FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
***Hagåtña,* Guam 96910**

OFFICE OF THE GOVERNOR
CENTRAL FILES
J. Dela Rosa
RECEIVED BY
TIME 11:28 a.m. DATE 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

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

This is to certify that **Substitute Bill No. 108-32 (COR), "AN ACT TO AMEND §§ 44103, 44105, 44108, 44114, 44115, AND 44118, AND TO REPEAL §§ 44109 AND 44106(c) AND (d), ALL OF CHAPTER 44, TITLE 10, GUAM CODE ANNOTATED; AND TO AMEND § 45105 OF CHAPTER 45, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM BEVERAGE CONTAINER RECYCLING ACT OF 2010, AND THE POWER OF THE GUAM ENVIRONMENTAL PROTECTION AGENCY TO IMPLEMENT THE SAME",** was on the 12th day of November 2013, 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 15th day of Nov, 2013, at 11:28 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 DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 108-32 (COR)
As substituted by the Committee on Rules, Federal, Foreign & Micronesian Affairs, Human & Natural Resources, and Election Reform; and further substituted and amended on the Floor.

Introduced by: T. R. Muña Barnes
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
Vicente (ben) C. Pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* §§ 44103, 44105, 44108, 44114, 44115, AND 44118, AND TO *REPEAL* §§ 44109 AND 44106(c) AND (d), ALL OF CHAPTER 44, TITLE 10, GUAM CODE ANNOTATED; AND TO *AMEND* § 45105 OF CHAPTER 45, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM BEVERAGE CONTAINER RECYCLING ACT OF 2010, AND THE POWER OF THE GUAM ENVIRONMENTAL PROTECTION AGENCY TO IMPLEMENT THE SAME.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. The following Subsections of §44103 of Division 2, Chapter 44, Title 10, Guam Code Annotated, are hereby *amended* to read as follows:

"(d) *Beverage container* means the individual, separate, sealed glass, high density polyethylene, metal, plastic bottle, can, jar, or carton, with a total volume of less than or equal to sixty-eight (68) fluid ounces, used for containing, at the time of sale to the consumer, a beverage intended for use or consumption. Beverage containers may be for single use or for multiple uses."

"(h) *Dealer* means every person who engages in the sale of deposit beverages in deposit beverage containers to a consumer for use or consumption."

"(m) *Deposit Beverage Container Fee* refers to the amount paid by every deposit beverage distributor to the Department for each individual beverage container manufactured in or imported into Guam that has been identified by the Department as recyclable and requiring a deposit. The deposit beverage container fee *shall* be based on the following formula: Redemption Rate (+) Handling Fee (+) the Department's administrative costs."

"(o) *Handling Fee* refers to the premium payment the Department pays to a certified redemption center to offset the costs incurred by the latter in connection with the latter's processing of redeemed beverage containers."

"(p) *Import* means to buy, bring, or accept delivery of deposit beverage containers from an address, supplier, or any entity outside of Guam."

"(q) *Importer* means any person who buys, brings, or accepts delivery of deposit beverage containers from outside of Guam for sale or use within Guam."

"(r) *List of Approved Containers* means the list compiled by the Board of approved containers identified for recycling deposits. Containers may *not* be placed upon the list *unless* an economically viable process to recycle, reuse, convert to energy, or physically remove containers from Guam has been established or will be established concurrent with placement upon said list."

"(s) *Manufacturer* means every person producing recyclable products, including those who package or fill recyclable products for sale to distributors or dealers."

"(v) *Redeemer* means a person, other than a dealer or distributor, who demands the refund value in exchange for an empty deposit beverage container."

"(w) *Redemption center* means an operation that accepts empty deposit beverage containers from redeemers and provides the refund value for empty deposit beverage containers intended to be recycled and ensures that the empty deposit beverage containers are properly recycled."

"(x) *Refillable beverage container* means any deposit beverage container, which ordinarily would be returned to the manufacturer to be refilled and resold."

"(y) *Refund value* refers to the amount of the deposit fee refunded to a redeemer in exchange for an empty deposit beverage container."

"(z) *Reverse vending machine* means a mechanical device, which accepts one (1) or more types of empty deposit beverage containers, and issues coins or a redeemable credit slip with a value *not less than* the container's refund value."

"(bb) *Redemption rate* refers to the percentage of deposit beverage containers redeemed over a reporting period. The percentage is calculated by dividing the number of deposit beverage containers redeemed by the number of deposit beverage containers sold, and then multiplying that number by one hundred."

Section 2. §44105 of Division 2, Chapter 44, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 44105. Deposit Beverage Container Fee.**

(a) Every deposit beverage distributor *shall* pay to the Department a deposit beverage container fee on each individual beverage container manufactured in or imported into Guam that has been identified by the Department on the list of approved containers. The fee *shall* be imposed only once on the same deposit beverage container. The fee *shall* begin at a rate of five cents (5¢) per deposit beverage container, unless and until the Department determines otherwise as in accordance with §44105(d) of this Chapter 44.

