



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
155 HESLER STREET
AGANA, GUAM

REC'D SECY JAN 04 1991

J



The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 1464, which I have signed into law this date as Public Law 20-223.

Sincerely,

Joseph F. ADA

JOSEPH F. ADA
Governor

201296

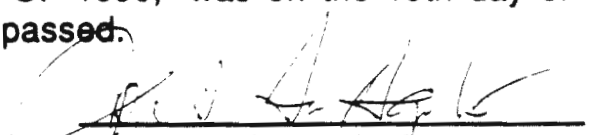
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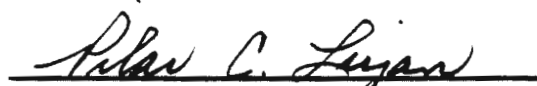
Commonwealth Now!

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No.1464 (LS), "AN ACT TO ADD NEW ITEMS (h) AND (i) TO §60100, TITLE 10, GUAM CODE ANNOTATED, DEFINING PUTATIVE AND LEGAL OWNERS; TO ADD NEW ITEMS (6) AND (7) TO §10116 OF SAID TITLE REQUIRING WARNINGS; TO REDESIGNATE SUBSECTIONS (f) AND (g) OF §60121 SUBSECTIONS (h) AND (i) RESPECTIVELY; TO ADD A NEW SUBSECTION (f) TO §60121 MAKING IT A FELONY TO TRANSFER A FIREARM TO A MINOR; TO ADD A NEW SUBSECTION (g) TO §60121 MAKING IT A FELONY TO NEGLIGENTLY ENTRUST A FIREARM TO A MINOR; TO ADD A NEW §1714.2 TO THE CIVIL CODE ATTACHING STRICT LIABILITY TO OWNERS OF A FIREARM IF A PERSON IS INJURED BY A MINOR USING THE FIREARM; TO ADD A NEW §1716.1 TO THE CIVIL CODE ALLOWING DAMAGES IN CIVIL ACTIONS CAUSED BY FIREARMS IN POSSESSION OF A MINOR, NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000); TO ADD SUBSECTIONS (40) AND (41) TO §5107, TITLE 6, GUAM CODE ANNOTATED, CREATING PRESUMPTIONS OF KNOWLEDGE OF THE USE OF FIREARMS BY MINORS; REPEALING AND REENACTING §60128 OF TITLE 10, GUAM CODE ANNOTATED, CREATING EXCEPTIONS TO LIABILITY IF WEAPONS ARE PROPERLY STORED; TASKING THE DEPARTMENT OF EDUCATION WITH INTRODUCING AT ELEMENTARY AND SECONDARY LEVELS FIREARMS EDUCATION AND SAFETY PROGRAMS; TO ADD A NEW SUBSECTION (a) TO §60121 OF SAID TITLE MAKING IT A FELONY TO POSSESS AN UNREGISTERED FIREARM; TO REPEAL AND REENACT PARAGRAPHS (a) AND (b) OF §56020 OF THE GOVERNMENT CODE REGARDING HIRING DISCRIMINATION; MAKING AN APPROPRIATION FOR POLICE RADIOS TO ENTITLE THE ACT AS THE ROBERT MICHAEL WEBBER FIREARMS LIABILITY ACT OF 1990," was on the 19th day of December, 1990, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

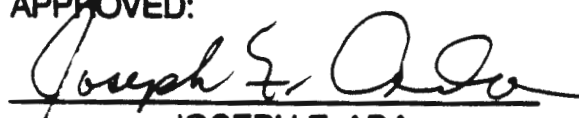
Attested:


PILAR C. LUJAN
Senator and
Legislative Secretary

This Act was received by the Governor this 24 day of DECEMBER
1990, at 5:54 o'clock P.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: JAN 04 1991

Public Law No. 20-223

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 1464 (LS)
As substituted by the Committee on
Justice, Judiciary and Criminal Justice
and further substituted on the
floor December 19, 1990.

Introduced by:

J. G. Bamba
E. P. Arriola
D. H. Dierking

M. Z. Bordallo
D. F. Brooks
E. R. Duenas
E. M. Espaldon
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
M. D. A. Manibusan
T. S. Nelson
D. Parkinson
F. J. A. Quitugua
E. D. Reyes
M. C. Ruth
J. T. San Agustin
F. R. Santos
A. R. Unpingco

AN ACT TO ADD NEW ITEMS (h) AND (i) TO §60100, TITLE 10, GUAM CODE ANNOTATED, DEFINING PUTATIVE AND LEGAL OWNERS; TO ADD NEW ITEMS (6) AND (7) TO §10116 OF SAID TITLE REQUIRING WARNINGS; TO REDESIGNATE SUBSECTIONS (f) AND (g) OF §60121 SUBSECTIONS (h) AND (i) RESPECTIVELY; TO ADD A NEW SUBSECTION (f) TO §60121 MAKING IT A FELONY TO TRANSFER A FIREARM TO A MINOR; TO ADD A NEW

SUBSECTION (g) TO §60121 MAKING IT A FELONY TO NEGLIGENTLY ENTRUST A FIREARM TO A MINOR; TO ADD A NEW §1714.2 TO THE CIVIL CODE ATTACHING STRICT LIABILITY TO OWNERS OF A FIREARM IF A PERSON IS INJURED BY A MINOR USING THE FIREARM; TO ADD A NEW §1716.1 TO THE CIVIL CODE ALLOWING DAMAGES IN CIVIL ACTIONS CAUSED BY FIREARMS IN POSSESSION OF A MINOR, NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000); TO ADD SUBSECTIONS (40) AND (41) TO §5107, TITLE 6, GUAM CODE ANNOTATED, CREATING PRESUMPTIONS OF KNOWLEDGE OF THE USE OF FIREARMS BY MINORS; REPEALING AND REENACTING §60128 OF TITLE 10, GUAM CODE ANNOTATED, CREATING EXCEPTIONS TO LIABILITY IF WEAPONS ARE PROPERLY STORED; TASKING THE DEPARTMENT OF EDUCATION WITH INTRODUCING AT ELEMENTARY AND SECONDARY LEVELS FIREARMS EDUCATION AND SAFETY PROGRAMS; TO ADD A NEW SUBSECTION (a) TO §60121 OF SAID TITLE MAKING IT A FELONY TO POSSESS AN UNREGISTERED FIREARM; TO REPEAL AND REENACT PARAGRAPHS (a) AND (b) OF §56020 OF THE GOVERNMENT CODE REGARDING HIRING DISCRIMINATION; MAKING AN APPROPRIATION FOR POLICE RADIOS TO ENTITLE THE ACT AS THE ROBERT MICHAEL WEBBER FIREARMS LIABILITY ACT OF 1990.

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

2 SECTION 1. Legislative finding and intent.

3 (1) The Legislature finds that it is a tragedy when adults and
4 minors are killed or wounded by improperly stored firearms, or firearms
5 easily accessible to minors. Such neglect is irresponsible, encourages such
6 accidents, and should be prohibited; and criminal punishment and civil
7 liability should attach to protect the safety of potential victims.

8 (2) It is the intent of the Legislature to make it a serious enough
9 criminal offense and attach civil liability to the negligent keeping and
10 handling of guns, that such activity will not occur. To this end strict

1 liability in tort shall be ascribed to an owner of a firearm resulting from its
2 negligent use, or negligent use of the firearm resulting from its negligent
3 use, or negligent use of the firearm while in the possession of a minor.
4 Likewise, negligent entrustment of a firearm to a minor shall be a felony.
5 It is further the intent of the Legislature to specify the manner in which
6 firearms may be stored and the manner in which a minor may obtain a
7 firearm, without the owner incurring a criminal offense or civil liability.

8 Section 2. This Act shall be known as the "Robert Michael Webber
9 Firearms Liability Act of 1990."

10 Section 3. A new item (h) is added to §60100, Title 10, Guam Code
11 Annotated, to read:

12 "(h) 'Putative Owner' means a person who, were it not for the
13 requirements of this Chapter, would be the owner of a firearm, or
14 one who acquires possession of a firearm, or one who acquires
15 possession of a firearm by theft."

16 Section 4. A new item (i) is added to said §60100, to read:

17 "(i) 'Lawful Owner' means a person whose right to a firearm
18 have been perfected in accordance with §60103 of this title."

19 Section 5. A new item (6) is added to §60116, Title 10, Guam Code
20 Annotated, to read:

21 "(6) Deliver a written warning to the purchaser or transferee
22 of a firearm a written warning which states in block letters not less
23 than one-fourth inch (1/4") in height:

24 **IT IS UNLAWFUL AND PUNISHABLE BY**
25 **IMPRISONMENT AND A FINE FOR ANY**
26 **ADULT TO STORE OR LEAVE A FIREARM**
27 **WITHOUT PLACING IT IN A SECURE**
28 **LOCKED CABINET OR CLOSET, OR**
29 **WITHOUT A TRIGGER LOCK IN PLACE."**

30 Section 6. A new item (7) is added to said §60116 to read:

31 "(7) Conspicuously post at each purchase counter the
32 following warning in block letters not less than one (1) inch in height:

1 IT IS UNLAWFUL TO STORE OR LEAVE A
2 FIREARM WITHOUT PLACING IT IN A
3 SECURE LOCKED CABINET OR CLOSET, OR
4 WITHOUT A TRIGGER LOCK IN PLACE.

5 Section 7. Subsections (f) and (g) of said §60121 are redesignated
6 subsections (h) and (i), respectively.

7 Section 8. A new subsection (f) is added to said §60121 to read:

8 "(f) (1) Any person legal or natural who transfers, gives,
9 returns, sells, or loans any firearm to any minor is guilty of a felony
10 which shall be punishable by a term of imprisonment not less than
11 five (5) years and a fine of not less than Five Thousand Dollars
12 (\$5,000). In the case of a violation by a legal person or persons
13 performing the forbidden acts, or omitting the required acts and any
14 responsible officer who knew or should have known of the act as
15 omission committed shall be liable for punishment under this section

16 (2) This section does not not apply when a minor is being
17 instructed by his parent or guardian in the use of weapons or when
18 that minor, properly licensed, is hunting with his parent or guardian
19 who is also properly licensed and complying with the provisions of
20 Department of Agriculture Hunting Regulations §§15300.00 through
21 15300.29.

22 Section 9. A new subsection (g) is added to said §60121 to read:

23 "(g) Any person who negligently entrusts a firearm to a
24 minor is guilty of a felony, which shall be punishable by a term of
25 imprisonment of not less than one (1) year and a find of not less than
26 One Thousand Dollars (\$1,000)."

1 Section 10. A new §1714.2 is added to the Civil Code to read:
2 "§1714.2 *Strict Liability*. Every putative owner or lawful
3 owner of a firearm is strictly liable in tort for the death or injury to
4 the person resulting from the use or possession of said firearm by a
5 minor."
6 Section 11. A new §1716.1 is added to the Civil Code to read:
7 "§1716.1. *Firearms*. Any person shall be entitled to recover
8 damages in a civil action in an amount not to exceed One Hundred
9 Thousand Dollars (\$100,000) from the parents or guardians who are
10 responsible for the death or injury to a person caused by said
11 minor's use of said firearms in his possession, who causes the death
12 or injury of a person as a result of the use of the firearm.
13 Section 12. New items (40) and (41) are added to §5107, Title 6,
14 Guam Code Annotated, to read:
15 "(40) That a minor, possessing or using a firearm does so with
16 the knowledge of its lawful owner or putative owner.
17 (41) That a minor possessing or using a firearm does so with
18 the knowledge of his parents or guardians."
19 Section 13. §60128 of Title 10, Guam Code Annotated, is repealed
20 and reenacted to read:
21 "§60128. Exceptions. The provisions of Civil Code §§1714.2,
22 and 1716.1; and subitems (40) and (41) of §5107, Title 6, Guam Code
23 Annotated, shall not apply:
24 (a) If the firearm is stored in a secure, locked cabinet or
25 closet in the home of its lawful owner.
26 (b) If the minor obtains the firearm as a result of the
27 unlawful entry of the home of the owner of the firearm.
28 (c) To members of the Armed Forces, National Guard, police
29 or other law enforcement officials with respect to firearm possession
30 by a minor which occurs during or incidental to the performance of
31 their official duties.
32 (d) If the firearm was properly secured by the owner with a
33 trigger lock."
34 Section 14. The Department of Education shall introduce into the
35 Guam schools system at the elementary and secondary levels a safety
36 program aimed at stressing the danger of firearms and the proper
37 behavior of a child who comes in contact with a firearm or persons in

1 possession of firearms. Such program as "Eddie Eagle" of the National Rifle
2 Association contains the desired elements of education and safety training.

