

I Mina'trentai Sietta Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
194-37 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and substituted on the Floor	Sabina Flores Perez Therese M. Terlaje Chris Barnett	AN ACT TO <i>AMEND</i> § 6102 (l) OF ARTICLE 1, <i>AMEND</i> § 6209 (c) OF ARTICLE 2, <i>AMEND</i> § 6306 AND § 6308 OF ARTICLE 3, <i>AMEND</i> § 6401, § 6402, AND § 6405, ALL OF ARTICLE 4, AND <i>AMEND</i> § 6603 OF ARTICLE 6, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE DEFINITION OF ELECTRONIC CIGARETTES AND FINES AND PENALTIES FOR TOBACCO AND NICOTINE VIOLATIONS.	10/25/23 4:31 p.m.	10/27/23	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	Request: 10/27/23 11/6/23	12/12/23 1:30 p.m.	2/21/24 11:46 a.m.	As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	3/18/24	AN ACT TO <i>AMEND</i> § 6209(c) OF ARTICLE 2, §§ 6306 AND 6308 OF ARTICLE 3, §§ 6401(a), 6403, AND 6405 OF ARTICLE 4, AND § 6603 OF ARTICLE 6, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE FINES AND PENALTIES CONCERNING TOBACCO, NICOTINE AND ELECTRONIC CIGARETTE VIOLATIONS.	3/22/24	3/22/24	4/3/24	37-90	4/3/24	Received: 4/3/24 Mess and Comm. Doc. No. 37GL-24-1889	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

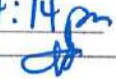
Transmitted via email to: speaker@guamlegislature.org

April 3, 2024

The Hon. Therese M. Terlaje
Speaker, I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

37GL-24-1889
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

APR 03 2024

Time: 4:14 pm
Received: 


Re: Substitute Bill No. 194-37 (LS) - AN ACT TO AMEND § 6209(c) OF ARTICLE 2, §§ 6306 AND 6308 OF ARTICLE 3, §§ 6401(a), 6403, AND 6405 OF ARTICLE 4, AND § 6603 OF ARTICLE 6, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE FINES AND PENALTIES CONCERNING TOBACCO, NICOTINE AND ELECTRONIC CIGARETTE VIOLATIONS

Håfa Adai Madam Speaker,

Data shows that one in three high school and middle school students currently use electronic cigarettes, and that tobacco-related diseases are the leading cause of death in Guam. Since 2018, the Guam Behavioral Health and Wellness Center and the Department of Revenue and Taxation have cited approximately 119 businesses for selling tobacco products to individuals under the age of 21. In December 2023, a tobacco retailer lost its license and was fined \$10,000 for its fourth offense within five years.

Mindful of these factors, and in the interest of protecting minors from the dangers associated with tobacco use, the Guam Legislature passed Substitute Bill No. 194-37 (LS), which strengthens Guam's tobacco control laws by increasing the penalties and fines for these violations. Fees and fines collected will be directed to help fund programs that educate the public on the dangers of tobacco, and enforce the law. Substitute Bill No. 194 also helps protect our youth by requiring identification at purchase, eliminating any potential for sellers to employ subjective determination of a purchaser's age without proof.

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RECEIVED
4/3/24 2:45 pm


To: Therese M. Terlaje, Speaker
Fr: Lourdes A. Leon Guerrero, Governor of Guam
Date: April 3, 2024
Re: Substitute Bill No. 194-37 (LS)

Page 2 of 2

I commend the authors of Substitute Bill No. 194 for introducing this legislation to respond to the high rates of tobacco and nicotine use among Guam's youth, and prioritizing the health of our community.

For these reasons, I am signing Substitute Bill No. 194-37 (LS) into law as **Public Law 37-90**.

Senseramente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure(s): Substitute Bill No.194-37 (LS) nka P.L. 37-90

cc via email: The *Honorable* Joshua F. Tenorio, *Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÁHAN
2024 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÁGAN GUÁHAN

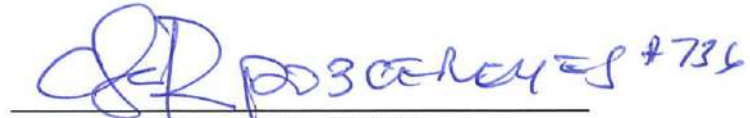
This is to certify that **Substitute Bill No. 194-37 (LS), "AN ACT TO AMEND § 6209(c) OF ARTICLE 2, §§ 6306 AND 6308 OF ARTICLE 3, §§ 6401(a), 6403, AND 6405 OF ARTICLE 4, AND § 6603 OF ARTICLE 6, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE FINES AND PENALTIES CONCERNING TOBACCO, NICOTINE AND ELECTRONIC CIGARETTE VIOLATIONS,"** was on the 22nd day of March 2024, duly and regularly passed.


