

I Mina'trentai Sietta Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
9-37 (COR) As substituted, and amended on the Floor	Dwayne T. D. San Nicolas Joe S. San Agustin Roy A.B. Quinata Tina Rose Muña Barnes William D. Parkinson Jesse A. Lujan Thomas J. Fisher	AN ACT TO AMEND §§ 58109 AND 58110 OF CHAPTER 58 AND ADDING A NEW CHAPTER 58B, TO TITLE 10, DIVISION 3, GUAM CODE ANNOTATED RELATIVE TO THE LEGALIZATION AND REGULATION OF THE USE OF CONSUMER-GRADE FIREWORKS.	1/18/23 12:01 p.m.	1/18/2023	Committee on Health, Land, Justice, and Culture	Request: 1/18/23	3/14/23 2:00 p.m.	7/13/23 3:57 p.m.	
				1/31/23	Re-Referred: Committee on Fire, Agriculture, Power and Energy Utilities, Public Transit, Unemployment Insurance and Universal Health Insurance	1/24/23			
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	10/23/23	AN ACT TO AMEND §§ 58109 AND 58110 OF CHAPTER 58, AND ADD A NEW CHAPTER 58B TO DIVISION 3 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE LEGALIZATION AND REGULATION OF THE USE OF CONSUMER-GRADE FIREWORKS.	10/31/23	11/1/23	11/13/23	37-47	11/10/23	Received: 11/10/23 Messages and Communications Doc. No. 37GL-23-1245	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

November 10, 2023

HONORABLE THERESE M. TERLAJE, Speaker
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Doc type: 31GL-23-1245
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

NOV 10 2023

Time: 4:18 pm
Received: [Signature]

Re: Bill No. 9-37 (COR), "AN ACT TO AMEND §§ 58109 AND 58110 OF CHAPTER 58, AND ADD A NEW CHAPTER 58B TO DIVISION 3 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE LEGALIZATION AND REGULATION OF THE USE OF CONSUMER-GRADE FIREWORKS"

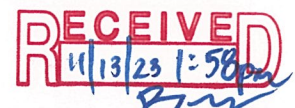
Håfa Adai Madame Speaker,

Our community's enthusiasm over the passage of Bill No. 9-37 is tempered by overriding concerns over whether the bill goes far enough to address the obvious safety issues involved in the use of consumer-grade fireworks on our island. These concerns appear centered around uncertainty regarding whether firework purchases will be available year-round or around particular holidays, and whether adequate measures are in place to protect against the enhanced risk of fire, particularly during the dry season.

Further, while recognizing the entertainment value of consumer-grade fireworks, the Guam Fire Department ("GFD"), which holds regulatory and enforcement authority under the bill, has also voiced concerns that the regulatory scheme contemplated in the bill will require an infusion of funding and personnel to ensure proper inspection of fireworks and storage facilities, and to effectuate enforcement measures in the event of violations.

While the fireworks contemplated in the bill, including sparklers and fountains, have very limited pyrotechnic capabilities, without question, we can anticipate that the introduction of these low-level explosives will periodically cause accidents, particularly during periods of heavy usage such as holidays. To develop and implement the necessary regulations to minimize harm to our community will likely require additional funding, and dedicated and coordinated resources across government agencies, including our public hospital and emergency response agencies.

I have raised these concerns with Senator Dwayne San Nicolas, the author of the Bill No. 9-37. Senator San Nicolas in turn has expressed that he shares in these concerns, and has started the process of drafting follow-up legislation to further strengthen the regulatory authorization provided



To: Therese M. Terlaje, *Speaker*, 37th Guam Legislature
Fr: Lourdes A. Leon Guerrero, *Governor of Guam*
Date: November 10, 2023
Re: Bill No. 9-37 (COR) nka P.L. 37-47

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to GFD, and to close any gaps in the enforcement language of the bill that has led to constituent concerns that have emerged since the bill was passed. Because importation and distribution of the contemplated fireworks cannot commence until such time GFD promulgates regulations for the licensing of such activities, and Bill No. 9-37 does not require promulgation within a specified timeframe, I am satisfied that this measure will remain in a holding pattern until the Legislature passes further laws to inform the rulemaking process.

