

1 only incidental to the consumption of such beverages. Although a restaurant  
2 may---contain a bar, the term bar shall not include the restaurant dining area.

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

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

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

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

14 *Enclosed Area* means all space between a floor and ceiling which is  
15 enclosed on all sides by solid walls or windows (exclusive of doors and  
16 passageways).

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

22 *Public Place* means any enclosed area to which the public is invited or in  
23 which the public is permitted, including but not limited to, banks, health care  
24 facilities, public transportation facilities, reception areas, restaurants, retail food  
25 production and marketing establishments, retail stores, theaters and waiting  
26 rooms.

1 ~~Restaurant means any coffee shop, cafeteria, public school cafeteria or~~  
2 ~~eating establishment which is operated by, under contract to, or on behalf of a~~  
3 ~~business or employer as defined in this § 90103.~~

4 Restaurant means any retail eating establishment where food is served or  
5 provided for on-site consumption by seated patrons that is authorized by the  
6 Guam Department of Public Health and Social Services to operate as a food  
7 establishment, including any private food establishment or club in which only  
8 members or their guests are permitted. If a restaurant includes an area devoted  
9 to the serving of alcoholic beverages, that area shall be deemed part of the  
10 "restaurant," not a separate "bar," for this article. An establishment that is a  
11 "restaurant" shall have that status for all hours of operation.

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

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

17 *Smoking* means inhaling, exhaling, or burning any lighted cigar, cigarette,  
18 or other tobacco product.

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

24 **ection 4. Section 90107 Chapter 90, Division 4 is hereby amended to**  
25 **read as follows:**

26 "§ 90107. Where smoking not regulated.

1 (a) Notwithstanding any other provisions of this chapter, the following  
2 areas shall not be subject to the smoking restrictions of this chapter:

3 (1) Bars.

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

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

7 (4) Retail tobacco stores.

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

11 (5) ~~(6)~~ A private enclosed office work place occupied exclusively by  
12 one (1) or more smokers."

13 **Section 5. Section 90105 Chapter 90, Division 4 is hereby amended to**  
14 **read as follows:**

15 "§ 90105. Prohibition of smoking in public places. Smoking shall be  
16 prohibited in all enclosed public places, including, but not limited to the  
17 following places:

18 (1) Elevators.

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

21 (3) Restrooms.

22 (4) Service lines.

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

25 (6) Restaurants. ~~; provided, however, that this prohibition does not~~  
26 ~~prevent (i) designation of a contiguous area within a restaurant that contains a~~

**Bureau of Budget & Management Research**  
**Fiscal Note of Bill No. 16(LS)**

**Bill Title (Preamble):** An act to amend subsections 90100, 90103, 90107, and to add a new subsection (6) to 90105, Chapter 90, Division 4, of Title GCA, relative to the regulation of smoking activities to be known as the "Natasha Protection Act."

**Department/Agency Appropriation Information**

Dept./Agency Affected: <b>Government Wide</b>	Dept./Agency Head: <b>Governor of Guam</b>
Department's General Fund (GF) appropriation(s) to date:	\$0
Department's Other Fund (specify): _____ appropriation(s) to date:	\$0
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$0</b>

**Fund Source Information of Proposed Appropriation**

	General Fund:	Other (specify):	Total:
FY 2005 Adopted Revenues	\$447,441,000	\$100,502,170	\$547,943,170
FY Appro. to P.L. _____	(\$447,821,707)	(\$100,702,530)	(\$548,524,237)
Sub-total:	(\$380,707)	(\$200,360)	(\$581,067)
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>(\$380,707)</b>	<b>(\$200,360)</b>	<b>(\$581,067)</b>

**Estimated Fiscal Impact of Bill**

	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No  
 If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No  
 If no, what is the additional amount required? \$ \_\_\_\_\_
- Does the Bill establish a new program/agency? / / Yes /X/ No  
 If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No  
 Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /X/ No  
 / / Requested agency comments not received by due date / / Other: \_\_\_\_\_

Analyst: ✓ Dina P. Chock Date: 3-16-05 Director: Carlos P. Bordallo Date: MAR 16 2005  
 Carlos P. Bordallo, Acting

**Footnotes:** The Bill's intent is to amend the title of the "Clean Indoor Air Act of 1992" to the "Natasha Perez Protection Act of 2004." In summary, the Bill's overall intent is to amend the current "Clean Indoor Air Act of 1992" to eliminate smoking in "Restaurants" as redefined in the Bill. The enactment of the Bill may entail both a negative and positive impact to the restaurant business community on Guam. Restaurant establishments may experience a reduction of its smoking patrons due to the non-smoking policy. On the same note, this may encourage others of the non-smoking public to patronize the establishment more frequently as a result of the non-smoking policy. Other costs a Restaurant may experience would be for the construction of an open/outdoor eating facility for its smoking patrons. Thus, the overall net impact ie on sales for the restaurant establishments on Guam is undetermined at this time.

*Roid 3/29/05 JSN*



MINA' BEN OCHO NA LIHESLATURA 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

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# Committee Report on

**Bill 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.**

***I Mina' Bente Ocho Na Liheslaturan Guåhan***  
**Committee on Finance, Taxation, and Commerce**  
*Sinadot Edward J.B. Calvo, Ge' hilo*

**I. OVERVIEW**

The Committee on Finance, Taxation, and Commerce held a Public Hearing on Tuesday, March 17, 2005, 9:30 a.m. at *I Liheslaturan Guahan's* Public Hearing Room on 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'*". Notices of this public hearing were disseminated throughout all local media via facsimile and are attached herein.

**a. Senators present:**

Senator Edward J.B. Calvo, Chairman  
Senator Larry Kasperbauer, Vice-Chairman  
Vice-Speaker Joanne M.S. Brown  
Senator Adolpho B. Palacios, Member  
Senator Benjamin J.F. Cruz  
Senator Mike Cruz, M.D.  
Senator Robert Klitzkie  
Senator Lou Leon Guerrero

**b. Appearing before the Committee:**

Genevieve Garcia	Amanda Shelton	Randal Workman
Larry Ramirez	Ron McNinch	Karen Cruz
Vicki Gayer	Michale Libratore	
Bart Jackson	John Camacho	
Brian Artero	Elaine Lowe	
Frank Kenny	Jackie Marati	
Sharon Ishizaki	J. Peter Roberto	
Pia Weisenberger	Dr. Annette David	

**c. Written testimony provided:**

American Cancer Society – Guam Unit  
Americans for Nonsmokers' Rights  
Coalition for a Tobacco Free Guam  
Crisostomo, Mariana Piper - Sixth grader at Untalan Middle School  
David, Dr. Annette M.  
Department of Mental Health & Substance Abuse  
Domescik, Julia  
Duenas, Daniel - Case Work and Counseling Director of Sanctuary, Inc.  
Eustaquio, Dolores  
Fausto, Joseph – Student, Untalan Middle School  
Fernandez, Lorraine – Student, Untalan Middle School  
Leon Guerrero, Genevieve - Mother of Natasha Perez  
Gray, Tim  
Guam Nurses Association  
Hilbert, Richard  
Hunt, John  
Ishizaki, Sharon  
Kenny, Frank – Co-owner of Jamaican Grill Restaurants  
Kotwal, Sisank  
Leon Guerrero, Dan  
Leon Guerrero, Tia  
Levin, Mark A.  
Linsangan, Ma. Gladys M.  
Marati, Jacqueline  
McNinch, Dr. Ron  
Palafox, Neal A.  
Perez, Gerry  
Perez, Natasha  
Sgambelluri, Juanita Iriarte  
Sheih, Dr. Thomas  
Southeast Asia Tobacco Control Alliance  
Untalan Middle School Students  
Veskler, Renee  
Wakai, Glenn  
Weger, Janice Marte  
Weisenberger, Pia  
Youth for Youth Organization

