

AN ACT

To amend 6 CMC Sections 2141, 2142, 2208, 2301 and 2303; to add to 6 CMC a new Section 2306; to amend 1 CMC Section 8249; to require the Department of Public Health and Environmental Services to plan a drug rehabilitation and treatment program; and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1           Section 1. Short Title. This Act shall be known as the  
2 "Anti-Drug Abuse Act of 1991".

3           Section 2. Purpose. The purpose of this Act is to enact  
4 measures that will assist in the prevention of the importation  
5 of controlled substances into the Commonwealth; to impose  
6 more severe penalties for the importation, trafficking,  
7 distribution, delivery, and possession of drugs classified in  
8 Schedules I and II of controlled substances as defined in 6  
9 CMC Division 2; to enhance the detection of illicit money  
10 laundering activities by amending the authority of the Customs  
11 Service to include the conducting of outbound searches and  
12 requiring the declaration of \$10,000 or more in currency for  
13 passengers departing the Commonwealth; to prevent the flow of  
14 controlled substances between islands by amending the  
15 authority of the Customs Service to include inter-island  
16 searches; to require government planning for a drug  
17 rehabilitation and treatment program; and for other purposes.

18           Section 3. Findings. The Legislature finds that drug  
19 abuse is an exceptionally dangerous threat to the safety and  
20 welfare of the Commonwealth, especially  
21 methamphetaminehydrochloride at the present time and

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1 potentially other drugs such as heroin and cocaine. The  
2 Legislature further finds that stronger legislation is needed  
3 to prevent the importation of controlled substances into the  
4 Commonwealth and drug trafficking within the Commonwealth. In  
5 addition, greater penalties for the possession of controlled  
6 substances are needed, especially for subsequent offenses.

7       The Legislature finds that the Customs Service is  
8 restrained from greater effectiveness in intercepting the  
9 importation of controlled substances into the Commonwealth  
10 through existing statutes, which as amended by this Act would  
11 enhance their enforcement capability. Additionally, the  
12 potential for harm and violence to Commonwealth law  
13 enforcement officers, including those working in the Customs  
14 Service, is increasingly high due to the large profits and  
15 criminal elements associated with the distribution of  
16 controlled substances.

17       The Legislature finds that the trafficking of controlled  
18 substances typically involves large sums of currency which may  
19 be carried out of the Commonwealth. Therefore, the capability  
20 of the Customs Service to intercept the importation of  
21 controlled substances would be enhanced by requiring departing  
22 passengers with \$10,000 or more of currency to declare the  
23 same.

24       The Legislature further finds that those drugs classified  
25 in Schedules I and II are highly addictive whose users require  
26 rehabilitation and treatment to end addiction. However, the  
27 Commonwealth at the present time does not have a treatment  
28 program. The Legislature finds a need for the Department of

1 Public Health & Environmental Services to plan, coordinate,  
2 develop and implement a drug treatment and rehabilitation  
3 program.

4 Section 4. Amendment. 6 CMC Section 2141 is amended as  
5 follows:

6 "(a) It shall be unlawful for any person knowingly  
7 or intentionally:

8 (1) to manufacture, deliver or possess with  
9 intent to manufacture, deliver or dispense, a  
10 controlled substance; or

11 (2) To create, distribute, or possess with  
12 intent to deliver, a counterfeit controlled  
13 substance.

14 (b) Any person who violates subdivision (a) with  
15 respect to:

16 (1) A substance classified in Schedules I or  
17 II which is a narcotic drug or  
18 methamphetaminehydrochloride may be sentenced to a  
19 term of imprisonment for not more than 10 years, a  
20 fine of not more than \$10,000 or both; provided  
21 however, the term of imprisonment shall not be less  
22 than five years and not subject to suspension,  
23 probation or parole;

24 (2) Any other controlled substance classified  
25 in Schedules I, II or III may be sentenced to a  
26 term of imprisonment of not more than five years, a  
27 fine of not more than \$2,000, or both;

1                   (3) A substance classified in Schedule IV may  
2                   be sentenced to a term of imprisonment for not more  
3                   than five years, a fine of not more than \$1,000, or  
4                   both.

5                   (c) Notwithstanding subdivision (b)(2), any person  
6                   who violates subdivision (a)(1) by distributing not more  
7                   than an ounce of marijuana for remuneration shall be  
8                   treated as provided in Section 2142(c)(1).