Therese M. Terlaje
Speaker


Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 22ND day of MARCH,
2024, at 8:22 o'clock P.M.

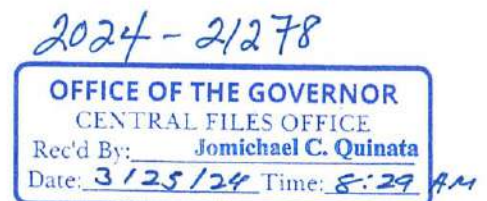

Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/3/2024

Public Law No. 37-90



I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÁHAN
2023 (FIRST) Regular Session

Bill No. 194-37 (LS)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement, and
Statistics, Research, and Planning; and
substituted on the Floor.

Introduced by:

Sabina Flores Perez
Therese M. Terlaje
Chris Barnett
Frank Blas, Jr.
Joanne M. Brown
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Tina Rose Muña Barnes
William A. Parkinson
Roy A. B. Quinata
Joe S. San Agustin
Dwayne T.D. San Nicolas
Amanda L. Shelton

**AN ACT TO *AMEND* § 6209(c) OF ARTICLE 2, §§ 6306
AND 6308 OF ARTICLE 3, §§ 6401(a), 6403, AND 6405 OF
ARTICLE 4, AND § 6603 OF ARTICLE 6, ALL OF
CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED,
RELATIVE TO UPDATING THE FINES AND
PENALTIES CONCERNING TOBACCO, NICOTINE
AND ELECTRONIC CIGARETTE VIOLATIONS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guáhan* finds
3 that from 2018 to 2022, the Department of Revenue and Taxation cited a total of one
4 hundred six (106) violations from tobacco outlets on Guam from a total of three

1 hundred twenty-nine (329) vendors licensed to sale tobacco products. Violations
2 consisted of tobacco sales to those under twenty-one (21) years of age and failing to
3 post “21+ Only Sales” signages for public view.

4 *I Liheslatura* further finds that the World Health Organization, Framework
5 Convention on Tobacco Control (WHO-FCTC) recognizes that consistently
6 revisiting violation penalties along with taxation are the two (2) highly effective
7 initiatives to tackle tobacco and nicotine consumption among youth worldwide.

8 *I Liheslatura* finds that Chapter 6 of Title 11, Guam Code Annotated, that was
9 established in October of 1998 through Public Law 24-278, required sellers of
10 tobacco products to obtain tobacco licenses and sought to enforce the prohibition of
11 sales of tobacco products to minors. Twenty-five (25) years later, updates to Chapter
12 6 of Title 11 GCA have included the licensing requirements for the retail and
13 wholesale of tobacco products and the restrictions of tobacco products to
14 manufacturer’s representatives, and tobacco taxation through Public Law 28-170.
15 The passage of Public Law 32-200 restricted the engagement of any sellers to offer
16 any tobacco multi-product discounts and promotions. In 2017, Public Law 34-01
17 defined electronic cigarettes in Chapter 6 of Title 11 GCA, and raised the consumer
18 age of tobacco and nicotine products to twenty-one (21) years of age. Among the
19 many regulations established on Guam, tobacco and nicotine consumption and
20 tobacco marketing strategies continue to evolve, as well as, the need for policy
21 changes.

22 *I Liheslatura* finds that according to the Annual Synar Report published by
23 the Guam Behavioral Health and Wellness Center, as of 2017, there were one
24 hundred six (106) tobacco violations with the majority being first and second time
25 offenders. According to the Department of Revenue and Taxation, as of September
26 2023, there are three hundred forty-seven (347) active retail Tobacco Business
27 Licenses and eight (8) active wholesale tobacco business licenses. Between 2018

1 and 2019, one (1) third-time offender paid a Five Thousand Fifty Dollar (\$5,050.00)
2 penalty and had their tobacco license suspended.