I thank Senator San Nicolas for taking the time to fully review the bill with me, and for taking the lead in the development of additional legislation. I have instructed GFD to provide the subject matter expertise necessary to support Senator San Nicolas's efforts, and I am committed to assisting in the development of such legislation. With these additional measures, I am confident that we will achieve the intent of Bill No. 9-37 and enable our community to enjoy the use of consumer-grade fireworks in a manner that keeps our families safe, and I sign Bill No. 9-37 into law as Public Law No. 37-47

Senseramente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure: Bill No. 9-37 (COR) nka P.L. 37-47

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

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

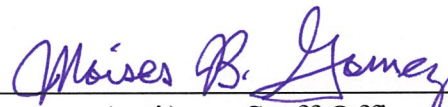
This is to certify that **Substitute Bill No. 9-37 (COR)**, "AN ACT TO AMEND §§ 58109 AND 58110 OF CHAPTER 58, AND ADD A NEW CHAPTER 58B TO DIVISION 3 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE LEGALIZATION AND REGULATION OF THE USE OF CONSUMER-GRADE FIREWORKS," was on the 31st day of October 2023, duly and regularly passed.


Therese M. Terlaje
Speaker

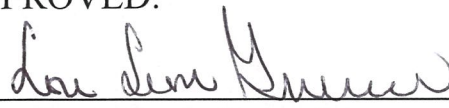
Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 1st day of November,
2023, at 11:33 o'clock A.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/10/2023

Public Law No. 37-47

2023-20245
OFFICE OF THE GOVERNOR
CENTRAL FILES
Moises Gomez
RECEIVED BY
TIME 11:33AM DATE 11-1-23

**I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session**

Bill No. 9-37 (COR)

As substituted; and amended on the Floor.

Introduced by:

Dwayne T.D. San Nicolas
Joe S. San Agustin
Roy A. B. Quinata
Tina Rose Muña Barnes
William A. Parkinson
Jesse A. Lujan
Thomas J. Fisher
Chris Barnett
Frank Blas, Jr.
Joanne Brown
Christopher M. Dueñas
Amanda L. Shelton
Telo T. Taitague

AN ACT TO AMEND §§ 58109 AND 58110 OF CHAPTER 58, AND ADD A NEW CHAPTER 58B TO DIVISION 3 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE LEGALIZATION AND REGULATION OF THE USE OF CONSUMER-GRADE FIREWORKS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 58109 of Chapter 58, Division 3, Title 10, Guam Code
3 Annotated, is hereby *amended* to read:

4 “§ 58109. **Fireworks.** The use of consumer-grade or “safe and sane”
5 fireworks shall be permitted in Guam.”

6 **Section 2.** § 58110 of Chapter 58, Division 3, Title 10, Guam Code
7 Annotated, is hereby *amended* to read:

1 were able to enjoy consumer-grade fireworks prior to their prohibition recall fond
2 memories of familial bonding during holidays and believe them to enhance these
3 bonding experiences. Many families also wish to share these experiences starting
4 with today's generation.

5 In addition to enhancing familial experiences during holidays, consumer-
6 grade fireworks will also create avenues for the residents of the island to open
7 businesses that will sell these fireworks, aiding and promoting economic
8 development in Guam. Legalizing consumer-grade fireworks will create business
9 opportunities for entrepreneurs to capitalize on the need to import and sell these
10 fireworks, contributing to the island's economy.

11 *I Liheslaturan Guåhan* also finds that the prohibition of consumer-grade
12 fireworks is grounded in the concern for public safety and security, but unfortunately,
13 it has led to the illegal and dangerous practice of using actual firearms as a substitute
14 for fireworks. There have been cases where teenagers would steal their parents'
15 firearms and shoot them in the air as a substitute for fireworks. The act of shooting
16 a firearm into the air is not only illegal, but incredibly dangerous due to the fact that
17 bullets shot into the air will come back down with considerably more force and
18 could potentially hit innocent bystanders. If teenagers and the people of Guam had
19 access to consumer-grade fireworks, they would not have to resort to the illegal
20 and dangerous practice of shooting firearms into the air.

21 A collaboration between several different authorities and proper enforcement
22 of the rules and regulations of the industry's supply chain at every level with severe
23 yet reasonable penalties is vital to achieve the successful regulation of the industry.
24 With proper enforcement mechanisms in place, the effective regulations of the "safe
25 and sane" fireworks industry through precautionary advice, measures, and awareness
26 of the general public is critical for the importation, sell, purchase and use of "safe and
27 sane" fireworks. The common ground for many jurisdictions is the concern for

1 public safety which has imposed stringent measures deriving from prior events or
2 particular circumstances within the territory, state or country; e.g., fireworks use has
3 been abused or misused.

