



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: Oct. 16, 1998

Time: 11:20am

Rec'd by: [Signature]

Print Name: J. Roberto

OCT 16 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuáttro na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>1:58pm</u>
Date	<u>10.16.98</u>

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 535 (COR), "AN ACT TO ADD CHAPTER 6 AND §72158, AND AMEND §72109, ALL TO TITLE 11 OF THE GUAM CODE ANNOTATED; AND TO REPEAL §70.44.1 OF ARTICLE 1, CHAPTER 70 OF TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO REQUIRING SELLERS OF TOBACCO PRODUCTS TO OBTAIN A TOBACCO LICENSE AND TO ENFORCING THE PROHIBITION OF SALES OF TOBACCO PRODUCTS TO MINORS", which I have signed into law today as **Public Law No. 24-278**.

This legislation is a result of the passage of bills on several occasions regarding this same subject by the Guam Youth Congress. The young people of our island are concerned about the health risks of tobacco use, and this legislation has come from the efforts of the youth representatives.

This legislation makes it easier to regulate the sale of tobacco products to minors. Currently, it is illegal to sell tobacco products to minors, however, the penalty for such sales is a misdemeanor, a fine, and for more than 2 offenses, the revocation of any licenses authorizing sales.

The current law discourages enforcement of the prohibition of tobacco sales to minors because the penalty includes the complete shut-down of the all the sales businesses of the seller. This is over-inclusive and not directed towards the specific act of selling tobacco products to minors.

01055

This legislation provides similar fines for selling tobacco to minors, but also provides for separate licensing of wholesalers, retailers, and vending machines which market tobacco products. It also provides for the restriction on access to tobacco product vending machines to minors.

The fines and fees collected as a result of this legislation are to be placed in 3 funds: 30% to the Off-Island Sport Fund, 20% to the Health and Human Services Fund, and 50% for the Youth Tobacco Education and Prevention Fund. These funds pay for preventive programs and for sports programs which are a healthy alternative to tobacco use by the young.

This legislation will not become effective until the promulgation of rules and regulations. It may be a very good way to begin to effectively assist our youth in promoting life-long habits to enjoy a healthy and active life.

Very truly yours,



Carl T. C. Gutierrez
I Maga'lahañ Guåhan
Governor of Guam

Attachment: copy attached for signed bill
 original attached for vetoed bill

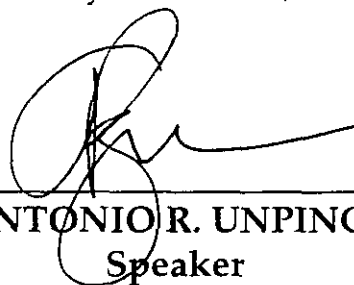
cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

01055

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

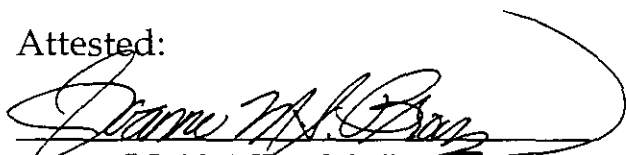
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 535(COR) "AN ACT TO ADD CHAPTER 6 AND §72158, AND AMEND §72109, ALL TO TITLE 11 OF THE GUAM CODE ANNOTATED; AND TO REPEAL §70.44.1 OF ARTICLE 1, CHAPTER 70 OF TITLE 9 OF THE GUAM CODE ANNOTATED, RELATIVE TO REQUIRING SELLERS OF TOBACCO PRODUCTS TO OBTAIN A TOBACCO LICENSE AND TO ENFORCING THE PROHIBITION OF SALES OF TOBACCO PRODUCTS TO MINORS," was on the 2nd day of October, 1998, duly and regularly passed.



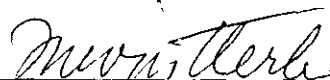
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahen Guahan this 6th day of October, 1998,
at 8:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: 10-16-98

Public Law No. 24-278

**MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session**

Bill No. 535 (COR)

As substituted by the Committee
on Finance and Taxation, and as
further substituted by the Author
and as further substituted on the Floor.

