

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
314-35 (LS)	Sabina Flores Perez Tina Rose Muña Barnes Clynton E. Ridgell	AN ACT TO AMEND §§ 34.10, 34.30, 34.40 AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION AND PROSECUTION OF WILDFIRES AS A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT.	3/12/20 8:28 a.m.	4/17/20	Committee on Health, Tourism, Historic Preservation, Land, and Justice	10/6/20 9:00 a.m.	11/27/20 4:55 p.m. As amended by the Committee on Health, Tourism, Historic Preservation, Land, and Justice	4/20/20	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	12/7/20	AN ACT TO AMEND §§ 34.10, 34.30, 34.40 AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION AND PROSECUTION OF WILDFIRES AS A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT.	12/17/20	12/17/20	12/29/20	35-134	12/29/20	Received: 12/29/20 Mess and Comm. Doc. No. 35GL-20-2561	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

December 29, 2020

HONORABLE TINA ROSE MUÑA BARNES

Speaker

I Mina'trentai Singko Na Liheslaturan Guåhan

35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

35GL-20-2561
Speaker Tina Rose Muña Barnes

DEC 29 2020
Time 6:11 (AM) X
Received By: matt

Re: Bill No. 314-35 (LS) – An Act to Add a New § 34.10(d) and Amend §§ 34.30, 34.40, and 34.50, All of Chapter 34, Title 9, Guam Code Annotated, Relative to the Prevention of Wildfires and Prosecution of Individuals who set Wildfires, Which are a Threat to Persons, Property, and the Environment

Dear Madame Speaker:

Our island has suffered serious damage to our natural environment due to fires in our jungles and grasslands. Fires destroy trees and grass that hold our soil surfaces in place. Once loose, soil and dirt runs off in heavy rains into our streams and eventually empties into our oceans where they can cause damage to the coral reef that protects our coastline. While some of our fires occur naturally or accidentally, many of our fires occur as a result of intentional burning or as a result of failure to take reasonable precautions to guard against them. Bill 314 expands the definitions of arson and criminal mischief to include destruction and damage to forest lands. A community's values are reflected in the types of behaviors it chooses to punish in its criminal code; Bill No. 314, now **Public Law No. 35-134** makes it clear that our community understands the importance of preserving our land for generations of future use.

Senseramente,

LOURDES A. LEON GUERRERO

I Maga'hågan Guåhan

Governor of Guam

Enclosure: Bill No. 314-35 (COR) *nka P.L. 35-134*

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

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

This is to certify that **Bill No. 314-35 (LS)**, "AN ACT TO *ADD* A NEW § 34.10(d) AND *AMEND* §§ 34.30, 34.40, AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION OF WILDFIRES AND PROSECUTION OF INDIVIDUALS WHO SET WILDFIRES, WHICH ARE A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT," was on the 17th day of December 2020, duly and regularly passed.



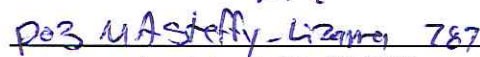
Tina Rose Muña Barnes
Speaker

Attested:



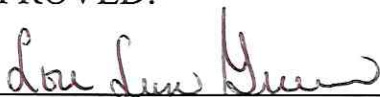
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 17th day of Dec,
2020, at 10:26 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 12/29/2020

Public Law No. 35-134

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 314-35 (LS)

As amended by the Committee on Health,
Tourism, Historic Preservation, Land, and Justice; and
further amended on the Floor.

Introduced by:

Sabina Flores Perez
Tina Rose Muña Barnes
Clynton E. Ridgell
Therese M. Terlaje
Kelly Marsh (Taitano), PhD
William M. Castro
Régine Biscoe Lee
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose “Pedo” Terlaje
Mary Camacho Torres

AN ACT TO *ADD* A NEW § 34.10(d) AND *AMEND* §§ 34.30, 34.40, AND 34.50, ALL OF CHAPTER 34, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE PREVENTION OF WILDFIRES AND PROSECUTION OF INDIVIDUALS WHO SET WILDFIRES, WHICH ARE A THREAT TO PERSONS, PROPERTY, AND THE ENVIRONMENT.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that purposefully set wildfires pose a significant threat to life, homes, businesses,

1 and property of the people of Guam, in addition to Guam’s wildlife and environment.
2 As such, the illegal burning of “forest land” must be added as an additional
3 prohibited action under Guam’s arson statute in order to prevent and prosecute this
4 dangerous practice. The language for the definition of “forest land” as proposed in
5 this measure is derived from the California Penal Code and has been in use in
6 California since 1979. California added “forest land” to its arson statute in 1979
7 because of the severe risk of forest fires and “...in many instances a person who sets
8 fire to a wildland area creates a greater threat to life and property than many of the
9 single building unoccupied structures that are the subject of arson.” (Cal. Dept. of
10 Forestry, Analysis of Sen. Bill No. 116 (1979 Gen. Sess.) (June 26, 1979). Guam’s
11 residents have similarly had several close brushes with forest fires in recent months
12 and years, and Guam, like California, has a population living in close proximity to
13 brush and forested areas.

