

ECONOMIC IMPACT OF SMOKEFREE ORDINANCES: OVERVIEW

May 2003

“Financial impact of smoking bans will be tremendous.... Three to five fewer cigarettes per day per smoker will reduce annual manufacturers profits a billion dollars plus per year.”

Philip Morris, internal document, Bates Nos. 2025771934/1995:

<[http:// legacy.library.ucsf.edu/cgi/getdoc?tid= pfo14e00&fmt= pdf&ref=results](http://legacy.library.ucsf.edu/cgi/getdoc?tid=pfo14e00&fmt=pdf&ref=results)>

ECONOMIC IMPACT OF LEGISLATION

OVERVIEW

There has been no serious controversy regarding the economic impact of smokefree laws on private workplaces. Instead, the debate on the economic impact of such laws has centered around the effect that they have on the hospitality industry, particularly restaurants and bars. The tobacco industry has consistently claimed that smokefree laws will lead to a decrease in business, usually 20-30%, with an accompanying decrease in employment. (Gambie, 1991, KPMG Peat Marwick, 1998.) However, there is no reliable independent scientific evidence to support these claims. Indeed, a review of all economic impact studies produced before August 31, 2002, including ones supported by the industry, concluded that, although 94% of the industry-supported studies found a negative impact, *all of the studies not supported by the industry found either no negative impact or a positive impact.* (Scollo, et. al., 2003.)

RESTAURANTS AND BARS

Early Studies

The first comprehensive study of the effect of legislation requiring smokefree restaurants on restaurant revenues found that smokefree restaurant ordinances do not harm restaurant sales. (Glantz & Smith, 1994.) This landmark study was updated by a 1997 study, which examined fifteen cities with smokefree restaurant laws and fifteen control communities without smokefree laws. The 1997 study also looked at five cities and two counties with smokefree bar laws and similar control cities and counties without such laws. (Glantz & Smith, 1997.)

The Glantz/Smith studies found that the effects of smokefree laws were similar for all types of restaurants, as defined by the kind of alcoholic beverages (if any) served on premises. (Glantz & Smith, 1994; Taylor Consulting Group, 1993.) The 1997 Glantz/Smith study found that smokefree bar laws do not affect revenues. The study relied on data for bars with full liquor licenses; it did not separately analyze the effects on freestanding bars and bars within restaurants. (Glantz & Smith, 1997.)

Both analyses were based on sales tax data reported to the California Board of Equalization and the Colorado State Department of Revenue. To account for population growth, inflation, and changes in underlying conditions, the researchers analyzed five ratios:

- Restaurant sales as a fraction of total retail sales.
- Restaurant sales in cities with smokefree restaurant ordinances versus sales in a comparison city with no such ordinance.
- Bar sales as a fraction of total retail sales (1997 study only).
- Bar sales in cities/counties with smokefree bar ordinances versus a sales in a comparison city/county with no such ordinance (1997 study only).
- Bar sales as a fraction of all sales by eating and drinking establishments (1997 study only).

The above ratios are a better measure than simply looking at total restaurant or bar sales, as the comparisons help control for quarter-to-quarter fluctuations in the general economy and in the restaurant economy. (Glantz & Smith, 1992.) Any of the ratios would have dropped if the smokefree ordinances had led to a decrease in restaurant or bar sales in the study locations.

According to both studies, smokefree laws generally had no statistically significant effect on any of the ratios. (Glantz & Smith, 1994; Glantz & Smith, 1997.) Smokefree restaurant/bar ordinances are inherently neutral in their effect on restaurant/bar sales.

Dispelling the Myths of Beverly Hills and Bellflower, CA

The 1994 Glantz/Smith study also noted two important findings in the California cities of Beverly Hills and Bellflower, both of which repealed their restaurant ordinances following opposition organized by the tobacco industry:

1. While in effect, neither smokefree ordinance caused a drop in restaurant sales, contrary to tobacco industry claims of up to a 30% decrease. Following repeal, neither city experienced an upsurge in restaurant sales, as would have been expected if the ordinance had depressed restaurant sales; and
2. The Bellflower ordinance was actually associated with a marginally significant increase in restaurant sales during the time it was in effect. (Glantz & Smith, 1994.)

Other Studies Replicate Findings

The Glantz/Smith findings have been replicated by numerous studies. For example, a study conducted at the Claremont Institute for Economic Policy Studies examined restaurant sales tax data in 19 cities, 10 of which have partial restrictions on smoking in restaurants, and 9 of which are 100% smokefree. The study compared the study cities with restaurant sales in 87 cities located within a 15-mile radius of the study cities. Researchers concluded that both partial and 100% smokefree restaurant ordinances had no systematic impact on restaurant revenues. They noted that the patterns of effects in ordinance cities were indistinguishable from those of surrounding cities without restaurant ordinances. (Maroney, et al, 1994.)

Independent researchers studying the effect of smokefree restaurant ordinances in Arlington, Austin, Plano, and Wichita Falls, TX (Hayslett and Huang, 2000); Chapel Hill, NC; (Goldstein and Sobel, 1998); Dane County, WI (Dresser, 1999); Flagstaff, AZ (Sciacca and Ratliffe, 1998); Fort Wayne, IN (Styring, 2001); New York City (Hyland, et al., 1999); various counties in New York State (Hyland, 2002); and communities throughout Massachusetts (Bartosch and Pope, 2002); have all found that these ordinances have no adverse impact on restaurant sales.

TOURISM AND CONVENTIONS

Studies conducted in New York City and Boston, both popular tourist destinations, have concluded that neither city experienced a decline in sales following adoption of their early ordinances limiting smoking in restaurants. (Hyland, 1999; Bartosch and Pope, 1999.) Similarly, a study in California, which included the tourist-oriented cities of San Francisco and Los Angeles, found that restaurants, bars, hotels, and tourism were not adversely affected economically following implementation of the state's smokefree workplace and restaurant law. (California Department of Health Services, 1996.) And a study comparing hotel revenues and tourism rates before and after passage of 100% smokefree restaurant laws in three states and six cities found that such laws do not adversely affect, and may actually increase, tourism. (Glantz & Charlesworth, 1999.)

In addition to being home to a state university, San Luis Obispo is a popular tourist destination on the California coast. In 1993, the Taylor Consulting Group found that 48% of visitors to the city knew, prior to their current visit, about a city law making all restaurants and bars smokefree, and that smokers and nonsmokers were equally aware of the law. None of the smoking visitors, almost half of whom were aware of the law before visiting, reported ever avoiding San Luis Obispo because of the law. (Taylor Consulting Group, 1993.)

The three Colorado cities of Aspen, Snowmass Village, and Telluride are popular ski resorts, which rely heavily on tourism. None of these cities experienced a drop in sales following adoption of their ordinances. (Glantz & Smith, 1994.) The Aspen Environmental Health Department reported receiving "favorable comments from visitors" about the city's 100% smokefree ordinance. And the city's own survey conducted after an earlier ordinance requiring restaurants to be 50% nonsmoking showed "no negative effect in businesses whatsoever." (Cassin, 1990.)

A 1992 report on convention business found that convention groups would not avoid a jurisdiction merely because it had enacted smokefree legislation. Forty convention groups, representing 174,840 attendees, who met in San Diego in 1991 and 1992, were asked if they would return to San Diego if a smokefree restaurant ordinance were in effect. Only one group, an organization representing 6,000 attendees from the candy and tobacco industries, said that they would not book their convention in San Diego. (Task Force for a Smoke-free San Diego, 1992.)

CONSISTENCY OF EFFECTS IN A VARIETY OF COMMUNITIES

The Glantz/Smith studies covered a wide variety of communities. The Colorado cities of Aspen, Snowmass Village, and Telluride are popular ski resorts. The California cities include Auburn, a small Sierra foothills community; Anderson and Redding, cities in agricultural areas; Beverly Hills, an affluent urban city; Bellflower, a middle class bedroom community; Davis, a university town; El Cerrito and Martinez, small cities in highly urbanized areas; Lodi, a rural agricultural center; Palo Alto, a large suburban community and home to Stanford University; Paradise, a small semi-agricultural community; Sacramento, a large city and the state capitol; San Luis Obispo, a college town on the California coast; Roseville, a semi-rural bedroom community; and Ross and Tiburon, well-to-do San Francisco Bay communities. The 1997 study also analyzed one rural California county, Shasta, and one suburban California county, Santa Clara. (Glantz & Smith, 1994; Glantz & Smith, 1997.)

Other studies, showing no negative impact of smokefree restaurant laws, have involved cities in such different states as Massachusetts (Bartosch & Pope, 2002) and Texas (Hayslett and Huang, 2000). A study, indicating that 100% smokefree restaurant laws do not adversely affect, and may increase, tourism, involved three disparate states (California, Utah, and Vermont) and six disparate cities (Boulder, CO, Flagstaff, AZ, Los Angeles, Mesa, AZ, New York City, and San Francisco). (Glantz & Charlesworth, 1999.)

These studies demonstrate that the neutral or positive economic effects of smokefree laws do not vary depending on the size, type, or location of the communities in which they are enacted.

GENERAL PRINCIPLES FOR ANALYZING ECONOMIC IMPACT REPORTS

Because the tobacco industry's studies showing a negative economic impact from smokefree laws are almost always poorly designed, it is important to keep in mind the differences in the methodology of those studies and the scientifically acceptable methodology used in independent studies, all of which show either no negative impact or a positive impact. A quick preliminary assessment of the quality of a study can be made by asking the following three questions:

- Was the study funded by a source clearly independent of the tobacco industry?
- Did the study objectively measure what actually happened, or was it based on subjective predictions or assessments?
- Was the study published in a peer reviewed journal? (Scollo, et. al., 2003.)

In addition, the following guidelines can help in assessing the validity and reliability of a study:

- *Sales tax data is the most reliable measure of sales.* The numbers reflect all restaurant sales in a community, not just those of a small sample of restaurants. Figures are collected using consistent methods by state agencies with no agenda regarding smoking restrictions in restaurants. Tax figures are considered reasonably accurate, because it is a crime to lie when reporting receipts to the state. (Glantz & Smith, 1994.)

- *Anecdotal information and non-random surveys are unreliable sources of information.* Surveys measure restaurant owners' impressions; they generally do not provide data to back up those impressions. (ANR, 1998.)
- *Studies should include data for several years before enactment of smokefree legislation, and for all quarters after enactment.* Many businesses, including restaurants, experience quarter-to-quarter fluctuations in sales, and long-term seasonal patterns. An observed decrease in sales data for one or two quarters may only indicate a typical downward trend in sales that occurs every year. Short-term analyses should be avoided, because it is generally possible to reach any conclusion desired by selectively picking one or two quarters for analysis. (Glantz & Smith, 1994; ANR, 1998.)
- *Figures in a vacuum are not useful.* The analysis should take into account the general economic trends in the jurisdiction, as well as the trends in the restaurant economy in the area. (Glantz & Smith, 1994; ANR, 1998.)
- *The study may have been conducted by a tobacco industry front group.* Many economic impact studies circulated by the tobacco industry were conducted by analysts paid by the industry. To find out whether the analysis was conducted by a researcher or organization affiliated with the tobacco industry, see the ANR position paper on Economic Impact Studies Circulated by the Tobacco Industry (ANR, 2003) or call ANR.

ECONOMIC IMPACT OF VOLUNTARY WORKPLACE POLICIES

The economic impact of voluntarily eliminating smoking in the workplace relates to the cost savings an employer can expect after adopting a smokefree policy. Costs of smoking in the workplace include costs associated with the effects of smoking on the smoker: higher health and life insurance costs; higher absenteeism among smokers; lost productivity; higher workers' compensation payments; and disability and premature death of smokers. (Kristein, 1983; Marion Merrell Dow, 1991; CDC, 1996.) Eliminating smoking in the workplace will reduce these costs insofar as the prevalence of smoking and the consumption rate of smokers are reduced.

However, secondhand smoke also exacts a toll on nonsmokers in the workplace. An early study estimated that costs associated with the effects of secondhand smoke on nonsmoking employees range from \$27 to \$56 dollars per smoker per year. (Kristein, 1983.) More recently, the Environmental Protection Agency (EPA) estimated that eliminating exposure to secondhand smoke in most indoor environments would save \$35 billion to \$66 billion per year (due to premature deaths avoided and reduction in illness). (US EPA, 1994.)

In addition, there are other costs associated with smoking in the workplace, such as increased maintenance costs, which an employer can generally expect to avoid when adopting a smokefree policy. A survey of 2,000 workplaces with smoking restrictions found that 23.3% reported a reduction in maintenance costs. (Swart, August 1990.) Similarly, an analysis by the EPA concluded that implementing smoking restrictions in U.S. workplaces would reduce operating and maintenance costs by between \$4 billion to \$8 billion each year. (US EPA, 1994.) It has

been estimated that, all together, smoking in the workplace increases costs to employers by an estimated \$1,300 per year per smoking employee. (CDC, 1996.)

