



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

July 1, 2016

Honorable Judith T. Won Pat, Ed.D  
Speaker  
*I Mina'trentai Tres Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

33-16-1740

Office of the Speaker  
Judith T. Won Pat, Ed.D

1 JUL 2016

Date: \_\_\_\_\_

Time: 4:05

Received By: [Signature]

Dear Madame Speaker:

Attached is Bill No. 141-33 (COR), entitled, "*An act to amend subsection (l) of § 6101 of Article 1; § 6302 of Article 3. . . Relative to clarifying the definition of electronic cigarettes and raising the minimum access to tobacco products and electronic cigarettes to twenty-one (21) years; and to cite this act as the 'Youth Protection Act,'*" which I have **VETOED**.

Among other things, Bill 141-33 purports to reduce smoking-related health care costs by delaying tobacco use by young people, especially high school students, until they are older and presumably wiser. Although the bill is well-intentioned on its face, its effect is quite profound and its policy is ultimately vague and unenforceable.

For one thing, nowhere in the bill is any mention made about how its provisions are to be applied to the military bases and to service members. If a military service member between the ages of 18 and 21 years old is found on base to be in possession of tobacco products in violation of Section 6405 of the bill, will that service member have to attend the Government of Guam-sponsored smoking cessation education program that is described in Section 6406? And what about the cost of this program? Will the Legislature be providing any funding for its creation and administration?

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The adverse health risks associated with tobacco and smoking are real and not up for debate. What is troubling with Bill 141-33 is that it constitutes a willful intrusion into the personal lives and choices of our citizens. Starting at 18 years old, men and women can serve in the military and die in the battlefield for the rest of us. At age 18, they can also enter into binding and enforceable contracts for any legal purpose whatsoever. Recently, Public Law 33-12 was enacted to allow minors who are as young as 16 years old to pre-register to vote for their elected officials, including voting for the senators of the Legislature. And with court and parental approval, minors *under* the age of 16 years can have a child and obtain a marriage license. [See, 19 G.C.A. § 3202(b)].

Legislation on purely social issues such as whether to raise the smoking age to 21 is the type perhaps best left to the referendum process and not as presented in Bill 141-33. I feel strongly that the government is not a nanny, and the 15 senators who make up the Legislature do not have the prerogative to tell the thousands of Guamanians old enough to give their life in military service, vote, marry, have children, or sign legally binding contracts that they can't buy a pack of cigarettes. As adults, we each have the right to make our own individual life choices, even if that choice is bad for our health. And it's our personal responsibility to live with whatever choice we ultimately make.

*Senseramente,*

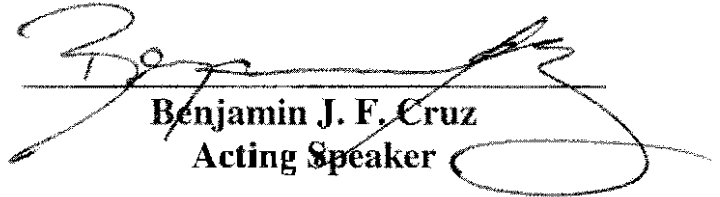


EDDIE BAZA CALVO  
Governor of Guam

**I MINA 'TRENTAI TRES NA LIHESLATURAN GUÅHAN**  
**2016 (SECOND) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA 'LÅHEN GUÅHAN**

This is to certify that **Bill No. 141-33 (COR)**, "AN ACT TO AMEND SUBSECTION (I) OF § 6101 OF ARTICLE 1; § 6302 OF ARTICLE 3; AND SECTIONS OF ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF ELECTRONIC CIGARETTES, AND RAISING THE MINIMUM AGE OF LEGAL ACCESS TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO CITE THIS ACT AS THE "YOUTH PROTECTION ACT," was on the 17<sup>th</sup> day of June 2016, duly and regularly passed.