(b) No taxes on deposit fees. No taxes *shall* be assessed or collected on deposit beverage container fees accepted by dealers for products approved in this Chapter 44 for recycling purposes.

(c) Types of containers upon which deposit beverage container fees *shall* be levied must be first approved by the Board for placement upon the List of Approved Containers identified for recycling deposits.

(d) In its administration and implementation of this Chapter 44, the Board *shall*, after the first year of implementation and every two years thereafter, examine and may elect to increase or decrease

either or both the deposit beverage container fee and the refund value. While the Administrative Adjudication law *shall not* apply to any decision by the Board to decrease said amounts, the Administrative Adjudication law *shall* apply to any decision by the Board to increase said amounts, and any such increase *shall* be based upon the handling fee and the redemption rate calculated annually based on information submitted to the Department in accordance with §44105(b) of this Chapter 44.

(e) *Except* as may otherwise be provided in this Act, levy of the deposit beverage container fee imposed upon beverage containers *shall* begin immediately after the effective date of the voluntary agreement described in §44119 of this Chapter 44. Redeemers *shall* be able to redeem beverage containers at certified redemption centers beginning six (6) months after the date said levy first occurs."

Section 3. Subsections (c) and (d) of §44106 of Division 2, Chapter 44, Title 10, Guam Code Annotated, are hereby *repealed.*

Section 4. Subsection (c) of §44108 of Division 2, Chapter 44, Title 10, Guam Code Annotated, is hereby *amended* to read as follows.

"(c) A portion of the deposit beverage container fee collected by the Department *shall* be used, among other things, for:

(1) expenses related to implementing the provisions of this Chapter 44;

(2) funding of administrative, audit, and compliance activities associated with collection and payment of the deposits of the Beverage Container Recycling Deposit Act;

(3) conducting of recycling outreach education, capacity building and demonstration projects; and

(4) promotion and marketing of recycling related activities."

Section 5. §44109 of Division 2, Chapter 44, Title 10, Guam Code Annotated, is hereby *repealed*.

Section 6. Subsection (b) of §44114 of Division 2, Chapter 44, Title 10 Guam Code Annotated is hereby *amended* to read as follows:

"(b) The Department *shall* pay certified redemption centers refund values and handling fees as determined by the Board in accordance with §44105 of this Chapter 44, based on, among other factors, collection reports submitted by the Redemption Centers. All Redemption Centers *shall* submit to the Department the following information on forms prescribed by the Department, which information *shall* include at a minimum:

(1) the number or weight of deposit beverage containers of each material type accepted at the Redemption Center for the reporting period;

(2) the amount of refunds paid out by material type; and

(3) the number or weight of deposit beverage containers of each material type to be transported to a permitted recycling facility."

Section 7. Subsections (a) and (c) of §44115 of Division 2, Chapter 44, Title 10, Guam Code Annotated, are hereby *amended* to read as follows:

"(a) *Except* as provided in (b) and (c) of this §44115, effective immediately after the date this Act takes effect, every deposit

beverage container sold in Guam *shall* clearly indicate the Guam Redemption Value by the letters "GU RV."

"(c) Containers that *do not* meet the definition of a deposit beverage container, as specified in §44103(k) of this Chapter, *shall not* indicate "Guam Redemption Value" (GU RV) on the container."

Section 8. §44118(b)(2) of Division 2, Chapter 44, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

"(2) establishing or revising appropriate deposit beverage container fees, handling fees, and refund values;"

Section 9. §45105 of Division 2, Chapter 45, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 45105. Powers and Duties.**

The Guam Environmental Protection Agency *shall* be responsible for the implementation of the Guam Beverage Container Recycling Act of 2010, Chapter 44 of this Part; Water Resources Conservation Act, Chapter 46 of this Part; the Water Pollution Control Act, Chapter 47 of this Part; Toilet Facilities and Sewage Disposal Act, Chapter 48 of this Part; the Air Pollution Control Act, Chapter 49 of this Part; the Guam Pesticides Act, Chapter 50 of this Part; and Solid Waste, Chapter 51 of this Part."

Section 10. The Board of Directors of the Guam Environmental Protection Agency *shall* within one hundred twenty days (120) of the date of enactment of this Act into public law submit to *I Liheslaturan Guåhan,* via a duly adopted resolution, a proposed operational plan that *shall* include the budget request for the implementation of this Act and that *shall* address the deposit fees and tipping fees as it relates to the recycling program activities implemented by the Guam Solid Waste Management Authority or the

Receiver appointed by the United States District Court of Guam with the intent of reducing the overall cost to consumers.

Section 11. Effective Date. The provisions of this Act *shall* become effective upon enactment into public law.

Section 12. Severability. The provisions of this Act are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this statute, or the invalidity of the application thereof to any person or circumstance *shall not* affect the validity of the remainder of this statute or the validity of its application to other persons or circumstances.