

*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*  
**2022 (SECOND) Regular Session**

**Bill No.           -36 (LS)**

Introduced by:

Therese M. Terlaje

**AN ACT TO REPEAL ARTICLE 4 AND ARTICLE 5,  
BOTH OF CHAPTER 26, TITLE 11, GUAM CODE  
ANNOTATED, RELATIVE TO ELIMINATING THE  
LIQUID FUEL TAX.**

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

2           **Section 1.**   *I Liheslaturan Guåhan* finds that liquid fuel tax rates are  
3 currently fourteen cents (\$0.14) per gallon for diesel fuel, fifteen cents (\$0.15) for  
4 all other liquid fuel except liquid fuel used for commercial aviation purposes, and  
5 eight cents (\$0.08) for liquid fuel used for commercial aviation purposes. Liquid  
6 fuel taxes are deposited in the Guam Highway Fund. Additional levies of four  
7 cents (\$0.04) are charged as an automotive surcharge and mass transit automotive  
8 surcharge.

9           *I Liheslaturan Guåhan* finds that according to the FY 2020 Financial  
10 Statement of the Guam Highway Fund, liquid fuel taxes brought in approximately  
11 \$11.7 M in special revenues to the Guam Highway Fund. In FY 2020, the Guam  
12 Highway Fund also received \$8.4 M in revenues from licenses, fees and permits  
13 and use of money and property separate and apart from revenue from the liquid  
14 fuel tax.

1           The Guam Highway Fund is primarily used for the maintenance and  
2 construction of highways and roadways, as well as the implementation of highway  
3 safety plans, programs, and projects.

4           *I Liheslaturan Guåhan* further finds that the government of Guam received  
5 \$578.7 M in American Rescue Plan Act funding in May 2021 and according to the  
6 January 2022 Allocation of the American Rescue Plan Act of 2021 Funds Report,  
7 the Department of Public Works was allocated \$23 M. The government of Guam  
8 will also receive approximately \$193 M in additional federal funding from the  
9 Infrastructure Investment and Jobs Act, where an estimated \$95 M over five years  
10 may be available to rebuild Guam’s roads and bridges through the Territorial  
11 Highway Program and where an estimated \$11 M over five years may be available  
12 to support public transportation on Guam. This additional infrastructure funding  
13 can be used directly or indirectly to support the necessary repairs of our village  
14 streets and roads, and support our public transportation system presently and in the  
15 future.

16           *I Liheslaturan Guåhan* recognizes the significant increases in gasoline prices  
17 each year which are primarily due to sporadic increases in global oil prices per  
18 barrel. The price of gasoline on Guam was \$3.88 per gallon in January 2018, \$4.03  
19 per gallon in January 2019, \$4.15 per gallon in January 2020, \$3.88 per gallon in  
20 January 2021, and \$5.04 per gallon in January 2022. These gasoline price  
21 increases are often beyond the control of the government of Guam. However, the  
22 elimination of a liquid fuel tax rate is under the purview of the Legislature and can  
23 result in lower gasoline prices.

24           It is the intent of *I Liheslaturan Guåhan* to provide some relief to taxpayers  
25 on Guam who have been experiencing price increases in various commodities,  
26 services, and transportation costs, particularly many vulnerable individuals and  
27 families struggling and most impacted by the effects of the global pandemic.

1           **Section 2.** Article 4 of Chapter 26, Title 11, Guam Code Annotated is  
2 hereby *repealed*:

3                           ~~“ARTICLE 4 LIQUID FUEL TAX~~

4  
5                   ~~§ 26401. — General Provisions.~~

6                   ~~§ 26402. — Levy.~~

7                   ~~§ 26403. — Rates.~~

8                   ~~§ 26404. — Exemption from Levy Under § 26402 and Special Rule~~  
9                                   ~~Regarding Drawbacks.~~

10                   ~~§ 26405. — Regulations, Reports of Transfers, etc.~~

11                   ~~§ 26406. — Penalty.~~

12                   ~~§ 26407. — Liquid Fuel Monitoring Unit.~~

13                   ~~§ 26408. — Special Rule Regarding Drawbacks.~~

14  
15           ~~§ 26401. General Provisions.~~

16                   The following general provisions are restricted in application to this  
17 Article, and are in addition to the general provisions of Article 1 and the  
18 rules and regulations promulgated under authority of law by the Tax  
19 Commissioner.

