



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

12 DEC 2005

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 16 (EC), "AN ACT TO AMEND § 90100, § 90103, § 90105 AND § 90107 OF CHAPTER 90, DIVISION 4, OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE REGULATION OF SMOKING ACTIVITIES, TO BE KNOWN AS THE "NATASHA PROTECTION ACT OF 2005" which I signed into law on December 9, 2005, as Public Law 28-80.

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

Senator Edward J.B. Calvo SECRETARY OF THE LEGISLATURE ACKNOWLEDGEMENT RECEIPT	
Rcv'd by: <u>Nikola</u>	Print Name & Initial
Time: <u>11:50</u>	Date: <u>12-15-05</u>

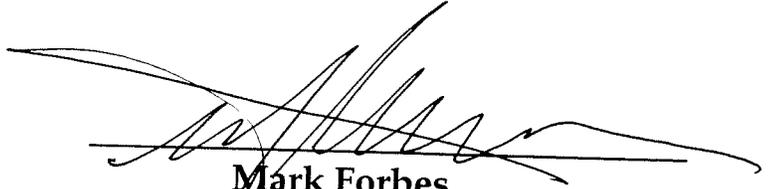
178

Office of the Speaker
MARK FORBES
Date: 12/13/05
Time: 2:06 PM
Rec'd by: ESP
Print Name: ESP
28-05-0476

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

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

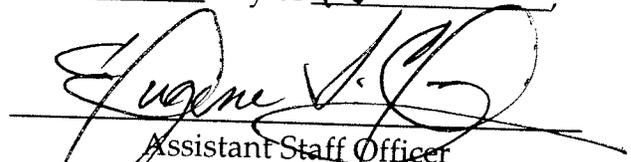
This is to certify that Bill No. 16 (LS), "AN ACT TO AMEND §90100, §90103, §90105 AND §90107 OF CHAPTER 90, DIVISION 4 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE REGULATION OF SMOKING ACTIVITIES, TO BE KNOWN AS THE 'NATASHA PROTECTION ACT OF 2005'" was on the 30th day of November, 2005, duly and regularly passed.


Mark Forbes
Speaker

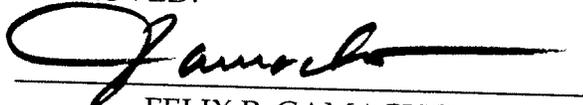
Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 30 day of NOV.
2005, at 5 o'clock P.M.


Assistant Staff Officer
Maga'laha's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 9 DEC 2005

Public Law No. 28-80

**MINA'BENTE OCHO NA LIHESLATURAN GUAHAN
2005 (FIRST) Regular Session**

Bill No. 16 (LS)

As amended by the Committee on
Finance, Taxation and Commerce
and further amended on the Floor.

Introduced by:

L. A. Leon Guerrero
J. T. Won Pat
B. J.F. Cruz
F. B. Aguon, Jr.
R. J. Respicio
A. B. Palacios
J. M.S. Brown
Edward J.B. Calvo
Mike Cruz
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
J. A. Lujan
Ray Tenorio
A. R. Unpingco

**AN ACT TO AMEND §90100, §90103, §90105 AND
§90107 OF CHAPTER 90, DIVISION 4 OF TITLE
10, GUAM CODE ANNOTATED, RELATIVE TO
THE REGULATION OF SMOKING ACTIVITIES,
TO BE KNOWN AS THE "NATASHA
PROTECTION ACT OF 2005."**

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

2 **Section 1. Purpose and Legislative Intent.** *I Liheslaturan Guåhan*

3 finds that cigarette smoking presents serious public health concerns. The
4 Surgeon General has determined that smoking causes lung cancer, heart
5 disease and other serious diseases, and that there are hundreds of thousands
6 of tobacco-related deaths in the United States each year.

7 It is equally important to convey to the community that tobacco is “the
8 only legally available consumer product which kills people when used
9 entirely as intended” (The Oxford Medical Companion, 1994), and
10 indisputable scientific evidence exists that links tobacco use and exposure to
11 second-hand tobacco smoke to pulmonary and cardiovascular diseases and
12 cancer. Second-hand smoke is the third leading cause of preventable death
13 in the United States.

14 According to the Center for Disease Control and Prevention, several
15 states have implemented smoke-free indoor air ordinances to protect
16 employees and customers from second-hand smoke exposure, which is
17 associated with increased risk for heart disease and lung cancer in adults and
18 respiratory disease in children.

