Guam Legislature Clerks <clerks@guamlegislature.org>

Messages and Communications

1 message

Speaker's Office <speaker@guamlegislature.org> Sat, Oct 31, 2020 at 2:40 PM
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>

10/30/20	6:41 PM	10/29/20	Bill No. 369-35 (COR), signed into law as Public Law No. 35-100.	Office of the Governor of Guam	35GL-20-2387
10/30/20	6:41 PM	10/29/20	Bill No. 378-35 (LS), signed into law as Public Law No. 35-101.	Office of the Governor of Guam	35GL-20-2388
10/30/20	6:41 PM	10/29/20	Bill No. 2-35 (LS), signed into law as Public Law No. 35-102.	Office of the Governor of Guam	35GL-20-2389
10/30/20	6:41 PM	10/30/20	Bill No. 287-35 (COR), signed into law as Public Law No. 35-103.	Office of the Governor of Guam	35GL-20-2390
10/30/20	6:41 PM	10/29/20	Bill No. 165-35 (COR), signed into law as Public Law No. 35-104.	Office of the Governor of Guam	35GL-20-2391
10/30/20	6:41 PM	10/30/20	Substitute Bill No. 360-35 (COR), signed into law as Public Law No. 35-105.	Office of the Governor of Guam	35GL-20-2392

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910
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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

6 attachments

- **Bill No. 369-35 (COR), signed into law as Public Law No. 35-100.pdf** 6435K
- **Bill No. 378-35 (LS), signed into law as Public Law No. 35-101.pdf** 698K
- **Bill No. 2-35 (LS), signed into law as Public Law No. 35-102.pdf** 946K
- **Bill No. 287-35 (COR), signed into law as Public Law No. 35-103.pdf** 2213K
- **Bill No. 165-35 (COR), signed into law as Public Law No. 35-104..pdf** 1044K
- **Substitute Bill No. 360-35 (COR), signed into law as Public Law No. 35-105..pdf** 4718K

UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

35GL-20-2392
Speaker Tina Rose Muña Barnes

October 30, 2020

OCT 30 2020
Time 6:41 (AM) PM
Received By:

HONORABLE TINA ROSE MUÑA BARNES, *Speaker*
I Mina'trentai Singko Na Liheslaturan Guåhan
35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: **Substitute Bill No. 360-35 (COR) - An Act to Amend §§ 73108, 73109, 73110, 73111, 73112, 73113, 73116, 73117, 73121, 73123, and 73133, and Add New §§ 73154 and 73155, All of Article 1, Chapter 73, Title 5, Guam Code Annotated, Relative to Mandating a Notice of Arrival from All Incoming Vessels and Aircraft to the Guam Customs and Quarantine Agency Prior to Arrival at Guam's Ports of Entry; to Requiring the Advance Presentation of Manifest Information to the Guam Customs and Quarantine Agency Prior to Arrival at Guam's Ports of Entry; and to Establishing New Penalties for Violations of Such Requirements**

Dear Madame Speaker:

Since the 1970s, Guam's laws have permitted vessel carriers to submit their manifests to the Guam Customs and Quarantine Agency as late as four (4) hours *after* arrival in the ports of Guam. This archaic statutory scheme has severely hampered CQA's efforts to prevent illicit, illegal, and otherwise prohibited cargo from moving beyond the ports and into our community. Nowhere else has that been more acutely felt than in our fight to keep the disease of drug addiction from further infecting our people.

To better protect our borders, CQA is working to modernize its operations and enforcement, recognizing that while Guam's manifest law remained unchanged for forty (40) years, drug and other prohibited item smugglers were innovating and finding ways to increase their opportunities to infiltrate our community. This bill, which will now be known as ***Public Law No. 35-105***, is an important step in CQA's advancement in this battle. Together with strategic operational changes, the requirements of this law will assist in securing our borders.

