

# I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN

## 2020 (SECOND) Regular Session


# LEGISLATIVE SESSION VOTING RECORD

<b>Bill No. 360-35 (COR)</b> As substituted by the Committee on General Government Operations, Appropriations, and Housing; and amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 19, 2020					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator William M. CASTRO	✓					
Senator Régine Biscoe LEE	✓					
Senator Kelly G. MARSH (TAITANO), PhD	✓					
Senator James C. MOYLAN	✓					
Senator Louise B. MUÑA	✓					
Speaker Tina Rose MUÑA BARNES	✓					
Vice Speaker Telen Cruz NELSON						✓
Senator Sabina Flores PEREZ	✓					
Senator Clynton E. RIDGELL	✓					
Senator Joe S. SAN AGUSTIN	✓					
Senator Amanda L. SHELTON	✓					
Senator Telo T. TAITAGUE	✓					
Senator Jose "Pedo" TERLAJE	✓					
Senator Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES	✓					

**TOTAL:**      14                                                                                                                                                      1

Aye                      Nay                      Not Voting/  
Abstained                      Out During  
Roll Call                      Absent                      Excused

CERTIFIED TRUE AND CORRECT:



RENNAE V. C. MENO  
Clerk of the Legislature

I = Pass

***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

**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.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that proper manifesting is a standard requirement for vessel entry and for the  
4 issuance of a permit to unlade at a port of entry. The United States Customs and  
5 Border Protection (CBP) currently requires vessel carriers to submit their cargo  
6 manifest no later than forty-eight (48) hours prior to arrival in the United States. 19

1 C.F.R. § 4.8(b). This advance manifest requirement was implemented by the CBP  
2 to enforce against smuggling more effectively via containerized cargo.

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

9 *I Liheslaturan Guåhan* finds that in the last five (5) years alone, the CQA has  
10 reported seizing an increasing number of drugs over the years with over \$64 million  
11 dollars in “ice” infiltrating Guam’s ports of entry. As the “First Line of Defense” for  
12 the island of Guam, the CQA is tasked with protecting borders, securing ports of  
13 entry, and facilitating trade, commerce, and travel. The information collected via  
14 manifest is a vital component of achieving CQA’s mission. While, as provided under  
15 19 C.F.R. § 7.2(b), “[t]he customs administration of Guam is under the government  
16 of Guam,” an amendment to CQA law mirroring federal requirements may aid those  
17 at Guam’s front line. It is, therefore, the intent of *I Liheslaturan Guåhan* to  
18 strengthen border security through the advance and thorough presentation of  
19 manifest information and to further quantify the penalties in violation of such  
20 requirements.

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

23 **“§ 73108. Clearance Requirements.**

24 (a) Any Customs Officer may board and examine any privately  
25 owned, privately leased, commercially owned, or commercially leased  
26 aircraft, vessel, or contrivance arriving into Guam when it is necessary to carry  
27 out the provisions of applicable laws of Guam or the United States, any rule

1 or regulation promulgated thereunder, any regulatory or enforcement  
2 agreement entered, or any public health and quarantine purpose, and may  
3 further require the master or captain thereof to exhibit for examination by the  
4 Customs Officer the manifest or any documents or papers, or any trunk,  
5 package or cargo on board, or any compartment, storage area, cabin, galley,  
6 cockpit, lavatory, or any section of the vessel or aircraft. Any master, captain,  
7 or person on any conveyance shall submit to the lawful instructions of a  
8 Customs Officer from the time of boarding until such time the Customs  
9 Officer disembarks and authorization to proceed with unloading operations is  
10 granted. Any master, captain, or person on any conveyance who fails to abide  
11 by lawful instructions or obstructs the official duties of a Customs Officer  
12 shall be liable for fines and penalties under this Chapter in addition to  
13 appropriate offenses contained in 9 GCA Chapter 55.

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

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

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

24 (ii) type of vessel;

25 (iii) date of arrival;

26 (iv) Guam seaport of arrival;

27 (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

1 such person into custody, and deliver him up forthwith to any Customs Officer  
2 or law enforcement officer, to be taken by him before any committing  
3 magistrate, to be dealt with according to law.

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

16 (d) Departures.

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

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

27 **§ 73109. Definitions.**

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

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

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

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

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

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

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

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

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

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

5           **§ 73110. Manifest.** The master of every aircraft, vessel, or  
6 contrivance arriving in Guam shall have on board a manifest for passengers,  
7 crew, and cargo destined for Guam, signed by such master under oath as to  
8 the truth of the statement therein contained. Failure to provide such manifests  
9 in the prescribed manner and or requirements constitutes a penalty as  
10 contained herein. Such manifests shall contain all of the following information  
11 as required:

12           (a) For vessels:

13           (1) Cargo Manifest:

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

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

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

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

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

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

15 (G) If the vessel is from a United States port the  
16 manifest shall be certified by the Collector of the port sailing. If  
17 from a foreign port, by the United States consul or commercial  
18 agent of the port. If there is no United States consul or agent, then  
19 by the foreign government consul or agent.