19 As of January 2004, five states – California, Connecticut, Delaware,
20 Maine and New York – and seventy-two (72) municipalities in the United

1 States passed laws regulating smoking in almost all workplaces, restaurant
2 and bars.

3 More states are following suit and have enacted legislation to regulate
4 smoking in facilities such as restaurants in order to protect employees and
5 non-smoking clientele from the harmful effects of secondhand smoke.

6 Non-smoking island residents may find tobacco smoke to be a
7 nuisance, but there are others such as those who suffer from asthma may
8 also find tobacco smoke not only an inconvenience but detrimental to their
9 health.

10 Furthermore, fourteen (14) year old Natasha, diagnosed with
11 osteosarcoma, a rare bone cancer that could metastasize, and eventually
12 spread to her lungs, is limited to patronizing dining establishments with her
13 family during extremely early or late evenings to avoid tobacco smoke
14 which would further compromise her health. Natasha's medical condition is
15 complicated by the effects of second-hand smoke.

16 **Section 2.** Section 90100 of Chapter 90, Division 4 of Title 10,
17 Guam Code Annotated is hereby *amended* to read as follows:

18 **“§90100. Title.**

19 This Chapter shall be known, and may be cited, as the ‘*Natasha*
20 *Protection Act of 2005.*’”

1 **Section 3.** Section 90103 of Chapter 90, Division 4 of Title 10,
2 Guam Code Annotated is hereby *amended* to read as follows:

3 “**§90103. Definitions.** The following words and phrases, when used
4 in this Chapter, shall be construed as follows:

5 *Bar*, as defined for this Chapter, means an establishment or area
6 devoted to the serving of alcoholic beverages for consumption by guests on
7 the premises in which the serving of food is only incidental to the
8 consumption of such beverages and where the sale of alcoholic beverages
9 exceeds fifty percent (50%) of the establishment’s gross revenues. The term
10 *bar* applies to an area within a restaurant establishment when:

- 11 (a) the serving of alcoholic beverages is located within a physically
12 enclosed area apart from the dining area; or
- 13 (b) the serving of alcoholic beverages is located at an open and
14 well-ventilated area apart from the dining area; or
- 15 (c) the serving of alcoholic beverages exceeds fifty percent (50%)
16 of the establishment’s gross revenue between the hours of 10:00
17 p.m. and 4:00 a.m. during those hours.

18 *Business* means any sole proprietorship, partnership, corporation or
19 other business entity formed for profit-making purposes, including retail

1 establishments, as well as professional corporations and other entities where
2 legal, medical, or other professional services are delivered.

3 *Dining Area* means any enclosed area containing a counter or tables
4 upon which meals are served.

5 *Employee* means any person who is employed by an employer in
6 consideration of direct or indirect monetary wages or profit.

7 *Employer* means any business, including the government of Guam and
8 any of its autonomous agencies, which employs the services of one (1) or
9 more persons.

10 *Enclosed Area* or the term *Enclosed*, when used relative to a structure
11 or building, means all space between a floor and ceiling which is completely
12 enclosed on all sides by solid walls or windows (exclusive of doors and
13 passageways) having an air circulation system completely separate from the
14 dining area.

15 *Smoke Ventilation Device* means devices that are inspected and
16 regulated by the Guam Environmental Protection Agency and approved by
17 the Department of Public Health and Social Services (DPH&SS) pursuant to
18 10 GCA §21101 and §21102, in accordance with the standards of the
19 American Society of Heating, Refrigeration and Air Conditioning Engineers,
20 which adequately improves air quality within enclosed areas where smoking

1 occurs consisting of: (a) an approved mechanical device that aspirates air
2 contaminated by smoking within an enclosed area to an external open area;
3 or (b) an approved aeration device that filters, mechanically or ionically, air
4 contaminated by smoking within an enclosed area improving air quality
5 standards.

6 *Open Area* means an outdoor area or all space between a floor and
7 ceiling which is enclosed by *no more than* sixty percent (60%) on all sides
8 by solid walls or windows.

9 *Place of Employment* means any enclosed area under the control of an
10 employer which employees normally frequent during the course of
11 employment including, *but not limited to*, work areas, employee lounges and
12 restrooms, conference rooms, and hallways. A private residence is not a
13 "place of employment" unless it is used as a child care or health care facility.