Senseramente,

LOURDES A. LEON GUERRERO
I Maga'hågan Guåhan
Governor of Guam

Enclosure: Sub. Bill No. 360-35 (COR) *nka P.L. 35-105*
cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 360-35 (COR), "AN ACT TO *AMEND* §§ 73108, 73109, 73110, 73111, 73112, 73113, 73116, 73117, 73121, 73123, AND 73133, AND *ADD* NEW §§ 73154 AND 73155, ALL OF ARTICLE 1, CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MANDATING A NOTICE OF ARRIVAL FROM ALL INCOMING VESSELS AND AIRCRAFT TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY; TO REQUIRING THE ADVANCE PRESENTATION OF MANIFEST INFORMATION TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY; AND TO ESTABLISHING NEW PENALTIES FOR VIOLATIONS OF SUCH REQUIREMENTS,"** was on the 19th day of October 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 19th day of October, 2020, at 5:46 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/30/2020

Public Law No. 35-105

Jessica Cruz
RCVD AT CENTRAL FILE
OCT 19 '20 PM5:48

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 360-35 (COR)
As substituted by the Committee on General Government Operations, Appropriations, and Housing; and amended on the Floor.

Introduced by:

Mary Camacho Torres
Tina Rose Muña Barnes
Joe S. San Agustin
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Therese M. Terlaje

AN ACT TO *AMEND* §§ 73108, 73109, 73110, 73111, 73112, 73113, 73116, 73117, 73121, 73123, AND 73133, AND *ADD* NEW §§ 73154 AND 73155, ALL OF ARTICLE 1, CHAPTER 73, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MANDATING A NOTICE OF ARRIVAL FROM ALL INCOMING VESSELS AND AIRCRAFT TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY; TO REQUIRING THE ADVANCE PRESENTATION OF MANIFEST INFORMATION TO THE GUAM CUSTOMS AND QUARANTINE AGENCY PRIOR TO ARRIVAL AT GUAM'S PORTS OF ENTRY; AND TO ESTABLISHING NEW PENALTIES FOR VIOLATIONS OF SUCH REQUIREMENTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that proper manifesting is a standard requirement for vessel entry and for the issuance of a permit to unlade at a port of entry. The United States Customs and Border Protection (CBP) currently requires vessel carriers to submit their cargo manifest no later than forty-eight (48) hours prior to arrival in the United States. 19 C.F.R. § 4.8(b). This advance manifest requirement was implemented by the CBP to enforce against smuggling more effectively via containerized cargo.

I Liheslaturan Guåhan finds that manifest requirements under Guam law, however, permit that a manifest may be submitted "within four (4) hours *after* arrival." 5 GCA § 73111. This requirement, listed under the Chapter governing operations and duties of the Guam Customs and Quarantine Agency (CQA), was enacted by the 13th Guam Legislature in the 1970s and has since not been updated to reflect technological advancements and current security concerns.

I Liheslaturan Guåhan finds that in the last five (5) years alone, the CQA has reported seizing an increasing number of drugs over the years with over $64 million dollars in "ice" infiltrating Guam's ports of entry. As the "First Line of Defense" for the island of Guam, the CQA is tasked with protecting borders, securing ports of entry, and facilitating trade, commerce, and travel. The information collected via manifest is a vital component of achieving CQA's mission. While, as provided under 19 C.F.R. § 7.2(b), "[t]he customs administration of Guam is under the government of Guam," an amendment to CQA law mirroring federal requirements may aid those at Guam's front line. It is, therefore, the intent of *I Liheslaturan Guåhan* to strengthen border security through the advance and thorough presentation of manifest information and to further quantify the penalties in violation of such requirements.

