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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

THIRTY-THIRD GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

January 22, 2016

The Honorable Edward J.B. Calvo
I Maga'låhen Guåhan
Ufisinan I Maga'låhi
Hagåtña, Guam


Dear *Maga'låhi* Calvo:

Transmitted herewith are Bill Nos. 125-33 (COR), 180-33 (COR), 186-33 (COR), 192-33 (LS), 193-33 (LS), 194-33 (LS), 195-33 (LS), 208-33 (LS) and 211-33 (COR); and Substitute Bill Nos. 136-33 (COR), 143-33 (COR), 197-33 (LS), 212-33 (COR), 214-33 (COR), 215-33 (COR) and 222-33 (COR), which were passed by *I Mina'Trentai Tres Na Liheslaturan Guåhan* on January 20, 2016.

Sincerely,


TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosure (16)

OFFICE OF THE GOVERNOR
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TIME 5:19 DATE 1/22/16

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LÅHEN GUÅHAN

This is to certify that Substitute Bill No. 143-33 (COR), "AN ACT TO AMEND § 77302 OF ARTICLE 3, CHAPTER 77, AND §§ 90105(c), 90107, 90108(a), 90109, AND 90114 OF CHAPTER 90, TITLE 10 GCA, AND § 3401.1(h) OF CHAPTER 3, TITLE 16 GCA; TO ADD NEW §§ 90109.1, 90109(c), AND 90105(a)(13), AND REPEAL § 90109(a)(4), ALL OF CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SMOKING REGULATIONS OF THE NATASHA PROTECTION ACT OF 2005; TO PROVIDING FOR INCREASED ENFORCEMENT; AND TO PROVIDING FOR ENFORCEMENT TRAINING," was on the 20th day of January 2016, duly and regularly passed.




Judith T. Won Pat, Ed.D.
Speaker

Attested: 

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 20th day of January 2016, at 5:17 o'clock P.M.


Assistant Staff Officer
Maga'låhi's Office


APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: _____

Public Law No. _____

OFFICE OF THE GOVERNOR
CENTRAL FILES


RECEIVED BY
TIME 5:17 pm DATE 1/22/16

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

Bill No. 143-33 (COR)

As substituted; further substituted by the Committee on Health, Economic Development, Homeland Security and Senior Citizens; and amended on the Floor.

Introduced by:

Dennis G. Rodriguez, Jr.
Judith T Won Pat, Ed.D.
R. J. Respicio
T. R. Muña Barnes
Brant T. McCreadie
V. Anthony Ada
B. J.F. Cruz
Tommy Morrison
N. B. Underwood, Ph.D.
T. C. Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Michael F.Q. San Nicolas
Mary Camacho Torres

AN ACT TO AMEND § 77302 OF ARTICLE 3, CHAPTER 77, AND §§ 90105(C), 90107, 90108(A), 90109, AND 90114 OF CHAPTER 90, TITLE 10 GCA, AND § 3401.1(H) OF CHAPTER 3, TITLE 16 GCA; TO ADD NEW §§ 90109.1, 90109(C), AND 90105(A)(13), AND REPEAL § 90109(A)(4), ALL OF CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SMOKING REGULATIONS OF THE NATASHA PROTECTION ACT OF 2005; TO PROVIDING FOR INCREASED ENFORCEMENT; AND TO PROVIDING FOR ENFORCEMENT TRAINING.

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

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

1 **“§ 90109. Enforcement.**

2 (a) This Chapter may be enforced by:

3 (1) any peace officer as defined by 8 GCA § 5.55;

4 (2) any employee of the Department of Public Health and
5 Social Services when authorized in writing by the Director of Public
6 Health and Social Services to enforce the provisions of this Chapter;

7 (3) any employee of the Guam Environmental Protection
8 Agency when authorized in writing by the Administrator of the Guam
9 Environmental Protection Agency to enforce the provisions of this
10 Chapter;

11 (4) a Citizen Assisted Police Enforcement (CAPE) volunteer,
12 as provided pursuant to § 77302 of Article 3, Chapter 77, Title 10,
13 Guam Code Annotated;