CONCLUSION

There is conclusive proof that smokefree air laws do not have adverse economic consequences for restaurants and bars subject to them; moreover, there is much evidence that smokefree air laws have a positive effect on the bottom line of those businesses. Further, it is clear that workplaces that have adopted smokefree air policies reap great economic benefits from those policies. In fact, the only negative economic effect of smokefree air laws and policies is on the tobacco industry, which stands to lose billions of dollars in profits when these laws and policies are adopted. To quote Philip Morris, once again:

“If smokers can’t smoke on the way to work, at work, in stores, banks, restaurants, malls and other public places, they are going to smoke less. Overall cigarette purchases will be reduced and volume decline will accelerate.”

Ellen Merlo, Philip Morris executive, Bates Nos. 2044333814 2044333836, 1/14/94

REFERENCES

- Americans for Nonsmokers’ Rights. Economic Impact Studies Circulated by the Tobacco Industry. Berkeley, California: ANR, 2003.
- Americans for Nonsmokers’ Rights. The Economic Impact of 100% Smokefree Ordinances. Berkeley, California: ANR, 2002.
- Americans for Nonsmokers’ Rights. What to Look for in an Economic Impact Study. Berkeley, California: ANR, 1998.
- Bartosch, W.J., Pope, G.C. The economic effect of smoke-free restaurant policies on restaurant business in Massachusetts. *Journal of Public Health Management and Practice* 5(1): 53-62, 1999.
- Bartosch, W.J., Pope, G.C., Economic effect of restaurant smoking restrictions on restaurant business in Massachusetts, 1992 to 1998. *Tobacco Control* 11(Suppl II): ii38-ii42, 2002.
- California Department of Health Services, Tobacco Control Section, California’s law for a smokefree workplace: Assembly Bill 13 quick facts at a glance. Sacramento. California Department of Health Services, Tobacco Control Section, July 24, 1996.
- Cassin, L.E. Air Pollution Program Manager, Aspen, CO. Personal correspondence. Aspen, Colorado: 1990.
- Centers for Disease Control and Prevention. Assessment of the impact of a 100% smoke-free ordinance on restaurant sales. *Morbidity and Mortality Weekly Report*, 44:370-372, 1995.
- Centers for Disease Control and Prevention. Making Your Workplace Smokefree: A Decision Maker’s Guide, 1996.
- Dresser, L. Clearing the air: the effect of smokefree ordinances on restaurant revenues in Dane County, *Madison: Tobacco-Free Wisconsin Coalition*, 1999.
- Gambee, P. Economic Impacts of a Smoking Ban in Bellflower, California. Los Angeles, California: California Business and Restaurant Alliance, 1991.
- Glantz, S.A., Smith, L.R.A. The Effect of Ordinances Requiring Smoke Free Restaurants on Restaurant Sales in California. San Francisco, California: University of California, Institute for Health Policy Studies, 1992.
- Glantz, S.A., Smith, L.R.A. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health* 84:1081-85, 1994.
- Glantz, S.A., Smith, L.R.A. The effect of ordinances requiring smokefree restaurants and bars on revenues: A follow-up. *American Journal of Public Health* 87:1687-1693, 1997.
- Glantz, S.A., Charlesworth, A., Tourism and hotel revenues before and after passage of smoke-free restaurant ordinances. *Journal of the American Medical Association* 281(20): 1911-1918, 1999.
- Goldstein, A., Sobel, R. Environmental tobacco smoke regulations have not hurt restaurant sales in North Carolina. *North Carolina Medical Journal* 59(5): 284-288, September/October 1998.
- Hayslett, J.A.; Huang, P.P., Impact of clean indoor air ordinances on restaurant revenues in four Texas cities: Arlington, Austin, Plano and Wichita Falls 1987-1999. *Texas Department of Health, Bureau of Disease, Injury and Tobacco Prevention*, 2000.
- Hyland, A. Taxable Sales From Eating and Drinking Places Before and After Smoke-free Regulations in New York State. *Buffalo, NY: Roswell Park Cancer Institute*, 2002.

- Hyland, A., Cummings, K.M., Nauenberg, E. Analysis of Taxable Sales Receipts: Was New York City's Smoke-Free Air Act Bad for Restaurant Business? *Journal of Public Health Management and Practice*, 5(1):14-21, 1999.
- KPMG Peat Marwick. Effects of 1998 California Smoking Ban on Bars, Taverns and Night Clubs. Washington, DC: American Beverage Institute web site: <http://www.abionline.org>, 1998.
- Kristein, M.M. How much can business expect to profit from smoking cessation? *Preventive Medicine* 12:358-381, 1983.
- Marion Merrell Dow, Inc. The economic impact of smoking: in the workplace; on cardiovascular health; on wound healing and recovery from surgery; on infants and children; on pulmonary health; on dental and oral health. Medical Information Services, Inc., 1991.
- Maroney, N., Sherwood, D., Stubblebine, W.C. The Impact of Tobacco Control Ordinances on Restaurant Revenues in California. Claremont, California: The Claremont Institute for Economic Policy Studies, 1994.
- Pope, J. et al. The Economic Impact of Brookline's Restaurant Smoking Ban. Waltham, Massachusetts: Health Economics Research, Inc., 1995.
- Sciacca, J.P., Ratliff, M.I. Prohibiting smoking in restaurants: Effects on restaurant sales, *American Journal of Health Promotion*, 12(3): 176-184, January/February 1998
- Scollo, M., Lal, A., Hyland, A., Glantz, S.A. Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry. *Tobacco Control*, 12: 13-20, 2003.
- Styring, III, W. A study of the Fort Wayne (IN) restaurant smoking ban: has it impacted the restaurant business? 2001.
- Swart, "An Overlooked Cost of Employee Smoking" *Personnel*, August 1990.
- Task Force for a Smoke-free San Diego. The Economic Implications of a Smoke-free San Diego. San Diego, California: Task Force for a Smoke-free San Diego, 1992.
- Taylor Consulting Group. The San Luis Obispo Smoking Ordinance: A Study of the Economic Impacts on San Luis Obispo Restaurants and Bars. San Luis Obispo, California: Taylor Consulting Group, January 1993.
- U.S. Environmental Protection Agency. The Costs and Benefits of Smoking Restrictions: An Assessment of the Smoke-Free Environmental Act of 1993 (H.R. 3434). Office of Air and Radiation. Washington, DC: U.S. EPA, April 1994.

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Testimony: Bill 16(LS): “An Act to amend §90100, §90103, §90107, and add a new subsection (6) to §90105, Chapter 90, Division 4 of Title 10, GCA, Relative to the regulation of smoking activities, to be known as the “Natasha Protection Act.”

Honorable Senator Edward J.B. Calvo, Chairman, and
Members of the Committee on Finance, Taxation, and Commerce

The mission of the **Coalition for A Tobacco-Free Guam**, a community-based association of professionals from public agencies, non-profit organizations and individual citizens, is to achieve a healthier community by reducing death and disease associated with tobacco use through education and advocacy programs.

Goals of the Coalition include:

1. Eliminate exposure to environmental tobacco smoke,
2. Prevent initiation of tobacco use through education and awareness,
3. Promote cessation among adults and young people,
4. Increase taxes and fees associated with tobacco products,
5. Support enforcement of existing laws associated with tobacco products and advertisement of those products and to promote improvements in those laws or new laws to achieve the mission of the Coalition.

Support for the control of second-hand smoke to improve the health and well-being of all persons living and working on Guam

The people of Guam have a right to expect that the quality of air they breathe in public places is clean and as free of man-made toxins or pollutants as humanly possible. This includes protection from second hand smoke in public places or confined areas. Not only should individuals be able to frequent public business establishments without fear of exposure to second hand smoke, but people should not have to accept a work environment where their health is jeopardized by second hand smoke as a default condition of employment in a business serving the general public. We support efforts to create tobacco-free environments, such as a recent resolution at the University of Guam, and the good intentions behind Bill 16, the proposed amendment of Guam’s Clean Indoor Air Act – to be known as the “Natasha Protection Act.”

Exposure to second-hand smoke puts everyone at risk, particularly children who breathe more rapidly than adults. When exposed to second-hand smoke, research shows people:

- may experience headaches; and eye, nose and throat irritation,
- are at greater risk of chronic respiratory illnesses, including asthma, pneumonia and bronchitis,
- can experience more colds and chronic middle ear infections,
- are more likely to have low birth weight babies,
- may increase their chance of getting lung or breast cancers,
- may increase their risk of dying from a heart attack.

It has been twenty years since the Surgeon General C. Everett Coop issued his 1986 report, *The health consequences of involuntary smoking*, where the weight of scientific evidence documented the conclusion: “involuntary smoking is a cause of disease, including lung cancer, in healthy non-smokers.” It’s been an established fact for even longer that smoking is a contributing cause of lung, mouth and other cancers, heart disease, stroke and other serious diseases, all resulting in hundreds of tobacco-related deaths on Guam each year. Over 60 % of Guam cancer deaths are from cancers shown by research to be associated with exposure to second hand smoke as well as by smoking (University of Guam Fact-sheets, 2003). These diseases and deaths are preventable through non-exposure for the non-smoker and cessation by the tobacco-user.

Guam based research has also found that island smokers and their families are very knowledgeable of the fact that smoking and second hand smoke are life threatening.

- Over two-thirds of adult Guam smokers attempt to quit every year, and the desire is greater among those with the highest levels of smoking – Males/high school education or less, where 79% of smokers tried to quit one or more times in the previous year (Source: Guam Behavioral Risk Factor Surveys, DPHSS).
- Most Guam family households don’t let people smoke inside (81% of adult non-smokers), even in the homes of adult smokers (79% of Guam smokers can’t smoke in their own home: Source: Evaluation of the Great American Smokeout 2004, American Cancer Society- Guam Unit)..
- About 9 of every 10 youth who smoke (87%) state they believe smoking is harmful to health (Source: Guam 2002 Youth Tobacco Survey, DPHSS).
- Among Guam youth who have begun to smoke (middle and high school students), over 80% reported wanting and trying to stop, but significantly fewer think they can quit (only 64%: Source Guam 2002 Youth Tobacco Survey, DPHSS).

As Americans we enjoy many freedoms. Adults may have the individual freedom to choose whether or not they smoke, but the weight of legal precedence established by U.S. court cases over the past 30 years clearly documents that this choice is not a fundamental right protected by the Constitution. Smoking is NOT a Constitutional right and claims to the contrary have no legal basis. So long as smoking regulations, such as the proposed Bill 16, are rationally related to a legitimate government objective for protecting public health or the environment and air quality, that regulation will easily be upheld as constitutional.

On the other hand, people do have a right to life, and the freedom of one individual to risk his or her health does not include the right to jeopardize the health of others; in particular, those who are unknowingly exposed to environmental conditions of airborne carcinogens and toxins. Through out the world, legislative and judicial institutions are increasingly recognizing the need to protect the public from the serious threat to their health resulting from exposure to second hand smoke.

But you and the Guam business community should know, if you are not yet aware, that this “right” may have its most extensive array of supportive legal cases in litigation representing workers and employees in their job settings. The Clean Indoor Air Act applies not just to the general public, but has been enforced to especially protect some of the more vulnerable members of society, and in particular these are defined to include employees dependent on jobs for their livelihood. The freedom of a smoker to risk his or her health does not include the right to jeopardize the health of persons who must remain around him or her in order to properly perform the duties of their jobs. The non-smoker – a working employee or individual of any age - has the right to be able to breathe without being subjected to the 4,000 plus chemicals which make up “second-hand smoke”.

We applaud Bill 16 as a well-intentioned attempt to amend the existing Clean Indoor Air Act of Guam in order to protect a greater number of people from the hazards of second-hand smoke. The bill is intended to protect the public from the involuntary inhalation of tobacco smoke in places which are normally frequented by the general public. However, with that objective in mind, we feel that while well intentioned the proposed Bill 16 as written falls short in a number of details:

First, our members noted several technical or grammatical suggestions that we wish to state for them:

- 1) The bill only mentions cigarette smoke in Section 1, Page 1: Line 3. We would like it to include all “lighted smoking materials such as cigarettes, cigars, pipes or other tobacco products”.
- 2) In Section 5, Page 6: line 16 of the bill- We would like it to include “laboratories associated with the rendition of health care treatment”.
- 3) Also Section 5, Page 6 insert after line 19, we would like it to include- “(13) any other enclosed indoor area used by the public or serving as a place of employment, except as specified in Section 4.”

The Coalition’s main concern is that, as written, Bill 16 needs to be strengthened to extend its prohibition of smoking to include all enclosed public spaces. For example, it gives an exemption to businesses who call themselves “bars”. The law needs to be equally and thus fairly applied across the board in all business establishments. There should be fewer exceptions to Guam’s amended Clean Indoor Air Act, which can be achieved by the following.

- 4) Remove the “bar” exemption by deleting Line 3, page 5 of Section 5, and renumbering the remaining sections. Your committee has several very rational and legitimate government objectives for protecting public health, the work-place environment and air quality, which could be stated in Section 1.
 - a) Non-smoking food service workers are 50% more likely to develop lung cancer than other non-smokers, and there is a need to protect Guam non-smoking employees regardless of the type of establishment where they work.