14 *Public Place* means any enclosed area to which the public is invited or
15 in which the public is permitted, including, *but not limited to*, banks, health
16 care facilities, public transportation facilities, reception areas, restaurants,
17 retail food production and marketing establishments, retail stores, theaters
18 and waiting rooms. A private residence is not a "public place."

19 *Restaurant*, as defined for this Chapter, means any retail eating
20 establishment other than a bar where food is served or provided for on-site

1 consumption by seated patrons that is regulated by the Department of Public
2 Health and Social Services, including any private food establishment or
3 club where food is served or provided for on-site consumption by seated
4 patrons in which only members or their guests are permitted. If a restaurant
5 includes an area devoted to the serving of alcoholic beverages that is not
6 enclosed or is not located within a well-ventilated open area apart from the
7 dining area, that area shall be deemed part of the “restaurant,” not a separate
8 “bar,” as used in this Chapter.

9 *Retail Tobacco Store* means a retail store utilized primarily for the
10 sale of tobacco products and accessories and in which the sale of other
11 products is merely incidental.

12 *Service Line* means any indoor line at which one (1) or more persons
13 are waiting for or receiving services of any kind.

14 *Smoking* means inhaling, exhaling, or burning any lighted cigar,
15 cigarette, pipe, weed, plant, tobacco product or related substance or product.

16 *Sports Arena* means the enclosed area of any sports pavilions,
17 gymnasiums, health spas, swimming pools, roller and ice rinks, bowling
18 alleys and other similar places where members of the general public
19 assemble either to engage in physical exercise, participate in athletic
20 competition or witness sports events.”

1 **Section 4.** Section 90105 of Chapter 90, Division 4 of Title 10,
2 Guam Code Annotated is hereby *amended* to read as follows:

3 “**§90105. Prohibition of Smoking in Public Places.** (a) Smoking
4 shall be prohibited in all enclosed public places, including, *but not limited to*,
5 the following places:

6 (1) Elevators.

7 (2) Buses, taxicabs, airplanes, and other means of public transit,
8 and ticket, boarding, and waiting areas of public transport depots.

9 (3) Restrooms.

10 (4) Service lines.

11 (5) All areas available to and customarily used by the general
12 public in all businesses patronized by the public.

13 (6) Restaurants.

14 (7) Public areas of aquariums, galleries, libraries and museums
15 when open to the public.

16 (8) Any building not open to the sky which is primarily used for
17 exhibiting motion pictures, stage shows, musical recitals or other
18 performances, except when smoking is part of a stage production.

19 (9) Sports arenas and convention halls.

1 (10) Every place of meeting or public assembly during such
2 time as a public meeting is in progress.

3 (11) Waiting rooms, hallways, wards and semi-private rooms
4 for health facilities, including, *but not limited to*, hospitals, clinics,
5 physical therapy facilities, doctors' offices and dentists' offices.

6 (12) Polling places.

7 (b) Any owner, operator, manager or other person who controls any
8 establishment, facility or area described within this Chapter where smoking
9 is not or in-part regulated, may prohibit smoking to occur within the entire
10 establishment, facility or area and §90109, §90110, and §90111 of this
11 Chapter shall apply.”

12 **Section 5.** Section 90107 of Chapter 90, Division 4 of Title 10, Guam
13 Code Annotated is hereby *amended* to read as follows:

14 **“§90107. Where Smoking Not Regulated.**

15 (a) Notwithstanding any other provisions of this Chapter, the
16 following areas shall not be subject to the smoking restrictions of this
17 Chapter:

18 (1) Bars.

19 (2) Private residences, except when used as child care facility or
20 health care facility.

1 (3) Hotel and motel rooms rented to guests.

2 (4) Retail tobacco stores.

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

5 (b) All public places and facilities located within an enclosed area
6 where smoking is permitted or allowed to any extent by this Chapter shall
7 employ an appropriate smoke ventilation device. Smoking shall not be
8 permitted at any time within enclosed areas not meeting the requirements of
9 this provision.”

10 **Section 6. Effective Date of Implementation.** This Act shall
11 become effective one hundred fifty (150) days after enactment.

12 **Section 7. Severability.** *If* any provisions of this Act or its
13 application to any person or circumstance is found to be invalid or contrary
14 to law, such invalidity shall *not* affect other provisions or applications of this
15 Act which can be given effect without the invalid provisions or applications,
16 and to this end the provisions of this Act are severable.

