



# 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:

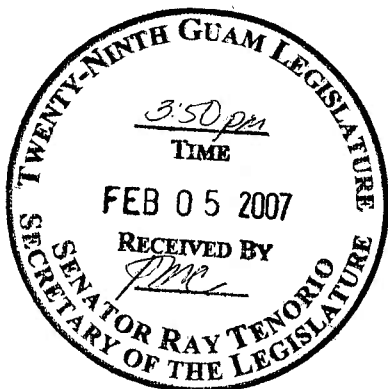
Transmitted herewith is Bill No. 121(EC), "AN ACT TO REPEAL AND RE-ENACT CHAPTER 6 OF TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO THE LICENSING REQUIREMENTS FOR THE RETAIL AND WHOLESALE OF TOBACCO PRODUCTS; TO ADD A NEW ARTICLE 6 TO CHAPTER 6 OF TITLE 11 GUAM CODE ANNOTATED, TO RESTRICT IMPORTATION OF 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,*

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



122

Office of the Speaker

MARK FORBES

Date: 2/2/07  
Time: 11-  
Rec'd by: RM  
Print Name: Rob R/-  
29-01-0122

NEW REGIMEN

5:04 PM  
2/5/07

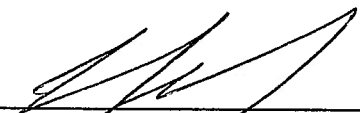
**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2006 (SECOND) Regular Session**

**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 20<sup>th</sup> day of December, 2006, duly and regularly passed.

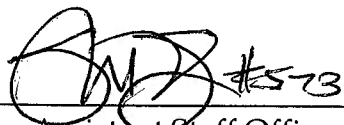
  
**Mark Forbes**  
**Speaker**

Attested:


  
\_\_\_\_\_  
**Edward J.B. Calvo**  
**Senator and Secretary of the Legislature**

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

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'laha's Office*

APPROVED:

  
\_\_\_\_\_  
**FELIX P. CAMACHO**  
*I Maga'lahaen 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           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1.** Chapter 6 of Title 11 of the Guam Code Annotated is hereby  
3 *repealed* and *re-enacted* to read as follows:

4   **“Chapter 6**

5                   **Article 1. General Provisions**

6                   **Article 2. Licenses**

7                   **Article 3. Issuance of Licenses**

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

9                   **Article 5. Enforcement**

10                  **Article 6. Prohibition on Importation**

11   **Article 1. General Provisions.**

12                                   **§6100. Title.**

13                                   **§6101. Definitions.**

14                                   **§6102. Applicability of Commercial Licenses Provisions**  
15   **and Requirements.**

16                   **§6100. Title.** This Chapter shall be known and cited as the ‘Tobacco  
17 Control Act of 2006.’

18                   **§6101. Definitions.** Unless the context otherwise requires, the  
19 definitions set forth herein shall govern the construction and interpretation of  
20 this Chapter.

21                                   (a) ‘Director’ means the Director of Revenue and Taxation.

22                                   (b) ‘License’ means Retail License and Wholesale License for  
23 sales of tobacco products, as defined under this Section.

24                                   (c) ‘Minor’ means any person under eighteen (18) years of age.

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

1                   Dollars (\$2,500.00) and, in the case of a licensee, the license shall  
2                   be suspended for one hundred eighty (180) days;

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

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

12                  (c)    During any suspension or revocation of a license under this  
13                  Section, the licensee shall not sell tobacco products and shall remove all  
14                  tobacco products from all areas covered by the suspended license. In  
15                  addition, any new application for a license to sell tobacco products while  
16                  a licensee is suspended under this Chapter shall be denied.

17                  **§6405. Minors Prohibited from Possession, Use and Purchase of**  
18                  **Tobacco Products.** It shall be a violation of this Chapter for any minor to use  
19                  or be in possession of tobacco products or to attempt to purchase tobacco  
20                  products using false identification.

21                  **§6406. Tobacco Education for Minors.** Any minor who violates §6405  
22                  of this Chapter shall attend an education program on tobacco products to  
23                  include smoking cessation information administered by the Department of  
24                  Mental Health and Substance Abuse, the Department of Public Health and  
25                  Social Services, the Guam Public School System or other government agencies  
26                  with similar programs approved by one of these agencies.

1                                   **Article 5. Enforcement.**

2                   **§6500. Enforcement.**

3                   **§6501. Notice.**

4                   **§6502. Hearing.**

5                   **§6503. Publication and Distribution of Laws and**  
6                                   **Rules.**

7                   **§6504. Use of Collected Fees and Penalties for Youth**  
8                                   **Programs.**

9                   **§6505. Youth Tobacco Education and Prevention Fund.**

10                  **§6506. Report.**

11                  **§6500. Enforcement.** The Director shall enforce this Chapter in  
12 cooperation with the Department of Mental Health and Substance Abuse. Any  
13 person may register a complaint pursuant to this Chapter with the Director. The  
14 Director shall notify any establishment or individual of a complaint made  
15 pursuant to this Chapter and shall keep a record of that notification.

