age or older who has been given responsibility by the
5 minor's parents, legal guardian, or other lawful authority to
6 supervise the minor.

7 (5) "Used or intended to be used" includes usage in the
8 course of a violation or usage to transport a violator to or
9 from the scene of a violation.

10 (b) No person shall write, paint or draw any inscription, figure,
11 or mark of any type on any public or private building or structure or
12 other real or personal property owned, operated or maintained by a
13 governmental entity or any agency or instrumentality thereof or by
14 any person, firm or corporation unless the express prior written
15 permission of the owner, owner's agent, manager or operator of the
16 property has been obtained.

17 (c) Possession of spray paint and markers with intent to make
18 graffiti is prohibited. No person shall carry an aerosol spray paint
19 can or broad-tipped indelible marker with the intent to violate the
20 provisions of this section.

21 (d) Possession of spray paint or broad-tipped indelible markers
22 by minors on public property is prohibited. No person under the age
23 of eighteen (18) shall have in his or her possession any aerosol
24 container or spray paint can or broad-tipped indelible marker while
25 on public property, highway, street, alley, or way except in the
26 company of a supervising adult.

27 (e) Possession of spray paint or broad-tipped indelible markers
28 by minors on private property is prohibited without consent of the
29 owner. No person under the age of eighteen (18) shall have in his or
30 her possession any aerosol container of spray paint or broad-tipped
31 indelible marker while on any private property unless the owner,
32 agent or manager, or person in possession of the property knows of
33 the minor's possession of the aerosol container or marker and has
34 consented to the minor's possession of the aerosol container or
35 marker while on his or her property.

1 (f) Any person violating subsections (b), (c), (d) or (e) shall be
2 punished by a fine of two hundred fifty dollars (\$250.00) for the first
3 offense, and five hundred dollars (\$500.00) for the second offense;
4 and for each subsequent offense by a fine of one thousand dollars
5 (\$1,000.00) or by imprisonment for a term not to exceed sixty (60)
6 days or by both fine and imprisonment at the discretion of the court.
7 In the case of a minor, the parents or legal guardian shall be
8 responsible for payment of all fines. Failure of the parents or legal
9 guardian to make payment will result in the filing of a lien on the
10 parents or legal guardian's property to include the fine and court
11 costs.

12 (g) In addition to any punishment ordered under subsection (f),
13 the court shall order any person found in violation of subsections (b),
14 (c), (d) or (e) to make restitution to the victim for damage or loss
15 caused directly or indirectly by the defendant's offense in a
16 reasonable amount or manner to be determined by the court. Where
17 the defendant is a minor, the parents or legal guardian shall be
18 jointly and severally liable with the minor to make such restitution.

19 (h) In addition to any punishment listed in subsections (f) and
20 restitution ordered under subsection (g), the court shall order any
21 person found in violation of subsection (b), (c), (d) or (e) to perform
22 monitored community service in the removal of graffiti of not less
23 than one hundred eighty (180) hours and not more than three
24 hundred sixty (360) hours.

25 (i) In addition to any punishment listed in subsections (f), (g)
26 and (h), any adult convicted for violating subsections (b), (c), (d) or
27 (e) is guilty of a misdemeanor punishable by imprisonment for not
28 less than a mandatory forty-eight (48) hours.

29 (j) All personal property, including, but not limited to,
30 automobiles and bicycles, used or intended to be used in violating
31 subsections (b), (c), (d) or (e) shall be forfeitable to the Territory of
32 Guam. In any forfeiture under this section, the Court shall not
33 order a forfeiture unless it finds that the forfeiture is commensurate
34 with the severity of the violation to the extent required by the laws
35 of the Territory of Guam, the Organic Act, and the U.S.
36 Constitution.

1 (k) No person or firm shall sell or cause to be sold to any
2 person under the age of eighteen (18) years, and no person under
3 the age of eighteen years (18) shall buy any aerosol container of
4 spray paint or broad-tipped indelible markers. Evidence that a
5 person, his or her employee, or agent demanded and was shown
6 bona fide evidence of majority and acted upon such evidence in a
7 transaction or sale shall be a defense to any prosecution thereof.

8 (l) Every person who owns, conducts, operates or manages a
9 retail commercial establishment selling aerosol containers of spray
10 paint or broad-tipped indelible markers shall within in forty-five (45)
11 days of enactment of this section:

12 (1) Place a sign in clear public view at or near the display
13 of such products stating: "GRAFFITI IS A CRIME. ANY
14 PERSON DEFACTING REAL OR PERSONAL PROPERTY
15 NOT HIS OR HER OWN WITH PAINT OR ANY OTHER
16 LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE
17 BY IMPRISONMENT OF UP TO SIXTY (60) DAYS AND/OR
18 A FINE UP TO ONE THOUSAND DOLLARS (\$1000.00)".

19 (2) Place a sign in the direct view of such persons
20 responsible for accepting customer payment for aerosol
21 containers of spray paint or broad-tipped indelible markers
22 which states: "IT IS A VIOLATION OF THE LAW TO SELL
23 AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-
24 TIPPED INDELIBLE MARKERS TO PERSONS UNDER 18
25 YEARS OF AGE PUNISHABLE BY A CIVIL FINE OF \$100.00".

26 (3) Store or cause such aerosol containers or marker pens
27 to be stored either (a) in the direct line of sight from the cash
28 register work station or any other work station that is
29 normally continuously occupied while the store is open, or (b) in
30 a place not accessible to the public in the regular course of
31 business without employee assistance, pending legal sale or
32 disposition of such marker pens or paint containers.