## II. TRANSCRIPT OF VERBAL TESTIMONIES AND DISCUSSION BETWEEN AND AMONG SENATORS AND MEMBERS OF THE PUBLIC:

The following is a complete record of verbal testimonies presented before the Committee on Finance, Taxation, and Commerce. Discussion between members of *I Liheslaturan Guåhan* and the public are also provided in this section.

**Chairman Calvo**, *Chairman of the Committee on Finance, Taxation, and Commerce*, called this public hearing to order on Tuesday, March 17, 2005, at 9:34 a.m.

We are here to hear Bill 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’”*.

**Senator Leon Guerrero [Author of Bill No. 16 (LS)]:**

Thank you, Mr. Chair and thank you for expeditiously hearing this bill because I think it is way overdue for our community. And I must have to make the announcement that this is definitely a health issue and it's not a business issue... a concern but although in focusing on the health issue I would like to say that the business community would also improve and increase. We have numerous data to support that in big states like New York and California who have no smoking in restaurants and bars... have shown no impact in the business in fact it has improved their business, and employment has increased. So also quoting numerous presidents of various hotel and restaurant associations... I think the hotel restaurant association should lead the fight in banning smoking. Because I have to say it only improves the business of our community. On the health issue we all know that we have seen and read an even experienced within our own families the effects of smoking tobacco and the surgeon general and many experts say that tobacco which is a legal drug... it is the only legal drug proven to kill people and certainly with that I think we as a community must make the message that we want an environment that can be fit to the health of our community and certainly restaurants is one of the environments that a lot of us go to, to enjoy dining and to enjoy the pleasure of eating and it is very obnoxious not only that it kills you... the second hand smoke... that it is also very obnoxious, and I think it's detrimental to the health of our people. The bill came about I think after a very courageous girl that came to my office and discussed her love in going to dining areas and that in the mainland when she was over there she had no problem going to restaurants because most of the places that she is at are smoke free places and one of her biggest pleasures in life is enjoying food, and now here in Guam when she goes to restaurants to enjoy a pleasure that she likes she has to either go real early before the crowd comes because second hand smoke becomes



very, very sensitive to her respiratory system. So I would like to say that the act of this courageous girl who came to my office very adamant that we should have a smoke free restaurant environment not only for her own health but for the health and safety of her peers and the people of Guam. The genesis of the bill and the driver of that bill was Natasha and I have to thank her for her courage and continue that fight and also would like to say to our people here that let us all ban together in that fight so we can prolong the life of our people here and increase our tourism and increase our business and increase our health. So I would like to thank you, Mr. Chair, and after this hearing, once we hear ways to improve this bill and to make it definitely a more smoke free environment then I ask that you report it out expeditiously because like I said it is way overdue and its time to give the community a health that they deserve. Thank you, Mr. Chair.

**Chairman Calvo:**

I would also like to welcome the Chairman on the Committee on Health, Doctor Mike Cruz, and I want to make very clear with those attending and to all my colleague as oversight Chair of Finance, Taxation and Commerce and based on the standing rules I must first of all apologize for the one week delay in hearing the bill. But there was an issue with what committees would hold oversight in regards to the hearing and the movement of the bill and again it is my responsibility, everyone has a job to do, and I've had oversight in several committees in the past and with this oversight in this committee based on the standing rules and of course it was checked by legal counsel, and that it is a health matter, I agree, but then at the same time... that this regulation would impose on... are in the private sector and it is a regulatory issue as well there was no other motive other than to insure that the proper committee does hear the bill and again we are one week delayed and I am so sorry about that but let's move forward from here. I would like to first call up and again I am going to do it in the order in which they have signed in.

- 1) Genevieve Garcia – Parent of Natasha
- 2) Larry Ramirez
- 3) Vicki Gayer
- 4) Bart Jackson
- 5) Brian Artero

Now what I am going to ask is that as I call each individual person I would like you to state your name, who or what group you represent, and whether you're for or against the bill. And then of course your testimony so again I would like to start out with my *prima*.

**Genevieve Garcia:**

Good morning senators my name is Genevieve Leon Guerrero Garcia. I am in here in support of the Natasha bill and with me today I have my family and friends my daughter Natasha with her classmates and my mother Tita Leon Guerrero and my husband Rony Garcia.

To begin... I am an educator of 13 years I am a small business owner of a small cookie company called Tita Jr. for 9 years. However, the most important job I have ever held is that of a mother to a 14 year old daughter, Natasha. Today I am here to speak in favor of the Natasha Bill. Natasha and her classmates are here today to also show support of this bill. My husband Rony and mother Tita Leon Guerrero of Tita's *Guyuria* are also here to show their support of this bill.

As parents, it is instinctive, that we watch and protect our children. Should our child reach for a hot stove, we immediately safeguard their unknowing hand. Should they cross the street, we tightly hold on to their hand while crossing. We buckle up our children in the car before ourselves to ensure that they will be safe. As parents, as many of you are here today, I have done that and I know you have as well. Being a responsible parent is second nature to many of us in this room. I come before you today asking the panel of senators here today to keep your children and my child in mind before deciding that this a commerce bill verses a health bill.

My daughter, Natasha, has a respiratory problem. As a responsible parent I make sure that she takes her medications. Like many children and adults who suffer from respiratory illnesses... it is challenging, to say the least, when they have to struggle to breath or take their next breath The bill before us today, provides the opportunity for children like my daughter, senior citizens, as well as others to protect their air quality while eating.

As a parent, I have found it challenging to eat on Guam. Those of us with children know that eating on time is important. Two hours past the usual lunch or dinner time will make our kids cranky and thus, make us miserable. I have found that to, "outsmart" our smokers, I would have to take my daughter for lunch at 11:00 or earlier, early dinners like at 4:30 p.m. Once smokers are present, they quickly take out their cigarettes and puff away. Unfortunately, as far away as possible from the smoking section is insufficient to diminish the effects of secondhand smoke. How many of us have sat at the non-smoking section of a restaurant only to walk out smelling like the tobacco products that have crossed over our non-smoking section. In addition, I am disturbed when I see smoking parents dine in the smoking section with young children.

I am sure that physicians, nurses, and other health professionals have shared with you their support for Senator Lou Leon Guerrero's bill. Medical literature, research and testimony related to smoking and secondhand smoke supports this bill. I know that hundreds of students have signed petitions in favor of this non-smoking bill in restaurants. As educated or learned individuals, we need not read all the medical literature... we all know the bottom line... Second hand smoke has health consequences.

