

I Mina'Trentai Tres Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
143-33 (COR)	Dennis G. Rodriguez, Jr. Judith T. Won Pat, Ed.D. R. J. Respicio T. R. Muña Barnes, Brant T. McCreddie V. Anthony Ada B. J.F. Cruz Tommy Morrison N. B. Underwood, Ph.D.	AN ACT TO AMEND§ 77302 OF ARTICLE 3, CHAPTER 77 AND §§ 90105, 90107, 90109, AND 90114 OF CHAPTER 90, BOTH OF TITLE 10, GUAM CODE ANNOTATED AND TO ADD A NEW §§ 9010.1 AND 90109.2 TO CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE NATASHA PROTECTION ACT OF 2005 TO SMOKING REGULATIONS; PROVIDING INCREASED ENFORCEMENT; AND PROVIDING FOR ENFORCEMENT TRAINING.	7/10/15 9:17 a.m.					

MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

2015 JUL 10 AM 9:17
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Bill No. 143-33 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. *[Signature]*
J.T. WON PAT, Ed. *[Signature]*
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AN ACT TO AMEND § 77302 OF ARTICLE 3, CHAPTER 77 AND §§ 90105, 90107, 90109, AND 90114 OF CHAPTER 90, BOTH OF TITLE 10, GUAM CODE ANNOTATED AND TO ADD A NEW §§ 9010.1 AND 90109.2 TO CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE NATASHA PROTECTION ACT OF 2005 TO SMOKING REGULATIONS; PROVIDING INCREASED ENFORCEMENT; AND PROVIDING FOR ENFORCEMENT TRAINING.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** Subsection (a) of § 90109 of Chapter 90, Title 10, Guam Code
3 Annotated, is hereby *amended*, to read:

4 **“§ 90109. Enforcement.**

5 (a) This Chapter may be enforced by:

6 (1) Any peace officer as defined by 8 GCA § 5.55; and

1 (2) Any employee of the Department of Public Health and Social
2 Services when authorized in writing by the Director of Public Health and
3 Social Services to enforce the provisions of this chapter; and

4 (3) Any employee of the Guam Environmental Protection Agency
5 when authorized in writing by the Administrator of the Guam Environmental
6 Protection Agency to enforce the provisions of this Chapter; ~~and~~

7 (4) Any citizen acting under the authority of 8 GCA § 20.20;

8 (5) A Citizen Assisted Police Enforcement (C.A.P.E.) volunteer, as
9 provided pursuant to § 77302 of Article 3 of Chapter 77, Title 10, Guam
10 Code Annotated;

11 (6) All security officers employed by the government of Guam, or
12 performing security work for the government of Guam or employed by
13 private entity pursuant to their employer's contract, for any government of
14 Guam agency, authority or department, by whatever name, both autonomous
15 and line agencies, of the government of Guam;

16 (7) Private security personnel employed by private security companies
17 which have elected to provide security services for business establishments
18 desiring to enforce the Natasha Protection Act, and who have been duly
19 trained by a qualified government identified entity for the execution of such
20 responsibilities; and

21 (8) Private security personnel employed by business establishments
22 which have elected to provide security services to include compliance with
23 the Natasha Protection Act, and who have been duly trained by a qualified
24 government identified entity for the execution of such responsibilities.

1 (b) With the exception of situations arising under the provisions of
2 subparagraph (a)(4) of § 90109 of this chapter, enforcement of this chapter shall be
3 undertaken subject to the provisions of 8 GCA Chapter 25.”

4 **Section 2.** A new subsection (c) is added to § 90109 of Chapter 90, 10
5 GCA, to read:

6 “(c) The Director of a government of Guam agency, authority, department or
7 instrumentality, by whatever name, both autonomous and line agencies, shall be
8 authorized to delegate the authority and responsibility to an employee to
9 additionally serve and function as a designated no-smoking enforcement officer for
10 the purpose of ensuring compliance with this Chapter in and around a government
11 facility.”

