UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

35GL-19-1221
Speaker Tina Rose Muña Barnes

November 12, 2019

NOV 12 2019
Time 5:46 ( )AM (X)PM
Received By: AA

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96932

2019 NOV 13 AM 8:21

Re: Bill No. 138-35 (COR) – *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*

Dear Madame Speaker:

In 2005 I fought for the passage of the Natasha Protection Act because a courageous young girl suffering from cancer wanted to eat with her family at restaurants. She just wanted to do it without getting too sick to breathe. Now fourteen years later, as our children face new threats, I am glad to sign Bill 138 into law as **Public Law No. 35-47**.

While e-cigarettes are often branded a cessation aid, individual choices should not endanger those in public spaces-or their children. "Exposure to any nicotine or tobacco product is dangerous for infants and children," said Dr. Jonathan Winickoff, the director of pediatric research at the Tobacco Research and Treatment Center at Massachusetts General Hospital. "The developing brain is exquisitely sensitive to nicotine."

This measure could not come at a more opportune time. Local statistics show that in 2015 32.2% of high school students and 23.1% of middle school students reported current use of vaping products. Public Law No. 47, like the Act it is now a part of places Guam on the right side of history.

1221

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I applaud the work of this bill's author Senator Amanda Lee Shelton and look forward to partnering with her on other measures which will keep our community safe.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Bill No. 138-35 *nka* Public Law 35-47

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

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

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 138-35 (COR), "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,"** was on the 31st day of October 2019, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 31st day of October, 2019, at 5:58 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/12/2019

Public Law No. 35-47

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

Bill No. 138-35 (COR)

Introduced by: 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 "Pedo" 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.

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

"**§ 90103. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."

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

(l) *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.

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

(n) *Smoke ventilation device* means devices that are inspected and regulated by the Guam Environmental Protection Agency and approved by the Department of Public Health and Social Services (DPHSS) 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 improves air quality within enclosed areas where smoking occurs consisting of:

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

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

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

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

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

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