EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

FEB 0 9 2016

3346-13560
Office of the Speaker
Judith T. Won Pat, Ed.D
Date: 02-11-16
Time: 9:45 AM
Received By:

2016 FEB 11 AM 10:59

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 143-33 (COR) **"AN ACT TO *AMEND* § 77302 OF ARTICLE 3, CHAPTER 77, AND §§ 90105(c), 90107, 90108(a), 90109, AND 90114 OF CHAPTER 90, TITLE 10 GCA, AND § 3401.1(h) OF CHAPTER 3, TITLE 16 GCA; TO *ADD* NEW §§ 90109.1, 90109(c), AND 90105(a)(13), AND *REPEAL* § 90109(a)(4), ALL OF CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SMOKING REGULATIONS OF THE NATASHA PROTECTION ACT OF 2005; TO PROVIDING FOR INCREASED ENFORCEMENT; AND TO PROVIDING FOR ENFORCEMENT TRAINING"** which was lapsed into law on February 4, 2016, as **Public Law 33-121.**

Senseramente,

RAY TENORIO
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

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1356

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 143-33 (COR), "AN ACT TO *AMEND* § 77302 OF ARTICLE 3, CHAPTER 77, AND §§ 90105(c), 90107, 90108(a), 90109, AND 90114 OF CHAPTER 90, TITLE 10 GCA, AND § 3401.1(h) OF CHAPTER 3, TITLE 16 GCA; TO *ADD* NEW §§ 90109.1, 90109(c), AND 90105(a)(13), AND *REPEAL* § 90109(a)(4), ALL OF CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SMOKING REGULATIONS OF THE NATASHA PROTECTION ACT OF 2005; TO PROVIDING FOR INCREASED ENFORCEMENT; AND TO PROVIDING FOR ENFORCEMENT TRAINING,"** was on the 20th day of January 2016, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 22nd day of January 2016, at 5:17 o'clock p.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: FEB 0 4 2016

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY
TIME 5:17 DATE 1/22/16

Public Law No. 33-121

I MINA TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 143-33 (COR)
As substituted; further substituted by the Committee on Health, Economic Development, Homeland Security and Senior Citizens; and amended on the Floor.

Introduced by:

Dennis G. Rodriguez, Jr.
Judith T Won Pat, Ed.D.
R. J. Respicio
T. R. Muña Barnes
Brant T. McCreadie
V. Anthony Ada
B. J.F. Cruz
Tommy Morrison
N. B. Underwood, Ph.D.
T. C. Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Michael F.Q. San Nicolas
Mary Camacho Torres

AN ACT TO *AMEND* § 77302 OF ARTICLE 3, CHAPTER 77, AND §§ 90105(C), 90107, 90108(A), 90109, AND 90114 OF CHAPTER 90, TITLE 10 GCA, AND § 3401.1(H) OF CHAPTER 3, TITLE 16 GCA; TO *ADD* NEW §§ 90109.1, 90109(C), AND 90105(A)(13), AND *REPEAL* § 90109(A)(4), ALL OF CHAPTER 90, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE SMOKING REGULATIONS OF THE NATASHA PROTECTION ACT OF 2005; TO PROVIDING FOR INCREASED ENFORCEMENT; AND TO PROVIDING FOR ENFORCEMENT TRAINING.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 90109 of Chapter 90, Title 10, Guam Code Annotated, is hereby *amended* to read:

"§ 90109. **Enforcement.**

(a) This Chapter may be enforced by:

(1) any peace officer as defined by 8 GCA § 5.55;

(2) any employee of the Department of Public Health and Social Services when authorized in writing by the Director of Public Health and Social Services to enforce the provisions of this Chapter;

(3) any employee of the Guam Environmental Protection Agency when authorized in writing by the Administrator of the Guam Environmental Protection Agency to enforce the provisions of this Chapter;

(4) a Citizen Assisted Police Enforcement (CAPE) volunteer, as provided pursuant to § 77302 of Article 3, Chapter 77, Title 10, Guam Code Annotated;

(5) all security officers employed by the government of Guam, or performing security work for the government of Guam or employed by private entity pursuant to their employer's contract, for any government of Guam agency, authority or department, by whatever name, both autonomous and line agencies, of the government of Guam;

(6) private security personnel employed by private security companies which have elected to provide security services for business establishments desiring to enforce the Natasha Protection Act, and who have been duly trained by a qualified government identified entity for the execution of such responsibilities; and

(7) private security personnel employed by business establishments, which have elected to provide security services to include compliance with the Natasha Protection Act, and who have

been duly trained by a qualified government identified entity for the execution of such responsibilities.