4 *I Liheslaturan Guåhan* intends to legalize consumer-grade or “safe and
5 sane” fireworks while enacting stringent regulations and penalties to prevent misuse
6 and abuse of these fireworks.

7 **§ 58B301. Definitions.**

8 (a) *Aerial devices* means any fireworks containing one hundred
9 thirty (130) milligrams or less of explosive materials that produces an
10 audible or visible effect and is designed to rise then detonate and explode in
11 the air. Its use is prohibited by any person who does not have a permit for display
12 fireworks issued by the Guam Fire Department. Aerial devices classified as
13 fireworks under UN0336 and UN0337 by the United States Department of
14 Transportation as set forth in Title 49 Code of Federal Regulation includes
15 fireworks items commonly known as skyrockets, missile-type rockets, bottle
16 rockets, helicopters, roman candles, dago bombs, torpedoes, flying pigs, and
17 jumping jacks. These fireworks move about the ground further than a radius of
18 a twelve (12) feet circle as measured from the point where the item was placed
19 and ignited.

20 (b) *Consumer-grade fireworks* means fireworks which are intended
21 for retail sale and use by the general public and are considered as Division
22 1.4G explosives by the U.S Department of Transportation. Ignition of these
23 fireworks produce visible and audible effects for entertainment. It is designed
24 to spin rapidly or to be stationary on or near the ground and can include one (1)
25 or more effects such as emitting smoke, shower of colored sparks, whistling,
26 crackling, and fizzing effects, and flutter and balls of single or multicolored
27 sparks. Consumer fireworks are manufactured in single paper cylinders not

1 exceeding one and one-half (1½) inches in length, excluding the fuse, are
2 one quarter (1/4) of an inch in diameter, and contain a charge of not more
3 than fifty (50) milligrams of pyrotechnic composition. Consumer-grade
4 fireworks consist of snakes, sparklers, fountains, and cylindrical or cone
5 fountains that emit effects up to a height not greater than twelve (12) feet above
6 the ground, illuminating torches, whistles, toy smoke devices, wheels, and
7 ground spinners that, when ignited, remain in a circle with a radius of not more
8 than twelve (12) feet as measured from the point where the item was placed,
9 ignited or set off, and novelty and combination fireworks that are designed to
10 produce the same or similar effects detailed in this Subsection. Consumer-grade
11 fireworks do not include firework devices and kits or components that are
12 banned by the U.S. Consumer Product Safety Commission in 16 CFR §
13 1500.17.

14 (c) *Articles pyrotechnic* means pyrotechnic devices designed with
15 similar chemical composition and construction as fireworks for professional
16 use and are not intended for consumer use. Articles pyrotechnics meet the
17 weight limits for consumer fireworks; however, they are not labeled as such and
18 are classified as UN0431 or UN0432 under 49 CFR § 172.101 by the United
19 States Department of Transportation.

20 (d) *Class 1.3G explosives* means large fireworks designed primarily
21 to produce audible or visible effects by combustion, deflagration, or
22 detonation, and are formerly known as Class B, Special Fireworks, or Display
23 Fireworks according to the U.S. Consumer Product Safety Commission.

24 (e) *Display* means the use of aerial devices, display fireworks, or
25 article pyrotechnic for any activities.

26 (f) *Display fireworks* means any fireworks designed primarily for
27 exhibition display by producing visible or audible effects and are classified

1 as display fireworks in the regulations of the United States Department of
2 Transportation, designated as UN0333 or UN0335. Display fireworks
3 include salutes containing more than forty (40) grams of pyrotechnic
4 compositions and other display pieces which exceed the limits of explosive
5 materials classified as consumer fireworks. This term also includes fused set
6 pieces containing components which exceed fifty (50) milligrams of salute
7 powder together. The use of display fireworks shall be prohibited for use by
8 any person who does not have a display permit issued by the Guam Fire
9 Department.

10 (g) *Class 1.4G explosives* means consumer fireworks intended for
11 use by the general public and are formerly known as Class C Common
12 Fireworks according to the U.S. Consumer Product Safety Commission.

