



AMERICAN SAMOA GOVERNMENT  
PAGO PAGO, AMERICAN SAMOA 96799  
**LEGISLATURE OF AMERICAN SAMOA**

In reply refer to:

**CERTIFICATION**

**Senate Chamber  
January 25, 1994**

**I certify that Senate Bill No. 23-31 passed third reading on this date in the Senate during its First Regular Session of the Twenty-third Legislature of American Samoa.**

*Leo's V. Ma'o*  
Leo'o V. Ma'o

**SECRETARY OF THE SENATE**

**House Chamber  
September 9, 1994**

**I certify that Senate Bill No. 23-31 passed third reading on this date in the House of Representatives during its Fourth Regular Session of the Twenty-third Legislature of American Samoa.**

*Wally F. Utu*  
Wally F. Utu

**CHIEF CLERK, HOUSE OF REPRESENTATIVES**

**THE TWENTY-THIRD LEGISLATURE OF AMERICAN SAMOA**

**Fourth Regular Session**

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the eleventh day of July  
one thousand nine hundred and ninety four

**AN ACT PROHIBITING THE SALE OF TOBACCO PRODUCTS TO MINORS AND TO  
REQUIRE A LICENSE TO SELL TOBACCO PRODUCTS IN AMERICAN SAMOA;  
CREATING A CHAPTER 11 UNDER TITLE 13 ASCA.**

**PREAMBLE:**

This act becomes effective upon passage by the Legislature and the approval by the  
Governor in order to meet the Federal requirements.

**BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:**

Section 1. There is created a Chapter 11 under Title 13 ASCA which reads:

"Chapter 11

**TOBACCO RESTRICTION ACT**

Sections:

- |         |                              |
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| 13.1101 | Purpose.                     |
| 13.1102 | Definitions.                 |
| 13.1103 | Identification required.     |
| 13.1104 | License required.            |
| 13.1105 | Display of license and sign. |

- 13.1106 Out of package sales prohibited.
- 13.1107 Fee.
- 13.1108 Nontransferability.
- 13.1109 Vending machine.
- 13.1110 Tobacco samples prohibited.
- 13.1111 Duties of the director.
- 13.1112 Suspension, revocation, and nonrenewal of licenses.
- 13.1113 Penalties.
- 13.1114 Tobacco sales hearing board.
- 13.1115 Severability.

13.1101 Purpose.

The Legislature of American Samoa finds cigarette smoking and other tobacco use by minors to be a continuing problem with grave public health consequences. According to recent U.S. studies, every day more than 3,000 minors begin smoking. One-half of smokers begin before the age of 18, and 90 percent begin before the age of 21 and minors spend more than one billion dollars on cigarettes and other tobacco products every year.

The Surgeon General of the U.S. Public Health Service has determined that smoking is the leading cause of preventable death in the United States and approximately 390,000 Americans die each year of diseases caused by cigarette smoking. Therefore this act is to implement a strict and enforceable system to prevent the illegal sale of cigarettes and other tobacco products to minors, and also to discourage minors from adopting the habit of smoking.

13.1102 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

- (1) "Director" means the director of health.
- (2) "Board" means the tobacco sales hearing board.
- (3) "Outlet" means any location, whether fixed or mobile, from which tobacco products are sold.
- (4) "Person" means an individual, partnership, or corporation.
- (5) "Public place" means any area to which the public is invited or in which the public is permitted, including but not limited to any right-of-way, mall or shopping center, park, playground, and any other property owned by the American Samoa Government.
- (6) "Tobacco product" means any product or commodity of which tobacco is a component, including, but not limited to cigarettes, cigars, raw processed or unprocessed tobacco, and chewing tobacco.
- (7) "Vending machine" means any machine or device designed, modified or used to dispense cigarettes, cigars, tobacco or tobacco products upon the insertion of coin, slugs, tokens or paper money.

13.1103 Identification required.

(a) No person shall sell or permit to be sold cigarettes or other tobacco products to an individual without requesting and examining identification establishing the purchaser's age as eighteen years or older, unless the seller has some other conclusive basis for determining the buyer's age.

