

THE THIRTY-FOURTH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the eleventh day of July
two thousand and sixteen

AN ACT ALLOWING CUSTOMS AGENTS TO SEARCH AND INSPECT ANY AND ALL VESSELS, AIRCRAFTS, AND PERSONS ENTERING OR LEAVING THE TERRITORY INCLUDING THE USE OF X-RAY SCANNERS TO INSPECT ALL CONTAINERS, LOOSE CARGO, PARCELS, AND MERCHANDISE; AMENDING SECTIONS 27.1003 AND 27.1018 A.S.C.A.

Preamble:

WHEREAS, it is a vital duty of the Department of Treasury Customs Divisions to search and inspect incoming and outgoing persons and items from the territory; and

WHEREAS, the Department of Treasury will be purchasing new state of the art x-ray scanners to assist Customs in more efficiently inspecting incoming containers, cargo, parcels, vehicles, and merchandise; and

WHEREAS, it is likely that most illegal drugs and weapons on island are transported into the territory by person or parcel, and that general excise taxes are under-collected as a result of the inefficient practices now being utilized; and

WHEREAS, this technology will greatly aid customs officers in detecting illegal and taxable items being transported into and out of the territory; and

WHEREAS, most ports in the United States have similar x-ray technology in use.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 27.1003 is amended to read:

“27.1003 Inspection of persons and incoming merchandise and baggage.

(a) All persons entering or leaving American Samoa may be searched by a customs officer. All merchandise and baggage imported or brought into American Samoa from any foreign country shall be unladed in the presence of, and inspected by, a customs officer, and that officer may require the

owner or his agent or other person having charge or possession of any trunk, traveling bag, sack, valise or other container, or any closed vehicle, to open it for inspection.

(b) The customs officer may inspect without warrant any person departing or arriving on any island in the Territory to determine whether such person is violating the laws and regulations pertaining to entry into American Samoa of individuals, vessels and goods. A strip search may be performed if there is real or reasonable suspicion supported by the objective and articulable facts that the passenger is concealing evidence of a crime or contraband upon his or her person.

(c) Whenever a vessel, aircraft or any other form of transportation from a foreign port or place, or from a port or place within the Territory, arrives or exits an American Samoa port of entry, the appropriate customs and border security officer is authorized to enforce, inspect, search, and ensure compliance with all customs regulation including collection of appropriate excise taxes. This includes the search of the persons, baggage, and merchandise discharged or un-laden from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by customs officers.

~~(e)~~ (d) Security area:

(1) Any person who voluntarily enters a security area at the airport or seaport is subject to customs inspection as provided for in this section.

(2) Prospective passengers who enter a security area at the airport or seaport and later decide not to travel are required to return through customs inspection and clearance in the same manner as an arriving passenger on international travel.

~~(d)~~(e) Without a search warrant but upon reasonable cause to suspect that the mail contains dutiable or prohibited items, designated customs officers of American Samoa may open or inspect the contents of mail in the customs inspection of mail which has originated outside the customs territory of American Samoa and is addressed for delivery inside American Samoa.

~~(e)~~(f) The inspections may be conducted only in accordance with part 820, USPS Publication 42, International Mail, relating to cooperation with the U.S. Customs Service on inspection of imports applicable federal statutes and regulations.

~~(f)~~(g) Unless any of the following actions are authorized by a search warrant issued under Rule 41 of the High Court Rules of Criminal Procedure, customs personnel shall not read, allow any other person to read, divulge, or transfer to any other person any correspondence contained in sealed mail; or divulge, read, allow any other person to read, or listen to any paper or recording which is correspondence for the blind contained in unsealed mail; or divulge, read, allow any other person to read, or transfer to any other person correspondence of school children in unsealed mail.

~~(g)(h)~~ Customs personnel shall not, without a search warrant, open, inspect, read, or seize any mail in postal custody which has not originated outside American Samoa or which has diplomatic or consular immunity from customs inspection (USPS Publication 42, International Mail, sections 821.la and 821.lb.) according to federal law and regulations.