Introduced by:

V. C. Pangelinan
J. T. Won Pat
L. A. Leon Guerrero
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco

**AN ACT TO *ADD* CHAPTER 6 AND §72158, AND
AMEND §72109, ALL TO TITLE 11 OF THE GUAM
CODE ANNOTATED; AND TO *REPEAL* §70.44.1 OF
ARTICLE 1, CHAPTER 70 OF TITLE 9 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
REQUIRING SELLERS OF TOBACCO PRODUCTS
TO OBTAIN A TOBACCO LICENSE AND TO**

**ENFORCING THE PROHIBITION OF SALES OF
TOBACCO PRODUCTS TO MINORS.**

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
3 prevalent use of tobacco products by our Island’s youth is deemed a social and
4 health dilemma which requires immediate intervention and redress. Reliable
5 studies reveal that people who begin to smoke at an early age are more
6 vulnerable and prone to develop severe levels of nicotine addiction than those
7 who start at a later age, thus resulting in increased risk to significant health
8 problems, such as lung cancer and other respiratory problems.

9 *I Liheslaturan Guåhan* further finds that the current statute, which allows
10 for the complete revocation of an establishment’s business license if caught
11 selling tobacco products to minors, is both often unenforced and, if and when
12 enforced, too limited. The complete closure of a business establishment
13 disrupts and impedes the daily operations of providing valuable services to the
14 community and the livelihood of the proprietor and his or her family. *I*
15 *Liheslaturan Guåhan* further finds that noncompliance with the requirement to
16 reduce and prohibit the use of tobacco products by minors will result in the
17 decrease in the annual Substance Abuse Prevention and Treatment (“SAPT”)
18 Block Grant award for Guam.

19 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
20 to create a separate licensing requirement for the retail and wholesale sales of
21 tobacco products, and to establish comprehensive and restrictive guidelines for
22 the sales of tobacco products, particularly to minors. Proceeds from fees and

1 fines collected will be utilized for youth educational programs and sports
2 activities that act as healthy alternatives, and as effective deterrents to substance
3 abuse and criminal activities. Systematic reduction of purchase and
4 consumption of tobacco products by minors is critical to ensuring the long-term
5 health of our community and its residents.

6 **Section 3.** Chapter 6 is hereby *added* to Division 1 of Title 11 of the Guam
7 Code Annotated to read as follows:

8 **"CHAPTER 6.**
9 **TOBACCO CONTROL.**

10	Section 6100.	Title.
11	Section 6101.	Definitions.
12	Section 6102.	Applicability of Commercial Licenses
13		Provisions and Requirements.
14	Section 6103.	License: Requirement.
15	Section 6104.	Same: Term.
16	Section 6105.	Same: Renewal.
17	Section 6106.	Same: Vending Machines.
18	Section 6107.	Same: Multiple.
19	Section 6108.	Same: Fees.
20	Section 6109.	Display of License.
21	Section 6110.	Sale or Distribution of Tobacco
22		Products to Minors Prohibited.
23	Section 6111.	Acceptable Forms of Identification.
24	Section 6112.	Display of Prohibition on Sales to
25		Minors.

1	Section 6113.	Licensee Responsible for Employee Actions.
2		
3	Section 6114.	Penalties for Selling Tobacco Products Without a License.
4		
5	Section 6115.	Penalties for Selling Tobacco Products to Minors.
6		
7	Section 6116.	Minors Prohibited from Possession, Use and Purchase of Tobacco Products.
8		
9		
10	Section 6117.	Tobacco Education for Minors.
11	Section 6118.	Notice.
12	Section 6119.	Hearing.
13	Section 6120.	Enforcement.
14	Section 6121.	Publication and Distribution of Laws and Rules.
15		
16	Section 6122.	Use of Collected Fees and Penalties for Youth Programs.
17		
18	Section 6123.	Youth Tobacco Education and Prevention Fund.
19		
20	Section 6124.	Report.

