

I Mina'trentai Siette 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
242-37 (COR) As amended by the Committee on Health, Land, Justice, and Culture	Therese M. Terlaje	AN ACT TO AMEND §§21101, 21102, 21104, 21107, AND 21115, ALL OF CHAPTER 21, TITLE 10, GUAM CODE ANNOTATED RELATIVE TO SANITARY PERMIT REQUIREMENTS.	2/13/24 12:30 p.m.	2/14/24	Committee on Health, Land, Justice, and Culture	Request: 2/14/24 Waiver: 2/19/24	2/27/24 10:00 a.m.	3/7/24 8:26 a.m.	As amended by the Committee on Health, Land, Justice, and Culture
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	3/18/24	AN ACT TO <i>AMEND</i> §§ 21101, 21102, 21104, 21107, AND 21115 OF CHAPTER 21, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO SANITARY PERMIT REQUIREMENTS.	3/22/24	3/22/24	4/3/24	37-87	4/3/24	Received: 4/3/24 Messages and Communications Doc. No. 37GL-24-1886	

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

April 3, 2024

The Hon. Therese M. Terlaje
Speaker, I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

37GL-24-1886
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

APR 03 2024

Time: 4:14pm
Received: 

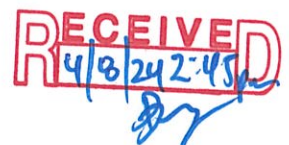
Re: Bill No. 242-37 (COR) - AN ACT TO AMEND §§ 21101, 21102, 21104, 21107, AND 21115 OF CHAPTER 21, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO SANITARY PERMIT REQUIREMENTS

Håfa Adai Madam Speaker,

On March 6, 2024, I signed into law Public Law. No. 37-80, which amended 10 GCA § 21103, and authorized the Department of Public Health and Social Services (“DPHSS”) to renew sanitary permits on an annual basis, regardless of issue date, instead of June 30 every year for all permitted establishments. This amendment reflected the reality that our island’s modern economy involves far more businesses than those in existence at the time of the original statute, which dated to the 1970 Government Code. Over time, the unwieldy law imposed a substantial burden on DPHSS personnel required to issue the renewals, without sufficient justification.

Bill No. 242-37 (COR) seeks to similarly amend Section 21104 of the same chapter, which currently requires the Director of DPHSS to inspect every establishment requiring a sanitary permit at least once every three (3) months. This statute also originated in the old Government Code. According to the Division of Environmental Health (“DEH”) within DPHSS, our island has approximately three thousand (3,000) permitted establishments, which under current law requires twelve thousand (12,000) total inspections annually, vastly exceeding DEH’s capability at present time. Again, the requirement in the Government Code was not intended for the number of businesses currently subject to sanitary permitting.

Bill No. 242-37 ensures that our laws reflect reality, not only of limitations in existing agency staffing resources, but also the fact that the risk associated with different establishments is not equal. The bill authorizes DPHSS to direct its inspection resources based on actual health risks posed by certain establishments in contrast to others. This means that DPHSS will be authorized to prioritize the inspections of food establishments and establishments providing service to



To: Therese M. Terlaje, Speaker
Fr: Lourdes A. Leon Guerrero, Governor of Guam
Date: April 3, 2024
Re: Bill No. 242-37 (COR)

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vulnerable populations, such as child care facilities, hospital cafeterias, and facilities preparing meals for the elderly over the inspection of other establishments that pose lower risk to the health of our community.

As we look to the future, it is important that we revisit the laws that may have made sense in the past, but no longer serve the needs of our island today. While agency regulatory functions remain critical to the safety of our community, we must ensure that we are not regulating for regulation's sake, and that we enact laws with purpose and deliberation, and empower our agencies to maximize their resources for the benefit of our people.

For these reasons, I am signing Bill No. 242-37 (COR) into law as **Public Law 37-87**.

Senseramente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

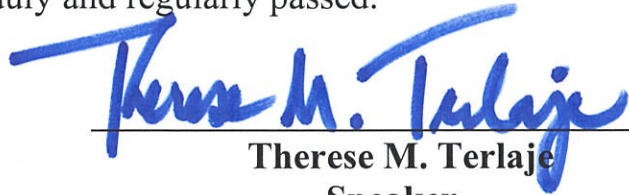
Enclosure(s): Bill No. 242-37 (COR) nka P.L. 37-87

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

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

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

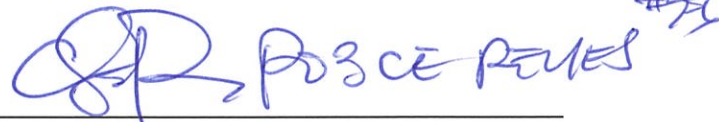
This is to certify that **Bill No. 242-37 (COR)**, “AN ACT TO *AMEND* §§ 21101, 21102, 21104, 21107, AND 21115 OF CHAPTER 21, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO SANITARY PERMIT REQUIREMENTS,” was on the 22nd day of March 2024, duly and regularly passed.