(i) To execute the customs responsibilities that include searching for contraband, weapons and other illegal or undeclared merchandise, custom and border security officers may employ the use of scanners or x-ray equipment for inspecting all containers, loose cargo and merchandise, and parcels. The importer, exporter, and/or owner of the examined merchandise is responsible for the cost of this inspection, examination and search. The cost shall be paid upon completion of the scanning.”

Sec 2. 27.1018 is amended to read:

“27.1018 Customs officers service fees.

(a) Charges shall be collected for services of customs officers from the owner, master or agency of a vessel as follows:

(1) attendance of customs officers ~~at any place other than port of entry,~~ per day, \$30.00;

(2) attendance of customs officers outside of regular business hours, per hour, \$15.00;

(3) granting clearance to commercial vessels per entry and per departure, \$6.00;

(4) granting clearance to noncommercial vessels, per entry and per departure, \$50.00.

(5) processing Customs Declaration of Entry forms, \$5.00 per declaration per vessel. This charge shall not apply to passengers. The revenues from this charge shall be deposited in an account earmarked for and dedicated to the American Samoa Economic Development Authority for the repayment of its Series 2015 Bonds. Upon full repayment of said bonds, collection of this charge shall be deposited in the general fund and shall be available for appropriation by the Legislature.

(b) The schedule of charges in paragraph (a) (1) and (a)(2) contemplates that those charges are calculated per man/per hour, or per man/per day, provided that where attendance of customs officers as paragraph (a)(1) is off Tutuila Island, the cost of travel, per diem, or other costs, including overtime, will be charged and collected from whomsoever requires such off-island attendance of customs officers.

(c) X-Ray Scanning fees as described in 27.1003 (i) are as follows:

(1) \$200 for a 40 feet or more container;

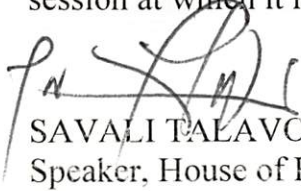
(2) \$200 for less than a 40 foot container (including all 20 foot containers);


(3) \$50 for loose cargo pallet;

(4) \$50 per vehicle or heavy equipment;
(5) \$10 per parcel imported for commercial purposes; and
(6) other scanning fees as determined by customs and enacted by
administrative rulemaking.”

Sec 3. Effective date.

In accordance with Article II, Section 19 of the Revised Constitution of American Samoa, this bill shall become effective 60 days after the end of the session at which it has been passed.


SAVALI TALAVOU ALE
Speaker, House of Representatives


GAOTEOTE PALAIE TOFAU
President of the Senate

Hereby Approved this 4th day of October 2016
Lolo M. Moliga
Governor Of American Samoa

NOFOAIGA TOLUSEFULU-FA FONOFAITULAFONO AMERIKA SAMOA

Fono Tele Lona Fa

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulutasi o Iulai
Lua afe sefulu ono

O SE TULAFONO E FAATAGA AI SUI O LE TIUTE E SU'E MA SIAKI VAA
UMA MA VAALELE, MA TAGATA E ULUFALE MAI PE MALAGA ESE
ATU FOI E AOFIA AI LE FA'AAOGA O MASINI FA'ATA E SIAKI AI SOO
SE KONETEINA, O UTA TAITASITASI, AFIFI, MA OLOA; SUIA AI MAGA
27.1003 MA LE 27.1018 T.T.A.S.

Faatomuaga:

TALUAI, o se tiute taua tele o le Vaega o Tiute a le Matagaluega o Tupe le
su'eina ma le siakia o tagata fai mai ma malaga ese atu ma le
Teritori atoa ai ma uta; ma

TALUAI, o le a faatau mai e le Matagaluega o le Tupe ni masini fou
faaonaponei e fesoasoani ai i le Vaega o le Tiute i le siakiina lelei o
koneteina, o uta, afifi, taavale ma oloa mai fafo; ma

TALUAI, e masalomia lava o le tele o vaila'au faasaina ma auupega i totonu o
le atunuu o loo aumaia lava e tagata ma afifi, ma o loo le mafai ona
aoina uma lafoga e tatau ona aoina ona e lē lava mea o loo
fa'aaogaina nei; ma

TALUAI, o lenei tekonoosi o le a fesoasoani malosi i ofisa o le tiute latou te
maua ai mea faasaina ma oloa e tatau ona tiute o loo aumaia ma
avatu i fafo mai le Teritori; ma

TALUAI, o le tele o taulaga o le Iunaite Setete o loo i ai le tekonoosi lea ua
fa'aaogaina ai.