Should this bill, if it becomes law, affect the restaurant business? Before anyone answers this question, ask yourself, do smokers watch a movie at the theater and forgo their urge to smoke for two hours? Do they not travel off island from the Guam to Hawaii which is 7 hours long? Do they not go to the shopping malls? Do they forgo parent teacher conferences or visit their child's school because there is no smoking at schools? Do they not go to federal buildings or offices of public service because they have no smoking policy to conduct official business? Do they not cash their checks or pay their bills at their bank, or get groceries because there is no smoking at Payless. Do they not go to church because even there, God does not care for cigarettes?

I don't think so.

To the senators concerned about the commerce aspect of this bill. I have heard it said that this should be a commerce issue not a health issue. I am saddened by our senators responses, I am confident that if we were to ask people about a "smoking law", immediately, we think of health. Recently, as an island... we had made the decision, loud and clear that we did not want to have controlled gambling. We decided this because as a community we wanted our island even forgoing any financial benefit because we wanted to keep harm away from our community.

We thought of our island's welfare before our revenue benefit. In the same token we need to place our island's health before commerce.

We have serious problems regarding our healthcare system on island. I am concerned that if something as basic as "no smoking in restaurants" is controversial, and leads to committees and senators divided, it gives me little hope that consensus for a better healthcare system is possible.

This is my home and my island, when people travel it is the adventure of visiting a new place, knowing more about their culture and adjusting to their laws. When our foreign tourists rent a car, I doubt that they drive on the left side of the road. If we travel to Singapore, we are mindful about not chewing gum because as a tourist, we respect their culture and make adjustments according to their laws. I find it difficult to believe that

our tourist market will feel the effect of this law because they will adjust to laws of the country they visit.

I had lived in New York City for a year. In that time, Governor Pataki had passed a law banning smoking in restaurants and even bars. Many business owners protested and a few did marches. Many proclaimed that they would go out of business. It took 6 weeks to adjust and sure enough, it worked out for everyone in the end. As I walked down the city streets, many patrons of bars and restaurants who wished to smoke did so outside. Did you catch that in the news recently about Hawaii wanting to ban smoking at public beaches.

Do you recall, when we implemented the "seatbelt" law, we needed our enforcement officers out in the streets to remind us all to buckle up. We did that to protect our motorists. It took our island three weeks to transition our brain to take that extra second to buckle up. In the same token, there will be an adjustment period but I believe the support from the community is there and is long overdue.

I look forward to seeing all of you, republican and democrat voting in favor of protecting the air quality in our restaurants for ourselves and most importantly, our children.

Thank You for listening.

**Larry Ramirez:**

First I would like to testify as Lorenzo T. Ramirez (Larry) and all of these people that are testifying... we are in the second generation so they are all my cousins. I am in favor of this bill. Senator Lou Leon Guererro is my second cousin through the Sablan and the *Tae*.

**Vicki Gayer:**

First of all I would like to thank the senators and I am wondering where the other eight are? And are they going to hear our testimony or are they going to be voting uneducated without listening to us?

**Chairman Calvo:**

Ma'am, this is public hearing, in fact just to advise you, the question will all be asked by the Committee. I want to be clear with folks as we move on that this public hearing is for the purpose of hearing a bill. It has been put into my Committee and what will occur of course... and just to explain for those who have not been in the legislative

process. We are all voted on and again represent the people. As a bill is introduced and then its heard in a Committee although not everyone will be present at the hearing, what will occur is the Committee will take in the bill and all the testimony that has been provided by the public and from there it will be deliberated and the bill will either move forward in the main legislative session or it will be substituted or amended in various fashions. Though everyone may not be present at this hearing, they will have access to all the testimonies. We also have audio and video, so whether again written testimonies or audio video they will all be made available to all the senators.

**Vicki Gayer:**

They will be made available but are they going to access it before they vote? I sure hope so. Well I would like to start by saying, I actually would like to quote a Supreme Court Justice William Brennan, he said your right to swing your fist at the tip of my nose and then I am going to modify it to your right to release toxic substances into the air ends at the tip of our noses. That means that this is justifiable law. We need to supply the evidence of course that secondhand smoke is really injurious, especially if they are sitting across the aisle. Already we have laws that say they have their own sections. However I am going to give you some proof that emissions from burning cigarettes in an enclosed public area are secondhand and is injurious... there have been lots of studies done as we all know and we found there is up to 4,000 substances found in typical cigarettes though secondhand smoke. At least a 100 of them are injurious. A few of them are aluminum oxide, potassium nitride, ammonium phosphate and poly vinyl acetate; these are some of the most dangerous most implicated 25 serious illnesses including 17 forms of cancer. This is pretty serious, now I am going to give you a quote from an accredited study published in DNA origin of Knowledge by Jeremy Narby... this is something most people don't know about but indoor rated on decay products that pass from room air through burning cigarettes in domain stream smoke are present in large in soluble smoke particles that are selectively deposited in *bi-frication* thus radiation is a bronchial *bi-frication* are about 80 rad... which is a radian measurement and that is a dose sufficient to induce malignant transformation by *alfa* interaction basal cells. Another article states that an average smoker absorbs the equivalent 250 to 300 chest x-rays films a year. Through the filter okay we see the tar that is captured. Now we see the brownish tar that is captured filter in their cigarette bud that spears the smoker. But there is no such scrubbing device to protect the nonsmoker that are standing around or that are nearby. And in a restaurant we've got the air circulating with air conditioning systems... we are all breathing that. Another report by Doctor Abilin states low tar cigarettes have a lower risk factor in second hand smoke than normal cigarettes, however, a lowering of heart attacks or chronic lung conditions from light cigarette has not been noticed. So that means limiting of establishments to light cigarettes is not going to help our young Natasha or others like her. So we have to take that into consideration if there is going to be any modification bill... we cannot accept