21 **Section 6100. Title.** This Chapter shall be known and cited as the
22 *'Tobacco Control Act of 1998.'*

23 **Section 6101. Definitions.** Unless the context otherwise
24 requires, the definitions set forth herein shall govern the construction and
25 interpretation of this Chapter.

1 (a) *'Director'* means the Director of the Department of Revenue
2 and Taxation.

3 (b) *'License'* means Retail License and Wholesale License for sales
4 of tobacco products, as defined under this Section.

5 (c) *'Minor'* means any person under eighteen (18) years of age.

6 (d) *'Person'* means any individual, company, corporation, firm,
7 partnership, organization, estate, trust, limited liability company, limited
8 liability partnership or other legal entity.

9 (e) *'Retail'* means the sale of tangible personal property for
10 consumption or use by the purchaser and not for resale.

11 (f) *'Retail License'* means a license issued by the Director of the
12 Department of Revenue and Taxation for the retail sale of tobacco
13 products or sale through a vending machine.

14 (g) *'Tobacco product'* means any tobacco cigarette, cigar, pipe
15 tobacco, smokeless tobacco, chewing tobacco or any other form of tobacco
16 which may be utilized for smoking, chewing, inhalation or other means of
17 ingestion.

18 (h) *'Vending machine'* means any mechanical, electrical or
19 electronic device that, on insertion of money, tokens or any other form of
20 payment, automatically dispenses tobacco products.

21 (i) *'Wholesale'* means the importation into or purchase on Guam
22 from a manufacturer or other wholesale licensee of tangible personal
23 property *not* for consumption or use by the purchaser but solely for resale
24 or retail wholesale or retail sellers.

1 (j) '*Wholesale License*' means a license issued by the Director of the
2 Department of Revenue and Taxation for the wholesale sale of tobacco
3 products to retailers.

4 **Section 6102. Applicability of Commercial Licenses Provisions**
5 **and Requirements.** Provisions and requirements of Chapters 70 and 72
6 of Title 11 of the Guam Code Annotated applicable to commercial licenses
7 shall govern this Chapter in matters and provisions *not* specifically
8 provided in this Chapter and when relevant.

9 **Section 6103. License: Requirement.** (a) It shall be a
10 violation of this Chapter for any person to wholesale tobacco products
11 without first obtaining a valid wholesale tobacco license.

12 (b) It shall be a violation of this Chapter for any person to retail
13 tobacco products without first obtaining a valid retail tobacco license for
14 each premise or vending machine in which tobacco products are sold.

15 (c) Any person directly or indirectly engaged in the business of
16 manufacturing tobacco products may not retail tobacco products, directly
17 or indirectly, or hold a retail or wholesale license. It shall *not* be a
18 violation of this Chapter for any such person engaged in the business of
19 manufacturing tobacco products to import, export or sell for resale
20 tobacco products to a duly licensed tobacco wholesaler.

21 (d) The Director shall *not* issue a retail or wholesale license to a
22 minor.

23 **Section 6104. Same: Term.** Licenses shall be issued on an
24 annual basis and shall expire on the thirty-first (31st) day of March

1 following the date of issuance. The full fee shall be paid for any fraction
2 of the year for which a license is issued.

3 **Section 6105. Same: Renewal.** A licensee may renew his license
4 at the expiration thereof by the payment of the annual license fee set forth
5 in §6108 of this Chapter and by filing with the renewal application. A
6 licensee who fails to renew his license on or before the thirty-first (31st)
7 day of March of each year shall be assessed a late fee of Twenty Dollars
8 (\$20.00) and a penalty of One Dollar (\$1.00) per each calendar day he is
9 delinquent, which penalty shall become part of the renewal fee, and the
10 license is automatically suspended, *unless* all payments for annual fee, late
11 fee and the daily penalty are paid in full on or before April 30 of that year,
12 in which case the license may be reinstated by the Director immediately.