(b) It is prohibited for any person below the age of 18 years to sell or distribute tobacco products.

13.1104 License required.

Beginning on January 1, 1995, it shall be unlawful for any person to sell or distribute cigarettes or other tobacco products unless that person holds and maintains a valid license issued by the director of health. The director shall issue a license to all eligible applicants permitting the sale of tobacco products from a specific outlet, which shall be valid for a period of one year.

13.1105 Display of license and sign.

\* A person holding a license issued under this chapter shall:

(a) prominently display the license, or a copy, at each outlet for which a license is issued; and

(b) prominently display a sign at each outlet that contains the following language in red lettering at least one-half inch high on a white background. "IT IS A VIOLATION OF THE LAW FOR CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF 18," and which includes a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal line crossing the diameter of a surrounding red circle.

13.1106 Out of package sales prohibited.

It is unlawful to sell or distribute cigarettes or tobacco products in any form other than the manufacturer's package.

13.1107 Fee.

The annual license fee is \$25.00. Renewal of a license shall be made before January 1 of each year. A person violates the provisions of this chapter if he sells or distributes tobacco products after January 1 of each year without obtaining a valid license or renewal thereof.

13.1108 Nontransferability.

A tobacco retail license is non-transferable, except a new license will be issued to a tobacco retailer who changes location.

13.1109 Vending machine.

After December 31, 1994, cigarette vending machines or any other device for the sale or distribution of tobacco products are prohibited. Importation and possession of tobacco vending machines are prohibited.

13.1110 Tobacco samples prohibited.

No person shall knowingly distribute or furnish without charge, or cause to be furnished or distributed without charge, cigarettes or other tobacco products, or coupons for cigarettes or other tobacco products, in any public place or at any event open to the public.

13.1111 Duties of the director.

It shall be the duty of the director to implement the purposes of this chapter and to administer and enforce the law. The director shall:

- (1) issue licenses for the sale of tobacco products;
- (2) provide signs to parties licensed to sell tobacco products concerning the prohibition of tobacco sales to individuals under the age of 18;
- (3) initiate investigations of violations of this chapter;
- (4) seek and enforce civil penalties and fines for violation of this chapter;
- (5) initiate actions to suspend, revoke, or deny renewal of a license; and
- (6) has the authority to deputize others to enforce the law as contained in this chapter.

13.1112 Suspension, revocation, and nonrenewal of licenses.

The board shall suspend, revoke or not renew a license for a particular outlet after notice and opportunity to be heard is given.

(a) In the case of a first violation, the license shall be suspended for a period of not less than 14 days and not more than 30 days.

(b) In the case of a second violation, the license shall be suspended for not less than 30 days and not more than six months.

(c) In the case of three violations or more the license shall be revoked for the period of no less than two years within a three year period.

(d) The director shall serve the licensee with notice of any adverse action, including a description of the violations alleged, a statement that the licensee may contest the decision by serving a written demand upon him within 10 days, and a statement that if the licensee does not appear at the hearing the board will determine the case without his presence and render a decision accordingly.

#### 13.1113 Penalties.

(a) In addition to the provisions of section 13.1112 above, any person that violates any provision of this chapter shall be subject to the following civil penalties.

- (1) Not more than \$100.00 for the first violation.
- (2) Not more than \$250.00 for the second violation.
- (3) Not more than \$500.00 for the third violation.
- (4) \$1,000.00 for each violation in excess of three.

(b) Forms for citation for violation of the provisions of this chapter may be designed and approved by the director of the department of health.

(c) This act may be enforced by the designated officials of the department of health, division of the public health, police officers of the American Samoa Government, and personnel deputized by the director.

#### 13.1114 Tobacco sales hearing board.

There shall be a tobacco hearing board consisting of three members appointed by the Governor to serve for four year terms. The board shall select its chairperson. The functions of the tobacco hearing board shall be as follows:

- (a) to hear and determine cases pursuant to violations of this chapter; and
- (b) to render decisions after hearing cases, and to issue penalties according to the provisions set forth in this chapter. No action against a license shall be effective until after the tobacco sales hearing board has rendered its decision; and
- (c) the board has the authority to make its own rules and regulations to further enforce the provisions of this chapter but such rules and regulations must not be inconsistent with the provisions of this chapter.