- b) By not exempting “bars” the Government of Guam will reduce the social acceptability of smoking in “certain” indoor public areas, and declare that it is not allowed for adults to smoke in any indoor public place, even if those places are restricted to adults only. This will help the majority of adult Guam smokers who want and attempt to quit smoking every year. To the extent more adult smokers quit, not only will their health improve, but in turn, it will help reduce smoking among Guam youth. Local research shows that living with an adult smoker is a major determinant of youth smoking (Source: Guam 2002 YTS, DPHSS).
- 5) Remove the exception for sports arenas and convention halls by deleting the phrase “except in designated smoking areas therein with adequate and effective ventilation which removes smoke and purifies the recirculated air,” Line 11-13, page 6 of Section 5.
- a) By not allowing smoking in “designated smoking areas of sports areas,” the Government of Guam will reduce the social acceptability of smoking and its association with being a “cool, popular adult” at commercial sporting spectator events. Smoking at sporting and convention events intensifies the images promoted by tobacco advertising; images that lead to beliefs which local research shows encourages Guam youth to smoke. For example, images and beliefs that “by smoking you look like an adult;” “smokers have more friends;” and/or that “smokers look cool/fit in when doing adult-only, exciting behaviors.”
 - i) Over half (62%) of Guam youth who smoke believe “smokers have more friends,” compared to just under half (42%) of youth who have never tried cigarettes (Source: Guam 2002 YTS, DPHSS).
 - ii) One-third (34%) of Guam youth who smoke believe “smokers look cool and fit in” compared to only 17% of youth who have never smoked (Source: Guam 2002 YTS, DPHSS).
 - iii) By reducing the social acceptability of adult smoking in adult places the Government of Guam can halt or reverse the increasing number of middle school youth who start smoking, up from 18% in 1999 to be 23% in 2003 (Source: Guam Youth Risk Behavior Surveys, DOE).
 - iv) By reducing the social acceptability of adult smoking in adult places the Government of Guam can halt or reverse the increasing number of high school youth who are regular smokers with a daily habit, up from 46% of youth smokers in 1999 to be 53% in 2003 (Source: Guam Youth Risk Behavior Surveys, DOE).
- 6) Further, Coalition members are concerned that Bill 16 does not fully address enforcement issues. Who is going to shoulder the responsibility of enforcement? Are there citations or fines to be levied for non-compliance? Is the smoker and/or the establishment owner the one to pay the fine?

- 7) Children are the most susceptible of all of us to the harmful effects of second-hand smoke. They however do not have the right to vote until they come of age and therefore have no voice. We need to be that voice. We need to protect our children. If the above amendment does become law and restaurants are allowed to have smoking in outdoor areas or “bar” areas with family seating, sections then a provision should be adopted to make it illegal to seat a minor child in any such smoking section.
- 8) Guam’s Clean Indoor Air Act should also extend to protect children and other non-smokers from exposure to second-hand smoke when they are passengers in motor vehicles.

We thank you for your consideration of our facts and information and appreciate the your efforts to address the need to take action to improve the health of our community

As an appendix to our testimony on Bill 16, we submit the following:

1. **Tobacco Control Advisory Group Factsheets 2004-No. 1 “The most common cancers on Guam,” and No. 2. “Gender Differences in Cancers on Guam.”**
2. **Chart: Percent of Current Adult Smokers Who Tried to Quit During Past 12 Months by Education and Gender: Guam 2003.**
3. **Partial findings from an Evaluation of Guam’s 2004 Great American Smokeout.**
4. **Chart: Beliefs About Smoking: Comparing Guam High School Smokers and Non-Smokers.**
5. **Chart: Efforts to quit smoking among current youth smokers: Guam YTS 2002.**
6. **Chart: Current HS Smokers who Smoke Regularly: 1999 to 2003.**
7. **Chart: High School and Middle School Youth Smoking Trends: 1999 to 2003.**



Tobacco Control Advisory Group FACTSHEET 2004-No. 1

A Factsheet Series to advance the use of science-based research information about Guam for public policy and program decision-making

The Most Common Cancers On Guam

Tobacco Control Project Partners

University of Guam
Cancer Research Center: Advancing A Research Agenda for Tobacco Control and Prevention

UOG: School of Nursing, Social Work & Health Science

American Cancer Society: Guam Unit

Department of Mental Health & Substance Abuse: PEACE Tobacco Control Project

Department of Public Health & Social Services: Health Education Program

Department of Education: Curriculum & Instruction

Over the past 35 years, cancer death rates have increased on Guam, expanding from 46.8 per 100,000 persons (1970-74) to 74.6 deaths per 100,000 for 1995-99, and an average of 79.9 deaths per 100,000 for the three years 2000-2002.¹

Cancer death rates on Guam are higher for men, and the increase was much greater for men, going from 48.9 (1970-74) to 88.3 per 100,000 (1995-99), while among women cancer death rates rose from 43.9 per 100,000 (1970-74) to 59.5 per 100,000 (1995-99), an increase of over 35 percent.

The majority of deaths due to cancers on Guam have been those of the respiratory system, mouth and pharynx, the digestive system, breast and genital areas. Examining the percentage of deaths by cancer site (see Table 1 on back), and taking the average over the past 3 decades (1970-2003), the most common cancers on Guam are listed below.

Cancer Site	Average Percent (1970-2003)	
1. Respiratory System: Lung, bronchus, and other	26.3%	√
2. Digestive System: Stomach or Colon	9.2%	√
3. Digestive System: Other	9.2%	
4. Breast	7.4%	
5. Digestive System: Liver	6.6%	√
6. Female Genital	6.2%	√
7. Mouth & Pharynx: Lip, tongue, nasopharynx, other	6.2%	√
8. Male Genital	5.6%	
9. Leukemia	3.9%	√
10. Urinary System	3.0%	√

√ *Found to be associated with tobacco use.*

Over 60% of cancer deaths on Guam are associated with tobacco use.

¹ SOURCES: Data for 1970-1999 from "Cancer on Guam: Guam Cancer Registry Publication No. 1, October, 2000. Robert L. Haddock and Cynthia L. Naval. Department of Public Health and Social Services, Government of Guam. Data for 2000-03 from "Cancer on Guam: Guam Cancer Registry Publication No. 3, Draft December, 2003.



Data for Economic and Community Solutions

Tobacco Control Advisory Group FACTSHEET 2004-No. 2

A Factsheet Series to advance the use of science-based research information about Guam for public policy and program decision-making

Gender Differences in Cancers On Guam

Stopping tobacco use or not starting, is the single most important action that can be taken to reduce cancer in the United States. If all adults stopped tobacco use and children did not start, nearly one-third of all cancer deaths would be prevented, billions of dollars would be saved, and millions of family members and friends would avoid the sickness and premature death of a loved one.

American Cancer Society, February 2002

Men and women are biologically different and without surprise they differ in the top 10 sites of cancer deaths, yet increased risk of cancer due to smoking threatens everyone.

Cancers of the breast and genital areas accounted for one-third (33.8%) of female cancer deaths on Guam over the past 35 years (see chart on back). What women need to know is that research has shown smoking increases the risk of cervical, urinary tract and liver cancers (WHO, 2002). It's not easy to do much about your biological gender, but women can quit smoking and programs can help girls so they never start.

Respiratory cancers accounted for one-third of cancer deaths among males on Guam (see chart on back). Research has shown smoking also increases the risk of cancers in the urinary system and leukemia (males #s 7 and 8), the mouth, pharynx and liver (males #s 5 and 6), and the digestive system stomach or colon (males #3). These six sites account for two-thirds (65.5%) of male cancer deaths on Guam.

As the American Cancer Society asserts, stopping tobacco use or not starting may be the single most important action that can be taken to reduce cancer on Guam.

Males

Females

- | | |
|--|---|
| <ol style="list-style-type: none"> 1 Respiratory System: Lung, Bronchus & other 2 Digestive System: Other 3 Digestive System: Stomach or Colon 4 Male Genital 5 Digestive System: Liver 6 Mouth & Pharynx: Tongue, lip nasopharynx, other 7 Leukemia 8 Urinary 9 Lymphomas 10 Nervous System | <ol style="list-style-type: none"> Breast Respiratory System: Lung, Bronchus & other Female Genital Digestive System: Stomach or Colon Digestive System: Other Mouth & Pharynx: Tongue, lip nasopharynx, other Digestive System: Liver Leukemia Endocrine Lymphomas |
|--|---|

Draft DECS-TAG FACTSHEET 2004-No.2

Tobacco Control Project Partners

University of Guam
Cancer Research Center: Advancing A Research Agenda for Tobacco Control and Prevention

UOG: School of Nursing, Social Work & Health Science

American Cancer Society: Guam Unit

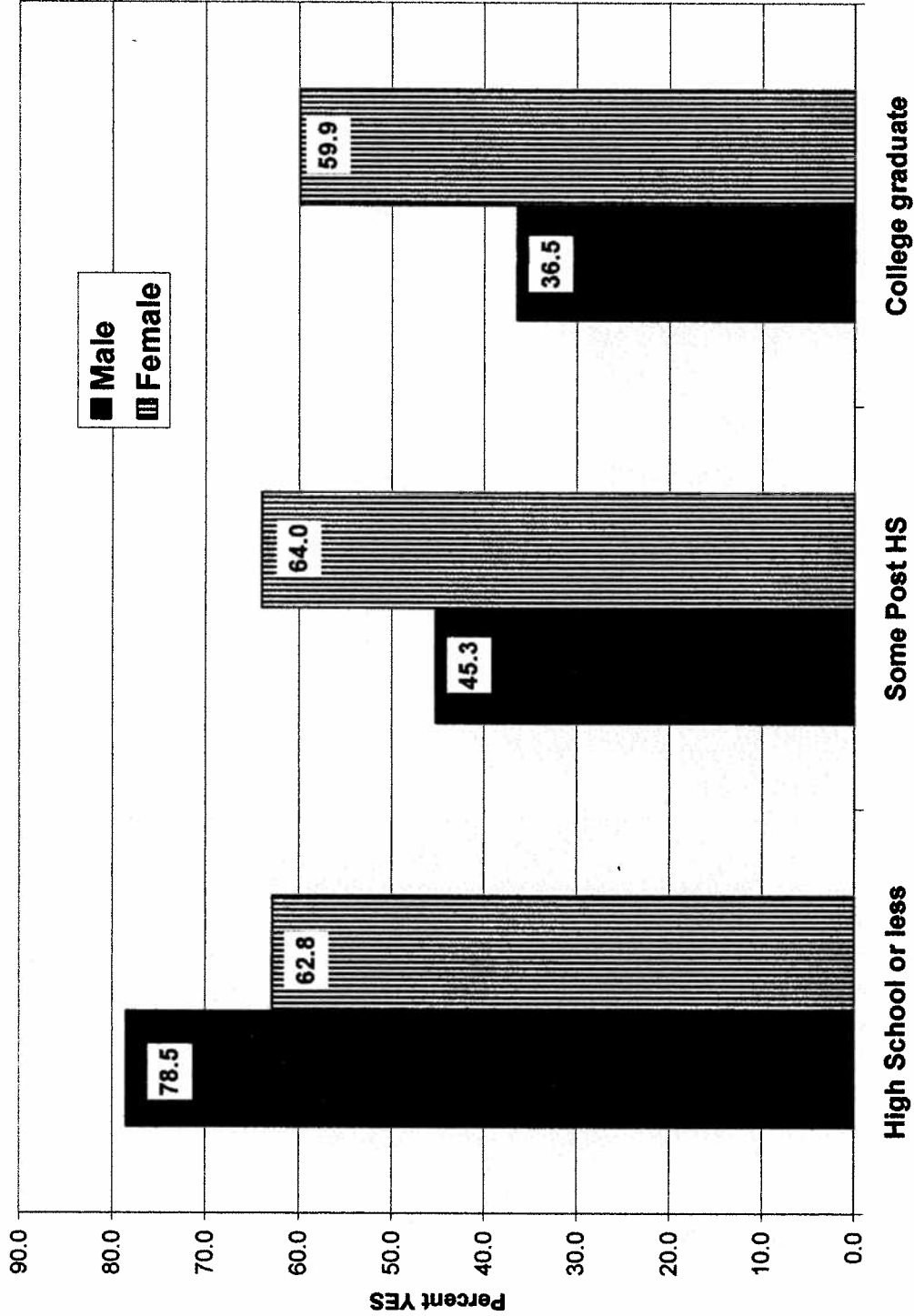
Department of Mental Health & Substance Abuse: PEACE Tobacco Control Project

Department of Public Health & Social Services: Health Education Program

Department of Education: Curriculum & Instruction

Who is trying to quit?

Percent of Current Adult Smokers Who Tried To Quit* During Past 12 Months By Education and Gender: Guam 2003





Partial findings from an Evaluation of
the 2004 Guam Great American Smokeout®

Guam is confronted with increasing rates of smoking among Pacific Islanders and Asians, while rates are decreasing for populations in other parts of the United States. Adult smoking rates have become the highest reported levels for all US States and jurisdictions (up from 31.2 percent 2001 to 34.2 percent 2003). Government and NGO programs organized a Coalition For A Tobacco Free Guam and initiated a dialogue on smoke free policy and legislation with business and restaurant owners. But the island's economy is dependent on Asian tourism, and many are concerned smoke free advocacy will be resisted by customers and employees. Coalition partners investigated with willing businesses to collect research-based information on smoke free attitudes among Guam workers, customers and community leaders. Methods. Surveys were conducted with five business members of the island's hotel and restaurant association who participated in the island's Great American Smokeout.® Pre- and post-event surveys were conducted for 91 employees in four business and separately for (149) customers in two restaurants, to assess the impact and reactions to going smoke free for one day.

