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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 **Substitute Bill No. 227-31 (LS), "AN ACT TO *ADD* A NEW ARTICLE 2 OF CHAPTER 2, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A TASK FORCE ON THE GUAM PRODUCT SEAL UNDER THE AUSPICES OF THE OFFICE OF *I SEGUNDU NA MAGA'LAHEN GUÅHAN* (THE LIEUTENANT GOVERNOR OF GUAM),"** was on the 8th day of November, 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 9th day of Nov., 2011, at 4:25 o'clock P.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 LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 227-31 (LS)
As substituted by the Committee on Appropriations,
Taxation, Public Debt, Banking, Insurance, Retirement, and Land;
and amended on the Floor.

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

AN ACT TO *ADD* A NEW ARTICLE 2 OF CHAPTER 2, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A TASK FORCE ON THE GUAM PRODUCT SEAL UNDER THE AUSPICES OF THE OFFICE OF *I SEGUNDU NA MAGA'LAHEN GUÅHAN* (THE LIEUTENANT GOVERNOR OF GUAM).

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslatura* finds that Guam is marketed as a popular tourist destination, and as a result, tourism is the largest industry in Guam, yet there are few mechanisms available to assure visitors

that they are indeed witnessing and receiving an authentic Guam experience. Recent efforts by the Guam Visitors Bureau have focused on the "Branding" of Guam. Currently, the Bureau is in the midst of an ongoing branding campaign which incorporates village happenings into the equation of an authentic Guam experience via the "We Are Guam" village initiative. *I Liheslaturan Guåhan* envisions the incorporation in some form of the "Made in Guam" label with the visitor industry's branding of Guam. It is obvious and recognized that a normal part of a traveler's to-do list is souvenir shopping for self, friends, family and associates. This fact necessitates a need to assure visitors, and all consumers, that they are purchasing a product that was genuinely made in Guam.

In 1986, the 18th Guam Legislature recognized that identification and protectionist measures needed to be instituted to protect products made in Guam, and offer the pride and proof that comes with boasting of an authentic product of Guam. The creation of the Guam Product Seal (GPS) permit program was intended to address this concern and provide island pride in Guam-made products. The enabling legislation that provided for a Guam Product Seal program was contained in Public Law 18-42.

Originally established as a Division under the oversight of the Department of Commerce, the Guam Product Seal Law was designed to promote Guam-made products so that consumers would be able to readily and easily identify whether the items or goods they had just purchased were manufactured in Guam, or are mass-produced mementos made in foreign lands. Today, the Guam Product Seal mandate is an orphan law, although it exists in form and function.

Legislation in the 26th Guam Legislature, specifically Public Law 26-76, transferred the GPS program and its components to the Guam Economic Development Authority. A subsequent Executive Order, EO No. 2002-14, further reassigned the support of the Guam Product Seal Program in its entirety, including

its assigned personnel, to the Department of Revenue and Taxation. Consequently, the current construction of the GPS statute, administrative rules and regulations and original intent are lacking in program funding, compliance, enforcement and promotion.

It is *I Liheslatura's* intent to reenergize the Guam Product Seal concept and revisit, some twenty-five (25) years later, the mandate and its accompanying administrative rules, in order to provide incentives for permit holders, ensure compliance and enforcement by stakeholders and the retail industry in Guam and to actively engage in the promotion of the Guam brand by emphasizing the distinctiveness of offerings that proudly carry the "Made in Guam" label.

I Liheslaturan Guåhan finds that this can be accomplished by elevating the program to the highest levels of the government of Guam, and raising awareness of the importance of taking pride in items manufactured locally.

I Liheslaturan Guåhan hereby creates a Task Force on the Guam Product Seal under the direction of the Office of *I Segundu Na Maga'lahen Guåhan* (the Lieutenant Governor of Guam).