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

2005 (FIRST) Regular Session

Date: 11/30/05

VOTING SHEET

12:37 ~~0~~

Bill No. 16 (LS)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.					✓
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.		✓			
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.	✓				
LUJAN, Jesse A.		✓			
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

12 2 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

P.L. 28-80

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

A Bill No. 16

Lt Kasperbauer

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

Page 1 line 4 put a period after
Concerns and debt "to the Territory
of Guam and its citizens

(Below only for Clerk of Legislature's use and processing))

Date 11/29, 2005

Floor Amendment No. 13 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

LJK
AUTHOR OF AMENDMENT

Concur (initial)

JK

MS
Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

Passed FA No. 6

Date: 11/29 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 16

(Rafael) Leon Guerrero
Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

p. 6 line six delete the words "or substantiated"

(Below only for Clerk of Legislature's use and processing))

Date 11/29, 2005

Floor Amendment No. 9 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

Leon Guerrero
AUTHOR OF AMENDMENT

Concur (initial)

jt

pas
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk

____ Engrossment Staff

I MINA'BENTE OCHO NA LIHESLATURAN GUÁHAN

**FLOOR AMENDMENTS/CHANGES
Bill No. 16 (EC)**

Senator Proposing Amendment L. Leon Guerrero

Amend lines 9 and 10 of page 6 to read:

"regulated by the Environmental Protection Agency and approved by the Department of Public Health and Social Services pursuant to 10 GCA 21101 and 21102 in accordance with the standards of the American Society of Heating, Refrigeration and Air Conditioning Engineers, which adequately ..."

(Below only for Clerk of Legislature's use and processing))

Date 11/29, 2005

Floor Amendment No. 8 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

Leon Guerrero
AUTHOR OF AMENDMENT

Concur (initial)

fr
[Signature]
Clerk of Legislature
Ass't. Amend. Clerk
Engrossment Staff

Speaker

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
FLOOR AMENDMENTS/CHANGES
Bill No. 16 (LC)**

**Senator Robert Klitzkie
Senator Proposing Amendment**

(Below for Senator to Complete)
Please describe proposed amendment, including where change to occur:

RB
RB

line 6 after (ii) or

1. Add a new item (iii) after line 6 page 5 within the definition of "bar."
“(iii) the serving of alcoholic beverages exceeds fifty percent (50%) of the establishment’s gross revenues between the hours of 10:00 p.m. and 4:00 a.m. during those hours.”

RB

2. Replace item (6) of §90105 beginning at line 15 page 11 and ending at line 6 page 12 with:

“(6) Restaurants.”

Date November 28, 2005.

Floor Amendment No. 4 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED:

Amendment Failed: _____
Amendment Withdrawn: _____

**APPROVED AS TO FORM PASSED
Senator Robert Klitzkie
AUTHOR OF AMENDMENT**

Concur (initial)

[Signature]
Clerk of Legislature
Ass't Amend. Clerk
Engrossment Staff

Speaker

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No.

Bob

Senator Proposing Amendment

(Below for Senator to complete)

On page 6 line 7 after "passageways)" add:

"having an air circulation system completely separate from the dining area."

(Below only for Clerk of Legislature's use and processing))

Date 11/29, 2005

Floor Amendment No. 3 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____

Amendment Withdrawn: _____

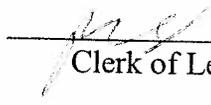
APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT

Concur (initial)





Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

Passed FA No. 2
Date: 11/29 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 16

Wm Pat

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

p. 12 lines 15-17 delete words starting
with "provided..."

and continue to p. 13 lines 1-2

ending with "Chapter."

(Below only for Clerk of Legislature's use and processing))

Date 11/29, 2005

Floor Amendment No. 4 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

[Signature]

AUTHOR OF AMENDMENT

Concur (initial)

[Initials]

Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff

Passed FA No. 1
Date: 11/29 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 1643

Wm Pat

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

p. 11 delete line 7 to 10 starting with "provided, ...
to Chapter.