that light cigarettes are acceptable. However supplying smokers with nicotine candy or gum might be a possible solution that will also help our business... they feel that they are losing something. Nicotine in itself... according to many scientists, is not considered to be an actual health risk, Doctor Dina Del in his talk show once entertained a woman who had never smoked but had become hooked on nicotine through chewing gum and he stated it was probably a relatively harmless way to get nicotine but rather expensive since gum cost so much more expensive then cigarettes to get a fix, but this is an interesting concept. We have to remember nicotine is a stimulant and stimulants feel good and that's how people get hooked and if you are sitting in a room where a lot of people are smoking it is actually possible you could be subsequently attracted to that place because you're being exposed to that nicotine. So we are endangering ourselves by being in bars and restaurants where there is cigarette smoke and it may not even bother us but we are just going to start enjoying going to these places and it is because we are getting hooked and we don't even know it. Stimulants always feel good and mostly all dangerous drugs... some of them more dangerous then others like amphetamines or stimulants... cocaine, tobacco which happens to be legal... is the biggest killer of all and is being exposed... like we said their right to release poison substance into the air and to the tip of our noses. Actually I have met people who were hooked on heroine that quit, that said they couldn't quit smoking tobacco... they say its even more addicting then heroine. And we could be just... by being exposed and exposing our children in these restaurants actually building up cravings towards nicotine which isn't dangerous but those other hitchhikers' poisons that come with our cigarettes... that is what we have feared. Now I would like to also mention we've got some people who are going to be voting on this bill that may have some vested interest, they might be smokers themselves, they might own businesses that are selling cigarettes and I hope that you consider that some people might wish to disqualify themselves from voting on this bill if they may not be able to vote fairly on it because of other interests including personal addiction. In South America there are indigenous people that have similar to our *Suruhanus*... they have their own type medicinal doctors who actually used tobacco in their medicine and they claim tobacco imparts spirits into the body that take over you, that take over you and control your mind and I've personally seen people here on Guam who have \$2.00 left rather then buy food for themselves or their own children they'll by cigarettes and this is a major mind control drug... it is actually... its legal but it is dangerous. One of these people call it *kisherrari* and they live in the *kagunari* in the Amazon jungle they actually blow smoke into their victims and drink the brew themselves and leave and it seems that there may be some truth to it because of what scientists have found... that there is actually reciprocities in the brain that the nicotine goes into and actually takes control of people okay... and can actually communicate between brains... scientists have been interested in studying this. These *Manipuri* spirits which they believe come from the tobacco. Actually if we go scientifically you could say the nicotine locks into reciprocities into the brain and this happens to the very same reciprocities that *Curare* which is frog venom and much snake

venom that can lock into that are deadly... that can kill you immediately. So here we are, we have this dangerous drug inside the cigarette smoke that seems that it is not even bothering us because it's across the aisle and it is a very serious thing. PDN used to have Joe Murphy's column Pipe Dreams and it kind of goes to suggest that yes there is the mind altering ability of this tobacco, and as a person inhales and exhales as a meditation... but you add that with a lot of chemicals and nicotine you get a completely different mental picture we've got in our world... sad to say in Indonesia... not to long ago the president came out and asked all the people to stop eating rice on Wednesday because they needed to grow tobacco in the rice patties. Even children and babies were deprived of rice so that they could grow more tobacco to supply countries where people were addicted, so we have to consider all of this on how powerful this drug is, it's been very powerful, in fact the slave industry in America was partly caused by tobacco needs by tobacco farms... Marlboro County, Salem, and Winston. So people have been slaved by this drug ... it's really a problem that we need to address and I really thank Natasha for bringing this up because this is something that I really wanted all my life. I wanted a law like this all my life. I would like to also mention here that I work in the hotel industry part time, restaurant and hotel and I am very familiar because I see people... sometimes smokers and non smokers and there is a lot of people that like to smoke... wait 30 minutes just to get a seat in the smoking section but we also have a lot of people... and I would say more that do not smoke that would spend 30 minutes waiting for special seats for the non smoking section... now this is what's really sad is they have to sit in extreme close proximities to the smokers for 30 minutes with smoke being blown in their face while they wait for a non smoking seat. So I agree we need to change the law, the as it is, is not good enough. However there are quite a few tourists that would be, I would be sad to say but I have to admit that if you don't pass this law right, if we don't do it right, we could discourage tourist and we depend on tourism greatly. So I would like to suggest that we give tax rebates to hotels and restaurants that would put a special room in that... is glass and that will also create new business for businesses that would want to do this, where they have a separate air circulation system. A lot of large hotels... they can't just step outside and smoke... they're huge and they have to go down stairs... 3 floors through an elevator and it could really harm businesses that, I hate to tell you... this but I know you are aware that a lot of Japanese people smoke and they are very important to our economy and we need to address this and I think we could deal with the effectively if we do make some tax rebates for hotels and restaurants who will put in a special room with separate air circulation and this will also spear more business for our people, so there are ways around everything just like when we legalize gambling now they can cash out at the cash register instead of the machine, I mean they can get around things. So we could have our cake and we could eat it too. But we got to do it right. Now all of us here you know, these, all of us we really want, most of us want to see smoking banned, but we got to do it right, or we are going to hurt our economy okay, and I really want to say that it can be done right, so

lets do it right, lets not leave some loose ends that end up hurting our economy by just making a blanket rule and helping out the restaurant industry.

**Chairman Calvo:**

I usually don't set the rules about time but just looking at the numbers that have been given to me... any further testimonies... I am going to ask if folks try to get it within 5 minutes and it will help so everyone will get their voices heard.

**Vicki Gayer:**

We need to make this law but we need to do it right. And it can spur extra business if we do it right. So please pass the law but don't leave any loose ends. Thank You.

**Chairman Calvo:**

Thank you very much Vicki.

**Bart Jackson (Chairman, Guam Hotel and Restaurant Association Board of Directors):**

First of all I'm sorry to say that I have no relatives in the legislature, I'm very sorry, Mr. Ramirez is very lucky. I also like to mention to the Committee before I begin that yesterday, I offered this testimony to our membership, to all of the membership at a full membership meeting and there were no objections.

*Hafa Adai*, Mr. Chairman, and members of the Committee, My name is Bart Jackson and I am the chairman of the Board of the Guam Hotel & Restaurant Association and I'm here to testify on behalf of the board and members of our organization on Bill no. 16, the Natasha Protection Act. For the record I'm a nonsmoker and my pregnant wife quit 2 years ago.

The Guam Hotel and Restaurant Association supports a safe and healthy environment for all people that patronize our businesses. We are concerned about the health and well-being for all of our employees and for all of our guests. Whether they come from Sapporo or Sinajana, that being said we do not support the passage of Bill No. 16. We believe that Bill No. 16 arbitrarily identifies and discriminates against restaurants and conference meeting facilities in hotels as the primary target for the band. Bars, night clubs and other similar establishments would continue to operate without any impact. As a regulatory matter Bill No. 16 unfairly gives a competitive advantage to one type of business over another. If Bill No. 16 is a health bill, then why does it create an arbitrarily and artificial difference between restaurant patrons, bar patrons, lobby visitors or any other staff needed to work in those environments. If second hand smoke



is dangerous why do we only address the second hand smoke presence in restaurants and related bars and why do we make the distinction between those restaurants that have a certain mix of food and beverage and those with a different mix. If second hand smoke is dangerous then it is dangerous for everyone in a closed environment. If this is a truly a public health issue the band on smoking should be non-discriminatory and applied evenly across the board and I pause for effect. The GHRA is willing to support legislation that is fair, logical, and accomplishes what it is designed to do, protect the people of Guam and its visitors from the dangers and unpleasantness of second hand smoke. Maybe we should even go so far as to prevent smoking in motor vehicles being operated in the highways of Guam. Bill No. 16 in its present form is and... like clarity as to how the ban would be implemented, how restaurants that have bars might be able to comply with the intent with the law if they instituted certain measures and the penalties for non compliance. We would be glad to work with this legislature to create a new piece of legislation that truly addresses the business and public health concern of smoking. Bill No. 16 is clearly a measure that falls short of its intent and should not be passed. I thank you for the opportunity to testify on Bill No. 16 and I'll be here for another hour to answer questions.

