EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

MAR 30 2017

GL#34-17-336
Speaker Benjamin J.F. Cruz

MAR 30 2017
Time: 351 [ ] AM [ ] PM File No. ____
Received By:

Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 9-34 (COR), **"AN ACT TO *AMEND* § 6101(I) OF ARTICLE 1; § 6302 OF ARTICLE 3; AND ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF ELECTRONIC CIGARETTES, AND RAISING THE MINIMUM AGE OF LEGAL ACCESS TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO CITE THIS ACT AS THE "YOUTH PROTECTION ACT OF 2017,"** which lapsed into law on March 23, 2017, as **Public Law 34-01.**

Senseramente,

RAY TENORIO
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

2017 MAR 30 PM 4:02

0336

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

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

This is to certify that **Bill No. 9-34 (COR), "AN ACT TO *AMEND* § 6101(l) OF ARTICLE 1; § 6302 OF ARTICLE 3; AND ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF ELECTRONIC CIGARETTES, AND RAISING THE MINIMUM AGE OF LEGAL ACCESS TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO CITE THIS ACT AS THE "YOUTH PROTECTION ACT OF 2017","** was on the 9th day of March 2017, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 10th day of MARCH, 2017, at 1239 o'clock P .M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: MAR 2 3 2017

Public Law No. 34-01

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 9-34 (COR)
As amended on the Floor.

Introduced by: B. J.F. Cruz
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* § 6101(l) OF ARTICLE 1; § 6302 OF ARTICLE 3; AND ARTICLE 4, ALL OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF ELECTRONIC CIGARETTES, AND RAISING THE MINIMUM AGE OF LEGAL ACCESS TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES TO TWENTY-ONE (21) YEARS; AND TO CITE THIS ACT AS THE "YOUTH PROTECTION ACT OF 2017."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Clarification of the Definition of Electronic Cigarettes Relative to Prohibiting the Sale or Distribution of Tobacco Products to Persons

Under Twenty-one (21) Years of Age. § 6101(l) of Article 1, Chapter 6, Title 11, Guam Code Annotated, is hereby *amended* to read:

"(l) Electronic cigarettes, also known as e-cigarettes, are battery-operated products designed to deliver nicotine, flavor, and other chemicals. They turn nicotine, which is highly addictive, and other chemicals into a vapor that is inhaled by the user. For the purposes of this Chapter, and the prohibition pertaining solely to a person under the minimum age of legal access pursuant to §§ 6400 and 6405 of Article 4 of this Chapter, tobacco products *shall* also be deemed to include and *shall* be similarly applicable to electronic cigarettes, including any refill, cartridge, and any other component of an electronic cigarette."

Section 2. Tobacco Licensee Must Be Twenty-one (21) Years of Age. § 6302 of Article 3, Chapter 6, Title 11, Guam Code Annotated, is hereby *amended* to read:

"**§ 6302. Same: Same: Persons Under the Age of Twenty-one (21) Years.**

The Board *shall not* issue a license of any class to a person under twenty-one (21) years of age."

Section 3. Sale or Distribution to Persons Under Twenty-one (21) Years of Age Prohibited. Article 4 of Chapter 6, Title 11, Guam Code Annotated, is hereby *amended* to read:

"ARTICLE 4

SALE OR DISTRIBUTION TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE PROHIBITED

§ 6400. Sale or Distribution of Tobacco Products to Persons Under Twenty-one (21) Years of Age Prohibited.

§ 6401. Acceptable Forms of Identification.

§ 6402. Display of Prohibition on Sales of Tobacco Products to Persons Under Twenty-one (21) Years of Age.
§ 6403. Licensee Responsible for Employee Actions.
§ 6404. Penalties for Selling or Distributing Tobacco Products to Persons Under Twenty-one (21) Years of Age.
§ 6405. Persons Under Twenty-one (21) Years of Age Prohibited from Possession, Use, and Purchase of Tobacco Products.
§ 6406. Tobacco Education for Persons Under Twenty-one (21) Years of Age.

§ 6400. Sale or Distribution of Tobacco Products and Electronic Cigarettes to Persons Under Twenty-One (21) Years of Age Prohibited.

It *shall* be a violation of this Chapter for any person to sell or distribute tobacco products or electronic cigarettes to any person under twenty-one (21) years of age. It *shall not* be a violation of this Chapter for any person to refuse to sell or distribute tobacco products or electronic cigarettes to any person whom the seller or the distributor reasonably believes to be under twenty-seven (27) years of age, and who is unable to produce acceptable photographic identification and proof that he or she is over the age of twenty-one (21) years.