13.1115 Severability.

If any provision, clause, sentence, or paragraph of this act or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the provisions of this act which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable."

Sec. 2. Effective date.

This act becomes effective upon passage by the Legislature and approval by the Governor.

  
Letuli Toloa

PRESIDENT OF THE SENATE

  
Savali Talavou Ale

SPEAKER OF THE HOUSE

Hereby approved this 29<sup>th</sup> day of September, 19 94

  
Governor of American Samoa.

**NOFOAIGA LUASEFULU-TOLU FONO FAITULAFONO O AMERIKA SAMOA**

**Fono Tele Lona Fa**

**Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa  
Aso Gafua, aso sefulutasi o Iulai  
tasi le afe iva selau iva sefulufa**

**O SE TULAFONO E FA'ASA AI ONA FA'ATAU ATU OLOA TAPA'A I TAMAITI E I  
LALO O LE 18 TAUSAGA MA MANA'OMIA-FA'ATONUINA AI SE LAISENE E  
FA'ATAU ATU AI OLOA TAPA'A I AMERIKA SAMOA; FA'AVAEINA AI SE MATA'UPU  
11 I LALO O LE VAEGA 13 TTAS.**

**FA'ATOMUAGA:**

**O lenei tulafono e taualoa loa lava pe a pasia e le Fono Faitulafono ma fa'amaonia  
e le Kovana ina ia feagai ai ma mana'oga-fa'atonuina e le Malo Tele.**

**IA FA'ATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA:**

**Maga 1. Ua fa'avaeina nei se Mataupu 11 i lalo o le Vaega 13 TTAS e faitauina:**

**"Mataupu 11**

**TULAFONO FA'ASAINA TAPA'A**

**Maga:**

13.1101 Mafuaaga.  
13.1102 Fa'amatalaga.  
13.1103 Pepa fa'a'ailoa mana'omia.  
13.1104 Laisene mana'omia-faatonuina.



- 13.1105 Fa'aaliga o laisene ma saini.
- 13.1106 Fa'asaina le fa'atau 'ese mai le afifi.
- 13.1107 Totogi.
- 13.1108 E le fesuia'ia.
- 13.1109 Masini fa'atau.
- 13.1110 Fa'asaina tapa'a avefua.
- 13.1111 Tiute o le fa'atonu.
- 13.1112 Fa'aopeaga, fa'aleaogaaga, ma le le fa'afouina o laisene.
- 13.1113 Fa'asalaga
- 13.1114 Komiti iloilo o tapa'a fa'atau.
- 13.1115 Tu'uese'esega.

### 13.1101 Mafuaaga.

Ua silafia e le Fono Faitulafono o Amerika Samoa o le ulaula sikareti ma isi fa'aaogaaga o tapa'a e tamaiti ua avea ma fa'afitauli mata'utia i le soifua maloloina. E tusa ai ma saililiga lata mai nei a le Iunaite Setete, e tusa ma le 3,000 tamaiti e amata ona ulaula i aso ta'itasi. O le afa o tagata ulaula e amata ae le'i atoa le 18 tausaga, a o le 90 pasene e amata ae le'i atoa le 21 tausaga ma ua fa'aalu e tamaiti e sili atu ma le tasi piliona talā mo sikareti ma isi oloa tapa'a i tausaga ta'itasi.

O le foma'i sili o le Vaega o le Soifua Maloloina a le Iunaite Setete ua ia faia se fa'ai'uga fa'apea o le ulaula o le mafuaaga ta'imua lea o maluu e mafai ona puipuia i le Iunaite Setete ma e tusa ma le 390,000 tagata Amerika e maliliu i tausaga ta'itasi ona o fa'ama'i e mafua mai i le ulaula sikareti. Ma o le mea lea, o lena tulafono ia fa'agaioia ma fa'amalosia ai faiga e puipuia ai le fa'atau atu o sikareti ma isi oloa tapa'a e le tusa ai ma le tulafono i tamaiti, ma ia fa'avaivaia ai tamaiti i le faia o le masani o le ulaula.