13 Any licensee who fails to renew his or her license on or before the
14 thirtieth (30th) day of April shall be required to discontinue the sales of
15 tobacco products, and shall be subject to an injunction issued by the
16 Superior Court of Guam and to prosecution under §70119. Such failure to
17 renew while continuing the operation of the business shall constitute
18 refusal and failure to obtain a license under the provisions of Division 3 of
19 this Title.

20 **Section 6106. Same: Vending Machines.** (a) The owner of a
21 vending machine shall obtain a retail license under §6103 and pay the fee
22 required under Subsection (b) of §6108, for each vending machine.

23 (b) Any licensee who violates Subsection (a) of this Section shall
24 be fined Fifty Dollars (\$50.00) per violation.

1 **Section 6107. Same: Multiple.** A licensee applying for retail
2 licenses to operate more than one (1) premise or more than one (1)
3 vending machine shall obtain a separate retail license for each premise
4 and each machine, and shall pay the fee prescribed for each premise and
5 each machine.

6 **Section 6108. Same: Fees.** The fee of a license for sales of
7 tobacco products shall be paid by the applicant at the time of application
8 and shall be as follows:

- 9 (a) annual tobacco retailer's retail license \$ 40.00;
10 (b) annual tobacco vending machine retail license \$ 20.00;
11 (c) annual tobacco wholesaler's license \$ 500.00.

12 **Section 6109. Display of License.** (a) A licensee for sales of
13 tobacco products, excluding sales through vending machines, shall
14 prominently display the license on each licensed premise.

15 (b) The licensee for vending machines sales of tobacco products
16 shall affix a retail license decal furnished by the Department in a
17 prominent position on each vending machine.

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

20 **Section 6110. Sale or Distribution of Tobacco Products to**
21 **Minors Prohibited.** (a) It shall be a violation of this Chapter for any
22 person to sell or distribute tobacco products to minors. It shall *not* be a
23 violation of this Chapter for any person to refuse to sell or distribute
24 tobacco products to any person whom the seller or the distributor
25 reasonably believes to be under twenty-seven (27) years of age, and who

1 is unable to produce acceptable photographic identification and proof that
2 he or she is over the age of eighteen (18) years.

3 (b) Vending machines selling tobacco products shall be placed in
4 such a location that they are accessible *only* to persons over the age of
5 eighteen (18) or are under the constant, direct supervision and
6 unobstructed line-of-sight of the person authorizing the installation or
7 placement of the tobacco vending machine upon premises he or she
8 manages or otherwise controls, or his or her agent or employee. It shall be
9 the responsibility of the supervising adult to ensure that minors do *not*
10 purchase tobacco products from vending machines. For purposes of this
11 Section, the person liable for selling or furnishing tobacco products to
12 minors by a tobacco vending machine shall be the person authorizing the
13 installation or placement of the tobacco vending machine upon premises
14 he or she manages, or otherwise controls, and under circumstances in
15 which he or she has knowledge, or should otherwise have grounds for
16 knowledge, that the tobacco vending machine will be utilized by minors.

17 This Section does *not* prohibit a licensee or an employer from
18 distributing tobacco products to any employee who handles tobacco
19 products in the course of the commercial distribution or sale of the
20 products. In any proceeding for the suspension or revocation of any
21 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 before furnishing any tobacco product to a minor, an identification card,
24 such person shall be a defense to such proceeding for the suspension or
25 revocation of any license.

1 **Section 6111. Acceptable Forms of Identification.** For the
2 purposes of this Chapter, the following instruments are the *only*
3 acceptable types of instruments of identification as required in §6110:

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

6 (b) an official identification issued by a Federal or 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 **Section 6112. Display of Prohibition on Sales of Tobacco**
12 **Products to Minors.** All licensees shall post notice of this Chapter
13 prohibiting the sale of tobacco products to minors.

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

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

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

22 **Section 6113. Licensee Responsible for Employee Actions.**
23 Acts or omissions of an employee of a licensee that violate any provisions
24 of this Chapter shall be deemed to be acts or omissions of the licensee.