3 Section 15. A new subsection (a) is added to §60121, Title 10
4 Guam Code Annotated, to read:

5 "(a) Any person who knowingly owns or possesses an
6 unregistered firearm shall be punishable by imprisonment of not less
7 than one (1) year and a fine of not less than One Thousand Dollars
8 (\$1,000).

9 Section 16. Paragraphs (a) and (b) of §56020, Government Code of
10 Guam, are repealed and reenacted to read:

11 "(a) For any employer to refuse to hire or employ or to bar or
12 discharge from employment, or otherwise to discriminate against any
13 individual in compensation or in the terms, conditions, or privileges
14 of employment because of race, sex, age, religion, color, or ancestry.

15 (b) For any employment agency to fail or refuse to refer or
16 employ, or to classify or otherwise to discriminate against any
17 individual because of race, sex, age, religion, color or ancestry.

18 Section 17. Effective Date. Sections 1 through 15 of this Act shall
19 take effect ninety (90) days after the Act becomes law.

20 Section 18. Seven Hundred Fifty Thousand Dollars (\$750,000) are
21 hereby appropriated from the General Fund to the Guam Police
22 Department to purchase Two Hundred (200) replacement radios and
23 twenty-five (25) mobile radios.

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

ROLL CALL SHEET

Bill No. 1464

Date: 12/19/90

Resolution No. _____

QUESTION: _____

	AYE	NAY	NOT VOTING	ABSENT
J. P. Aguon				✓
E. P. Arriola				✓
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas				✓
E. M. Espaldon 4			✓	
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux 4			✓	
M. D. A. Manibusan				✓
T. S. Nelson	✓			
D. Parkinson				✓
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka		✓		
A. R. Unpingco			✓	

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PILAR C. LUJAN
SENATOR • LEGISLATIVE SECRETARY
CHAIRMAN - *Committee on Judiciary and Criminal Justice*

December 17, 1990

The Honorable Joe T. San Agustin
Speaker, 20th Guam Legislature
155 Hesler St.
Agana, Guam 96910

VIA; Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice, to which was referred **Bill No. 1464**, wishes to report its findings and recommendations for passage of **Substitute Bill No. 1464**.

The Committee voting record is as follows:

To Pass:	9
Not to Pass:	0
To Report Out Only:	2
To Place in Inactive File:	0
Off Island:	1

A copy of the Committee Report and all pertinent documents are attached for your information.

Sincerely,

Handwritten signature of Pilar C. Lujan in cursive.

PILAR C. LUJAN
Committee Chairman



Twentieth Guam Legislature

163 Chalan Santa Papa Street
Agaña, Guam 96910

Committee on Judiciary and Criminal Justice

VOTE SHEET ON: SUBSTITUTE BILL NO. 1464

COMMITTEE MEMBER	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	TO TRACE IN INACTIVE FILE
<i>Pilar C. Lujan</i> Senator Pilar C. Lujan Chairman	✓	—	—	—
<i>F.R. Santos</i> Senator Francisco R. Santos Vice Chairman	✓	—	—	—
<i>E. Arriola</i> Senator Elizabeth P. Arriola	✓	—	—	—
<i>Madeleine Z. Bordallo</i> Senator Madeleine Z. Bordallo	✓	—	—	—
<i>H. Dierking</i> Senator Herminia D. Dierking	✓	—	—	—
<i>Gordon Malloux</i> Senator Gordon Malloux	—	—	✓	—
<i>Ted S. Nelson</i> Senator Ted S. Nelson	—	—	—	—
<i>Ed Reyes</i> Senator Edward D. Reyes	✓	—	—	—
<i>Joe T. San Agustin</i> Speaker Joe T. San Agustin	✓	—	—	—
<i>Ed R. Duenas</i> Senator Edward R. Duenas	—	—	✓	—
<i>Martha C. Ruth</i> Senator Martha C. Ruth	—	—	—	—
<i>OFF-ISLAND</i> Senator Antonio R. Unpingco	—	—	—	—

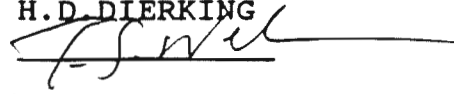
12/17/90

Final

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) REGULAR SESSION

Bill No. 1464 as substituted by the author
Introduced by:

J.G.BAMBA
P.C.LUJAN
H.D.DIERKING



AN ACT TO ADD NEW ITEMS (h) AND (i) TO 10 GCA SECTION 60100 DEFINING PUTATIVE AND LEGAL OWNERS; TO ADD NEW ITEMS (6) AND (7) TO 10 GCA SECTION 60116 REQUIRING WARNINGS; TO REDESIGNATE SUBSECTIONS (f) AND (g) OF 10 GCA SECTION 60121 TO SUBSECTIONS (h) AND (i) RESPECTIVELY; TO ADD A NEW SUBSECTION (f) TO 10 GCA SECTION 60121 MAKING IT A FELONY TO TRANSFER A FIREARM TO A MINOR; TO ADD A NEW SUBSECTION (g) TO 10 GCA SECTION 60121 MAKING IT A FELONY TO NEGLIGENTLY ENTRUST A FIREARM TO A MINOR; TO ADD A NEW SECTION 1714.2 TO THE CIVIL CODE ATTACHING STRICT LIABILITY TO OWNERS OF A FIREARM IF A PERSON IS INJURED BY A MINOR USING THE FIREARM; TO ADD A NEW SECTION 1716.1 TO THE CIVIL CODE ALLOWING DAMAGES IN CIVIL ACTION CAUSED BY FIREARMS IN POSSESSION OF A MINOR, NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000); TO ADD SUBSECTIONS (40) AND (41) TO 6 GCA SECTION 5107 CREATING PRESUMPTIONS OF KNOWLEDGE OF THE USE OF FIREARMS BY MINORS; REPEALING AND REENACTING SECTION 60128 OF 10 GCA CREATING EXCEPTIONS TO LIABILITY IF WEAPONS ARE PROPERLY STORED; TASKING THE DEPARTMENT OF EDUCATION WITH INTRODUCING AT ELEMENTARY AND SECONDARY LEVELS FIREARMS EDUCATION AND SAFETY PROGRAMS; TO ADD A NEW SUBSECTION (a) TO SECTION 60121 OF 10 GCA MAKING IT A FELONY TO POSSESS AN UNREGISTERED FIREARM; AND ALL TO ENACT A STATUTE KNOWN AS THE ROBERT MICHAEL WEBBER FIREARMS LIABILITY ACT OF 1990.

- 1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
- 2 Section 1. Legislative Finding and Intent.
- 3 (1) The Legislature finds that it is a tragedy when
- 4 adults and minors are killed or wounded by improperly stored
- 5 firearms, or firearms easily accessible to minors. Such
- 6 neglect is irresponsible, encourages such accidents, and
- 7 should be prohibited; and criminal punishment and civil
- 8 liability should attach to protect the safety of potential
- 9 victims.
-

1 (2) It is the intent of the Legislature to make it a
2 serious enough criminal offense and attach civil liability
3 to the negligent keeping and handling of guns, that such
4 activity will not occur. To this end strict liability in
5 tort shall ascribe to an owner of a firearm resulting from
6 its negligent use, or negligent use of the firearm while in
7 the possession of a minor. Likewise, negligent entrustment
8 of a firearm to a minor shall be a felony. It is further
9 the intent of the Legislature to specify the manner in which
10 firearms may be stored and the manner in which a minor may
11 obtain a firearm, without the owner incurring a criminal
12 offense and /or civil liability.

13 Section 2. This Act shall be known as the "Robert
14 Michael Webber Firearms Liability Act of 1990."

15 Section 3. A new item (h) is added to 10 GCA Section
16 60100 to read:

17 "(h) 'Putative Owner' means a person who, were it not
18 for the requirements of this Chapter, would be the owner of
19 a firearm, or one who acquires possession of a firearm, or
20 one who acquires possession of a firearm by theft.

21 Section 4. A new item (i) is added to 10 GCA Section
22 60100 to read:

23 "(i) 'Lawful Owner' means a person whose right to a
24 firearm have been perfected in accordance with Section 60103
25 of this Title."

26 Section 5. A new item (6) is added to 10 GCA Section
27 60116 to read:

1 "(6) Deliver a written warning to the purchaser or
2 transferee of a firearm a written warning which states in
3 block letters not less than 1/4 inch in height:

4
5 IT IS UNLAWFUL AND PUNISHABLE
6 BY IMPRISONMENT AND A FINE FOR
7 ANY ADULT TO STORE OR LEAVE
8 A FIREARM, WITHOUT PLACING IT IN A
9 SECURE LOCKED CABINET OR CLOSET, OR
10 WITHOUT A TRIGGER LOCK, IN PLACE."

11
12 Section 6. A new item (7) is added to 10 GCA Section
13 60116 to read:

14 "(7) Conspicuously post at each purchase counter the
15 following warning in block letters not less than one (1)
16 inch in height:

17 IT IS UNLAWFUL TO STORE OR LEAVE
18 A FIREARM WITHOUT PLACING IT IN A
19 SECURE LOCKED CABINET OR CLOSET, OR
20 WITHOUT A TRIGGER LOCK, IN PLACE."

21 Section 7. Subsections (f) and (g) of 10 GCA Section
22 60121 are redesignated subsections (h) and (i),
23 respectively.

24 Section 8. A new subsection (f) is added to 10 GCA
25 Section 60121 to read:

26 "(f) (1) Any person legal or natural who transfers,
27 gives, returns, sells, or loans any firearm to any minor is

1 guilty of a felony which shall be punishable for a term of
2 imprisonment not less than five (5) years and a fine of not
3 less than Five Thousand Dollars (\$5,000). In the case of a
4 violation by a legal person, or persons performing the
5 forbidden acts, or omitting the required acts and any
6 responsible officer who knew or should have known of the act
7 as omission committed shall be liable for punishment under
8 this section.

9 (2) This section does not apply when a minor is being
10 instructed by his parent or guardian in the use of weapons
11 or when that minor, properly licensed, is hunting with his
12 parent or guardian who is also properly licensed and
13 complying with the provisions Government of Guam, Department
14 of Agriculture, Hunting Regulations Section 15300.00 through
15 15300.29.

16 Section 9. A new subsection (g) is added to 10 GCA
17 Section 60121 to read:

18 "(g) Any person who negligently entrusts a firearm to
19 a minor is guilty of a felony, which shall be punishable for
20 a term of imprisonment of not less than one (1) year and a
21 fine of not less than One Thousand Dollars (\$1,000)."

22 Section 10. A new Section 1714.2 is added to the Civil
23 Code to read:

24 "Section 1714.2 Strict Liability. Every putative
25 owner or lawful owner of a firearm is strictly liable in
26 tort for the death or injury to the person resulting from
27 the use or possession of said firearm by a minor."

1 Section 11. A new Section 1716.1 is added to the Civil
2 Code to read:

3 "Section 1716.1 Firearms. Any person shall be
4 entitled to recovery damages in civil action in an amount
5 not to exceed One Hundred Thousand Dollars (\$100,000) from
6 the parents or guardians of any minor living with the
7 parents or guardians who is responsible for the death or
8 injury to a person caused by said minors use of said firearm
9 in his possession, who causes the death or injury of a
10 person as a result of the use of the firearm.

11 Section 12. New items (40) and (41) are added to 6 GCA
12 Section 5107 to read:

13 "(40) That a minor, possessing or using a firearm does so
14 with the knowledge of its lawful owner or putative owner.

15 (41) That a minor possessing or using a firearm does so
16 with the knowledge of his parents or guardians."