33 (m) Violation of subsection (l) shall result in a civil penalty of one
34 hundred dollars (\$100.00) for a first offense and two hundred dollars
35 (\$200.00) for subsequent offenses. When three (3) violations of
36 subsection (l) occur within any calendar year at a commercial

1 establishment, that establishment shall be subject to an injunction from
2 a court of competent jurisdiction forbidding the sale of aerosol
3 containers of spray paints and broad-tipped indelible markers for a
4 period up to two (2) years. Violation of such injunction shall be
5 punished by a fine of one hundred dollars (\$100.00) per day of violation
6 in addition to any other penalties levied by the Court. Failure to make
7 payment of fines will be subject to an injunction from a court of
8 competent jurisdiction forbidding the sale of aerosol containers of spray
9 paints and broad-tipped indelible markers until payment of the fine,
10 attorney's fees and costs."

11 **Section 4.** Subsection (c) of §34.60 of Title 9, Guam Code Annotated, is
12 hereby repealed and reenacted to read:

13 "(c) Any adult convicted under subsection (c) of §34.50,
14 Title 9, Guam Code Annotated, is guilty of a misdemeanor
15 punishable by imprisonment for not less than a mandatory
16 forty-eight (48) hours nor more than one year and a fine of two
17 hundred fifty dollars (\$250.00) for the first offense, five
18 hundred dollars (\$500.00) for the second offense and one
19 thousand dollars (\$1000.00) for each subsequent offense.

20 In the case of a minor, the parents or the legal guardian
21 shall be jointly and severally liable with the minor for the
22 payment of all fines. Failure of the parents or legal guardian
23 to make payment will result in the filing of a lien on the
24 parents' or legal guardian's property to include the fine and
25 court costs. Upon an application and finding of indigency, the
26 court may decline to order fines against the minor or parents.

27 In addition to any punishment listed in subsection (c), the
28 court shall order any violator to make restitution to the victim
29 for damages or loss caused directly or indirectly by the
30 defendant's offense in the amount or manner determined by
31 the court. Furthermore, the person or if a minor, his or her
32 parents, shall re-paint or refurbish the property so damaged,
33 destroyed, removed, or defaced at such person's expense,
34 under the supervision of the affected property owner or a court
35 representative. The person shall also perform a minimum of
36 one hundred eighty (180) hours but not to exceed three hundred

1 sixty (360) hours of community service. Parents or legal
2 guardians of any minor found to have violated this subsection
3 shall also be responsible for providing supervision as well as
4 paying for the fine if the minor is unable to do so."

5 **Section 5.** A new subsection (d) is hereby added to §34.60 of Title 9,
6 Guam Code Annotated, to read:

7 "(d) The court may order that any person punished under
8 §34.60(c) or §34.70, Title 9, Guam Code Annotated, who is to be
9 punished by imprisonment, shall be confined on days other than
10 days of regular employment of the person, or on days other
11 than school days if the defendant is a minor, as determined by
12 the court."

13 **Section 6.** A new §34.80 is hereby added to Title 9, Guam Code
14 Annotated, to read:

15 "**§34.80. Use of Fines Collected.** Effective upon the enactment
16 of this section, the Administrative Director of the Superior Court of
17 Guam shall pay over to the Director of Corrections on a regular
18 basis, one-third of all fines collected pursuant to §34.60(c), or §34.70,
19 Title 9, Guam Code Annotated, to be used to compensate staff and
20 provide supplies or facilities to house incarcerated persons convicted
21 of acts made unlawful in §34.50(c) or §34.70, Title 9, Guam Code
22 Annotated.

23 The Administrative Director of the Superior Court of Guam
24 shall pay over to the Guam Environmental Protection Agency's Anti-
25 Litter Fund, one-third of all fines collected pursuant to §34.60(c) or
26 §34.70, Title 9, Guam Code Annotated, to be used for educational
27 advertising of the Don't Mess with Guam, Anti-Graffiti Act of 1994,
28 as well as to issue monetary rewards for people who aid in the
29 capture of graffiti vandals.

30 The Administrative Director of the Superior Court of Guam
31 shall pay over to the Mayor's Council of Guam, one-third of all fines
32 collected pursuant to §34.60(c) or §34.70, Title 9, Guam Code
33 Annotated, to be used for beautification and youth programs
34 instituted in the various villages."

TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session

Date: 6/6/95

VOTING SHEET

Bill No. 98
 Resolution No. _____
 Question: _____

NAME	<u>AYE</u>	<u>NO</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
ADA, Thomas C.	✓		:	
AGUON, John P.				✓
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

20 _____ _____ 1

PL 2327 ✓
Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

May 16, 1995

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

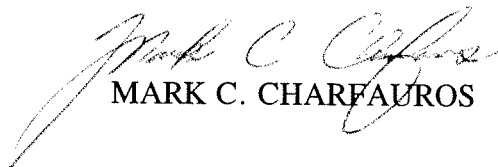
The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 98**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 98** - "AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS."

The voting record is as follows:

TO PASS	<u>11</u>
NOT TO PASS	<u>1</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.


MARK C. CHARFAUROS

Senator Mark C. Charfauros
Chairman
Committee on Judiciary, Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

March 22, 1995

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 98** - "AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS."

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:


1. Original Bill 98, Bill 98 as amended by author and further amended by Committee;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

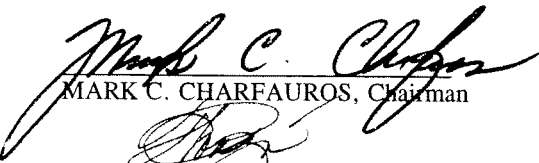



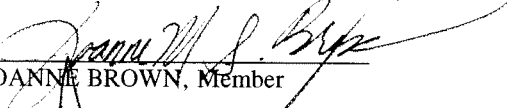


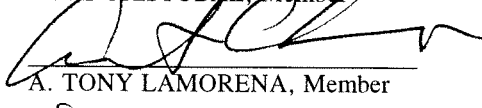
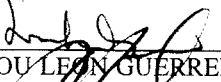
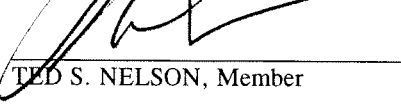


Your attention and cooperation in this matter is greatly appreciated.