IA FAATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

Maga 1. 27.1003 ua suia nei e faitauina:

"27.1003 Siakiina o tagata ma oloa fai mai ma uta.

**(a) O tagata uma e ulufale mai pe tuua foi Amerika Samoa e mafai ona
siaki e se ofisa o le tiute. O oloa uma ma uta e aumai mai fafo i totonu o**

Amerika Samoa mai soo se atunuu i fafo o le a talaina e se ofisa o le tiute ma e mafai ona manaomia e lena ofisa le e ana le uta poo sona sui poo se isi tagata o loo vaaia pe umia foi se atopa'u, o se atomalaga, o se taga poo se isi lava koneteina, poo se taavale o loo tapunia ina ia tatala mo le siakiina.

(e) E mafai ona siaki e le ofisa o le tiute e aunoa ma se tusi faataga faapitoa soo se tagata e malaga ese atu poo le taunuu mai i le motu i le Teritori ina ia iloa ai poo soli e lea tagata se tulafono poo aiaiga e tusa ai ma lona ulufale mai i Amerika Samoa e aofia ai ma vaa ma oloa. E mafai foi ona faia o se su'ega e toesea ai lavalava pe afai lava e moni pe faavaea lelei foi se masalosologa o loo natia e se pasese ni faamaoniga o se solitulafono poo ni vaila'au faasaina i totonu o lona tino.

(i) Soo se taimi lava e taunuu mai ai se vaa, o se vaalele, poo se isi lava auala o fela'ua'iga mai se taulaga poo se nofoaga i fafo, poo se taulaga lava foi poo se nofoaga i totonu o le Teritori, taunuu pe aluese atu foi mai se taulaga o Amerika Samoa, e faataga ofisa o le tiute poo le saogalemu foi o tuaoi e faamalosia, siaki, su'e, ma ia mautinoa le usita'ia o tulafono uma tau tiute e aofia ai ma le totogiina o lafoga e tatau ona totogi. E aofia ai le su'eina o tagata, ato, poo oloa e aumaia mai se vaa, tusa lava poo ua uma foi ona asiasia ma siakiina pe suesue muamua ia tagata, ato, ma uta e ofisa o le tiute.

(+) (o) Nofoaga puipuia/faasaina:

(1) Soo se tagata e ulufale fua i se nofoaga puipuia o le malaevaalele poo se taulaga o vaa e mafai ona siaki e le tiute e pei ona aiaia i lena maga.

(2) O ni pasese e ulufale atu i se nofoaga puipuia o le malaevaalele poo se uafu ae mulimuli ane ua le oo ona malaga e manaomia ina ia toe foi atu i le asiasiga a le tiute ma kilia ai e pei lava ona faia mo pasese taunuu mai atunuu i fafo.

(+) (u) A leai se tusi faataga e su'e ai ae i ai se mafuaaga tatau ua masalomia ai o se meli o loo i ai ni mea e tatau ona tiute poo ni mea faasaina foi, e mafai ona tatala le meli e ofisa o le Tiute le meli e sau mai fafo ae faamoemoe e tiliva i totonu o Amerika Samoa.