13 (h) *Fireworks* means any composition or device that produces a
14 visible or an audible effect by combustion, deflagration, or detonation that
15 meets the definition of consumer fireworks or display fireworks as defined
16 in this Section and in the regulations of the United States Department of
17 Transportation set forth in Title 49 Code of Federal Regulation (CFR).

18 (i) *Pyrotechnics* means devices intended for professional use with
19 similarities to consumer fireworks in construction and chemical composition.
20 Pyrotechnics meet the weight limits of consumer fireworks but are not
21 labeled as such. Articles pyrotechnic fall under this category.

22 (j) *Safe and sane fireworks* means fireworks that are designed to
23 remain on or near the ground, spin rapidly, emit smoke, release a shower,
24 flutter, or balls of colored sparks, or produce whistling, crackling, and fizzing
25 effects. Safe and sane fireworks can include such combination of items that
26 contain one (1) or more of these effects that are intended for use by the public.

27 **§ 58B302. Permissible Uses of Consumer Fireworks.**

1 (a) It is unlawful for any person, firm, corporation, association, or
2 organization to sell or offer for sale any fireworks, except as expressly
3 permitted under the terms of this Section.

4 (b) No fireworks shall be ignited or set off within fifty (50) feet of
5 any building, structure, or wildland areas.

6 (c) The Guam Fire Department shall conduct a study on the effects
7 of fireworks on public safety after three (3) years of enactment of this Chapter.
8 This study may be used to determine if amendments to this Chapter are
9 warranted.

10 **§ 58B303. Issuance of Licenses, Permits, Termination, Revocation,**
11 **Seizure.**

12 (a) No person, firm, corporation, association, or organization shall
13 sell fireworks without first having obtained a license thereof (“Consumer
14 Fireworks License”). Prior to issuance of the CFL, the requesting party shall
15 fulfill all licensing and fire safety requirements outlined by the Guam Fire
16 Department.

17 (b) Upon expiration of a Consumer Fireworks License, a qualified
18 person, firm, corporation, association, or organization shall be required to
19 obtain a new license, unless terminated due to the following:

20 (1) failure to comply with any provision or applicable
21 regulatory statutes, rules, and regulations in the business of retailing safe
22 and sane fireworks;

23 (2) a safety violation that, in the determination of the Guam
24 Fire Department, created a potential to endanger the public; or

25 (3) failure to maintain the requirements of the Consumer
26 Fireworks License.

1 (c) Failure or refusal to comply with any of the provisions or
2 applicable regulatory statutes, rules, or regulations detailed in this Chapter
3 shall result in the termination or revocation of the Consumer Fireworks
4 License. Termination or revocation of the Consumer Fireworks License shall
5 be immediate if deemed in violation of this Section. The Fire Chief or his or
6 her authorized representatives shall have the authority to revoke or terminate
7 the license for a period of time not less than twelve (12) months and not over
8 eighteen (18) months. The license will also be revoked or terminated if the
9 conduct of the operation is deemed inimical to public safety.

10 (d) Any person engaged in the selling of consumer fireworks shall
11 be eighteen (18) years of age or older.

12 (e) At least one (1) person twenty-one (21) years of age or older
13 shall be in attendance and in charge of the permitted sales of consumer
14 fireworks.

15 (f) All permits shall be non-transferrable

16 (g) No person, firm, corporation, association or organization
17 holding a Consumer Fireworks License shall be allowed to sell firecrackers
18 in a packet size larger than two thousand (2,000) individual units.

19 (h) The Fire Chief, his or her authorized representatives, or any
20 other public entity authorized by statute to enforce government regulations
21 may seize any fireworks described in this Chapter.

22 **§ 58B304. Permits Requirements.**

23 (a) Any person in the business of importing, dealing, distributing,
24 storing, or otherwise receiving consumer fireworks shall obtain a license from
25 the Guam Fire Department by no later than ten (10) business days. The Guam
26 Fire Department shall create distinct licenses for fireworks distributors or
27 wholesalers and fireworks retailers.

1 (b) No person, firm, corporation, association, or organization shall
2 sell any consumer fireworks to any persons under the age of eighteen (18).

3 (c) A permit shall be required to sell any consumer fireworks with a
4 fee payment of Four Hundred Sixty-five Dollars (\$465.00) for a permit.

5 (d) All permits and licenses shall be posted in the establishment and
6 shall be visible to the public.