(Below only for Clerk of Legislature's use and processing))

Date 11/29, 2005

Floor Amendment No. 3 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

[Signature]

AUTHOR OF AMENDMENT

Concur (initial)

[Initial]

[Signature]
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk

____ Engrossment Staff



MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

E-Mail address: senatorcalvo@hotsheet.com
155 Hessler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801
Facsimile: (671) 475-8805

November 08, 2005

The Honorable Mark Forbes
Speaker
Mina Bente Ocho na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

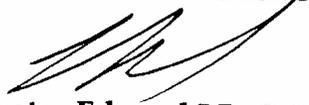
Håfa adai, Mr. Speaker:

The Committee on Finance, Taxation, and Commerce, to which **Bill No. 16 (LS): "An Act To Amend § 90100, § 90103, § 90107, And Add A New Subsection (6) To § 90105, Chapter 90, Division 4, Of Title 10, Guam Code Annotated, Relative To The Regulation Of Smoking Activities, To Be Known As The 'Natasha Protection Act' "**, was referred, wishes to report its findings and recommendations TO PASS Bill No. 16 (LS), *as amended by the Committee.*

The voting record for Bill No. 16 (LS) is as follows:

TO PASS	<u>6</u>
NOT TO PASS	<u>Ø</u>
TO REPORT OUT	<u>Ø</u>
ABSTAIN	<u>Ø</u>
TO PLACE IN INACTIVE FILE	<u>Ø</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention in this matter. *Si Yu'os Ma'åse!*


Senator Edward J.B. Calvo
Chairman



MINA'BE' TE OCHO NA LIHESLATURA GUAHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

E-Mail address: senatorcalvo@hotsheet.com
155 Hessler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801
Facsimile: (671) 475-8805

November 08, 2005

MEMORANDUM

To: Committee Members

From: Chairman, Committee on Finance, Taxation, and Commerce

Subject: Committee report on Bill 16 (LS) *as amended by the Committee on Finance, Taxation, and Commerce*

This memorandum is accompanied by the following:

1. Committee voting sheet
2. Public Hearing sign-in sheet
3. Notice of Public Hearing
4. Testimonies submitted

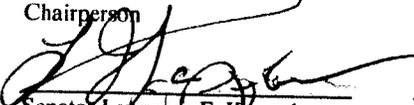
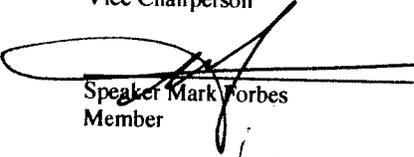
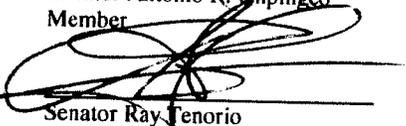
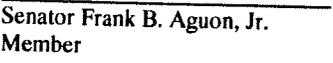
Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated. Should there be any questions regarding this matter, please feel free to contact my office at 475-8801.

A handwritten signature in black ink, appearing to read 'E. Calvo'.

Senator Edward J.B. Calvo
Chairman

Committee Voting Sheet
Committee on Finance, Taxation, and Commerce
Office of Finance and Budget
Sinadot Edward J.B. Calvo, Ge'Hilo'

Bill No. 16 (LS): "An Act To Amend § 90100, § 90103, § 90107, And Add A New Subsection (6) To § 90105, Chapter 90, Division 4, Of Title 10, Guam Code Annotated, Relative To The Regulation Of Smoking Activities, To Be Known As The 'Natasha Protection Act' ", as amended by the Committee on Finance, Taxation, and Commerce.

Committee Members	To Pass	Not to Pass	Report Out	Abstain	Inactive File
 Senator Edward J.B. Calvo Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Lawrence F. Kasperbauer Vice Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Speaker Mark Forbes Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Antonio R. Unpingco Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Ray Tenorio Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Jesse A. Lujan Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Adolpho B. Palacios Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Frank B. Aguon, Jr. Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**MINA'BENTE OCHO NA LIHESLATURAN GUAHAN
2005 (FIRST) Regular Session**

Bill No. 16 (LS)

As Amended by the Committee
on Finance, Taxation and Commerce

Introduced by:

L. A. Leon Guerrero

**AN ACT TO AMEND §90100, §90103, §90105
§90107 ~~OF AND ADD A NEW SUBSECTION (6),~~
CHAPTER 90, DIVISION 4, OF TITLE 10, GUAM
CODE ANNOTATED, RELATIVE TO THE
REGULATION OF SMOKING ACTIVITIES, TO
BE KNOWN AS THE "NATASHA PROTECTION
ACT OF 2005."**

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

2 **Section 1. Purpose and Legislative Intent.** *I Liheslaturan*
3 *Guåhan* finds that cigarette smoking presents serious public health
4 concerns to the Territory of Guam and to its citizens. The Surgeon
5 General has determined that smoking causes lung cancer, heart
6 disease and other serious diseases, and that there are hundreds of
7 thousands of tobacco-related deaths in the United States each year.

