

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

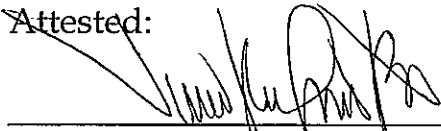
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 150-30 (COR), "AN ACT TO AMEND §26603 (a), (b), (c) AND (d), AND TO ADD A NEW (e), OF ARTICLE 6, CHAPTER 26, OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO INCREASING TOBACCO TAXES, THE HEALTHY FUTURES FUND, AND CREATING A GUAM CANCER TRUST FUND," was on the 22nd day of January, 2010, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 28th day of January 2010, at
3:34 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 5 FEBRUARY 2010

Public Law No. 30-80

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 150-30 (COR)

As substituted by the Committee on Economic Development, Health & Human Services, and Judiciary, and further amended on the Floor.

Introduced by:

B. J.F. Cruz
Judith T. Won Pat, Ed.D
F. B. Aguon, Jr.
T. C. Ada
F. F. Blas, Jr.
E. J.B. Calvo
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Telo Taitague
Ray Tenorio

AN ACT TO AMEND §26603 (a), (b), (c) AND (d), AND TO ADD A NEW (e), OF ARTICLE 6, CHAPTER 26, OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO INCREASING TOBACCO TAXES, THE HEALTHY FUTURES FUND, AND CREATING A GUAM CANCER TRUST FUND.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that studies in medical journals continuously disclose the harmful effects of
4 tobacco and that cigarette smoking and exposure to any form of tobacco causes
5 significant health problems across our nation and our island. Our island has one of

1 the highest rates per capita of cancer patients. Significant studies have shown that
2 the largest cause of morbidity and mortality has been associated with smoking.
3 Smoking is associated with cancer, heart disease, stroke, emphysema, bronchitis,
4 low birth-weight babies, and sudden infant death syndrome, increased frequency of
5 colds and ear infections, and asthma in a smoking household. Currently, Guam
6 ranks the highest in the nation with an adult smoking rate of 34.5% and a youth
7 smoking rate of 30.3%. According to the Department of Mental Health and
8 Substance Abuse, “our island has the HIGHEST RATE of adult tobacco use
9 among all the U.S. States and Territories, at least one (1) person on Guam dies
10 from tobacco use, over 60% of cancers on Guam are due to tobacco, and 66% of
11 Guam's students are exposed to second hand smoke.” *I Liheslatura* further finds
12 that Guam’s health infrastructure is already fragile and stretched to the limits of
13 their capacity, and many individuals have difficulty getting adequate medical care.
14 Guam’s ability to provide adequate health coverage and health care to its island
15 residents is insufficient, forcing our sick to struggle to find ways to cover the costs.
16 Currently, Guam ranks in the bottom half of the nation for the level of tobacco tax
17 (\$1.00 per pack) it charges to help cover important programs and reduce the
18 burden upon its non-smoking citizens. New York ranks first with \$2.75 per pack,
19 with New Jersey ranking second with \$2.575 per pack. Taxes can be viewed as a
20 user fee that affects the 34.5% of Guam adults who are smokers and who do not
21 pay the full societal costs of their use of tobacco.

22 *I Liheslatura* realizes that the raising of taxes during Guam’s current state of
23 economy may bring about potential hardships to our people, but understands that
24 raising cigarette and tobacco taxes serves the community for the better. There is a
25 significant advantage and benefit to our island community by the raising of these
26 taxes. The extra cost associated with the purchase of a cigarette pack or tobacco
27 product is significantly lower than paying the full price of health care associated

1 with lung cancer and other cancers that may develop through the use of cigarettes
2 and/or tobacco products or unintentional inhalation of cigarette smoke.

3 It is the intent of *I Liheslatura* to discourage smoking, especially by young
4 people, and to ease the burden of government-paid health care costs shouldered by
5 non-smoking taxpayers by increasing the tax on cigarettes and other tobacco
6 products and to allocate such new tax revenues to effective sources in the
7 prevention and treatments of cancers and other diseases caused by smoking and
8 tobacco use. This is realized by allocating significant percentages of tobacco tax
9 revenues for health-related services. Therefore, the creation of a Guam Cancer
10 Trust Fund for the use by programs that support cancer screenings, treatment, and
11 supportive services is an appropriate and effective use of revenues and will ensure
12 sustainability over the long term.