The composition of the Task Force *shall* be as follows:

(a) *I Segundu Na Maga'lahen Guåhan* (the Lt. Governor of Guam), who *shall* serve as the Chairperson of the Task Force, as the Lt. Governor of Guam is the keeper of the Official Seal of Guam, which the GPS logo incorporates components of;

(b) the designated Program Coordinator of the current Guam Product Seal Permit program from the Department of Revenue and Taxation, who *shall* also serve as Vice Chair or Co-Chair, as this person *shall* possess institutional knowledge of the GPS program and its components, and is aware of the program's strengths, deficiencies and full-potential;

(c) the Director of the Customs and Quarantine Agency of Guam, or his assigned representative, as C&Q serves as the first line of defense in compliance and enforcement;

(d) he Director of Revenue and Taxation , or his assigned representative, as DRT is empowered to collect levies and fines from companies found in violation of the law;

(e) the President of the Department of *Chamorro* Affairs (DCA), or his assigned representative, as DCA can offer insight into the uniqueness of the Guam brand and the importance of protecting aspects of the *Chamorro* culture and heritage;

(f) the General Manager of the Guam Visitors Bureau (GVB), or his assigned representative, as GVB is tasked with promoting the Guam brand in its entirety;

(g) the Administrator of the Guam Economic Development Authority (GEDA), or his assigned representative; as GEDA offers programs and opportunities for economic development;

(h) the President of the Mayors Council of Guam (MCOG), or its assigned member representative; as Mayors represent the interests of the people and are closely held and highly regarded in all aspects of village happenings;

(i) a representative from the Office of the Attorney General of Guam, designated by the Attorney General, who may appoint himself; as the AGO can provide guidance on intellectual property rights relative to the Guam brand;

(j) two (2) currently licensed holders of the Guam Product Seal permit appointed by *I Maga'lahi* (the Governor), as GPS permit holders,

being current practitioners of the Guam Product Seal, are experts in the industry;

(k) a member from the Guam Chamber of Commerce as designated by the Chamber; as the Chamber is a stakeholder that bridges the business community with issues affecting all consumers;

(l) one (1) member from the island community appointed by *I Maga'lahi*, as public participation and input is a mainstay of governmental processes and operations;

(m) a counselor or representative of the Small Business Development Center of the School of Business and Public Administration, University of Guam; and

(n) the Director, or his assigned representative, of Public Health and Social Services.

Section 2. A new Article 2 is hereby *added* to Chapter 2 of Title 5, Guam Code Annotated, to read:

"**Article 2**

The Guam Product Seal Task Force Act

§ 2201. Short Title.
§ 2202. Guam Product Seal Task Force, Established.
§ 2203. Convening of the Guam Product Seal Task Force.
§ 2204. Composition of Guam Product Seal Task Force.
§ 2205. Duties of Task Force.
§ 2206. Conduct of Meetings.

§ 2201. Short Title. This Chapter shall be known as *The Guam Product Seal Task Force Act.*

§ 2202. Guam Product Seal Task Force, Established. The Guam Product Seal Task Force is established for the special purpose of

protecting the Guam brand by restricting and or limiting the use of the word "Guam" or "*Chamorro*", or a derivation of such words, on consumable commodities *not* made in Guam in order to promote and enhance the "Made in Guam" label and experience.

The Task Force *shall* provide policy direction and recommendations relative to coordination, planning, implementation, administration, promotion, compliance and enforcement of the Guam Product Seal Permit program and accompanying administrative rules and regulations.

§ 2203. Convening of the Guam Product Seal Task Force. The Guam Product Seal Task Force *shall* be under the direction of the Office of *I Segundu Na Maga'lahi* (the Lt. Governor) and convened pursuant to the provisions of this Act.

§ 2204. Composition of Guam Product Seal Task Force. The composition of the Guam Product Seal Task Force *shall* be as follows: *I Segundu Na Maga'lahen Guåhan* (the Lieutenant Governor of Guam), who *shall* also serve as the Chairperson; the designated Program Coordinator of the current Guam Product Seal Permit program from the Department of Revenue and Taxation (DRT), who *shall* also serve as Vice Chair; the Department Directors, or their assigned representative, of the Guam Customs and Quarantine Agency (CQA), the Department of Revenue and Taxation (DRT), the Department of *Chamorro* Affairs (DCA), the Guam Visitors Bureau (GVB), the Guam Economic Development Authority (GEDA), and Department of Public Health and Social Services (DPHSS); the President of the Mayors Council of Guam (MCOG), or its assigned member representative; a representative from the Office of the Attorney General of Guam, designated by the Attorney General, who may appoint himself; two (2) currently licensed holders of the Guam Product Seal

appointed by *I Maga'lahi* (the Governor); a member from the Guam Chamber of Commerce as designated by the Chamber; and one (1) member from the island community appointed by *I Maga'lahi* (the Governor); a counselor or representative from the Small Business Development Center of the School of Business and Public Administration, University of Guam.