16                  (a) The Director shall conduct random, unannounced  
17 inspections at retail sites and may enlist the assistance of persons who are  
18 between twelve (12) and seventeen (17) years of age, upon written  
19 consent of their parents or legal guardians. Participation in these  
20 enforcement activities by a minor shall not constitute a violation of  
21 §6405 of this Chapter, and the minor is immune from prosecution and  
22 penalties, or under any other provision of law prohibiting the purchase of  
23 tobacco products by minors.

24                  (b) The Director shall enact and publish guidelines for the use  
25 of minors in inspections conducted pursuant to this Section, that shall  
26 include, but not be limited to, all of the following:

1           1.     the Director may, upon written consent of their  
2           parents or legal guardians, enlist the services of minors who are  
3           between twelve (12) and seventeen (17) years of age in random  
4           inspections to determine if sales of cigarettes or other tobacco  
5           products are being made to minors;

6           2.     a photograph or video recording of the minor shall be  
7           taken prior to each inspection or shift of inspections and retained  
8           by the Director for the purpose of verifying appearances;

9           3.     the Director may use video recording equipment when  
10          conducting the inspections to record and document illegal sales or  
11          attempted sales;

12          4.     the minor, if questioned by the licensee or his agents  
13          about his or her age, shall state his actual age and shall present a  
14          true and correct identification if verbally asked to present it. The  
15          minor's failure to provide true and correct identification, if  
16          requested, shall be a defense to any action pursuant to this Chapter.

17          5.     the minor shall be supervised of a regularly employed  
18          peace officer or an adult duly authorized by the Director during the  
19          inspection;

20          6.     following the sale or attempted sale, the peace officer  
21          or adult supervising the minor shall reenter the retail establishment  
22          and inform the seller of the random inspection and identify the  
23          minor to the seller; and

24          7.     failure to comply with the procedures set forth in this  
25          Section shall be a defense to any action brought pursuant to this  
26          Chapter.



1           **§6501. Notice.** Prior to the revocation or suspension of a license issued  
2 under this Chapter, the Director shall provide a notice to the defendant, via  
3 certified mail, return receipt requested. The notice shall contain the following  
4 information:

- 5                   (a) the name and title of the person issuing the notice;
- 6                   (b) the date on which the fine, suspension or revocation will  
7 become effective;
- 8                   (c) the reason for the fine, revocation or suspension;
- 9                   (d) that the licensee may request a hearing regarding the fine,  
10 revocation or suspension;
- 11                   (e) that the person must request a hearing in person or in writing  
12 via certified mail, return receipt requested, and received by the Director  
13 within ten (10) days after receipt of the notice; and
- 14                   (f) that failure to appear in person or through mail received by  
15 the Director within ten (10) days after receipt of the notice, or by the  
16 notice's return by the U.S. Postal Service, shall be a waiver of the right to  
17 a hearing and the fine, revocation or suspension will become effective on  
18 the date specified in the notice.

19           **§6502. Hearing.** Except as otherwise specifically provided for herein, the  
20 Director shall conduct any proceedings required by this Chapter in accordance  
21 with the Administrative Adjudication Law, and shall have all of the powers  
22 granted in said Law.

- 23                   (a) Upon receipt of the request for a hearing as provided in  
24 §6501, supra, a hearing shall be held before a Hearing Officer appointed  
25 by the Director in accordance with the Administrative Adjudication Law.  
26 The hearing shall be conducted within forty-eight (48) hours of receipt of

1 the request, holidays, Saturdays and Sundays not included. The hearing  
2 may be set for a later day if the applicant or licensee so requests.

3 (b) At the hearing the applicant, defendant or licensee may  
4 contest the denial, fine, revocation or suspension.

5 (c) If the Hearing Officer finds that the applicant is not eligible  
6 for a license, the Hearing Officer shall declare the license application  
7 denied. If the Hearing Officer finds that the fine, suspension or  
8 revocation is in accordance with this Chapter, the fine, suspension or  
9 revocation shall take effect immediately. The action of the Hearings  
10 Officer is final.

11 (d) If the applicant or licensee does not appear at the scheduled  
12 hearing in person, or through a representative as allowed by the Hearing  
13 Officer, the Hearing Officer shall affirm the denial, fine, revocation or  
14 suspension of the licensee or applicant.