12 **Section 3.** A new § 90109.1 is hereby *added* to Chapter 90 of Title 10,
13 Guam Code Annotated, to read:

14 “§ 90109.1. **Enforcement Training.** The Bureau of Community Health
15 Services of the Department of Public Health and Social Services, in conjunction
16 with the Peace Project of the Guam Behavioral Health and Wellness Program *shall*
17 develop the minimum criteria for a basic training program for private security
18 personnel, as provided pursuant to Items (7) and (8) of § 90109(a) of this Chapter,
19 which shall, at a minimum provide for:

- 20 (1) An understanding of 10 GCA Chapter 90;
21 (2) The proper issuance of smoking violation citations;
22 (3) Obtain a certificate demonstrating the completion of a required course
23 of instruction and training that includes training in measures to avoid
24 dangerous confrontations with violators of this Section; and

1 (4) Other basic training deemed appropriate for safe and proper
2 enforcement.

3 **Section 4.** A new § 90109.2 is hereby *added* to Chapter 90 of Title 10,
4 Guam Code Annotated, to read:

5 “§ 90109.2. Citizen’s Suits. (a) Any person may commence a civil action
6 on his behalf:

7 (1) Against any person (including the United States, and any other
8 governmental instrumentality or agency, to the extent permitted by law) who
9 is alleged to be in violation of any permit, standard, regulation, condition,
10 requirement, prohibition, or order which has become effective pursuant to
11 this Chapter.

12 Any action under paragraph (a)(1) of this Section *shall* be brought in
13 the Superior Court of Guam. The Superior Court *shall* have jurisdiction,
14 without regard to the amount in controversy or the citizenship of the parties,
15 to enforce the permit, standard, regulation, condition, requirement or
16 prohibition, as provided pursuant to this Chapter.”

17 **Section 5.** § 77302 of Article 3 of Chapter 77, Title 10, Guam Code
18 Annotated, is hereby *amended*, to read:

19 “§ 77302. **Volunteers.**

20 Pursuant to § 3401.1 (h) of Article 4, Chapter 3 of Title 16, Guam Code
21 Annotated, the Chief of Police is authorized to recruit volunteers to assist the
22 Guam Police Department in the enforcement of the accessible parking and littering
23 laws, and the Natasha Protection Act of 2005 relative to the regulation of smoking
24 activities pursuant to Chapter 90 of Title 10, Guam Code Annotated. In addition to
25 these duties, the Chief of Police shall authorize the use of volunteers to patrol the

1 school campuses of the Guam Department of Education during non-school hours.
2 The volunteers shall take no enforcement action during their patrol of the school
3 campuses, and shall notify the police of suspicious activity or crimes in progress.
4 The Superintendent of Education shall cooperate with the Chief of Police to
5 implement this Section.

6 The Chief of Police is further authorized to recruit volunteers to assist the
7 Guam Police Department with traffic direction, security, and crowd control for
8 events such as, but not limited to, the Guam Ko'ko' Road Race, the Guam-
9 Micronesia Island Fair, and the Liberation Day Parade, Volunteers are required to
10 obtain a certificate from the Chief of Police demonstrating the completion of a
11 required course of instruction and training that includes training relative to traffic
12 direction and crowd control.”

13 **Section 6.** A new Item (13) is *added* to § 90105(a), Prohibition of Smoking
14 in Public Places, of Chapter 90, Title 10, Guam Code Annotated, to read:

15 “(13) Bars.”

16 **Section 7.** The new Item (13) of § 90105(a) of Chapter 90, Title 10, Guam
17 Code Annotated, as *added* pursuant to Section 6 of this Act, *shall* become effective
18 November 1, 2015.

19 **Section 8.** Subsection (c) of § 90105, Chapter 90, Title 10, Guam Code
20 Annotated, is *amended*, to read:

21 “(c) Smoking may be permitted within twenty (20) feet of the entrance or
22 exit of a public place only if such smoking area is an open outdoor patio
23 contiguous to the public place and is controlled by the proprietor or management of
24 the public place.

1 (1) This Subsection shall not apply to a location that would place the
2 smoking area within twenty (20) feet of the public entrance of another public
3 place not controlled by the proprietor or management.