17 Section 13. 10 GCA Section 60128 is repealed and
18 reenacted to read:

19 "Section 60128. Exceptions. The provisions of Civil
20 Code Section 1714.2, and 1716.1; and 6 GCA Section 5107 (40)
21 and (41) shall not apply:

22 (a) If the firearm is stored in a secure, locked cabinet or
23 closet in the home of its lawful owner.

24 (b) If the minor obtains the firearms as a result of the
25 unlawful entry of the home of the owner of the firearm.

26 (c) To members of the Armed Forces, National Guard, police
27 or other law enforcement officials with respect to firearm

1 possession by a minor which occurs during or incidental to
2 the performance of their official duties.

3 (d) If the firearm was properly secured by the owner with a
4 trigger lock."

5 Section 14. The Department of Education shall
6 introduce into the Guam schools system at the elementary and
7 secondary levels a safety program aimed at stressing the
8 danger of firearms and the proper behavior of a child who
9 comes in contact with a firearm or persons in possession of
10 firearms. Such program as "Eddie Eagle" of the National
11 Rifle Association contain the desired elements of education
12 and safety training.

13 Section 15. A New Subsection (a) is added to Section
14 60121 of Title 10, Guam Code Annotated, to read:

15 "(a) Any person who knowingly owns or possesses an
16 unregistered firearm shall be punishable by imprisonment of
17 not less than one (1) year and a fine of no less than One
18 Thousand Dollars (\$1,000).

19 Section 16. Effective Date. This Act shall take
20 effect ninety (90) days after becoming law.

COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE
Report On
Substitute Bill 1464

**AN ACT TO ADD NEW ITEM (h) AND (i) TO 10 GCA SECTION 60100;
TO DEFINE PUTATIVE AND LEGAL OWNERS"; TO ADD NEW ITEMS (6)
AND (7) TO 10 GCA SECTION 60116 REQUIRING WARNINGS;
TO REDESIGNATE SUBSECTIONS (f) AND (g) OF 10 GCA
SECTION 60121 TO SUBSECTIONS (h) and (i) RESPECTIVELY;
TO ADD A NEW SUBSECTION (f) TO 10 GCA SECTION 60121
MAKING IT A FELONY TO TRANSFER A FIREARM
TO A MINOR; TO ADD A NEW SUBSECTION (g) TO 10 GCA SECTION
60121, MAKING IT A FELONY TO NEGLIGENTLY ENTRUST
A FIREARM TO A MINOR; TO ADD A NEW SECTION 1714.2 TO THE
CIVIL CODE ATTACHING STRICT LIABILITY TO OWNERS OF A FIREARM
IF A PERSON IS INJURED BY A MINOR USING THE FIREARM; TO ADD A
NEW SECTION 1716.1 TO THE CIVIL CODE ALLOWING DAMAGES IN
CIVIL ACTION CAUSED BY FIREARMS IN POSSESSION OF A MINOR
NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000);
TO ADD SUBSECTIONS (40) AND (41) TO 6 GCA SECTION 5107
CREATING PRESUMPTIONS OF KNOWLEDGE OF THE USE OF FIREARMS
BY MINORS; REPEALING AND REENACTING 10 GCA SECTION 60128
CREATING EXCEPTIONS TO LIABILITY IF WEAPONS ARE PROPERLY
STORED; TASKING THE DEPARTMENT OF EDUCATION WITH
INTRODUCING AT ELEMENTARY AND SECONDARY LEVELS FIREARMS
EDUCATION AND SAFETY PROGRAMS; TO ADD A NEW SUBSECTION (a)
TO 10 GCA SECTION 60121 MAKING IT A FELONY TO POSSESS AN
UNREGISTERED FIREARM; AND ALL TO ENACT A STATUTE KNOWN AS
THE ROBERT MICHAEL WEBBER FIREARMS LIABILITY ACT OF 1990.**

PREFACE

The legislative committee on Judiciary and Criminal Justice convened on August 23, 1990 in the temporary Legislative Session Hall at Agana, Guam to hear testimony on Substitute Bill 1464. Present at the hearing alongside of Committee Chairwoman Pilar C. Lujan were Vice-Chairman Francisco R. Santos and members Martha Ruth, Edward Duenas, Antonio Unpingco

OVERVIEW

In the past year on island, there have been 139 recorded cases involving firearms. Of that figure, 41 have resulted in serious injuries or tragic deaths to innocent people. Most of the accidents were caused by negligence or recklessness.

Bill 1464 was introduced on May 21, 1990 and cited as "An act regarding the safeguarding of firearms on Guam."

The original measure's intent focused on the safeguarding of firearms by statutorily requiring responsible safety, storage, and strict liability. Failure to comply with such law by recklessly allowing a minor or unlicensed or unsupervised person to gain access would result in a misdemeanor to the negligent firearm. The measure provided stiff felony penalties where an injury or death resulted from such negligent storage.

In promoting safety and storage, the original measure also contained provisions requiring warnings for negligent storage at points of sale or transfers of firearms. Moreover, the measure called for development of a gun safety program by the Department of Education.

The bill's author, Senator J. George Bamba, submitted Substitute Bill 1464 on July 12, 1990. (ATTACHMENT I). The substitute measure "relates to the same subject matter as the original bill, and was developed after considerable input from our legal counsel working together with the Guam Police Department's legal counsel. The principle changes are revisions or additions to the existing code sections of the existing laws that the thrust of the bill effects," wrote Senator Bamba. (ATTACHMENT II)

The Substitute version was accepted by the Committee on August 23, 1990.

COMMITTEE FINDINGS

Senator Bamba appeared before the Committee testifying in favor of Substitute Bill 1464. (ATTACHMENT III).

Senator Bamba noted that "the time has come to provide legislation that requires a person to act responsibly with regard to the possession of a firearm."

Referring to Guam Police Department statistics, Senator Bamba pointed out that "there are over 80,000 registered guns on Guam" and asked who is responsible when such legally owned guns get into other hands. "This legislation is designed to make gun owners consider their own liability, and it especially addresses that liability when it comes to guns and children," the Senator testified.

The Senator added that the measure allows retention of an individual's constitutional right to bear arms and does not "reduce or limit any existing right to purchase firearms, or does not provide authority to any agency to infringe upon the privacy of any family, home, or business, except by lawful warrant."

According to Senator Bamba, "the legislation is designed to insure the People of Guam against people who illegally own guns or are careless with the storage of firearms. This insurance is backed up by the creation of strict penalties to make sure people abide by the law."

Senator Bamba further noted the temptation and fascination children have with guns and suggested that "the way you make sure a gun doesn't fall into the wrong hands is to lock it in a safe place, or at least, secure it with a trigger lock."

In urging safety such as trigger locks, the Senator stated that such devices provide "respect for the power of the weapon, and also that one has respect for the lives and safety of those around him or her."

Mr. Lee Webber III also appeared before the Committee to provide favorable testimony (ATTACHMENT IV).

Mr. Webber is the father of the child whom Bill 1464 is named after---Robert Michael Webber.

Noting that his son was tragically shot by another child who gained access to a firearm, Mr. Webber testified that the measure "will remind firearm owners of the awesome responsibility that comes with their ability to own and use firearms."

Mr. Webber went on to further point out that Bill 1464 "affords greater protection for our children without taking away any citizens' ability to buy sell, or use firearms in a lawful manner." He added that the measure "is not an abridgement of any constitutional right and "would not deprive gun owners of their ability to bear arms."

Expressing the tragic, sudden, and anguishing loss of his child, Mr. Webber urged unanimous passage of the measure .

Lee Webber II, brother of Robert Michael, also testified in favor of the measure (ATTACHMENT V). He stated that "adults have to be more responsible for how they take care of their guns. Guns shouldn't be left out where kids can get them."

Like his father, Lee Webber II also urged passage of the measure.

Unlike the three previous witnesses, former Senator James Miles testified against the measure by noting that the measure, if enacted into law, would not have prevented the death of Robert Michael Webber. The former Senator also said that the measure was unconstitutional and prohibited an individual from his right to bear arms as provided in the Second Amendment.

The former Senator took exception with the measure's findings and intent and pointed out that he had not seen any statistics to support the claims that a "tragically large number of adults and children have been accidentally killed."

The former Senator went on to testify that accidental shootings are "the least cause of accidental deaths in America."

He stated that "the Legislature is meddling with our constitutional right."

The former Senator also complained that others responsible for different accidents or convicted for serious crimes are treated more lightly than one who is convicted under this measure's provisions.

In further testifying, the former Senator claimed that Guam has "some of the most restrictive gun laws of any place in the nation." He added that gun control laws throughout the nation have not reduced crime and that over 600,000 cases across the nation in a year were reported in which citizens used a gun to protect themselves.

The Senator suggested that the measure was too severe and urged civil prosecutions instead of criminal prosecutions.

In his capacity as a Director of Miles Security Agency, Mr. Miles also claimed that existing law requires him or his wife to register firearms issued to personnel, and this law, if enacted, would shield such personnel from liability.

Mr. M. L. Murphy and Ms. Sylvia E. P. Guzman registered to also testify against passage of the measure.

Mr. J. F. Parks joined the opponents of the measure and made note of the bill's language as "legal jabberwocky" eroding his rights (ATTACHMENT VI).

Mr. Parks added that the bill "is an attempt to remove important statutory protection" for his family and home. He went on to claim that the measure provides injured parties with an opportunity for "legalized revenge."

In a section-by-section review, Mr. Parks questioned availability and veracity of statistics in Section 1.

He also asked for definitions of terms in Sections 1 and 9 and stated that Section 3 does not consider acquisition of illegal firearms aside from theft. In evaluation of Sections 5, 6, and 7, Mr. Parks suggested that they be deleted entirely since there are no penalty provisions for non-compliance for failure to display warnings.

Additionally, Mr. Parks pointed out the liability which a business would have to shoulder for an armed employee's negligence and cited that it could be an unconstitutional provision. On Section 10, Mr. Parks suggested that lawful firearms owners should not be held responsible for deaths or injury unless they pull the trigger.

On Section 11, Mr. Parks noted that the increase in parental liability from \$1000 to \$100,000 could cause financial ruin. He also recommended that Section 13 remain intact because it would strip away his right to teach his children about handling, caring for, and utilizing firearms.

Lastly, Mr. Parks stated that firearms should be readily accessible in the home.

Mr. Steve Ulloa, President of the Gun Owners Association of Guam, appeared before the Committee in opposition to the measure (ATTACHMENT VII).

Also providing a section-by-section analysis of the bill, Mr. Ulloa stated that the measure discriminates against gun owners only by citing other types of accidents involving motor vehicles, falls, skateboards, etc.

Similar to Mr. Parks' concerns, Mr. Ulloa queried why definitions are not provided under Section 1. Additionally, he criticized Sections 5 and 6 by noting that existing statutes prohibit use of a firearm by minors unless under direct control and presence of a licensed adult. He further testified that subsection (f) of Section 8 is already contained in the previous subsection.

Mr. Ulloa added that sections 10 and 11 "single out" gun owners since general negligence laws already exist as recourse for civil recovery.

He further testified that Section 13 hinders quick accessibility to firearms for self-protection.

Noting the gun safety programs of the local and national gun associations, Mr. Ulloa suggested reintroduction of vetoed Bill 1202 to provide a public shooting range to further promote such safety.

Mr. Bert Silos of the Guam International Gun Club verbally testified against the measure.

Mr. Mark Fish provided testimony (ATTACHMENT VIII) in support of the measure and commended the sponsors despite pressure from gun groups. "To those legislators which (sic) support this Bill, I say that the needs of the many outweigh the special interests of the few and that it is readily apparent that their support evidences their strong concern for the future and the well-being of the children of our island."

Mr. Fish went on to state that the bill safeguards "the privilege of owning and holding firearms" and that such privilege "is accompanied by certain inherent requirements for the safe storage, handling and the responsible use of the weapon(s)."

Mr. Peter P. Ada III also testified (ATTACHMENT IX) in support of the measure and noted that the measure "is an appropriate response to the tragic, often times fatal, accidents involving negligently stored firearms."