20 (2) Crew and Passenger Manifest:

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

22 (B) date of birth;

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

24 (D) citizenship;

25 (E) country of residence;

26 (F) status on board the vessel;

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

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

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

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

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

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

11 (M) vessel name and voyage number;

12 (N) date of vessel arrival; and

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

15 (b) For aircraft:

16 (1) Cargo Manifest. The master or agent of each privately  
17 owned, privately operated, commercially owned, or commercially  
18 leased aircraft arriving into Guam from any place outside of Guam must  
19 transmit to the Agency an electronic manifest accounting for all  
20 terminating, transiting, revenue, and non-revenue cargo. The electronic  
21 manifest must be transmitted as required herein to the Customs Office  
22 in charge of the clearance for the arriving aircraft in the format as  
23 follows:

24 (A) the name, address, and telephone number of each  
25 importer or consignee; and the name, address, and telephone  
26 number of the shipper to such importer or consignee, unless the  
27 Collector determines that the confidentiality of any particular

1 information is necessary for the good of the Agency or national  
2 security;

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

5 (C) the general description of the cargo;

6 (D) the number of packages and gross weight;

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

8 (F) the port of loading;

9 (G) the port of discharge; and

10 (H) the country of origin of the shipment;

11 (2) Crew and Passenger Manifest. The master or agent of each  
12 privately owned, privately operated, commercially owned, or  
13 commercially leased aircraft arriving into Guam from any place outside  
14 of Guam must transmit to the Agency an electronic passenger and crew  
15 manifest for all persons terminating, transiting, revenue and non-  
16 revenue passengers. The electronic manifest must be transmitted as  
17 required herein to the Customs Office in charge of the clearance for the  
18 arriving aircraft in the format as follows:

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

20 (B) date of birth;

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

22 (D) citizenship;

23 (E) country of residence;

24 (F) status on board the aircraft;

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

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

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

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

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

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

8 (M) passenger name record locator, if available;

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

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

13 (P) airline carrier code;

14 (Q) flight number;

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

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

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

21 (U) date of aircraft arrival; and

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

24 (c) Discrepancies. If any discrepancy occurs in any way with respect  
25 to any manifest or bill of lading data, the owner or operator of the vessel,  
26 aircraft, or contrivance, or any party responsible for such discrepancy, shall  
27 be liable for any fine or penalty prescribed by law with respect to such

1 discrepancy or violation. The Agency may take appropriate action against any  
2 of the parties.

3 (d) Public Disclosure of Certain Manifest Information. The  
4 Collector, in order to allow for the timely dissemination and publication of the  
5 information listed, shall adhere to the provisions as set forth in the *Sunshine*  
6 *Reform Act of 1999*, 5 GCA Chapter 10. In accordance with 5 GCA Chapter  
7 10, and when requested, the Collector shall make available for public  
8 disclosure the following information:

- 9 (1) the general character of the cargo;
- 10 (2) the number of packages and gross weight;
- 11 (3) the port of loading;
- 12 (4) the port of discharge; and
- 13 (5) the country of origin of the shipment.

14 **§ 73111. Manifest Delivered to Customs Officer.**

15 The master, owner, or authorized agent of an aircraft, vessel, or other  
16 contrivance required to make entry, shall submit to the Customs Officer the  
17 required manifests in the times set forth in this Section, as well as the format  
18 and manner as prescribed in § 73110. Times set forth for delivery of each  
19 manifest are as follows:

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

25 (b) Vessels. The master, owner, or authorized agent of any vessel  
26 entering Guam required to make entry shall submit to the Customs Office the  
27 passenger, crew, and cargo manifest no later than forty-eight (48) hours after

1 the vessel or contrivance departs the port or place of origin, with the exception  
2 of vessels arriving from the Commonwealth of the Northern Mariana Islands,  
3 the Republic of Palau, the Federated States of Micronesia, and the Republic  
4 of the Marshall Islands, wherein the manifests must be transmitted  
5 immediately upon departure. The manifests must be transmitted electronically  
6 as required by § 73110 to the Customs Office.