Attachments.


MARK C. CHARFAUROS

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND
ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD**

Bill No. 98 - "AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDITH WONPAT-BORJA, Vice-Chairwoman	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
 ANTHONY C. BLAZ, Member	✓	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
 LOU LEON GUERRERO, Member	✓	—	—	—
 TED S. NELSON, Member	—	—	—	—
 VICENTE C. PANGELINAN, Member	—	✓	—	—
 ANGEL L.G. SANTOS, Member	✓	—	—	—
DON PARKINSON, Ex-Officio Member	—	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS

Twenty-Third Guam Legislature

COMMITTEE REPORT

on

Bill No. 98

"AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS."

MARCH 22, 1995

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on March 22, 1995 at 2:00 p.m. at the Legislative Public Hearing Room. Public notice was announced on the March 21, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman

Senator Tom Ada

Senator Ted S. Nelson

Senator Ben Pangelinan

Senator Lou Leon Guerrero

Senator Tony Blaz

Senator Joanne Brown

Senator Tony Lamorena

Senator Elizabeth Barrett-Anderson.

Senator Hye A. Cristobal

Appearing before the Committee to testify on the bill was:

Mr. Joe Rivera, Mayor of Dededo; **oral**

Ms. Bernadette Calvo, private citizen; **oral**

Mr. Edward Artero, Mayor of Yigo; **oral**

Ms. Teresita Borja, Vice-Mayor of Tamuning; **written**

Mr. Mike Phillips, Attorney; **oral**

Mr. Phil Tydingco, Legal Counsel for the Guam Police Department; **oral**

Mary Brennan, Office of the Attorney General; **oral**

Mr. Nito Blas, Mayor of Mangilao; **oral**

Mr. Buck Cruz, Mayor of Merizo; **oral**

Mr. Vicente C. Bernardo, Mayor of Yona; **oral**

Mr. Carl Butler, private citizen; **oral**

II. SUMMARY OF TESTIMONY

Mr. Joe Rivera, the Mayor of Dededo, testified in favor of Bill 98. He stated that he understood that it is practically impossible to monitor all the areas that are being vandalized with graffiti and littered with trash. Therefore, he proposed that the Municipal Planning Council become involved in the enforcement of these criminal acts. He stated that at least ten members per district be deputized to enforce the area of their district. He further proposed that the fines collected as a direct result of this enforcement be directed back to the municipality involved in the apprehension.

Ms. Bernadette Calvo, a private citizen, testified in support of Bill 98. However, she stated that graffiti is not a youth problem, but a social and community problem. She stated that all citizens should make an effort to solve this problem. She also stated her disagreement with section 5 of Bill 98, in regards to outlawing the sale of spray paint cans to minors. She stated her concern that innocent minors such as her son will not be able to purchase these materials. She also stated her concern that this section may result in a "snowball effect," stating that minors will find other ways to obtain paint materials, such as burglarizing residences and businesses. Ms. Calvo further stated that the lack of enforcement of the curfew law adds to the problem of graffiti.

Mr. Edward Artero, the Mayor of Yigo, testified in support of Bill 98. He stated his support of Mayor Rivera's proposal to deputize Municipal Planning Council Members to help alleviate part of this problem. He stated that the intention of this bill is good, but suggested that the sale of paint be limited to homeowners, landlords, or business establishments. He cited an Oregon law that restricts the sale of paint materials to such parties. He also mentioned the success that the law has had on graffiti problems in the state. Mr. Artero further suggested that the Department of Motor Vehicles be involved in the impoundment of vehicles used during the commission of a crime, even a violation of the curfew law. He stated that this will cause parents to be more careful in lending out the family car. He also favored the section of the bill requiring the recording of serial numbers of spray paint cans during transactions. Mr. Artero further stated that a reward system would help persuade many people to become involved in the capture of people doing the graffiti.

Ms. Teresita Borja, the Vice-Mayor of Tamuning, testified in support of Bill 98. Her testimony was in writing; **attached**.

Mr. Mike Phillips, an attorney, testified that he supported the effort and

intention of the bill, but stated that more must be done to combat the problem of graffiti. He stated that he had disagreements with different sections of the bill. He stated his disagreement with imprisoning children for graffiti violations, as well as making the violation a felony. He stated that this will only make matters worse because of the negative effect that imprisonment has on people. He also stated that a felony conviction would ruin the life of a violator, stating that the penalty was too severe, especially when comparing the penalty with other more serious and violent crimes. Mr. Phillips stated that it is more important to evaluate the reasons behind the problems of graffiti, and attack the problem from this perspective. He stated that we must recognize the problems and attitudes of people involved in these acts, and approach the problem through this recognition. He suggested that the Bill be part of a more comprehensive program designed to give youths more recognition and activities to proud of. He also suggested that Mayors play a large role in this program, and become involved in giving youths some pride in their village. Finally, Mr. Phillips suggested that a "grass-roots" approach, involving all the Mayors' offices, would be the best approach to this problem.

Mr. Phil Tydingco, Legal Counsel for G.P.D., testified in favor of Bill 98. He stated that he supported Mike Phillips' concern that as a community problem, prevention is an important approach to the problem of graffiti. He stated his concern about certifying anyone over sixteen as an adult, in relation to being charged with a misdemeanor, or a third-degree felony. He stated that there is a technical inconsistency, in that it does not adhere to a section in Title 19 GCA, which states that certification of juveniles as adults should occur in relation to second-degree felony's and above. He also stated his concern about whether outlawing the sale of spray paint to minors would really deter graffiti. He stated that there are many other ways of obtaining spray paint. He further stated that as mentioned earlier, it might be more effective to approach the problem from a community standpoint, and suggested that the fines collected should be directed to a community-based fund, such as the Mayors' office or other appropriate entity which would subsequently develop community-focused programs.

