

THE TWENTY-SIXTH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

**Begun and held at Fagatogo, Tutuila American Samoa
on Monday, the tenth day of July
the year two thousand**

**AN ACT PROVIDING FOR THE REDUCTION OF THE EXCISE TAX ON
TOBACCO PRODUCTS, REQUIRING CONFORMITY WITH THE UNITED
STATES CIGARETTE LABELING AND ADVERTISING LAWS, AND
CREATING PENALTIES FOR FAILURE TO PAY EXCISE TAXES ON
CIGARETTES; AMENDING SECTION 11.1002. (C) A.S.C.A.; AND
CREATING SECTION 11.1002.1 AND 13.1116 A.S.C.A.**

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section I. 11.1002 is amended to read:

"11.1002 Amount of tax on certain items.

(a) The tax on each item is:

(1)- beer, malt extract, alcoholic beverage, tobacco products and smoking accessories:

(A) one hundred ninety percent of the basis of beer as defined in 27.0501(6), and malt extract, except that any person 21 years of age or over may bring into American Samoa tax free an amount of any alcoholic beverage as defined in 27.0501(1) or 27.0501(6) not to exceed 1 liter per trip if such alcoholic beverage is for his personal use and consumption and not for resale; and except further that any alcoholic beverage and tobacco products brought into American Samoa for export at the duty free shop at Pago Pago International Airport is also tax free; one hundred fifty percent (150%) of the basis of beer or malt extract shall be deposited in the general fund and shall be available for appropriation by the Legislature; and forty percent (40%) of the basis of beer or malt extract shall be deposited in the general

fund in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the assessment and collection of this forty percent (40%) tax shall be repealed;

(B) alcoholic beverages as defined in 27.0501(1) shall be taxed as follows: fifteen (0.15) cents per one percent (1%) of alcohol by weight per liter, with a minimum tax of two dollars (\$2.00) per liter.

Of the revenues collected from the tax on alcoholic beverages, fifty percent (50%) shall be appropriated to fund the Feleti Barstow Public Library; twenty-five percent (25%) shall be appropriated to fund the Office of Administrative Law Judge; twelve and one-half percent (12.5%) shall be deposited in the general fund and shall be available for appropriation by the Legislature; and twelve and one-half percent (12.5%) shall be deposited in the general fund in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the twelve and one-half percent (12.5%) dedicated to repayment of the loan shall be deposited in the general fund and shall be available for appropriation by the Legislature.

(c) Twelve point five cents per cigarette, per cigar, or per 10 grams of smoking tobacco, except that any person 21 years of age or over may bring into American Samoa tax free tobacco products not to exceed either 200 cigarettes or 100 cigats and or 2 kilograms of smoking tobacco per trip if such tobacco products are for his personal use and consumption and not for resale. Of the revenues collected from the tax on tobacco products and smoking accessories, sixty percent (60%) shall be deposited in the general fund and shall be available for appropriation by the Legislature; twenty percent (20%) shall be deposited into the deficiency reduction fund and is appropriated for payment of the government's prior year's obligations as provided for in 10.0801 et. seq., and shall be available until September 30, 2004; and twenty percent (20%) shall be deposited in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the assessment and collection of this twenty percent (20%) tax shall be reverted into the general fund subject upon appropriation by the Legislature.

(2) one hundred fifty percent of the basis of firearms and firearm ammunition;

(3) motor vehicles:

(A) twenty-five percent of the basis of motor bicycles automobiles, trucks, and vans, to be used for commercial purposes;

(B) notwithstanding the provisions of paragraphs (A), the tax levied on motor bicycles automobiles, trucks, and vans, imported into American Samoa for personal or family use shall be 10 percent of the basis thereof. If a motor bicycle, automobile, truck or van, are converted to commercial use after being imported for personal or family use, it shall then be subject to the balance of the applicable tax imposed under paragraph (A).

(C) No tax exemption, including that provided by Title 11, Chapter 16, shall be granted for any motor vehicle. All other motor vehicles not taxed under this subsection shall be subjected to the tax under 11.1002(a)(7).