7 (e) Any person who sells, imports, and delivers consumer fireworks
8 shall keep a record book in which the time of each sale, delivery, and
9 importation of consumer fireworks were conducted.

10 (f) The record book shall be kept on file for not less than a period of
11 four (4) years and shall be subject to examination at all times upon proper
12 demand by any duly authorized law enforcement officer or duly authorized
13 personnel of the Guam Fire Department or his or her authorized
14 representatives.

15 (g) No person, firm, corporation, association, or organization shall
16 sell any consumer fireworks unless:

17 (1) Every fireworks device or the packaging in which they are
18 sold has the word "CAUTION" or "WARNING".

19 (2) Every fireworks device or the packaging in which they are
20 sold displays a statement of hazard designed to warn the user of the
21 specific aspect of the item's operation that may result in the potential
22 for injury. A statement of hazard includes statements such as:
23 "FLAMMABLE, SHOOTS FLAMING BALLS WITH REPORTS,
24 SPINS ON GROUND, EMITS SHOWERS OF SPARKS, etc."

25 (3) Every fireworks device or the packaging in which they are
26 sold are conspicuously labeled with country of origin, the name and
27 place of business of the manufacturer, packer, distributor, or seller.

1 **§ 58B305. Storage of Consumer Fireworks.**

2 (a) Any person, firm, corporation, association, or organization
3 which stores consumer fireworks shall notify the Guam Fire Department of
4 the consumer fireworks that are being stored, the type, and the location of
5 each site where they are stored. Such notifications shall be made orally at the
6 end of the day in which storage of the consumer fireworks commenced and
7 in writing within forty-eight (48) hours from the time such storage
8 commenced.

9 (b) The facility in which consumer fireworks are stored shall be
10 in accordance to guidelines set by the Guam Fire Department.

11 (c) Shipments of consumer fireworks must receive approval from the
12 Guam Fire Department fifteen (15) calendar days prior to the
13 shipment's arrival; and

14 (d) shall meet all fire and safety codes.

15 **§ 58B306. Prohibiting Minors From Obtaining Consumer Fireworks.**

16 (a) Any person, firm, corporation, association, or organization
17 which sells, gives, or purchases consumer fireworks for a minor or allows a
18 minor to set off or ignite any consumer fireworks shall be deemed in violation
19 of this Chapter and are subject to penalties thereunder:

20 (1) First Offense: Penalty of up to One Hundred Dollars (\$100);

21 (2) Second Offense: Offense of the same fire code provision
22 within a twelve (12)-month period shall be subject to a penalty of up
23 to Four Hundred Dollars (\$400), but not less than One Hundred Dollars
24 (\$100).

25 (3) Third Offense: Offense of the same fire code provision
26 within a twelve (12)-month period shall be punishable as a

1 misdemeanor and the business license and permit shall be suspended
2 for up to one (1) year.

3 (b) Minors shall only be allowed to ignite or set off consumer
4 fireworks under the expressed permission and immediate supervision and
5 control of the parent(s), guardian(s), or a supervising adult.

6 **§ 58B307. Penalty.**

7 (a) Any person, firm, corporation, association or organization in the
8 business of importing, dealing, distributing, selling, storing, or otherwise
9 receiving consumer fireworks deemed in violation of this Chapter are subject
10 to penalties and fines. Each violation shall be subject to the following
11 penalties:

12 (1) First Offense shall be subject to a penalty of up to One
13 Hundred Dollars (\$100);

14 (2) Second Offense of the same fire code provision within a
15 twelve (12)-month period shall be subject to a penalty of up to
16 Four Hundred Dollars (\$400), but not less than One Hundred
17 Dollars (\$100);

18 (3) Third Offense of the same fire code provision within a
19 twelve (12) month period shall be subject to a penalty of Five
20 Thousand Dollars (\$5,000).

21 (b) All fines shall be deposited into a Fund which shall be used for
22 enforcement and programs to educate consumers in the proper and legal use
23 of fireworks.”

24 **Section 4. Severability.** If any provision of this Act or its application to any
25 person or circumstance is found to be invalid or inorganic, such invalidity shall not
26 affect other provisions or applications of this Act that can be given effect without

1 the invalid provision or application, and to this end the provisions of this Act are
2 severable.

3 **Section 5. Effective Date.** This Act shall be effective upon enactment.