Ms. Mary Brennan, from the family and juvenile division of the Office of the Attorney General, testified in support of Bill 98. She stated her belief that most graffiti is committed by juveniles. She stated her support for the involvement of parents in the community service that is required under the penalty section of this Bill. She stated her disagreement with the mandatory forty-eight hour imprisonment for violators. She stated that it might be counter-productive to associate these violators with hardened and more dangerous criminals. She stated that it should be left to the discretion of the Court to determine whether it would

be appropriate and in the interest of the violator, to be confined for forty-eight hours. She also stated her disagreement with certifying juveniles as adults if the charge is not a second-degree felony or above.

Mr. Nito Blas, Mayor of Mangilao, testified in support of Bill 98. He stated his concern that we might be concentrating too much with the penalties for violators, and not enough on the prevention and capture of violators. He stated that there are organizations that have approached his office for paint for the purpose of painting over graffiti around the island. He suggested that some funds be directed to the Municipal Planning Council, so that paint and other materials may be provided to such organizations. He stated that there are many organizations willing to paint over graffiti, but the materials are needed.

Mr. Buck Cruz, Mayor of Merizo, testified in favor of Bill 98. He stated that most graffiti is on government property and buildings. He stated that he supported Mr. Mike Phillips' ideas and suggested that the Bill be made part of a more comprehensive and community-based approach to the problem. He also suggested that instead of the funds being directed to the Department of Corrections and the Environment Protection Agency, it should be directed to the agencies that are effected by the graffiti. He stated that if this Bill is passed, it is important that the law is enforced. He cited the curfew law as an example of a law being passed but not enforced.

Mr. Vicente C. Bernardo, the Mayor of Yona, testified in favor of Bill 98. He stated that the Bill should be publicly announced in different languages, so that all ethnic groups will understand the law. He also suggested that all the penalties in the Bill be increased to reflect the seriousness of the problem of graffiti. He also suggested that this law be enforced if passed. He cited the curfew law as an example of a law not being enforced.

Mr. Carl Butler, a private citizen and victim of graffiti, testified in support of Bill 98. He stated that his building in Chalan Pago has been vandalized with graffiti seven times in three months. He stated that it is difficult for the police to constantly monitor buildings throughout the island, and stated that the community must get involved. He further stated that he has become personally involved in painting over graffiti in various areas of the island, and realizes that the cost can become extensive. He stated as President of the Guam Diabetes Association, he hopes that as the organization grows, it can help fight the war against graffiti. He stated that the young people who graffiti have a lot of energy, and this energy should be channeled towards the painting of buildings that are vandalized.

III. FINDING AND RECOMMENDATION

The Committee finds that the problem of graffiti on this island has escalated in the last few years. The Committee further finds that graffiti is not only a youth problem, but a social and community problem. The Committee finds that the intent behind Bill 98 is honorable, but upon the hearing of public testimony, it is clear that the Bill must be amended. See Amended Bill attached.

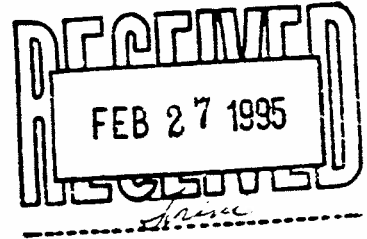
Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 98**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 98**

"AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS."



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910



February 3, 1995

MEMORANDUM

TO: Chairperson, Committee on Judiciary, Criminal Justice
and Environmental Affairs

FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 98

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.



SONNY LUJAN ORSINI

Attachment

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 98

Introduced by:

A.C. Lamorena V. *(Signature)*
C.A. Leon Guerrero *(Signature)*
A.C. Blaz *(Signature)*
E. Barrett-Anderson
J.M. Brown
F.P. Camacho *(Signature)*
M. Forbes
A.R. Umpingco *(Signature)*

AN ACT TO AMEND SUBSECTIONS (b) and (c) OF SECTION 34.60, TO
ADD A NEW SECTION 34.65 ALL OF TITLE 9, GUAM CODE ANNOTATED.
TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF
DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE
PROPERTY AND TO CREATE THE GUAM CULTURAL PERFORMANCE AND
VISUAL ARTS FUND.

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

2 Section 1. Subsection (b) of section 34.60 of Title 9, Guam
3 Code Annotated, is hereby amended to read:

4 "(b) A violation of subsection (a) ~~for (e)~~ of Section 34.50
5 is a third degree felony if the defendant's conduct causes or is
6 intended to cause pecuniary loss in excess of Five Hundred Dollars
7 (\$500.00), a misdemeanor if the defendant's conduct causes or is
8 intended to cause pecuniary loss in excess of Fifty Dollars (\$50),
9 and a petty misdemeanor if the defendant's conduct causes or is
10 intended to cause pecuniary loss in excess of Twenty-Four Dollars
11 (\$24). Otherwise, criminal mischief is a violation."

