

EMPLOYMENT LAW UPDATE

SHRM Breakfast Briefing
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Legal disclaimer

The information in this presentation is not intended to serve as legal advice. It is provided for informational purposes only.

For legal advice, please consult with your legal counsel.

Minimum Wage Increase???

- ✓ July 14, 2014: Public Law (PL) 32-178 raised Guam's minimum wage to \$8.25 effective January 1, 2015
- ✓ December 30, 2014: PL 32-229 required that an Economic Impact Study (EIS) be conducted by March 30, 2016 on the effect of the minimum wage increase
- ✓ EIS was not timely completed
- ✓ May 4, 2016: Sen. BJ Cruz introduced Bill 312-33:
 - ❖ Every employer *shall* pay each person employed by him wages at a rate *not less than* Nine Dollars and Twenty Cents (\$9.20) per hour, effective January 1, 2017, and Ten Dollars and Ten Cents (\$10.10) per hour, effective January 1, 2018.



Minimum Wage Increase???

- ✓ Opposition to Bill 312-33
- ✓ September 30, 2016: Roundtable held at Guam Legislature to discuss minimum wage
- ✓ EIS scheduled to be completed by December 2016 but it was delayed
- ✓ On December 30, 2016, 33rd Guam Legislature passed Bill 312-33



Minimum Wage Increase???

Increase Proposed by Bill 312-33:

§ 3105. Minimum Wages.

Every employer *shall* pay each person employed by him or her wages at a rate *not less than* Nine Dollars and Twenty Cents (\$9.20) per hour, effective May 1, 2017, and Ten Dollars and Ten Cents (\$10.10) per hour, effective May 1, 2018.

- ✓ Because the 33rd Guam Legislature “adjourned” indefinitely, the Governor had 30 days (instead of 10 days) to sign it into law, veto or let the bill lapse
- ✓ Governor Calvo vetoed Bill 312-33 in January 2017 & proposed his own bill



IMINATRENTAI KUATRO NA LIHESLATURAN GUAHAN
2017 (FIRST) Regular Session

Bill No. 12-34 (S)

Introduced by:

Committee on Rules
By request of *1. Mago Lujan*
Ondiam, the Governor of Guam, in
accordance with the Organic Act
of Guam.

AN ACT TO REPEAL AND REENACT § 3105 OF ARTICLE I,
CHAPTER 3, TITLE 22, GUAM CODE ANNOTATED,
RELATIVE TO RAISING THE MINIMUM WAGE SUBJECT
TO AN INDEPENDENT STUDY AND DETERMINATION
THAT A WAGE RAISE CAN BE ACCOMPLISHED
RESPONSIBLY

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 3105 of Article I, Chapter 3, Title 22, Guam Code Annotated,

is hereby repealed and reenacted to read:

§ 3105. Minimum Wages.

Section 2. (a) Every employer shall pay each person employed
by him wages at a rate not less than Nine Dollars and Twenty Cents (\$9.20)
per hour; provided that the Director of the Guam Department of Labor shall
have first received the completed independent report that was solicited on

the economic analysis of the minimum wage increase in accordance with
Public Law 32-229, and that the Director shall have determined pursuant to
the independent report that: (i) most employers will not reduce hours for
their employees; (ii) most employers will not reduce their workforce; (iii)
most employers will not sacrifice scheduled wage increases to non-minimum
wage, non-managerial employees; and (iv) most employers will not reduce
benefits for their employees.
(b) The effective date of the minimum wage set forth in Subsection
(a) of this Section 3105 shall be six (6) months after the Director of the
Department of Labor receives the independent report and makes the
determination required by Subsection (a).



Minimum Wage Increase???

- ✓ The Gov's Bill would raise minimum wage to \$9.20 an hour subject to receipt of the EIS and determination by the Director of the Guam DOL of four (4) conditions:
 1. Most employers will not reduce hours for their employees
 2. Most employers will not reduce their workforce
 3. Most employers will not sacrifice scheduled wage increases to non-minimum wage, non-managerial employees
 4. Most employers will not reduce benefits to their employees
- ✓ If the Director makes these 4 determinations, the effective date of the increase will be 6 months after receipt of the EIS

Minimum Wage Increase???

- ✓ Speaker BJ Cruz's reaction:

"...the Governor proposes a 95-cent increase to the minimum wage tied to a poison bill purely on subjective terms and undefined phrases—permitting a political appointee to make a determination with no one else in the room.

If Governor Calvo opposes increasing the minimum wage, he should just admit it, because giving thousands of working class families false hope with his fake proposal is a sin."
- ✓ EIS submitted to Guam DOL on January 27, 2017
- ✓ Guam DOL will review the EIS & anticipates having a formal response and transmittal to the Governor and Speaker of the Legislature by February 10, 2017
- ✓ Wait and see what happens next



Status of Guam Marijuana Law

- ✓ On December 2, 2016, Public Law 33-20 passed
- ✓ Amended certain sections of the Joaquin (KC) Concepcion II Compassionate Cannabis Use Act of 2013
- ✓ No new provisions concerning use of marijuana in the workplace



Status of Guam Marijuana Law

- ✓ Pursuant to 10 GCA § 122505, participation in the medical use of cannabis by a qualified patient or primary caregiver *does not* relieve the qualified patient or primary caregiver from . . .
 - ❖ criminal prosecution or civil penalty for possession or use of cannabis . . .
 - in the workplace of the qualified patient's or primary caregiver's employment



Status of Guam Marijuana Law

- ✓ On January 11, 2017, Governor Calvo introduced Bill 8-34, "The Cannabis Control Act"
- ✓ The bill would legalize the recreational use of marijuana under certain conditions, i.e., applies to individuals 21 years of age and older; allows limited home cultivation; imposes a "sin" tax on sale, etc.
- ✓ The bill specifically addresses the use of marijuana in the workplace



Status of Guam Marijuana Law

- ✓ **Section 13 of the proposed Bill provides:**
 - (a) Nothing in this Chapter shall be construed or interpreted to amend, repeal, affect, restrict, or preempt the rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with Guam, state or federal law.

Status of Guam Marijuana Law

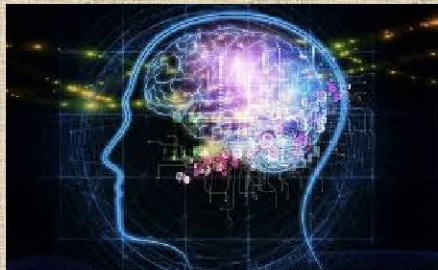
✓ **Section 13 of the proposed Bill further provides:**

(b) Nothing in this Chapter is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of cannabis in the workplace or to affect the ability of employers to enact and enforce workplace policies restricting the use or consumption of cannabis by employees.



Status of Guam Marijuana Law

- ✓ Wait & see if any new developments with regard to recreational, as well as medicinal, use of marijuana in Guam's workplaces



Any Questions? Thank You!

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