(4) petroleum products:

(A) twenty-five cents a gallon on fuel manufactured for use in motor vehicles, other than diesel fuels, 1.5 cents of this to be used for revenue for the driver's training control school and 10 cents of it to be placed in an earmarked revenue fund for road maintenance; and 13.5 cents shall be appropriated for the payment of the government's prior years' obligations as provided for in 10.0801 et seq., and shall be available until September 30, 2004;

(B) three and one-half cents a gallon on fuel manufactured for use in diesel engines, other than aircraft fuels;

(C) one and one-half cents a gallon on kerosene and similar petroleum products;

(D) fifteen percent of the basis of lubricating oils;

(E) one cent a gallon on jet and other aircraft fuels, to be placed in the enterprise fund for the operation of Pago Pago international airport;

(F) three cents a pound of liquefied petroleum gas such as butane and propane or mixtures thereof, and ethane, which shall be deposited into the deficiency reduction fund and is appropriated for the payment of the government's prior years' obligations as provided for in 10.0801 et seq., and shall be available until September 30, 2004;

(5) forty percent of the basis of all construction materials, as defined in 26.1501 et seq. which are of a lesser quality than the standard grades established under such chapter;

(6) four cents per 12 fluid ounces or fraction thereof on all soft drinks or nonalcoholic carbonated beverages, to be applied to the measure of the container in which it is offered for sale by the importer; three cents of the four cents shall be deposited in the deficiency reduction fund and is appropriated for the payment of the government's prior years' obligations provided for in 10.0801 et seq., and shall be available until September 30, 2004;

(7) five percent of the basis of all items not listed in subsections (a)(1) through (a)(6) of this section or exempted by this section which are imported for commercial use or resale purposes. The revenues received from the three percent excise tax shall be deposited in the general fund and shall be available for appropriation by the Legislature, except that \$150,000 is appropriated for the student financial aid provided for in 11.0605.

(b) The minimum tax shall be 25 cents.

(c) Items otherwise taxable under subsection (a)(1) and (a)(7) of this section are exempted from the taxes imposed by this section when they are brought into

American Samoa for export sale for consumption outside American Samoa; provided that importation and sale of these items are made pursuant to rules promulgated by the Treasurer under the Administrative Procedures Act, 4.1001 et seq., that require, among other things, separate storage of these items clearly identified for export sale and a system of delivery to the purchaser ensuring their exportation.

(d) Payment of the taxes imposed by this section on items brought into American Samoa for consumption within American Samoa may be postponed pursuant to rules promulgated by the Treasurer under the Admininistrative Procedures Act, 4.1001 et seq., that require, among other things, separate storage of those items clearly identified for domestic sale and consumption and a system of delivery to the importer ensuring payment of the taxes at the time of delivery.

(e) The Treasurer shall promulgate rules under the Administrative Procedures Act, 4.1001 et seq., to ensure that the taxes imposed when the exception set forth in subsection (a)(7) of this section is inapplicable are paid.

(f) The five percent excise tax shall be earmarked as follows:

(1) three percent (3%) of the five percent shall be deposited in the general fund; one percent (1%) shall be used to pay prior years obligations; the oldest obligation to be paid first.

(2) One percent (1%) of the five percent shall be earmarked for the repairs, renovations and upgrading of all public schools facilities and equipment in American Samoa beginning in the fiscal year 1995.”

Sec 2. There is created a section 11.1002.1 which reads:

“11.1002.1 Cigarette excise tax--Violation--Penalty.

A person, firm, or corporation who fails to pay the excise tax for cigarettes at the point of entry is subject to a Class A misdemeanor and/or \$1,000 fine per cigarette, per cigar or per 10 grams of smoking tobacco.”

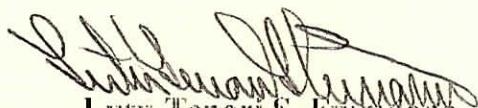
Sec 3. There is created a section 13.1116 which reads:

“13.1116 Sale of cigarettes without health warnings.

