



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 24 2000

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Singko na Libeslaturan Guåhan
Twenty-Fifth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>10:33am</u>
Date	<u>3-27-00</u>

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 195 (COR), "AN ACT TO REPEAL AND REENACT §§22102, 22103, 22104 AND 22105 AND TO ADD §§22106, 22107 AND 22108 TO CHAPTER 22, PART 1, DIVISION 2, PART 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM HEALTH CERTIFICATES", which I have signed into law today as **Public Law No. 25-120**.

This legislation provides for a health certificate to be designed similar to a drivers' license, to be carried on the person of each employee who needs a health certificate from the Department of Public Health and Social Services. It also restricts obtaining health certificates to those persons who are United States citizens, permanent resident aliens, or those who are non-immigrants but authorized to work on Guam. The procedure for obtaining a health certificate is updated and clarified. Those who are not properly authorized to work will be fined, and the fines will be available for appropriation to the Division of Environmental Health of the Department of Public Health and Social Services.

Very truly yours,

[Signature]
Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

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

cc: The Honorable A. R. Unpingco
 Speaker

00846

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session


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

This is to certify that Bill No. 195 (COR) "AN ACT TO REPEAL AND REENACT §§22102, 22103, 22104 AND 22105, AND TO ADD §§22106, 22107 AND 22108 TO CHAPTER 22, PART 1, DIVISION 2, PART 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM HEALTH CERTIFICATES," was on the 9th day of March 2000, duly and regularly passed.



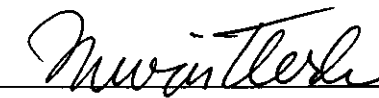
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 14th day of March, 2000,
at 2:35 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 3-24-00

Public Law No. 25-120

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. 195 (COR)

As amended by Committee
on Health, Human Services
and Chamorro Heritage and
further amended on the Floor.

Introduced by:

E.C. Bermudes
F. B. Aguon, Jr.
L. F. Kasperbauer
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
A. C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
J. C. Salas
S. A. Sanchez, II
A. R. Unpingco

**AN ACT TO REPEAL AND REENACT §§22102,
22103, 22104 AND 22105, AND TO ADD §§22106,
22107 AND 22108 TO CHAPTER 22, PART 1,
DIVISION 2, PART 1 OF TITLE 10 OF THE GUAM
CODE ANNOTATED, RELATIVE TO
GOVERNMENT OF GUAM HEALTH
CERTIFICATES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that the current system adopted by the Department of Public Health and
4 Social Services ('DPH&SS') for the issuance of Health Certificates shall be
5 improved to better serve the people. Although the current law requires
6 health-regulated establishment to post Health Certificates in a conspicuous
7 location within the premises of the establishment, patrons are *not* able to
8 easily and quickly identify whether or not the employees have current valid
9 Health Certificates.

10 It is the intent of *I Liheslaturan Guåhan* to require that the current Health
11 Certificate bear the photo of the person to whom it is issued, and that the
12 person carry their Health Certificate at all times while working in a health-
13 regulated activity so that the public may know that the person working in that
14 activity has met the requisite health standards for that work.

15 **Section 2.** Section 22102 of Chapter 22, Part 1, Division 2, Part 1 of Title
16 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
17 follows:

18 **"Section 22102. Form.** The Director shall prescribe the form
19 of the Health Certificate that shall provide information, including the
20 certificate holder's name, date of birth, photograph, authorized activity
21 and the dates of issuance and expiration."

22 **Section 3.** Section 22103 of Chapter 22, Part 1, Division 2, Part 1 of Title
23 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
24 follows:

1 **"Section 22103. Definitions.** The definitions of §20101
2 of Title 10 shall apply to this Subchapter. In addition and unless the
3 context clearly requires otherwise, the words and phrases listed below
4 mean:

5 (a) '*Person Employed*' includes any owner, operator,
6 manager or other person performing any functions covered by
7 §22101, whether for compensation or otherwise. The Director is
8 authorized to determine what persons are included in this
9 definition.

10 (b) '*Health Regulated Establishment*' means any
11 establishment or facility subject to the permitting requirements of
12 Division 2, Part 1 of Title 10 of the Guam Code Annotated.

13 (c) '*Nonimmigrant*' is a person who is *not* a citizen or a
14 permanent resident alien of the United States as those terms are
15 defined by the Immigration and Nationality Act, and it includes
16 those persons whose admission to the United States is based upon
17 a covenant of free association with the United States."

18 **Section 4.** Section 22104 of Chapter 22, Part 1, Division 2, Part 1 of Title
19 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
20 follows:

21 **"Section 22104. Requirements.** Pursuant to the Administrative
22 Adjudication Law, the Director shall establish and may modify by
23 regulation, the requirements and fees for obtaining a Health Certificate.
24 The requirements for a Health Certificate shall include: (1) a physical
25 examination; (2) written, oral or practical examinations; *and* (3)

1 minimum education standards and continuing education programs
2 deemed necessary by the Director to prevent the spread of
3 communicable diseases in any health-regulated establishment wherever
4 such employment or activity places the employee in intimate contact
5 with the customer or the customer's food or drink.