1 **Section 2.** Subsection (c) of section 34.60 of Title 9, Guam
2 Code Annotated, is hereby amended to read:

3 "(c) Any person, including any juvenile under the jurisdiction
4 of the ~~{Juvenile}~~ Family Court, convicted under subsection (c) of
5 \$34.50, Title 9, Guam Code Annotated, is guilty of a misdemeanor
6 ~~{and shall be}~~ punishable by a fine of no less than Two Hundred
7 Fifty Dollars (\$250) and not more than One Thousand Dollars
8 (\$1000), per violation plus the responsibility of repainting or
9 refurbishing the property so damaged, destroyed, removed, or
10 defaced at such persons expense, under the supervision of the
11 affected property owner, and the Mayor of the municipality in which
12 the offense was committed, or a court representative, and in
13 addition, perform a minimum of one hundred eighty (180) but not to
14 exceed perform to three hundred sixty (360) hours of community
15 service. Furthermore, parents or guardians of any minor convicted
16 under this subsection shall also be responsible for providing
17 supervision."

18 **Section 3.** A new section 34.65 is hereby added to Title 9,
19 Guam Code Annotated, to read:

20 "**Section 34.65. Use of fines collected.** At the end of
21 each quarter, effective upon the enactment of this section and for
22 one year thereafter, the Superior Court of Guam shall transfer all
23 fines collected pursuant to §34.60 subsection (c), Title 9, Guam
24 Code Annotated, to the Guam Environmental Protection Agency's Anti-
25 litter Fund to be used for educational advertising of the Don't
26 Mess with Guam, Anti-Graffiti Act of 1994. After the one year
27 period described above, the Superior Court of Guam shall transfer


1 all fines collected pursuant to §34.60 subsection (c), Title 9,
2 Guam Code Annotated, to the Guam Cultural Performance and Visual
3 Arts Fund to be administered by the Guam Council on the Arts and
4 Humanities for the design and construction of a Cultural
5 Performance and Visual Arts Center. After the date of the enactment
6 of this section, the funds collected pursuant to §34.60, subsection
7 (c), Title 9, Guam Code Annotated, shall not be transferred or
8 expended except by law."

9

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 98
(As amended by the author)

Introduced by:

A.C. Lamorena V. 
C.A. Leon Guerrero
A.C. Blaz
E. Barrett-Anderson
J.M. Brown
F.P. Camacho
M. Forbes
A.R. Unpingco

AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) OF SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS.

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

2 Section 1. Subsection (b) of section 34.60 of Title 9, Guam
3 Code Annotated, is hereby amended to read:

4 "(b) A violation of subsection (a) ~~for (c)~~ of Section 34.50
5 is a third degree felony if the defendant's conduct causes or is
6 intended to cause pecuniary loss in excess of Five Hundred Dollars
7 (\$500.00), a misdemeanor if the defendant's conduct causes or is
8 intended to cause pecuniary loss in excess of Fifty Dollars (\$50),

1 and a petty misdemeanor if the defendant's conduct causes or is
2 intended to cause pecuniary loss in excess of Twenty-Four Dollars
3 (\$24). Otherwise, criminal mischief is a violation."

4 **Section 2.** Subsection (c) of section 34.60 of Title 9, Guam
5 Code Annotated, is hereby repealed and reenacted to read:

6 "(c) Any person, including any juvenile under the jurisdiction
7 of the Family Court, convicted under subsection (c) of §34.50,
8 Title 9, Guam Code Annotated, is guilty of a misdemeanor punishable
9 by imprisonment for not less than a mandatory forty-eight (48)
10 hours nor more than one year and a fine of no less than Five
11 Hundred Fifty Dollars (\$500) and not more than One Thousand Dollars
12 (\$1000), per violation. In addition, the person or if a minor, his
13 or her parents, shall repaint or refurbish the property so damaged,
14 destroyed, removed, or defaced at such person's expense, under the
15 supervision of the affected property owner or a court
16 representative. The person shall also perform a minimum of one
17 hundred eighty (180) but not to exceed three hundred sixty (360)
18 hours of community service. Furthermore, parents or guardians of
19 any minor found to have violated this subsection shall also be
20 responsible for providing supervision as well as paying for the
21 fine if the minor is unable to do so.

22 **Section 3.** A new subsection (d) is hereby added to §34.60 of Title
23 9, Guam Code Annotated to read:

24 "Any person over the age of sixteen (16) convicted of
25 violating §34.60 subsection (c) , Title 9 Guam Code Annotated,

1 shall be treated as an adult. The court may order that any person
2 punished under §34.60 subsection (c) , Title 9 Guam Code Annotated,
3 who is to be punished by imprisonment shall be confined on days
4 other than days of regular employment of the person, or on days
5 other than school days if the defendant is a minor, as determined
6 by the court."

7 **Section 4.** A new section 34.65 is hereby added to Title 9,
8 Guam Code Annotated, to read:

9 **"Section 34.65. Use of Fines Collected.** Effective upon
10 the enactment of this section, the Administrative Director of the
11 Superior Court of Guam shall pay over to the Director of
12 Corrections on a regular basis, one half of all fines collected
13 pursuant to §34.60 subsection (c), Title 9, Guam Code Annotated, to
14 be used to compensate staff and provide supplies or facilities to
15 house incarcerated persons convicted of acts made unlawful in
16 §34.60 subsection (c), Title 9, Guam Code Annotated.

17 The Administrative Director of the Superior Court of Guam
18 shall pay over to the Guam Environmental Protection Agency's Anti-
19 Litter Fund, one half of all fines collected pursuant to §34.60
20 subsection (c) Title 9, Guam Code Annotated, to be used for
21 educational advertising of the Don't Mess with Guam, Anti-Graffiti
22 Act of 1994; as well as to issue monetary rewards for people who
23 aid in the capture of graffiti vandals. "

24 **Section 5.** Section 34.70 of Title 9, Guam Code Annotated, is hereby
25 repealed and reenacted to read:

1 "**§34.70.Selling of spray paint to minors.** It shall be unlawful
2 to sell any spray paint can or any other preparation to spray paint
3 to anyone under the age of eighteen. Any person, firm or
4 corporation convicted of selling, giving, or in any way furnishing
5 to a person who is under the age of eighteen (18) years, any spray
6 paint can, or any other preparation to spray paint, is guilty of a
7 violation subject to a fine of not more than five-hundred dollars
8 (\$500) per violation.