3 Despite a downward trend of violations for selling tobacco and nicotine
4 products without a license or selling tobacco products to minors, data published in
5 August of 2023 finds that consumption of tobacco and nicotine remains higher in
6 Guam compared to the U.S. among adults and youth. Updates to the 2021 State
7 Epidemiological Outcomes Workgroup (SEOW) Epi Profile document the use of
8 electronic nicotine delivery devices or “vaping” is high amongst Guam youth with
9 one (1) in three (3), or 35.2%, of high school students and one (1) in three (3), or
10 34.6%, of middle school students reporting current use. Tobacco use figures display
11 marked disparities across socio-economic gradients with poor and less-educated
12 individuals more likely to smoke than rich and well-educated persons who are less
13 likely to have smoked at all.

14 Therefore, it is the intent of *I Liheslaturan Guåhan* to protect our island’s
15 youth by updating statutes, which are nearly two (2) decades old, to deter non-
16 compliance by increasing fines and suspension of licenses for first time violators for
17 those businesses that sell to minors.

18 **Section 2.** § 6209(c) of Article 2, Chapter 6, Title 11, Guam Code
19 Annotated, is hereby *amended* to read as follows:

20 “(c) Any licensee who violates this Section shall be fined One
21 Hundred Dollars (\$100.00) per violation.”

22 **Section 3.** § 6306 of Article 3, Chapter 6, Title 11, Guam Code Annotated,
23 is hereby *amended* to read as follows:

24 **“§ 6306. Same: Application.**

25 An applicant for a license shall submit the following:

26 (a) an application in writing to the Director, verified
27 under oath; and

1 (b) the license fee(s).”

2 **Section 4.** § 6308 of Article 3, Chapter 6, Title 11, Guam Code Annotated,
3 is hereby *amended* to read as follows:

4 **“§ 6308. Penalties for Selling Tobacco Products Without a**
5 **License.**

6 In addition to any other penalties and fines that may be levied,
7 including those under § 6405 and § 70120 of this Title, any person who
8 violates § 6201 shall be guilty of a misdemeanor as set forth in § 70119
9 of this Title, and punished, notwithstanding § 80.50(c) of Article 3,
10 Chapter 80, Title 9, Guam Code Annotated, as follows:

11 (a) in the case of a first violation, by a fine of One
12 Thousand Dollars (\$1,000.00);

13 (b) in the case of a second violation, by a fine of Two
14 Thousand Dollars (\$2,000.00);

15 (c) in the case of three (3) or more violations, a fine of
16 not less than Four Thousand Dollars (\$4,000.00), nor more than
17 Ten Thousand Dollars (\$10,000), and the person shall not be
18 eligible to apply for a license for ten (10) years after the date of
19 the assessment of a fine.”

20 **Section 5.** § 6401(a) of Article 4, Chapter 6, Title 11, Guam Code
21 Annotated, is hereby *amended* to read as follows:

22 “(a) It shall be a violation of this Chapter for any person to sell or
23 distribute tobacco products or electronic cigarettes to any person under
24 twenty-one (21) years of age. Retailers of tobacco products or electronic
25 cigarettes shall require persons to provide acceptable photographic
26 identification and proof of being twenty-one (21) years of age or older prior
27 to sale.

1 (1) The sale or distribution of electronic cigarettes to any
2 person under twenty-one (21) years of age, or its possession by such
3 person, is prohibited and shall be regulated and enforced pursuant to
4 this Chapter.

5 (2) Any provision of this Chapter applicable to the regulation
6 and prohibition of the sale or distribution of tobacco products to any
7 person under twenty-one (21) years of age, or possession by such
8 person, shall be applicable to electronic cigarettes, and any other
9 component of an electronic cigarette, and shall be regulated and
10 enforced in the same manner as tobacco products, to include the
11 applicability of all penalties and fines.”

12 **Section 6.** The second § 6402 of Article 4, Chapter 6, Title 11, Guam Code
13 Annotated, is renumbered as § 6403 and is hereby *amended* to read as follows:

14 “**§ 6403. Display of Prohibition on Sales of Tobacco Products**
15 **and Electronic Cigarettes to Persons Under Twenty-one (21) Years of**
16 **Age.**

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

19 (a) In the case of a retail operation, notices shall be
20 publicly and conspicuously displayed in the licensee’s place of
21 business in letters at least two inches (2”) in height.

22 (b) Any licensee who violates this Section shall be
23 fined Five Hundred Dollars (\$500.00) per violation.”