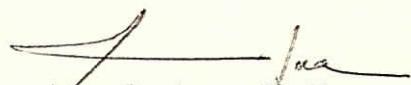
(a) The Territory of American Samoa adopts the United States Cigarette Labeling and Advertising Act.

(b) It shall be unlawful for a person to sell or distribute in the Territory, or to acquire, hold, own, possess, or transport for sale or distribution in the Territory, or to import or cause to be imported into the Territory for sale or distribution in the Territory any cigarettes which does not specify or conform to the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333.

(c) All products found in violation will be confiscated and destroyed."

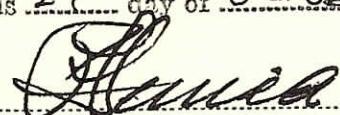


Lutu Tenari S. Fumafono
PRESIDENT OF THE SENATE



Anna Saeluaga T. Nua
SPEAKER OF THE HOUSE

Hereby Approved this 27th day of October, 2008



Governor of American Samoa

NOFOAIGA LUASEFULU-ONO FONO FAITULAFONO O AMERIKA SAMOA

Fono Tele Lona Fā

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulu o Julai
tausaga lua afe

O SE TULAFONO E SAUNIA AI LE FA'AITHTIA O LAFOGA OLOA O LO'O FA'AE'EINA ATU I OLOA TAPA'A, E MANA'OMIA AI LE' Ö TUTUSA MA TULAFONO A LE IUNAITE SETETE E FA'ATATAU I LE FA'AILOGAINA MA LE FA'ALAUILOAINA, MA FA'AVAEINA AI FA'ASALAGA MO LE LĒ TOTOGIA O LAFOGA OLOA O SIKARETI, SUIA ALLE MAGA 11.1002 (I) T.T.A.S.; MA FA'AVAEINA AI EE MAGA 11.1002.1 MA LE 13.11.16 T.T.A.S.

IA FA'ATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA

Maga 1. 11.1002 ua suia e faitaunia:

"11.1002 Aofa'i o lafoga i mea ta'itasi.

(a) O le lafoga i mea ta'itasi e:

(1) pia, molo, meainu alakaholo, oloa tapa'a ma mea e fa'aaoga e ulaula ai:

(A) tasi selau ma le iva sefulu pasene o le tulaga o le pia e pei ona fa'amatalaina i le 27.0501(6), ma le molo, vagana ai o so'o se tagata e 21 tausaga o le soifuaga pe sili atu e mafai ona aumai i totono o Amerika Samoa e aunoa ma se lafoga le aofa'iga o so'o se meainu alakaholo e pei ona fa'amatalaina i le 27.0501(I) po'o le 27.0501(6) ia lē sili atu i le lita e 1 i le malaga pe afai o lena meainu alakaholo e mo ia lava ma lona ia lava fa'aaogaina ma e lē toe fa'atauina atu; ma vaganai ai o so'o se meainu alakaholo ma oloa tapa'a e aumai i totonu o Amerika Samoa mo le toe auina atu i fafo i le fale'oloa e lē totogia ai lafoga o lo'o

i le Malaeva'alele Fa'ava-o-malo i Pago Pago e lē totogia fo'i se lafoga; tasi selau ma le lima sefulu pasene (150%) o le tulaga o le pia po'o le molo ia teuina i le teugatupe lautele ma ia fa'aavanoaina mo le fa'asoasoaina e le Fono Faitulafono; ma le fasefulu pasene (40%) o le tulaga o le pia po'o le molo ia teuina i le teugatupe lautele i se teugatupe e fa'aagaaga mo ma fa'amoemoemoeina e totogi ai le nogātupe a le malo na fa'amaonia i le 7.1444.3. Afai o le a totogia uma le nogātupe ua ta'uua nei, o le fa'ae'eina ma le aoina o lenei lafoga e fasefulu pasene o le a fa'agafua;