6 No Health Certificate shall be issued to any person who has *not*
7 established through written documentation, as approved by the
8 Director, that the person is a citizen of the United States, a permanent
9 resident alien or a nonimmigrant who is authorized by the Immigration
10 and Naturalization Service to be employed in the United States."

11 **Section 5.** Section 22105 of Chapter 22, Part 1, Division 2, Part 1 of Title
12 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
13 follows:

14 **"Section 22105. Possession, Posting and Inspection of Health**
15 **Certificates.** (a) Every person who is required by §22101 of Title
16 10 of the Guam Code Annotated to have a Health Certificate shall have
17 the certificate in that person's personal possession at all times during
18 their working hours.

19 (b) A valid copy, issued by the Department of Public
20 Health and Social Services, of all Health Certificates shall be
21 conspicuously posted at the place of employment or business.

22 (c) Every person employed who is required by §22101 of
23 Title 10 of the Guam Code Annotated to have a Health Certificate
24 shall exhibit the certificate to the Director of the Department of
25 Public Health and Social Services, or the Director's authorized

MINA'BENTĒ SINGKO NA LIHESLATUR 'N GUAHAN
2000 (SECOND) Regular Session


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

This is to certify that Bill No. 195 (COR) "AN ACT TO REPEAL AND REENACT §§22102, 22103, 22104 AND 22105, AND TO ADD §§22106, 22107 AND 22108 TO CHAPTER 22, PART 1, DIVISION 2, PART 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM HEALTH CERTIFICATES," was on the 9th day of March 2000, duly and regularly passed.



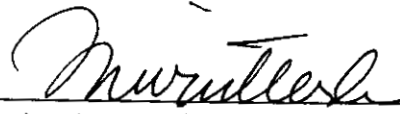
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 14th day of March, 2000,
at 2:35 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 195 (COR)

As amended by Committee
on Health, Human Services
and Chamorro Heritage and
further amended on the Floor.

Introduced by:

E.C. Bermudes
F. B. Aguon, Jr.
L. F. Kasperbauer
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
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**AN ACT TO REPEAL AND REENACT §§22102,
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4 Social Services ('DPH&SS') for the issuance of Health Certificates shall be
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7 location within the premises of the establishment, patrons are *not* able to
8 easily and quickly identify whether or not the employees have current valid
9 Health Certificates.

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11 Certificate bear the photo of the person to whom it is issued, and that the
12 person carry their Health Certificate at all times while working in a health-
13 regulated activity so that the public may know that the person working in that
14 activity has met the requisite health standards for that work.

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18 **"Section 22102. Form.** The Director shall prescribe the form
19 of the Health Certificate that shall provide information, including the
20 certificate holder's name, date of birth, photograph, authorized activity
21 and the dates of issuance and expiration."

22 **Section 3.** Section 22103 of Chapter 22, Part 1, Division 2, Part 1 of Title
23 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
24 follows:

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2 of Title 10 shall apply to this Subchapter. In addition and unless the
3 context clearly requires otherwise, the words and phrases listed below
4 mean:

5 (a) *‘Person Employed’* includes any owner, operator,
6 manager or other person performing any functions covered by
7 §22101, whether for compensation or otherwise. The Director is
8 authorized to determine what persons are included in this
9 definition.

10 (b) *‘Health Regulated Establishment’* means any
11 establishment or facility subject to the permitting requirements of
12 Division 2, Part 1 of Title 10 of the Guam Code Annotated.

13 (c) *‘Nonimmigrant’* is a person who is *not* a citizen or a
14 permanent resident alien of the United States as those terms are
15 defined by the Immigration and Nationality Act, and it includes
16 those persons whose admission to the United States is based upon
17 a covenant of free association with the United States.”

18 **Section 4.** Section 22104 of Chapter 22, Part 1, Division 2, Part 1 of Title
19 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
20 follows:

21 **“Section 22104. Requirements.** Pursuant to the Administrative
22 Adjudication Law, the Director shall establish and may modify by
23 regulation, the requirements and fees for obtaining a Health Certificate.
24 The requirements for a Health Certificate shall include: (1) a physical
25 examination; (2) written, oral or practical examinations; *and* (3)

1 minimum education standards and continuing education programs
2 deemed necessary by the Director to prevent the spread of
3 communicable diseases in any health-regulated establishment wherever
4 such employment or activity places the employee in intimate contact
5 with the customer or the customer's food or drink.

6 No Health Certificate shall be issued to any person who has *not*
7 established through written documentation, as approved by the
8 Director, that the person is a citizen of the United States, a permanent
9 resident alien or a nonimmigrant who is authorized by the Immigration
10 and Naturalization Service to be employed in the United States."

11 **Section 5.** Section 22105 of Chapter 22, Part 1, Division 2, Part 1 of Title
12 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
13 follows:

14 **"Section 22105. Possession, Posting and Inspection of Health**
15 **Certificates.** (a) Every person who is required by §22101 of Title
16 10 of the Guam Code Annotated to have a Health Certificate shall have
17 the certificate in that person's personal possession at all times during
18 their working hours.