The sale or distribution of electronic cigarettes to any person under twenty-one (21) years of age, or its possession by such person, is prohibited and *shall* be regulated and enforced pursuant to this Chapter. Any provision of this Chapter applicable to the regulation and prohibition of the sale or distribution of tobacco products to any person under twenty-one (21) years of age, or possession by such person, *shall* be applicable to electronic cigarettes, and any other component of an electronic cigarette, and *shall* be regulated and

enforced in the same manner as tobacco products, to include the applicability of all penalties and fines.

(a) Vending machines selling tobacco products or electronic cigarettes *shall* be located so that they are accessible only to persons over the age of twenty-one (21) years, or are under the constant, direct supervision and unobstructed line of sight of the person authorizing the installation or placement of the tobacco or electronic cigarette vending machine upon the premises he or she manages or otherwise controls, or his or her agent or employee. Said supervising person, who *must* be at least twenty-one (21) years of age, *shall* ensure that persons under twenty-one (21) years of age do not purchase tobacco products or electronic cigarettes from vending machines. A person who authorizes the installation or placement of the tobacco or electronic cigarette vending machine upon premises he or she manages, or otherwise controls, and who knows or should know that the tobacco or electronic cigarette vending machine will likely be used by persons under twenty-one (21) years of age, *shall* be liable if such persons purchase tobacco products or electronic cigarettes from said machines.

(b) A licensee or an employer may distribute tobacco products or electronic cigarettes to any employee who handles tobacco products or electronic cigarettes in the course of the commercial distribution or sale of the products. In any proceeding for the suspension or revocation of any license, and based upon a violation of this Section, proof that the defendant licensee or his or her agent or employee demanded and was shown an identification card before furnishing any tobacco product or electronic cigarette to any person under twenty-one (21) years of age *shall* be a defense to the charges.

§ 6401. Acceptable Forms of Identification.

The following are the only acceptable instruments of identification as required by § 6400:

(a) a valid unexpired driver's license issued by any state, territory, or possession of the United States;

(b) an official identification issued by the federal or a state government with the individual's photograph and signature;

(c) an armed forces identification card;

(d) a valid, unexpired passport; and

(e) an alien registration receipt card (green card).

§ 6402. Display of Prohibition on Sales of Tobacco Products to Persons Under Twenty-one (21) Years of Age.

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

(a) In the case of a retail operation, notices *shall* be publicly and conspicuously displayed in the licensee's place of business in letters at least two inches (2") in height.

(b) In the case of a vending machine, the licensee *shall* affix to the front of each vending machine a sign in letters at least one-half inch (1/2") in height.

(c) Any licensee who violates this Section *shall* be fined Fifty Dollars ($50.00) per violation.

§ 6403. Licensee Responsible for Employee Actions.

Acts or omissions of an agent or employee of a licensee that violate any provisions of this Chapter *shall* be deemed to be acts or omissions of the licensee.

§ 6404. Penalties for Selling or Distributing Tobacco Products to Persons Under Twenty-one (21) Years of Age.

(a) In addition to any other penalties and fines that may be levied, any person who violates § 6400 of this Article *shall* be penalized as follows:

(1) in the case of a first violation in any five (5) year period, the person *shall* be fined One Thousand Dollars ($1,000.00) and *shall* be notified, in writing, of penalties levied for further violations;

(2) in the case of a second violation in any five (5) year period, the person *shall* be fined Two Thousand Dollars ($2,000.00) and, in the case of a licensee, the license *shall* be suspended for ninety (90) days;

(3) in the case of a third violation in any five (5) year period, the person *shall* be fined Five Thousand Dollars ($5,000.00) and, in the case of a licensee, the license *shall* be suspended for one hundred eighty (180) days;

(4) in the case of four (4) or more violations within any five (5) year period, the person *shall* be fined Ten Thousand Dollars ($10,000.00) and, in the case of a licensee, the license *shall* be revoked. The revoked retailer *shall* be ineligible to apply for a new license for two (2) years after the effective date of the revocation.

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

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

(d) All tobacco products sold over the counter *shall* be displayed and located where they *shall* be inaccessible to persons under twenty-one (21) years of age. Any vendor who violates this provision *shall* pay a penalty of Two Hundred Fifty Dollars ($250.00).

§ 6405. Persons Under Twenty-one (21) Years of Age Prohibited from Possession, Use, and Purchase of Tobacco Products.

It *shall* be a violation of this Chapter for any person under twenty-one (21) years of age to use or be in possession of tobacco products or to attempt to purchase tobacco products using false identification.

§ 6406. Tobacco Education for Persons Under Twenty-one (21) Years of Age.

Any person under twenty-one (21) years of age who violates § 6405 of this Article *shall* attend an education program on tobacco products, to include smoking cessation information administered by the Guam Behavioral Health and Wellness Center, the Department of Public Health and Social Services, the Department of Education, or other government agencies with similar programs approved by one of these agencies."

Section 4. Effective Date; Application. This Act *shall* take effect on January 1, 2018.