



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

01 FEB 2007

The Honorable Mark Forbes
Speaker
Mina' Bente Nuebe Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 121(EC), "AN ACT TO REPEAL AND RE-ENACT CHAPTER 6 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO THE LICENSING REQUIREMENTS FOR THE RETAIL AND WHOLESALE OF TOBACCO PRODUCTS; TO ADD A NEW ARTICLE 6 TO CHAPTER 6 OF TITLE 11 GUAM CODE ANNOTATED, TO RESTRICT IMPORTATION OF TOBACCO PRODUCTS TO MANUFACTURER'S REPRESENTATIVES; AND TO AMEND §26601(C) OF CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE TOBACCO TAX" which I signed into law on January 29, 2007, as Public Law 28-170.

Sinseru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

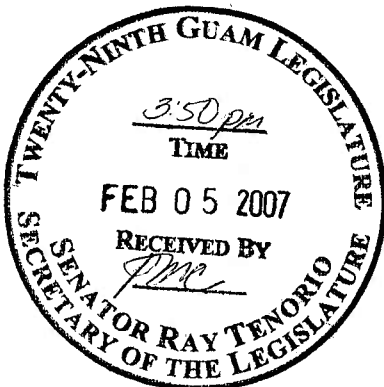
cc: The Honorable Ray Tenorio
Senator and Secretary of the Legislature

Office of the Speaker

MARK FORBES

Date: 2/2/07
Time: 11-
Rec'd by: RM
Print Name: Rob R/

29-01-0122



122

NEW RECEIVED
5:04 PM
2/5/07

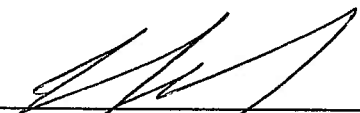
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

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

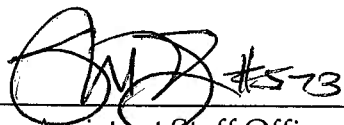
This is to certify that **Substitute Bill No. 121 (EC), "AN ACT TO REPEAL AND RE-ENACT CHAPTER 6 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO THE LICENSING REQUIREMENTS FOR THE RETAIL AND WHOLESALE OF TOBACCO PRODUCTS; TO ADD A NEW ARTICLE 6 TO CHAPTER 6 OF TITLE 11 GUAM CODE ANNOTATED, TO RESTRICT IMPORTATION OF TOBACCO PRODUCTS TO MANUFACTURER'S REPRESENTATIVES; AND TO AMEND §26601(C) OF CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE TOBACCO TAX,"** was on the 20th day of December, 2006, duly and regularly passed.


Mark Forbes
Speaker


Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahen Guåhan* this 30 day of Dec, 2006, at
1:30 o'clock p.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: 29 JAN 2007

Public Law No. 28-170

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session**

Bill No. 121 (EC)

As substituted by the Committee on
Finance, Taxation and Commerce
and amended.

Introduced by:

J. A. Lujan
Mike Cruz
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
B. J.F. Cruz
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
A. B. Palacios, Sr.
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

**AN ACT TO *REPEAL* AND *RE-ENACT* CHAPTER 6 OF
TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO
THE LICENSING REQUIREMENTS FOR THE RETAIL
AND WHOLESALE OF TOBACCO PRODUCTS; TO
ADD A NEW ARTICLE 6 TO CHAPTER 6 OF TITLE 11
GUAM CODE ANNOTATED, TO RESTRICT
IMPORTATION OF TOBACCO PRODUCTS TO
MANUFACTURER'S REPRESENTATIVES; AND TO
AMEND §26601(C) OF CHAPTER 26 OF TITLE 11,
GUAM CODE ANNOTATED, RELATIVE TO THE
TOBACCO TAX.**

1 (d) 'Person' means any individual, company, corporation, firm,
2 partnership, organization, estate, trust, limited liability company, limited
3 liability partnership or other legal entity.

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

6 (f) 'Retail License' means a license issued by the Director of
7 Revenue and Taxation for the retail sale of tobacco products or sale
8 through a vending machine.

9 (g) 'Tobacco product' means any tobacco cigarette, cigar, pipe
10 tobacco, smokeless tobacco, chewing tobacco or any other form of
11 tobacco which may be utilized for smoking, chewing, inhalation or other
12 means of ingestion.

13 (h) 'Vending Machine' means any mechanical, electrical or
14 electronic device that, on insertion of money, tokens or any other form of
15 payment, automatically dispenses tobacco products.

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

20 (j) 'Wholesale License' means a license issued by the Director
21 of Revenue and Taxation for the wholesale sale of tobacco products to
22 retailers.

23 **§6102. Applicability of Commercial Licenses Provisions and**
24 **Requirements.** Provisions and requirements of Chapters 70 and 72 of Title 11
25 of the Guam Code Annotated applicable to commercial licenses shall govern

1 this Chapter in matters and provisions not specifically provided in this Chapter
2 and when relevant.