4 (2) This Subsection shall not apply to government of Guam agencies
5 and facilities, which shall comply with the twenty (20) feet prohibition
6 pursuant to 10 GCA § 90105(a).”

7 **Section 9.** Subsection (a) of § 90107, Chapter 90, Title 10, Guam Code
8 Annotated, is *amended* to read:

9 “(a) Notwithstanding any other provisions of this Chapter, the
10 following areas shall not be subject to the smoking restrictions of this
11 Chapter:

12 ~~(1) Bars.~~

13 (1 2) Private residences, except when used as child care facility
14 or health care facility.

15 (2 3) Hotel and motel rooms rented to guests.

16 (3 4) Retail tobacco stores.

17 (4 5) A private enclosed office work place occupied exclusively
18 by one (1) or more smokers.”

19 **Section 10.** Subsection (h) of § 2401.1 of Chapter 3, Title 16, Guam Code
20 Annotated, is *amended* to read:

21 “(h) Volunteers Authorized to Issue Citations. The Chief of Police shall
22 recruit volunteers who desire to assist the Guam Police Department in the
23 enforcement of this Section. The volunteer shall:

24 (1) be at least eighteen (18) years of age;

1 (2) be a citizen of the United States and a resident of Guam;
2 (3) not have been convicted of a felony or crime of family violence;
3 (4) obtain a certificate from the Chief of Police demonstrating the
4 completion of a required course of instruction and training that includes
5 training in measures to avoid dangerous confrontations with violators of this
6 Section. In addition, training shall include the enforcement of litter control
7 laws and the Natasha Protection Act pursuant to 10 GCA Chapter 90. The
8 course of instruction and training shall be at no cost to the volunteer.
9 Retired “uniformed personnel” are exempted from this subsection; and

10 (5) satisfy any other qualifications and requirements established by
11 the Chief of Police.”

12 **Section 11.** § 90114 of Chapter 90, Title 10, Guam Code Annotated, is
13 *amended* to read

14 **“§ 90114. Prohibition of Smoking in a Vehicle When a Child is Present.**

15 (a) Smoking is prohibited in a motor vehicle if a child who is seventeen (17)
16 years of age or younger is present in the vehicle, regardless of whether the vehicle
17 is moving or stationary.

18 (b) A person who is in violation of Subsection (a) of this § 90114 shall, upon
19 conviction thereof, be subject to a maximum fine of One Hundred Dollars
20 (\$100.00) for a first offense.

21 (c) The court may suspend the fine for a violation of this Section if:

22 (1) the person has not previously been convicted of a violation of this
23 Section; and

1 (2) the person proves to the Court that the person has enrolled in a
2 smoking cessation program or its equivalent.

3 (d) A person who is in violation of Subsection (a) of this § 90114 shall, upon
4 conviction thereof, be subject to a maximum fine of Two Hundred Dollars
5 (\$200.00) for a second offense. The fine shall not be suspended by the court for
6 second or subsequent offenses.

7 (e) A person who is in violation of Subsection (a) of this § 90114 shall, upon
8 conviction thereof, be subject to a maximum fine of Five Hundred Dollars
9 (\$500.00) for a third offense, and for each additional violation thereafter.

10 (f) Enforcement of this Section by a local law enforcement officer shall be
11 conducted whenever a violation is witnessed. ~~only as a secondary action when the~~
12 ~~vehicle has been detained for another suspected violation.~~

13 (g) Three (3) or more violations of this Section may be used as a basis for or
14 evidence of child abuse or neglect.

15 (h) All fines paid, upon a conviction pursuant to a violation of this § 90114,
16 shall be deposited in the Guam Cancer Trust Fund (P. L. 30-80, codified in Title
17 11, Chapter 26, Guam Code Annotated, as amended), and shall be expended
18 pursuant to applicable law and regulations pertaining to the Fund.

19 **Section 12. Severability.** *If* any provision of this Act or its application to
20 any person or circumstance is found to be invalid or contrary to law, such
21 invalidity *shall not* affect other provisions or applications of this Act which can be
22 given effect without the invalid provisions or application, and to this end the
23 provisions of this Act are severable.