Therese M. Terlaje
Speaker


Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 22ND day of MARCH, 2024, at 8:22 o'clock P.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/3/2024

Public Law No. 37-87

2024-21279
OFFICE OF THE GOVERNOR
CENTRAL FILES OFFICE
Rec'd By: Jomichael C. Quinata
Date: 3/25/24 Time: 8:29 AM

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 242-37(COR)

As amended by the Committee
on Health, Land, Justice, and Culture.

Introduced by:

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

**AN ACT TO AMEND §§ 21101, 21102, 21104, 21107, AND
21115 OF CHAPTER 21, TITLE 10, GUAM CODE
ANNOTATED, RELATIVE TO SANITARY PERMIT
REQUIREMENTS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the current laws regarding inspections of permitted health-regulated
4 establishments are outdated, using a time period-based requirement versus a risk-
5 based requirement. Most state public health agencies have adopted risk-based
6 monitoring programs which have been found to be an effective and efficient method

1 to conduct compliance inspections of health-regulated establishments. A risk-based
2 approach allows for a variable frequency of inspections that will enable inspectors
3 to efficiently spend more time in establishments that pose the greatest potential
4 health risk to the public, thereby ensuring the safety of the people.

5 *I Liheslatura* further finds that certain provisions of Chapter 21, Title 10 GCA
6 need to be updated, and these include amending § 21107 to allow for a designee in
7 place of the Director to perform inspections and issue notices of violations, and
8 amends the number of days to correct violations. Lastly, amending § 21115 of
9 Chapter 21, Title 10 GCA ensures that alcoholic beverage licenses are issued and
10 enforced by Department of Revenue and Taxation instead of the Department of
11 Public Health and Social Services.

12 **Section 2.** § 21101 of Chapter 21, Title 10, Guam Code Annotated, is
13 hereby *amended* to read as follows:

14 **“§ 21101. Sanitary Permit.**

15 It shall be unlawful for any person to operate or open for
16 business:

- 17 (a) any establishment or activity as defined in Chapter
18 23 or Chapter 24;
- 19 (b) any institutional facility as defined in Chapter 25;
- 20 (c) any hotel as defined in Chapter 26;
- 21 (d) any cosmetic establishment as defined in Chapter
22 27;
- 23 (e) any public laundry or dry-cleaning establishment as
24 defined in Chapter 28;
- 25 (f) any public swimming as defined in Chapter 29; or
- 26 (g) any mortuary as defined in Chapter 30, without a
27 valid sanitary permit for such establishment or activity (permit)

1 issued by the Director. Such permit shall be displayed at all times
2 in a conspicuous place in the premises for public view. Only
3 persons who comply with the pertinent provisions of this Part
4 shall be entitled to receive and retain such permit.

5 This Chapter shall not apply to the operation of any
6 establishment, including any market, wayside stand, or roadside stand
7 used exclusively for the sale of (1) fresh, unprocessed fruits, vegetables,
8 and nuts; (2) eggs; (3) live poultry; (4) live pigs; (5) other live animals,
9 except dogs and cats and other such animals as stipulated by the
10 Director, by the original producer thereof in his own property; or (6)
11 liquor or canned or bottled soft drinks.”

12 **Section 3.** § 21102 of Chapter 21, Title 10, Guam Code Annotated, is
13 hereby *amended* to read as follows:

14 **“§ 21102. Regulations.**

15 (a) The Director shall promulgate regulations as required
16 relative to the physical structure required for sanitary operations of:

17 (1) establishments as defined in Chapter 23 or Chapter
18 24;

19 (2) institutional facilities as defined in Chapter 25;

20 (3) hotels as defined in Chapter 26;

21 (4) cosmetic establishments as defined in Chapter 27;

22 (5) laundry and dry-cleaning establishments as
23 defined in Chapter 28;

24 (6) public swimming pools as defined in Chapter 29;

25 and

26 (7) mortuaries as defined in Chapter 30.

1 (b) The regulations adopted by the Director shall include
2 requirements for sanitation, plumbing, or drainage.

3 (c) Plans and specifications shall be submitted to the Director
4 in accordance with the requirements established in regulations, which
5 shall include at least the following:

6 (1) the total area to be used for the regulated
7 establishment;

8 (2) the rooms in which the regulated activities are to be
9 conducted;

10 (3) the location, number and types of plumbing fixtures
11 including all water supply facility and toilet rooms; and

12 (4) the general layout of fixtures and other equipment.