19 (b) A valid copy, issued by the Department of Public
20 Health and Social Services, of all Health Certificates shall be
21 conspicuously posted at the place of employment or business.

22 (c) Every person employed who is required by §22101 of
23 Title 10 of the Guam Code Annotated to have a Health Certificate
24 shall exhibit the certificate to the Director of the Department of
25 Public Health and Social Services, or the Director's authorized

1 representative of the Division of Environmental Health, upon
2 demand made during that person's working hours.

3 (d) **Single Certificate Required.** Each person is required
4 to have only one (1) Health Certificate, regardless on the number
5 of industries the person is employed by. The Health Certificate
6 shall state which industries the certificate holder is authorized to
7 work in. Each time a new industry is added to the authorized
8 activities the certificate holder may engage in, the certificate shall
9 be re-issued to include the newly authorized industry(ies). Such
10 Health Certificate shall be valid in all businesses engaged in the
11 industry in which the certificate holder is authorized to work."

12 **Section 6.** Section 22106 is hereby *added* to Chapter 22, Part 1, Division
13 2, Part 1 of Title 10 of the Guam Code Annotated to read as follows:

14 "**Section 22106. Administrative Penalties.** (a) A health-
15 regulated establishment that permits a person to perform services
16 without having in their possession a valid Health Certificate at the
17 time the services are performed commits an administrative
18 violation, and the Director may impose a fine of *not to exceed* Three
19 Hundred Dollars (\$300.00) for a first offense, and shall impose a
20 fine of One Thousand Dollars (\$1,000.00) for a second offense
21 involving the same person occurring within one (1) year of the
22 first offense.

23 *If* the Director cites more than one (1) person at the same
24 time for that person's failure to have in their possession the Health

1 Certificate, each citation is a separate administrative violation for
2 the health-related activity.

3 (b) Before imposing an administrative penalty against a
4 person or a health-regulated establishment, the Director shall issue
5 a notice of intent to impose the penalty and provide the person or
6 health-regulated establishment an opportunity to request a
7 hearing on the proposed penalty. The request must be made
8 within ten (10) days of the date that the notice of intent is served
9 upon the person or health-regulated establishment.

10 (c) Any person or health-regulated establishment may
11 seek review of any administrative penalty imposed before the
12 Superior Court of Guam. Such review shall be upon the record
13 established before the Director and *not de novo*. The Superior
14 Court may sustain, modify or vacate any administrative penalty it
15 reviews.

16 (d) If any person, or a health-regulated establishment, fails
17 to comply with an administrative penalty order after it has
18 become final, the Attorney General shall bring a civil action to
19 enforce the order or to recover the amount ordered or assessed,
20 plus current interest from the date of the final order or decision.

21 To prevail in such an action, the Director need establish only that:

22 (1) notice was given as required;

23 (2) a hearing was granted to the defendant or that
24 the defendant requested no hearing; *and*

1 (3) the penalty was imposed and has become final
2 either because the administrative order was *not* appealed to
3 the Superior Court, or that after judicial review the
4 administrative order remains an unsatisfied obligation.”

5 **Section 7.** Section 22107 is hereby *added* to Chapter 22, Part 1, Division
6 2, Part 1 of Title 10 of the Guam Code Annotated to read as follows:

7 **“Section 22107. Environmental Health Fund.** There is
8 hereby created, separate and apart from other funds of the government
9 of Guam, a fund known as the Environmental Health Fund. The fund
10 shall *not* be commingled with any other fund and shall be deposited into
11 a separate account. All proceeds from fees and fines collected pursuant
12 to this Subchapter shall be deposited into the fund and it shall be
13 expended upon legislative appropriation solely in support of the
14 functions of the Division of Environmental Health of the Department of
15 Public Health and Social Services.”

16 **Section 8.** Section 22108 is hereby *added* to Chapter 22, Part 1, Division
17 2, Part 1 of Title 10 of the Guam Code Annotated to read as follows:

18 **“Section 22108. Severability.** *If* any provision, clause,
19 sentence or paragraph of this Chapter, or the application thereof to any
20 person or circumstances shall be held invalid, such invalidity shall *not*
21 effect the other provisions of this Chapter which can be given effect
22 without the invalid provision or application, and to this end the
23 provisions of this Chapter are declared severable.”

1 **Section 9. Effective Date.** This Act shall take effect one hundred
2 eighty (180) days after enactment.

