

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
138-35 (COR)	Amanda L. Shelton Therese M. Terlaje Mary Camacho Torres Tina Rose Muña Barnes Telena Cruz Nelson Kelly Marsh (Taitano), PhD Régine Biscoe Lee Joe S. San Agustin Clynton E. Ridgell Jose "Pedro" Terlaje Sabina Flores Perez William M. Castro Louise B. 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.	5/17/19 5:41 p.m.						

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

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

Introduced by:

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**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.**

2019 MAY 17 PM 5:41

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

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

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

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

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

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

1 ~~(h)~~(i) *Open area* means an outdoor area or all space between
2 a floor and ceiling which is enclosed by *no more than* sixty percent
3 (60%) on all sides by solid walls or windows.

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

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

16 ~~(k)~~(l) *Restaurant*, as defined for this Chapter, means any
17 retail eating establishment other than a bar where food is served or
18 provided for onsite consumption by seated patrons that is regulated by
19 the Department of Public Health and Social Services, including any
20 private food establishment or club where food is served or provided for
21 on-site consumption by seated patrons in which only members or their
22 guests are permitted. If a restaurant includes an area devoted to the
23 serving of alcoholic beverages that is not enclosed or is not located
24 within a well-ventilated open area apart from the dining area, that area
25 *shall* be deemed part of the “restaurant,” not a separate “bar,” as used
26 in this Chapter.

1 (4)(m) *Retail tobacco store* means a retail store utilized
2 primarily for the sale of tobacco products and accessories, and in which
3 the sale of other products is merely incidental.

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

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

11 (o)(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; Application.** This Act *shall* be effective upon
27 enactment.