13 Dedicating a certain percentage of the tax revenues to the Guam Memorial
14 Hospital Authority will ensure that Guam's healthcare infrastructure will be able to
15 address future access to care demands as Guam's population continues to increase
16 over the next decade. Providing for a continuous source of funding to the
17 Department of Mental Health and Substance Abuse will ensure that effective
18 tobacco control measures focused on prevention and cessation will continue.
19 Funding given to the Department of Public Health and Social Services will further
20 ensure that health promotion and disease prevention programs continue to assist in
21 the reduction of resources spent on treating preventable illness and functional
22 impairment, enhance the quality of life, and/or reduce disparities in the health
23 status of populations.

24 **Section 2.** §26603 of Article 6, Chapter 26, Title 11, Guam Code
25 Annotated, is *amended* to read:

26 **“§26603. Rates.**

1 The following rates *shall* apply in computing, assessing and collecting
2 Tobacco Tax:

3 (a) Cigarettes. A tax at the rate of Fifteen Dollars (\$15.00)
4 per one hundred (100) cigarettes to be prorated in accordance with the
5 number of cigarettes contained in the individual package taxed.

6 (b) Cigars. The tax rates for cigars shall be based on the
7 following sizes:

8 (1) Mini Cigars: Forty Cents (\$0.40) Per Cigar. Mini
9 Cigars are defined as cigars with a ring size of forty (40) or less,
10 or a length of *less than* four and one-half inches (4.5"),
11 regardless of ring size as specified by the manufacturer's label.

12 (2) Standard Cigars: Forty-Four Cents (\$0.44) Per
13 Cigar. Standard Cigars are defined as cigars with a ring size of
14 more than forty (40), but less than sixty-four (64) as specified
15 by the manufacturer's label.

16 (3) Large Cigars: Fifty Cents (\$0.50) Per Cigar. Large
17 Cigars are defined as cigars with a ring size of more than sixty-
18 four (64), or a length of more than eight inches (8"), regardless
19 of the ring size as specified by the manufacturer's label.

20 (4) Where no ring size or length is specified by the
21 manufacturer's label, the tax *shall* be Forty-Four Cents (\$0.44)
22 per cigar. For purposes of this Section, ring size shall be
23 defined as the usually accepted measure used by cigar
24 manufacturers for determining the diameter of cigar at its
25 widest point. A ring size of one (1) is equal to one sixty fourth
26 (1/64) of an inch.

1 (c) Other Tobacco Products. A tax at the rate of Fourteen
2 Dollars (\$14.00) per pound for all other tobacco products to be
3 prorated in accordance with the size of the package to be taxed.

4 (d) Creation of the Healthy Futures Fund. There is hereby
5 created the Healthy Futures Fund (Fund) which shall be maintained
6 separate and apart from other funds of the government of Guam and
7 shall be kept in a separate bank account and shall *not* be subject to any
8 transfer authority of *I Maga'lahaen Guåhan*. All proceeds from taxes
9 collected under this Section *shall* be deposited into the Fund and *shall*
10 *not* be commingled with the General Fund. The Fund is subject to the
11 following:

12 (1) Seventy-two percent (72%) of the taxes collected
13 *shall* be subject to *I Liheslaturan Guåhan's* appropriation for
14 the following purposes:

15 (A) health, education, public safety and social
16 programs providing awareness on tobacco and alcohol
17 and substance abuse prevention, cessation, treatment and
18 control; programs and activities for improving overall
19 health and well-being; and, programs that enforce alcohol
20 regulations;

21 (B) public safety and social programs that
22 enforce alcohol and substance abuse regulations, reduce
23 underage drinking, support traffic safety, reduce drug-
24 related violence and abuse;

25 (C) community-based drug and substance abuse
26 prevention programs;