Section 2. §§ 73108 through 73113 of Article 1, Chapter 73, Title 5, Guam Code Annotated, are hereby *amended* to read:

"**§ 73108. Clearance Requirements.**

(a) Any Customs Officer may board and examine any privately owned, privately leased, commercially owned, or commercially leased aircraft, vessel, or contrivance arriving into Guam when it is necessary to carry out the provisions of applicable laws of Guam or the United States, any rule or regulation promulgated thereunder, any regulatory or enforcement agreement entered, or any public health and quarantine purpose, and may further require the master or captain thereof to exhibit for examination by the Customs Officer the manifest or any documents or papers, or any trunk, package or cargo on board, or any compartment, storage area, cabin, galley, cockpit, lavatory, or any section of the vessel or aircraft. Any master, captain, or person on any conveyance shall submit to the lawful instructions of a Customs Officer from the time of boarding until such time the Customs Officer disembarks and authorization to proceed with unloading operations is granted. Any master, captain, or person on any conveyance who fails to abide by lawful instructions or obstructs the official duties of a Customs Officer shall be liable for fines and penalties under this Chapter in addition to appropriate offenses contained in 9 GCA Chapter 55.

(1) Prior Notice Requirement. Under penalty and apart from the manifest requirements provided in this Chapter, masters or their authorized agent of all vessels or aircrafts must provide a notice of arrival with the following information to the appropriate customs port of entry:

(A) For Vessels. Forty-eight (48) hours prior to arrival, a notice of arrival containing the following information shall be submitted:

(i) vessel name, voyage number, and national country of registry;

(ii) type of vessel;

(iii) date of arrival;

(iv) Guam seaport of arrival;

(v) break-water/or pilot on board time;

(vi) assigned pier or wharf of berth;

(vii) berth time;

(viii) number of crew and passengers;

(ix) last port of entry; and

(x) purpose of arrival into Guam.

(B) For Aircraft. Thirty (30) minutes upon departure from origin, commercial, privately owned, or privately operated aircrafts intended to arrive in Guam shall submit a notice of arrival containing the following information:

(i) Guam airport or airfield of arrival;

(ii) aircraft operating name, flight number, registration number, and country of registration;

(iii) origin and last airport of departure;

(iv) date and estimated time of arrival; and

(v) number of transiting and terminating crew and passengers.

(C) Exceptions. Vessel and aircraft arriving into Guam under exigent or emergency circumstances wherein Guam was

not their intended destination, are exempted from Parts (A) and (B) of this Subsection. Notwithstanding the prior notice requirement, vessels or aircraft arriving under the above circumstances shall require clearance as mandated herein.

(b) Any individual who is not a Customs Officer or is not duly authorized by Customs, and who goes on board any vessel, aircraft, or conveyance before entry and clearance has thereto been granted, shall be fined a penalty under this Chapter, or imprisoned for not more than six (6) months, or both. The master or pilot of such vessel, aircraft, or conveyance may take such person into custody, and deliver him up forthwith to any Customs Officer or law enforcement officer, to be taken by him before any committing magistrate, to be dealt with according to law.

(c) Under penalty as prescribed by this Chapter, no vessel, aircraft, or conveyance may commence any activity or unloading operations without Customs' presence, permit or authorization and clearance. The master or agent of each privately owned, privately operated, commercially owned, or commercially leased vessel, aircraft, or contrivance shall accomplish clearance requirements within five (5) days after meeting the forty-eight (48) hours required for entry. Every consignee of imported merchandise after having accomplished entry for their imported merchandise, either in person or by an agent authorized by him in writing to the Customs House shall accomplish clearance requirements within five (5) days following entry, exclusive of Sundays and holidays, unless the Collector is authorized in writing, a legal time.

(d) Departures.

(1) No aircraft, vessel, or contrivance shall be cleared for departure until all the cargo manifested for import to Guam has been unladed, entry has been made, and was properly accounted for.

(2) Prior to the departure of any aircraft, vessel, or contrivance, the master shall deposit with the Customs Officer at the port or airport, a manifest of the outward cargo of such vessel or aircraft, specifying the marks and numbers of packages, a description of their contents, with the names of shippers and consignees; and also the names of passengers and their destination. A departure clearance will then be granted to the vessel or aircraft.

§ 73109. Definitions.

(a) *Vessel* means a craft used, or capable of being used, for transportation on water, and includes every description of watercraft or other contrivance used, or capable of being used as a means of transportation on water, but does not include aircraft.

(b) *Aircraft* means any craft now known or hereafter invented for transportation use in the air, and includes every description of craft or other contrivance used or capable of being used as a means of transportation in flight or in the air.