Preferred Smoke-free Work Place By Smoking Status (Business Staff Pre-GAS Only)

Level of agreement with: "I prefer to work in a smoke free area"			
	<u>Smokers</u> (N=43)	<u>Non-Smokers</u> (N=47)	<u>Total</u> (N=90)
Strongly Agree	27.9	78.7	54.4
Agree	48.9	14.9	31.1
Disagree / Strongly Disagree	<u>23.2</u>	<u>6.4</u>	<u>14.4</u>
	100 %	100 %	100 %

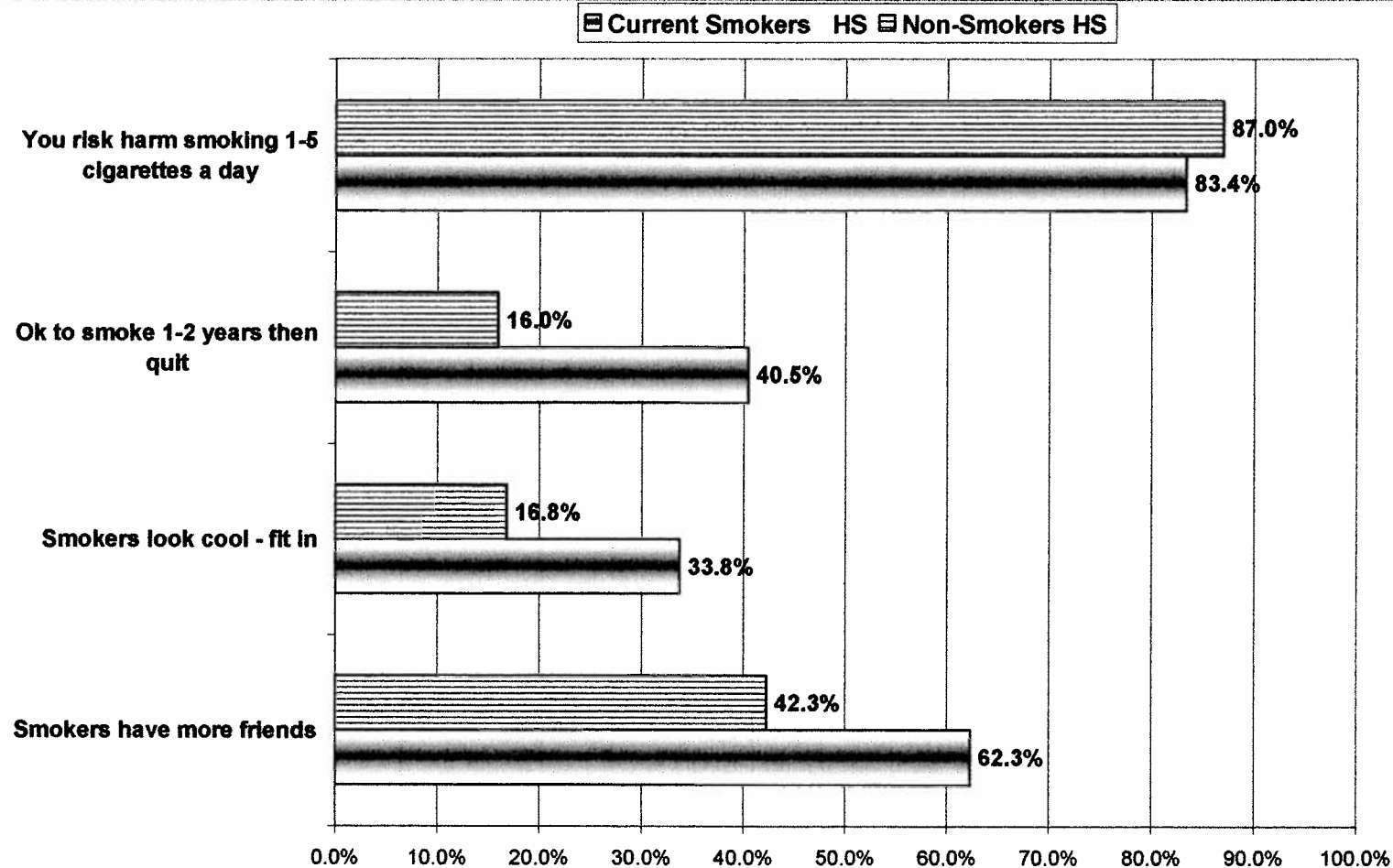
Home Control of Smoking by Smoking Status (s Staff Survey Pre/Post Guam's 2004 Great American Smokeout®)

In your home, family & visitors:	Total	Non-Smokers	Smokers
Can smoke anywhere	11	8	14
Can smoke certain rooms only	9	11	7
Do not smoke anywhere inside	<u>80</u>	<u>81</u>	<u>79</u>
	100%	100%	100%



Youth smokers and non-smokers on Guam do not differ in knowing the harm caused by smoking, but in beliefs about advertised social benefits of the smoking habit.

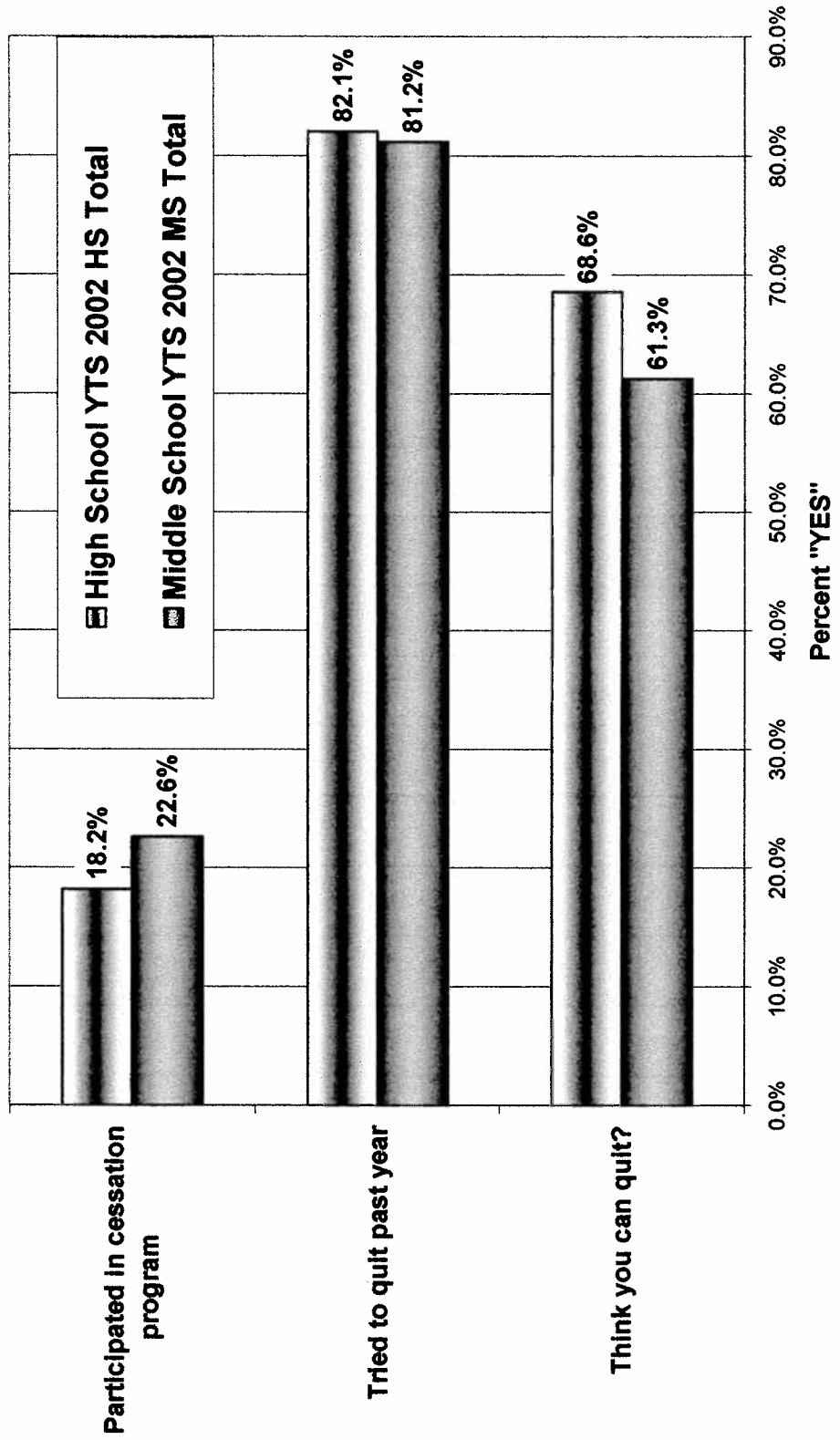
Beliefs About Smoking: Comparing High School Smokers and Non-Smokers





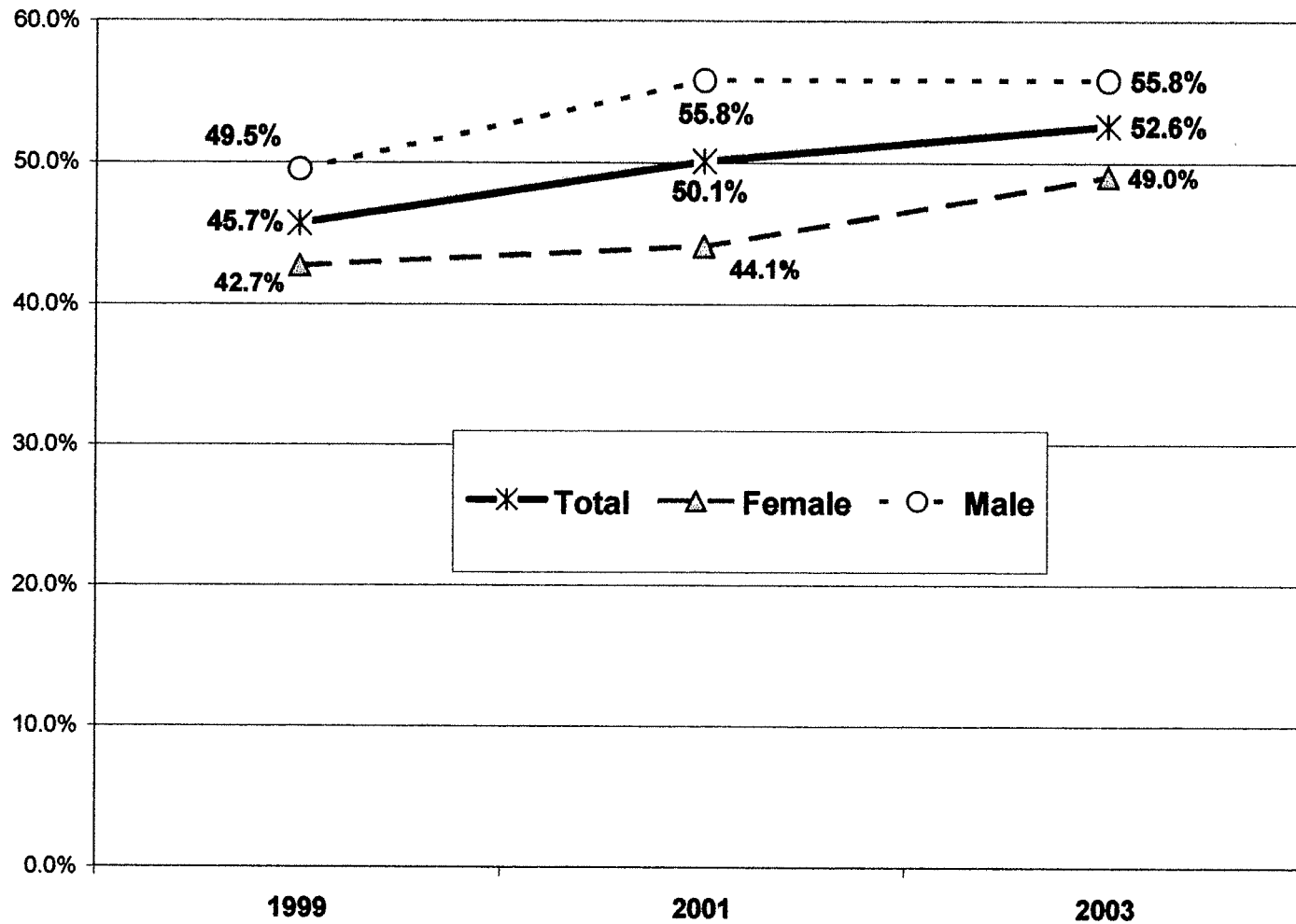
Inspite of adult smoking role-models, and advertising hype, Guam youth smokers want to quit but need programs to help