1 It is equally important to convey to the community that tobacco
2 is “the only legally available consumer product which kills people
3 when used entirely as intended” (The Oxford Medical Companion,
4 1994), and indisputable scientific evidence exists that links tobacco
5 use and exposure to secondhand tobacco smoke to pulmonary and
6 cardiovascular diseases and cancer. Secondhand smoke is the third
7 leading cause of preventable death in the United States.

8 According to the Center for Disease Control and Prevention,
9 several states have implemented smoke-free indoor air ordinances to
10 protect employees and customers from secondhand smoke exposure,
11 which is associated with increased risk for heart disease and lung
12 cancer in adults and respiratory disease in children.

13 And as of January 2004, five states – California, Connecticut,
14 Delaware, Maine, and New York – and 72 municipalities in the
15 United States passed laws ~~prohibiting~~ regulating smoking in almost
16 all workplaces, restaurants, and bars.

1 More states are following suit and have enacted legislation to
2 ~~prohibit~~ regulate smoking in facilities such as restaurants in order to
3 protect employees and non-smoking clientele from the harmful
4 effects of secondhand smoke.

5 Non-smoking island residents may find tobacco smoke to be a
6 nuisance, but there are others such as those who suffer from asthma
7 may also find tobacco smoke, not only an inconvenience but
8 detrimental to their health.

9 Furthermore, fourteen (14) year old Natasha ~~Perez, is a living~~
10 ~~testament to the negative and potentially deadly effects of second-~~
11 ~~hand smoke,~~ diagnosed with osteosarcoma, a rare bone cancer that
12 could through metastases, ~~with the cancer~~ eventually spreading to
13 her lungs, ~~Natasha~~ is limited to patronizing dining establishments
14 with her family during ~~only~~ extremely early or late evenings to avoid
15 tobacco smoke which would further compromise her health.
16 Natasha's medical condition is prone to and complicated by the
17 effects of second-hand smoke.

1 Section 2. Section 90100 of Chapter 90, Division 4 of Title 10,

2 Guam Code Annotated is hereby amended to read as follows:

3 “§ 90100. Title.

4 This Chapter shall be known, and may be cited, as the ~~Clean~~

5 ~~Indoor Air Act of 1992~~ Natasha Perez Protection Act of 20054.”

6 Section 3. Section 90103 of Chapter 90, Division 4 of Title 10,

7 Guam Code Annotated is hereby amended to read as follows:

8 “§ 90103. Definitions. The following words and phrases, when

9 used in this Chapter, shall be construed as follows:

10 ~~Bar~~ as defined herein for this Chapter, means an

11 establishment or area ~~which is~~ devoted to the serving of

12 alcoholic beverages for consumption by guests on the

13 premises ~~and~~ in which the serving of food is only

14 incidental to the consumption of such beverages and

15 where the sale of alcoholic beverages exceeds fifty percent

16 (50%) of the establishment’s gross revenues. ~~Although a~~

17 ~~restaurant may contain a bar, the term bar shall not~~

1 ~~include the restaurant dining area.~~ The term bar may
2 apply to an area within a restaurant establishment when:
3 (i) the serving of alcoholic beverages is located within a
4 physically enclosed area apart from the dining area; or
5 (ii) the serving of alcoholic beverages is located at an open
6 and well ventilated area apart from the dining area.

7 *Business* means any sole proprietorship, partnership,
8 corporation or other business entity formed for profit-making
9 purposes, including retail establishments as well as professional
10 corporations and other entities where legal, medical, or other
11 professional services are delivered.

12 *Dining Area* means any enclosed area containing a counter or
13 tables upon which meals are served.

14 *Employee* means any person who is employed by an employer
15 in consideration of direct or indirect monetary wages or profit.

1 *Employer* means any business, including the government of
2 Guam and any of its autonomous agencies, which employs the
3 services of one (1) or more persons.

4 *Enclosed Area* means all space between a floor and ceiling which
5 is completely or substantially enclosed on all sides by solid walls or
6 windows (exclusive of doors and passageways).

