

**I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN**  
**2019 (FIRST) Regular Session**  
**LEGISLATIVE SESSION VOTING RECORD**

Bill No. 138-35 (COR)	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 31, 2019					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator William M. CASTRO	✓					
Senator Régine Biscoe LEE	✓					
Senator Kelly G. MARSH (TAITANO), PhD	✓					
Senator James C. MOYLAN	✓					
Senator Louise B. MUÑA	✓					
Speaker Tina Rose MUÑA BARNES	✓					
Vice Speaker Telen Cruz NELSON	✓					
Senator Sabina Flores PEREZ	✓					
Senator Clynton E. RIDGELL	✓					
Senator Joe S. SAN AGUSTIN	✓					
Senator Amanda L. SHELTON	✓					
Senator Telo T. TAITAGUE	✓					
Senator Jose "Pedo" TERLAJE	✓					
Senator Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES	✓					

**TOTAL: 15**

Aye

Nay

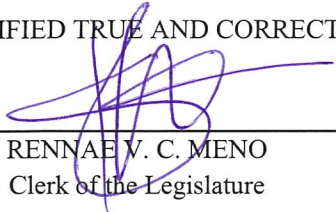
Not Voting/  
Abstained

Out During  
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

  
 \_\_\_\_\_  
 RENNÆ V. C. MENO  
 Clerk of the Legislature

I = Pass

***I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN***  
**2019 (FIRST) Regular Session**

**Bill No. 138-35 (COR)**

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Introduced by:

Amanda L. Shelton  
Therese M. Terlaje  
Mary Camacho Torres  
Tina Rose Muña Barnes  
Telena C. Nelson  
Kelly Marsh (Taitano) PhD  
Régine Biscoe Lee  
Joe S. San Agustin  
Clynton E. Ridgell  
Jose “Pedo” Terlaje  
Sabina F. Perez  
William M. Castro  
Louise Borja Muña  
Telo T. Taitague  
James C. Moylan

**AN ACT TO *AMEND* § 90103 OF CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE *NATASHA PROTECTION ACT OF 2005* TO DEFINE AND PROHIBIT THE USE OF ELECTRONIC SMOKING DEVICES WHEREVER OTHER TOBACCO PRODUCTS ARE ALREADY PROHIBITED.**

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

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

4                “§ 90103.    **Definitions.**

1           The following words and phrases, when used in this Chapter, *shall* be  
2 construed as follows:

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

10           (1) the serving of alcoholic beverages is located within  
11 a physically enclosed area apart from the dining area; or

12           (2) the serving of alcoholic beverages is located at an  
13 open and well-ventilated area apart from the dining area; or

14           (3) the serving of alcoholic beverages exceeds fifty  
15 percent (50%) of the establishment's gross revenue between the  
16 hours of 10:00 p.m. and 4:00 a.m. during those hours.

17           (b) *Business* means any sole proprietorship, partnership,  
18 corporation or other business entity formed for profit-making purposes,  
19 including retail establishments, as well as professional corporations and  
20 other entities where legal, medical, or other professional services are  
21 delivered.

22           (c) *Dining area* means any enclosed area containing a counter  
23 or tables upon which meals are served.

24           (d) *Electronic smoking device* means any electronic product  
25 that can be used to aerosolize and/or deliver nicotine or other substances  
26 to the person inhaling from the device, including, but *not* limited to, an  
27 electronic cigarette, electronic cigar, electronic cigarillo, electronic

1 pipe, hookah pipe, or hookah pen, and any cartridge or other component  
2 of the device or related product, whether or not sold separately.

3 (e) *Employee* means any person who is employed by an  
4 employer in consideration of direct or indirect monetary wages or  
5 profit.

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

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

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

17 (i) *Place of employment* means any enclosed area under the  
18 control of an employer which employees normally frequent during the  
19 course of employment, including, *but not limited to*, work areas,  
20 employee lounges and restrooms, conference rooms, and hallways. A  
21 private residence is not a “place of employment” unless it is used as a  
22 childcare or health care facility.

23 (j) *Public place* means any enclosed area to which the public  
24 is invited or in which the public is permitted, including, *but not limited*  
25 *to*, banks, health care facilities, public transportation facilities,  
26 reception areas, restaurants, retail food production and marketing

1 establishments, retail stores, theaters, and waiting rooms. A private  
2 residence is not a “public place.”

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

14 (l) *Retail tobacco store* means a retail store utilized primarily  
15 for the sale of tobacco products and accessories, and in which the sale  
16 of other products is merely incidental.

17 (m) *Service line* means any indoor line at which one (1) or  
18 more persons are waiting for or receiving services of any kind.

19 (n) *Smoke ventilation device* means devices that are inspected  
20 and regulated by the Guam Environmental Protection Agency and  
21 approved by the Department of Public Health and Social Services  
22 (DPHSS) pursuant to 10 GCA § 21101 and § 21102, in accordance with  
23 the standards of the American Society of Heating, Refrigeration and  
24 Air Conditioning Engineers, which adequately improves air quality  
25 within enclosed areas where smoking occurs consisting of:

1 (1) an approved mechanical device that aspirates air  
2 contaminated by smoking within an enclosed area to an external  
3 open area; or

4 (2) an approved aeration device that filters,  
5 mechanically or ionically, air contaminated by smoking within  
6 an enclosed area improving air quality standards.

7 (o) *Smoking* means inhaling, exhaling, or burning any lighted  
8 or heated tobacco product or plant product intended for inhalation in  
9 any manner or in any form. *Smoking* includes the use of an electronic  
10 smoking device.

11 (p) *Sports arena* means the enclosed area of any sports  
12 pavilions, gymnasiums, health spas, swimming pools, roller and ice  
13 rinks, bowling alleys, and other similar places where members of the  
14 general public assemble either to engage in physical exercise,  
15 participate in athletic competition, or witness sports events.

16 (q) *Tobacco product* means any product made or derived from  
17 tobacco, that contains nicotine or other substances, and is intended for  
18 human consumption or is likely to be consumed, whether smoked,  
19 heated, chewed, absorbed, dissolved, inhaled, or ingested by any other  
20 means, including, *but not limited to*, a cigarette, cigar, pipe tobacco,  
21 chewing tobacco, snuff, snus, or an electronic smoking device. Tobacco  
22 product does *not* include drugs, devices, or combination products  
23 approved for sale by the United States Food and Drug Administration,  
24 as those terms are defined in the Federal Food, Drug, and Cosmetic  
25 Act.”

26 **Section 2. Effective Date.** This Act *shall* be effective upon enactment.