(c) *Merchandise* means goods, wares, and chattels of every description, and includes merchandise the importation if which is prohibited.

(d) *Person* includes any individual, firm, co-partnership, joint venture, association, corporation, trust, or any group or combination action as a unit and the plural, as well as the singular number as may be appropriate.

(e) *Master* means the person having the command of the aircraft, vessel, or contrivance.

(f) *Day* means the time from 8:00 a.m. to 5:00 p.m. (or from 0800 hours to 1700 hours).

(g) *Night* means the time from 5:00 p.m. to 8:00 a.m. the next day (or from 1700 hours to 0800 hours the next day).

(h) *Collector* means the Director of Customs, sworn Customs Officers, and any persons authorized to perform the duties of the Collector of Customs.

(i) *Entry* means the manner of submitting the required documentation or electronic data required by this Chapter to the appropriate Customs Office to secure the release of imported or exported merchandise, clearance of arriving or departing conveyances, and arriving individuals.

(j) *Customs Storehouse* is a place, facility, location, or warehouse designated and authorized by the Collector of Customs for the housing and securing of unladed cargo, baggage, merchandise, and property awaiting formal customs entry and permission for release.

§ 73110. Manifest. The master of every aircraft, vessel, or contrivance arriving in Guam shall have on board a manifest for passengers, crew, and cargo destined for Guam, signed by such master under oath as to the truth of the statement therein contained. Failure to provide such manifests in the prescribed manner and or requirements constitutes a penalty as contained herein. Such manifests shall contain all of the following information as required:

(a) For vessels:

(1) Cargo Manifest:

(A) The names of the ports or places at which the merchandise was taken on board.

(B) The name, description and build of the vessel, the true measure or tonnage thereof, the port to which such vessel belongs and the name of the master of such vessel.

(C) A detailed account of all merchandise destined for Guam on board such vessel, with the marks and numbers of each package, and the number and description of the packages according to their usual name or denomination, such as barrel, keg, hogshead, case, or bag.

(D) The names of the persons to whom such packages are respectively consigned in accordance with the bills of lading issued therefor.

(E) The master or agent of each privately owned, privately operated, commercially owned, or commercially leased vessel arriving into Guam from any place outside of Guam must transmit to the Agency an electronic passenger, crew, and cargo manifest. The electronic manifest must be transmitted as required herein to the Customs Office in charge of the clearance for the arriving vessel. The electronic manifest shall contain the names of the several passengers and crew aboard the vessel, stating whether cabin or steerage passengers, with their baggage, specifying the number and description of the pieces of baggage belonging to each, and a list of all baggage not accompanied by passengers.

(F) An account of the sea stores and ship's stores on board the vessel.

(G) If the vessel is from a United States port the manifest shall be certified by the Collector of the port sailing. If

from a foreign port, by the United States consul or commercial agent of the port. If there is no United States consul or agent, then by the foreign government consul or agent.

(2) Crew and Passenger Manifest:

(A) full name (last, first, and, if available, middle);

(B) date of birth;

(C) gender (F = female; M = male);

(D) citizenship;

(E) country of residence;

(F) status on board the vessel;

(G) travel document type (e.g., P = passport; A = alien registration card);

(H) passport number, if a passport is required;

(I) passport country of issuance, if a passport is required;

(J) passport expiration date, if a passport is required;

(K) United States of America alien registration number, where applicable;

(L) physical address while in Guam (number and street, city, state, and zip code);

(M) vessel name and voyage number;

(N) date of vessel arrival; and

(O) manifest for crew and passengers shall be separated and distinguishable.