Mr. Ada added that the bill "will underscore the necessity to ensure that safety begins at home and that owning a firearm carries a large responsibility."

Ms. Monique Portusach Hudgens urged the Committee members to act favorably on the measure (ATTACHMENT X).

Ms. Hudgens testified that the Department of Education should "set up a program in the schools to educate all the students about the danger of guns, about safety precautions."

Mr. Tom Quevedo verbally testified against passage of the measure.

Lastly, Mr. Phillip J. Flores testified in support of the measure (ATTACHMENT XI). Mr. Flores pointed out that although the majority of adults familiar with firearms are responsible, there are some who are irresponsible, thus, the necessity to implement safety laws.

"The responsible use of a firearm, which includes storage and access, must not be an option of the gun owner," Mr. Flores testified.

Mr. Eduardo G. Camacho submitted written testimony in favor of the measure (ATTACHMENT XII).

Additionally, Guam Police Department Chief Adolf Sgambelluri submitted favorable written testimony on the measure (ATTACHMENT XIII) and provided recommendations.

COMMITTEE RECOMMENDATIONS

In analysis of statistics acquired from the Guam Police Department (ATTACHMENT XIV), the Committee has found the following:

- (a) THAT there are 7,558 registered firearms on island; and
- (b) THAT the number of registered firearms on island have increased by 64% over a three-year period (1986-1989); and
- (c) THAT increases involving the use of firearms in criminal cases, injured persons, shooting cases, and suicide cases have been recorded.

The Committee has also found that the bill's main author---Senator George Bamba---has met on occasion with members of the local gun owner associations to discuss the measure.

The Senator submitted a final draft of Substitute Bill 1464 (ATTACHMENT XIV) on December 10, 1990.

The Committee, based on the aforementioned findings and conclusions, recommends that Substitute Bill 1464 be passed into law to provide for the public safety through responsible ownership and safekeeping of firearms.

TESTIMONY
Substitute Bill No. 1464
August 23, 1990

Committee on Justice, Judiciary and Criminal Justice

J. GEORGE BAMBA
Senator


Madame Chairperson, members of the Committee, Ladies and Gentlemen.... I would like to take this opportunity to thank the Committee for hearing Bill No. 1464. I know that this legislation has generated quite a bit of controversy, but it is my personal feeling that the time has come to provide legislation that requires a person to act responsibly with regard to the possession of a firearm.

In a civilized and structured society, it is important to have laws that protect the citizens from harm. If a person wants to drive on the roads of Guam, he must have a driver's license, and I think there is a consensus that we don't want people driving if they are mentally or physically impaired to the point where they become a threat to other people on the road. This idea of licensing applies logically to owning a gun. Should anyone be allowed to own a gun? On Guam, the law says no. FBI clearance is required to own a gun or purchase ammunition. One must obtain a firearms identification card and register their gun at the police station.

Guns are very popular on Guam. According to statistics from the Guam Police Department, there are over 80,000 registered guns on

Guam. This number does not take into account the number of unregistered guns. A great variety of guns are available and consistently advertised in the papers. There are many shooting ranges and galleries, and hunting is widespread. Who is responsible for all these guns? Well of course, it should be the people who have the ID card and the registration. But who is responsible when that legally owned gun goes into other hands? For example, someone without the ID card borrows the gun. Another example is, a 4-year old child finds it in a drawer. Now, would you give your car keys to an unlicensed driver or a child? Clearly not! You would be concerned about your own liability. This legislation is designed to make gun owners consider their own liability, and it especially addresses that liability when it comes to guns and children.

The opponents of gun control are usually the opponents of any gun control. They are usually blind to the incredible trends toward gun related violence - always standing on one sentence written a long time ago after a revolutionary war which allows people to own guns. I am not making light of the U.S. Constitution. Individual freedom is very important and I believe that people should be allowed to own guns. My concern here is that people must own guns legally, and safety is foremost in their minds. It is our intent that adult citizens retain their constitutional right to keep and bear firearms for hunting and sporting activities and for defense of self, family, home, and business and as collectibles. Bill 1464 does not reduce or limit any



existing right to purchase firearms, or does not provide authority to any agency to infringe upon the privacy of any family, home, or business, except by lawful warrant. This bill should not be perceived as gun control legislation. If a person wants to own a gun, and goes through the legal procedures to do so, they have every right to possession.

I find it interesting that the main opponents of gun laws such as members of the NRA are not the people that such gun legislation targets. They are usually experts with guns and gun safety, and I want to commend the NRA for their high standards and educational programs. This legislation is designed to insure the people of Guam against people who illegally own guns or are careless with the storage of firearms. This insurance is backed up by the creation of strict penalties to make sure people abide by the law.

A particularly important part of this legislation is that we must have great concern for the lives and health of our children. This legislation was patterned after a bill that was introduced by the Florida State Legislature and signed into law by Governor Bob Martinez. I share the same sentiments with Governor Martinez when he said, "By public policy we can make a sound statement that we hope and pray that people who own weapons place them in a secure position so children cannot gain access to them."

The people of Guam have recently witnessed the sorrow and grief

of a child being killed by a gun which was carelessly placed in the hands of youngsters. I am convinced that the best way to avoid such tragedy is to make penalties to prevent careless gun storage and transfer. People that oppose the part of this legislation which deals with parental liability will point to the image of a grieving parent being thrown in jail, and provisions against this are built into the law, as well as the concerned discretion of the judicial system. I would like to suggest, however, that there would be no grieving parents in the first place if guns are stored and supervised properly.

Think back and imagine that you are a child again. Guns are incredibly fascinating to children: they are those forbidden things that you are always seeing on television. The good guys use them to resolve any conflicts, neutralizing the bad guys. Gun play is a part of every young boy's life: cowboys and indians, toy soldiers, squirt guns, cap guns, BB guns, and if you don't have one of those, just point your finger and say "bang bang, you're dead!". The first time a child gets his finger on the trigger of a real gun, it's special. Immediately the child is transformed into Rambo pointing the gun around with commando stealth and style. It's a phenomenon. How could a parent be 100 percent sure that a young child would never play with a gun? We must consider the tremendous temptation. It seems to me that the way you make sure that a gun doesn't fall into the wrong hands is to lock it in a safe place, or at least, secure it with a trigger lock. I am not convinced by the argument that people must have

loaded guns that are easily accessible in their house just to protect themselves. Easily accessible loaded guns have ended many domestic disputes with tragedy. How many times has the wrong person been shot in the dark by the paranoid guy with an easily accessible loaded gun? Actually, having a trigger lock on a gun might cause people to think twice instead of just grabbing the gun and pulling the trigger. We have fail safe systems for launching missiles with keys and codes, and elaborate procedures, why not add one step to the simple process that has led to so many deaths, even if the lock is just a deterrent to theft?

Owning a gun is a very serious matter. Securing it with a trigger lock means that one has respect for the power of the weapon, and also that one has respect for the lives and safety of those around him or her. Locking a gun, or using a trigger lock, provides a parental control device limiting the use and enhancing the safety when guns are given to young people as presents. We must care for our children, the beautiful children of Guam. We protect them through pregnancy, kid-proof everything, nurture them and keep them from harm. Why inadvertently hand them an explosive device? A gun is very different from the other way kids can hurt themselves like kitchen knives or matches. A gun is an explosive device that can mean instant death. It is clear to me that you cannot weigh the constituency of gun lovers, over the constituency of those who love children.

To those who oppose this legislation, I ask you, how important is

the life of a child? How serious are you about the potential danger of guns? And, how difficult is it to use a trigger lock? This trigger lock costs Eight Dollars (\$8.00). I am sure you will agree that this \$8.00 is a paltry sum. Compare this \$8.00 to the loss and grief of a family who have suffered a tragedy. You can't. Thank you for listening.

GOOD MORNING. I WOULD LIKE TO BEGIN BY THANKING YOU FOR THE OPPORTUNITY TO TESTIFY ON BILL 1464, ^{substitute}

I AM HERE AS A CONCERNED CITIZEN AND THE FATHER OF ROBERT MICHAEL WEBBER. THE CHILD WHOSE NAME THIS BILL BEARS. THE CHILD WHO WAS SHOT AND KILLED BY ANOTHER CHILD WHO GAINED ACCESS TO A FIREARM.

BILL 1464 IS LEGISLATION THAT IS DIRECTED AT PRESERVING OUR MOST CHERISHED FUTURE ASSETS -- OUR CHILDREN. A BILL THAT SIMPLY PLACES THE RESPONSIBILITY FOR FIREARM OWNERSHIP SQUARELY ON THE SHOULDERS OF THE FIREARM OWNERS.

IT IS A BILL THAT WILL REMIND FIREARM OWNERS OF THE AWESOME RESPONSIBILITY THAT COMES WITH THEIR ABILITY TO OWN AND USE FIREARMS. IT IS A BILL THAT AFFORDS GREATER PROTECTION FOR OUR CHILDREN. AND, IT DOES SO WITHOUT TAKING AWAY ANY CITIZENS' ABILITY TO BUY, SELL, OR USE FIREARMS IN A LAWFUL MANNER.

BILL 1464 IS A PIECE OF VERY RESPONSIBLE LEGISLATION THAT WILL AFFORD THE CHILDREN OF OUR COMMUNITY GREATER PROTECTION IN A TIME WHEN THAT PROTECTION IS SO BADLY NEEDED.

IN SHORT, IT IS RESPONSIBLE LEGISLATION THAT SEEKS TO PRESERVE OUR FREEDOMS AND AT THE SAME TIME, PROTECT OUR CHILDREN.

BILL 1464 IS NOT, AS SOME PEOPLE WOULD HAVE YOU BELIEVE, A BILL THAT WOULD DEPRIVE GUN OWNERS OF THEIR ABILITY TO BEAR ARMS. IT IS NOT AN ABRIDGEMENT OF ANY CONSTITUTIONAL RIGHT.

~~CONFIDENTIAL~~

I KNOW THE TERRIBLE PAIN OF LOSING A CHILD TO SUDDEN DEATH BY GUNSHOT. I KNOW THE ANGUISH THAT IT BRINGS TO A FAMILY, TO FRIENDS, TO A NEIGHBORHOOD, TO OUR ISLAND. I KNOW THE HEART BREAK CREATED BY THE IRREPLACEABLE VOID SUCH A LOSS CREATES IN A HOME.

IF YOU SEARCH YOUR HEART AND CONSCIENCE, YOU TOO MUST FIND THAT IF THIS WORTHWHILE PIECE OF LEGISLATION SAVES THE LIFE OF JUST ONE CHILD, YOUR EFFORTS HAVE NOT BEEN IN VAIN.

ON BEHALF OF MY ROBBIE, I THANK YOU FOR YOUR EFFORTS. I PRAY THAT YOU WILL FIND THIS LEGISLATION WORTHY OF PASSAGE BY AN UNANIMOUS VOTE OF CONFIDENCE. MAY GOD GUIDE AND BLESS YOU IN THE PROCESS OF DECISION-MAKING WITH WHICH YOU ARE NOW FACED.

THANK YOU!

Dr. P. White
8/23/90

CONFIDENTIAL

THANK YOU FOR LETTING ME TESTIFY ON ^{Subst. Info} BILL 1464 TO MAKE ADULTS MORE RESPONSIBLE FOR THEIR GUNS.

I THINK THAT ADULTS HAVE TO BE MORE RESPONSIBLE FOR HOW THEY TAKE CARE OF THEIR GUNS. GUNS SHOULDN'T BE LEFT OUT WHERE KIDS CAN GET THEM.

IF ADULTS KEPT THEIR GUNS LOCKED UP AND AWAY FROM CHILDREN, LITTLE KIDS COULDN'T GET HURT OR HURT ANYONE ELSE WITH THEM.

IT'S REALLY SAD THAT MY BROTHER HAD TO DIE BEFORE SOMEONE PASSED A LAW LIKE THIS THAT MAYBE COULD HAVE MADE GROWN-UPS BE MORE CAREFUL.

I REALLY HOPE YOU PASS THIS LAW TO PROTECT US KIDS AND MAKE GROWN-UPS MORE AWARE OF HOW THEY TAKE CARE OF THEIR GUNS.