9                   (d) It shall be unlawful for any person to sell,  
10                  distribute, manufacture, or possess with the intent to  
11                  sell, distribute, or manufacture any narcotic drug or  
12                  other controlled substance, including any form of  
13                  methamphetaminehydrochloride, or its paraphernalia,  
14                  within 1000 feet of the real property comprising a public  
15                  or private elementary or secondary school. Any person  
16                  found guilty of such offense shall be sentenced to a term  
17                  of imprisonment of not less than three (3) years, not  
18                  subject to suspension, probation, or parole;

19                  (e) It shall be unlawful for any person to sell,  
20                  distribute, or deliver, or to cause any other person to  
21                  sell, distribute, or deliver any narcotic drug or  
22                  controlled substance, including any form of  
23                  methamphetaminehydrochloride, or its paraphernalia, to  
24                  any person under the age of eighteen (18) years. Any  
25                  person found guilty of such offense shall be sentenced to  
26                  a term of imprisonment of not less than five (5) years,  
27                  not subject to suspension, probation, or parole."

1 Section 5. Amendment. 6 CMC Section 2142 is amended as  
2 follows:

3 "(a) It is unlawful for any person knowingly or  
4 intentionally to possess a controlled substance, unless  
5 the substance was obtained directly from, or pursuant to,  
6 a valid prescription or order of a practitioner while  
7 acting in the course of his or her professional practice,  
8 or except as otherwise authorized by this Chapter.

9 (b) Any person who violates subdivision (a) with  
10 respect to any controlled substance except marijuana  
11 shall be sentenced to a term of imprisonment for not more  
12 than five years not subject to suspension, parole or  
13 probation, and a fine of \$2,000.

14 (c) Any person who violates subdivision (a) with  
15 respect to marijuana may be penalized as follows:

16 (1) Any person who possesses one ounce or  
17 less shall be fined not more than \$50;

18 (2) Any person possessing more than one ounce  
19 but less than 2.2 pounds may be sentenced to a term  
20 of imprisonment of not more than three months, a  
21 fine of not more than \$500, or both;

22 (3) Any person possessing 2.2 pounds or more  
23 of marijuana may be sentenced to a term of not more  
24 than one year, a fine of not more than \$1,000, or  
25 both. The possession of 2.2 pounds or fr more of  
26 marijuana by any person creates a rebuttable  
27 presumption of crime of trafficking under Section  
28 2141(b)(2) of this Chapter.

1           (d) Any person who violates subdivision (a) with  
2           respect to methamphetaminehydrochloride, cocaine, or  
3           heroin may be penalized, in addition to the penalties  
4           described in subdivision (b), as follows:

5           (1) Any person found guilty of a first  
6           offense of possession of one gram or less shall be  
7           sentenced to a term of imprisonment of not less  
8           than thirty days. Any person convicted of a second  
9           offense of possession of less than one gram shall  
10          be sentenced to a term of not less than sixty days.  
11          Having been convicted of a second offense, any  
12          person convicted of subsequent offenses of  
13          possession of less than one gram shall be sentenced  
14          to a term of imprisonment of not less than ninety  
15          days.

16          (2) Any person possessing one gram or more  
17          but less than five grams shall be sentenced to a  
18          term of imprisonment of not less than sixty days.  
19          Any person found guilty of a second offense of  
20          possession of not more than five grams shall be  
21          sentenced to a term of imprisonment of not less  
22          than ninety days. Having been convicted of a  
23          second offense of possession of more than one gram  
24          but less than five grams, any person convicted for  
25          subsequent possession of a controlled substance  
26          shall be sentenced to a term of imprisonment of not  
27          less than six months.

1                   (3) Any person possessing five grams or more  
2 shall be sentenced to a term of imprisonment of not  
3 less than one year. The possession of five grams  
4 or more by any person creates a rebuttable  
5 presumption of the crime of trafficking under  
6 Section 2141(b) (2) of this Chapter.

7                   (4) Any person possessing any quantity of a  
8 controlled substance and found to be in possession  
9 of an illegal firearm shall be sentenced to a  
10 mandatory five year term of imprisonment not  
11 subject to suspension, probation or parole.

12                   (5) Any person possessing any quantity of a  
13 controlled substance and found to have discharged  
14 any legal or illegal firearm in connection with  
15 that possession or subsequent apprehension for that  
16 possession shall be sentenced to a term of  
17 imprisonment of not less than five years, not  
18 subject to probation, parole, or suspension, to be  
19 served consecutively with any other terms of  
20 imprisonment imposed for that possession."

