

I MINA 'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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Bill No. 188/31 (LS)

Introduced by:

D. G. Rodriguez, Jr. ✓

**AN ACT RELATIVE RESTRICTING
SMOKING IN A MOTOR VEHICLE WHEN A
CHILD IS PRESENT, BY ADDING A NEW
§90114 TO CHAPTER 90, TITLE 10, GUAM
CODE ANNOTATED.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative findings and intent.** *I Mina'Trentai Unu Na*
3 *Liheslaturan Guåhan* takes due note of the fact that smoking in an enclosed space
4 has been clearly determined to be extremely hazardous to others present, and that
5 there is no known safe level of exposure to secondhand smoke. Further, the
6 smaller the space, the higher the level and concentration of toxins per cubic foot of
7 air.

8 *I Liheslaturan* further finds that when someone smokes in the small enclosed
9 space of a car, people are exposed to toxic air at levels many times higher than
10 what the USEPA considers to be the threshold limit value (TLV) for hazardous air
11 quality, even when a window is open. Further, the latent gaseous and particulate
12 components of tobacco smoke absorb into the upholstery and other surfaces inside
13 a car, and then off-gas back into the air over the course of many days. This creates
14 an insidious situation wherein passengers are exposed to toxins long after anyone
15 has actually smoked in the car.

16 *I Liheslaturan* takes due note of the fact that minors often have no say as to

1 the circumstances by which they are being exposed to secondhand smoke, and
2 finds that banning smoking in cars while children are present will serve as a pre-
3 emptive measure to keep Guam’s young people healthy.

4 It is the intent of *I Liheslaturan* to ensure the safety of Guam’s children by
5 setting regulatory standards which protect them from circumstances’ wherein they
6 are being exposed to airborne toxins found in secondhand smoke. This is
7 especially critical for younger children who are still growing and extremely
8 vulnerable and defenseless to toxins that destructively affect their maturation.

9 **Section 2:** A new §90114 is hereby added to Chapter 90, Title 10, Guam
10 Code Annotated, to read:

11 **“§90114. Prohibition of Smoking in a Vehicle When a Child is Present.**

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

15 (b) A person who is in violation of Subsection (a) of this §90114 *shall*, upon
16 conviction thereof, be subject to a maximum fine of One Hundred
17 Dollars (\$100.00) for a first offense.

18 (c) The court *may* suspend the fine for a violation of this section, if:

19 (i) The person has not previously been convicted of a violation of this
20 section; and

21 (ii) The person proves to the court that the person has enrolled in a
22 smoking cessation program or its equivalent.

23 (d) A person who is in violation of Subsection (a) of this §90114 *shall*, upon
24 conviction thereof, be subject to subject to a maximum fine of Two
25 Hundred Dollars (\$200.00) for a **second offense**. The fine *shall not* be
26 suspended by the court for second or subsequent offenses.

1 (e) A person who is in violation of Subsection (a) of this §90114 *shall*, upon
2 conviction thereof, be subject to subject to a maximum fine of Five
3 Hundred Dollars (\$500.00) for each additional violation thereafter.

4 (f) A violation of this section may be used as a basis for or evidence of child
5 abuse or neglect.

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

11 **Section 4: Effective Date.** This Act *shall* take effect immediately upon
12 enactment.

13 **Section 5: Severability.** If any provision of this law or its application to
14 any person or circumstance is found to be invalid or contrary to law, such
15 invalidity shall *not* affect other provisions or applications of this law which can be
16 given effect without the invalid provisions or applications, and to this end the
17 provisions of this Act are severable.