3 **Article 2. Licenses.**

4 **§6200. License: Required.**

5 **§6201. Same: Classes and Fees.**

6 **§6202. Same: Term.**

7 **§6203. Same: Renewal.**

8 **§6204. Same: Vending Machines.**

9 **§6205. Same: Multiple.**

10 **§6206. License: Privilege: Limitation.**

11 **§6207. Same: Limitation.**

12 **§6208. Display of License.**

13 **§6200. License: Required.**

14 (a) It shall be a violation of this Chapter for any person to
15 wholesale tobacco products without first obtaining a valid wholesale
16 tobacco license.

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

20 (c) Any person directly or indirectly engaged in the business of
21 manufacturing tobacco products may not retail tobacco products, directly
22 or indirectly, or hold a retail or wholesale license. It shall not be a
23 violation of this Chapter for any such person engaged in the business of
24 manufacturing tobacco products to import, export or sell for resale
25 tobacco products to a duly licensed tobacco wholesaler.

1 **§6201. Same: Classes and Fees.** The Director is authorized to issue the
2 following classes of licenses at the following fees, which shall be paid by the
3 applicant at the time of application:

4 (a) Annual Retail License: \$ 40.00;

5 (b) Annual Vending Machine Retail License: \$ 20.00;

6 (c) Annual Wholesaler License: \$ 500.00.

7 **§6202. Same: Term.** Licenses shall be issued on an annual basis and
8 shall expire on the thirty-first (31st) day of March following the date of
9 issuance. The full fee shall be paid for any fraction of the year for which a
10 license is issued.

11 **§6203. Same: Renewal.** A licensee may renew his license at the
12 expiration thereof by the payment of the annual license fee set forth in this
13 Chapter and by filing a renewal application. A licensee who fails to renew his
14 license on or before the thirty-first (31st) day of March of each year shall be
15 assessed a late fee of Twenty Dollars (\$20.00) and a penalty of One Dollar
16 (\$1.00) per each calendar day he is delinquent, which penalty shall become part
17 of the renewal fee, and the license is automatically suspended, unless all
18 payments for annual fee, late fee and the daily penalty are paid in full on or
19 before April 30 of that year, in which case the license may be reinstated by the
20 Director immediately. Unless the license is so reinstated, it is automatically
21 revoked and the Director shall not issue a license except upon a new original
22 application. Any licensee who fails to renew his or her license on or before the
23 thirtieth (30th) day of April shall be required to discontinue the sales of tobacco
24 products.

25 Additionally, any licensee who fails to renew his or her license on
26 or before the thirtieth (30th) day of April shall be subject to an injunction issued

1 by the Superior Court of Guam and to prosecution under Title 11 G.C.A.
2 §70119. Such failure to renew while continuing the operation of the business
3 shall constitute refusal and failure to obtain a license pursuant to Division 3 of
4 this Title.

5 **§6204. Same: Vending Machines.**

6 (a) The owner of a vending machine shall obtain a retail license
7 and pay the fee required for each vending machine.

8 (b) The owner of a vending machine who violates Subsection
9 (a) of this Section shall be fined Fifty Dollars (\$50.00) per violation.

10 **§6205. Same: Multiple.** A person applying for retail licenses to operate
11 more than one (1) premise or more than one (1) vending machine shall obtain a
12 separate retail license for each premise and each vending machine, and shall
13 pay the fee prescribed for each premise and each machine.

14 **§6206. License: Privilege: Limitation.** A licensee is limited to the
15 privileges conferred by the license and is not authorized to exercise any other
16 privileges.

17 **§6207. Same: Limitation.** A licensee is limited to the premises for
18 which the license is issued and is not authorized to exercise the privileges
19 conferred by the license at other premises.

20 **§6208. Display of License.**

21 (a) A licensee for sales of tobacco products, excluding sales
22 through vending machines, shall prominently display the license on each
23 licensed premise.

24 (b) The licensee for vending machines sales of tobacco products
25 shall affix a retail license decal furnished by the Director in a prominent
26 position on each vending machine.

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

3 **Article 3. Issuance of Licenses.**

4 **§6300. License: Restrictions.**

5 **§6301. Same: Same: Real Party in Interest.**

6 **§6302. Same: Same: Minors.**

7 **§6303. Same: Same: Prior Revokee.**

8 **§6304. Same: Same: Unfit Person.**

9 **§6305. Same: Application.**

10 **§6306. Application: Investigation.**

11 **§6307. Penalties for Selling Tobacco Products Without a**
12 **License.**

13 **§6300. License: Restrictions.**

14 (a) Except in the case of a vending machine retail license, the
15 Director shall not issue a license to any person who then holds a license
16 of another class.