CLERK OF THE LEGISLATURE
TRANSMISSION CHECKLIST TO IMAGA'LAHEN GUAHAN

(Included in File w/ All Bills Transmitted)

BILL NO. 195 (cop)

FINAL PROOF-READING OF BLUEBACK COPY

Initialed by: _____

and Date: _____

- EXHIBITS ATTACHED
- CONFIRM NUMBER OF PAGES 8
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN "*" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any _____

Confirmed By: _____

Dated: _____

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS _____)
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK
PLACED ON CLERK'S DESK. (Same copy given to Susan)
- FILED by: Danny, Robert or others

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 03-10-00

Time: 11:00

Rec'd by: _____

Print Name: Antonio R. Unpingco

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

2000 (SECOND) Regular Session

Date: 3/9/00 6,

VOTING SHEET

Bill No. 195 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	✓				
BERMUDES, Eulogio C.	✓				
BLAZ, Anthony C.					✓
BROWN, Joanne M.S.	(III)	✓			
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	(III)	✓			
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	(III)	✓			
PANGELINAN, Vicente C.	✓				
SALAS, John C.	(III)	✓			
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

10 - 4 - _____ - 1 -

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



FILE

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

November 8, 1999

(DATE)

Memorandum

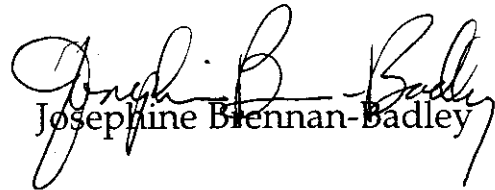
To: Senator Eloy C. Bermudes

From: Clerk of the Legislature

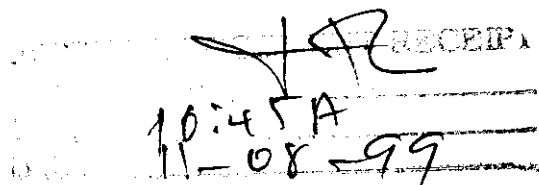
Subject: Report on Bill No. 195 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 195 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment


RECEIVED
10:45 A
11-08-99

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumiten Salut, Setbision Tinaotao yan Irensian Chamoru
Committee on Health, Human Services and Chamorro Heritage
Sinadot Simon A. Sanchez II, Ge'Hilo'

August 12, 1999

Speaker Antonio R. Unpingco
I Mina' Bente Singko Na Liheslaturan Guahan
155 Hesler Street
Hagåtña, GU 96910

Håfa Adai! Mr. Speaker:

I Kumiten Salut, Setbision Tinaotao yan Irensian Chamorro completed its evaluation of Bill No. 195 and hereby issue the enclosed Committee Report.

A public hearing was held on the measure on June 29, 1999.

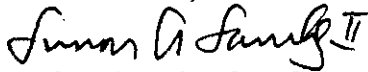
Committee members voted as follows:

To pass	<u>8</u>
Not to pass	<u>0</u>
Abstain	<u>1</u>
Inactive File	<u>0</u>

Consequently, the Committee submits its recommendation to "DO PASS" Bill No. 195.

Your kind attention to this matter is appreciated.

Senseramente,


SIMON A. SANCHEZ, II

Enclosure

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Committee on Health, Human Services and Chamorro Heritage
Kumiten Salut, Setbision Tinaotao yan Irensian Chamoru
Sinadot Simon A. Sanchez II, Ge'Hilo'

Bill No. 195 – An act to repeal and reenact §§22102, 22104 and 22105 of Chapter 22, Title 10, Guam Code Annotated relative to Government of Guam Health Certificates.

To place in	To Pass	Not to Pass	Abstain	Inactive File
<u>SAS II</u> Senator Simon A. Sanchez II Chairperson	✓			
<u>Joanne M.S. Brown</u> Vice Chairperson	✓			
<u>Frank B. Aguon, Jr.</u> Member	✓			
<u>Eulogio C. Bermudes</u> Member	✓			
<u>Anthony C. Blaz</u> Member	✓			
<u>Eduardo B. Calvo</u> Member	✓			
<u>Marcel G. Camacho</u> Member	✓			
<u>Mark Forbes</u> Member	✗			
<u>Lawrence F. Kasperbauer</u> Member	✓			
<u>Alberto C. Lamorena V</u> Member			✓	
<u>Kaleo S. Moylan</u> Member	✓			
<u>Vicente C. Pangelinan</u> Member	✓			

*I Mina' Bente Singko Na Liheslaturan Guahån
Kumiten Salut, Setbishion Tinaotao Yan Ireñsian Chamoru*

**Committee Report
Bill No. 195**

“An Act to repeal and reenact §§22102, 22104 and 22105 of
Chapter 22, Title 10, Guam Code Annotated relative to
Government of Guam Health Certificates”

Simon A. Sanchez II, Chairperson
Joanne M.S. Brown, Vice Chairperson

Members

Frank B. Aguon, Jr.
Eulogio C. Bermudes
Marcel G. Camacho
Lawrence F. Kasperbauer
Kaleo S. Moylan
Antonio R. Unpingco, ex-officio

Anthony C. Blaz
Eduardo B. Calvo
Mark Forbes
Alberto C. Lamorena V
Vicente C. Pangelinan

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumiten Salut, Setbision Tinaotao yan Irensian Chamoru
Committee on Health, Human Services and Chamorro Heritage
Sinadot Simon A. Sanchez II, Ge'Hilo'

August 11, 1999

MEMORANDUM

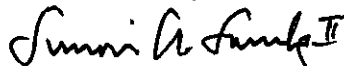
TO : **Committee Members**

FROM : **Chairperson**

SUBJECT : **Committee Report for Bill No. 195** – “An Act relative to repeal and reenact §§22102; 22104 and 22105 of Chapter 22, Title 10, Guam Code Annotated relative to Government of Guam Health Certificates.”