~~(u) (f) O asiasiga nei e faia pe afai e tusa ai ma le vaega 820, Lomiga 42 a le Falemeli a le Lunaite Setete (USPS), Meli faalevaomalo, e faatatau i le galulue faatasi ma le Vaega o le Tiute a le Lunaite Setete i le siakiina o oloa mai fafo tulafono talafeagai ai a le feterale ma aiaiga.~~

(+) (g) Sei vagana ai ua faataga i se tusi a le Faamasinoga e tuuina mai i lalo o le Tulafono Galue 41 a le Faamasinoga Mauaialuga o Taulalumaga Faasolitulafono, e le mafai e tagata faigaluega a le tiute ona faitau, faataga se isi lava tagata e faitau, ta'u, pe tuu atu i se isi lava tagata se tusi i totonu se meli ua faamauina; poo le ta'uina, faitau, faataga se isi lava tagata e faitau, pe faalogologo i soo se pepa poo se pu'ega-leo e faatatau mo tagata tauaso o loo i totonu o se meli o loo faamauina; poo le ta'uina, faitau, faataga se isi lava tagata e faitau, pe tuu atu foi i seisi lava tagata se tusi/meli mo tamaiti a'oga e le o faamauina.

(g) (l) E le mafai e tagata faigaluega a le Tiute, e aunoa ma se tusi faataga a le faamasinoga, ona tatala, siaki, faitau pe taofi foi ~~soo-se meli o loo taofia e le falemeli e lei sau mai fafo atu o Amerika Samoa poo e iai se puipuiga faakonesula e puipua ai mai le tatalaina e le tiute (Lomiga 42 a le USPS, Meli faalevaomalo, maga 821.1a ma le 821.1e) e tusa ai ma tulafono ma tuutuuga a le feterale.~~

(m) Ina ia faataunuu matafaioi a le tiute e aofia ai le sailia o vaila'au faasaina, o auupega ma isi oloa e le tusa ai ma le tulafono pe lei faailoaina foi, e mafai ona fa'aaoga e le tiute ma ofisa o le saogalemu o tua'oi masini e su'e ai koneteina uma, o uta taitasitasi, ma oloa ma affi. E gafa lava le fai'oloa poo le fo'i e ana oloa o loo siakiina ma le totogi o le asiasia, le sailia ma le su'ega o oloa. O le tupe lea e totogi lava i le taimi e mae'a ai ona faia o galuega nei."

Maga 2. 27.1018 ua sua nei e faitauina:

"27.1018 O le totogi o le galuega a ofisa o le Tiute.

(a) O le faasologa leni o totogi o tupe e aoina mai le 'au faioloa ma pule atoa foi ma vaa e siakiina e ofisa o le tiute:

(1) o le oo atu o ofisa o le tiute ~~i soo-se nofoaga e ese mai ai i le taulaga na taunuu mai i ai ola~~, e \$30 i le aso;

(2) o le oo atu o ofisa o le tiute i tua atu o taimi ua manava ai galuega. e \$15 i le itula;

(3) o le kiliaina o vaa la'u uta i le taunuu ma le tuuvaa ese atu, e tai \$6;

(4) o le kiliaina o vaa e le la'u pasese i le taunuu mai ma le toe tuuvaa ese, e tai \$50.

(5) faagasologa o pepa a le Tiute o le taunuu mai i totonu, e \$5 i le pepa e tasi a le vaa. O leni totogi e le aafia ai le pasese. O tupe maua mai le totogi lea e teuina i se teugatupe faailoga ese mo le Pulega o le Atina'e o le Tamaoaiga (ASEDA) mo le toe totogiia o Pone o le 2015. A mae'a ona totogi uma pone ia, ona teu loa lea o le tupe leni i le teugatupe tele a le malo e toe faasoasoa mai e le Fonofaitulafono lona fa'aaogaina.

(e) O le faasologa o totogi lea e ta'ua i le parakalafa (a) (1) ma le (a)(2) o loo manatu o loo fuaina faatatau i le tagata toatasi/i le itula, poo le tagata/i le aso, pe afai o le oo atu o ofisa o le tiute i se nofoaga e pei ona i ai i le parakalafa (a)(1) e le o le Motu o Tutuila, o le totogi o le malaga atu, o le fuafua o le tausiga i le aso, poo isi lava totogi e aofia ai ovataimi, o le a faia ma aoina mai i le o loo ia manaomia le oo atu o ofisa o le tiute.