15 **§6503. Publication and Distribution of Laws and Rules.** The Director  
16 shall compile and provide a copy of the laws and rules concerning retail tobacco  
17 sales to every new licensee at no charge.

18 **§6504. Use of Collected Fees and Penalties for Youth Programs.** All  
19 fines and fees assessed and collected under this Chapter shall be distributed and  
20 deposited in the following manner by the Director on the final working day of  
21 the months of March, June, September and December of each year:

22 (a) thirty percent (30%) to the Department of Parks and  
23 Recreation Off-Island Sports Fund;

24 (b) twenty percent (20%) to the Health and Human Services  
25 Fund; and

1 (c) fifty percent (50%) to the Youth Tobacco Education and  
2 Prevention Fund.

3 **§6505. Youth Tobacco Education and Prevention Fund.** There is  
4 created, separate and apart from any other funds of the government of Guam,  
5 under the administration and control of the Director, the Youth Tobacco  
6 Education and Prevention Fund ('YTEPF'). YTEPF shall be held in an account  
7 or accounts at a Guam financial institution, or institutions, separate and apart  
8 from all other accounts and funds of the government of Guam, and shall not be  
9 subject to the transfer authority of *I Maga'lāhen Guåhan*. One hundred percent  
10 (100%) of the funds in the YTEPF shall be used by the Department of Mental  
11 Health and Substance Abuse for youth compliance monitoring and tobacco and  
12 drug prevention and education programs.

13 **§6506. Report.** The Director shall report monthly to the Department of  
14 Mental Health and Substance Abuse ('DMHSA') a list of all licenses granted  
15 and renewed, including the names and street addresses of the business or the  
16 location of the vending machines, the number of violations processed and the  
17 penalties imposed, and any other information that the Director and DMHSA  
18 agree upon.

19 **Article 6. Prohibition on Importation.**

20 **§6600. Who May Import.**

21 **§6601. Prohibitions.**

22 **§6602. Penalty.**

23 **§6600. Who May Import.** Tobacco products may be brought into Guam  
24 from without Guam for delivery or use within Guam only if the tobacco  
25 products are imported by or consigned to a licensed wholesaler.

1           **§6601. Prohibitions.** The transportation or importation into Guam for  
2 delivery or use in Guam of tobacco products without payment of the tax  
3 provided by Chapter 26, Article 6, of this Code, or contrary to the provisions of  
4 Article 6, is hereby prohibited.

5           **§6602. Penalty.** Whoever transports or imports into Guam for delivery or  
6 use in Guam tobacco products in violation of this Article shall be penalized as  
7 follows:

8                   (a) in the case of a first violation, the person shall be guilty of a  
9 misdemeanor and may be fined not more than One Thousand Dollars  
10 (\$1,000.00) or imprisoned for not more than one (1) year, or both,

11                   (b) in the case of any subsequent violation, the person shall be  
12 guilty of a felony of the third degree and shall be fined not more than Ten  
13 Thousand Dollars (\$10,000.00) or imprisoned for not more than five (5)  
14 years, or both.”

15           **Section 2.** §26601(c) of Article 6 of Chapter 26 of Title 11 of the  
16 Guam Code Annotated is hereby *amended* to read as follows:

17                   **“(c) Bonding.** Any taxpayer holding an Annual  
18 Wholesaler License pursuant to Title 11 G.C.A. §6201 and  
19 against whom taxes are levied under this Article with respect  
20 to tobacco products may, by complying with the rules and  
21 regulations promulgated by the Tax Commissioner, and by  
22 placing such tobacco products in a warehouse under bond,  
23 delay the payment of said taxes until the due date of the  
24 monthly tax return for the month in which the tobacco  
25 products are withdrawn from the warehouse and no interest  
26 shall commence to run thereon until such due date.

1 (1) Relief from tax upon export. When the  
2 taxes levied under this Article have not been paid with  
3 respect to any tobacco products because said tobacco  
4 products were placed in a warehouse under bond, the  
5 taxpayer may export such tobacco products from  
6 Guam without payment of the taxes levied under this  
7 Article and, subject to the conditions set forth in  
8 §§26604(a), 26604(b) and 26605(d), be relieved of  
9 liability therefor upon submission of a claim for relief  
10 to the Tax Commissioner not later than the twentieth  
11 (20<sup>th</sup>) day of the month following the month in which  
12 the tobacco products are withdrawn from the  
13 warehouse.”

14 **Section 3.** §90107(b) of Title 10, Guam Code Annotated is hereby *repealed*.

15 **Section 4. Severability.** *If* any provision of this Law or its application to any  
16 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
17 *not* affect other provisions or applications of this Law which can be given effect  
18 without the invalid provisions or application, and to this end the provisions of this  
19 Law are severable.