Amendments contain input from Senator ben pangelinan and Ms. Rosanna Rabago, Division of Environmental Health, Department of Public Health and Social Services. Attached is the Committee Report for Bill 195 for your review and consideration, please mark and sign the accompanying Voting Sheet, to be reported out during session the week of August 16, 1999.

Senseramente,


SIMON A. SANCHEZ, II

Attachment

I Mina' Bente Singko Na Liheslaturan Guåhan
Committee of Health, Human Services and Chamorro Heritage
Kumiten Salut, Setbision Tinaotao Yan Iremsian Chamoru
Sinadot Simon A. Sanchez, II

I. OVERVIEW

Bill 195, authored by Senators Eulogio C. Bermudes and Frank B. Aguon, Jr. seeks to modify the design of current health certificate cards identical to the drivers license, and mandate that each employee wear the cards so it can be easily seen by patrons of health regulated businesses.

The Committee on Rules, Government Reform, Reorganization and Federal Affairs referred Bill 195 to this committee on May 4, 1999 for disposition. Public Hearing held on Tuesday, June 29, 1999, 2:00 p.m. Legislative Hearing Room, Hagåtña, Guam. Public notice announced in the Pacific Daily News on June 15, 1999.

Senators present:

Senator Simon A. Sanchez, II - Chairman
Vice-Speaker Lawrence Kasperbauer
Senator Frank B. Aguon, Jr., Member
Senator Eulogio C. Bermudes, Member
Senator ben pangelinan, Member

Appearing before the Committee:

Ms. Felomena "Menang" U. Diaz, Nominee, Guam Historic Preservation Review Board
Ms. Rita Franquez
Mr. Dennis G. Rodriguez, Director, Department of Public Health & Social Services
Ms. Annabelle Cruz, Administrator, DPHSS Division of Environmental Health
Mr. Mike Crisostomo, Vice-Chairman, Restaurateur Chapter, Guam Hotel & Restaurant Association
Ms. Trini Torres, Citizen

Written testimony provided:

Ms. Felomena "Menang" U. Diaz, Nominee, Guam Historic Preservation Review Board
Mr. Richard D. Davis, Guam Historic Preservation Officer
Dr. David L.G. Shimizu, Chief Executive Officer, Guam Preservation Trust
Mr. Andrew T. Laguaña, Board Chairman, Guam Preservation Trust
Ms. Rosalind L. Hunter-Anderson, Ph.D., Vice-President/Sr. Archaeologist, Micronesian Archaeological Research Services
Mr. Lawrence J. Cunningham, Ed.D., Outreach Coordinator, UOG Title VI National Resource Center for Micronesian Studies
Ms. Rosa Roberto Carter, Ph.D.

II. TESTIMONY SUMMARY

Mr. Mike Crisostomo, Vice Chairman, Restaurateur, Guam Hotel & Restaurant Association (GHRA) and General Manager, Seahorse Restaurant, read testimony for Mr. David Tydingco, President, GHRA. Comments on the provisions of Bill 195 include:

- ❖ Supports work by the Department of Public Health (DPH) on a photo identification program for health certificates similar to a driver's license

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- ❖ Cautions careful review of Section 22104, Requirements, to include the various levels of health certificates required for different job occupations; section appears to refer primarily to food & beverage establishments not recognizing other job occupations – cosmetologist, licensed masseuse, or an exotic dancer that may require certification. Suggested better definition addressing requirements the proposed Rules and Regulations Governing the Issuance of Health Certificates under review by DPHSS.
- ❖ Suggested development of a tracking mechanism for individuals and establishments he/she works for as part of the implementation program
- ❖ Opposes the requirement of having the health certificate identification worn by employees during working hours because of sensitive information contained, *i.e.* Social Security number
- ❖ Recommends the employee be required to keep the identification card on his/her person during working hours
- ❖ Has no problems employers keeping copies of each employee health certificate within the premises
- ❖ Recommended the following be added to Section 5 – penalties:
 - ❖ First offense: a written citation against the employees with copy to the establishment for monitoring purposes
 - ❖ Second offense: a written citation against the employee and a One Hundred Dollar (\$100.00) fine against the establishment
 - ❖ Third offense: automatic suspension of Sanitary Permit
 - ❖ Time frame for offenses limited to a one-year period to coincide with the issuance/expiration date of Sanitary Permits
- ❖ Establishment of an “Environmental Health Fund” for all fees/fines collected
- ❖ Establishment of an Administrative Appeals process to assure that an establishment has the right to challenge any citation issued against it before having to pay for it
- ❖ Inclusion of six months to one year time frame, following enactment of the bill, to assure adequate education program is executed and provides a reasonable transition period

Mr. Dennis Rodriguez, Director, DPHSS, testified in support of Bill 195 noting:

- ❖ improve regulatory and enforcement mechanisms
- ❖ enhancement DPHSS ability to detect and identify unauthorized employees
- ❖ proposes health certificates be issued per job category because of the different health screening and applicable professional licensing requirements under §§22104, Line 13-16
- ❖ Recommended amendment to §§22104, Line 13 as follows: “The Director is required to adopt a policy that employees of health regulated establishments use their health certificates with photo identification for their employment in those health regulated establishments within the same job category as determined by the Director.”
- ❖ Visible wearing of health certificates so it does not pose an inconvenience and disturb the ambiance of certain business operations, *i.e.* fine dining
- ❖ Recommended amendment to §22105 to read: “The Director shall have the ability to approve an alternate method of complying with this provision.”
- ❖ Supports establishing monetary penalties
- ❖ Recommends amendment to Line 112 to read: “Third offense and every subsequent offense thereafter: Monetary penalty of Five Hundred Dollars (\$500.00) and automatic suspension of Sanitary Permit for a period of no less than three days.”
- ❖ Requested penalties be restricted to the Sanitary Permitting year commencing July 1 to June 30th of every year
- ❖ Include a: Section 6. Appropriation of \$50,000 be provided to the Division of Environmental Health to cover costs to upgrade computer system and all necessary equipment and supplies to support intent of Bill 195

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Ms. Trini Torres testified in support of Bill 195 and suggested business be penalized more than the proposed \$100 fine and address the removal of an employee until necessary certification is obtained. Ms. Torres opposed creation of an "Environmental Health Fund" emphasizing fees collected should revert to the General Fund.

Senator ben pangelinan suggested:

- ❖ providing a monetary penalty clause for businesses employing individuals without proper certification
- ❖ providing, in writing, an alternate method of complying with regards to displaying of health certificates between GHRA and DPHSS
- ❖ suggested giving the Director the authority Vs the ability to approve an alternate method of compliance
- ❖ supported creation of an "Environmental Health Fund" to allow DEH to meet requirements of unfunded mandates

Ms. Annabelle Cruz advised her division does not have many problems working with food and beverage industry in relation to health regulated establishments; however, the true difficulty with health certificates rests with other categories, *i.e.* shampoo girls or junior operators in the cosmetology field which expands to tattoo artists, manicurist, etc. She added GHRA and Cosmetology Board invited to provide input in the design of health certificates.

Ms. Cruz noted GHRA instrumental in the drafting of the proposed health certificate rules and regulations under review by the Attorney General's office; proposed revisions in Bill 195 will be incorporated in the draft rules; copy to be provided by the end of the month. Spending plan and breakdown for the requested \$50,000 appropriation will also be provided the Committee on Health, Human Services and Chamorro Heritage.

Mr. Rodriguez and Ms. Cruz agreed to Committee Chair's recommendation that as part of obtaining a health permit that the verification of employment, same as I94 information the employer has to submit to INS accompany the application for a health certificate.

III. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee on Health, Human Services and Chamorro Heritage finds that Bill 195, as amended, improves the health certification process establishing photo identification for health certificates; increase regulatory and enforcement mechanism; reduces costs and increases efficiency for health regulated businesses and the Division of Environmental Health and establishes a monetary penalty clause for those businesses in violation of Bill 195.

The Committee on Health, Human Services and Chamorro Heritage, to which Bill 195 was referred does hereby submit its findings and recommendations to *I Mina' Bente Singko Na Liheslaturan Guåhan* **TO DO PASS Bill 195, as amended**, "An act to repeal and reenact §§22102, 22104 and 22105 of Chapter 22, Title 10, Guam Code Annotated relative to Government of Guam Health Certificates."

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 195 (COR)

As Amended by Committee on Health,
Human Services and Chamorro Heritage

Introduced by:

E.C. Bermudes

F. B. Aguon, Jr.



**AN ACT TO REPEAL AND REENACT §§22102, 22104
AND 22105 OF CHAPTER 22, TITLE 10 GUAM CODE
ANNOTATED RELATIVE TO GOVERNMENT OF
GUAM HEALTH CERTIFICATES.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

finds that the current system adopted by the Department of Public Health and Social Services (DPH&SS) for the issuance of Health Certificates shall be improved to better serve the people. Although the current law requires health-regulated establishment to post Health Certificates in a conspicuous location within the premises of the establishment, patrons are not able to easily and quickly identify whether or not the employees have current valid Health Certificates. It is the intent of *I Liheslaturan Guåhan* to require that the current Health Certificate bear the photo of the person to whom it is issued

1 and that the person carry their Health Certificate at all times while working in
2 a health-regulated activity so that the public may know that the person
3 working in that activity has met the requisite health standards for that work.

4 **Section 2. Section 22102 of Chapter 22 of Title 10 of the Guam Code**
5 **Annotated is hereby repealed and reenacted to read:**

6 "Section 22102. **Form.** The Director shall prescribe the form of the
7 Health Certificate that shall provide information including the certificate
8 holder's name, date of birth, photograph, authorized activity and the
9 dates of issuance and expiration."