1 **Section 6114. Penalties for Selling Tobacco Products Without a**
2 **License.** In addition to any other penalties and fines that may be levied,
3 including those under §§6115 and 70120 of this Title, any person who
4 violates §6103 shall be guilty of a misdemeanor as set forth in §70119 of
5 this Title, and punished as follows:

6 (a) in the case of a first violation, by a fine of Two Hundred Fifty
7 Dollars (\$250.00);

8 (b) in the case of a second violation, by a fine of Five Hundred
9 Dollars (\$500.00);

10 (c) in the case of three (3) or more violations, a fine of not less
11 than One Thousand Dollars (\$1,000.00), nor more than Two Thousand
12 Five Hundred Dollars (\$2,500.00), and the person shall *not* be eligible to
13 apply for a license for five (5) years after the date of the assessment of a
14 fine.

15 **Section 6115. Penalties for Selling or Distributing Tobacco**
16 **Products to Minors.** (a) In addition to any other penalties and fines
17 that may be levied, any person who violates §6110 of this Chapter shall be
18 assessed penalties and/or have their license suspended as follows:

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

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

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

5 (4) in the case of four (4) or more violations within any five
6 (5) year period, the person shall be fined Five Thousand Dollars
7 (\$5,000.00) and, in the case of a licensee, the license shall be revoked.
8 The revoked retailer shall be ineligible to apply for a new license for
9 two (2) years after the effective date of the revocation.

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

13 (c) During any suspension or revocation of a license under this
14 Section, the licensee so suspended may *not* sell tobacco products and must
15 remove all tobacco products from all areas covered by that license. In
16 addition, any new application for a license to sell tobacco products while a
17 licensee is suspended under this Chapter shall be denied.

18 **Section 6116. Minors Prohibited from Possession, Use and**
19 **Purchase of Tobacco Products.** It shall be a violation of this Chapter for
20 any minor to use or be in possession of tobacco products or attempting to
21 purchase tobacco products using false identification.

22 **Section 6117. Tobacco Education for Minors.** Any minor who
23 violates §6116 of this Chapter shall attend an education program on
24 tobacco products to include smoking cessation information administered
25 by the Department of Mental Health and Substance Abuse, Department of

1 Public Health and Social Services, Department of Education or other
2 government agencies with similar programs recognized by any or all of
3 these departments.

4 **Section 6118. Notice.** Unless otherwise provided, prior to the
5 revocation or suspension of a license issued under this Chapter, the
6 Director shall provide a notice to the holder of said license, via certified
7 mail, return receipt requested. The notice shall contain the following
8 information:

9 (a) the name and title of the person issuing the notice;

10 (b) the date on which the fine, suspension or revocation will
11 become effective;

12 (c) the reason for the fine, revocation or suspension;

13 (d) that the licensee may request a hearing regarding the fine,
14 revocation or suspension;

15 (e) that the request for a hearing shall be made in person or in
16 writing via certified mail, return receipt requested and received by the
17 Director within ten (10) days after receipt of the notice; and

18 (f) that failure to appear in person or through mail received by
19 the Director within ten (10) days after receipt of the notice, or by the
20 notice's return by the U.S. Postal Service shall act as a waiver of the right
21 to a hearing and the fine, revocation or suspension will, if applicable,
22 become effective on the date included in the notice.

23 **Section 6119. Hearing.** Except as otherwise specifically
24 provided for herein, the Director shall conduct proceedings on any
25 hearing required under the provisions of this Chapter in accordance with

1 the provisions of the Administrative Adjudication Law, and shall have all
2 of the powers granted in such Act.

3 (a) Upon receipt of the request for a hearing as provided in this
4 Section, a hearing shall be held before a Hearings Officer appointed by the
5 Director in accordance with the Administrative Adjudication Law. The
6 hearing shall be set and conducted within forty-eight (48) hours of receipt
7 of the request, holidays, Saturdays and Sundays *not* to be included. The
8 hearing can be set for a later day if the applicant or licensee so requests,
9 but no later than as required by law.