(b) For aircraft:

(1) Cargo Manifest. The master or agent of each privately owned, privately operated, commercially owned, or commercially

leased aircraft arriving into Guam from any place outside of Guam must transmit to the Agency an electronic manifest accounting for all terminating, transiting, revenue, and non-revenue cargo. The electronic manifest must be transmitted as required herein to the Customs Office in charge of the clearance for the arriving aircraft in the format as follows:

(A) the name, address, and telephone number of each importer or consignee; and the name, address, and telephone number of the shipper to such importer or consignee, unless the Collector determines that the confidentiality of any particular information is necessary for the good of the Agency or national security;

(B) airway bill of lading number of each cargo destined for Guam;

(C) the general description of the cargo;

(D) the number of packages and gross weight;

(E) the name of the aircraft carrier and flight number;

(F) the port of loading;

(G) the port of discharge; and

(H) the country of origin of the shipment;

(2) Crew and Passenger Manifest. The master or agent of each privately owned, privately operated, commercially owned, or commercially leased aircraft arriving into Guam from any place outside of Guam must transmit to the Agency an electronic passenger and crew manifest for all persons terminating, transiting, revenue and non-revenue passengers. The electronic manifest must be transmitted as

required herein to the Customs Office in charge of the clearance for the arriving aircraft in the format as follows:

(A) full name (last, first, and, if available, middle);

(B) date of birth;

(C) gender (F = female; M = male);

(D) citizenship;

(E) country of residence;

(F) status on board the aircraft;

(G) travel document type (e.g., P = passport; A = alien registration card);

(H) passport number, if a passport is required;

(I) passport country of issuance, if a passport is required;

(J) passport expiration date, if a passport is required;

(K) United States of America alien registration number, where applicable;

(L) physical address while in Guam (number and street, city, state, and zip code);

(M) passenger name record locator, if available;

(N) industry code of where transportation to Guam commenced;

(O) industry code of final port/place of destination for in-transit passengers;

(P) airline carrier code;

(Q) flight number;

(R) passenger revenue status (revenue or revenue-exempt);

(S) total number of revenue passengers and non-revenue;

(T) specific reason for revenue-exempt status for each revenue-exempt passenger reported;

(U) date of aircraft arrival; and

(V) manifest for crew and passengers shall be separated and distinguishable.

(c) Discrepancies. If any discrepancy occurs in any way with respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft, or contrivance, or any party responsible for such discrepancy, shall be liable for any fine or penalty prescribed by law with respect to such discrepancy or violation. The Agency may take appropriate action against any of the parties.

(d) Public Disclosure of Certain Manifest Information. The Collector, in order to allow for the timely dissemination and publication of the information listed, shall adhere to the provisions as set forth in the *Sunshine Reform Act of 1999*, 5 GCA Chapter 10. In accordance with 5 GCA Chapter 10, and when requested, the Collector shall make available for public disclosure the following information:

(1) the general character of the cargo;

(2) the number of packages and gross weight;

(3) the port of loading;

(4) the port of discharge; and

(5) the country of origin of the shipment.

§ 73111. Manifest Delivered to Customs Officer.

The master, owner, or authorized agent of an aircraft, vessel, or other contrivance required to make entry, shall submit to the Customs Officer the

required manifests in the times set forth in this Section, as well as the format and manner as prescribed in § 73110. Times set forth for delivery of each manifest are as follows:

(a) Aircraft. The master, owner, or authorized agent of any aircraft entering Guam required to make entry shall submit to the Customs Officer the passenger, crew, and cargo manifest thirty (30) minutes upon departure from the airport or place of origin. The manifests must be transmitted electronically as required by § 73110 to the Customs Office.

(b) Vessels. The master, owner, or authorized agent of any vessel entering Guam required to make entry shall submit to the Customs Office the passenger, crew, and cargo manifest no later than forty-eight (48) hours after the vessel or contrivance departs the port or place of origin, with the exception of vessels arriving from the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, wherein the manifests must be transmitted immediately upon departure. The manifests must be transmitted electronically as required by § 73110 to the Customs Office.

(c) Any master, owner, or authorized agent who fails to deliver such copy of the manifest or correction thereof shall be subject to a penalty as prescribed in § 73133 of this Article.

§ 73112. Penalty.

[Repealed.]

§ 73113. Vessel Exemptions.

(a) Vessels of war:

(1) shall submit to the Customs Office an affidavit of self-inspection report immediately upon arrival; and

(2) shall comply with all other applicable federal laws enforced by the Guam Customs and Quarantine Agency.