10 **Section 3. Section 22103 of Chapter 22 of Title 10 of the Guam Code**
11 **Annotated is hereby repealed and reenacted to read:**

12 "Section 22103. **Definitions.** The definitions of Section 20101 of
13 Title 10 shall apply to this subchapter. In addition and unless the context
14 clearly requires otherwise, the words and phrases listed below mean:

15 (a) 'Person Employed' includes any owner, operator,
16 manager, or other person performing any functions covered by §22101,
17 whether for compensation or otherwise. The Director is authorized to
18 determine what persons are included in this definition.

19 (b) 'Health Regulated Establishment means any establishment
20 or facility subject to the permitting requirements of Title 10 Guam Code
21 Annotated, Division 2, Part 1.

1 (c) 'Nonimmigrant' is a person who is not a citizen or a
2 permanent resident alien of the United States as those terms are defined by
3 the Immigration and Nationality Act and it includes those persons whose
4 admission to the United States is based upon a covenant of free association
5 with the United States."

6 **Section 4. Section 22104 of Chapter 22 of Title 10 of the Guam Code**
7 **Annotated is repealed and reenacted to read:**

8 Section 22104. **Requirements.** Pursuant to the Administrative
9 Adjudication Law, the Director shall establish and may modify by
10 regulation, the requirements and fees for obtaining a Health Certificate.
11 The requirements for a Health Certificate shall include (1) a physical
12 examination, (2) written, oral or practical examinations and (3)
13 minimum education standards and continuing education programs
14 deemed necessary by the Director to prevent the spread of
15 communicable diseases in any health-regulated establishment wherever
16 such employment or activity places the employee in intimate contact
17 with the customer or the customer's food or drink. No Health Certificate
18 shall be issued to any person who has not established through written
19 documentation, as approved by the Director, that he is a citizen of the
20 United States, a permanent resident alien or a nonimmigrant who is
21 authorized by the Immigration and Naturalization Service to be
22 employed in the United States."

1 **Section 5. §22105 of Chapter 22 of Title 10 of the Guam Code**
2 **Annotated is hereby repealed and reenacted to read:**

3 “Section 22015. **Possession, posting and inspection of Health**
4 **Certificates.** (a) Every person who is required by Section 22101 of Title
5 10 to have a Health Certificate shall have the certificate in his personal
6 possession at all times during his working hours.

7 (b) A valid copy, issued by the Department of Public Health and
8 Social Services, of all Health Certificates shall be conspicuously posted
9 at the place of employment or business.

10 (c) Every person employed who is required by Section 22101 of
11 Title 10 to have a Health Certificate shall exhibit the certificate to the
12 Director or his authorized representative of the Division of
13 Environmental Health of the Department of Public Health and Social
14 Services upon demand made during that person’s working hours.

15 **Section 6. Section 22106 is added to Title 10 of the Guam Code**
16 **Annotated to read:**

17 “Section 22106. **Administrative penalties.** (a) A person who is
18 required to have a Health Certificate and who performs services without
19 having in his possession a valid Health Certificate at the time services are
20 performed commits an administrative violation and the Director may impose
21 a fine of not to exceed fifty dollars (\$50.00) for a first offense and one hundred
22 dollars (\$100.00) for a second offense occurring within one (1) year of the first
23 offense. In addition, the Director may suspend the Health Certificate of the
24 person for not to exceed thirty (30) days for a first offense and shall suspend

1 the Health Certificate for ninety (90) days for a second occurring within one
2 (1) year of the first offense.

3 (b) A health-regulated establishment that permits a person to
4 perform services without having in his possession a valid Health Certificate at
5 the time the services are performed commits an administrative violation and
6 the Director may impose a fine of not to exceed three hundred dollars (\$300)
7 for a first offense and shall impose a fine of one thousand dollars (\$1,000) for a
8 second offense involving the same person occurring within one (1) year of the
9 first offense. If the Director cites more than one (1) person at the same time for
10 his failure to have in his possession the Health Certificate, each citation is a
11 separate administrative violation for the health-related activity.

12 (c) Before imposing an administrative penalty against a person or a
13 health-regulated establishment, the Director shall issue a notice of intent to
14 impose the penalty and provide the person or health-regulated establishment
15 an opportunity to request a hearing on the proposed penalty. The request
16 must be made within ten (10) days of the date that the notice of intent is
17 served upon the person or health-regulated establishment.

18 (d) Any person or health-regulated establishment may seek review
19 of any administrative penalty imposed before the Superior Court. Such review
20 shall be upon the record established before the Director and not de novo. The
21 Superior Court may sustain, modify or vacate any administrative penalty it
22 reviews.

23 (e) If any person or a health-regulated establishment fails to comply
24 with an administrative penalty order after it has become final, the Attorney

1 General shall bring a civil action to enforce the order or to recover the amount
2 ordered or assessed, plus current interest from the date of the final order or
3 decision. To prevail in such an action, the Director need establish only that:

4 (1) Notice was given as required;

5 (2) A hearing was granted to the defendant or that the
6 defendant requested no hearing;

7 (3) The penalty was imposed and has become final either
8 because the administrative order was not appealed to the Superior Court or
9 that after judicial review the administrative order remains an unsatisfied
10 obligation.”