THANK YOU!

Lee Wilbur II
8/23/90

CONFIDENTIAL

J. F. Parks

BILL 1464

HAVING READ THIS BILL OVER, I MUST TESTIFY AGAINST IT.

AT FIRST READING, I HAD A REAL PROBLEM TRYING TO UNDERSTAND WHAT THIS BILL IS ALL ABOUT, BECAUSE IT'S INTENT AND MANY OF IT'S PROPOSED NEW SECTIONS ARE DISGUISED IN SUCH "HIGH LEGALESE" THAT ONE WOULD HAVE TO BE A LAWYER TO TRANSLATE IT.

IT WOULD ALMOST APPEAR THAT SOMONE MIGHT HAVE SPENT SOME MONEY ON LEGAL FEES TO AN OFF-ISLAND LAWYER TO FORMULATE THE LANGUAGE OF THE BILL, AS AMMENDED.

THIS MAY BE ALRIGHT FOR THE PURPOSES OF THE LEGISLATURE, BUT I QUESTION THE THE USE OF THIS "HIGH LEGALESE" IN LAWS THAT ARE MEANT TO EFFECT THE COMMON PERSON WHO HAS TROUBLE UNDERSTANDING SIMPLE ENGLISH.

IT IS ALSO INCUMBENT ON THE LEGISLATURE TO PROVIDE LANGUAGE IN THE LAW THAT IS EASILY UNDERSTOOD BY LAW ENFORCEMENT PERSONELL, WHILE BEING SUFICIENTLY PRECISE SO AS TO LIMIT MISENTERPRETATION WHEN IT IS BEING APPLIED TO A VIOLATOR.

THE USE OF COMPLEX LANGUAGE IN THIS BILL HAS LEAD ME TO BELIEVE THAT MY RIGHTS ARE BEING ERODED UNDER A COVER OF LEGAL JABBERWOCKY.

IN SUBSTANCE, THIS BILL IS AN ATTEMPT TO REMOVE IMPORTANT STATUATORY PROTECTION OF MY FAMILY AND HOME, IS CHANGING INDIVIDUAL LIABILITY FOR SOME SORT OF COLLECTIVE LIABILITY, AND IS THREATENING OUR FAMILIES RIGHT TO KEEP AND BEAR ARMS.

THE BILL AS AMMENDED CANNOT BE SOLD AS A PREVENTIVE OR DETERRENT TO INJURIES OR DEATH CAUSED BY MINORS WITH FIREARMS FOR IT HAS NO REAL RESTRAINTS, SUCH AS A SEAT BELT LAW DOES; THIS LAW IS TO BE ENFORCED AFTER A TRAGIC INCIDENT OCCURS, AND HAS LITTLE EFFECT OTHERWISE. WHAT THIS LAW DOES DO IS PROVIDE THE INJURED PARTY WITH AN OPPORTUNITY FOR LEGALIZED REVENGE.

BILL 1464, SECTION 1, PARA 1

LINES 3-5 WHERE ARE THE STATISTICS THAT THIS CONCLUSION CAME FROM. STATISTICS AVAILABLE FROM THE POLICE DEPARTMENT DO NOT BREAK THE ACCIDENTAL SHOOTINGS AWAY FROM INTENTIONAL SHOOTINGS OR MURDERS. A FIREARM CANNOT SHOOT ANYONE UNLESS OPERATED BY A PERSON. A FIREARM IN STORAGE IS EVEN LESS DANGEROUS.

BILL 1464, SECTION 1, PARA 2

LINES 5-11 NOWHERE IN THIS BILL IS THERE A DEFINITION OF THE FOLLOWING TERMS: "NEGLIGENTLY KEEP AND HANDLE"; "NEGLIGENT USE"; "NEGILGENT ENTRUSTMENT"; TO CHARGE A PERSON WITH WITH ANY OF THESE SO CALLED INFRACTIONS, THEY SHOULD BE DEFINED SO WE ALL KNOW WHAT THEY ARE.

BILL 1464 SECTION 3 PARA (b) LINES 23-24

THERE ARE MANY WAYS TO OBTAIN ILLEGAL FIREARMS WITHOUT STEALING THEM. THESE LINES DISREGUARD THAT AND ONLY ADDRESS THEFT.

BILL 1464 SECTION 5 ENTIRE, SECTION 6 ENTIRE, SECTION 7 ENTIRE; THESE THREE SECTIONS SHOULD BE THROWN OUT BECAUSE THERE IS NO PENALTY FOR NOT DISPLAYING OR DELIVERING THE WARNING.

BILL 1464, TESTIMONY PAGE 2

BILL 1464, SECTION 8 (f)

THIS SECTION WOULD ALSO MAKE A BUSINESS LIABLE FOR THE ACTIONS OF ITS EMPLOYEES, EVEN WHEN THEY DO NOT REPRESENT THE BUSINESS. IT WOULD FURTHER MAKE THE COMPANIES OWNER OR CHIEF OFFICERS RESPONSIBLE IF THEY "KNOW OR SHOULD HAVE KNOWN" WHAT THIS PERSON WAS DOING. THIS TRANSFERS LIABILITY OF AN INDIVIDUAL TO THE BUSINESS HE WORKS FOR WHETHER IT CAN BE PROVED THAT THERE WAS CONSPIRACY OR NOT.

THIS SECTION WOULD ALLOW AN INJURED PARTY A REAL CHANCE FOR REVENGE, A BUSINESS ALMOST ALWAYS HAS MORE MONEY THAN AN INDIVIDUAL.

THIS SECTION MAY ALSO BE UNCONSTITUTIONAL.

BILL 1464 SECTION 9 (g) LINE 11

" NEGLIGENTLY ENTRUSTS " IS NOT DEFINED- IT MUST BE DIFFERENT FROM "TRANSFERS, GIVES, RETURNS, SELLS, OR LOANS" AS SPOKEN TO IN SECTION 8 (f) LINES 25-26. MAYBE IT MEANS 'THROWS AT'!

BILL 1464 SECTION 10 ENTIRE

LAWFUL OWNERS OF FIREARMS AND PUTATIVE OWNERS OF FIREARMS SHOULD NOT BE HELD RESPONSIBLE FOR DEATH OR PERSONAL INJURY UNLESS THEY PULL THE TRIGGER. A SECTION OF THE VEHICLE CODE OF GUAM STATES THAT THE DRIVER IS RESPONSIBLE. IT SHOULD BE THE SAME WITH THE SHOOTER, WHETHER MINOR OR NOT.

BILL 1464 SECTION 11 ENTIRE

THIS SECTION ALSO SEEKS TO INCREASE A PARENT'S LIABILITY FOR HIS CHILDREN'S ACTIONS FROM \$1000 TO \$100,000. IT IS IMPORTANT THAT PREVIOUS LEGISLATORS CONSIDERED INSURING THE FAMILY AGAINST FISCAL DESTRUCTION BY A PARTY BENT ON REVENGE BECAUSE OF THE ACTION OF A MINOR MEMBER. THIS INSURANCE MUST STAND.

VERY FEW FAMILIES I KNOW COULD STAND A JUDGEMENT OF \$100,000 AND SURVIVE. IS THE VENGEANCE MOTIVE SO STRONG THAT IT SHOULD BE ALLOWED TO DESTROY BOTH FAMILIES AND BUSINESSES WITHOUT RESPECT TO ACTUAL WRONG DOING? SHOULD ALL FAMILIES AND BUSINESSES BE HELD HOSTAGE BY THIS MISBEGOTTEN PEICE OF TRASH? FAMILIES AND BUSINESSES COULD BE DESTROYED BY THIS LAW EVEN IF THERE ARE NO FIREARM OWNERS IN THEM, WHETHER OR NOT THERE ARE ANY FIREARMS BEING STORED IN OR NEAR ANY OF THEIR PREMISES.

FURTHER, IF THE MINOR DOES NOT RESIDE WITH THE PARENT OR GUARDIAN, AS IS A PREVALENT CUSTOM ON GUAM, WHO THEN WOULD BE RESPONSIBLE? -THE PUTATIVE PARENTS?

BILL 1464 SECTION 13

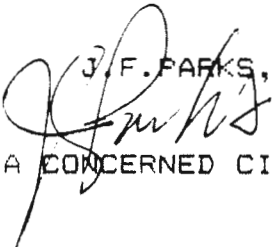
I DO NOT WANT SECTION 60128 DELETED FROM TITLE 10, GCA.

THIS WOULD TAKE AWAY MY RIGHT TO TEACH MY CHILDREN CARE, HANDLING, CLEANING, AND MARKSMANSHIP WITH FIREARMS AS MY FATHER DID FOR ME. THIS WOULD PREVENT ME FROM PASSING ON AN AMERICAN HERITAGE AND A FAMILY TRADITION.

BILL 1464 TESTIMONY, PAGE 3

NEW SECTION 60126 OF 10 GCA
FIREARM SECURITY IS A TOPIC I WILL NOT ARGUE ABOUT EXCEPT THAT
THE FIREARM IN THE HOME SHOULD BE ACCESSIBLE ENOUGH TO THE OWNER
TO BE AVAILABLE TO HIM OR HER IF NEEDED IN AN EMERGENCY. IT IS NO
SECRET THAT HUMAN PREDATORS SELECT THEIR VICTIMS FROM THE ELDERLY
AND WOMEN. INCIDENTS OF BREAKING AND ENTRY, AND TERRORISM OF
OCCUPANTS BY ARMED INTRUDERS IS NOT UNHEARD OF ON GUAM. SHOULD MY
GRANDMOTHER HAVE TO SHOUT "NANGAFAN BEY UN CHULE E YABI PIE
PAKI?

IN SUMMATION, THIS BILL STRIKES OUT IN ALL DIRECTIONS WITHOUT
REGUARD TO GUILT OR INNOCENCE AND SEEKS TO PUNISH EVERYONE FOR
THE IRRESPONSIBILITY OF A FEW. THERE ARE ADEQUATE LAWS ALREADY ON
THE BOOKS THAT ARE DESIGNED TO DISSUADE NEGLIGENT ACTIVITY, WITH
WHAT I THINK ARE REALISTIC PENALTIES. WE, THE PEOPLE, DO NOT NEED
THIS LAW.

J. F. PARKS,

A CONCERNED CITIZEN

Statement of
Steve Ulloa
President
Gun Owners Association of Guam
Before the
Committee on Judiciary and Criminal Justice
Government of Guam

Ms. Chairperson and Members of the Committee:

Let me express my thanks for this opportunity to testify in behalf of the Gun Owners Association of Guam during this public hearing on Bill 1464, an Act regarding the safeguarding of firearms on Guam.

We oppose this bill and any bill which we feel infringes on our second amendment rights to keep and bear arms.

There are several reasons why we think this bill is not needed and I will attempt to explain why by going through this Bill section by section.

First of all, if it is the intent of the Legislature to make it a serious enough criminal and civil offense to negligently keep and handle guns to reduce accidents to minors, why does it have to be a specific bill that targets only guns when gun related accidents involving minors are so much lower compared to other accidents involving minors such as motor vehicle accidents, falls, skateboards, mopeds, drownings, etc., etc.? This bill discriminates gun owners only, why can't negligent use of a gun as well as any other potentially dangerous tool be placed under the General Negligence laws of Guam?

Under section 1 of this bill, why are the words negligent used and negligent entrustment not defined? Under paragraph 2, where it states a further intent of the legislature is to specify the manner in which firearms may be stored or obtained by a minor, without incurring criminal or civil liability, after looking over the whole Bill, we fail to find any specification stating how this is to be accomplished.

Under section 5 and 6, why even have this written warning section when there is already a section 60128 under 10 GCA where it is stated that minors can't use a firearm unless under direct control and presence of an adult with a firearms I.D. card?

Under section 8, why have this new subsection 'f' when subsection 'e' should cover this already? Why not just increase the fines from \$1000 to \$5000 and imprisonment from 1 year to 5 years in this subsection 'e' since minors are covered here already and since they do not have any valid firearms I.D. cards?