  
**Benjamin J. F. Cruz**  
**Acting Speaker**

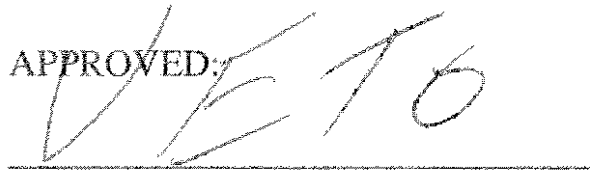
Attested:   

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**Tina Rose Muña Barnes**  
**Legislative Secretary**

This Act was received by *I Maga'låhen Guåhan* this 20<sup>th</sup> day of JUNE, 2016, at 5:35 o'clock P.M.

  
**Assistant Staff Officer**  
**Maga'låhi's Office**

APPROVED:   

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**EDWARD J.B. CALVO**  
*I Maga'låhen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN***  
**2015 (FIRST) Regular Session**

**Bill No. 141-33 (COR)**

As amended on the Floor.

Introduced by:

B. J.F. Cruz  
T. C. Ada  
Mary Camacho Torres  
V. Anthony Ada  
FRANK B. AGUON, JR.  
Frank F. Blas, Jr.  
James V. Espaldon  
Brant T. McCreddie  
Tommy Morrison  
T. R. Muña Barnes  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
Michael F.Q. San Nicolas  
N. B. Underwood, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND SUBSECTION (1) OF § 6101 OF  
ARTICLE 1; § 6302 OF ARTICLE 3; AND SECTIONS OF  
ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM  
CODE ANNOTATED, RELATIVE TO CLARIFYING THE  
DEFINITION OF ELECTRONIC CIGARETTES, AND  
RAISING THE MINIMUM AGE OF LEGAL ACCESS TO  
TOBACCO PRODUCTS AND ELECTRONIC  
CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO  
CITE THIS ACT AS THE "YOUTH PROTECTION ACT."**

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

2 **Section 1. Clarification of the Definition of Electronic Cigarettes**

3 **Relative to Prohibiting the Sale or Distribution of Tobacco Products to Persons**

1 **Under Twenty-one (21) Years of Age.** Subsection (l) of § 6101 (Definitions) of  
2 Article 1, Chapter 6 of Title 11, Guam Code Annotated, is hereby *amended* to read:

3 “(l) Electronic cigarettes, also known as e-cigarettes, are battery-  
4 operated products designed to deliver nicotine, flavor and other chemicals.  
5 They turn nicotine, which is highly addictive, and other chemicals into a vapor  
6 that is inhaled by the user. For the purposes of this Chapter, and the prohibition  
7 pertaining solely to a person under the minimum age of legal access pursuant  
8 to §§ 6400 and 6405 of Article 4, tobacco products *shall* also be deemed to  
9 include and *shall* be similarly applicable to electronic cigarettes, including any  
10 refill, cartridge, and any other component of an electronic cigarette.”

11 **Section 2. Tobacco Licensee Must Be Twenty-one (21) Years of Age.** §  
12 6302 of Article 3, Chapter 6 of Title 11, Guam Code Annotated, is hereby *amended*  
13 to read:

14 “§ 6302. **Same: Same: Persons Under the Age of Twenty-one (21)**  
15 **Years.**

16 The Board *shall not* issue a license of any class to a person under twenty-  
17 one (21) years of age.”

18 **Section 3. Sale or Distribution to Persons Under Twenty-one (21) Years**  
19 **of Age Prohibited.** Article 4 of Chapter 6 of Title 11, Guam Code Annotated, is  
20 hereby *amended* to read:

21 “ARTICLE 4

22 **SALE OR DISTRIBUTION TO PERSONS UNDER TWENTY-ONE YEARS**  
23 **OF AGE PROHIBITED**

24 § 6400. Sale or Distribution of Tobacco Products to Persons Under  
25 Twenty-one (21) Years of Age Prohibited.

26 § 6401. Acceptable Forms of Identification.



