

I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN

2007 (FIRST) Regular Session

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Bill No. 110(ec)

Introduced by:

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AN ACT TO REPEAL AND RE-ENACT §31.65 OF CHAPTER 31 OF 9 GCA RELATIVE TO CURFEW HOURS FOR MINORS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2
3 Section 1. Section 31.65 of Chapter 31 of 9 GCA is hereby *repealed and re-*
4 *enacted* to read:

5 §31.65. Curfew Hours For Minors.

6 (a) Definitions. As used in this section:

7 (1) *Curfew Hours* means:

8 (A) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday
9 until 6:00 a.m. of the following day; and

10 (B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

11 (2) *Emergency* means an unforeseen combination of circumstances or the
12 resulting state that calls for immediate action. The term includes, but is not limited to, a
13 fire, a natural disaster, an automobile accident, or any situation requiring immediate
14 action to prevent serious bodily injury or loss of life.

1 (3) *Establishment* means any privately-owned place of business operated for a
2 profit to which the public is invited, including but not limited to any place of
3 amusement or entertainment.

4 (4) *Guardian* means:

5 (A) a person who, under court order, is the guardian of the person of a
6 minor; or

7 (B) a public or private agency with whom a minor has been placed by a
8 court.

9 (5) *Minor* means any person under Seventeen (17) years of age.

10 (6) *Operator* means any individual, firm, association, partnership, or
11 corporation operating, managing, or conducting any establishment. The term includes
12 the members or partners of an association or partnership and the officers of a
13 corporation.

14 (7) *Parent* means a person who is:

15 (A) a natural parent, adoptive parent, or step-parent of another person; or

16 (B) at least Eighteen (18) years of age and authorized by a parent or
17 guardian to have the care and custody of a minor.

18 (8) *Public Place* means any place to which the public or a substantial group of
19 the public has access and includes, but is not limited to, streets, highways, and the
20 common areas of schools, hospitals, apartment houses, office buildings, transport
21 facilities, and shops.

22 (9) *Remain* means to:

23 (A) linger or stay; or

1 (B) fail to leave premises when requested to do so by a police officer or the
2 owner, operator, or other person in control of the premises.

3 (10) *Serious Bodily Injury* means bodily injury that creates a substantial risk of
4 death or that causes death, serious permanent disfigurement, or protracted loss or
5 impairment of the function of any bodily member or organ.

6 (b) Offenses.

7 (1) A minor commits an offense if he remains in any public place or on the
8 premises of any establishment on Guam during curfew hours.

9 (2) A parent or guardian of a minor commits an offense if he knowingly
10 permits, or by insufficient control allows, the minor to remain in any public place or on
11 the premises of any establishment on Guam during curfew hours.

12 (3) The owner, operator, or any employee of an establishment commits an
13 offense if he knowingly allows a minor to remain upon the premises of the
14 establishment during curfew hours.

15 (c) Defenses.

16 (1) It is a defense to prosecution under Subsection (b) that the minor was:

17 (A) accompanied by the minor's parent or guardian;

18 (B) on an errand at the direction of the minor's parent or guardian, without
19 any detour or stop;

20 (C) in a motor vehicle involved in interstate travel;

21 (D) engaged in an employment activity, or going to or returning home from
22 an employment activity, without any detour or stop;

1 (E) involved in an emergency;

2 (F) on the sidewalk abutting the minor's residence or abutting the residence
3 of a next-door neighbor if the neighbor did not complain to the police department about
4 the minor's presence;

5 (G) attending an official school, religious, or other recreational activity
6 supervised by adults and sponsored by the government of Guam, a civic organization,
7 or another similar entity that takes responsibility for the minor, or going to or returning
8 home from, without any detour or stop, an official school, religious, or other
9 recreational activity supervised by adults and sponsored by the government of Guam, a
10 civic organization, or another similar entity that takes responsibility for the minor;

11 (H) exercising First Amendment rights protected by the United States
12 Constitution, such as the free exercise of religion, freedom of speech, and the right of
13 assembly; or

14 (I) married or had been married or had disabilities of minority removed in
15 accordance with Article 3 of Chapter 4 of 19 GCA.

16 (2) It is a defense to prosecution under Subsection (b)(3) that the owner,
17 operator, or employee of an establishment promptly notified the police department that
18 a minor was present on the premises of the establishment during curfew hours and
19 refused to leave.

20 (d) Enforcement. Before taking any enforcement action under this section, a
21 police officer shall ask the apparent offender's age and reason for being in the public
22 place. The officer shall not issue a citation or make an arrest under this section unless
23 the officer reasonably believes that an offense has occurred and that, based on any
24 response and other circumstances, no defense in Subsection (c) is present.

1 (e) Penalties.

2 (1) A person who violates a provision of this chapter is guilty of a separate
3 offense for each day or part of a day during which the violation is committed,
4 continued, or permitted. Each offense, upon conviction, is punishable by a fine not to
5 exceed Five Hundred Dollars (\$500).

6 (2) When required by §5104 of 19 GCA, as amended, the Superior Court shall
7 waive original jurisdiction over a minor who violates Subsection (b)(1) of this section
8 and shall refer the minor to juvenile court.