Under section 9, the new subsection 'g' conflicts with the new subsection 'f' under section 8 since minors can't touch firearms anyway.

Under section 10 and 11, the whole point of these sections is to provide civil recourse for the injured party to civilly sue someone. Why is it necessary to have a firearms bill for someone to sue someone else for that person's negligent act when this should be covered under a general negligence law? Why single out gun owners? This is discrimination again!

Section 12 seems unnecessary again due to section 8 subsection 'f' on minors receiving guns.

Under Section 13, 10 GCA section 60128 is repealed. This in effect prevents a parent from teaching his kids gun safety as well as to participate with him in any hunting or shooting competition or activity. We as law-abiding gun owners would rather see bill 1464 be thrown out than to have this particular section repealed. It must be remembered that one of the reasons why people own guns is for self-protection. Section 13 here in effect prevents an individual ready access to a firearm if the need should arise.

If one of the purposes here is to safeguard minors and other individuals from gun related accidents, we feel that the best way is through education and safety training. Because it does not matter how many laws are passed concerning how to be safe using a particular tool or doing a particular activity; safety is dependent on an individual using his head. Having said this, it must also be remembered that owning a firearm is a second amendment right, a individual right, not a collective state right, and as such any safety training must be voluntary and not a mandatory requirement upon an individual.

We, The Gun Owners Association, would be the first to promote gun safety programs and we can through our affiliation with the National Rifle Association. Due to this affiliation and our own pool of train and knowledgeable members, we have the means to educate and train interested adults and minors on the safe use and handling of firearms. But one of the prerequisites requires a public shooting range. We were pushing for Bill 1202 which would establish such a range and a firearm safety program, but it was vetoed by the current administration, based, in our view, more on political reasonings rather than sound ones. We would like to see this Bill reintroduced rather than to have Bill 1464 enacted.

We feel that Bill 1464 as a whole is poorly written and open for abuse as well as discriminatory towards law-abiding gun owners. It appears to have been written as a knee-jerk reaction to recent gun related tragedies, in particular Robert Webber. But

we must remember that no matter how tragic this situation was, it was due to the negligence of an individual and should be dealt with under the general negligence laws. If it is the intent of the legislature to apply criminal and civil penalties for the misuse of a firearm by a minor and especially for the injured party to have recourse to sue in civil court, then it should apply this bill to every object that has a potential to be tragically misused by a minor. We as gun owners are tired of being picked on because guns are such sensational and glamorized tools.

Please let us use common sense. Thank you.

August 23, 1990

The Honorable Senator Pilar C. Lujan, Chairwoman
Committee on Judiciary and Criminal Justice
20th Guam Legislature

RE: Bill No. 1464 "Robert Michael Webber Act"

Dear Chairwoman Lujan:

My name is Mark Fish and I am here to provide my personal commentary on the proposed Bill No. 1464 better known as the "Robert Michael Weber Act".

At the outset, I wish to state that I am here as a parent, a taxpayer and a private businessman who is concerned with the recent rash of gun related injuries to Guam's youth as a result of gross negligence in the handling, storage, and the use of firearms. As you know, this negligence has recently culminated itself in the death of a young man who was a close family friend, a fine athlete and a young person who, if allowed to grow to manhood, would undoubtedly have been fine adult and a major contributor to our island. I also wish to state that I am a gun owner, having been trained in the use of firearms as a youngster and that I am also a avid hunter and sportsman.

I want to commend those Senators who have sponsored this legislation despite significant pressure brought to bear by gun groups who are reportedly threatening retribution in connection with the upcoming election for those legislators supporting this legislation. To those legislators which support this Bill, I say that the needs of the many must outweigh the special interests of the few and that it is readily apparent that their support evidences their strong concern for the future and the well-being of the children of our island.

The Honorable Senator Pilar C. Lujan, Chairwoman
Committee on Judiciary and Criminal Justice
20th Guam Legislature

Page 2

Opponents of this proposed legislation will say that this Bill is a "gun control law", that it will inhibit the people's right to hold and bear firearms, and that it is but one more step in the Government's intervention into their personal lives. Close examination of this legislation reveals, however, that this statement is far from factual.

This Bill in no way prevents the people of Guam from owning or holding firearms. In summary, it does say that the privilege of owning and holding firearms is accompanied by certain inherent requirements for the safe storage, handling and the responsible use of the weapon(s). In my mind, "responsible use" does not include the discharge of the weapon in populated areas, the unsupervised use by minors nor the granting of use of the gun to unlicensed unregistered individuals. This, my friends, is what allegedly led to the death of young Robbi Webber and it is this irresponsible handling of firearms which this legislation attempts to discourage through strong civil penalties.

If we, the citizens of Guam and, if you, our elected officials are not willing to stand against the needless injury and death of our youngsters due to pressures from special interest groups, then our island society and our values are in deep trouble. Your vote cast in favor of this Bill sends a strong statement to our people that you will not stand for the continued injury and death in connection with firearms related incidents. Moreover, if your support of this Bill does no more than to prevent the injury or loss of life to a single child, is not the entire exercise indeed worthwhile?

Thank you once again for the opportunity to provide comment.

Very truly yours,



Mark O. Fish

TESTIMONY

By

Peter P. Ada III

Bill 1464
Public Hearing
Judiciary and Criminal Justice Committee
Thursday, August 23, 1990

MADAME CHAIRWOMAN, MEMBERS OF THE JUDICIARY AND
CRIMINAL JUSTICE COMMITTEE, Hafa Adai and Good Morning.

I appear before you providing favorable testimony on Bill
1464--THE "ROBERT MICHAEL WEBBER ACT."

While I don't normally appear before the legislature
outside of my civic duty with the Visitors Bureau, I feel
compelled to be here this morning to testify as a resident
concerned with the safety of our island's children.

There's an old saying that "new occasions teach new
duties" and I believe that Bill 1464 is an appropriate response to
the tragic, often times fatal, accidents involving negligently
stored firearms.

It is apparent that efforts or steps must be made to curtail
and prevent any further accidents.

Whether or not the bill, if passed into law, is successful in
its intent, I believe that it will at least raise the level of
consciousness and responsibility of firearms owners.

BY NO STRETCH DO I ADVOCATE LIMITING OR REDUCING ANY
CITIZEN'S RIGHT TO BEAR ARMS. HOWEVER, I DO FIRMLY BELIEVE THAT
ALL FIREARMS OWNERS SHOULD BE RESPONSIBLE IN SAFEGUARDING
THEIR WEAPONS, PARTICULARLY FROM THE CURIOUS HANDS OF
CHILDREN.

THIS MEASURE WILL UNDERSCORE THE NECESSITY TO ENSURE THAT
SAFETY BEGINS AT HOME AND THAT OWNING A FIREARM CARRIES A
LARGE RESPONSIBILITY.

WHILE I BELIEVE THAT SOMETIMES ACCIDENTS DO HAPPEN, THEY
SHOULD NOT HAPPEN BECAUSE OF ONE'S NEGLIGENCE.

IN MY VIEW, BILL 1464 IS A VERY SOUND, RESPONSIBLE PIECE OF
LEGISLATION WHICH SHOULD BE HERALDED BY ALL RESPONSIBLE
RESIDENTS IN OUR ISLAND COMMUNITY.

I ENCOURAGE PASSAGE OF THE MEASURE.

THANK YOU AND SI YU'US MA'ASE.

TESTIMONY FROM A YOUTH
IN FAVOR OF BILL 1464 - "THE ROBERT MICHAEL WEBBER ACT"

August 23, 1990

The Honorable
Pilar A. Lujan
Chairperson, Committee on
Judiciary & Criminal Justice
Twentieth Guam Legislature

Dear Madame Chairman and Honorable Members of this Committee:

My name is Monique Portusach Hudgens. I am twelve years old and a seventh grader at Agueda Johnston Middle School.

First of all, I would like to commend the sponsors of Bill 1464. Thank you, Senator George Bamba, Senator Dierking and Senator Lujan for being concerned about the safety of innocent young people like myself, rather than being concerned with the threat of losing a few lousy votes from gunowners like Mr. Jim Miles. Besides, what's more important??!! Protecting the lives of our children...or winning a few lousy votes from the gun lobbyists who are confused about the merits and good intention of this piece of legislation?!!

Madame Chairperson, back in April of this year, two young people on Guam were shot within a period of one week. One was in critical condition and the other died. That little boy who was killed happens to be my cousin, someone who was very dear and close to me. Robert Michael Webber was like a little brother to me. You don't know how much my family and I miss him. It was a senseless death, that could have been avoided if adults were more responsible. Tell me, what decent mother would give her ten year old a deadly weapon for a Christmas gift?

Senators, the time has come to act!! It's time to pass a tough law on guns. Statistics show that too many innocent people have been killed because of carelessness and negligence. It's time to impose strict safety regulations and safety precautions...and training for the young people, as well as for the adults, who seem to think they know it all. Anyone living in the household of a gun owner should learn about the danger of a gun..that IT DOES KILL...tha^t there is a difference between a toy gun and a real gun.

Whatever you do won't bring back my cousin, Robbie. But it can prevent another tragic accident from happening again! I don't want to see another family go through the suffering and the pain my family went through. It really hurts. You don't know what it feels like until you've lost a loved one. I still wake up crying, trying to believe that it was just a bad dream.

Please senators, change the law and pass some tough regulations. Make the gun owners more responsible for the sake of our children's safety. Protect the lives of our children and every human being. That's the most important thing!

This tragic incident wouldn't have happened if grown ups would be more responsible. People who own guns should be responsible and sensible enough to lock their guns away where a child can't get to it.

This may be a good time for the Department of Education to set up a program in the schools to educate all the students about the danger of guns, about safety precautions. Not only about guns, but on every other life saving matter. Like, for instance, learning about the danger of electrical sockets -- that, if you stick a metal object into the socket, such as a key, that it could be fatal..that they shouldn't touch jagged electrical wires...that they shouldn't touch a live wire hanging from a

TESTIMONY OF MONIQUE HUDGENS

Bill No. 1464

Page 2

power pole. Children should learn how to prepare for earthquake and other disaster and take whatever measures and precautions that are necessary.

This is serious business, Senators. Please think of the safety and lives of our children. Don't wait for another tragedy to happen because of the carelessness and negligence of some irresponsible adult.

On behalf of my Mom and my family, the Portusachs and especially the Webbers, I want to thank the sponsors of this bill and I urge all the Senators to vote in favor of the "ROBERT MICHAEL WEBBER ACT". Please don't let the gun lobbyists scare you from doing the right thing. THANK YOU! SI YU'OS MA'ASE!

Monique Y. Hudgens

MONIQUE P. HUDGENS



Our Lady of Peace Memorial Gardens

P.O. Box 598, Agana, Guam 96910

Orlean Pacific Plaza, Tamuning beside Guam Savings-Tamuning branch

Tel: 646-9394/9397

TESTIMONY IN FAVOR OF THE PASSAGE OF BILL 1464

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS PHILIP J. FLORES AND I COME TO YOU TODAY TO TESTIFY IN FAVOR OF BILL 1464, AN ACT WHICH DEALS WITH THE NEGLIGENT ENTRUSTMENT OF A FIREARM TO A MINOR.

AS A CHILD, I WAS EXPOSED EXTENSIVELY TO FIREARMS BY MY FATHER, AN AVID HUNTER.

FORTUNATELY FOR ME HIS NUMBER ONE RULE IN DEALING WITH WEAPONS WAS SAFETY. ALL GUNS WERE LOCKED AWAY SECURELY AND EVEN AS A YOUNG PRETEEN AND TEENAGER WHEN MYSELF AND MY FRIENDS THOUGHT HOW FUN IT WOULD BE TO SHOOT GUNS, I HAD NO OPTION FOR I HAD NO ACCESS.

IT IS SAFE TO SAY THE MAJORITY OF ADULTS, ESPECIALLY THOSE WHO HAVE EXPERIENCED THE RAVAGES OF COMBAT, RESPECT THE FEROCITY OF A DISCHARGING WEAPON AND RESTRICT THE ACCESS OF MINORS TO FIREARMS.