10 (b) At the hearing the applicant or licensee may contest the denial,
11 fine, revocation or suspension.

12 (c) If the Hearings Officer finds that the applicant is *not* eligible
13 for a license, the Hearings Officer shall declare the license application
14 denied. If the Hearings Officer finds that the fine, suspension or
15 revocation is in accordance with this Chapter, then that fine, suspension or
16 revocation shall take effect immediately. The action of the Hearings
17 Officer is final.

18 (d) If the applicant or licensee does *not* appear at the scheduled
19 hearing, in person, or through a representative as allowed by the Hearings
20 Officer, the Hearings Officer shall enter an order supporting the denial,
21 fine, revocation or suspension of the licensee or applicant.

22 **Section 6120. Enforcement.** The primary responsibility for
23 enforcement of this Chapter shall be with the Department of Revenue and
24 Taxation ('DRT') in cooperation with the Department of Mental Health
25 and Substance Abuse. Any person may register a complaint under this

1 Section with DRT. The Director shall notify any establishment or
2 individual subject to this Section of a complaint regarding that
3 establishment's or individual's alleged violation of this Section, and shall
4 keep a record of that notification.

5 (a) In carrying out its enforcement responsibilities, the Director or
6 his or her designee shall conduct random, unannounced inspections at
7 retail sites and may enlist the assistance of persons that are between
8 twelve (12) and seventeen (17) years of age, upon written consent of their
9 parents or legal guardians, in conducting these enforcement activities.
10 Participation in these enforcement activities by a minor shall *not* constitute
11 a violation of §6116 of this Chapter, and the minor is immune from
12 prosecution or penalties thereunder, or under any other provision of law
13 prohibiting the purchase of these products by minors.

14 (b) The Director shall adopt and publish guidelines for the use of
15 minors in inspections conducted pursuant to this Section, that shall
16 include, but not be limited to, all of the following:

17 (1) the Director, or his or her designee, may, upon written
18 consent of their parents or legal guardians, enlist the services of
19 minors who are between twelve (12) and seventeen (17) years of age
20 in random inspections to determine if sales of cigarettes or other
21 tobacco products are being made to minors;

22 (2) a photograph or video recording of the minors shall be
23 taken prior to each inspection or shift of inspections and retained by
24 the Director or his or her designee for purposes of verifying
25 appearances;

1 (3) the Director, or his or her designee, may use video
2 recording equipment when conducting the inspections to record and
3 document illegal sales or attempted sales;

4 (4) the minor, if questioned about his or her age, shall state
5 his or her actual age and shall present a true and correct
6 identification if verbally asked to present it (Any failure on the part
7 of the minor to provide true and correct identification, if verbally
8 asked for it, shall be a defense to any action pursuant to this
9 Section.);

10 (5) the minor shall be under the supervision of a regularly
11 employed peace officer, or an adult duly authorized by the Director,
12 or his or her designee, during the inspection;

13 (6) following the completion of the sale, or attempted sale,
14 the peace officer, or an adult duly authorized by the Director, or his
15 or her designee accompanying the minor, shall reenter the retail
16 establishment and inform the seller of the random inspection and
17 identify the minor to the seller; and

18 (7) failure to comply with the procedures set forth in this
19 Section shall be a defense to any action brought pursuant to this
20 Chapter.

21 **Section 6121. Publication and Distribution of Laws and Rules.**

22 The Director shall compile and provide a copy of the compilation of laws
23 and rules concerning retail tobacco sales to every new licensee at no
24 charge.

1 **Section 6122. Use of Collected Fees and Penalties for Youth**
2 **Programs.** All fines and fees assessed and collected under this
3 Chapter shall be distributed and deposited in the following manner by
4 DRT on the final working day of the months of March, June, September
5 and December of each year:

6 (a) thirty percent (30%) to the Department of Parks and
7 Recreation Off-Island Sports Fund;

8 (b) twenty percent (20%) to the Health and Human Services
9 Fund; and

10 (c) fifty percent (50%) to the Youth Tobacco Education and
11 Prevention Fund.