14 *I Liheslatura* further finds that California has successfully prosecuted
15 arsonists causing forest fires under California’s arson statute since 1979, and three
16 (3) recent cases have upheld the “forest land” provisions within California’s statutes.
17 *See People v. Costella*, 11 Cal. App. 5th 1, 5–7, (Ct. App. 2017), *review denied* (Aug.
18 9, 2017), *cert. denied*, 138 S. Ct. 693 (2018); and *In re J.W.*, No. F076382, 2018 WL
19 5869651, at *2–5 (Cal. Ct. App. 2018). California previously changed its arson
20 statutes to include “forest land” to “...make the statutes more consistent, more
21 understandable, and easier to prosecute.” *See* David A. Roberti, Chairman, Joint
22 Com. for Revision of the Pen. Code, letter to Governor Edmund G. Brown, Jr., June
23 25, 1979, Sen. Bill No. 116, Ch. 145. Likewise, it is proposed that “forest land” be
24 added to the Guam arson statutes to make the statutes more consistent and easier to
25 apply. By protecting “forest land,” which includes local jungle and grasslands, *I*
26 *Liheslatura* aims to keep Guam’s residents, property, and the environment more
27 secure from the dangerous threat of arson. The measure also clarifies that restorative

1 justice, through the Alternative Service Restitution option that is enabled in current
2 law, exists as an option for those convicted of wildfire arson to work directly in
3 reforesting and healing the lands damaged by their actions.

4 **Section 2.** A new § 34.10(d) is hereby *added* to Chapter 34 of Title 9, Guam
5 Code Annotated, to read:

6 “(d) *Forest land* means any brush covered land, cut-over land, forest,
7 grasslands, jungle, or woods.”

8 **Section 3.** § 34.30 of Chapter 34, Title 9, Guam Code Annotated, is
9 *amended* to read:

10 **“§ 34.30. Arson; Defined & Punished.**

11 (a) A person is guilty of *arson* if under circumstances not amounting
12 to aggravated arson he starts a fire or causes an explosion, whether on his own
13 property, another’s property, or forest land:

14 (1) with the intention of defrauding an insurer; or

15 (2) in reckless disregard of a risk that his conduct will damage
16 or destroy the property of another; or

17 (3) in reckless disregard of a risk that his conduct will damage
18 or destroy forest land.

19 (b) Arson is a third degree felony.”

20 **Section 4.** § 34.40 of Chapter 34, Title 9, Guam Code Annotated, is
21 *amended* to read:

22 **“§ 34.40. Negligent Burning; Defined & Punished.**

23 (a) A person is guilty of *negligent burning* if he:

24 (1) negligently starts a fire or causes an explosion whether on
25 his own property, another’s property, or forest land, and thereby
26 negligently endangers human life, or negligently places the property of
27 another, or forest land, in danger of damage or destruction; or

1 (2) having started a fire, whether negligently or not, and
2 knowing that its spread will endanger the life or property of another, or
3 forest land, either fails to take reasonable measures to put out or control
4 the fire, or fails to give a prompt fire alarm.

5 (b) Negligent burning is a misdemeanor. If a person guilty of
6 negligent burning is offered Alternative Service Restitution in
7 accordance with Article 6 of Chapter 80, 9 GCA, the restoration of
8 forest lands is an allowable form of restitution or alternative community
9 service.”

10 **Section 5.** § 34.50 of Chapter 34, Title 9, Guam Code Annotated, is
11 *amended* to read:

12 “§ 34.50. **Criminal Mischief; Defined.**

13 A person commits *criminal mischief* if:

14 (a) under circumstances not amounting to arson he damages
15 or destroys property with the intention of defrauding an insurer; or

16 (b) he intentionally tampers with the property of another or
17 forest land and thereby:

18 (1) recklessly endangers human life; or

19 (2) recklessly causes or threatens a substantial
20 interruption or impairment of any public utility service; or

21 (c) he intentionally damages the property of another or forest
22 land; or

23 (d) he intentionally damages the motor vehicle of another.”

24 **Section 6. Effective Date.** This Act shall be effective upon enactment.

25 **Section 7. Severability.** If any provision of this Act or its application to any
26 person or circumstance is found to be invalid or contrary to law, such invalidity shall
27 not affect other provisions or applications of this Act that can be given effect without

1 the invalid provision or application, and to this end the provisions of this Act are
2 severable.