### 13.1102 Fa'amatalaga.

E pei ona fa'aaogaina i lena mataupu, vagana ua i ai se isi fa'aupuga e ese ai:

- (1) "Fa'atonu" o lona uiga o le fa'atonu o le soifua maloloina;
- (2) "Komiti" o lona uiga o le Komiti iloilo o tapa'a fa'atau;
- (3) "Fale fa'atau" o lona uiga o so'o se tulaga, pe tumau pe fesi'ita'i, e fa'atau atu ai oloa tapa'a;
- (4) "Tagata" o lona uiga o se tasi, paaga, po'o se pisinisi;
- (5) "Nofoaga lautele" o lona uiga o se nofoaga e valaaulia ai tagata lautele pe fa'ataga ai tagata lautele, e aofia ai, ae le fa'agatona i so'o se aiā-ole-ua, nofoaga o fa'ataga, maketi tetele, paka, malaeta'alo, ma so'o se isi lava fanua e pule ai le Malo o Amerika Samoa;
- (6) "Oloa tapa'a" o lona uiga o so'o se oloa po'o mea-ua i ai le tapa'a i sona vaega, aofia ai ae le fa'agata i sikareti, sikā, tapa'a mata ua gaosia pe le'i gaosia, ma tapa'a lamu;
- (7) "Masini fa'atau sikareti" o lona uiga o so'o se masini po'o se fausaga ua

fa'asinoina pe fa'aaogaina mo le fa'atauina o sikareti, sikā, tapa'a, po'o oloa tapa'a e-ala i le fafao i ai o tupe, pepa fa'atau, po'o fa'afoliga o tupe, poo tupe pepa.

13.1103 Pepa fa'a'ailoa e mana'omia.

(a) E leai se tagata o le a na fa'atauina atu, pe fa'atagaina le fa'atauina atu o sikareti po'o nisi oloa tapa'a i se isi tagata e aunoa ma lona talosagāina mā su'esu'eina se pepa fa'a'ailoa e ta'ua ai le matua o le tagata fa'atau fa'apea ua sefuluvalu ona tausaga po'o le sili atu fo'i, vagana ua i ai se isi fa'avae maumaūtutu ua silafia ai e le fa'atauoloa le matua o lea tagata fa'atau.

(e) E fa'asaina so'o se tagata e le'i atoa le 18 tausaga ona ia fa'atau atu po'o le tufaina atu ni oloa tapa'a.

13.1104 Laisene e mana'omia.

E amata ia Ianuari 1, 1995, o le a le tusa ai ma le tulafono so'o se tagata na te fa'atau atu po'o le tufa atu sikareti po'o nisi oloa tapa'a vagana o i ai ma o umia e lenā tagata se laisene taualoa na tu'uina atu e le fa'atonu o le soifua maloloina. O le a tu'uina atu e le fa'atonu laisene i tagata talosaga-agava'a uma e fa'ataga ai le fa'atauina atu o oloa tapa'a mai se fale fa'atau, o le a taualoa mo se periota e tasi le tausaga.

13.1105 Fa'aaliga o laisene ma saina.

O se tagata o umia se laisene na tu'uina atu i lalo o lenei mataupu o le a:

(a) fa'aalia fa'amata'iina mai lea laisene, po'o sona kopi, i faleoloa ta'itasi ua tu'uina atu ai sea laisene; ma

(e) fa'aalia fa'amata'iina mai se saina i falefa'atau ta'itasi le fa'aupuga lea i mata'itusi-mūmū e le itiiti ifo ma le tasi-le-afa inisi le maualuga i luga o se mea pa'epa'e, "O SE SOLIGA O LE TULAFONO PE A FA'ATAU ATU SIKARETI, PO'O SE ISI OLOA TAPA'A I-SO'O SE TAGATA-O I LALO IFO O LE 18 TAUSAGA," ma e aofia ai se ata o se pepa sikareti e le itiiti ifo i le lua inisi le maualuga a ua fa'aleagaina i se laina mūmū e fa'asipa i luga e kolosia le ogatotonu o se li'o mūmū o fa'alapotopotoina ai.