12 **Section 6123. Youth Tobacco Education and Prevention Fund.**

13 There is created, separate and apart from any other funds of the
14 government of Guam, under the administration and control of the
15 Department, the *Youth Tobacco Education and Prevention Fund* ('YTEPF').
16 YTEPF shall be held in an account or accounts at a Guam financial
17 institution, or institutions, separate and apart from all other accounts and
18 funds of the government of Guam, and shall *not* be subject to the transfer
19 authority of *I Maga'lahaen Guåhan*. One hundred percent (100%) of the
20 funds in the YTEPF shall be utilized by the Department of Mental Health
21 and Substance Abuse, for youth compliance monitoring and tobacco and
22 drug prevention and education programs.

23 **Section 6124. Report.** The Director shall report monthly to
24 the Department of Mental Health and Substance Abuse ('DMHSA') the
25 list of all licenses granted and renewed, including the names and street

1 addresses of the business or the location of the vending machine, the
2 number of violations processed and the penalties imposed, and any other
3 information that the Director and DMHSA agree upon.”

4 **Section 4.** Section 70.44.1 of Article 1, Chapter 70 of Title 9 of the Guam
5 Code Annotated is hereby *repealed*.

6 **Section 5.** Section 72109 of Article 2, Chapter 72, Division 2 of Title 11 of
7 the Guam Code Annotated is hereby *amended* to read as follows:

8 **“Section 72109. Vending Machine Fees.** Except that in the case
9 of a licensee engaged in the selling of such property through coin vending
10 machines, the annual fee is Five Dollars (\$5.00) for each coin machine so
11 operated, notwithstanding 11 GCA §70121, *Two or More Business*
12 *Locations.*”

13 **Section 6.** Section 72158 is hereby *added* to Article 2, Chapter 72, Division
14 2 of Title 11 of the Guam Code Annotated to read as follows:

15 **“Section 72158. Tobacco License.** The licensing of sales
16 of tobacco products shall be governed by the provisions of Chapter 6 of
17 Title 11 of the Guam Code Annotated.”

18 **Section 7. Rules and Regulations.** Within one hundred twenty (120)
19 days after the enactment of this Act, the Director of the Department of Revenue
20 and Taxation shall, in cooperation with the Director of the Department of
21 Mental Health and Substance Abuse, submit to *I Liheslaturan Guåhan* the rules
22 and regulations necessary, pursuant to the Administrative Adjudication Law, to
23 implement the provisions of this Act.

24 **Section 8. Severability.** If any provision of this Act or its application
25 to any person or circumstances is held invalid, the invalidity does *not* affect

1 other provisions or applications of this Act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this Act
3 are severable.

4 **Section 9. Effective Date.** The provisions of this Act shall take effect
5 immediately upon the promulgation of the rules and regulations.

I MINA' BENTE KUATTRO NA LIHESLA I URAN GUAHAN

1998 (SECOND) Regular Session

Date: _____

VOTING SHEET

S Bill No. 535
 Resolution No. _____
 Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, Frank B., Jr.	✓			
BARRETT-ANDERSON, Elizabeth				
BLAZ, Anthony C.	✓			
BROWN, Joanne M. S.	✓			
CAMACHO, Felix P.	✓			
CAMACHO, Francisco P.	✓			
CHARFAUROS, Mark C.	✓			
CRUZ, Edwardo J.		✓		
FLORES, William B.S.M.	✓			
FORBES, Mark	✓			
KASPERBAUER, Lawrence F.	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta A.	✓			
LEON GUERRERO, Lou	✓			
PANGELINAN, Vicente C.	✓			
SALAS, John C.		✓		
SANTOS, Angel L.G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WON PAT, Judith T.	✓			

TOTAL

14 2 _____

CERTIFIED TRUE AND CORRECT:

 Clerk of the Legislature