1           (a) Vending machines selling tobacco products or electronic  
2 cigarettes *shall* be located so that they are accessible *only* to persons  
3 over the age of twenty-one (21) years, or are under the constant, direct  
4 supervision and unobstructed line of sight of the person authorizing the  
5 installation or placement of the tobacco or electronic cigarette vending  
6 machine upon the premises he manages or otherwise controls, or his  
7 agent or employee. Said supervising person, who *must* be at least  
8 twenty-one (21) years of age, *shall* ensure that persons under twenty-  
9 one (21) years of age *do not* purchase tobacco products or electronic  
10 cigarettes from vending machines. A person who authorizes the  
11 installation or placement of the tobacco or electronic cigarette vending  
12 machine upon premises he manages, or otherwise controls, and who  
13 knows or should know that the tobacco or electronic cigarette vending  
14 machine will likely be used by persons under twenty-one (21) years of  
15 age, *shall* be liable if such persons purchase tobacco products or  
16 electronic cigarettes from said machines.

17           (b) A licensee or an employer may distribute tobacco products  
18 or electronic cigarettes to any employee who handles tobacco products  
19 or electronic cigarettes in the course of the commercial distribution or  
20 sale of the products. In any proceeding for the suspension or revocation  
21 of any 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 an identification card, before furnishing any tobacco product or  
24 electronic cigarette to any person under twenty-one (21) years of age,  
25 *shall* be a defense to the charges.  
26  
27

1           **§ 6401.     Acceptable Forms of Identification.**

2           The following are the only acceptable instruments of identification as  
3 required by § 6400:

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

6           (b)    an official identification issued by the federal or a 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           **§ 6402.     Display of Prohibition on Sales of Tobacco Products to**  
12 **Persons Under Twenty-one (21) Years of Age.**

13          All licensees *shall* post a notice that this Chapter prohibits the sale of  
14 tobacco products to persons under twenty-one (21) years of age.

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

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

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

23           **§ 6403.     Licensee Responsible for Employee Actions.**

24          Acts or omissions of an agent or employee of a licensee that violate any  
25 provisions of this Chapter *shall* be deemed to be acts or omissions of the  
26 licensee.



1           **§ 6404. Penalties for Selling or Distributing Tobacco Products**  
2 **to Persons Under Twenty-one (21) Years of Age.**

3           (a) In addition to any other penalties and fines that may be levied,  
4 any person who violates § 6400 of this Chapter *shall* be penalized as follows:

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

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

11              (3) in the case of a third violation in any five (5) year period,  
12 the person *shall* be fined Two Thousand Five Hundred Dollars  
13 (\$2,500.00) and, in the case of a licensee, the license *shall* be suspended  
14 for one hundred eighty (180) days;

15              (4) in the case of four (4) or more violations within any five  
16 (5) year period, the person *shall* be fined Five Thousand Dollars  
17 (\$5,000.00) and, in the case of a licensee, the license *shall* be revoked.  
18 The revoked retailer *shall* be ineligible to apply for a new license for  
19 two (2) years after the effective date of the revocation.

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

23           (c) During any suspension or revocation of a license under this  
24 Section, the licensee *shall not* sell tobacco products and *shall* remove all  
25 tobacco products from all areas covered by the suspended license. In addition,  
26 any new application for a license to sell tobacco products while a licensee is  
27 suspended under this Chapter *shall* be denied.

1 (d) All tobacco products sold over the counter *shall* be displayed and  
2 located where they *shall* be inaccessible to persons under twenty-one (21)  
3 years of age. Any vendor who violates this provision *shall* be fined Two  
4 Hundred Fifty Dollars (\$250.00).

5 **§ 6405. Persons Under Twenty-one (21) Years of Age**  
6 **Prohibited from Possession, Use and Purchase of Tobacco Products.**

7 It *shall* be a violation of this Chapter for any person under twenty-one  
8 (21) years of age to use or be in possession of tobacco products, or to attempt  
9 to purchase tobacco products using false identification.

10 **§ 6406. Tobacco Education for Persons Under Twenty-one**  
11 **(21) Years of Age.**

12 Any person under twenty-one (21) years of age who violates § 6405 of  
13 this Chapter *shall* attend an education program on tobacco products, to include  
14 smoking cessation information administered by the Guam Behavioral Health  
15 and Wellness Center, the Department of Public Health and Social Services,  
16 the Department of Education, or any other government agency with similar  
17 programs approved by one of these agencies.”

18 **Section 4. Effective Date; Application.** This Act *shall* take effect on  
19 January 1, 2017.