(E) o meainu alakaholo e pei ona fa'amatalaina i le 27.0501(1) e fa'alafogaina e pei o le a ta'uua nei: sefululirna (0.15) sene i le pasene e tasi (1%) o le alakaholo i lona inanafa i le lita, i le lafoga aupito itiiti e lua talā (\$2.00) i le lita

Mai tupe maua e aoina mai lafoga o raeainu alakaholo, e lima-sefulu pasene (50%) ia fa'ascaina atu e fa'atupe ai le Faletusi Lautele a Feleri Barstow; luasefulu-lima pasene (25%) ia fa'asoaina atu e fa'atupe ai le Ofisa o le Fa'amasino Tau Pulega' sefululua ma le tasi-afa pasene (12.5%) ia teuina i le teugatupe lautele ma ia fa'aavanoaina mo fa'asoaga a le Fono Faitulafono; ma le sefululua ma le tasi-afa pasene (12.5%) ia teuina i le teugatupe lautele i se teugatupe e fa'aagaaga mo ma fa'amoemoemoeina mo le toe totogia o le nogātupe a le malo na fa'amaonia i le 7.1444.3. Afai e le totogia uma lea nogātupe ua ta'uua, o le sefululua ma le tasi-afa pasene (12.5%) ua fa'amoemoemoe mo le totogia o le nogātupe ia teuina i le teugatupe lautele ma e fa'aavanoaina mo fa'asoaga a le Fono Faitulafono.

(C) Sefululua tesimale lima sene i le sikaeti, i le sikā, po'o i le 10 karama o tapaa'a e ulaula vagana ai o so'o se tagata e 21 tausaga o le soifuaga pe sili atu e mafai ona aumai i totono o Amerika Samoa e aumoa ma se lafoga oloa tapa'a ia lē sili i le 200 sikareti pe 100 sikā ma po'o le 2 kilokarama o tapa'a ulaula i le malaga pe afai o ia oloa tapa'a e mo ia lava ma lona ia lava fa'aaogaina ma e lē toe fa'atauina atu. Mai tupe maua e aoina mai lafoga o oloa tapa'a ma mea e fa'aaoga e ulaula ai, e onosefulu pasene (60%) ia teuina i le teugatupe lautele ma ia fa'aavanoaina mo fa'asoaga a le Fono Faitulafono, luasefulu pasene (20%) ia teuina i le teugatupe o le fa'aitiitia o aitalafu ma ia fa'asoaina atu e totogi ai aitalafu a le malo o causaga na tuana'i atu e pei ona aiaia i le 10.0801 et seq., ma ia fa'aavanoaina se'ia o'o ia Setema 20, 2004; ma le luasefulu pasene (20%) ia teuina i se teugatupe e fa'aagaaga mo ma fa'amoemoega o le toe totogia o le nogātupe a le malo na fa'amaonia i le 7.1444.3. Afai o le totogia uma lea nogātupe ua ta'uua, o le fa'ae'eina ma le aoina o lenei luasefulu pasene (20%) o le lafoga o le a aoina atu i le teugatupe lautele se'ia toe fa'asoasoaina mai e le Fono Faitulafono.

(2) tasi afe limasefulu pasene o le tulaga o au'upega ma ututau o au'upega:

(3) ta'avael afi:

(A) luasefulu-lima pasene o tulaga o uila afi, ta'avale, loli, ma veni, e fa'aaogaina mo fa'amoemoega tau fefāataua'iga;

(E) e lē afaina ai aiaiga o le parakalafa (A), o le lafoga e fa'ae'eina atu i uila afi, ta'avale, loli ma veni, e aumai i totoru o Amerika Samoa mo le fa'aaogaina totino pe mo aiga ia 10 pasene o lona tulaga. Afai o se uila afi, ta'avale, loli, po'o se veni, e toe suia e fa'aaogaina mo fefāataua'iga ina ua umia ona auina mai mo le fa'aaogaina totino pe mo aiga, e a'afia loa i le paleni o le lafoga e talafeagai atua fa'ae'eina i lalo o le parakalafa (A).