20                   (a) — Definitions. When used in this Article the following definitions  
21 of words and phrases used herein shall govern the interpretations:

22                           (1) — Distributors shall mean and include any person who  
23 refines, manufactures, produces, blends or compounds liquid fuel in  
24 Guam, or who imports liquid fuel into Guam, or who receives in  
25 Guam liquid fuel with respect to which the liquid fuel tax is not  
26 already imposed hereunder, or who receives liquid fuel in Guam in  
27 bulk form from a Distributor, as defined in this Subsection and who

1 acquires physical possession of such liquid fuel or rights in such  
2 liquid fuel directly from a pipeline, directly from a cargo ship, or via  
3 an in-tank change or ownership of such liquid fuel occurring in a  
4 petroleum facility, and includes the United States, and any agency or  
5 instrumentality thereof, as well as any other person, to the extent such  
6 inclusion is authorized by the laws of the United States, and  
7 particularly by 4 U.S.C. § 104, as amended.

8 (2) — Consumer shall mean and include any person who  
9 purchases liquid fuel for his own use or storage, but shall not mean a  
10 person who purchases for resale, provided such person is properly  
11 licensed to engage in the business of selling liquid fuel. Consumer  
12 shall also mean and include any distributor who consumes the liquid  
13 fuel itself as the end-user.

14 (3) — Liquid fuel or fuel shall mean and include all liquids  
15 ordinarily, practically and commercially usable in internal  
16 combustion, turbo-jet and jet engines for the generation of power and  
17 shall include all distillates of, and condensates from petroleum,  
18 natural gas, coal, coal tar and vegetable ferments, such distillates and  
19 condensates being ordinarily designated as gasoline, butane, naphtha,  
20 benzol, benzine, kerosene and alcohol so usable, but not restricted to  
21 such designation. However, kerosene purchased for actual use other  
22 than internal combustion, turbo-jet, or jet engines and crude oil are  
23 specifically excluded from the meaning of liquid fuel under this  
24 Article. Bio-fuels such as bio-diesel, ethanol, and vegetable/microbe  
25 ferments; and non-petroleum based fuels, including hydrogen fuels,  
26 are specifically excluded from the meaning of liquid fuel under this  
27 Article if manufactured on Guam.

1                   ~~(4) Diesel fuel shall mean and include all petroleum-based~~  
2                   ~~liquids ordinarily, practically and commercially usable in those~~  
3                   ~~ignition-compression engines commonly known as diesel engines.~~

4                   ~~(5) (A) Transfer shall mean and include any sale,~~  
5                   ~~conveyance, assignment, disposition or change of possession of liquid~~  
6                   ~~fuel made or effected in Guam by a distributor to Consumer, and shall~~  
7                   ~~also mean and include all liquid fuel dedicated or made available by a~~  
8                   ~~distributor for retail sales to consumers in Guam by the said~~  
9                   ~~distributor or wholesale sales to independent retailers, or use by the~~  
10                   ~~distributor as a consumer.~~

11                   ~~(B) Export Transfer shall mean any export of liquid fuel~~  
12                   ~~from a point within Guam to a point outside of Guam.~~

13                   ~~(6) Dedicated or made available~~

14                   ~~(A) shall mean and include the point in time when~~  
15                   ~~liquid fuel is delivered by a distributor to any facility or device~~  
16                   ~~used or to be used by the said distributor to dispense liquid fuel~~  
17                   ~~to consumers in the case of a distributor who operates its own~~  
18                   ~~retail activities; or~~

19                   ~~(B) the point in time when liquid fuel is delivered to an~~  
20                   ~~independent retailer in the case wherein a distributor transfers~~  
21                   ~~liquid fuel to an independent retailer.~~

22                   ~~(7) Stock gain or loss is any gain or loss in quantity or~~  
23                   ~~volume of liquid fuel resulting from natural phenomena that may give~~  
24                   ~~rise to a gain or loss or any other gain or loss deemed by the Tax~~  
25                   ~~Commissioner to have resulted from an effect not caused directly or~~  
26                   ~~indirectly by such distributor.~~

27                   ~~§ 26402. Levy.~~

1           ~~There is hereby levied, and shall be assessed and collected, upon~~  
2 ~~every distributor, in addition to any other taxes provided by law, an excise~~  
3 ~~tax to be measured by the application of the rates set forth in the next~~  
4 ~~succeeding § 26403 against any transfer in Guam of liquid fuel made by a~~  
5 ~~distributor, except that the liquid fuel tax shall not be applied more than once~~  
6 ~~with respect to the same liquid fuel. Provided, however, that the provisions~~  
7 ~~of this Article shall not apply to liquefied petroleum gas, unless the same is~~  
8 ~~used as fuel for transportation purposes.~~