9 Every person, firm or corporation which sells, gives, or in
10 any way furnishes, to another person, any spray paint can, or any
11 other preparation to spray paint, must record the serial number of
12 the item (if one exists) so that the transaction is recorded."
13

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 98

As amended by the author,
and as further amended by the
Committee on Judiciary, Criminal
Justice and Environmental Affairs

Introduced by:

A.C. Lamorena V.
C.A. Leon Guerrero
A.C. Blaz
E.Barrett-Anderson
J.M.Brown
F.P. Camacho
M. Forbes
A.R. Unpingco

AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) OF SECTION 34.60, ~~TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65,~~ AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS.

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

Section 1. Subsection (b) of section 34.60 of Title 9, Guam Code Annotated, is hereby amended to read:

"(b) A violation of subsection (a) [~~or (c)~~] of Section 34.50 is a third degree felony if the defendant's conduct causes or is intended to cause pecuniary loss in excess of Five Hundred Dollars (\$500.00), a misdemeanor if the defendant's conduct causes or is intended to cause pecuniary loss in excess of Fifty Dollars (\$50), and a petty misdemeanor if the defendant's conduct causes or is

1 intended to cause pecuniary loss in excess of Twenty-Four Dollars (\$24). Otherwise, criminal
2 mischief is a violation."

3 **Section 2.** Subsection (c) of section 34.60 of Title 9, Guam Code Annotated, is hereby
4 repealed and reenacted to read:

5 "(c) Any person, including any juvenile under the jurisdiction of the Family Court, convicted
6 ~~[under subsection (c) of §34.50, Title 9, Guam Code Annotated]~~ for acts of vandalism, including but
7 not limited to defacing of property with graffiti or other inscribed materials, is guilty of a
8 misdemeanor punishable by ~~[imprisonment for not less than a mandatory forty-eight (48) hours nor~~
9 ~~more than one year and]~~ a fine of no less than Five Hundred Fifty Dollars (\$500) and not more than
10 One Thousand Dollars (\$1000), per violation. In addition, the person or if a minor, the minor and
11 his or her parents or legal guardian shall clean up, repaint or refurbish the property so damaged,
12 destroyed, removed, or defaced at such person's or minor's expense, under the supervision of the
13 affected property owner or a court representative. The person shall also perform a minimum of one
14 hundred eighty (180) hours but not to exceed three hundred sixty (360) hours of community service.
15 Furthermore, parents or guardians of any minor found to have violated this subsection shall also be
16 responsible for providing supervision as well as paying for the fine if the minor is unable to do so.

17 **Section 3.** A new subsection (d) is hereby added to §34.60 of Title 9, Guam Code Annotated to read:

18 ~~—"Any person over the age of sixteen (16) convicted of violating §34.60 subsection (c), Title~~
19 ~~9 Guam Code Annotated, shall be treated as an adult. The court may order that any person punished~~
20 ~~under §34.60 subsection (c), Title 9 Guam Code Annotated, who is to be punished by imprisonment~~
21 ~~shall be confined on days other than days of regular employment of the person, or on days other than~~
22 ~~school days if the defendant is a minor, as determined by the court."~~

23 **Section 3.** A new section 34.65 is hereby added to Title 9, Guam Code Annotated, to read:

24 ~~"Section 34.65. Use of Fines Collected. Effective upon the enactment of this section,~~
25 ~~the Administrative Director of the Superior Court of Guam shall pay over to the Director of~~

1 ~~Corrections on a regular basis one half of all fines collected pursuant to §34.60 subsection (c), Title~~
2 ~~9, Guam Code Annotated, to be used to compensate staff and provide supplies or facilities to house~~
3 ~~incarcerated persons convicted of acts made unlawful in §34.60 subsection (c), Title 9, Guam Code~~
4 ~~Annotated.~~

5 ~~—The Administrative Director of the Superior Court of Guam shall pay over to the Guam~~
6 ~~Environmental Protection Agency's Anti-Litter Fund, one half of all fines collected pursuant to~~
7 ~~§34.60 subsection (c) Title 9, Guam Code Annotated, to be used for educational advertising of the~~
8 ~~Don't Mess with Guam, Anti-Graffiti Act of 1994; as well as to issue monetary rewards for people~~
9 ~~who aid in the capture of graffiti vandals.—~~

10 **“Section 34.60 Creation of Anti-Graffiti Fund.** There is hereby created, separate and apart
11 from other funds of the government of Guam, a fund known as the Anti-Graffiti Fund. This fund
12 shall not be commingled with the General Fund and shall be kept in a separate bank account.
13 Effective upon the enactment of this section, the Administrative Director of the Superior Court of
14 Guam shall pay over to the Director of Parks and Recreation, on a regular basis, all fines collected
15 pursuant to §34.60 subsection (c), Title 9, Guam Code Annotated, The Director of Parks and
16 Recreation shall deposit such funds into the Anti-Graffiti Fund. This fund shall be expended for
17 educational advertising of the Anti-Graffiti Act of 1994, the development of Youth activities and
18 programs and to provide support to Village Mayors for the purposes of removing graffiti.”

19 **Section 4.** Section 34.70 of Title 9, Guam Code Annotated, is hereby repealed and reenacted
20 to read:

21 **"§34.70.Selling of spray paint to minors.** It shall be unlawful to sell any spray paint can or
22 any other preparation to spray paint to anyone under the age of eighteen. Any person, firm or
23 corporation convicted of selling, giving, or in any way furnishing to a person who is under the age
24 of eighteen (18) years, any spray paint can, or any other preparation to spray paint, is guilty of a
25 violation subject to a fine of not more than ~~five-hundred dollars (\$500)~~ one-thousand dollars (\$1000)

1 per violation.