14 (5) all security officers employed by the government of
15 Guam, or performing security work for the government of Guam or
16 employed by private entity pursuant to their employer’s contract, for
17 any government of Guam agency, authority or department, by
18 whatever name, both autonomous and line agencies, of the
19 government of Guam;

20 (6) private security personnel employed by private security
21 companies which have elected to provide security services for
22 business establishments desiring to enforce the Natasha Protection
23 Act, and who have been duly trained by a qualified government
24 identified entity for the execution of such responsibilities; and

25 (7) private security personnel employed by business
26 establishments, which have elected to provide security services to
27 include compliance with the Natasha Protection Act, and who have

1 been duly trained by a qualified government identified entity for the
2 execution of such responsibilities.

3 (b) The enforcement of this Chapter *shall* be undertaken subject to
4 the provisions of 8 GCA Chapter 25.”

5 **Section 2.** A new Subsection (c) is *added* to § 90109 of Chapter 90, Title
6 10, Guam Code Annotated, to read:

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

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

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

22 (1) an understanding of 10 GCA Chapter 90;

23 (2) the proper issuance of smoking violation citations;

24 (3) obtaining a certificate demonstrating the completion of a
25 required course of instruction and training that includes training in
26 measures to avoid dangerous confrontations with violators of this
27 Section; and

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

3 (b) The training program criteria developed by the Bureau of
4 Community Health Services of the Department of Public Health and Social
5 Services, in conjunction with the Peace Project of the Guam Behavioral
6 Health and Wellness Center and the Guam Police Department pursuant to
7 this Section, *shall* be submitted to *I Liheslaturan Guåhan* for informational
8 purposes sixty (60) days prior to the date of implementation.”

9 **Section 4.** § 77302 of Article 3, Chapter 77, Title 10, Guam Code
10 Annotated, is hereby *amended* to read:

11 “§ 77302. **Volunteers.**

12 Pursuant to § 3401.1(h) of Article 4, Chapter 3 of Title 16, Guam
13 Code Annotated, the Chief of Police is authorized to recruit volunteers to
14 assist the Guam Police Department in the enforcement of the accessible
15 parking and littering laws, and the Natasha Protection Act of 2005 relative to
16 the regulation of smoking activities pursuant to Chapter 90 of Title 10,
17 Guam Code Annotated. In addition to these duties, the Chief of Police shall
18 authorize the use of volunteers to patrol the school campuses of the Guam
19 Department of Education during non-school hours. The volunteers shall take
20 no enforcement action during their patrol of the school campuses, and shall
21 notify the police of suspicious activity or crimes in progress. The
22 Superintendent of Education shall cooperate with the Chief of Police to
23 implement this Section.

24 The Chief of Police is further authorized to recruit volunteers to assist
25 the Guam Police Department with traffic direction, security, and crowd
26 control for events such as, but not limited to, the Guam Ko'ko' Road Race,
27 the Guam-Micronesia Island Fair, and the Liberation Day Parade,
28 Volunteers are required to obtain a certificate from the Chief of Police

1 demonstrating the completion of a required course of instruction and training
2 that includes training relative to traffic direction and crowd control.”

3 **Section 5.** A new Item (13) is *added* to § 90105(a), Prohibition of
4 Smoking in Public Places, Chapter 90, Title 10, Guam Code Annotated, to read:

5 “(13) Bars, except as provided pursuant to § 90107(b) of this
6 Chapter. The enforcement of this Item *shall* become effective January 1,
7 2017.”

8 **Section 6.** § 90105(c) of Chapter 90, Title 10, Guam Code Annotated, is
9 *amended* to read:

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

14 (1) This Subsection *shall not* apply to a location which
15 would place the smoking area within twenty (20) feet of the public
16 entrance of another public place not controlled by the proprietor or
17 management.

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

21 **Section 7.** § 90107 of Chapter 90, Title 10, Guam Code Annotated, is
22 *amended* to read:

23 “§ 90107. **Where Smoking Not Regulated.**

24 (a) Notwithstanding any other provisions of this Chapter, the
25 following areas *shall not* be subject to the smoking restrictions of this
26 Chapter:

27 (1) private residences, except when used as a child care
28 facility or health care facility;

1 (2) hotel and motel rooms rented to guests;

2 (3) retail tobacco stores; and

3 (4) a private enclosed office work place occupied exclusively
4 by one (1) or more smokers.