UNFORTUNATELY THAT SENSE OF RESPONSIBILITY IS NOT SHARED BY ALL, AND FOR THOSE WHO REFUSE TO ACKNOWLEDGE THE SAFETY OF ALL, LAWS MUST BE IMPLEMENTED.

THE RESPONSIBLE USE OF A FIREARM, WHICH INCLUDES STORAGE AND ACCESS, MUST NOT BE AN OPTION OF THE GUN OWNER.

JUST AS IN THE INTEREST OF THE SAFETY OF THE PUBLIC, WE RESTRICT THE ACCESS OF MINORS TO OPERATE MOTOR VEHICLES, SO TO WE MUST RESTRICT THE ACCESS OF MINORS TO OPERATE FIREARMS.

WITNESS THE DEATH AND INJURY CAUSED ON OUR ISLAND AND ELSEWHERE BY CHILDREN PLAYING WITH GUNS.

BILL 1464 PROVIDES THE MEANS NECESSARY TO CAUSE RESPONSIBLE STORAGE AND RESTRICTION OF ACCESS TO MINORS OF FIREARMS.

I URGE YOU AS A CONCERNED CITIZEN, WITH A CHILD OF MY OWN, AND AS THE PRESIDENT OF OUR LADY OF PEACE MEMORIAL GARDENS WHERE I HAVE SEEN THE GRIEF OF FAMILIES AND THE WASTE OF HUMAN LIFE CAUSED BY UNNECESSARY DEATH AS A RESULT OF MINORS PLAYING WITH GUNS TO FAVORABLY CONSIDER PASSAGE OF BILL 1464.

THE TRAGEDY WHICH BEFELL THE WEBBER FAMILY SHOULD NEVER BE REPEATED ON OUR ISLAND WITHOUT US FIRST MAKING OUR BEST ATTEMPT AS A PEOPLE TO PREVENT ITS RECURRENCE.

THANK YOU.

PHILIP J. FLORES
AUGUST 23, 1990

Eduardo G. Camacho
P.O. Box A.T.
Agana, Guam 96910

August 22, 1990

Twentieth Guam Legislature
Chairperson, Judiciary Committee
Senator Pilar Lujan

Dear Madame Chairperson,

I am here to testify on behalf of Bill No. 1464, to be known as the Robert Michael Webber Firearms Liability Act of 1990.

There were numerous accidental homicide incidences here on island which may have either killed or caused crippling injuries to innocent victims on account of careless handling of fire arms.

If fire arms continue to fall into careless hands, how many more individual would have been fallen victims of improper handling of fire arms.

Consider further those innocent bystanders who through no fault of their own may have been victims of careless individuals who are more concerned about their self interest than the safety of others.

Finally, what about members of the family who were left behind to grief with heavy hearts over the lose of their love one's.

The above thought provoking consideration are of extreme importance to consider in dealing with preventative measure in the manner by which careless use of fire arms must be dealt with.

Ladies and gentlemen sponsor members of the proposed act known as the "Robert Michael Webber Act", I compliment you for taking the initiative to address the need for the enforcement of better and safer Gun Control Measures.

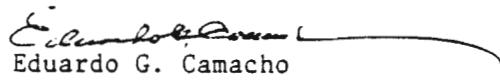
Although, I would have liked to have seen a more comprehensive firearms control measures implemented, your proposed "Robert Michael Webber Act" is a good start and a positive move in the right direction.

I had access to your proposed "Robert Michael Webber Act". I have read said act and I fully understand your legislative finding and intent of the act.

Having fully understood your finds and the intent of the act, I do hereby wish to support, without reservation, the adoption and passage of the proposed "Robert Michael Webber Act".

I most certainly appreciate this opportunity to have expressed my feelings in this regard.

Very Truly Yours,


Eduardo G. Camacho

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>dmz</u>
Time	<u>12:40</u> <u>203520</u>
Date	<u>8/22/90</u>

GOVERNMENT OF GUAM
GUAM POLICE DEPARTMENT
COMPARATIVE ANALYSIS OF CASES INVOLVING FIREARMS
1986 - 1989

A. CRIMINAL CASES

TYPES OF OFFENSES	<u>1986</u>			<u>1987</u>			<u>1988</u>			<u>1989</u>		
	TOTAL	# of F/ARM	%	TOTAL	# of F/ARM	%	TOTAL	# of F/ARM	%	TOTAL	# of F/ARM	%
1. Murder	10	4	40.0	11	3	27.3	15	6	40.0	14	8	57.1
2. Manslaughter	2	2	100.0	0	0	0.0	0	0	0.0	0	0	0
3. Rape	106	4	3.8	125	2	1.6	184	7	3.8	72	5	6.9
4. Robbery	60	29	48.3	70	39	55.7	38	24	63.2	39	29	74.4
5. Agg. Assault	101	5	4.9	124	7	5.7	140	10	7.1	142	15	21.3
6. Weapons Viol.	25	25	100.0	27	25	92.6	27	27	100.0	50	50	100.0
7. Reckless Conduct	1569	89	5.7	1613	96	5.9	2078	53	2.6	2108	138	6.6
TOTAL	1873	158	8.4	1970	172	8.7	2482	127	5.1	2425	245	10.1

B. SUICIDE CASES

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Cases	12	15	14	16
Firearm	5	5	7	8
Percent	41.7	33.3	50.0	50.0

C. INJURED PERSONS

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Total	220	289	113	178
Firearm	13	19	29	33
Percent	5.9	6.6	9.2	18.5

D. SHOOTING CASES

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Total	67	79	113	139
% Change	Base	+17.9	+43.0	+23.0

E. REGISTERED FIREARMS BY TYPES

<u>TYPES</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Revolver	1299	1327	1210	1462
Pistol	1341	1575	2020	2588
Shotgun	1258	1430	948	1050
Rifle	740	753	1519	2183
Carbine	203	179	154	275
TOTAL	4841	5264	5851	7558

F. FIREARMS I.D. ISSUED

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
TOTAL	3790	3589	4990	3579



JOSEPH F. ADA
 Governor of Guam
 FRANK F. BLAS
 Lieutenant Governor

Government of Guam
GUAM POLICE DEPARTMENT

287 West O'Brien Drive
 Agana, Guam 96910
 U.S. Territory of Guam



COLONEL A.P. SGAMBELLU
 Chief of Police

SEP 14 1990

Senator Pilar C. Lujan
 Chairman, Committee on Justice,
 Judiciary and Criminal Justice
 Twentieth Guam Legislature
 Agana, Guam 96910

Subject: Bill 464 as Substituted

OFFICE OF THE	SECRETARY
ACKNOWLEDGEMENT	
Received	DA
Time	9:00 pm
Date	9/17/90 203608

Dear Senator Lujan:

Senator Bamba has asked for my comments on the captioned bill.

With a couple of exceptions, I find the bill to be a well drafted, enlightened piece of legislation.

The substance of the bill achieves some admirable objectives -- primarily separating children and firearms.

Children and firearms is a dangerous combination that quite often results in the death or injury of the child. Placing firearms in the hands of children is irresponsible and occasionally results in the death of or injury to children. The risk inherent to firearms must not be permanently shifted to children but should be retained by those who own or possess firearms unless those owners can show that they acted responsibly with respect to the firearms.

The bill provides a positive incentive for adults to act responsibly with respect to firearms by imposing strict liability for the death or injury to a child brought about by an adult's careless use or storage of a firearm. Along the same lines, the bill would criminalize negligent entrustment of a firearm by an adult to a minor.

On the civil side the bill would shift the risk of loss caused by incidents involving firearms and children from the person suffering the loss to the adult or adults who behaved irresponsibly with respect to the firearms. This is as it should be.

COMMONWEALTH NOW

472-8911 Ext. 376/377/378 • FAX: (671) 472-4036

Senator Pilar C. Lujan
Chairman, Committee on Justice, Judiciary and Criminal
Justice
Subject: Bill 464 as Substituted
Page 2

While I find the substance of the bill to be admirable, I find a few technical defects. Section 1 of the bill is labeled "Legislative Finding and Intent." Much of Section 1 is inartfully drafted. Part of the section is at best, difficult to follow and at worst, a potential problem with respect to enforcement. As an example, I cite the final sentence of item (1) in Section 1. That sentence reads:

Such action or inaction is irresponsible, encourages such accidents, and should be prohibited; and significant liability should attach to protect the safety or potential victims.

It is difficult to ascertain what "action" or "inaction" the sentence refers to. The final part of the sentence talks in terms of "...protect the safety or potential victims" -- a nebulous concept at best.

Item (2) uses the term "civil offense", and anomaly at best. The next sentence fragment reads:

To this and strict liability in tort shall ascribe to an owner of a firearm resulting from its negligent use or negligent use while in the possession of a minor.

It is not necessary to go through the rest of the Section 1 line by line. Suffice it to say that the cryptic nature of this section adds nothing to the bill and the bill would be greatly improved by its elimination.

Section 2 states that the act shall be known as the "Robert Michael Webber Act". Stated in these terms, one would think that Robert Michael Webber was the author of the bill. This of course is not the case. Rather, the tragic death of Robert was the catalyst which caused the introduction of this bill. I therefore suggest titles along the lines of:

- a. The Robert Michael Webber Firearms Liability Act of 1990.
 - b. The Robert Michael Webber Memorial Firearms Control Act.
-

Senator Pilar C. Lujan
Chairman, Committee on Justice, Judiciary and Criminal
Justice
Subject: Bill 464 as Substituted
Page 3

- c. The Robert Michael Webber Firearms Safety Act.
- d. The Robert Michael Webber Childrens' Protection Act.

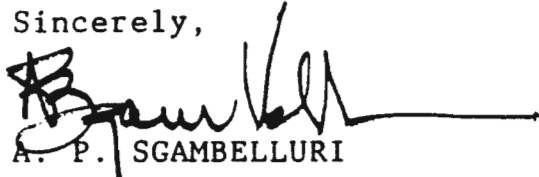
Section 14 is what is commonly known as a severability clause. A severability clause merely restates a basic rule of judicial restraint and adds nothing to the bill.

The bill does not contain an effective date and thus if enacted would become effective on midnight of the day it was signed by the Governor or the Governor's veto was overridden by the Legislature. It would be unreasonable to expect merchants dealing in firearms to be able to post notices required by §§5 and 6 of the act by the beginning of the next business day. This would be quite an inconvenience.

Consider the potential exposure to liability for those who own firearms who would be required to store the firearms in a locked closet or cabinet with almost no notice of that requirement.

In order to ameliorate the harshness of an abrupt imposition of the provisions of the act on an unsuspecting populous, I suggest adding a section that would make the provisions of the act become effective thirty (30) or sixty (60) days after enactment. This type of provision would give people adequate warning and would allow them to make necessary preparations to be in compliance with the act.

Sincerely,



A. P. SGAMBELLURI

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

Bill No. 1464
As substituted by the author

Introduced by:

J.G. Bamba
P.C. Lujan
H.D. Dierking

AN ACT TO ADD NEW ITEMS (h) AND (i) TO 10 GCA SECTION 60100; (6) AND (7) TO 10 GCA SECTION 60116; (f) AND (g) TO 10 GCA SECTION 60121; TO ADD NEW SECTIONS 1714.2 AND 1716.1 TO THE CIVIL CODE; 40 AND 41 TO 6 GCA SECTION 5107; TO REDESIGNATE SUBSECTIONS (f) AND (g) OF 10 GCA SECTION 60121 TO SUBSECTIONS (h) AND (i), RESPECTIVELY; TO REPEAL AND REENACT 10 GCA SECTION 60128; TO DEFINE "PUTATIVE OWNER" AND "LAWFUL OWNER" FOR THE PURPOSE OF FIREARMS POSSESSION; REQUIRE DEALERS OF FIREARMS TO POST CERTAIN WARNINGS; TO MAKE TRANSFERRING OF A FIREARM TO A MINOR, A FELONY AND TO PROVIDE FOR THE PUNISHMENT FOR SAID FELONY, MAKE NEGLIGENT ENTRUSTMENT OF A FIREARM TO A MINOR A FELONY, AND TO PROVIDE PUNISHMENT FOR SAID FELONY; TO PROVIDE STRICT LIABILITY IN TORT FOR THE DEATH OR INJURY TO A PERSON CAUSED BY THE POSSESSION OF A FIREARM BY A MINOR, TO MAKE THE PARENTS OF GUARDIANS OF MINOR VICARIOUSLY LIABLE UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000) FOR THE DEATH OR INJURY CAUSED BY THEIR CHILD(REN) OR WARD(S) USE OF A FIREARM; TO CREATE TWO (2) NEW EVIDENTIARY PRESUMPTIONS WITH RESPECT TO MINORS USING FIREARMS; TO REPEAL THE LAW ALLOWING A MINOR TO POSSESS FIREARMS AND TO ENACT IN ITS PLACE VARIOUS AMELIORATIVE PROVISIONS CONCERNING OTHER ASPECTS OF THIS LAW; ALL TO ENACT A STATUTE KNOWN AS THE ROBERT MICHAEL WEBBER FIREARMS LIABILITY ACT OF 1990.