2 Every person, firm or corporation which sells, gives, or in any way furnishes, to another
3 person, any spray paint can, or any other preparation to spray paint, must record the serial number
4 of the item (if one exists) so that the transaction is recorded."

Senator Mark C. Charfuros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs

Twenty-Third Guam Legislature

Ada's Commercial & Professional Center
138 East Marine Dr., Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342~3
Fax: (671) 472-3440

WITNESS SIGN-IN SHEET

Wednesday, March 22

2:00 p.m.

Public Hearing Room

Guam Legislature, Agana

Bill No. 98 - AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) OF SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS.

NAME (please print)	ORGANIZATION	ORAL/WRITTEN	FOR/AGAINST
<u>BERNADETTE CALVO</u>	<u>PRIVATE CITIZEN</u>	<u>ORAL</u>	<u>FOR</u> ✓
<u>Edward Artero</u>	<u>Mayor of Yigo</u>	<u>oral</u>	<u>FOR</u> ✓
<u>Teresta Berja</u>	<u>Vice-Mayor</u>	<u>written</u>	<u>FOR</u> ✓
<u>Mick Phillips</u>	<u>Self</u>	<u>oral</u>	<u>FOR</u> ✓
<u>Jesse Perez</u>	<u>Mayor of Mangrove</u>	<u>~</u>	<u>FOR</u> No show
<u>Phil Tydonic</u>	<u>G.P.D.</u>	<u>ORAL</u>	<u>"</u> ✓
<u>MARY BOENNAW</u>	<u>AG's cyyie</u>	<u>ORAL</u>	<u>FOR</u> ✓
<u>Mary Ann</u>	<u>...</u>	<u>...</u>	<u>FOR</u> ✓
<u>Carl Butler</u>	<u>...</u>	<u>...</u>	<u>FOR</u> ✓
<u>CARL BUTLER</u>			



ALFREDO C. DUNGCA
MAYOR

TERESITA C. BORJA
VICE - MAYOR

Office of the Mayor
MUNICIPALITY OF TAMUNING-TUMON
GOVERNMENT OF GUAM
c/o Mayor's Council of Guam
P.O. Box 786 Agana, Guam 96910
Phones: 646-8646 / 646-5211 / 649-2409
Fax: 646-5210

Good afternoon, Mr. Chairman, Honorable Senators, and all who are present here today for this public hearing. My name is Teresita C. Borja, Vice-Mayor for the Municipality of Tamuning testifying on Bill No. 98.

I was elated to hear of this public hearing and to know that there is finally something being done to alleviate this long-time problem.

Our youths should be aware that we as parents would be responsible for their wrong-doing.

I, therefore, fully support the passage of Bill No. 98.

NOTICE OF PUBLIC HEARING

Twenty-Third Guam Legislature
Committee on Judiciary, Criminal Justice and Environmental
Affairs

Senator Mark C. Charfauros
Chairman

AGENDA

- Bill No. 23** - AN ACT TO PROHIBIT THE IMPORTATION BY ANY PERSON OR FIRM OF AMMUNITION COMMONLY KNOWN AS "RHINO-AMMO" OF "BLACK RHINO" BULLETS, AND TO PROVIDE PENALTY FOR VIOLATIONS OF THIS ACT.
- Bill No. 35** - AN ACT TO REPEAL AND RE-ENACT 4 GCA §6223 RELATIVE TO DIFFERENTIAL PAY FOR EMERGENCY MEDICAL TECHNICIANS.
- Bill No. 37** - AN ACT TO AMEND §104 (p) TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO INCLUDING SUPERIOR COURT MARSHALS AS UNIFORMED PERSONNEL.
- Bill No. 44** - AN ACT TO ASSIGN POLICE OFFICERS TO POLICE TYPE DUTIES PERFORMED BY CLASSIFIED CIVILIAN EMPLOYEES.
- Bill No. 57** - AN ACT TO ASSIGN FORE DEPARTMENT PERSONNEL TO FIRE-FIGHTING TYPE DUTIES AND TO HAVE ROUTINE CLERICAL DUTIES PERFORMED BY CLASSIFIED CIVILIAN EMPLOYEES.
- Bill No. 75** - AN ACT TO AMEND SECTION 83.96 OF 9 GUAM CODE ANNOTATED.
- Bill No. 76** - AN ACT TO ADD ARTICLE 3 TO CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, REQUIRING SAFE PETROLEUM WASTE DISPOSAL.
- Bill No. 82** - AN ACT TO ADD A NEW SUBSECTION 725 TO TITLE 1, GUAM CODE ANNOTATED, REQUIRING ALL GUAM CODES TO CONTAIN A COMPLETE INDEX AND TABLE OF CONTENTS AND TO PROVIDE THAT AN ACT SHALL NOT BE CONSIDERED CODIFIED UNTIL AN INDEX AND TABLE OF CONTENTS ARE PROVIDED.
- Bill No. 95** - AN ACT TO PROVIDE PROTECTION FOR ANY GOVERNMENT EMPLOYEE WHO WISHES TO COMMUNICATE WITH ANY ELECTED OR APPOINTED OFFICIAL WITHIN THE GOVERNMENT INCLUDING AUTONOMOUS AGENCIES AND INSTRUMENTALITY'S AND LAW ENFORCEMENT OFFICIALS ABOUT POSSIBLE VIOLATIONS OF LAW, RULE, OR REGULATIONS OF THE RESPECTIVE AGENCIES; AND PROTECTION OF PRIVILEGED DOCUMENTS, BY ADDING NEW SECTIONS 3114 AND 3116 TO CHAPTER 3 OF TITLE 2 GUAM CODE ANNOTATED.
- Bill No. 98** - AN ACT TO AMEND SUBSECTION (b) SECTION 34.60, TO REPEAL AND REENACT SUBSECTION (c) OF SECTION 34.60, TO ADD A NEW SUBSECTION (d) OF SECTION 34.60, TO ADD A NEW SECTION 34.65, AND TO REPEAL AND REENACT SECTION 34.70 ALL OF TITLE 9, GUAM CODE ANNOTATED, TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY, TO MAKE IT UNLAWFUL TO SELL SPRAY PAINT OR ANY OTHER SPRAY PAINTING DEVICES TO MINORS, as amended by the author.
- Bill No. 117** - AN ACT TO REPEAL AND REENACT SECTION 26103 OF THE VEHICLE CODE OF GUAM, REQUIRING ALL DRIVERS AND PASSENGERS OF EVERY VEHICLE ON GUAM TO WEAR APPROVED SEAT BELTS AND ADD A NEW SECTION 26105 (D) TO PROVIDE PENALTIES FOR VIOLATIONS.
- Bill No. 123** - AN ACT TO AMEND 16 GCA §§3401, 16 GCA §7120 and 5 GCA §50111, TO ADD 16 GCA §7120.1, AND TO REPEAL 17 GCA §41110, RELATIVE TO PARKING FOR PERSONS WITH DISABILITIES.
- Bill No. 157** - AN ACT TO ADD A NEW SECTION 1102 (qq) TO CHAPTER 1, OF TITLE 16 OF THE GUAM CODE ANNOTATED OF THE MOTOR VEHICLE CODE OF GUAM TO INCLUDE THE COMMONWEALTH OF THE NORTHERN MARINAS IN THE ACCEPTANCE OF DRIVER'S LICENSES FROM OTHER JURISDICTIONS.