Efforts to quit smoking among current youth smokers: Guam YTS 2002



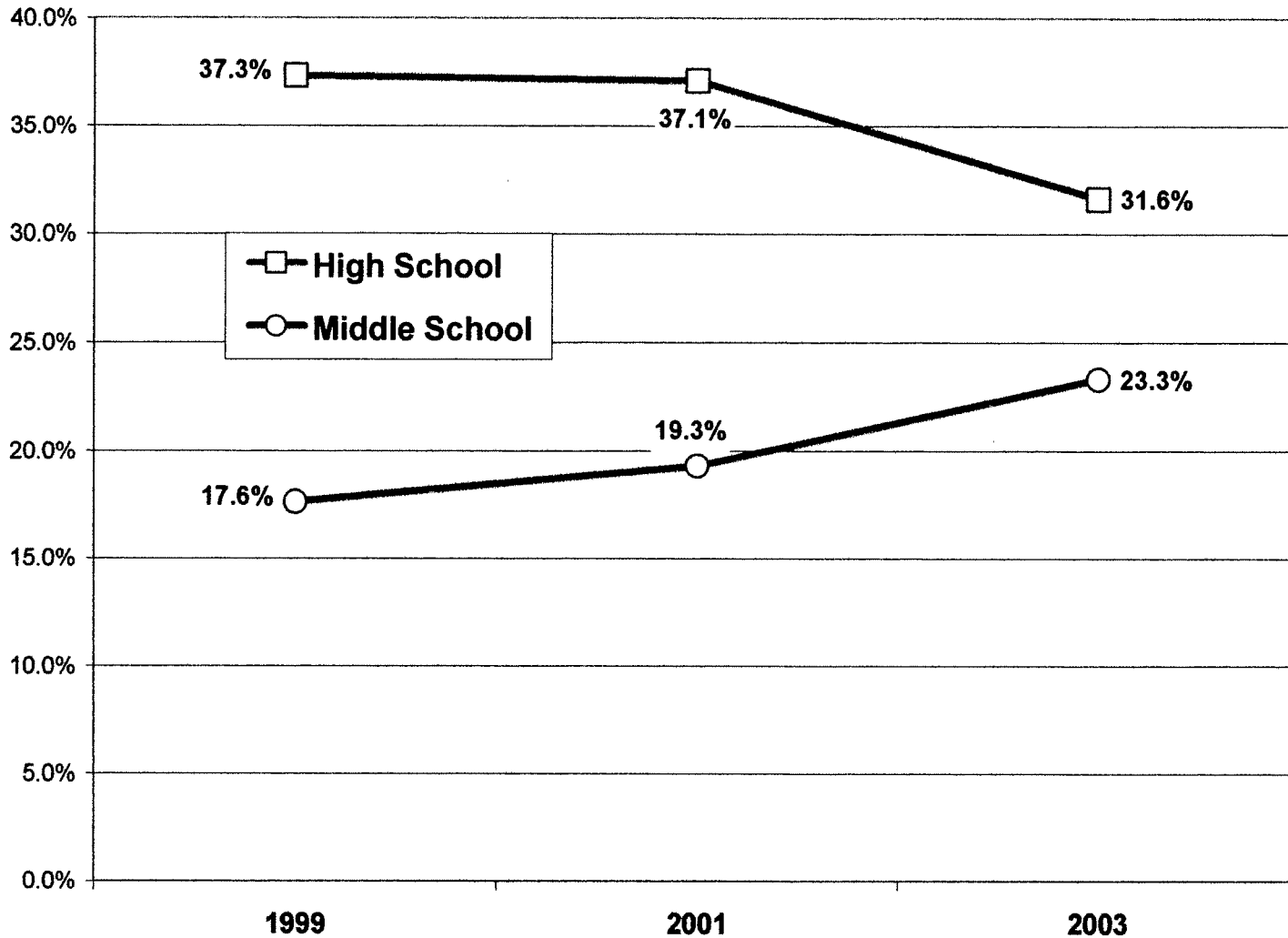
Although “current” smoking may have decreased, “regular” smoking as a habit among high school youth who smoke, has increased.

Current HS Smokers Who Smoke Regularly (“that is, at least one cigarette daily for 30 days”):
Guam YRBS



Data indicates that smoking may be decreasing among high school youth, but increasing among middle school age-children

Youth Smoking Trends: Guam Youth Risk Behavior Surveys 1999-2003



Informal meeting on Bill 16: Natasha Perez Protection Act of 2004
February 3, 2005
Old Hagåtña Grill Private Room

THOSE PRESENT:

Michael "Lib" Liberatore, UOG Extension Service; **Randall L. Workman**, UOG Extension/Tobacco Advisory Group; **Mike Elhert**, UOG, SBS & CRC; **Christina Balajadia**, American Cancer Society; **Joey Lopez, Sr.**, American Cancer Society Board of Directors; **David Hanley**, Old Hagåtña Grill; **Carlotta Leon Guerrero**, Senator Mike Cruz's Office; **Ron McNinch**, American Cancer Society Board of Directors; **Elaine Dell'Isola**, Senator Mike Cruz's Office; **Annette David**, Dept. of Mental Health and Substance Abuse

MEETING NOTES (as taken by Christina Balajadia, ACS):

- Senator Mike Cruz has scheduled Bill 16 for a public hearing on February 18, 2005 at 9:00am in the legislative public hearing room. Based on the response from this hearing, if he feels that there is a need to bring it out to the village level, he may schedule more hearings.
- David Hanley has spoken to most of the restaurant and bar owners in the Hagåtña area and most are against it. Carmen's, Tony Roma's, Capricciosa are for it.
- David Hanley feels that Bill 16 is unfair as it is written; the competitive edge is not equal. He has researched the Hawaii laws, which are being contested, therefore not enforced.
- Restaurants, bars, patios and outdoor facilities should not be separated. Everything should non-smoking this eliminates loopholes.
- Enforcement of Bill 16: Police cannot enforce it as written. It allows everyone to enforce it, so nobody does.
- Annette David brought up that from the public health perspective our goals are: the protection of the public from second hand smoke and the protection of employees—OSHA requires a safe workplace.
- The group is in consensus that we need a stronger, fairer version of Bill 16. It needs enforcement: from funding all the way through. Some ideas:
 - ABC (Alcohol Beverage Control) checks minors in bars, appropriate licenses, including tobacco, why not include smoking checks?
 - Possible funding sources:
 - Safe Streets, Safe Funds
 - Healthy Futures Fund
- Carlotta Leon Guerrero mentioned that after the public hearing, items in the bill may be substituted in committee. Senator M. Cruz wants to bring in interest and support and would approach this bill in a team approach with Senator Lou Leon Guerrero.
- The goal is not to regulate restaurants and bars—the goal is public health.
- Another option is to have an incremental approach.
- **The opposition is not minimal.** The simpler this bill is made, the fairer it is (across the board), and the easier it will be to pass.
- We need to find common ground with the Guam Hotel and Restaurant Association (GHRA), the Guam Visitors' Bureau (GVB), the Guam Chamber of Commerce and the Guam Medical Society.
- The final consensus:
 - Try to meet with all the entities that have a stake in this Bill (GHRA, GVB, Chamber, etc.).
 - We should work with both Senator Lou Leon Guerrero and Senator Mike Cruz and try to get the best that we can.

Last word from Joey Lopez:

Received word from Dave Tydingco at the GHRA, they are working on it. They have a board meeting on February 16 and will make a decision at that time. GHRA favors an across the board legislation, a total ban, they want a level playing field.

Smoke-Free Law Implementation Resources
from the
SmokeLess States/Office on Smoking and Health
October 2, 2003 Teleconference

Drafting Legislation

- ANR Model Smoke Free Ordinances, <http://www.no-smoke.org/advo.html> (scroll down to model policies and ordinances)
- ANR Smokefree Air Laws (a walk-through the provisions of a smoke free law), <http://www.no-smoke.org/smokefreeairlaws.html>

Implementation Materials

- **California Materials**
 - *California Lessons in Clean Indoor Air: A Compilation of Campaign Stories, Implementation Tools, and Compliance Strategies.* Elizabeth Emerson for the California Department of Health Services, Tobacco Control Section
http://www.ttac.org/new/pdfs/california_air.pdf
 - *BREATH: The California Smoke-Free Bars, Workplaces and Communities Program.* A website containing information on California's experience with implementing a statewide smokefree workplace law in hospitality venues, including restaurants, bars, and gaming clubs. Includes information on public support for the law and resources for employees, business owners, and law enforcement personnel. <http://www.breath-ala.org/>
- **New York Materials**
 - "I Love Smokefree New York" CD-ROM, New York State Tobacco Control Program Clean Indoor Air Law Implementation Tool Kit.
 - New York State Clean Indoor Air Act website:
http://www.health.state.ny.us/nysdoh/clean_indoor_air_act/index.htm
- **Delaware Materials**
 - Preparing for a Smoke Free Delaware: Outreach Kit for Restaurants and Bars:
<http://www.tobaccofreedelaware.org/RestaurantBarGuide.PDF>
 - Preparing for a Smoke Free Delaware: Outreach Kit for Workplaces:
<http://www.tobaccofreedelaware.org/SmokefreeWorkplaceGuide.doc>
 - Delaware's Clean Indoor Air Act brochure (for Workplaces):
<http://www.delawareworks.com/DeptLabor/smoking.pdf>

Organizations/Websites

- *Tobacco Scam*, <http://www.tobaccoscam.ucsf.edu/index.cfm> has a variety of materials and journal articles on clean indoor air issues, see in particular the Resources Library sections on economic impact and politics.
- *OSH Taking Action on Secondhand Smoke On-Line Toolkit*, http://www.cdc.gov/tobacco/ETS_Toolkit/index.htm, has a variety of materials on clean indoor air issues, see in particular Assess Your Efforts in the Action Steps section.

Evaluation Results

- “Evaluation Plan for the New York State Clean Indoor Air Law”, New York State Department of Health <http://www.ttac.org/resources/laws/NY-CIA-Eval-plan.pdf>

Evaluation Results: Health Studies

- *Delaware*: “An Air Quality Survey of Respirable Particles and Particulate Carcinogens in Delaware Hospitality Venues Before and After a Smoking Ban.” You can download a summary of the report, of the venues tested, and charts at (scroll down to Indoor Air Quality Summary): http://www.tobaccofreedelaware.org/html/fact_sheets.html
- *New York*: “Indoor Air Quality Before and After the New York State Clean Indoor Air Law” Roswell Park Cancer Institute. <http://www.ttac.org/resources/laws/NY-Indoor-Air-Quality-study.pdf>
- *California*: “Bartenders’ Respiratory Health after Establishment of Smoke-Free Bars and Taverns” *Journal of the American Medical Association* 1998; 280:1909-1914. <http://www.tobaccoscsm.ucsf.edu/pdf/9.1-Eisner.pdf>
- *Helena, MT*: “Immediate Reduction in Acute Myocardial Infarctions After the Implementation of a Comprehensive Smokefree Ordinance”: American College of Cardiology, 52nd Scientific Sessions, Chicago, IL, April 1, 2003 (the Helena MT study) http://www.tobaccoscsm.ucsf.edu/pdf/chicago_final_rps.ppt

Evaluation Results: Economic Impact Studies

- “Review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry” *Tobacco Control*, 2003; 12:13-20. <http://www.tobaccoscsm.ucsf.edu/pdf/ScolloTC.pdf>
- Economic Impact of Smoke-Free Policies on Restaurants and Bars, Andrew Hyland, Roswell Park Cancer Institute, PowerPoint: <http://www.tobaccoscsm.ucsf.edu/pdf/hyland.ppt>

Evaluation Results: Compliance and Public Opinion Studies

- New York Compliance Study, Press Release and Chart <http://www.ttac.org/resources/laws/NY-Compliance-Indoor-Air-study-release.pdf>
<http://www.ttac.org/resources/laws/NY-Compliance-Study-chart.pdf>
- California Bar Establishments Field Research Corporation Polls March 1998 and October 2002, California Department of Health Services <http://www.ttac.org/resources/laws/CA-Field-poll-bars.pdf>
- San Francisco letter re: issue of noise following implementation of smoke-free bar law. <http://www.ttac.org/resources/laws/SF-noise-letter.pdf>

Presentations and Notes

- Minutes for October 10, 2003 SLS/OSH Implementation Call <http://www.ttac.org/resources/laws/SLS-OSH-10-2-03-implementation-minutes.pdf>
- Elizabeth Emerson, Marin County (CA) Tobacco Control Program, "Implementation and Enforcement Guidelines" presentation. http://www.ttac.org/resources/laws/implementation_guidelines.pdf

- Ursula Bauer, New York Department of Health, “New York’s Implementation Tool Kit”, Presentation to the OSH Media Network, September 19, 2003
<http://www.ttac.org/resources/laws/NY-Bauer-presentation.pdf>
- Fred Gatto, Delaware Health and Social Services, “Delaware’s Implementation Plan”, Presentation to the OSH Media Network, November 11, 2002
<http://www.ttac.org/resources/laws/DE-Gatto-presentation.pdf>
- Deb Brown, American Lung Association – Delaware, “Delaware Implementation Issues”
<http://www.ttac.org/resources/laws/Delaware-Implementation-Issues.pdf>
- Minutes for September 1, 2003 ASTHO/OSH Implementation Discussion
<http://www.ttac.org/resources/laws/ASTHO-OSH-9-1-03-Implementation-minutes.pdf>

Case Studies and Journal Articles

- “Long term Compliance with California’s Smoke-Free Workplace Law among Bars and Restaurants in Los Angeles County.” *Tobacco Control* 2003;12:269-273.
<http://tc.bmjournals.com/cgi/reprint/12/3/269.pdf>
- *Eliminating Smoking in Bars, Taverns, and Gaming Clubs: The California Smokefree Workplace Act: A Case Study*. California Department of Health Services Tobacco Control Section. A report on the process of adopting and implementing a statewide clean indoor air law that covers almost all workplaces, including bars. The report includes implementation strategies for smoke-free bars, evaluation methods (including approaches that were used to track public support for the law as well as the law’s economic and public health impact), lessons learned, and future implications.
<http://www.dhs.cahwnet.gov/tobacco/documents/smokefreeworkplacecasestudy.pdf>
- “Eliminating Smoking in Bars, Restaurants and Gaming Clubs in California: BREATH the California Smoke Free Bar Program” *Journal of Public Health Policy*, 2001;22:81-87.
http://www.breath-ala.org/pdfs/pblc_hlth.pdf
- Peter D. Jacobson and Jeffrey Wasserman, *Tobacco Control Laws: Implementation and Enforcement*, Washington, D.C.: RAND, 1997 (supported by funding from the Robert Wood Johnson Foundation).