11 **Section 7. Section 22107 is added to Title 10 of the Guam Code**
12 **Annotated to read:**

13 “Section 22017. **Environmental Health Fund.** There is hereby
14 created, separate and apart from other funds of the government of Guam, a
15 fund known as the Environmental Health Fund. The fund shall not be
16 commingled with any other fund and shall be deposited into a separate
17 account. All proceeds from fees and fines collected pursuant to this
18 subchapter shall be deposited into the fund and it shall be expended upon
19 legislative appropriation solely in support of the functions of the Division of
20 Environmental Health of the Department of Public Health and Social
21 Services.”

22 “Section 22108. **Severability.** If any provision, clause, sentence or
23 paragraph of this Chapter or the application thereof to any person or
24 circumstances shall be held invalid, such invalidity shall not effect the other

1 provisions of this Chapter which can be given effect without the invalid
2 provision or application; and to this end the provisions of this Chapter are
3 declared severable."

4 Section 9. **Effective date.** This act shall take effect one hundred eighty
5 (180) days after it becomes law.

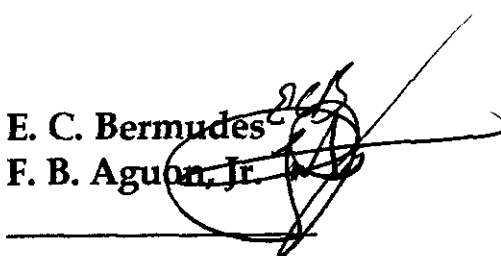
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**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) REGULAR SESSION**

Bill No. 19S (COR)

Introduced by:

E. C. Bermudes
F. B. Aguon, Jr.



**AN ACT TO REPEAL AND REENACT §§22102, 22104 AND
22105 OF CHAPTER 22, TITLE 10 GUAM CODE
ANNOTATED RELATIVE TO GOVERNMENT OF GUAM
HEALTH CERTIFICATES**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that the current system adopted by the Department of Public Health
4 and Social Services (DPH&SS) for the issuance of Health Certificates
5 should be improved in order to better serve the people of Guam. The
6 existing process is inconvenient and cumbersome, requiring individuals
7 seeking employment at health regulated establishments to apply for
8 separate health certificates for each place of employment, requiring
9 repeated visits to DPH&SS. *I Liheslaturan Guåhan* further finds that
10 although the current provision of law requires health regulated businesses
11 to post health certificates in a conspicuous location within the premises of
12 the establishment, patrons are not able to easily and quickly identify
13 whether or not the employees are currently certified by DPH&SS. It is
14 therefore the intent of *I Liheslaturan Guåhan* to modify the current health
15 certificate card to include the employees photograph, and to mandate that
16 each employee wear their health certificate cards so the cards can be easily

1 seen, in order to provide a sense of security and assurance to the people of
2 Guam who patronize health regulated businesses.

3 **Section 2. §22102 of Chapter 22 of Title 10 of the Guam Code**
4 **Annotated is hereby repealed and reenacted to read:**

5 “§22102. Form. The form of the health certificate shall be
6 prescribed by the Director. The Director shall design all health
7 certificates to be photo identification cards to include whatever
8 pertinent information deemed necessary.”

9 **Section 3. §22104 of Chapter 22 of Title 10 of the Guam Code**
10 **Annotated is hereby repealed and reenacted to read:**

11 “§22104. Requirements. The Director is authorized to make fee
12 adjustments, in accordance with the AAA procedure, to the cost of
13 acquiring photo identification health certificates. The Director is
14 required to adopt a policy that employees of health regulated
15 establishments use their photo identification health certificate card
16 for their employment in all health regulated businesses. The Director
17 shall be cognizant of the type of establishments in which they will be
18 employed. The requirements for each type of health certificate card
19 shall include any physical examinations, written and oral
20 examination and training courses deemed necessary by the Director
21 to prevent the spread of communicable diseases wherever such
22 employment or activity places the employee in intimate contact
23 with the customer or the customer’s food or drink.”

24 **Section 4. §22105 of Chapter 22 of Title 10 of the Guam Code**
25 **Annotated is hereby repealed and reenacted to read:**

26 “§22105. Posting. All health certificate photo identification
27 cards must be worn by employees during their working hours.

1 Copies of the same shall be recorded by the management of each
2 establishment at which they are employed, and kept within the
3 premises of each business.”

4 **Section 5. Penalty.** Health regulated establishments which allow any
5 employees to work without a valid health certificate photo identification
6 card during working hours are subject to the following penalties:

7 First (1st) offense: A One Hundred Dollar (\$100.00) fine will be
8 imposed on the health establishment.

9 Second (2nd) offense: A Three Hundred Dollar (\$300.00) fine will be
10 imposed on the health establishment.

11 Third (3rd) offense: Automatic suspension of Sanitary Permit.

12 All funds collected due to this provision shall be deposited into the
13 General Fund.

14 **Section 6. Enactment.** The provisions contained within this Act shall
15 take effect sixty (60) days after passage of this Act into law.