21           Section 6. Amendment. 6 CMC Section 2208 is amended as  
22 follows:

23                   "(a) Possession, use and carriage of firearms,  
24 ammunition and dangerous devices by law enforcement  
25 officers derives from the laws governing the powers,  
26 functions and organization of the police and other  
27 organized forces of peace officer. Eligibility of law

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1 enforcement officers to possess, use and carry firearms,  
2 ammunition or dangerous devices while on duty is not  
3 subject to the holding of identification cards or other  
4 qualifications prescribed in this chapter or in  
5 regulations pursuant thereto.

6 (b) Transfer of any firearm from or to a law  
7 enforcement officer or agent shall, except as provided in  
8 subdivision (a), be subject to the provisions of this  
9 chapter and regulations made pursuant thereto.

10 (c) The head of a law enforcement agency of the  
11 Commonwealth shall furnish to the Department of Public  
12 Safety the names, ranks and badge numbers of similar  
13 identification of each person on the force who is  
14 authorized to possess, use and carry firearms in the  
15 course of official duty. Upon the occurrence of any  
16 changes in personnel to whom this subdivision applies,  
17 the head of the law enforcement agency shall inform the  
18 Department of Public Safety promptly of the change.

19 (d) Whenever a law enforcement officer is not  
20 engaged in official duties, this chapter shall be  
21 applicable in the same manner and to the same extent as  
22 to any other person.

23 (e) For the purposes of this chapter, the  
24 Commonwealth's Customs Service is considered to be a law  
25 enforcement agency, headed by a Chief of Customs, and  
26 agents employed by the Customs Service are considered to  
27 be law enforcement officers."



1 Section 7. Amendment. 6 CMC Section 2301 is amended as  
2 follows:

3 "(a) It shall be unlawful for any person to  
4 knowingly enter the Commonwealth with the intent to  
5 import, or attempt to cause another to bring or import  
6 into the Commonwealth, or conceal for the purpose of  
7 importation, any of the following items:

8 "(1) Controlled substances as defined in  
9 this title.

10 (2) Currency, coin, travelers checks,  
11 money orders, and/or negotiable instruments of  
12 a total of more than \$5,000.00 (five thousand  
13 dollars) unless the same is reported to the  
14 Division of Customs in a signed customs  
15 declaration form prior to entry into the  
16 Commonwealth;

17 (3) Firearms other than rifles with a  
18 bore not to exceed .22 caliber or shotguns  
19 with a gauge no larger than .410 and with  
20 normal factory produced stocks and barrels  
21 unless the importer is authorized by the  
22 Director of the Department of Public Safety or  
23 the Chief of the Customs Service to import the  
24 same for law enforcement purposes;

25 (4) Ammunition other than regular long  
26 rifle .22 caliber rimfire cartridges or .410  
27 gauge shotgun shells or dangerous devices as  
28 described in this title unless the importer

1 has been authorized to import and possess the  
2 same by the Director of the Department of  
3 Public Safety or the Chief of the Customs  
4 Service for law enforcement purposes;

5 (5) Goods, merchandise or commodities  
6 that violate international or U.S. copyright  
7 or patent laws; and

8 (6) Undeclared goods, merchandise, or  
9 commodities subject to excise tax.

10 (b) Any person who violates this section may  
11 be punished by imprisonment for not more than five  
12 years, or by a fine of not more than \$2,000.00 or  
13 both; provided however, any person who violates  
14 subsection (1) with respect to controlled  
15 substances shall serve at least two years of  
16 imprisonment not subject to probation, parole or  
17 suspension. This punishment is in addition to any  
18 penalty or fine which may otherwise be imposed.

19 Section 8. Amendment. 6 CMC Section 2304 is amended as  
20 follows:

21 "(a) The jurisdiction of the Customs Service shall  
22 include all official customs points of entry into the  
23 Commonwealth and points of exit out of the Commonwealth  
24 as follows as well as any future official customs ports  
25 of entry that may be established from time to time:

26 Island Official Customs Point of Entry/Exit

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1	Saipan	Tanapag Harbor (Charlie Dock), Sugar
2		Dock, Smiling Cove, Garapan Fishing
3		Complex, Baker Dock, and Isley
4		Field (Saipan International Airport)
5	Rota	Rota Harbor (West Dock) and Rota
6		International Airport
7	Tinian	Tinian Harbor and West Tinian Airport

8           (b) When the Customs Service discovers, or when the  
9 Customs Service has probable cause to discover, imported  
10 contraband described in Section 2301(a) at a point of  
11 entry, their jurisdiction shall also extend inside the  
12 Commonwealth to the destination(s) where the person  
13 importing the contraband travels to deliver, consume,  
14 and/or distribute the contraband; provided, however,  
15 that the duration of such jurisdiction outside the ports  
16 of entry shall extend until such time as the Customs'  
17 investigation is completed.

