I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Bill No. 63-31 (COR), "AN ACT TO *ADD* A NEW §75107 TO CHAPTER 75, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING LAW ENFORCEMENT PERSONNEL, EMPLOYEES AND POSITIONS FROM THE APPLICATION OF THE PROVISION OF "SAFE HARBOR" UNDER THE GOVERNMENT OF GUAM'S DRUG-FREE WORKPLACE PROGRAM; AND TO *AMEND* §75100(a) OF CHAPTER 75, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE DEFINITION OF LAW ENFORCEMENT PERSONNEL, EMPLOYEE, OR POSITION",** was on the 4th day of April, 2011, 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'lahen Guåhan* this 7th day of April, 2011, at 09:50 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURÅN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 63-31 (COR)
As amended by the Committee on Public Safety,
Law Enforcement and Judiciary.

Introduced by: Adolpho B. Palacios, Sr.
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Duenas
Sam Mabini, Ph.D.
Judith P. Guthertz, DPA
T. R. Muña Barnes
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW §75107 TO CHAPTER 75, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING LAW ENFORCEMENT PERSONNEL, EMPLOYEES AND POSITIONS FROM THE APPLICATION OF THE PROVISION OF "SAFE HARBOR" UNDER THE GOVERNMENT OF GUAM'S DRUG-FREE WORKPLACE PROGRAM; AND TO *AMEND* §75100(a) OF CHAPTER 75, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE DEFINITION OF LAW ENFORCEMENT PERSONNEL, EMPLOYEE, OR POSITION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Department of Administration Drug-Free Workplace Program (DOA/DFWP) was adopted through Executive Order 95-29 on December 6, 1995. The Drug-Free Workplace Program provides guidelines for the implementation, enforcement and administration of the Program.

The Drug-Free Workplace Program provides for drug testing of government of Guam employees and prospective employees to ensure compliance with the program. The DOA/DFWP also provides for counseling and rehabilitation for employees who voluntarily admit to illegal drug use without the threat of discipline. This provision is known as "Safe Harbor". "Safe Harbor" is defined in the DOA/DFWP as "A provision of the DFWP which gives an employee a one-time opportunity to voluntarily identify himself/herself as a user of illegal drugs willing to undertake counseling and, as necessary, rehabilitation. "Safe Harbor" insulates the employee from discipline for these admitted, but otherwise unknown, past acts of illegal drug use. It does not protect the employee from discipline for admitting to drug trafficking or other drug-related offenses."

Over the years most all government agencies, including autonomous agencies, have adopted the DOA/DFWP as part of their policy, via a memorandum of understanding.

Although "Safe Harbor" has its benefit in helping employees, *I Liheslaturan Guåhan* believes that it should *not* be applicable to law enforcement personnel, employees or positions as the term is defined in §75100(a), Chapter 75, Title 10, Guam Code Annotated. Employment in these positions demands that a high ethical and professional code of conduct be adhered to in order to maintain the reputation and credibility crucial for the performance required by the position. The credibility and reputation of the employee in these positions would be severely

damaged when one is known to have used illegal drugs. It is essential that "Zero-Tolerance" be the policy for the positions defined in §75100(a), Chapter 75, Title 10, Guam Code Annotated.

It is, therefore, the intent of *I Liheslaturan Guåhan* to exclude law enforcement personnel, employees and positions as the term is defined in §75100(a) from the application of the provision of "Safe Harbor" under the Department of Administration Drug-Free Workplace Program by adding a new §75107, and to include other law enforcement personnel under the "definition" by amending §75100(a), all of Chapter 75, Title 10, Guam Code Annotated.

Section 2. A new §75107 is hereby *added* to Chapter 75, Title 10, Guam Code Annotated, to read as follows:

"**§75107. "Safe Harbor" Exemption.** Notwithstanding any other law, rule, executive order, regulation or policy, the provision of "Safe Harbor," as the term is described in the Department of Administration Drug-Free Workplace Program as promulgated by Executive Order 95-29, *shall not* be applicable to law enforcement personnel, employees and positions, as the term is defined in §75100(a), Chapter 75, Title 10, Guam Code Annotated, and *shall not* be applicable to all Test Designated Positions (TDP) of the government of Guam."

Section 3. §75100(a) of Chapter 75, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

"**§75100. Definition.**

As used in this Chapter:

(a) *Law enforcement personnel, employee or position* means the following:

(1) All sworn members of the Guam Police Department, including the Chief of Police;

(2) All sworn members of the Guam Fire Department, including the Fire Chief;

(3) All officers of the Department of Corrections including the Director;

(4) All Customs Officers of the Customs and Quarantine Agency, including the Director;

(5) Employees of the Department of Youth Affairs who are engaged in juvenile detention and rehabilitation, and work rehabilitation work as designated by the Director of the Department of Youth Affairs, including the Director;

(6) All Tax Agents Enforcement Officers of the Department of Revenue and Taxation, the Attorney General, Deputy and Assistant Attorney Generals, and Attorney General Investigators;

(7) All security officers employed by the government of Guam, or performing security work for the government of Guam pursuant to their employer's contract, including, but *not* limited to, lock-up guards, security for the A. B. Won Pat International Airport Authority, and security for the J.D. Leon Guerrero Commercial Port Authority of Guam.

(8) All Deputy Marshals of the Unified Guam Judiciary, including the Chief;

(9) All Probation Officers and Alternative Sentencing Officers of the Unified Guam Judiciary, including the Chief Probation Officer;

(10) All Territorial Park Patrol Officers of the Department of Parks and Recreation, including the Superintendent;

(11) All Conservation Officers of the Department of Agriculture, including the Chief;

(12) All J.D. Leon Guerrero Commercial Port Authority Police Officers, including the Chief;

(13) All A.B. Won Pat International Airport Authority Police Officers, including the Chief; and

(14) All Firefighters of the A.B. Won Pat International Airport Authority, including the Chief."