(b) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, or necessary sea stores and which shall depart within twenty-four (24) hours after arrival without having landed or taken on board any passengers or any merchandise other than bunker coal, bunker oil, or necessary sea stores; provided, that the master, owner, or agent of such vessel shall report under oath to the Collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, or necessary sea stores taken on board."

Section 3. §§ 73116 and 73117 of Article 1, Chapter 73, Title 5, Guam Code Annotated, are hereby *amended* to read:

"**§ 73116. Unloading Prohibition.**

(a) Except as otherwise provided (relating to vessels not required to enter), no merchandise, passengers, or baggage shall be unloaded from any vessel until entry of such vessel has been made and a permit for the unloading of the same issued by the Collector; provided, that the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest, as provided in § 73110, and submitting the manifest to the Customs Officer, as provided in § 73111, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the Customs House, as provided in these regulations. After the entry, preliminary or otherwise, of any vessel, the Collector may issue a permit to the master of the vessel to unload merchandise or baggage but except as provided in Subsection (b) of this Section, merchandise or baggage so unladed shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted. Any

merchandise or baggage so unladed from any vessel for which entry is not made shall be sent to Customs and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in case of baggage, until entry thereof is made. A master in violation of this Section shall be subject to a penalty as prescribed in § 73133 of this Article.

(b) The Collector of Customs is authorized to issue special permits for delivery, prior to formal entry thereof, of perishable articles and other articles, the immediate delivery of which is necessary.

§ 73117. Unloading Penalties.

If any passengers, merchandise or baggage are unloaded from any vessel, aircraft, or contrivance without a permit or authorization and clearance from Customs authorities, the master of such vessel and every other person who knowingly is concerned or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be guilty of a violation for each passenger so unladed, and such merchandise or baggage shall be subject to forfeiture."

Section 4. § 73121 of Article 1, Chapter 73, Title 5, Guam Code Annotated, is hereby *amended* to read:

"**§ 73121. Sale of Merchandise; Storage; Fees, Lien, Sale.**

The owner of any imported merchandise in the possession of the Collector of Customs, properly entered or otherwise, remaining in government custody for more than five (5) work days after receipt therein and, except when delay in removal may be caused by some failure on the part of the government, shall be liable for a flat rate storage fee of Fifty Dollars ($50.00) upon seizure. This flat rate shall remain in place until such time the Director of Customs promulgates a fee schedule for storage, liens, or sale of said merchandise.

(a) The Collector may direct removal at any time when efficient operation of the Customs Warehouse may necessitate such removal. The above rates of storage charges will then become effective on the fifth (5th) day following the order to remove the merchandise concerned. Any storage charges shall constitute a lien against the property for payment of all storage charges before removal. Storage charges shall be paid every ten (10) days, and if not so done and whenever charges against such merchandise shall have accrued in an amount equal to two-thirds (2/3) of the entered value of the merchandise in question, it shall be subject to seizure and sale by the government in the same manner and subject to the same conditions as prescribed in § 73120 of this Article.

(b) Deposits. All monies received by the Treasurer of Guam in accordance with §§ 73119, 73120, 73121, 73122, 73123 and 73124, as it relates to the sale of merchandise by government auction, shall be deposited in the Customs Fines and Penalties Revolving Fund.

(c) Stores not removed within sixty (60) days after the Collector has directed their removal shall be subject to sale at a public auction in the manner prescribed in § 73120 of this Article."

Section 5. § 73123 of Article 1, Chapter 73, Title 5, Guam Code Annotated, is hereby *amended* to read:

"**§ 73123. Sale of Merchandise.**

Destruction by Authorities. Except as otherwise provided, any merchandise abandoned or forfeited to the government under the preceding or any other provision of this Chapter, which is subject to internal revenue tax and which the Collector shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed instead of being sold at auction.

Consignees or owners of abandoned or forfeited merchandise set for destruction shall be liable and billed the full cost of destruction."