(b) The enforcement of this Chapter *shall* be undertaken subject to the provisions of 8 GCA Chapter 25."

Section 2. A new Subsection (c) is *added* to § 90109 of Chapter 90, Title 10, Guam Code Annotated, to read:

"(c) The Director of a government of Guam agency, authority, department or instrumentality, by whatever name, both autonomous and line agencies, *shall* be authorized to delegate the authority and responsibility to an employee to additionally serve and function as a designated no-smoking enforcement officer for the purpose of ensuring compliance with this Chapter in and around a government facility."

Section 3. A new § 90109.1 is hereby *added* to Chapter 90 of Title 10, Guam Code Annotated, to read:

"**§ 90109.1. Enforcement Training.** (a) The Bureau of Community Health Services of the Department of Public Health and Social Services, in conjunction with the Peace Project of the Guam Behavioral Health and Wellness Center and the Guam Police Department, *shall* develop the minimum criteria for a basic training program for private security personnel, as provided pursuant to Items (7) and (8) of § 90109(a) of this Chapter, which *shall*, at a minimum, provide for:

(1) an understanding of 10 GCA Chapter 90;

(2) the proper issuance of smoking violation citations;

(3) obtaining a certificate demonstrating the completion of a required course of instruction and training that includes training in measures to avoid dangerous confrontations with violators of this Section; and

(4) other basic training deemed appropriate for safe and proper enforcement.

(b) The training program criteria developed by the Bureau of Community Health Services of the Department of Public Health and Social Services, in conjunction with the Peace Project of the Guam Behavioral Health and Wellness Center and the Guam Police Department pursuant to this Section, *shall* be submitted to *I Liheslaturan Guåhan* for informational purposes sixty (60) days prior to the date of implementation."

Section 4. § 77302 of Article 3, Chapter 77, Title 10, Guam Code Annotated, is hereby *amended* to read:

"**§ 77302. Volunteers.**

Pursuant to § 3401.1(h) of Article 4, Chapter 3 of Title 16, Guam Code Annotated, the Chief of Police is authorized to recruit volunteers to assist the Guam Police Department in the enforcement of the accessible parking and littering laws, and the Natasha Protection Act of 2005 relative to the regulation of smoking activities pursuant to Chapter 90 of Title 10, Guam Code Annotated. In addition to these duties, the Chief of Police shall authorize the use of volunteers to patrol the school campuses of the Guam Department of Education during non-school hours. The volunteers shall take no enforcement action during their patrol of the school campuses, and shall notify the police of suspicious activity or crimes in progress. The Superintendent of Education shall cooperate with the Chief of Police to implement this Section.

The Chief of Police is further authorized to recruit volunteers to assist the Guam Police Department with traffic direction, security, and crowd control for events such as, but not limited to, the Guam Ko'ko' Road Race, the Guam-Micronesia Island Fair, and the Liberation Day Parade, Volunteers are required to obtain a certificate from the Chief of Police

demonstrating the completion of a required course of instruction and training that includes training relative to traffic direction and crowd control."

Section 5. A new Item (13) is *added* to § 90105(a), Prohibition of Smoking in Public Places, Chapter 90, Title 10, Guam Code Annotated, to read:

"(13) Bars, except as provided pursuant to § 90107(b) of this Chapter. The enforcement of this Item *shall* become effective January 1, 2017."

Section 6. § 90105(c) of Chapter 90, Title 10, Guam Code Annotated, is *amended* to read:

"(c) Smoking may be permitted within twenty (20) feet of the entrance or exit of a public place only if such smoking area is an open outdoor patio contiguous to the public place and is controlled by the proprietor or management of the public place.

(1) This Subsection *shall not* apply to a location which would place the smoking area within twenty (20) feet of the public entrance of another public place not controlled by the proprietor or management.

(2) This Subsection *shall not* apply to government of Guam agencies and facilities, which *shall* comply with the twenty (20) feet prohibition pursuant to 10 GCA § 90105(a)."