13.1106 Fa'atauina atu o sikareti ta'itasi ua fa'asaina.

E le tusa ma le tulafono le fa'atauina atu, po'o le tufaina atu, o sikareti po'o se oloa tapa'a, i so'o se isi faiga e ese mai le afifi na aumai ai.

13.1107 Totogi.

O le totogi tausaga-o-laisene e \$25.00. O le fa'afouga o se laisene o le a faia ae le'i o'o ia Ianuari 1 o tausaga ta'itasi. Ua solia e se tagata aiaiga o lenei mataupu pe afai ua ia fa'atau pe tufatufa atu oloa tapa'a a ua te'a Ianuari 1 o tausaga ta'itasi e aunoa ma se laisene taualoa po'o ua fa'afouina.

13.1108 Le fesuia'ia.

O laisene fa'atau tapa'a e le fesuia'ia, vagana se laisene fou o le a tu'uina atu i se tagata fa'atau tapa'a ua suia sona nofoaga.

13.1109 Masini e fa'atau atu ai.

Pe a te'a Tesema 31, 1994, o masini e fa'atau atu ai sikareti po'o se isi lava faiga mo le fa'atau atu po'o le tufatufa atu o oloa tapa'a ua fa'asaina. O le aumaia i totonu ma le fa'agaioia o masini e fa'atau atu ai tapa'a ua fa'asaina.

13.1110 Tapa'a avefua ua fa'asaina.

E leai se tagata o lea faia ma le iloa le tufaina po'o le fa'asaina e aunoa ma se tau, pe fa'atonu le avatua po'o tufatufaina e aunoa ma se totogi, sikareti po'o isi oloa tapa'a, po'o kuponi mo sikareti po'o isi oloa tapa'a i totonu o so'o se nofoaga lautele po'o so'o se fa'atasiga ua valaauina ai le lautele.

13.1111 Tiute o le fa'atonu.

O le a avea ma tiute o le fa'atonu le fa'amalosia o fa'amoemoega o lenei mataupu ma pulea ma fa'amalosia le tulafono. O le fa'atonu o le a:

- (1) tu'u atu laisene mo le fa'atauina atu o oloa tapa'a.
- (2) saunia saina mo i latou ua laisene e fa'atau atu oloa tapa'a e fa'asino i le fa'asaina o le fa'atauga o tapa'a i tagata e i lalo o le 18 tausaga;
- (3) amata su'esu'ega o solitulafono o lenei mataupu;
- (4) sailiili ma fa'amalosia fa'asalaga sivili ma tupe totogi mo le solitulafono o lenei mataupu.
- (5) amata gaioiga e fa'aopea, ave'esea, pe te'ena ai le fa'afouina o laisene; ma
- (6) i ai le pule e tofia ai isi e fa'amalosia le tulafono e pei ona i ai i lenei mataupu.

13.1112 Fa'aopega, fa'aleaogaina, ma le lē fa'afouina o laisene.

O le a fa'aōpea, fa'aleaoga po'o le lē fa'afouā o se laisene mo se falefa'atau ina ua ua uma ona avatu i ai se avanoa o se iloiloga.

(a) I le tulaga o le ulua'i soligatulafono, o le a fa'aopea mo se taimi e lē itiiti i le 14 aso ma e lē silia ma le 30 aso.

(e) I le tulaga o le soligatulafono lona lua, o le a fa'aopea le laisene e lē itiiti i le 30 aso ma e lē silia ma le ono masina.

(i) I le tulaga o le tolu po'o le sili atu soligatulafono, o le a fa'aleaoga le laisene mo le periota e lē itiiti ma le lua tausaga i totonu o se periota e tolu tausaga.

