

I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
198-34 (COR)	B. J.F. Cruz	AN ACT TO AMEND § 90103 OF CHAPTER 90, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE NATASHA PROTECTION ACT OF 2005 TO DEFINE AND PROHIBIT THE USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PLACES; AND TO APPROPRIATE THE SUM OF ONE HUNDRED THOUSAND DOLLARS FROM THE HEALTHY FUTURES FUND TO THE PREVENTION AND TRAINING BRANCH OF THE GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER FOR PREVENTION, CESSATION, AND DATA COLLECTION RELATIVE TO ELECTRONIC SMOKING DEVICES.	10/10/17 4:55 p.m.						

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session

Bill No. 198-34 (CVR)

Introduced by: B.J.F. Cruz

AN ACT TO AMEND § 90103 OF CHAPTER 90, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE NATASHA PROTECTION ACT OF 2005 TO DEFINE AND PROHIBIT THE USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PLACES; AND TO APPROPRIATE THE SUM OF ONE HUNDRED THOUSAND DOLLARS FROM THE HEALTHY FUTURES FUND TO THE PREVENTION AND TRAINING BRANCH OF THE GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER FOR PREVENTION, CESSATION, AND DATA COLLECTION RELATIVE TO ELECTRONIC SMOKING DEVICES.

2017 OCT 10 PM 4:55 C.S.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

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

4 “§ 90103. Definitions.

5 The following words and phrases, when used in this chapter, shall be
6 construed as follows:

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

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

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

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

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

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

14 (d) *Electronic smoking device* means any electronic product that can be used
15 to aerosolize and/or deliver nicotine or other substances to the person inhaling from
16 the device, including but not limited to an electronic cigarette, electronic cigar,
17 electronic cigarillo, electronic pipe, hookah pipe, or hookah pen, and any cartridge
18 or other component of the device or related product, whether or not sold separately.

19 ~~(d)~~ (e) *Employee* means any person who is employed by an employer in
20 consideration of direct or indirect monetary wages or profit.

21 ~~(e)~~ (f) *Employer* means any business, including the government of Guam and
22 any of its autonomous agencies, which employs the services of one (1) or more
23 persons.

24 ~~(f)~~ (g) *Enclosed Area* or the term *Enclosed*, when used relative to a structure
25 or building, means all space between a floor and ceiling which is completely
26 enclosed on all sides by solid walls or windows (exclusive of doors and

1 passageways) having an air circulation system completely separate from the dining
2 area.

3 ~~(g)~~ (h) *Smoke Ventilation Device* means devices that are inspected and
4 regulated by the Guam Environmental Protection Agency and approved by the
5 Department of Public Health and Social Services (DPH&SS) pursuant to 10 GCA §
6 21101 and § 21102, in accordance with the standards of the American Society of
7 Heating, Refrigeration and Air Conditioning Engineers, which adequately improves
8 air quality within enclosed areas where smoking occurs consisting of:

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

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

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

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

21 ~~(j)~~ (k) *Public Place* means any enclosed area to which the public is invited or
22 in which the public is permitted, including, but not limited to, banks, health care
23 facilities, public transportation facilities, reception areas, restaurants, retail food
24 production and marketing establishments, retail stores, theaters and waiting rooms.
25 A private residence is not a “public place.”

26 ~~(k)~~ (l) *Restaurant*, as defined for this Chapter, means any retail eating
27 establishment other than a bar where food is served or provided for onsite

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

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

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

13 ~~(n)~~ (o) *Smoking* means inhaling, exhaling, or burning, or carrying any lighted
14 or heated tobacco product or plant product intended for inhalation in any manner or
15 in any form. ‘Smoking’ includes the use of an electronic smoking device. cigar,
16 cigarette, pipe, weed, plant, tobacco product or related substance or product.

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

21 (q) Tobacco product means any product made or derived from tobacco, that
22 contains nicotine or other substances, and is intended for human consumption or is
23 likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved,
24 inhaled, or ingested by any other means, including, but not limited to, a cigarette,
25 cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking
26 device. Tobacco product does not include drugs, devices, or combination products

1 approved for sale by the United States Food and Drug Administration, as those terms
2 are defined in the Federal Food, Drug, and Cosmetic Act.”

3 **Section 5. Funding.** The sum of One Hundred Thousand Dollars (\$100,000)
4 is appropriated from the unappropriated Healthy Futures Fund revenues in Fiscal
5 Year 2017 to the Prevention & Training Branch of the Guam Behavioral Health and
6 Wellness Center for prevention and cessation programs relative to electronic
7 smoking devices and tobacco use. This appropriation shall not lapse and shall
8 continue until fully expended.

9 **Section 6. Effective Date; Application.** This Act *shall* take effect upon
10 enactment.