Section 6. § 73133 of Article 1, Chapter 73, Title 5, Guam Code Annotated, is hereby *amended* to read:

"**§ 73133. Fines and Penalties.** Penalties for Violations of Arrival, Reporting, Entry, Clearance Requirements, Manifests, and Manifest Delivered to Customs Officer.

(a) Unlawful acts:

(1) failure to comply with §§ 73104, 73106, 73107, 73108, 73110 or 73111 of this Article;

(2) presenting or transmitting, electronically or otherwise, any forged, altered or false document, paper, information, data, or manifest to the Customs Service without revealing the facts; or

(3) failure to make entry or to obtain clearance as required.

(b) Civil Penalty. Any master, person in charge, or aircraft pilot who commits any violation listed under this Section is liable for a civil penalty of Five Thousand Dollars ($5,000) for the first violation and Ten Thousand Dollars ($10,000) for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

(c) Criminal Penalty. In addition to being liable for a civil penalty under Subsection (b) of this Section, any master, person in charge , or aircraft pilot who intentionally commits any violation listed in Subsection (a) of this Section is, upon conviction, liable for a fine of not more than Two Thousand Dollars ($2,000) or imprisonment for one (1) year, or both; except, that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into Guam is prohibited, such individual is liable for

an additional fine of not more than Ten Thousand Dollars ($10,000) or imprisonment for not more than five (5) years, or both.

(d) Additional Civil Penalty. If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into Guam in or aboard a conveyance which was not properly reported or entered, the master, person in charge, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the master, person in charge, or aircraft pilot. The Collector of Customs may grant relief of civil penalty; provided, that such was due to unintentional clerical or administrative omission. The master, person in charge, or aircraft pilot has the burden of proving by clear and convincing evidence of the unintentional omission."

Section 7. § 73153 of Article 1, Chapter 73, Title 5, Guam Code Annotated, is hereby *amended* to read:

"**§ 73153. Customs Fines and Penalties Revolving Fund.**

(a) Fund Established. There is hereby established within the Customs and Quarantine Agency a fund to be known as the "Customs Fines and Penalties Revolving Fund" which shall be separate and apart from other funds of the government of Guam, and for which independent records shall be maintained. The Director of Customs is hereby authorized to expend collected funds without appropriation.

(b) Deposits. All monies received in accordance with §§ 73119, 73120, 73121, 73122, 73123 and 73124 as it relates to fines, penalties and storage shall be deposited in the Customs Fines and Penalties Revolving Fund.

(c) Authorized Expense(s). All expenses authorized by the Director of Customs to be used solely for the Customs and Quarantine Agency shall be paid from the Customs Fines and Penalties Revolving Fund.

(d) Report. In the first January after the enactment of this Act, and every six (6) months thereafter, the Director of Customs and Quarantine shall prepare and transmit, via *I Maga'hågan/Maga'låhen Guåhan* (the Governor of Guam), a detailed report on the status of the Customs Fines and Penalties Revolving Fund, to include an itemization of expenditures charged against the Fund, to the Speaker of *I Liheslaturan Guåhan* (the Guam Legislature)."

Section 8. New §§ 73154 and 73155 are hereby *added* to Article 1 of Chapter 73, Title 5, Guam Code Annotated to read:

"**§ 73154. Penalties and Payments.**

(a) Payments Due. All person(s) found in violation and issued a penalty or fine under § 73133, shall immediately make payments to the Treasurer of Guam.

(b) Interest Penalty. Each person found in violation and issued a penalty or fine under § 73133, who fails to make payment for such penalty or fine within thirty (30) days of the date of issued penalty or fine, shall pay an interest penalty of fifteen percent (15%) per annum to the Treasurer of Guam on the amount of the past due or balance thereof. No interest penalty shall be assessed on payments made in full on or before the thirtieth (30th) day from the date payments are due.

(c) Unpaid Interest. Interest penalty applicable under § 73154(b) which remains unpaid shall accrue to the balance due for purposes of computing current interest due.

§ 73155. Severability. If any provision of Article 1 of this Chapter or the application thereof to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of the Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable."

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