MODEL ORDINANCE ELIMINATING SMOKING IN ALL WORKPLACES AND PUBLIC PLACES (100% SMOKEFREE)

Revised May 2004

Sec. 1000. Title

This Article shall be known as the _____ [name of City or County] Smokefree Air Act of _____ [year].

Sec. 1001. Findings and Intent

The _____ [City Council or Board of Supervisors] does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.)

The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," U.S. Department of Health and Human Services (DHHS), Public Health Service, National Toxicology Program, 2000.)

A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smokefree workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study," *British Medical Journal* 328: 977-980, April 24, 2004.)

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke", *Tobacco Control* 6(4): 346-353, Winter, 1997.)

The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health Service, Centers for Disease Control, 1986.) The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke. (Environmental Protection Agency (EPA), "Indoor air facts no. 5: environmental tobacco smoke," *Washington, D.C.: Environmental Protection Agency (EPA)*, June 1989.)

The Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April 24, 2004.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.)

Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke. ("The high price of cigarette smoking," *Business & Health* 15(8), *Supplement A*: 6-9, August 1997.)

Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States. *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.)

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), *Supplement A*: 6-9, August 1997.)

Accordingly, the _____ [City Council *or* Board of Supervisors] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

Sec. 1002. Definitions

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

1. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
2. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
3. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
4. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
5. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
6. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
7. "Place of Employment" means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

8. "Public Place" means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
9. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
10. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
11. "Service Line" means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
12. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
13. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.
14. "Sports Arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Sec. 1003. Application of Article to [City-Owned

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§ 1399-n. Definitions.

For purposes of this article:

1. "Bar" means any area, including outdoor seating areas, devoted to the sale and service of alcoholic beverages for on-premises consumption and where the service of food is only incidental to the consumption of such beverages.
2. "Employer" means any person, partnership, association, limited liability company, corporation or nonprofit entity which employs one or more persons, including the legislative, executive and judicial branches of state government and any political subdivision of the state.
3. "Food service establishment" means any area, including outdoor seating areas, or portion thereof in which the business is the sale of food for on-premises consumption.
4. "Membership association" means a not-for-profit entity which has been created or organized for a charitable, philanthropic, educational, political, social or other similar purpose.
5. "Place of employment" means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services, and shall include, but not be limited to, offices, school grounds, retail stores, banquet facilities, theaters, food stores, banks, financial institutions, factories, warehouses, employee cafeterias, lounges, auditoriums, gymnasiums, restrooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities, rooms or areas containing photocopying equipment or other office equipment used in common, and company vehicles.
6. "School grounds" means any building, structure, and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office, and any vehicles used to transport children or school personnel.
7. "Retail tobacco business" means a sole proprietorship, limited liability company, corporation, partnership or other enterprise in which the primary activity is the retail sale of tobacco products and accessories, and in which the sale of other products is merely incidental.
8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

§ 1399-o. Smoking restrictions.

Smoking shall not be permitted and no person shall smoke in the following indoor areas:

1. Places of employment;
2. Bars;
3. Food service establishments, except as provided in subdivision six of section thirteen hundred ninety-nine-q of this article;

Clean Indoor Air Act

4. Enclosed indoor areas open to the public containing a swimming pool;
5. public means of mass transportation, including subways, underground subway stations, and when occupied by passengers, buses, vans, taxicabs and limousines;
6. Ticketing, boarding and waiting areas in public transportation terminals;
7. Youth centers and facilities for detention as defined in sections five hundred twenty-seven-a and five hundred three of the executive law;
8. Any facility that provides child care services as defined in section four hundred ten-p of the social services law, provided that such services provided in a private home are excluded from this subdivision when children enrolled in such day care are not present;
9. Child day care centers as defined in section three hundred ninety of the social services law and child day care centers licensed by the city of New York;
10. Group homes for children as defined in section three hundred seventy-one of the social services law;
11. Public institutions for children as defined in section three hundred seventy-one of the social services law;
12. Residential treatment facilities for children and youth as defined in section 1.03 of the mental hygiene law;
13. All public and private colleges, universities and other educational and vocational institutions;
14. General hospitals and residential health care facilities as defined in article twenty-eight of this chapter, and other health care facilities licensed by the state in which persons reside; provided, however, that the provisions of this subdivision shall not prohibit smoking by patients in separate enclosed rooms of residential health care facilities, adult care facilities established or certified under title two of article seven of the social services law, community mental health residences established under section 41.44 of the mental hygiene law, or facilities where day treatment programs are provided, which are designated as smoking rooms for patients of such facilities or programs;
15. Commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity;
16. Indoor arenas;
17. Zoos; and
18. Bingo facilities.

§ 1399-p. Posting of signs.

1. "Smoking" or "No Smoking" signs, or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained where smoking is regulated by this article, by the owner, operator, manager or other person having control of such area.

2. The owner, operator or manager of a hotel or motel that chooses to develop and implement a smoking policy for rooms rented to guests shall post a notice at the reception area of the establishment as to the availability, upon request, of rooms in which no smoking is allowed.

§ 1399-q. Smoking restrictions inapplicable.

This article shall not apply to:

1. Private homes, private residences and private automobiles;
2. A hotel or motel room rented to one or more guests;
3. Retail tobacco businesses;
4. Membership associations; provided, however, that smoking shall only be allowed in membership associations in which all of the duties with respect to the operation of such association, including, but not limited to, the preparation of food and beverages, the service of food and beverages, reception and secretarial work, and the security services of the membership association are performed by members of such membership association who do not receive compensation of any kind from the membership association or any other entity for the performance of such duties;
5. Cigar bars that, in the calendar year ending December thirty-first, two thousand two, generated ten percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the appropriate enforcement officer, as defined in subdivision one of section thirteen hundred ninety-nine-t of this article. Such registration shall remain in effect for one year and shall be renewable only if: (a) in the preceding calendar year, the cigar bar generated ten percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (b) the cigar bar has not expanded its size or changed its location from its size or location since December thirty-first, two thousand two;
6. Outdoor dining areas of food service establishments with no roof or other ceiling enclosure; provided, however, that smoking may be permitted in a contiguous area designated for smoking so long as such area: (a) constitutes no more than twenty-five percent of the outdoor seating capacity of such food service establishment, (b) is at least three feet away from the outdoor area of such food service establishment not designated for smoking, and (c) is clearly designated with written signage as a smoking area; and
7. Enclosed rooms in food service establishments, bars, catering halls, convention halls, hotel and motel conference rooms, and other such similar facilities during the time such enclosed areas or rooms are being used exclusively for functions where the public is invited for the primary purpose of promoting and sampling tobacco products, and the service of food and drink is incidental to such purpose, provided that the sponsor or organizer gives notice in any promotional material or advertisements that smoking will not be restricted, and prominently posts notice at the entrance of the facility and has provided notice of such function to the appropriate enforcement officer, as defined in subdivision one of section thirteen hundred ninety-nine-t of this article, at least two weeks prior to such function. The enforcement officer shall keep a record of all tobacco sampling events, and such record shall be made available for public inspection. No such facility shall permit smoking under this subdivision for more than two days in any calendar year.

§ 1399-r. General provisions.

1. Nothing in this article shall be construed to deny the owner, operator or manager of a place covered by this article the right to designate the entire place, or any part thereof, as a nonsmoking area.

2. The provisions of this article shall apply to the legislative, executive and judicial branches of state government and any political subdivision of the state.

3. Smoking may not be permitted where prohibited by any other law, rule, or regulation of any state agency or any political subdivision of the state. Nothing herein shall be construed to restrict the power of any county, city, town, or village to adopt and enforce additional local law, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article.

§ 1399-s. Violations.

1. It shall be unlawful for any person, firm, limited liability company, corporation or other entity that owns, manages, operates or otherwise controls the use of an area in which smoking is prohibited or restricted pursuant to section thirteen hundred ninety-nine-o of this article to fail to comply with the provisions of this article. For violations of this subdivision, it shall be an affirmative defense that during the relevant time period actual control of the area was not exercised by the respondent, but rather by a lessee, the sublessee or any other person. To establish an affirmative defense, the respondent shall submit an affidavit and may submit any other relevant proof indicating that the respondent did not exercise actual control of said area during the relevant time period. Such affidavit and other proof shall be mailed by certified mail to the appropriate enforcement officer within thirty days of receipt of such notice of violation.

2. It shall be unlawful for an employer whose place of employment is subject to subdivision one of section thirteen hundred ninety-nine-o of this article to fail to comply with the provisions of such subdivision. For violations of such subdivision, it shall be an affirmative defense that the employer has made good faith efforts to ensure that employees comply with the provisions of this article.

3. It shall be unlawful for any person to smoke in any area where smoking is prohibited or restricted under section thirteen hundred ninety-nine-o of this article.

§ 1399-t. Enforcement.

1. For the purpose of this article the term "enforcement officer" shall mean the board of health of a county or part county health district established pursuant to title three of article three of this chapter, or in the absence thereof, an officer of a county designated for such purpose by resolution of the elected county legislature or board of supervisors adopted within sixty days after the effective date of this article. Any such designation shall be filed with the commissioner within thirty days after adoption. If no such designation is made, the county will be deemed to have designated the department as its enforcement officer. Any county that does not designate an enforcement officer during the time period specified above may do so at any time, thereafter, such designation will be effective thirty days after it is filed with the commissioner. The enforcement officer shall have sole jurisdiction to enforce the provisions of this article on a county-wide basis pursuant to rules and regulations promulgated by the commissioner. In a city with a population of more than one million the enforcement officer shall be the department of health and mental hygiene of such city which shall have sole jurisdiction to enforce the provisions of this article in such city.

2. If the enforcement officer determines after a hearing that a violation of this article has occurred, a civil penalty may be imposed by the enforcement officer pursuant to section thirteen hundred ninety-nine-v of this article. When the enforcement officer is the

commissioner, the hearing shall be conducted pursuant to the provisions of section twelve-a of this chapter. When the enforcement officer is a board of health or in a city with a population of more than one million, the department of health and mental hygiene, or an officer designated to enforce the provisions of this article, the hearing shall be conducted pursuant to procedures set forth in the county sanitary code, or health code of such city, or in the absence thereof, pursuant to procedures established by the elected county legislature or board of supervisors. No other penalty, fine or sanction may be imposed, provided that nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this article.

3. Any person who desires to register a complaint under this article may do so with the appropriate enforcement officer.

4. The owner, manager, operator or other person having control of any area subject to the provisions of this article, shall inform, or shall designate an agent who shall be responsible for informing individuals smoking in an area in which smoking is not permitted that they are in violation of this article.

5. Any person aggrieved by the decision of an enforcement officer other than the commissioner may appeal to the commissioner to review such decision within thirty days of such decision. The decision of any enforcement officer shall be reviewable pursuant to article seventy-eight of the civil practice law and rules.

6. The enforcement officer, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided in section thirteen hundred ninety-nine-v of this article in any court of competent jurisdiction.

7. An enforcement officer who discovers a retail dealer who or which does not display a retail dealer certificate of license or registration from the department of taxation and finance issued pursuant to section four hundred eighty-a of the tax law shall notify the commissioner of taxation and finance within thirty days of the name and address of any such establishment so that the commissioner of taxation and finance can take appropriate action.

§ 1399-u. Waiver.

1. The enforcement officer may grant a waiver from the application of a specific provision of this article, provided that prior to the granting of any such waiver the applicant for a waiver shall establish that:

- (a) Compliance with a specific provision of this article would cause undue financial hardship; or
- (b) Other factors exist which would render compliance unreasonable.

2. Every waiver granted shall be subject to such conditions or restrictions as may be necessary to minimize the adverse effects of the waiver upon persons subject to an involuntary exposure to second-hand smoke and to ensure that the waiver is consistent with the general purpose of this article.

§ 1399-v. Penalties.

The commissioner may impose a civil penalty for a violation of this article in an amount not to exceed that set forth in subdivision one of section twelve of this chapter. Any other enforcement officer may impose a civil penalty for a violation of this article in an amount not to exceed that set forth in paragraph f of subdivision one of section three hundred nine of this chapter.