**Brian Artero (GHRA Board Member, owner of Lone Star Restaurant):**

Good morning senators. Although I am a member of GHRA, also a board of directors on the Chamber of Commerce and GEDCA, I am here representing my restaurant, my wife and my two kids. I am a non smoker. I quit smoking in 1992, as a Valentines gift to my girlfriend, who later became my fiancée who is now my wife and mother of my two children. I also would like to say that I do respect that this Committee is hearing it but this is a health issue. Just last night I took my wife to a restaurant there were no seats in the non-smoking section, I sat in the smoking section and someone lit up and I had to move over to another area, so I understand the motions and facts involved here. With that said I'm in full support of any bill that would decrease the effects of second hand smoke in any work place and any public area. I challenge you senators to make the right decision. Right decisions are some of the toughest decisions because they involve testing our character. I know the family that is here today, they dine in my restaurant very often. She is a great mom and I think that she should get her way. I also know, many of you may remember that Lone Star Steak House took, or participated in smoke free days two years in a row through the help and participation of American Cancer Society (Joey Lopez who I think is in the room and Senator Lou Leon Guerrero). Those days were very successful business days for us... our volume was close to twenty five percent up on those days and we were very happy to help the community out on those days as well and my staff and myself we all appreciated the clean air. This bill goes part of the way though, let's mention that. It leaves work for this legislature to revisit later and that's not uncommon on Guam, many times we dabble in an area of legislation and to go part of the way just to see how receptive the public will be to that.

I think that once we enter the arena we should do the work right and we should be done with it. I believe that people go to a movie first to watch a movie and they also go to a restaurant first to eat food. I think that we should make the right decisions. I would like to see smoking eliminated from all public areas and that's all I really wanted to say today. Also I applaud Senator Lou Leon Guerrero for getting out there and writing this and getting us to this issue. Let's see if we can amend this thing and get it right. Let's do it right the first time.

**Chairman Calvo:**

Thank you very much Mr. Artero. Again I'm gonna ask all you folks again within the next hour, if your planning to leave please advice so, there maybe some questions from our panel. I would like to call up next Mr. Frank Kenny, Sharon Ishizaki, Ron McNinch, Michael Libratore, and Mr. John Camacho.

**Frank Kenny (Co-owner of Jamaican Grill Restaurant):**

Good morning senators and every body else present. My name is Frank Kenny and I'm one of the co-owners of the Jamaican Grill Restaurant located in the Chamorro Village and fortunately opening a second branch in Tumon. The reason why I'm here is to basically share my testimony both as a taxpayer and voter and a business person. First of all I would like to say that the general topic that were talking about right now has been on the forefront of our culture for a good twenty five years and it's always been, I think... spearheaded as a health issue. So I just want to voice my concern, first and foremost I think it is again a health issue. I was here last week on the 10<sup>th</sup> to try to give testimony only to find out that it have been moved to a business issue, so again I think the bill needs to be focused on the health issue first and foremost in any decisions or topics of conversations need to be focused on that issue before business... as a business person. Secondly I have to say that, us as Jamaican Grill we have always you know being in business trying to know your consumers and your guests... there is always a population of smokers here on island like everywhere else around the world. It's just a reality of our society, so we as a business take this into consideration, other businesses should do the same and plan accordingly. We've been fortunate enough at both restaurants to have the space in which we've been able to plan this in an outdoor open patio. It's not enclosed, out door open patios do not have the risk associated with it as indoor eating establishments do, so we as a business concerned have fought that out and had planned in actually investing a significant amount of money in the new branch to take the health issue at an utmost importance. We do not want to put any of our guests entering our restaurant at the risk of second hand smoke, so we actually devise the plan, implemented and spent again a significant amount of money ensuring that our guests have that smoke free environment, and in closing... I would just want to say that in general I am in support of Bill No. 16. I do think that there are other details or

the specifics that need to be worked out, but from a business stand point of Jamaican Grill, I would just have to say that open air patios or open air lobbies in which there is significant breeze... there is no enclosure of walls, should be considered available to smokers, also I like to make one last comment as a tax payer and that has to do with the prices of cigarettes here on Guam. As a resident of this island for fifteen years now, you become very accustomed to the prices that we pay for basic goods to go ahead and live by groceries etc. You compare these prices to places that you've lived or places that you've been. So why is it, (and we're at a business committee meeting), why is it that cigarettes are substantially less in price compared to other places around the world? If you go as close as to Hawaii or any of these Asian countries, you're gonna pay two, three times... maybe higher than the amount that you would pay here on Guam. We just had a guest in our Tuman branch last week from Singapore; he was telling us that in Singapore they're now paying nine dollars for a pack of cigarettes. Here on Guam you can get it for two dollars. So what kind of message do we put forth to our community... to the environment in which we live when you can go to any convenience store and the first thing you see bam smack right up on the walls as you enter the store is nothing but big banners advertising these products for the sale price for two or three dollars. So I just wanted to bring that up, I mean if you were to impose an additional tax bringing it up in par with the region or we... the United States... People for the most part will bark a little bit, initially but they would realize, well hey I'm paying six dollars for a pack of cigarettes in Hawaii so, it's not like its unfair, it would be fair then that it would give more money to the government of Guam, ok thank you very much.

**Chairman Calvo:**

Thank you very much Mr. Kenny. Mrs. Sharon Ishizaki, by the way again if you could state your name, who or what organization you may represent, whether you're for or against the bill and then of course your testimony.

**Sharon Ishizaki:**

Good morning senators my name is Sharon Ishizaki, and I'm here as an individual, as a citizen of this island. Bill 16 while its heart is in the right place... I think there are some inequities that are built into this bill and it just requires some additional work from pencil pushing. I'm here today not as an executive board member of the American Cancer Society, but as a concerned citizen. I am a citizen whose family members' health and lives had been negatively impacted by cancer, cancer sucks. I have lost a father to cancer, and I have lost a mother in-law to cancer. I have a sister who is now a seventeen year survivor of breast cancer.

After doing so I then had to travel to California where skilled surgeons removed a small tumor from the brain of her son. Upon my return, I was shocked and surprised that the