18           (c) The jurisdiction of the Customs Service shall  
19 also extend to all points of entry and exit within and  
20 between the islands of the Commonwealth and within 200  
21 miles of the shoreline of any island of the  
22 Commonwealth."

23           Section 9. Amendment. 6 CMC Section 2305 is amended as  
24 follows:

25           "If the owner or his authorized representative is  
26 the consignee of any cargo, commodities, merchandise or  
27 goods of any and all description, for personal use or for  
28 profit, entering the Commonwealth in crates, bundles, sea

1 or land containers, or any other method of shipping,  
2 freight, transport, package, mail systems of forwarding  
3 and receiving, is advised by an official of the Customs  
4 Service not to open the package, and the Customs Service  
5 order is violated prior to the inspection of the  
6 contents, it is a violation of this chapter and is  
7 punishable pursuant to Section 2301(b) of this chapter.  
8 The Customs Service may authorize containers to be  
9 removed from official points of entry to other locations  
10 as a matter of convenience prior to their inspection;  
11 provided however, the containers may not be opened until  
12 officially released by an official of the Customs  
13 Service.

14 Section 10. Amendment. A new Section is added to 6 CMC  
15 Division 2 Chapter 3 as follows:

16 "Section 2306. Declaration of Export of Currency.

17 (a) It shall be unlawful for any person to  
18 knowingly depart the Commonwealth with intent to  
19 export, or attempt to cause another to take out or  
20 export outside the Commonwealth, or conceal for the  
21 purpose of exportation currency, coin, travelers  
22 checks, money order, and/or negotiable instruments  
23 of a total of more than \$10,000.00 (ten thousand  
24 dollars) unless the same is reported to the  
25 Division of Customs in a signed customs declaration  
26 form prior to exit from the Commonwealth.

27 (b) All currency, coin, travelers checks,  
28 money order, and/or negotiable instruments not

1 declared in violation of subsection (a) shall be  
2 subject to forfeiture pursuant to 6 CMC Section  
3 2150."

4 Section 11. Amendment. 1 CMC Section 8249 is amended as  
5 follows:

6 "(a) No Commonwealth Government unclassified or  
7 ungraded employees and no appointed official, nor any  
8 Civil Service employee nor official whose annual salary  
9 exceeds \$25,000, excluding Medical or Dental Officers or  
10 law enforcement officers, shall receive overtime,  
11 hazardous, night-differential or stand-by pay; nor shall  
12 the Director of Finance pay such pay.

13 (b) Employees of government corporations other than  
14 attorneys for executive directors may be exempt from this  
15 section if their Board so determines."

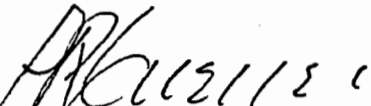
16 Section 12. Treatment for Drug Abuse. The Department of  
17 Public Health and Environmental Services shall within twelve  
18 months of the effective date of this Act submit to the  
19 Governor and the Presiding Officers of the Legislature a plan  
20 for a comprehensive drug abuse rehabilitation and treatment  
21 program, where such plan shall identify financial and manpower  
22 resources, assessment of on-going treatment activities,  
23 budgetary needs, and recommended future actions.

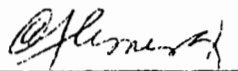
24 Section 13. Severability. If any section of this Act  
25 should be declared invalid or unenforceable by a court of  
26 competent jurisdiction, the judicial determination shall not  
27 affect the validity of the Act as a whole, other than the  
28 particular part declared invalid or unenforceable.

1 Section 14. Effective Date. This Act shall take effect  
2 upon its approval by the Governor or upon its becoming law  
3 without such approval.

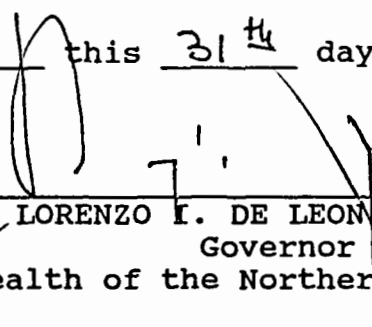
CERTIFIED BY:

ATTESTED BY:

  
\_\_\_\_\_  
PEDRO R. DELEON GUERRERO  
Speaker of the House

  
\_\_\_\_\_  
EVELYN C. FLEMING  
House Clerk

~~Approved~~ this 31<sup>th</sup> day of October, 1991

  
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FOR LORENZO I. DE LEON GUERRERO  
Governor  
Commonwealth of the Northern Mariana Islands