[§ 12. Violations of health laws or regulations; penalties and injunctions.

1. Any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto for which a civil penalty is not otherwise expressly prescribed by law, shall be liable to the people of the state for a civil penalty of not to exceed two thousand dollars for every such violation.
2. The penalty provided for in subdivision one of this section may be recovered by an action brought by the commissioner in any court of competent jurisdiction.
3. Nothing in this section contained shall be construed to alter or repeal any existing provision of law declaring such violations or any of them to be misdemeanors or felonies or prescribing the penalty therefore.
4. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general, and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner.
5. It shall be the duty of the attorney general upon the request of the commissioner to bring an action for an injunction against any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto; provided, however, that the commissioner shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such an action.
6. It is the purpose of this section to provide additional and cumulative remedies, and nothing herein contained shall abridge or alter rights of action or remedies now or hereafter existing, nor shall any provision of this section, nor any action done by virtue of this section, be construed as stopping the state, persons or municipalities in the exercising of their respective rights to suppress nuisances or to prevent or abate pollution.]

§ 1399-w. Limitation of causes of action.

An employer, administrator, manager, owner or operator of any indoor area, food service establishment, or place of employment regulated by this article who complies or fails to comply with the provisions of this article shall not be subject to any legal liability or action solely as a result of such compliance or noncompliance except as provided in section thirteen hundred ninety-nine-v of this article. Nothing in any other section of this article shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any theory of liability upon which any person may be held liable to any other person for exposure to smoke.

§ 1399-x. Rules and regulations.

The commissioner shall not promulgate any rules or regulations to effectuate the provisions of section thirteen hundred ninety-nine-n, subdivision six of section thirteen hundred ninety-nine-o or subdivision one of section thirteen hundred ninety-nine-p of this article. The commissioner shall not promulgate any rules or regulations that create, limit or enlarge any smoking restrictions.

Mariana Piper Crisostomo
145 Ypao Road
Tamuning, Guam 96911

28th Guam Legislature
155 Hesler St.
Hagatna, Guam 96910

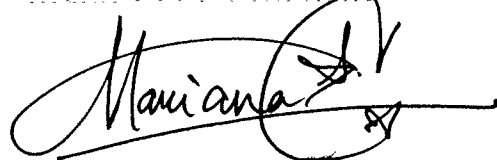
January 28, 2005

Dear Senator Lou LeonGuerrero:

Hafa Adai! My name is Mariana Piper Crisostomo, a sixth grader at Untalan Middle School. I'm writing to you to tell you two reasons why I think that a law which prohibits smoking in enclosed establishments is a good idea. One, it's very unhealthy. It can kill many people!!! My social studies class was going to start a petition in early January but unfortunately you beat us to it. But thank you for that.

My second reason is that smoking is a bad influence on children. If children see adults or just people older than them smoking they will think it's okay to smoke. I hope I have convinced you by my two reasons: One, smoking is bad for your health and two, smoking is a bad influence on children. I do support Bill 16 "The Natasha Protection Act of 2005".

Thank-you for listening.

A handwritten signature in black ink, appearing to read 'Mariana', with a large, stylized flourish that loops back and ends in a small 'x' mark.

Mariana Piper Crisostomo



**DMHSATESTIMONY ON BILL 16
"Natasha Perez Act"**

**Prepared for the Director, DMHSA
By: Dr. Annette M. David**

Honorable Ladies and Gentlemen of the 28th Guam Legislature:

I come before you today representing Guam's Single State Agency for substance abuse prevention and control.

Ironically, the most prevalent addiction on Guam today involves a highly addictive consumer product that is legally manufactured, advertised, sold and consumed. I am referring to tobacco, which the Oxford Medical Companion defines as "the only legally available consumer product, which kills people when it is entirely used as intended."

I know, from both professional and personal experience just how potent nicotine addiction can be. That is why our Department has committed resources and personnel to provide cessation services to the community. To date, the DMHSA's cessation program remains the only ongoing program of its kind that is available to the civilian population on Guam.

As a single state agency, we are mandated to operate based on sound evidence. The scientific evidence clearly demonstrates that cessation programs work to combat nicotine addiction. The evidence also shows that to effectively reduce tobacco consumption, we need a comprehensive approach that includes environmental strategies as well as individual interventions.

One of the most effective environmental strategies is to make all public places smoke-free. For this reason, we welcome Bill 16 as a positive first step towards a comprehensive approach to counter Guam's tobacco epidemic, with the proviso that the Bill be further strengthened.

Bill 16 is also important from the perspective of protecting public safety. The scientific evidence of the harm of second hand smoke is irrefutable. By enacting a strong law that makes public places smokefree, the Legislature would, in effect, be protecting non-smokers, many of whom are children and/or those with health problems---like Natasha Perez---who deserve the right to breath clean air.

We have suggestions to make Bill 16 more effective, which we are submitting in writing. However, it is important to also point out that a smokefree public policy is healthy for people AND businesses.

The evidence from all the countries, states and local municipalities that have implemented smokefree policies is clear and unequivocal: smokefree laws either do not affect business, or more frequently, they result in improved business and higher revenues. It is also important to point out that, like Honolulu, smokefree public places policies on Guam are unlikely to hurt Japanese tourist arrivals. Japan itself is now enacting stricter smoking regulations within its borders. In addition, the percentage of Japanese who smoke has fallen for six straight years, and now stands at a record low of 27%, much lower than Guam's smoking rate of 34%.

Therefore, enacting a strong, evidence-based smokefree law is not only good for our people's health; it will also be good for our island's pockets. We urge the Legislature to cast a vote for our island's healthy future, by enacting a comprehensive smokefree law.

Attachments: (1) Suggested revisions to Bill, as currently drafted.
(2) Proposed legal language for separate smoking section

Suggested Revisions to Bill 16, to make the smokefree policy more effective, consistent with the scientific and legal evidence:

1. **Remove bars from the exemption list.** Consistent with the concept of fair and non-discriminatory practice in mandating a smokefree policy in food and beverage service establishments, and in support of the evidence on second-hand smoke, removing bars from the exemption list would be in line with “best practice” for smokefree laws.
2. **Where designated smoking areas are allowed, mandate the same set of evidence-based requirements consistently.** Reference similar ventilation and separation requirements for **all** smoking-designated areas, where the language of these requirements reflects the scientific evidence---i.e. complete physical separation of smoking and non-smoking areas with separate ventilation systems and air supply. A copy of St. Paul, Minnesota’s legal language is included in Annex 1
3. **Spell out the proprietor’s responsibilities.** Although the current law includes the requirement that proprietors post “Smoking” or “No Smoking” signs (§ 89107), the proposed bill omits this provision. In addition, make it the proprietor’s responsibility to ensure that the establishment is in compliance with the law, for example by:
 - Ensuring that ashtrays, lighters and matchbooks are not provided (or available) in any area where smoking is prohibited; and
 - Asking any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, ask the person to leave, and if the person refuses to leave, contact the appropriate law enforcement authorities.
4. **Include an enforcement provision.** The proposed bill omits an enforcement provision, which the current law includes (§ 89109). The value of including such a provision is to identify the agents or agencies responsible for ensuring compliance with the law. Identifying specific agencies with the main responsibility for enforcement, and specifying a mechanism to sustain adequate staffing for this agency (perhaps through the Healthy Futures Fund) would strengthen enforcement ability.
5. **Include provisions for penalties for noncompliance.** The proposed bill also omits language on violations and penalties for noncompliance with the law, which the current law includes (§ 89110). Identify sanctions, not only on smokers that violate the law, but also on the proprietors of establishments that violate the law. For example, in addition to levying fines against violators, consider denying, revoking, suspending, or refusing to renew the restaurant license or other business licenses of establishments that violate the law. This way, scofflaw proprietors

who might otherwise be willing to overlook smoking violators have an even greater incentive to comply with the law.

6. **Retain the nonretaliation provision.** The proposed bill omits Section 89111, which ensures that employers cannot discharge or in any manner retaliate against an employee if the employee objects to working in an environment where smoking is permitted, or if the employee “blows the whistle” on violations. Many laws include such a provision to protect employees.
7. **Retain the Severability Provision.** The bill also deletes Section 89113, which allows any provision, clause, sentence or paragraph of the law to be held invalid without the other provisions of the law being invalidated as well.
8. **Protect the right of business owners to adopt stronger policies.** Many Clean Indoor Air Acts today contain provisions that explicitly preserve the ability of business owners to adopt smoke-free policies in settings not covered by the legislation.

Bill 16 is a step in the right direction, towards a healthier future for Guam. We have, today, an opportunity to make it a strong bill that is consistent with scientific evidence, and good public policy.

Ladies and Gentlemen of the Legislature, Guam’s people are watching to see how you will vote on this Bill. A vote to strengthen and enact it is a vote for the health of our people; a vote to weaken or kill it is a vote against the best interest of our community, and a vote against young people like Natasha, who are made ill by tobacco smoke, and who deserve the right to a healthy environment and clean air.

Proposed Separation/Ventilation Language in St. Paul, Minnesota Smoke-free Ordinance

Smoking is prohibited in restaurants, pool halls and bowling centers and licensed liquor establishments, provided, however, that each licensed liquor establishment will be allowed to designate one Smoking Room subject to the following conditions:

1. The area must be physically separated and sealed within the licensed premises by a solid wall and door with a gasket sufficient to prevent passage of air from the Smoking Room to the rest of the premises.
2. The Smoking Room may not serve as access or egress from the licensed premises.
3. The Smoking Room must be exhausted to the outside of the building and provide a negative pressure at all times within the space so as to not allow air to escape or infiltrate into the rest of the premises.
4. Outside exhaust shall not be directed or noticeable in any area used for public access, outdoor service or adjacent properties.
5. The Smoking Room must have windows or glass to the inside of the premises providing clear and constant visibility by employees at all times, while still preventing the passage of air from the Smoking Room into the rest of the premises.
6. There shall be no service of food or beverages by employees, proprietor, or other person in charge within the Smoking Room. No employees shall enter the Smoking Room except in cases of emergency or cleanup after closing. Only the proprietor or other person in charge may enter the Smoking Room for cleanup or maintenance during normal service hours.
7. The Smoking Room shall be no greater than 30% of the area licensed to serve liquor or over 300 square feet, whichever is smaller.
8. The proprietor shall reimburse the City of St. Paul for an annual air test to ensure negative air pressure within the Smoking Room and that there is no air exchange between the Smoking Room and the rest of the premises. In addition, the office of LLIEP may administer testing at any time during the year and must be reimbursed the cost of testing by the proprietor in the event of non-compliance.
9. Patrons shall not be allowed to hold the door open or order service from the Smoking Room. The proprietor or other person in charge shall ensure that service is not provided unless the patron leaves the Smoking Room completely to order.
10. The proprietor or other person in charge may provide entertainment such as television, video games, arcade games or other self-service entertainment. Non-profit volunteer entertainment such as pull-tabs may not be sold or offered within the Smoking Room. Live entertainment including karaoke may not be provided within the Smoking Room.
11. The door to the Smoking Room shall not be left open or propped open and shall only be opened to allow ingress and egress.
12. No one under the age of 21 years shall be allowed in a Smoking Room.
13. Smoking Room plans must be reviewed and approved by LIIEP and Fire Inspections to ensure compliance with the conditions contained in Section 238.03 herein.
14. Work must be done by licensed contractors and all appropriate permits must be obtained and construction plans reviewed.
15. Restaurants with adjacent bars can allow smoking only in the bar if a continuous wall is built separating the areas, have separate ventilation, the bar is maintained under negative pressure relative to adjacent areas, and the bar receives a separate food and/or beverage license.

Testimony in support of a strong smokefree law
Dr. Annette M. David
17 March 2005

Presented at the Public Hearing for Bill16

Ladies and Gentlemen of the 28th Guam Legislature, good morning. My name is Annette M. David. I am a physician whose field of specialization is in Occupational and Environmental Medicine. I have worked in the field of tobacco control since 1999, first at the Western Pacific Regional Office of the World Health Organization, and now on Guam. This testimony contains my personal views.

In the debate regarding smokefree policies, we must separate facts from unfounded fears. I would like to highlight four basic facts that are relevant to this issue:

1. **Second hand smoke (SHS) is an established human health hazard.** – I submit for the committee's consideration a list of credible, peer-reviewed, published studies that link second hand smoke exposure to heart disease, cancer, lung disease, stroke, lung infection, Sudden Infant Death Syndrome, and several other diseases.
2. **Even brief exposure is harmful.** – In one recent study, Japanese researchers demonstrated that 30 minutes' exposure to SHS causes observable abnormalities in heart function in young healthy males. In another study, casual exposure in a social setting resulted in measurable levels of tobacco smoke-related carcinogens in the urine of young women. Finally, a third study revealed how even low exposures to SHS led to permanent learning disabilities in young children.
3. **Smokefree policies are effective in reducing exposure to SHS.** – This study assessed air quality in 53 bars and restaurants. About half of these were in cities that had smoke free laws, the other half were in cities that did not. The level of one air pollutant, which is linked to heart and lung disease and cancer, was 82% lower in the venues required by law to be smoke free. Moreover, in those areas where smoking was permitted, the level of this pollutant was more than 4 times the safe level set for occupational exposure. This second study found that SHS contributed to indoor air pollution at levels greatly exceeding those on major truck highways and polluted city streets. After implementing a smokefree law, air pollution levels decreased markedly.
4. **Smokefree laws do NOT hurt business. In fact, they may actually help to improve business.** The best-designed and most reliable studies report no impact or a positive impact of smokefree laws on the hospitality business. The only studies that report a negative impact were supported by the tobacco industry. I submit these 2 reviews for the Committee's consideration.