(I) e leai se lafoga e fa'agafuaina, e aofia ai aiaiga o lo'o i lalo o le Ulutala 11, Mata'upu 16, e mafai ona fa'atagaina mo so'o se ta'avale afi. O isi urna ta'avale afi e lē o fa'alafogaina i lalo o lenei soamaga e a'afia i le lafoga o le 11.1002(a)(7).

(4) oloa suau'u:

(A) luasefulu-lima sene i le kalone mo suau'u e gaosia mo le fa'aaogaina i ta'avale afi, ma isi suau'u tiso, 1.5 sene o lena e fa'aaogaina mo tupe maua mo le aloga aveta'avale ma le 10 sene o lena ia teuina i se teugatupe o tupe maua mo le fa'aleleia o auala; ma le 13.5 sene ia fa'asoaina atu mo le totogia o aitalafu a le malo o tausaga ua tuana'i e pei ona aiaia i le 10.0801 et seq., ma ia avanoa pea se'ia o'o ia Setema 30, 2004;

(E) tolu ma le tasi afa sene i le kalone mo kerosini ma isi oloa suau'u e fa'aaogaina i afi tiso, ma isi suau'u mo va'alele:

(I) tasi ma le tasi afa sene i le kalone mo kerosini ma isi oloa suau'u e tai tutusa:

(O) sefululima pasene o tulaga o suau'u e fa'asuau'u ai mea.

(U) tasi sene i le kalone i suau'u e fa'aaoga i va'alele saoasaoa ma isi ituaga va'alele, ia teuina i le teugatupe fa'aleoleo mo le fa'agaoioia o le Malae Va'alele Fa'ava-o-Malo o Pago Pago:

(F) tolu sene i le pauna o suau'u kesi vaia e i ai le putane (butane) ma le poropane (propane) po'o ni ona suiga fa'atasi, ma le etane (ethane), ia teuina i le teugatupe o le fa'aitiitia o aitalafu ma ua fa'asoaina atu e totogi ai aitalafu a le malo o tausaga ua tuana'i e pei ona aiaia i le 10.0801 et seq., ma ia fa'aavanoaina pea se'ia o'o ia Setema 30, 2004;

(5) fasefulu pasene o le tulaga o oloa uma mo fausaga, e pei ona fa'amatalaina i le 26.1501 et seq. e lē o sili atu o latou tulaga mo fausaga e pei ona aiaia i lalo o lenei mata'upu:

(6) fa sene i le 12 aunese suavaia po'o sona vaega o meainu suamalie uma po'o meainu e lē i ai se alakaholo, ia tu'uina ai i le fua o le fagu e fa'atauina atu ai e lē na auina mai; tolu sene o le fa sene ia teuina i le teugatupe o le fa'aitiitia o aitalafu ma e fa'asoaina atu mo le totogia o aitalafu a le malo o tausaga ua tuana'i atu e pei ona aiaia i le 10.0801 et seq., ma e avanoa pea se'ia o'o ia Setema 30, 2004;

(7) lima pasene o le tulaga o mea uma e lē o lisiina i soamaga (a)(1) e o'o i le (a)(6) o lenei maga pe fa'agafua e lenei maga e auina mai mo fefa'ataua'iga ma fa'amoemoe e toe fa'atau atu. O tupe maua e aoina inai i le tolu pasene lafoga o oloa ia teuina i le teugatupe lautele ma ia fa'aavanoaina mo fa'asoaga a le Fono Faitulafono, vagana ai le \$150,000 e fa'asoaina atu mo fesoasoanti tau tupe a tamaiti a'oga o lo'o aiaia i le 11.0605.

(e) O le lafoga aupito itiiti e 25 sene.