(a) The Task Force may invite additional public and private sector members to serve on sub-committees, *provided*, that they possess significant background, knowledge and experience with locally produced products; and the Task Force may prescribe special procedures for their participation.

(b) The Office of *I Segundu Na Maga'lahi* (the Lt. Governor) *shall* support the administrative needs of the Task Force.

§ 2205. Duties of Task Force. The Task Force *shall* work collaboratively to create recommendations that will develop a comprehensive Guam Product Seal Permit Program with the overall goal of enhancing and better promoting products that are "Made in Guam."

Its function *shall* include, but is *not* limited to, recommending policy and adoption of a comprehensive Guam Product Seal Program that promotes the Guam brand in products manufactured in Guam or "Made in Guam". The Task Force *shall* address the following in its findings and recommendations:

(a) to create a mission statement and objective of the Guam Product Seal Program;

(b) the assignment of the administrative functions of the Guam Product Seal (GPS) Program; i.e., which Agency shall have administrative oversight over the Program; the Office of the Lt.

Governor may decide to retain administrative functions of the program;

(c) address intellectual property rights and concerns relative to the term "Guam," "*Chamorro*," or derivations of either Guam or *Chamorro*;

(d) develop a feasible program funding and continuity plan, and a budgetary proposal;

(e) evaluate the design of the current GPS label, and recommission if necessary;

(f) clearly mark the delineation and assignment of the compliance and enforcement responsibilities, and the authorities of respective regulatory and enforcement agencies relative to the provisions of the GPS program; i.e. complaints, investigations and enforcement requirements;

(g) identify and record all Guam Product Seal holders, and businesses that manufacture commodities for sale in the tourism industry;

(h) identify incentives and advantages that encourage participation in the program;

(i) review the structure of fines and penalties to ensure maximum deterrence for violating the GPS mandate. Visit issues such as asset forfeiture; costs for additional CQA cost recovery (administrative, destruction, storage, etc.); penalties (civil and criminal) for repeat offenders; title and transfer of seized property *not* in compliance with the GPS statute;

(j) make appropriate recommendations for legislation to improve the Guam Product Seal Permit Program; recommendations *shall* include the following:

(1) address country of origin label concerns;

(2) address the use of the words "Guam" and "*Chamorro*" and derivations of;

(3) develop minimum standards, font size, and location of product origin on labels of consumable goods sold on Guam;

(4) develop retail partnership and community buy-in for Guam products;

(5) propose "Made in Guam" incentives/programs;

(6) strengthen compliance and enforcement schedules and guidelines; and

(7) review the applicability of copyright and intellectual property infringement and trademark violations.

(k) formulate an updated version of the Guam Product Seal Permit Program. Such plan *shall* be submitted to *I Liheslaturan Guåhan no later than* one hundred twenty (120) days from the date of enactment of this Act;

(l) execute fines for non-compliance of the Guam Product Seal mandates and its accompanying administrative rules and regulations; and

(m) perform all functions necessary to effectuate the mission of the Task Force as adopted.

§ 2206. Conduct of Meetings, Quorum. The Task Force *shall* meet *no less than* once every month, and as needed to discuss and assess progress and recommendations.

A simple majority of members of the Task Force who are present and voting *shall* constitute a quorum to do business; and any action taken by the Task Force *shall* be by a simple majority of the members."

Section 3. Effective Date. The provisions of this Act *shall* take effect upon enactment into law. The first meeting of the Guam Product Seal Task Force *shall* take place *no later than* twenty (20) days after enactment.

Section 4. Severability. *If* any provisions of this Act or its application thereof to any person or circumstance is held invalid, such validity *shall not* affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.