Date: Wednesday, March 22, 1995

Time: 2:00 p.m.

Place: Public Hearing Room, Guam Legislature
155 Hesler Street, Agana

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MAR 13 1995

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 98 (LS)

Introduced by:

- A.C. Lamorena V. *(Signature)*
- C.A. Leon Guerrero *(Signature)*
- A.C. Blaz *(Signature)*
- E. Barrett-Anderson
- J.M. Brown
- F.P. Camacho *(Signature)*
- M. Forbes
- A.R. Unpingco *(Signature)*

AN ACT TO AMEND SUBSECTIONS (b) and (c) OF SECTION 34.60, TO ADD A NEW SECTION 34.65 ALL OF TITLE 9, GUAM CODE ANNOTATED. TO PROVIDE A MINIMUM PENALTY FOR PERSONS FOUND GUILTY OF DAMAGING, DESTROYING, REMOVING, OR DEFACING PUBLIC OR PRIVATE PROPERTY AND TO CREATE THE GUAM CULTURAL PERFORMANCE AND VISUAL ARTS FUND.

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

2 Section 1. Subsection (b) of section 34.60 of Title 9, Guam
3 Code Annotated, is hereby amended to read:

4 "(b) A violation of subsection (a) ~~{or (e)}~~ of Section 34.50
5 is a third degree felony if the defendant's conduct causes or is
6 intended to cause pecuniary loss in excess of Five Hundred Dollars
7 (\$500.00), a misdemeanor if the defendant's conduct causes or is
8 intended to cause pecuniary loss in excess of Fifty Dollars (\$50),
9 and a petty misdemeanor if the defendant's conduct causes or is
10 intended to cause pecuniary loss in excess of Twenty-Four Dollars
11 (\$24). Otherwise, criminal mischief is a violation."

1 **Section 2.** Subsection (c) of section 34.60 of Title 9, Guam
2 Code Annotated, is hereby amended to read:

3 "(c) Any person, including any juvenile under the jurisdiction
4 of the ~~{Juvenile}~~ Family Court, convicted under subsection (c) of
5 §34.50, Title 9, Guam Code Annotated, is guilty of a misdemeanor
6 ~~{and shall be}~~ punishable by a fine of no less than Two Hundred
7 Fifty Dollars (\$250) and not more than One Thousand Dollars
8 (\$1000), per violation plus the responsibility of repainting or
9 refurbishing the property so damaged, destroyed, removed, or
10 defaced at such persons expense, under the supervision of the
11 affected property owner, and the Mayor of the municipality in which
12 the offense was committed, or a court representative, and in
13 addition, perform a minimum of one hundred eighty (180) but not to
14 exceed perform to three hundred sixty (360) hours of community
15 service. Furthermore, parents or guardians of any minor convicted
16 under this subsection shall also be responsible for providing
17 supervision."

18 **Section 3.** A new section 34.65 is hereby added to Title 9,
19 Guam Code Annotated, to read:

20 "**Section 34.65. Use of fines collected.** At the end of
21 each quarter, effective upon the enactment of this section and for
22 one year thereafter, the Superior Court of Guam shall transfer all
23 fines collected pursuant to §34.60 subsection (c), Title 9, Guam
24 Code Annotated, to the Guam Environmental Protection Agency's Anti-
25 litter Fund to be used for educational advertising of the Don't
26 Mess with Guam, Anti-Graffiti Act of 1994. After the one year
27 period described above, the Superior Court of Guam shall transfer

1 all fines collected pursuant to §34.60 subsection (c), Title 9,
2 Guam Code Annotated, to the Guam Cultural Performance and Visual
3 Arts Fund to be administered by the Guam Council on the Arts and
4 Humanities for the design and construction of a Cultural
5 Performance and Visual Arts Center. After the date of the enactment
6 of this section, the funds collected pursuant to §34.60, subsection
7 (c), Title 9, Guam Code Annotated, shall not be transferred or
8 expended except by law."

9