(i) O isi mea e fa'alafogaina i lalo o soamaga (a)(1) ma le (a)(7) o lenei maga e fa'agafua mai lafoga e fa'ae'eina atu e lenei maga pe afai e auina mai ia mea i totolu o Amerika Samoa mo le fa'amoemoe e auina atu i fafo mo le fa'aaogaina i fafo o Amerika Samoa; ma le aiaiga e fa'apea o le aumaia i totolu ma le fa'atauina atu o ia mea e faia e tusa ai ma poloa'iga e fa'atonuina e le Teutupe i lalo o le Tulafono o Gaoioiga tau Pulega, 4.1001 et seq., o lo'o mana'omia, fa'atasi ai ma isi tulaga, le teuina 'ese'ese o ia mea ua fa'ailogaina manino mo le fa'atauina atu i fafo ma se aiaiga mo le tilivaina atu i le tagata fa'atau e fa'amaoria lo laou auina atu i fafo.

(o) O le totogia o lafoga ua fa'ae'eina atu i lenei maga i mea e aumai i totolu o Amerika Samoa mo le fa'aaogaina i totolu o Amerika Samoa e mafai ona tolopoina e tusa ai ma poloa'iga e fa'atonuina e le Teutupe i lalo o le Tulafono o Gaoioiga tau Pulega, 4.1001 et seq., e mana'omia ai, fa'atasi ai ma isi mea, le teuina 'ese'ese o ia mea ua fa'ailogaina manino mo le fa'atauina i totolu o le atunu'u ma lona fa'aaogaina ma se aiaiga o le tilivaina i le tagata ua aumaia i totolu ina ia mautinoa ai o lafoga na fa'ae'eina atu i le taimi na fa'agafua ai le soamaga (a)(7) o lenei maga ae e lē o a'afia ai, ia totogia.

(f) O le lafoga o oloa e lima pasene e fa'aagaaga fa'apenei:

(1) tolu pasene (3%) o le lima pasene e teuina i le teugatupe lautele; tasi pasene (1%) e totogi ai aitalafu tuai a le malo; o le aitalafu pito tuai ia totogia muamua.

(2) Tasi pasene (1%) o le lima pasene e fa'aagaaga mo lipea, fa'afouga ma le toe fa'aleleia o a'oga uma a le malo ma mea faigaluega i Amerika Samoa e amata i tausaga tupe 1995.”

Maga 2. Ua fa'avaeina se maga 11.1002.1 e faitauina:

“11.1002.1 Lafoga o oloa i sikareti--Solitulafono--Fa'asalaga.

O se tagata, ofisa, po'o se coporesi e lē totogia le lafoga o oloa mo sikareti i le nofoaga e aumai ai i totonu e a'afia i le solitulafono māmā. Vaega A ma/po'o le \$1,000 le sala i le sikareti, i le sikā po'o le 10 karama o tapa'a ulaula."

Maga 3. Ua fa'avaeina se maga 13.1116 e faitauina:

"13.1116 Fa'atauina atu o sikareti e aunoa ma ni lapataiga i le a'afia o le soifua maloloina.

(a) Ua talia e le Teritori o Amerika Samoa le Tulafono a le lunaite Setete o Fa'ailogga ma le Fa'alauiloaina.

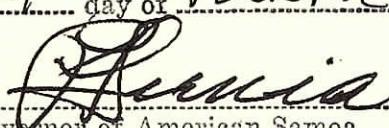
(e) E solitulafono se tagata e fa'atauina atu pe fa'asalalauina atu i le Teritori, pe mauaina, taofia ona, aumaia, pe auina atu mo le fa'atauina po'o le fa'asalalauina i le Territory, pe aumaia po fesoasoani e aumai i totonu o le Teritori mo le fa'atauina au pe fa'asalalauina atu i le Teritori so'o se sikareti e lē usita'i pe ogatasi ma mana'oga o le Tulafono o Fa'ailogga ma le Fa'alauiloaina. 15 U.S.C. 1333.

(i) O oloa uma e maua i le solitulafono o le a aoina ma fa'aleagaina."


Lutu Tenari S. Fuimaono
PERESETENE, MAOTA MAUALUGA


Aina Saoluaga T. Nua
FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 27th day of October, 2000


Governor of American Samoa