9           ~~**§ 26403. Rates.**~~

10           ~~Notwithstanding the requirements of § 16311 of Article 3, Chapter 16,~~  
11 ~~Title 3, Guam Code Annotated, and any other provision of law, the~~  
12 ~~following rates shall apply in computing, assessing, and collecting the liquid~~  
13 ~~fuel tax, effective January 1, 2018:~~

14                   ~~(a) — a tax at the rate of Fourteen Cents (\$0.14) per gallon on~~  
15 ~~diesel fuel; and~~

16                   ~~(b) — a tax at the rate of Fifteen Cents (\$0.15) per gallon on all~~  
17 ~~other liquid fuel as defined herein except liquid fuel used for~~  
18 ~~commercial aviation purposes which is taxed at a rate of Eight Cents~~  
19 ~~(\$0.08) per gallon.~~

20           ~~**§ 26404. Exemption from Levy Under § 26402 and Special Rule**~~  
21 ~~**Regarding Drawbacks.**~~

22           ~~The following transfers of liquid fuel in Guam made by a distributor~~  
23 ~~shall be exempt from the liquid fuel tax levied under § 26402:~~

24                   ~~(a) — Liquid fuel transferred to vessels engaged in commercial~~  
25 ~~fishing.~~

26                   ~~(b) — Liquid fuel transferred to the United States, or any~~  
27 ~~agency or instrumentality thereof for its use or consumption.~~

1                   (c) ~~— Liquid fuel transferred for aviation purposes and used~~  
2                   solely in aircraft under charter to the United States Department  
3                   of Defense.

4                   (d) ~~— Transfer of liquid fuel by a distributor to another~~  
5                   distributor.

6                   (e) ~~— Transfer of liquid fuel to the government of Guam or any~~  
7                   of its instrumentalities.

8                   (f) ~~— Transfer of liquid fuel to a point outside of Guam.~~

9                   (g) ~~— Stock losses of less than one half of one percent (.5%)~~  
10                  ~~(.005) during the fiscal year of the taxpayer. In computing~~  
11                  ~~taxable or non-taxable stock losses, any gross stock gains shall~~  
12                  ~~be off-set against any gross stock losses in determining net~~  
13                  ~~stock losses for the purposes of assessing the tax.~~

14                  **~~§ 26405. Regulations, Reports of Transfers, etc.~~**

15                  All transfers of liquid fuel in Guam shall be reported by the distributor  
16                  transferring the liquid fuel in such manner and at such time as the Tax  
17                  Commissioner may adopt by regulation. The Tax Commissioner may also  
18                  adopt such other regulations as to be consistent with the statute and as may  
19                  be necessary to administer and implement this Article 4.

20                  **~~§ 26406. Penalty.~~**

21                  In addition to all other penalties provided by law, a penalty of One  
22                  Thousand Dollars (\$1,000.00) shall be assessed and collected from a  
23                  distributor who fails to report to the Tax Commissioner a transfer in Guam  
24                  of liquid fuel unless it is shown by the distributor that such failure is due to  
25                  reasonable cause and not due to willful neglect. The penalty shall apply to  
26                  each such failure to report a transfer.

27                  **~~§ 26407. Liquid Fuel Monitoring Unit.~~**

1           There is hereby created a Liquid Fuel Monitoring Unit within the  
2 Examination Branch of the Department of Revenue and Taxation. Such Unit  
3 shall be staffed by a Revenue Agent II, one Tax Auditor II, and three Tax  
4 Technicians II. These positions shall be in addition to positions already  
5 contained within the budget of the Department of Revenue and Taxation for  
6 the Tax Enforcement Division.

7           ~~§ 26408. Special Rule Regarding Drawbacks.~~

8           ~~—The provisions of Article 4, Liquid Fuel Tax, Chapter 26, Division 2~~  
9 ~~of Title 11 of the Guam Code Annotated, regarding drawbacks of the liquid~~  
10 ~~fuel tax as in effect prior to the effective date of this Act shall apply to~~  
11 ~~transfers of liquid fuel made prior to such effective date.”~~

12           **Section 3.** Article 5 of Chapter 26, Title 11, Guam Code Annotated is  
13 hereby *repealed*:

14           ~~“ARTICLE 5 AUTOMOTIVE SURCHARGES~~

15  
16           ~~§ 26501. — Legislative Intent and Use of Revenues.~~

17           ~~§ 26502. — Automotive Surcharge.~~

18           ~~§ 26503. — Mass Transit Automotive Surcharge.~~

19           ~~§ 26504. — Automotive Surcharges.~~

20  
21           ~~§ 26501. Legislative Intent and Use of Revenues.~~

22           ~~The Legislature recognizes that the need for more revenues for~~  
23 ~~educational programs and facilities continue to be demanded by educational~~  
24 ~~policy makers and administrators in order that the instructional requirements~~  
25 ~~of Guam’s students can be effectively addressed, and also that there is~~  
26 ~~currently an apparent trend towards a continual decline of gasoline prices at~~



1 the retail outlets, thereby creating a more conducive climate for the children  
2 of Guam to be benefactors of this economic benefit.

3 The Legislature, in performing its responsibility to seek ways by  
4 which needed financial resources are obtained, justifiably pursues the  
5 revenue producing scheme in this Section which provides less burden to the  
6 tax paying citizenry than other often discussed revenue producing means  
7 since the current strong demand for additional revenues for educational  
8 purposes requires an immediate response and infusion of new funds will  
9 enhance significantly the Government's ability to finance urgent educational  
10 needs.

11 The intent of the Legislature in enacting Sections 10 and 11 of this  
12 Act is to establish an Automotive Surcharge and a Mass Transit Automotive  
13 Surcharge, both of which shall be separate and apart from other surcharges  
14 or taxes on liquid fuel. All revenues derived from the Automotive Surcharge  
15 and the Mass Transit Automotive Surcharge shall be used for the purposes  
16 specified in Section 10 and 11 of this Act, respectively, and for no other  
17 purpose.

18 **~~§ 26502. Automotive Surcharge. Levy.~~**

19 Except for liquid fuel used for aviation purposes, there is hereby  
20 levied an automotive surcharge of Four Cents (\$0.04) per gallon on all liquid  
21 fuel taxed pursuant to Subsection (b) of § 26403 of this Title. This  
22 automotive surcharge shall be in addition to the liquid fuel tax levied  
23 pursuant to Subsection (b) of § 26403 of this Title.

24 **~~§ 26503. Mass Transit Automotive Surcharge.~~**

25 (a) — Levy. There is hereby levied a Mass Transit Automotive  
26 Surcharge of Four Cents (\$0.04) per gallon on all liquid fuel taxed pursuant  
27 to Subsection (a) of § 26403 of this Title. This Mass Transit Automotive

1        ~~Surcharge shall be in addition to the liquid fuel tax levied pursuant to~~  
2        ~~Subsection (a) of § 26403 of this Title.~~

3            ~~(b) — The proceeds of the Mass Transit Automotive Surcharge levied~~  
4        ~~pursuant to Subsection (a) of this Section, as and to the extent released from~~  
5        ~~the pledge of such proceeds pursuant to Subsection (d) of § 1504 of Title 5~~  
6        ~~of the Guam Code Annotated, are to be placed in a separate fund hereby~~  
7        ~~created and known as the Public Transit Fund to be administered by the~~  
8        ~~Department of Administration. For purposes of such pledge and release, the~~  
9        ~~proceeds of the Mass Transit Automotive Surcharge shall be deemed to be~~  
10       ~~the last revenues used pursuant to such pledge and the first revenues released~~  
11       ~~from such pledge.~~

12           ~~(c) — A portion of the revenues in the Public Transit Fund shall be~~  
13        ~~used for the operation of the mass transit system by the Department of~~  
14        ~~Administration.~~

15           ~~(d) — The Department of Administration shall report on a monthly~~  
16        ~~basis to the Legislative Committee which has oversight over the Guam Mass~~  
17        ~~Transit Authority on the balance and status of the Public Transit Fund.~~

18        **~~§ 26504. Automotive Surcharges.~~**

19           ~~The Automotive Surcharges levied pursuant to §§ 26502 and 26503 of~~  
20        ~~this Title shall not apply to liquid fuel which is exempt from the liquid fuel~~  
21        ~~tax under this Article 4. If any Automotive Surcharges is levied pursuant to~~  
22        ~~§§ 26501 and 26503 of this Title regarding liquid fuel taxed pursuant to this~~  
23        ~~Article 4, and a drawback of the liquid tax is allowed, there shall be allowed~~  
24        ~~a drawback of such Automotive Surcharges along with the drawback of the~~  
25        ~~liquid fuel tax.”~~

26        **Section 4. Effective Date.** This Act *shall* be effective upon enactment.