Section 7. § 90107 of Chapter 90, Title 10, Guam Code Annotated, is *amended* to read:

"**§ 90107. Where Smoking Not Regulated.**

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

(1) private residences, except when used as a child care facility or health care facility;

(2) hotel and motel rooms rented to guests;

(3) retail tobacco stores; and

(4) a private enclosed office work place occupied exclusively by one (1) or more smokers.

(b) The A.B. Won Pat Guam International Airport Authority is the only facility, pursuant to Board action, that may provide a separate, fully enclosed non-service room, where beverages and food are not allowed, for smoking, provided it shall be segregated and adequately ventilated with a smoke ventilation device for the size of the room pursuant to § 90103 apart from the main bar where service is provided. In addition, an air curtain shall be placed above the entrance and exit doors of the room to minimize the release of smoke into other areas of the facility."

Section 8. Subsection (h) of § 3401.1 of Chapter 3, Title 16, Guam Code Annotated, is *amended* to read:

"(h) Volunteers Authorized to Issue Citations. The Chief of Police shall recruit volunteers who desire to assist the Guam Police Department in the enforcement of this Section. The volunteer shall:

(1) be at least eighteen (18) years of age;

(2) be a citizen of the United States and a resident of Guam;

(3) not have been convicted of a felony or crime of family violence;

(4) obtain a certificate from the Chief of Police demonstrating the completion of a required course of instruction and training that includes training in measures to avoid dangerous confrontations with violators of this Section. In addition, training shall include the enforcement of litter control laws and the Natasha Protection Act pursuant to 10 GCA Chapter 90. The course of

instruction and training shall be at no cost to the volunteer. Retired "uniformed personnel" are exempted from this Subsection; and

(5) satisfy any other qualifications and requirements established by the Chief of Police."

Section 9. § 90114 of Chapter 90, Title 10, Guam Code Annotated, is *amended* to read:

"**§ 90114. Prohibition of Smoking in a Vehicle When a Child is Present.**

(a) Smoking is prohibited in a motor vehicle if a child who is seventeen (17) years of age or younger or a pregnant woman is present in the vehicle, regardless of whether the vehicle is moving or stationary.

(b) A person who is in violation of Subsection (a) shall, upon conviction thereof, be subject to a maximum fine of One Hundred Dollars ($100.00) for a first offense. Alternatively, the offender may plead guilty to the offense and remit a fine of One Hundred Dollars ($100.00).

(c) A person who is in violation of Subsection (a) shall, upon conviction thereof, be subject to a fine of no less than One Hundred Dollars ($100.00) and no more than Two Hundred Dollars ($200.00) for a second offense. The fine shall not be suspended by the court for second or subsequent offenses. Alternatively, the offender may plead guilty to the offense and remit a fine of Two Hundred Dollars ($200.00).

(d) A person who is in violation of Subsection (a) shall, upon conviction thereof, be subject to a fine of no less than Two Hundred Dollars ($200.00) and no more than Five Hundred Dollars ($500.00) for a third offense, and for each additional violation thereafter. Alternatively, the offender may plead guilty to the offense and remit a fine of Five Hundred Dollars ($500.00).

(e) Enforcement of this Section by a local law enforcement officer shall be conducted whenever a violation is witnessed.

(f) Three (3) or more violations of this Section may be used as a basis for or evidence of child abuse or neglect.

(g) All fines paid, upon a conviction pursuant to a violation of this § 90114, shall be deposited in the Guam Cancer Trust Fund (P.L. 30-80, codified in Title 11, Chapter 26, Guam Code Annotated, as amended), and shall be expended pursuant to applicable law and regulations pertaining to the Fund."

Section 10. § 90109(a)(4) of Chapter 90, Title 10, Guam Code Annotated is hereby *repealed*.

Section 11. § 90108(a), Posting of Signs, of Chapter 90, Title 10, Guam Code Annotated, is *amended* to read:

"(a) "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch (1") in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) *shall* be clearly and conspicuously posted in every building and within twenty (20) feet of the entrance or exit of a public place where smoking is regulated by this Chapter by the owner, operator, manager or other person having control of such building or other place."

Section 12. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall* not affect other provisions or applications of this Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.