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

10 **§ 73112. Penalty.**

11 **[Repealed.]**

12 **§ 73113. Vessel Exemptions.**

13 (a) Vessels of war:

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

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

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

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

1                   **“§ 73116. Unloading Prohibition.**

2                   (a) Except as otherwise provided (relating to vessels not required to  
3 enter), no merchandise, passengers, or baggage shall be unloaded from any  
4 vessel until entry of such vessel has been made and a permit for the unloading  
5 of the same issued by the Collector; provided, that the master may make a  
6 preliminary entry of a vessel by making oath or affirmation to the truth of the  
7 statements contained in the vessel’s manifest, as provided in § 73110, and  
8 submitting the manifest to the Customs Officer, as provided in § 73111, but  
9 the making of such preliminary entry shall not excuse the master from making  
10 formal entry of his vessel at the Customs House, as provided in these  
11 regulations. After the entry, preliminary or otherwise, of any vessel, the  
12 Collector may issue a permit to the master of the vessel to unload merchandise  
13 or baggage but except as provided in Subsection (b) of this Section,  
14 merchandise or baggage so unladed shall be retained at the place of unlading  
15 until entry therefor is made and a permit for its delivery granted. Any  
16 merchandise or baggage so unladed from any vessel for which entry is not  
17 made shall be sent to Customs and held as unclaimed at the risk and expense  
18 of the consignee in the case of merchandise and of the owner in case of  
19 baggage, until entry thereof is made. A master in violation of this Section shall  
20 be subject to a penalty as prescribed in § 73133 of this Article.

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

24                   **§ 73117. Unloading Penalties.**

25                   If any passengers, merchandise or baggage are unloaded from any  
26 vessel, aircraft, or contrivance without a permit or authorization and clearance  
27 from Customs authorities, the master of such vessel and every other person

1 who knowingly is concerned or who aids therein, or in removing or otherwise  
2 securing such merchandise or baggage, shall each be guilty of a violation for  
3 each passenger so unladed, and such merchandise or baggage shall be subject  
4 to forfeiture.”

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

7 **“§ 73121. Sale of Merchandise; Storage; Fees, Lien, Sale.**

8 The owner of any imported merchandise in the possession of the  
9 Collector of Customs, properly entered or otherwise, remaining in  
10 government custody for more than five (5) work days after receipt therein and,  
11 except when delay in removal may be caused by some failure on the part of  
12 the government, shall be liable for a flat rate storage fee of Fifty Dollars  
13 (\$50.00) upon seizure. This flat rate shall remain in place until such time the  
14 Director of Customs promulgates a fee schedule for storage, liens, or sale of  
15 said merchandise.

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

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

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

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

10 **“§ 73123. Sale of Merchandise.**

11 Destruction by Authorities. Except as otherwise provided, any  
12 merchandise abandoned or forfeited to the government under the preceding or  
13 any other provision of this Chapter, which is subject to internal revenue tax  
14 and which the Collector shall be satisfied will not sell for a sufficient amount  
15 to pay such taxes, shall be forthwith destroyed instead of being sold at auction.  
16 Consignees or owners of abandoned or forfeited merchandise set for  
17 destruction shall be liable and billed the full cost of destruction.”

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

20 **“§ 73133. Fines and Penalties.** Penalties for Violations of Arrival,  
21 Reporting, Entry, Clearance Requirements, Manifests, and Manifest  
22 Delivered to Customs Officer.

23 (a) Unlawful acts:

24 (1) failure to comply with §§ 73104, 73106, 73107, 73108,  
25 73110 or 73111 of this Article;

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

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

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

10                  (c)    Criminal Penalty. In addition to being liable for a civil penalty  
11                  under Subsection (b) of this Section, any master, person in charge , or aircraft  
12                  pilot who intentionally commits any violation listed in Subsection (a) of this  
13                  Section is, upon conviction, liable for a fine of not more than Two Thousand  
14                  Dollars (\$2,000) or imprisonment for one (1) year, or both; except, that if the  
15                  conveyance has, or is discovered to have had, on board any merchandise  
16                  (other than sea stores or the equivalent for conveyances other than vessels)  
17                  the importation of which into Guam is prohibited, such individual is liable for  
18                  an additional fine of not more than Ten Thousand Dollars (\$10,000) or  
19                  imprisonment for not more than five (5) years, or both.

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

1 omission. The master, person in charge, or aircraft pilot has the burden of  
2 proving by clear and convincing evidence of the unintentional omission.”

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

5 **“§ 73153. Customs Fines and Penalties Revolving Fund.**

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

12 (b) Deposits. All monies received in accordance with §§ 73119,  
13 73120, 73121, 73122, 73123 and 73124 as it relates to fines, penalties and  
14 storage shall be deposited in the Customs Fines and Penalties Revolving Fund.

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

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

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

26 **“§ 73154. Penalties and Payments.**

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

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

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

14        **§ 73155.    Severability.** If any provision of Article 1 of this Chapter or the  
15 application thereof to any person or circumstance is found to be invalid or contrary  
16 to law, such invalidity shall not affect other provisions or applications of the Chapter  
17 that can be given effect without the invalid provision or application, and to this end  
18 the provisions of this Chapter are severable.”

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