(o) O le fa'atonu o le a avatua i le tagata failaisene le fa'aaliga o so'o se gaoioiga e fa'asaga ia te ia, e aofia ai se fa'amatalaga o le solitulafono ua molia ai, se fa'amatalaga fa'apea e mafai ai e le tagata failaisene ona finauina le fa'aiuga i le tū'uina atu o se mānā'oga tusia ia te ia i totonu o aso e 10, ma se fa'amatalaga fa'apea afai e lē auai le tagata failaisene i le fonu o le komiti o le a talanoaina le mataupu e aunoa ma lona auai mā faia se fa'aiuga e tusa ai.

13.1113 Fa'asalaga.

(a) E fa'aopo'opo i aiaiga o le maga 13.1112 o i luga, so'o se tagata na te solia so'o se aiaiga o lenei mataupu o le a fa'asalaina i fa'asalaga šivili nei.

(1) E lē silia i le \$100.00 mo le soliga muamua.

(2) E lē silia i le \$250.00 mo le soliga lona lua.

(3) E lē sili atu ma le \$500.00 mo le soliga lona tolu.

(4) \$1,000.00 mo soligatulafono ta'itasi i luga atu o lona tolu.

(e) E mafai ona faia ma fa'amaonia pepa o moliga mo soliga o aiaiga o lenei mataupu e le fa'atonu o le vaega o le soifua maloloina.

(i) O lenei tulafono e mafai ona fa'amalosia e ofisa ua filifilia o le matagaluega o le soifua maloloina, ali'i ofisa leoleo o le malo o Amerika Samoa, ma tagata ua tofia e le fa'atonu.

13.1114 Komiti iloilo o tapa'a fa'atau.

O le a i ai se komiti iloilo o tapa'a e aofia ai tagata e to'atolu e tofia e le Kovana e galulue mo le fa'ausaga. E filifilia e le komiti so latou ta'ita'i. O aiaiga o le komiti iloilo o tapa'a o le a fa'apenei:

(a) e fofogaina ma fuafua moliga e tusa ai ma le soliga o lenei mataupu.

(e) tu'u atu le fa'aiuga ina ua mae'a le fofogaina o moliga, ma fa'ae'e atu fa'asalaga e tusa ma aiaiga ua ta'u mai i lenei mataupu. E leai se gaoioiga e fa'asaga i se failaisene o le a fa'amalosia vagana ua tu'u mai e le komiti iloilo o tapa'a fa'atau sana fa'ai'uga; ma

(i) o le komiti e i ai lona malosi e faia ai ana ia lava tulafono galue ma poloa'iga e fa'amalosia atili ai aiaiga o lenei mataupu a'o na tulafono galue ma poloa'iga ia le fete'ena'i ma aiaiga o lenei mataupu.

13.1115 Tu'uese'esega.

Afai e iai so'o se aiaiga, fa'aupuga, fuaiupu, po'o parakalafa o lenei tulafono po'o lona fa'aaogaina i so'o se tagata po'o se tulaga o le a fa'apea e le taualoa, o lea tulaga e le a'afia ai aiaiga o lenei tulafono e i ai le malosi e aunoa ma aiaiga ua le taualoa po'o ua le fa'aaogaina, ma ona o lena mafua'aga ua fa'alauiloa le tu'uese'ega."

Maga 2 Aso taualoa.

O lenei tulafono o le a taualoa pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana.

  
Letuli Toloa

PERESETENE, MAOTA MAUALUGA

  
Savali Talavou Ale

FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 29<sup>th</sup> day of September, 19 94

  
Governor of American Samoa



AMERICAN SAMOA GOVERNMENT  
PAGO PAGO, AMERICAN SAMOA 96799

In reply refer to:

LEGISLATURE OF AMERICAN SAMOA

SEPTEMBER 29, 1994

RECEIVED FROM THE LEGISLATURE OF AMERICAN SAMOA  
DURING ITS FOURTH REGULAR SESSION OF THE 23RD  
LEGISLATURE OF AMERICAN SAMOA THE ORIGINAL  
AND TWO COPIES OF:

SB # 23-31  
&  
HB # 23-93

GOVERNOR'S OFFICE

*Marty Leau*

TIME: 10:10 a.m.

DATE: 9/29