deliberation regarding Bill 16 had been transferred to the Committee on Finance Taxation & Commerce. I then remembered reading that one of the key strategies of the Tobacco industry is to down play the health issue by reframing the debate, try to take the focus away that the fact that second hand smoke kills and create panic regarding the economic impact on the hotel and restaurant industry. The truth about the real economic impact can be gleamed in the following statement in a Phillip Moore's internal document. Financial impact of smoking bans would be tremendous. Three to five fewer cigarettes per day per smoker will reduce annual manufactures profits to a billion dollars plus per year. Studies conducted in New York and Boston both popular tourist destinations had concluded that neither city experienced a decline in sales following adoption of their early ordinances limiting smoking in restaurants. Similarly a study in California which included the tourist-oriented Cities of San Francisco and Los Angeles found that restaurants, bars, hotels, and the tourism industry were not adversely affected economically following the implementation of the states' smoke free work place and restaurant laws. The economic impact of voluntarily eliminating in smoking in work places relates to cost savings an employer can be expected to make after adopting a smoke free policy. Costs of smoking in the work place include costs associated with the effects of smoking on a smoker... higher worker compensation payments, disability, and premature death of smokers. Second hand smoke also exacts a toll on non smokers in the work place. An early study estimated that costs associated with the effects of second hand smoke on non smoking employees range from twenty seven dollars to fifty six dollars per smoker per year. More recently the EPA estimated that eliminating exposure to second hand smoke in most indoor environments would save thirty five to sixty six billion dollars per year due to premature deaths avoided in redemptions illnesses. There are other costs associated with smoking in the work place, such as increased maintenance costs, which an employer can generally expect to avoid when adopting a smoke free policy. We need to be the voice of those who do not have one, mainly our children. Our job as parents is to protect them. We do not allow them to play in traffic. We do not allow them to stick their tiny fingers into electrical sockets. Why do we continue to allow our children to be exposed to second hand smoke? We still allow children to be seated in smoking sections in restaurants and we're allowing our children to be exposed to some four thousand plus chemicals, which are contained in second hand smoke. It's been twenty years since Surgeon General Cook made the pronouncement which is printed on each and every package of tobacco products. Cigarette smoking is hazardous to your health. One would have to be living in a cave or playing an Ostrich with your head planted firmly in the sand and not to know about the negative health effect of the tobacco products. There is conclusive proof that smoke free air laws do not have adverse economic consequences for restaurants and bars subjected to them. Further is it clear that work places have adopted smoke free air policies... rate economic benefits from those policies. In fact the only negative economic affect of smoke free air loss and policies is on the tobacco industry, which stands to lose billions of dollars of profits, when these laws and policies are adopted. To quote Phillip Moore's

once again... if smokers can't smoke on there way to work, at work, in stores, banks, restaurants, malls and other public places, they are going to smoke less. Over all cigarette purchases will be reduced and volumes declined will accelerate. I'm a non smoker or a reform smoker. I quit smoking thirty seven years ago. I am for non smoking environment in our restaurants. I am a consumer, my husband and I spend at least about five or six thousand a year in our local restaurants. People go to restaurants to enjoy the food and the service. They don't go to restaurants in order to smoke. Bill 16, however the way it is currently written... it's not equitable across the board, I would have to agree with Bart Jackson in that, but I am for smoke free work environments and smoke free restaurants. Thank you very much for the opportunity.

**Chairman Calvo:**

Thank you very much Mrs. Ishizaki. I hope you folks don't mind. There are some high-school girls that need to get back to school and they've asked the Chairman of the Committee if we can beg their indulgence and allow them to testify.

**Students from Academy of Our Lady of Guam:**

Hi my name is Pia Weisenberger and I'm Amanda Shelton.

**Pia Weisenberger:**

My name is Pia Weisenberger and I am a freshman at Academy of our Lady. I was also a member of the organization, Youth for Youth. In this organization we discuss the use of tobacco as well as other drugs and we try to convince others, especially teens that smoking is bad and that we should not do it. During meetings we also discuss the problems that smoking causes, such as lung cancer and brain damage. I think that if people want to make the decision to smoke and get sick then that's up to them. But others who do not want to smoke should not have to suffer the experience of second hand smoke, which is more dangerous than first hand smoking itself. I would also like to add that when me and my family go to restaurants, my mother always requests to sit in a non smoking section, because the smoke bothers her as well. Thank you for listening to my testimony this morning and I hope that this bill will be passed.

**Chairman Calvo:**

Thank you very much. Any of my colleagues have any questions?

**Vice-Chairman Kasperbauer:**

Thank you for coming down. I think this is a good educational experience. You gave your own personal opinion. How does your opinion, do you think, does it represent the other students at the Academy of our Lady?

**Pia Weisenberger:**

Yes.

**Ron McNinch:**

Hello senators and Happy St. Patrick's Day. My name is Ron McNinch. I'm a professor at the University of Guam and a legislative ambassador for the Guam Unit of the American Cancer Society. My testimony today is in my capacity as a private citizen and a former smoker mainly because we didn't have any committee vote on my testimony so I went ahead and wrote some. As a former smoker, I have a lot of great memories attached to smoking but I wish I didn't have them because of the health implications that probably resulted from them. Before I read my primary testimony, I just want to say that I am happy that this bill is being heard today, I'm happy that we're talking about this issue. I spoke to senator Calvo immediately after the reassignment and certainly I was happy to see that it was scheduled very deliberately and I hope that in the future all bills particularly from the minority are heard in a fair and deliberate manner. I think that is a very good thing. Also, it's hard to kill a good idea and this bill has a lot of good ideas, it has a lot of good points. Cancer doesn't care if you're a republican or a democrat, it doesn't matter and so certainly, I think there are issues related to this bill that are non partisan, they affect everybody and there are things that we should all be concerned about and I just want to say that in the very beginning of my testimony. About fourteen years ago, I was in a hearing in the Georgia Legislature and a man stood up and said and was trying to impress everybody and he stood up and said... I control a million votes. My friend Mike who was a lobbyist for the corporation, he said to me, kinda of whispered to me that that might be true back on his home planet. So certainly, in February I attended some meetings with the Cancer Society on how to lobby the legislature and influence the legislature and I view that a lot of the tactics that are used in the U.S mainland aren't appropriate. Here because we live in a different kind of environment, I think that truth and the willingness to serve the public are the two cardinal things that we should look at, when we look at public policy and making things better. We're all going to be in this planet for a long time and after the smoke clears on this bill we're all gonna need each other for a long time after that, so certainly today we are going to hear a lot of statistics and facts and counter opinions and I hope that we can all agree on the concept that we should strive to kind of reduce

the exposure of children to smoke and I think that if we can start on that kind of... that we should strive to not expose our young people to smoke, that's a good thing. I have heard many of the criticism and concerns from the businesses and I've listened to them. I think that, if there are a lot of points there and I think that there is a lot of middle ground that could result in a win-win solution for most of those concerned. I think the key point is that there is a dialogue, I think GHRA offered it. Bart offered it and by the way Bart has a great green shirt on today which I saw, and so GHRA offered. I think there are a lot of dialogue points that can be started from that point to really move to a middle ground. I have one other little final point I would like to make and that is Natasha is here she is a beautiful young lady, bright future and I've encouraged her one day, 20 – 30 years from now, to become a member of the legislature and make laws and in general in Guam our laws are named in memory of citizens I know. It's a little bit difficult for Senator Calvo and Senator Leon Guerrero to say this, but I want to say this, Eduardo Calvo and Jesus Leon Guerrero were two great citizens, they both had cancer and I recommend that possibly... if this bill becomes a law... that it be named the Calvo, Leon Guerrero act along those lines. I know both these gentlemen would want children not to be exposed to smoke and not to live in a world without the disease of cancer. One day cancer is going to be defeated, I think that we have to take that attitude; we got to believe that it could be overcome. I know that we could do it; I know that there is a good middle ground and a win-win solution. I applaud GHRA for extending that hand and being willing to do that. Thank you very much Senators.

**Chairman Calvo:**

Thank you very much Dr. McNich, Mr. Michael Libratore.