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

2 Section 1. Legislative Finding and Intent.

3 (1) The Legislature finds that a tragic number of
4 persons, adults and children have been killed or wounded by
5 improperly stored firearms, or firearms easily accessible to

1 children. Such action or inaction is irresponsible,
2 encourages such accidents, and should be prohibited; and
3 significant civil liability should attach to protect the
4 safety or potential victims.

5 (2) It is the intent of the Legislature to make it a
6 serious enough criminal and civil offense to negligently
7 keep and handle guns that such activity will not occur. To
8 this end strict liability in tort shall ascribe to an owner
9 of a firearm resulting from its negligent use or negligent
10 use while in the possession of a minor. Likewise, negligent
11 entrustment of a firearm to a minor shall be a felony. It is
12 further the intent of the Legislature to specify the manner
13 in which firearms may be stored or obtained by a minor,
14 without incurring criminal or civil liability.

15 (3) It is not the intent to deprive persons of their
16 rights to own, possess and use firearms.

17 Section 2. This Act shall be known as the "Robert Michael
18 Webber Act".

19 Section 3. A new item (h) is added to 10 GCA Section 60100
20 to read:

21 "(h) 'Putative Owner' means a person who, were it not
22 for the requirements of this Chapter, would be the owner of
23 a firearm or one who acquires possession of a firearm by
24 theft."

25 Section 4. A new item (i) is added to 10 GCA Section 60100
26 to read:

27 "(i) 'Lawful Owner' means a person whose rights to a

1 firearm have been perfected in accordance with Section 60103
2 of this Title."

3 Section 5. A new item (6) is added to 10 GCA Section 60116
4 to read:

5 "(6) Deliver a written warning to the purchaser or
6 transferee of a firearm a written warning which states in
7 block letters not less than 1/4 inch in height:

8 IT IS UNLAWFUL AND PUNISHABLE
9 BY IMPRISONMENT AND FINE FOR
10 ANY ADULT TO STORE OR LEAVE
11 A FIREARM IN ANY PLACE WITHIN
12 REACH OR EASY ACCESS OF A MINOR."

13 Section 6. A new item (7) is added to 10 GCA Section 60116
14 to read:

15 "(7) Conspicuously post at each purchase counter the
16 following warning in block letters not less than one (1)
17 inch in height:

18 IT IS UNLAWFUL TO STORE OR LEAVE
19 A FIREARM IN ANY PLACE WITHIN THE
20 REACH OR EASY ACCESS OF A MINOR."

21 Section 7. Subsections (f) and (g) of 10 GCA Section 60121
22 are redesignated subsections (h) and (i), respectively.

23 Section 8. A new subsection (f) is added to 10 GCA Section
24 60121 to read:

25 "(f) Any person legal or natural who transfers, gives,
26 returns, sells, or loans any firearm to any minor is guilty
27 of a felony which shall be punishable for a term of

1 imprisonment not less than five (5) years and a fine of not
 2 less than \$5,000.00. In the case of a violation by a legal
 3 person, the natural person is liable for punishment under
 4 this section. In addition to said legal person, shall be
 5 the person or persons performing the forbidden acts or
 6 omitting the required acts and any responsible officer or
 7 legal person who knew or should have known of the actual
 8 omissions committed."

9 Section 9. A new subsection (g) is added to 10 GCA Section
 10 60121 to read:

11 "(g) Any person who negligently entrusts a firearm to
 12 a minor is guilty of a felony which shall be
 13 punishable for a term of imprisonment of not less than one
 14 (1) year and a fine of not less than \$1,000.00."

15 Section 10. A new Section 1714.2 is added to the Civil Code
 16 to read:

17 "Section 1714.2 Strict Liability. Every putative
 18 owner or lawful owner of a firearm is strictly liable in
 19 tort for the death or injury to the person resulting from
 20 the use or possession of said firearm by a minor."

21 Section 11. A new Section 1716.1 is added to the Civil Code
 22 to read:

23 "Section 1716.1 Firearms. Any person shall be
 24 entitled to recover damages in a civil action in an amount
 25 not to exceed \$100,000.00 from the parents or guardians of
 26 any minor living with the parents or guardians who is
 27 responsible for the death or injury to a person caused by

1 said minor's use of possession of a firearm, who causes the
2 death or injury of a person as a result of the use of the
3 firearm."

4 Section 12. New items (40) and (41) are added to 6 GCA
5 Section 5107 to read:

6 "(40) That a minor, possessing or using a firearm does
7 so with the knowledge of its lawful owner or putative owner.

8 (41) That a minor possessing or using a firearm does so
9 with the knowledge of his parents or guardians."

10 Section 13. 10 GCA Section 60128 is repealed and reenacted
11 to read:

12 "Section 60128. Exceptions. The provisions of Civil
13 Code Sections 1714.2 and 1716.1 and 6 GCA Section 5107.40
14 and 41. shall not apply:

15 (a) If the firearm is stored in a secure, locked
16 cabinet or closet in the home of its lawful owner.

17 (b) If the minor obtains the firearms as a result
18 of the unlawful entry of the home of the owner of the
19 firearm.

20 (c) To members of the Armed Forces, National
21 Guard, police or other law enforcement officials with
22 respect to firearm possession by a minor, which occurs
23 during or incidental to the performance of their
24 official duties.

25 (d) If the firearm was properly secured by the
26 owner with a trigger lock."

27 Section 14. Severability. If any provision of this Act on

1 its application to any person or circumstances is held invalid,
2 the invalidity does not affect other provisions or application of
3 this Act, which can be given effect without the invalid provision
4 or application and to this end the provisions of this Act are
5 severable.

Introduced

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

MAY 21 '90

Bill No. 1464 (LS)

Introduced by:

J.G. Bamba
P.C. Lujan
H.D. Dierking *D*

*gca
E. Dur*

AN ACT REGARDING THE SAFEGUARDING OF FIREARMS
ON GUAM.

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

2 Section 1. Legislative Findings and Intent.

3 (1) The Legislature finds that a tragically large number of
4 adults and children have been accidentally killed or seriously
5 injured by negligently stored firearms, that placing firearms
6 within the reach or easy access of children, or persons not in
7 possession of a valid firearms identification card, is
8 irresponsible, encourages such accidents, and should be
9 prohibited, and that legislative action is necessary to protect
10 the safety of our children.

11 (2) It is the intent of the Legislature that adult citizens
12 of this Territory retain their constitutional right to keep and
13 bear firearms for hunting and sporting activities and for defense
14 of self, family, home, and business and as collectibles. Nothing
15 in this Act shall be construed to reduce or limit any existing
16 right to purchase and own firearms, or to provide authority to
17 any agency to infringe upon the privacy of any family, home, or
18 business, except by lawful warrant.

19 (3) This Act shall be known as the "Robert Michael Webber
20 Act."

21 Section 2. New sections 60103.1 through 60103.5 are added

~~CONFIDENTIAL~~

1 to Chapter 60 of Title 10 of Guam Code Annotated as follows:

2 "Section 60103.1. (1) A person who stores or leaves,
3 on a premise under his control, a firearm, as defined in
4 section 60100, and who knows or reasonably should know that
5 a minor or a person without a valid firearms identification
6 card, is likely to gain access to the firearm without the
7 lawful permission of the minor's parent or the person having
8 charge of the minor, or a person without a valid firearms
9 identification card, or without the supervision required by
10 law shall keep the firearm in a securely locked box or
11 container or in a location which a reasonable person would
12 believe to be secure or shall secure it with a trigger lock,
13 except when he is carrying the firearm on his body or within
14 such close proximity thereto that he can retrieve and use it
15 as easily and quickly as if he carried it on his body.

16 (2) It is a misdemeanor punishable by a fine of not
17 more than one thousand dollars (\$1,000.00), and not more
18 than one (1) year in jail, or both, if a person violates
19 subsection (1) by failing to store or leave a firearm in the
20 required manner and as a result thereof a minor, or a person
21 without a valid firearms identification card, gains access
22 to the firearm, without the lawful permission of the minor's
23 parent or the person having charge of the minor, and
24 possesses or exhibits it, without the supervision required
25 by law:

26 (a) In a public place; or

27 (b) In a rude, careless, angry, or threatening

1 manner.

2 This subsection does not apply if the minor, or a person without
3 a firearms identification card, obtains the firearm as a result
4 of an unlawful entry by any person.

5 (3) It is a felony punishable by five (5) years in
6 jail and a fine of five thousand dollars (\$5,000.00) if a
7 person violates subsection (1) above where a personal injury
8 results from the weapon being discharged.

9 (4) It is a felony punishable by fifteen (15) years in
10 jail and a fine of fifteen thousand dollars (\$15,000.00) if
11 a person violates subsection (1) above and as a result a
12 person is killed, because of the weapon being discharged.

13 (5) When any minor is accidentally shot by another
14 family member, no arrests shall be made pursuant to this
15 subsection prior to seven (7) days after the date of the
16 shooting. With respect to any parent or guardian of any
17 deceased minor, the investigating officers shall file all
18 findings and evidence with the Attorney General's office
19 with respect to violations of subsection one (1) above. The
20 Attorney General shall evaluate such evidence and take such
21 action as she or he deems appropriate under the
22 circumstances.

23 Section 60103.2. Transfer or sale of firearms;
24 required warnings; penalties.

25 (1) Upon the retail commercial sale or retail
26 transfer of any firearm, the seller or transferor shall
27 deliver a written warning to the purchaser or

1 transferee, which warning states, in block letters not
2 less than one-fourth inch in height:

3 "IT IS UNLAWFUL, AND PUNISHABLE
4 BY IMPRISONMENT AND FINE, FOR ANY
5 ADULT TO STORE OR LEAVE A FIREARM
6 IN ANY PLACE WITHIN THE REACH
7 OR EASY ACCESS OF A MINOR, OR
8 A PERSON WHO IS NOT IN POSSESSION
9 OF A VALID FIREARMS IDENTIFICATION CARD."

10 (2) Any retail or wholesale store, shop, or sales
11 outlet which sells firearms must conspicuously post at each
12 purchase counter the following warning in block letters not
13 less than one (1) inch in height:

14 "IT IS UNLAWFUL TO STORE
15 OR LEAVE A FIREARM IN ANY
16 PLACE WITHIN THE REACH OR
17 EASY ACCESS OF A MINOR, OR
18 A PERSON WHO IS NOT IN POSSESSION
19 OF A VALID FIREARMS IDENTIFICATION CARD."

20 (3) Any person or business knowingly violating a
21 requirement to provide warning under this section commits a
22 misdemeanor punishable by a fine of not more than one
23 thousand dollars (\$1,000.00) and not more than one (1) year
24 in jail or both.

25 Section 60103.3. The Department of Education shall
26 develop a gun safety program for public education and shall
27 submit the plan to the Legislature by December 1, 1990,

1 together with proposed implementing legislation.

2 Section 60103.4. As used in this act the term "minor"
3 means any person under the age of 16.

4 Section 60103.5. This act shall take effect sixty (60)
5 days after being signed into law."

Introduced

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

MAY 21 '90

Bill No. 1464 (LS)

Introduced by:

J.G. Bamba
P.C. Lujan
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