7 *Smoke Ventilation Device* means; (i) a mechanical device that
8 aspirates air contaminated by smoking within an enclosed area to an
9 external open area; or, (ii) an approved aeration device that filters
10 mechanically or ionically air contaminated by smoking within an
11 enclosed area improving air quality standards.

12 *Open Area* means an outdoor area or all space between a floor
13 and ceiling which is enclosed by no more than more than sixty (60)
14 percent on all sides by solid walls or windows.

15 *Place of Employment* means any enclosed area under the control
16 of an employer which employees normally frequent during the
17 course of employment, including, but not limited to, work areas,

1 employee lounges and restrooms, conference rooms, and hallways. A
2 private residence is not a "place of employment" unless it is used as a
3 child care or health care facility.

4 *Public Place* means any enclosed area to which the public is
5 invited or in which the public is permitted, including but not limited
6 to, banks, health care facilities, public transportation facilities,
7 reception areas, restaurants, retail food production and marketing
8 establishments, retail stores, theaters and waiting rooms. A private
9 residence is not a "public place."

10 Restaurant as defined herein for this Chapter, means any
11 ~~coffee shop, cafeteria, public school cafeteria or eating establishment~~
12 ~~which is operated by, under contract to, or on behalf of a business or~~
13 ~~employer as defined in this § 90103~~ retail eating establishment other
14 than a bar where food is served or provided for on-site consumption
15 by seated patrons that is authorized regulated by the Guam
16 Department of Public Health and Social Services to operate as a food
17 establishment, including any private food establishment or club

1 where food is served or provided for on-site consumption by seated
2 patrons in which only members or their guests are permitted. If a
3 restaurant includes an area devoted to the serving of alcoholic
4 beverages that is not enclosed or is not located within a well
5 ventilated open area apart from the dining area, that area shall be
6 deemed part of the "restaurant," not a separate "bar," for this Article
7 as used in this Chapter.

8 *Retail Tobacco Store* means a retail store utilized primarily for
9 the sale of tobacco products and accessories and in which the sale of
10 other products is merely incidental.

11 *Service Line* means any indoor line at which one (1) or more
12 persons are waiting for or receiving services of any kind.

13 *Smoking* means inhaling, exhaling, or burning any lighted cigar,
14 cigarette, ~~or other tobacco product~~ pipe, weed, plant or related
15 substance or product.

16 *Sports Arena* means the enclosed area of any sports pavilions,
17 gymnasiums, health spas, swimming pools, roller and ice rinks,

1 bowling alleys and other similar places where members of the
2 general public assemble either to engage in physical exercise,
3 participate in athletic competition or witness sports events.”

4 **Section 4.** Section 90107 of Chapter 90, Division 4 of Title 10,
5 Guam Code Annotated is hereby amended to read as follows:

6 **“§ 90107. Where smoking not regulated.**

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

10 (1) Bars.

11 (2) Private residences, except when used as child care
12 facility or health care facility.

13 (3) Hotel and motel rooms rented to guests.

14 (4) Retail tobacco stores.

15 ~~(5) Restaurants, hotel and motel conference or meeting~~
16 ~~rooms, and public and private assembly rooms while these~~
17 ~~places are being used for private functions.~~

1 (5)(6) A private enclosed office work place occupied
2 exclusively by one (1) or more smokers.

3 (b) All public places and facilities located within an enclosed
4 area where smoking is permitted or allowed to any extent by this
5 Chapter, shall employ an appropriate smoke ventilation device.
6 Smoking shall not be permitted at any time within enclosed areas not
7 meeting with the requirements of this provision.”

8 Section 5. Section 90105 of Chapter 90, Division 4 of Title 10,
9 Guam Code Annotated is hereby amended to read as follows:

10 “§ 90105. Prohibition of smoking in public places. (a)

11 Smoking shall be prohibited in all enclosed public places, including,
12 but not limited to the following places:

13 (1) Elevators.

14 (2) Buses, taxicabs, airplanes, and other means of public
15 transit, and ticket, boarding, and waiting areas of public
16 transport depots; provided, however, that this prohibition does
17 not prevent the designation of an enclosed and separate room

1 for smokers, so long as the room designated for smoking meets
2 the requirements of §90107(b) of this Chapter.

3 (3) Restrooms.

4 (4) Service lines.

5 (5) All areas available to and customarily used by the
6 general public in all businesses patronized by the public.