17 (b) No wholesaler within or outside of Guam, nor any officer,
18 thereof, nor any subsidiary, affiliate or other entity in which a wholesaler
19 holds any ownership or interest, directly or indirectly by stock ownership,
20 interlocking directors, trusteeship, loan, mortgage or lien on any real or
21 personal property, shall hold any tobacco license other than a
22 wholesaler's license in Guam.

23 **§6301. Same: Same: Real Party in Interest.** The Director shall not
24 issue a license of any class to an applicant who is not the real party in interest.

25 **§6302. Same: Same: Minors.** The Board shall not issue a license of any
26 class to a person under eighteen (18) years of age.

1 **§6303. Same: Same: Prior Revokee.** Except in the case of a license
2 revoked for non-payment of a renewal fee, the Director shall not issue a license
3 of any class to any person who held a license of any class which was revoked
4 within a one (1) year period prior to the date of the application.

5 **§6304. Same: Same: Unfit Person.** The Director shall not issue a
6 license of any class to any person the Director deems unfit to hold a license.

7 **§6305. Same: Application.** An applicant for a license shall submit an
8 application in writing to the Director, verified under oath and accompanied by
9 the license fee.

10 **§6306. Application: Investigation.** Upon receipt of an application for a
11 license and the license fee, the Director shall investigate whether the applicant
12 and the premises qualify for a license.

13 **§6307. Penalties for Selling Tobacco Products Without a License.** In
14 addition to any other penalties and fines that may be levied, including those
15 under §6404 and §70120 of this Title, any person who violates §6200 shall be
16 guilty of a misdemeanor as set forth in §70119 of this Title, and punished as
17 follows:

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

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

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

1 **Article 4. Sale or Distribution to Minors Prohibited.**

2 **§6400. Sale or Distribution of Tobacco Products to Minors**
3 **Prohibited.**

4 **§6401. Acceptable Forms of Identification.**

5 **§6402. Display of Prohibition on Sales of Tobacco Products to**
6 **Minors.**

7 **§6403. Licensee Responsible for Employee Actions.**

8 **§6404. Penalties for Selling or Distributing Tobacco Products to**
9 **Minors.**

10 **§6405. Minors Prohibited from Possession, Use and Purchase of**
11 **Tobacco Products.**

12 **§6406. Tobacco Education for Minors.**

13 **§6400. Sale or Distribution of Tobacco Products to Minors**
14 **Prohibited.** It shall be a violation of this Chapter for any person to sell or
15 distribute tobacco products to minors. It shall not be a violation of this Chapter
16 for any person to refuse to sell or distribute tobacco products to any person
17 whom the seller or the distributor reasonably believes to be under twenty-seven
18 (27) years of age, and who is unable to produce acceptable photographic
19 identification and proof that he is over the age of eighteen (18) years.

20 (a) Vending machines selling tobacco products shall be located
21 so that they are accessible only to persons over the age of eighteen (18)
22 or are under the constant, direct supervision and unobstructed line-of-
23 sight of the person authorizing the installation or placement of the
24 tobacco vending machine upon the premises he manages or otherwise
25 controls, or his agent or employee. Said supervising adult shall ensure
26 that minors do not purchase tobacco products from vending machines. A

1 person who authorizes the installation or placement of the tobacco
2 vending machine upon premises he manages, or otherwise controls, and
3 who knows or should know that the tobacco vending machine will likely
4 be used by minors, shall be liable if minors purchase tobacco products
5 from said machines.

6 (b) A licensee or an employer may distribute tobacco products
7 to any employee who handles tobacco products in the course of the
8 commercial distribution or sale of the products. In any proceeding, for
9 the suspension or revocation of any license, and based upon a
10 violation of this Section, proof that the defendant licensee or his agent or
11 employee demanded and was shown, before furnishing any tobacco
12 product to a minor, an identification card, shall be a defense to the
13 charges.

14 **§6401. Acceptable Forms of Identification.** The following are the only
15 acceptable instruments of identification as required by §6400:

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

18 (b) an official identification issued by the Federal or a state
19 government with the individual's photograph and signature;

20 (c) an armed forces identification card;

21 (d) a valid, unexpired passport; and

22 (e) an alien registration receipt card (green card).

23 **§6402. Display of Prohibition on Sales of Tobacco Products to**
24 **Minors.** All licensees shall post notice that this Chapter prohibits the sale of
25 tobacco products to minors.

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

4 (b) In the case of vending machine, the licensee shall affix to
5 the front of each vending machine a sign in letters at least one-half inch
6 ($\frac{1}{2}$ ") in height.

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

9 **§6403. Licensee Responsible for Employee Actions.** Acts or omissions
10 of an agent or employee of a licensee that violate any provisions of this Chapter
11 shall be deemed to be acts or omissions of the licensee.

12 **§6404. Penalties for Selling or Distributing Tobacco Products to**
13 **Minors.**

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

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

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

25 3. in the case of a third violation in any five (5) year
26 period, the person shall be fined Two Thousand Five Hundred