13 (d) No person shall construct, reconstruct or alter any
14 regulated establishments without first obtaining a sanitary permit from
15 the Department. To apply for a permit, the applicant must submit
16 complete, detailed plans of the regulated establishment, site plans, and
17 any other information as required by the Director. Construction,
18 reconstruction or alteration shall not be started until the plans for the
19 establishment are approved by the Director or his/her designee. The
20 requirements of this Subsection are in addition to the building permit
21 program administered by the Department of Public Works. Permit
22 issuance and approval by the Director of Public Health and Social
23 Services does not relieve the applicant from the obligation and
24 responsibility of obtaining all necessary and required Public Works
25 building permits.

26 (e) Before any person shall commence to operate or open for
27 business any establishment or activity listed in Subsection (a) of this

1 Section, he/she shall notify the Director in writing of his/her intent to
2 operate. The Director or his/her designee shall review the plans and
3 specifications and inspect the location to determine whether plans have
4 been in compliance with the regulations promulgated and other
5 provisions of this Part.

6 (f) If the application is for a temporary food service
7 establishment, then it shall also include the inclusive dates of the
8 proposed operation which shall not exceed six (6) months.”

9 **Section 4.** § 21104 of Chapter 21, Title 10, Guam Code Annotated, is
10 hereby *amended* to read as follows:

11 **“§ 21104. Inspection.**

12 Notwithstanding any other provision of law, the Director or
13 his/her designee shall inspect an establishment or activity subject to this
14 Chapter at a frequency based upon the policy adopted by him or her
15 that takes into consideration its existing resources and the health risk
16 the establishments pose to the public, such as the number and type of
17 people served, potential for disease transmission and injuries, and
18 history of non-compliance. The date of each inspection shall be noted
19 on the permit. The person in charge shall upon request permit access to
20 all parts of the establishment and shall permit examination and copying
21 of any or all records and persons employed.”

22 **Section 5.** § 21107 of Chapter 21, Title 10, Guam Code Annotated, is
23 hereby *amended* to read as follows:

24 **“§ 21107. Issuance of Notices.**

25 Whenever the Director or his/her designee makes an inspection
26 and discovers that any of the applicable law or rule has been violated,
27 he/she shall notify the permit holder or operator of such violations by

1 means of an inspection report form or other written notice. In such
2 notification, the Director or his/her designee shall:

3 (a) set forth the specific violations found, together with
4 the demerit score of the establishment;

5 (b) establish a specific and reasonable period of time
6 for correction of the violations found, in accordance with the
7 following provisions:

8 (1) when the demerit score of the establishment
9 is twenty (20) or less, all violations of one (1) to four (4)
10 demerits must be corrected within a period of time not to
11 exceed thirty (30) calendar days;

12 (2) when the demerit score of the establishment
13 is more than twenty (20) but not more than forty (40), all
14 items of one (1) to four (4) demerit points must be
15 corrected within a period of time not to exceed fifteen (15)
16 calendar days;

17 (3) when any six (6) demerit point item is cited,
18 regardless of the final demerit score, such items must be
19 corrected within a period of time not to exceed ten (10)
20 calendar days;

21 (4) when the demerit score of the establishment
22 is more than forty (40), the sanitary permit shall be
23 immediately suspended; and

24 (5) in the case of temporary food service
25 establishments, violations must be corrected within a
26 specified period of time not to exceed twenty-four (24)

1 hours. Failure to comply with such notice shall result in
2 the immediate suspension of the permit;

3 (c) state that failure to comply with any notice issued in
4 accordance with the provisions of any applicable laws, rules or
5 regulations may result in immediate suspension of the permit or
6 the establishment downgraded; and

7 (d) state that an opportunity for appeal from any notice
8 or inspection findings will be provided if a written request for a
9 hearing is filed with the Director within the period of time
10 established in the notice for corrections.”

11 **Section 6.** § 21115 of Chapter 21, Title 10, Guam Code Annotated is hereby
12 *amended* to read as follows:

13 **“§ 21115. Automatic Suspension of Alcoholic Beverage License**
14 **and Business License.**

15 Upon the suspension or revocation of a permit, the Director is to
16 notify the Department of Revenue and Taxation of the name and
17 location of that business.”

18 **Section 7. Severability.** If any provision of this Act or its application to any
19 person or circumstance is found to be invalid or inorganic, such invalidity shall not
20 affect other provisions or applications of this Act that can be given effect without
21 the invalid provision or application, and to this end the provisions of this Act are
22 severable.

23 **Section 8. Effective Date.** This Act shall be effective upon enactment.