**Michael Libratore:**

Good morning senators. I speak today as a citizen, but I can't deny my other roles as a researcher with the tobacco control advisory group at the UOG Cancer Center and also as a community development specialist at the University of Guam's cooperative extension service. However I speak on behalf of neither of those groups. During the 2004 Great American smoke out a team of researchers from the University of Guam provided an evaluation of the event to determine its effectiveness and impact. It was a limited study, primarily designed to assess the impact of the sponsored event, aimed to get smokers working and local participating businesses to try to quit smoking for a least one day. In addition to this some other very interesting information came out of that effort which relates to Bill 16. We examined the sales information from one of the restaurants that elected to go smoke free 2 years in a row for the Great American Smoke Out. The sales data from the two dates show there were no significant changes in sales as a result of being smoke free. In addition the survey of the customer group showed that two groups chose to leave the restaurant because it was smoke free. However, five

additional groups ate there for the first time specifically because it was smoke free. So while this is limited it does show that if this was to be extended over a period of time, there is generally more interest in smoke free than attitudes against it. In addition customer groups show that they were more inclined to spend more time in a restaurant and to eat out if restaurants were smoke free and this is consistent with research that has been done nationally and internationally. There's also the issue related to occupational safety, if we look at it transnational, it's been law suits from employees that have driven the airlines and also beginning with the restaurant and bar movement to go smoke free. When we enforce and expand smoke free work place laws, legislatures are able to effectively protect restaurant and bar owners from the costly class action law suits of employees who sue for an act of protection for their fundamental right to work environments that do not compromise their health and this perhaps is the greatest source for financial security you can provide restaurant and bar owners. The data from the Great American Smoke Out showed that 80% of the employees who were non-smokers and 79% of the employees who are smokers prefer to work in a smoke free environment. Another piece of interesting research involved the high percentage of smokers who do not smoke in their homes, 80% of the smokers surveyed do not smoke anywhere in their own homes. This indicates that smokers are conscientious of the danger they cause to others and since smokers do not smoke in their own homes it seems that extending such a ban to restaurants would not create the level of customer problems that some would have us believe. It is important to remember that while Guam has some of the highest smoking rates in the nation 2 out of every 3 adults still do not smoke. This was also supported where 2 out of 3 of the customer groups that attended the restaurant, were also non-smokers. As I said before they also reported that smoke free environments encourage them to stay longer. So obviously there is a perceived benefit to a smoke free environment on the quality of the dining experience. This Guam data, while limited, is also as I said before... consistent with national data and international data. Jurisdictions around the world found that going smoke free has not hurt their restaurant and bars sales... in some cases... sales after the ban have been substantially higher. In addition there are other costs benefits related to lower cleaning and maintenance costs, lower insurance premiums and higher employee productivity, these also positively impact the bottom line related to business profits. So, I encourage the senators to consider, while I support the idea of the bill, I also support the idea of extending it to all work places to ensure that all of our people have access to a safe working environment that does not compromise their health. It gives them the opportunity to live a long and productive life. So I thank you for considering my testimony.

**Chairman Calvo:**

Thank you very much Mr. Libatore.



**John Camacho (Residential House Manager for Sanctuary, Inc.):**

Good morning Committee on Finance & Taxation. My name is John Camacho and I am the Residential House Manager for Sanctuary Inc. My apologies for Danny not showing up. He is submitting a written statement in support of Bill No. 16 relative to the regulation of smoking activities to be known as the Natasha Protection Act. It is a factual statement that cigarette smoking does present a serious public health concern to the Territory of Guam and to its citizens. The Department of Mental Health & Substance Abuse's literature of tobacco reports every day one person on Guam dies from tobacco... it is our responsibility as a community to support and enact legislation that promotes and protects our island community of Guam from the dangers and hazards of tobacco smoking. We need legislation that would enact, implement, and enforce the law to promote a smoke free environment especially in an enclosed or confined area. We the people of Guam must stand up and unite for healthier life style. Let's make a difference for the people of Guam. I strongly feel that this committee and the members must act on and support this Bill No. 16. I wish to refer you to the attached document here that I have in front of me regarding tobacco. Tobacco smoke contains over 4,000 chemicals many of which no one would dare touch, let alone enter into their bodies. As you can see tobacco really does cost a big harm for our health and we encourage this Committee to pass this Bill No. 16. Thank you.

**Chairman Calvo:**

Thank you very much, Mr. Camacho, before I get to the next round of folks to testify. I know Mr. Jackson you needed to get back to work. I did have some of my colleagues who have some comments and questions for you.

**Senator Robert Klitzkie:**

Thank you very much, Mr. Chairman. I just have a prefatory question or remark to make sure that I should proceed, Vicki Gayer her testimony talked in terms of bias, so I suppose I lay my bias on the table right now. As someone who smoked for 18 years and then quit about 31 years ago, I'm probably the worst kind of non smoker that's an ex-smoker. When I go to a restaurant, they ask me if I would like smoking or non smoking, I ask for militant non smoking, but settle for non smoking. So you think I could proceed Vicki? Bart I would like to thank you for coming in this morning because when we have bills such as this one, actually bills where the subject matter of the bill is something that peeks peoples' interests, they come and talk about that for instance, when we were talking about the Paseo Stadium, people want to come in and talk about how baseball was. Today we are talking about smoking... people want to talk about how evil smoking is. But what is before us today is the bill... not whether or not we like

smoking and your testimony was directed towards the bill and as I understood your testimony... you are not in favor of smoking indoors. Is that basically correct?

**Bart Jackson:**

That's correct.

**Senator Klitzkie:**

And as far as the bill is concerned, the bill just doesn't go far enough?

**Bart Jackson:**

Correct, doesn't go far enough.

**Senator Klitzkie:**

If the bill passes in its current form, it would have a regulatory effect on the way you and your other members do business?

**Bart Jackson:**

That's correct.

**Senator Klitzkie:**

So I think what your saying then, if we are to regulate smoking the way to do it is to prohibit across the board in public places?

**Bart Jackson:**

That would be fair.

**Senator Klitzkie:**

Okay then... there is just one other thing that I would like to ask and that is if Mr. Kenny a little earlier talked in terms of having constructed an outdoor patio with Jamaican Grill. How would you deal with that?

**Bart Jackson:**

Well it's a difficult issue and at the hotel association we represent 500 some odd members. Of course it's difficult to be everything to everyone and we do have members who are not able to do so. There are restaurants that don't have the ability to either construct an outdoor patio the way Jamaican Grill has so nicely done, across the street from PIC. I see it everyday. A restaurant for example like Planet Hollywood and Planet Hollywood happens to be the designated smoking area for the DFS Galleria. You can't go outside, there is no outside to go outside. It makes it very challenging, if there were an accommodation for example the way they are accommodations in airports and I think it was Vicki that mentioned these sophisticated smoking spaces which are relatively small, which have no impact other than for the individuals who choose to go inside. That might be an accommodation which is workable if people are so desperate that they really need to smoke.

**Senator Klitzkie:**

Going back to Mr. Kenny, suppose the bill was amended to make considerations, would you have considered regulatory fairness, but would it have a clause that would allow those who had (as Mr. Kenny says he has) invested an outdoor capabilities to allow them to continue to operate. What would your position on that be?