1 (D) matters pertinent to the items, *supra*, as
2 deemed appropriate by *I Liheslaturan Guåhan*, with
3 preference given to programs directed towards youth,
4 low-income or at-risk persons and families; drug,
5 alcohol, tobacco and substance prevention, cessation, and
6 treatment; preventative health care, and chronic disease
7 management; and the construction and maintenance of
8 facilities to provide a venue to promote a healthy
9 lifestyle;

10 (E) to the Department of Public Health and
11 Social Services for health promotion and disease
12 prevention programs that attempt to reduce resources
13 spent on treating preventable illness and functional
14 impairment, enhance the quality of life, and/or reduce
15 disparities in the health status of populations; and

16 (F) to the Department of Mental Health and
17 Substance Abuse for tobacco prevention and cessation
18 programs that attempt to reduce tobacco consumption;

19 (2) Fifteen percent (15%) of the taxes collected and
20 any subsequent gains *shall* be transferred into the Guam Cancer
21 Trust Fund for programs supporting cancer screening,
22 treatment, and support services;

23 (3) Twelve percent (12%) of the taxes collected to
24 Guam Memorial Hospital Authority for operating expenses; and

25 (4) One percent (1%) of the taxes collected shall be
26 used to maintain the Guam Cancer Registry.

1 (e) Creation of the Guam Cancer Trust Fund. There is
2 hereby created the Guam Cancer Trust Fund, which *shall* be used to
3 provide financial assistance to organizations that provide patient
4 directed services for the prevention of cancers, its treatment,
5 diagnosis, and other services that *may* be required to access treatment,
6 including, but *not limited to*, off-island transportation and temporary
7 housing. The Guam Cancer Trust Fund *shall* be subject to the
8 following:

9 (1) Fifteen percent (15%) of the Healthy Futures Fund
10 into the Guam Cancer Trust Fund, which *shall* be held in an
11 account at a Guam financial institution separate and apart from
12 all other accounts and funds of the government of Guam and
13 *shall not* be subject to the transfer authority of *I Maga'lahren*
14 *Guåhan*.

15 (2) The University of Guam, for each fiscal year, may
16 allocate up to seventy-five percent (75%) of the funds balance
17 to non-profit and charitable organizations providing cancer
18 screenings, treatment, and support services. The University of
19 Guam *shall* promulgate rules and regulations pursuant to Title 5
20 GCA, Chapter 9 regarding the administration of the Guam
21 Cancer Trust Fund, as well as the application, distribution,
22 review and investigation of such funds. Such rules and
23 regulations *shall* be posted on the University's website.

24 (A) The initial rules and regulations governing
25 the Guam Cancer Trust Fund *shall* be submitted to *I*

1 *Liheslatura* within ninety (90) days from the effective
2 date of this Act.

3 (3) The Guam Cancer Trust Fund may receive additional
4 appropriations, contributions, endowments, or gifts in cash or
5 otherwise from any source, including the Territory of Guam,
6 corporations or other businesses, individuals, and interested parties.

7 (4) The aggregate principal sum deposited in the Guam
8 Cancer Trust Fund *shall* be invested by the University of Guam,
9 subject to its investment policy as established by the Board of
10 Regents.

11 (5) If the Guam Cancer Trust Fund is terminated, the monies
12 remaining in the Trust Fund *shall* revert back to the Healthy Futures
13 Funds.

14 (6) The President of the University of Guam *shall* submit a
15 report on a quarterly basis to the Speaker of *I Liheslaturan Guåhan* of
16 the revenues collected, gained, and expended from the Guam Cancer
17 Trust Fund and *shall* post such report on the University's website.

18 (f) The Director of Administration *shall* submit a report on a
19 quarterly basis to the Speaker of *I Liheslaturan Guåhan* of the revenues
20 collected and expended from the Healthy Futures Fund and *shall* post such
21 report on the Department's website."

22 **Section 3. Date of Effect.** Notwithstanding §17311 of Chapter 17 of Title
23 3 of the Guam Code Annotated, the new tax rates established in Subsections (a),
24 (b) and (c) of §26603 of Article 6, Chapter 26, Title 11, Guam Code Annotated, as
25 established pursuant to Section 2 of this Act, *shall* take effect sixty (60) days from
26 the date of enactment of this Act.