24 **Section 7.** § 6405 of Article 4, Chapter 6, Title 11, Guam Code Annotated,
25 is hereby *amended* to read as follows:

1 **“§ 6405. Penalties for Selling or Distributing Tobacco Products**
2 **and Electronic Cigarettes to Persons Under Twenty-one (21) Years of**
3 **Age.**

4 (a) In addition to any other penalties and fines that may be
5 levied, any person who violates § 6401 of this Chapter shall be
6 penalized, notwithstanding § 80.50 (c) of Article 3, Chapter 80, Title 9,
7 Guam Code Annotated, as follows:

8 (1) In the case of a first violation, the person shall be
9 fined Two Thousand Dollars (\$2,000.00), and the license shall
10 be suspended for ninety (90) days and shall be notified, in
11 writing, of penalties levied for further violations;

12 (2) in the case of a second violation, the person shall be
13 fined Four Thousand Dollars (\$4,000.00) and the license shall be
14 suspended for one hundred eighty (180) days;

15 (3) in the case of three (3) or more violations, the person
16 shall be fined not less than Ten Thousand Dollars (\$10,000.00)
17 and not more than Twenty Thousand Dollars (\$20,000.00) and
18 the license shall be revoked, and the licensee shall be ineligible
19 to apply for a new license for ten (10) years after the effective
20 date of revocation.

21 (b) Failure to pay a fine levied under this Section after
22 suspension pursuant to Subsection (a) of this Section shall result in
23 continued suspension of the licensee's license until such fines are paid.

24 (c) During any suspension or revocation of a license under
25 this Section, the licensee shall not sell tobacco products or electronic
26 cigarettes and shall remove all tobacco products and electronic
27 cigarettes from all areas covered by the suspended license. In addition,

1 any new application for a license to sell tobacco products or electronic
2 cigarettes while a licensee is suspended under this Section shall be
3 denied.

4 (d) All tobacco products sold over the counter shall be
5 displayed and located where they shall be inaccessible to persons under
6 twenty-one (21) years of age. Any vendor who violates this provision
7 shall pay a penalty of One Thousand Dollars (\$1,000.00).”

8 **Section 8.** § 6603 of Article 6, Chapter 6, Title 11, Guam Code Annotated,
9 is hereby *amended* to read as follows:

10 **“§ 6603. Penalty.**

11 Whoever transports or imports into Guam for delivery or
12 commercial use in Guam tobacco products or electronic cigarettes in
13 violation of this Article shall be penalized as follows:

14 (a) in the case of a first violation, the person, owner or
15 consignee shall be guilty of a misdemeanor and shall be fined
16 One Thousand Dollars (\$1,000.00) or imprisoned for not more
17 than one (1) year, or both;

18 (b) in the case of any subsequent violation, the person,
19 owner or consignee shall be guilty of a felony of the third degree
20 and shall be fined Ten Thousand Dollars (\$10,000.00) or
21 imprisoned for not more than five (5) years, or both.

22 (c) any individual who imports tobacco products
23 outside the exemptions identified in this Article shall be imposed
24 a fine of three (3) times the taxable assessment, which shall be
25 determined using the tax rate established in § 26603 of Article 6,
26 Chapter 26, Title 11, Guam Code Annotated, by the Officer of
27 the Customs and Quarantine Agency at the port of entry. The

1 commodity shall be seized, and the violator of this Section shall
2 be fined additionally the same amount as the taxable assessment
3 for the cost of storage, destruction, and administrative fees for
4 tobacco products or electronic cigarettes exceeding the
5 exemption pursuant to Title 9, Guam Code Annotated, § 47.70.
6 This fee shall be deposited according to the following:

7 (1) fifty percent (50%) in the Customs Local
8 Forfeiture Account (CLFA); and

9 (2) fifty percent (50%) in the Youth Tobacco
10 Education and Prevention Fund (YTEP Fund).

11 (d) The Customs and Quarantine Agency shall maintain
12 a database of all individuals who are in violation of this Section
13 to determine and administer subsequent violation charges.”

14 **Section 9. Effective Date.** This Act shall be effective upon enactment.

15 **Section 10. Severability.** If any provision of this Act or its application to
16 any person or circumstance is found to be invalid or inorganic, such invalidity shall
17 not affect other provisions or applications of this Act that can be given effect without
18 the invalid provision or application, and to this end the provisions of this Act are
19 severable.