5 (b) The A.B. Won Pat Guam International Airport Authority is the
6 only facility, pursuant to Board action, that may provide a separate, fully
7 enclosed non-service room, where beverages and food are not allowed, for
8 smoking, provided it shall be segregated and adequately ventilated with a
9 smoke ventilation device for the size of the room pursuant to § 90103 apart
10 from the main bar where service is provided. In addition, an air curtain shall
11 be placed above the entrance and exit doors of the room to minimize the
12 release of smoke into other areas of the facility.”

13 **Section 8.** Subsection (h) of § 3401.1 of Chapter 3, Title 16, Guam Code
14 Annotated, is *amended* to read:

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

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

19 (2) be a citizen of the United States and a resident of Guam;

20 (3) not have been convicted of a felony or crime of family
21 violence;

22 (4) obtain a certificate from the Chief of Police
23 demonstrating the completion of a required course of instruction and
24 training that includes training in measures to avoid dangerous
25 confrontations with violators of this Section. In addition, training shall
26 include the enforcement of litter control laws and the Natasha
27 Protection Act pursuant to 10 GCA Chapter 90. The course of

1 instruction and training shall be at no cost to the volunteer. Retired
2 “uniformed personnel” are exempted from this Subsection; and

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

5 **Section 9.** § 90114 of Chapter 90, Title 10, Guam Code Annotated, is
6 *amended* to read:

7 **“§ 90114. Prohibition of Smoking in a Vehicle When a Child is**
8 **Present.**

9 (a) Smoking is prohibited in a motor vehicle if a child who is
10 seventeen (17) years of age or younger or a pregnant woman is present in the
11 vehicle, regardless of whether the vehicle is moving or stationary.

12 (b) A person who is in violation of Subsection (a) shall, upon
13 conviction thereof, be subject to a maximum fine of One Hundred Dollars
14 (\$100.00) for a first offense. Alternatively, the offender may plead guilty to
15 the offense and remit a fine of One Hundred Dollars (\$100.00).

16 (c) A person who is in violation of Subsection (a) shall, upon
17 conviction thereof, be subject to a fine of no less than One Hundred Dollars
18 (\$100.00) and no more than Two Hundred Dollars (\$200.00) for a second
19 offense. The fine shall not be suspended by the court for second or
20 subsequent offenses. Alternatively, the offender may plead guilty to the
21 offense and remit a fine of Two Hundred Dollars (\$200.00).

22 (d) A person who is in violation of Subsection (a) shall, upon
23 conviction thereof, be subject to a fine of no less than Two Hundred Dollars
24 (\$200.00) and no more than Five Hundred Dollars (\$500.00) for a third
25 offense, and for each additional violation thereafter. Alternatively, the
26 offender may plead guilty to the offense and remit a fine of Five Hundred
27 Dollars (\$500.00).

1 (e) Enforcement of this Section by a local law enforcement officer
2 shall be conducted whenever a violation is witnessed.

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

5 (g) All fines paid, upon a conviction pursuant to a violation of this
6 § 90114, shall be deposited in the Guam Cancer Trust Fund (P.L. 30-80,
7 codified in Title 11, Chapter 26, Guam Code Annotated, as amended), and
8 shall be expended pursuant to applicable law and regulations pertaining to
9 the Fund.”

10 **Section 10.** § 90109(a)(4) of Chapter 90, Title 10, Guam Code Annotated is
11 hereby *repealed*.

12 **Section 11.** § 90108(a), Posting of Signs, of Chapter 90, Title 10, Guam
13 Code Annotated, is *amended* to read:

14 “(a) “Smoking” or “No Smoking” signs, whichever are appropriate,
15 with letters of not less than one inch (1”) in height or the international “No
16 Smoking” symbol (consisting of a pictorial representation of a burning
17 cigarette enclosed in a red circle with a red bar across it) *shall* be clearly and
18 conspicuously posted in every building and within twenty (20) feet of the
19 entrance or exit of a public place where smoking is regulated by this Chapter
20 by the owner, operator, manager or other person having control of such
21 building or other place.”

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