7 (6) Restaurants; provided, however, that this prohibition
8 does not prevent between the hours of 9:30 p.m. and 4:00 a.m.

9 (i) designation of a contiguous area within a restaurant that
10 contains a maximum of not more than ~~fifty percent (50%)~~ thirty
11 percent (30%) of the seating capacity of the restaurant as a
12 smoking area, or (ii) providing separate rooms for smokers and
13 nonsmokers, so long as the rooms designated for smoking do
14 not contain more than ~~fifty percent (50%)~~ thirty percent (30%)
15 of the seating capacity of the restaurant.

16 (7) Public area of aquariums, galleries, libraries, and
17 museums when open to the public; ~~provided, however, that~~

1 ~~this prohibition does not prevent the designation of a separate~~
2 ~~room for smoking in such areas.~~

3 (8) Any building not open to the sky which is primarily
4 used for exhibiting motion pictures, stage shows, musical
5 recitals or other performances, except when smoking is part of
6 a stage production.

7 (9) Sports arenas and convention halls; provided,
8 however, that this prohibition does not prevent the designation
9 of an enclosed and separate room for smokers, so long as the
10 room designated for smoking meets the requirements of
11 §90107(b) of this Chapter, ~~except in designated smoking areas~~
12 ~~therein with adequate and effective ventilation which removes~~
13 ~~smoke and purifies the recirculated air.~~

14 (10) Every place of meeting or public assembly
15 during such time as a public meeting is in progress.

16 (11) Waiting rooms, hallways, wards and semi-
17 private rooms for health facilities, including, but not limited to,

1 hospitals, clinics, physical therapy facilities, doctors' offices and
2 dentists' offices.

3 (12) Polling places.

4 (b) Any owner, operator, manager or other person who
5 controls any establishment, facility or area described within this
6 Chapter where smoking is not or in-part regulated, may prohibit
7 smoking to occur within the entire establishment, facility or area and
8 §90109, §90110, and §90111 of this Chapter shall apply."

9 **Section 6. Severability.** *If any provisions of this Act or its*
10 *application to any person or circumstance is found to be invalid or*
11 *contrary to law, such invalidity shall not affect other provisions or*
12 *applications of this Act which can be given effect without the invalid*
13 *provisions or applications, and to this end the provisions of this Act*
14 *are severable.*

Introduced
JAN 03 2005
Ande

MINA 'BENTE OCHO NA LIHESLATURAN GUAHAN
2005 (FIRST) Regular Session

Bill No. 16 ^{LS} (EOR)

Introduced by:

L. A. Leon Guerrero *file*
Judith Wolkoff

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THE "NATASHA PROTECTION ACT."

R. Respicione
Alba

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6 there are hundreds of thousands of tobacco-related deaths in the United States
7 each year.

8 It is equally important to convey to the community that tobacco is "the
9 only legally available consumer product which kills people when used entirely
10 as intended" (The Oxford Medical Companion, 1994), and indisputable scientific
11 evidence exists that links tobacco use and exposure to secondhand tobacco
12 smoke to pulmonary and cardiovascular diseases and cancer. Secondhand
13 smoke is the third leading cause of preventable death in the United States.

14 According to the Center for Disease Control and Prevention, several states
15 have implemented smoke-free indoor air ordinances to protect employees and
16 customers from secondhand smoke exposure, which is associated with increased
17 risk for heart disease and lung cancer in adults and respiratory disease in
18 children.

1 And as of January 2004, five states – California, Connecticut, Delaware,
2 Maine, and New York – and 72 municipalities in the United States passed laws
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4 More states are following suit and have enacted legislation to prohibit
5 smoking in facilities such as restaurants in order to protect employees and non-
6 smoking clientele from the harmful effects of secondhand smoke.

7 Non-smoking island residents may find tobacco smoke to be a nuisance,
8 but there are others such as those who suffer from asthma may also find tobacco
9 smoke, not only an inconvenience but detrimental to their health.

10 Furthermore, fourteen year old Natasha Perez, is a living testament to the
11 negative and potentially deadly effects of second-hand smoke. Diagnosed with
12 osteosarcoma, with the cancer eventually spreading to her lungs, Natasha is
13 limited to patronizing dining establishments with her family only extremely
14 early or late evenings to avoid tobacco smoke which would further compromise
15 her health.

16 **Section 2. Section 90100 Chapter 90, Division 4 is hereby amended to**
17 **read as follows:**

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