**Bart Jackson:**

I can't really say. I have spoken to members who would be against it and I have spoken to members who are in favor of it. There are some members who are limited in what they can do and they feel as if it would be unfair to them to allow outdoor smoking the way you might have at Jamaican Grill in Tumon or at the Tree Bar at the Hilton. Those kinds of venues, they are open air, certainly there is less impact. I don't really have an answer for you.

**Senator Klitzkie:**

We'll take that one and put it on a tool hard box. One more thing this thing about being related to a senator is probably not all as crack up to be, because every time Larry tells me that I'm his uncle but he is not going to vote for me because I'm a republican. I'm reminded that it just doesn't go that far.

**Bart Jackson:**

I appreciate that senator. Thank you.

**Senator Klitzkie:**

Thank you very much. Thank you, Mr. Chairman.

**Chairman Calvo:**

Thank you very much Senator Klitzkie. I know Senator Leon Guerrero you had a question for Mr. Jackson.

**Senator Leon Guerrero:**

Thank you very much Mr. Chair and Bart I would like to thank you for your comments and certainly anything and any ideas that would make the bill be equitable throughout the whole island, I'm certainly willing to work with and make it truly go its long way. I do appreciate your presence in bringing that out and also others who have testified. In your testimony you also mentioned that... how would it be implemented... there are no penalties and so forth? I just wanted to, for the record say that this bill only amends certain provisions of the clean indoor air act that we currently have in the books and that's title 10 division 4 of chapter 90. Those issues that you've brought up are addressed in §90108, §90109, & §90110... it talks about what restaurants have to do to make the public aware and certainly in those areas we can make sure that the no smoking signs are posted everywhere and so forth and maybe clean it up so there is no inconsistency in relation to banning of the cigarette smoking and the enforcement. The enforcement implementation and penalties are there in those sections that I have mentioned. You may have thought that this bill is the actual bill and the only law, but it actually is an amendment to certain sections that would then eliminate smoking in restaurants particularly. I also wanted to ask when you talk about inequities the bill defines restaurants. It doesn't define it as indoor restaurants or outdoor restaurants. It just says a retail eating establishments where food is served. It doesn't say this restaurant with an outdoor facility verses an indoor facility. I feel that's addressed in terms of maybe the inequities between outdoor facilities verses indoor facilities.

**Bart Jackson:**

That's not exactly what we are talking about relative to the inconsistency. It has to do more with, we have restaurant members who have bars and because their primary business is a restaurant... it would be banned in their establishments but not in their competitive bars that are just bars. So for example to use Brain Artero as an example... if someone had to choose between going to Mac & Marty's which really doesn't serve food to a great extent or Lone Star, because there was no smoking at Lone Star, then they would go to Mac & Marty's. So the bar portion of the business would suffer unnecessarily, relative to another bar, that isn't covered by the legislation. So that's

where we believe it's unfair. We are trying to protect our members from being at a disadvantage we would be in favor as I mentioned of banning it all the way. As far as were concerned there is no need to make the distinction. We believe that it's bad, we agree it's bad, we agree that it's harmful. We are in favor of banning it everywhere.

**Senator Leon Guerrero:**

Good. I'm glad that the Hotel Restaurant Association is in favor of that. I also would like to ask... is the Hotel Restaurant Association in favor of banning smoking in lobby areas at the hotels or even just banning totally in hotels and have no smoking in hotels and motels and so forth?

**Bart Jackson:**

That is the logical step. I think that we understand that when you make the argument you open a very large door. We understand that. As I said that's why we believe it is a health issue and I do have staff that are going to be impacted in all enclosed areas. If that's what it takes, that's what you decide to do, we must be more willing to endorse that... then we would do this.

**Senator Leon Guerrero:**

Thank you very much for those comments and for your comments on the record. Thank you.

**Senator Calvo:**

I think we have one question for Mr. Jackson from Senator Palacios.

**Senator Palacios:**

Thank you Mr. Chairman. Sir could you probably for the benefit of the listening audience give us some reasons why many jurisdictions still have not adopted the no-smoking in restaurants policy. Why?

**Bart Jackson:**

United States only...

**Senator Palacios:**

Yes... your own observation. To your knowledge what may be the reasons that many jurisdictions in this country have not yet adopted the policy that we are now considering?

**Bart Jackson:**

Well I think it's inevitable that all will. It's clear that's the tide, that's where the tide is moving, clearly people are more interested.

**Senator Palacios:**

Could you give us maybe specific reasons why two or three reasons why?

**Bart Jackson:**

I'm not an expert on the topic. I don't know. I know as a former resident of New York, that New York has been willing to ban it. I'm a former resident of California and their ruling is really extreme, but again logically consistent and I'm in favor of that kind of resentment.

**Senator Palacios:**

I just wonder if they have convincing arguments to be taking that position.

**Bart Jackson:**

It's bad for you. So in an effort to create a healthier environment for everyone and I think it's not conclusive. It seems as though the argument against that... it will damage tourism. It doesn't seem to have damaged tourism in any of the areas that have passed legislation. I think it's not clear that it would even damage ours. I think it's unlikely that a Japanese tourist would make a decision based on going to a destination that has restaurants and bars where you can smoke and one that doesn't. So I think it's not clear that it would do anything other than create a healthier environment. On that basis we'd be willing to support it.

**Senator Palacios:**

Another question to your knowledge and personal observation do you think that there are sufficient restaurants now in existence that anyone from Guam can still go in and enjoy a nice meal and that have voluntarily adopted the no smoking policy? Don't you

think there is enough or do you think they're sufficient in numbers that really no one, maybe prevent it from actually enjoying a nice dinner out and not be bothered by smoking?

**Bart Jackson:**

Well I can speak for the restaurants at the Pacific Islands Club, which are some of my favorite restaurants on Guam and Dorothy Horn of course said that the Bistro is the best restaurant on Guam. Every Sunday it's no smoking. I think that there are a lot... well I'm not sure a lot. I think that there again you have to obviously be careful how you do it. There are places you can go and not be subjected to smoke again... our goal... we represent all of the hotels and basically all of the restaurants. Our goal is to see that things are done and as even handed as fashion as possible. We are not opposed to the ban on smoking as long as it's administered in an even handed way. That's all.

**Senator Palacios:**

I agree with that. Thank you.

**Chairman Calvo:**

Thank you Senator Palacios. Senator Kasperbauer I know you had a question.

**Vice-Chairman Kasperbauer:**

Thank you. I guess all I can say is that there were probably some of us thinking that you would come here to fight this and you've taken the wind out of the sail and it's a very happy ending to your input for the day. I think there are going to be a lot of people surprised that GHRA, you know hasn't stood up and said absolutely not... we won't allow it. What you've had to say is very encouraging and I thank you for it.

**Bart Jackson:**

Thank you.

**Chairman Calvo:**

Thank you very much Senator Kasperbauer. Thank you very much Bart for your time. Folks I hope you don't mind, I'm gonna move this thing quick in fact we may not even take a lunch break because I really want to move on this thing. There are so many folks that wish to testify. I'd like to call up the next round here.