Smokefree laws also provide another benefit to the business owner – they protect owners from liability. To date there have been over 420 cases involving exposure to SHS, and in recent years, the judicial system has awarded the cases increasingly in favor of the litigant. Indeed, food service workers are among those at highest risk for SHS exposure, and they are among the least protected.

Bill 16 is a good first step towards reducing the public's risk from SHS exposure. Here is a list of suggestions to make it a stronger and more effective piece of legislation.

Today, you will hear many testimonies, coming from diverse perspectives. The question is, what will sway you---the facts, or unfounded fears? The facts are clear---a comprehensive smokefree law is good for health, and good for business. The fears will come from those who are ignorant of the facts, as well as from those who profit through the sales and distribution of tobacco. How you vote on this Bill will demonstrate to the island community what you consider more important --- safeguarding the health of the public or safeguarding the business interests, particularly of the tobacco industry.

Guam needs leaders who put people first, who will refuse to protect business interests at the expense of public health and safety. Guam needs you to push for a comprehensive smokefree law for all public places.

Attachments: Bibliography of SHS studies, 7 City Air Monitoring Study, JOEM Article on Respirable Particles and Carcinogens, Review of Economic Impact Studies, Case Studies of Economic Impact of Smokefree Laws, Lawsuits and Second Hand Smoke, Suggested Revisions to Strengthen Bill 16

Suggested Revisions to Strengthen Bill 16
Testimony of Dr. Annette M. David
17 March 2005

1. **Section 1. Purpose and Legislative Intent.** Paragraph 3. “Center for Disease Control and Prevention” should be “Centers.”
2. **Section 1. Purpose and Legislative Intent.** Paragraph 4. You might want to update the language here to indicate that “As of January 2005, eleven states (California, Connecticut, Delaware, Florida, Idaho, Maine, Massachusetts, New York, Rhode Island, South Dakota, and Utah) and hundreds of municipalities in the United States have passed laws prohibiting smoking in public places, such as workplaces, restaurants, and/or bars.” (Only seven states cover both bars and restaurants: California, Connecticut, Delaware, Maine, Massachusetts, New York, and Rhode Island.)
3. **Section 1. Purpose and Legislative Intent.** On page 2, lines 7 – 9, you might want to consider amending the sentence beginning, “Non-smoking island residents may find tobacco smoke to be a nuisance” so it reads “but those who suffer from asthma *or other respiratory diseases*, . . .”
4. **Section 3. Definitions: “Place of employment.”** Typically, terms are not defined in a bill unless the terms are found elsewhere in the bill. Since the bill does not cover or refer to “places of employment,” this term could be omitted from the definitions.
5. **Sections 4 and 5.** Where Section 4 (Exclusions) precedes Section 5 (Prohibitions), it might be easier for the reader if these items were reversed. Typically, a bill states what it covers and then what it does not cover, so readers have a context in which to place any exceptions, exemptions, or exclusions.
6. **Section 4. Exemptions:**
 - a. **Private clubs.** Some smoke-free laws carve out exceptions for activities of private clubs. This bill takes the better approach, and creates no such exception. While the argument is sometimes made that membership clubs are private affairs and should be beyond the reach of public policies, the fact is that the clubs involved, typically veterans' clubs, fraternal organizations or country clubs, usually have restaurant facilities subject to the same licensing, sanitation and public health laws as other restaurants, and most such clubs serve members of the general public. If an exception is created for these facilities, other, competing facilities will argue that they have been subjected to unfair and discriminatory treatment. In addition, these provisions are sometimes exploited by public businesses who try to escape the effects of a smoke-free law by passing themselves off as new "private" entities.

- b. **Outdoor eating areas of food service establishments.** Some communities cover outdoor dining areas adjacent to an establishment, such as patio areas. Guam's ordinance does not address such outdoor eating areas; presumably they are not covered.
 - c. **Hotel and motel rooms.** If Guam has any bed and breakfasts, you might want to consider expanding the language in subsection (3) from "Hotel and motel rooms rented to guests" to "Guest rooms in hotels, motels, and other places of lodging."
 - d. **Bars.** Consistent with the concept of fair and non-discriminatory practice in mandating a smokefree policy in food and beverage service establishments, and in support of the evidence on second-hand smoke, removing bars from the exemption list would be in line with "best practice" for smokefree laws.
7. **Section 5.** The prohibitions include (7) "Public area of aquariums, galleries, libraries, and museums when open to the public; provided, however, that this prohibition does not prevent the designation of a separate room for smoking in such areas." According to this language, then, even though smoking is prohibited in all enclosed public places including aquariums, galleries, libraries and museums when open, smoking rooms can be designated in these four areas. Does this mean employees can smoke in these rooms only when these places are closed to the public or that they can smoke at any time, provided it's in a non-public separately designated smoking area? Or, rather than referring to employees, does this language refer to a public smoking lounge? The wording here lends itself to a variety of interpretations, which could make enforcement problematic.

What's more, the exemption in subsection (7) differs from a similar exemption in subsection (9), where sports arenas and convention halls are allowed to have designated smoking areas as long as they have "adequate and effective ventilation which removes smoke and purifies the recirculated air." Again, in the interest of consistency and to avoid legal challenges, you might want to include, or reference, similar ventilation and separation requirements for **all** smoking-designated areas, where the language of these requirements reflects the scientific evidence---i.e. complete physical separation of smoking and non-smoking areas with separate ventilation systems and air supply.

8. **Proprietor Responsibilities.** Although the current law includes the requirement that proprietors post "Smoking" or "No Smoking" signs (§ 89107), the proposed bill omits this provision. To ensure that proprietors or any other persons in charge of public places are in full compliance with the law, many jurisdictions include language that spells out steps for proprietors to take, in addition to posting signs, to ensure that their establishment, employees and customers comply with the law. For example, proprietors may be required to:

- Ensure that ashtrays, lighters and matchbooks are not provided (or available) in any area where smoking is prohibited; and
- Ask any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, ask the person to leave, and if the person refuses to leave, contact the appropriate law enforcement authorities [OR “and if the person refuses to leave, handle the situation consistent with lawful methods for handling persons acting in a disorderly manner or as a trespasser”].

This last provision gives proprietors and employers guidance about how they are expected to enforce the ordinance on their premises.

9. **Enforcement Language.** The proposed bill omits an enforcement provision, which the current law includes (§ 89109). The value of including such a provision is to identify the agents or agencies responsible for ensuring compliance with the law. Perhaps this section was accidentally omitted. At any rate, enforcement language needs to be inserted either in this bill or elsewhere if the law is to be implemented.

Identifying specific agencies with the main responsibility for enforcement, and specifying a mechanism to sustain adequate staffing for this agency (perhaps through the Healthy Futures Fund) would strengthen the enforcement ability.

10. **Violation and Penalties Provisions.** The proposed bill also omits language on violations and penalties for noncompliance with the law, which the current law includes (§ 89110). Some jurisdictions identify the type of offense for violating a Clean Indoor Air Act (e.g., a petty misdemeanor). Moreover, many jurisdictions include language in their Clean Indoor Air Acts that identifies sanctions, not only on smokers that violate the law, but also on the proprietors of establishments that violate the law. For example, in addition to levying fines against violators, enforcement agencies in some communities deny, revoke, suspend, or refuse to renew the restaurant license or other business licenses of establishments that violate the law. This way, scofflaw proprietors who might otherwise be willing to overlook smoking violators have an even greater incentive to comply with the law.
11. **Nonretaliation Provision.** The proposed bill omits Section 89111, which ensures that employers cannot discharge or in any manner retaliate against an employee if the employee objects to working in an environment where smoking is permitted, or if the employee “blows the whistle” on violations. Many laws include such a provision to protect employees.
12. **Severability Provision.** The bill also deletes Section 89113, which allows any provision, clause, sentence or paragraph of the law to be held invalid without the other provisions of the law being invalidated as well.

13. **Ability of Business Owners to Adopt Stronger Policies.** Many Clean Indoor Air Acts today contain provisions that explicitly preserve the ability of business owners to adopt smoke-free policies in settings not covered by the legislation. An example might be an outdoor construction site or the area outside the entrance to a restaurant or hospital. While it is arguable that this right will exist even without explicit inclusion in a bill, many current laws do include such a provision to eliminate any uncertainty on this point.

Senator Edward J. B. Calvo
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To: "Sen. Lujan" <jal@netpci.com>, "Sen. Brown" <jmbrown@ite.net>, "Sen. Kasperbauer" <lk4kids@ite.net>, "Sen. Respicio" <rjr@ite.net>, "Sen. Tenorio" <rtenorio@ite.net>, "Sen. Leon Guerrero" <senlou@ite.net>, "Adolpho B. Palacios, Sr." <adolpho_palacios@hotmail.com>, "Antonio R. Unpingco" <info@tonyunpingco.com>, "Benjamin J. F. Cruz" <senadotbj@guam.net>, "Bob Klitzkie" <bob@bobsoffice.org>, "Edward J. B. Calvo" <senatorcalvo@hotsheet.com>, "Frank B. Aguon, Jr." <fbaguon@ite.net>, "Honorable Governor Camacho" <governor@mail.gov.gu>, "Judith T. Won Pat" <senwonpat@eccomm.com>, "Mark Forbes" <speakerforbes@yahoo.com>
Subject: Bill #16 -NO Smoking
Date: Mon 03/14/05 08:42 PM

Attachments

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Hafa Adai:

Have you read about the portable toilets which have exploded from the person's gas and the light from a match to light the cigarette while sitting on the seat. I've never seen a 'NO Smoking' sign on any of the Todo Maulegs, etc. - should that be included in the Bill? Also, if for some reason the bill does not pass, should this be considered as part of receiving/renewing a license.

Since the main reason for the Bill per Senator Leon Guerrero is Health - also, include NO Smoking in the bowling alley when the League and/or Tournament play include Minors (Age 17 and below). If the League and/or Tournament includes Adults only - then allow smoking because the parents will be the ones responsible for whether or not they want their Minor children to be in the bowling alley.

The first time I attended a baseball game at Paseo Stadium, I had to move 3 times because the person who was sitting to my right and down about 4 levels smoked continuously - lit the next one with the one she was smoking. It was so



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windy that day that I tried to keep out of the way, but....

Also, ifSusanna (of course, use the correct spelling) is a Chamorro word, please change Paseo Stadium to the Chamorro language. I had suggested keeping Paseo Stadium but did not know there was a ?Chamorro? name. Still concerned about all of the alcohol advertising on the walls inside, now also on top of the wall, and even at the front entrance when buying tickets - no need to have sign about alcohol name of league on the ticket window.

Honorable Senator Lou, hope you will have peace - I believe the senators are trying to do what is correct - remember some are new and have different views/ideas about which is the correct committee. It will all work out - I think some already have No Smoking in their places of business - maybe it was because of your initiating this - THANKS! Julia

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Senator Edward J. Calvo
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From: julia domescik
<juliaguam2004@yahoo.com>
To: "Sen. Lujan" <jal@netpci.com>, "Sen. Brown" <jmbrown@ite.net>, "Sen. Kasperbauer" <lk4kids@ite.net>, "Sen. Respicio" <rjr@ite.net>, "Sen. Tenorio" <rtenorio@ite.net>, "Sen. Leon Guerrero" <senlou@ite.net>, "Adolpho B. Palacios, Sr." <adolpho_palacios@hotmail.com>, "Antonio R. Unpingco" <info@tonyunpingco.com>, "Benjamin J. F. Cruz" <senadotbj@guam.net>, "Bob Klitzkie" <bob@bobsoffice.org>, "Edward J. B. Calvo" <senatorcalvo@hotsheet.com>, "Frank B. Aguon, Jr." <fbaguon@ite.net>, "Honorable Governor Camacho" <governor@mail.gov.gu>, "Judith T. Won Pat" <senwonpat@eccomm.com>, "Mark Forbes" <speakerforbes@yahoo.com>
Subject: NO Smoking Bill, etc.
Date: Tue 03/15/05 07:00 PM

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Hafa Adai:

Sorry, I forgot to include NO alcohol as well as NO Smoking while minors are bowling in leagues and/or tournaments. Adults only - both o.k.!

But, I'm curious, too, since the licensee, I assume, is an ON Sale - why are people allowed to bring alcohol out of that business into the Bowling Alley (I think there is/are doors in between the sale of alcohol and the Bowling Alley).

Praying your sessions in the Legislature Hall (LH) will be fruitful for Guam.

Did you read the letter in the PDN (March 14, 2005) which stated that the writer had offered to do the work necessary to open the old LH at, if I understand correctly, no cost to Guam. If I did understand correctly, please contact the writer to see if his offer is still open to acceptance. NO more rental fee at present location and can all senators' offices also be in the old LH?

Si Yu'us maase, Julia

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