(i) o le totogi o masini fa'ata e pei ona ta'ua i le 27.1003(m) e faapenei:

(1) \$200 mo le koneteina 40 futu pe sili atu;

(2) \$200 mo koneteina e le atoa le 40 futu (e aofia ai ma koneteina uma 20 futu);

(3) \$50 i le pailate;

(4) \$50 i le taavale poo meafaigaluega mamafa;

(5) \$10 i le afifi e aumai mo pisinisi; ma
(6) isi lava totogi o le masini e tusa ai ma se faaiuga mai le tiute ma ua
faatulafonoina foi i tulafono tau galuega.”

Maga 3. Aso e taualoa ai.

Ina ia tusa ai ma le Vaega II, Maga 19 o le Faavae Toe Teuteu o Amerika Samoa, o le a taualoa leni pili i totonu o le 60 aso talu ona mae'a le tauaofiaga sa pasia ai.



SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui



GAOTEOTE PALAIE TOFAU
Peresetene, Maota Maualuga

Hereby Approved this 4th day of October 20 16
Lolo M. Maliga
Governor of American Samoa



LOLO M. MOLIGA
GOVERNOR

OFFICE OF THE GOVERNOR
AMERICAN SAMOA GOVERNMENT
Telephone: (684) 633-4116 Fax: (684) 633-2269

LEMANU P. MAUGA
LIEUTENANT GOVERNOR

October 4, 2016

Serial No.: 620

Honorable Gaoteote Pala'ie Tofau
President of the Senate
Legislature of American Samoa
Pago Pago, American Samoa 96799

Dear Mr. President:

I have today signed into law H.B. 34-30, "AN ACT ALLOWING CUSTOMS AGENTS TO SEARCH AND INSPECT ANY AND ALL VESSELS, AIRCRAFTS, AND PERSONS ENTERING OR LEAVING THE TERRITORY INCLUDING THE USE OF X-RAY SCANNERS TO INSPECT ALL CONTAINERS, LOOSE CARGO, PARCELS, AND MERCHANDISE; AMENDING SECTIONS 27.1003 AND 27.1018 A.S.C.A."

I appreciate the Fono's work on this important bill, which will facilitate the use of the new x-ray scanning equipment we have acquired for Treasury and Customs. By enhancing Customs ability to quickly search incoming cargo, we expect to be able to better secure our borders, provide more efficient service to our importers, and improve Customs revenue collections.

Thank you to you and your colleagues for your early approval of this Bill.

Sincerely,

LOLO M. MOLIGA
Governor

Cc: Lt. Governor
Treasurer
Chief of Customs Division



LOLO M. MOLIGA
GOVERNOR

OFFICE OF THE GOVERNOR
AMERICAN SAMOA GOVERNMENT
Telephone: (684) 633-4116 Fax: (684) 633-2269

LEMANU P. MAUGA
LIEUTENANT GOVERNOR

October 4, 2016

Serial No.: 621

Honorable Savali Talavou Ale
Speaker of the House of Representatives
Legislature of American Samoa
Pago Pago, American Samoa 96799

Dear Mr. Speaker:

I have today signed into law H.B. 34-30, "AN ACT ALLOWING CUSTOMS AGENTS TO SEARCH AND INSPECT ANY AND ALL VESSELS, AIRCRAFTS, AND PERSONS ENTERING OR LEAVING THE TERRITORY INCLUDING THE USE OF X-RAY SCANNERS TO INSPECT ALL CONTAINERS, LOOSE CARGO, PARCELS, AND MERCHANDISE; AMENDING SECTIONS 27.1003 AND 27.1018 A.S.C.A."

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Thank you to you and your colleagues for your early approval of this Bill.

Sincerely,

A handwritten signature in cursive script that reads "Lolo M. Moliga".

LOLO M. MOLIGA
Governor

Cc: Lt. Governor
Treasurer
Chief of Customs Division