



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
L'FSINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

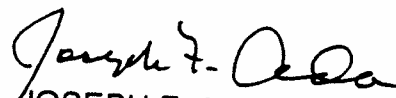
OCT 01 1992

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 232 which I have signed into law this date as
Public Law 21-139.

Sincerely yours,


JOSEPH F. ADA
Governor

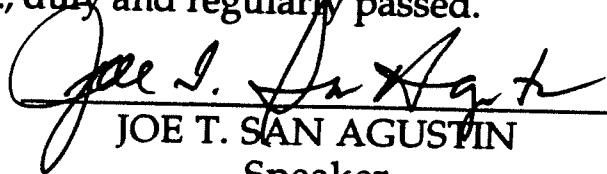
Attachment




TWENTY-FIRST GUAM LEGISLATURE
1992 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

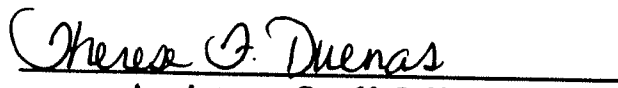
This is to certify that Substitute Bill No. 232 (COR), "AN ACT TO ADD CHAPTER 89 TO TITLE 10, GUAM CODE ANNOTATED, TO REGULATE SMOKING WITHIN PUBLIC PLACES AND PLACES OF EMPLOYMENT," was on the 18th day of September, 1992, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

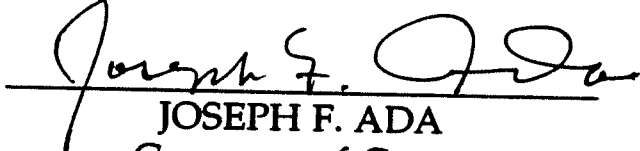
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 21st day of September, 1992,
at 4:52 o'clock P.M.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: October 1, 1992

Public Law No. 21-139

TWENTY-FIRST GUAM LEGISLATURE
1992 (SECOND) Regular Session

Bill No. 232 (COR)

As substituted by the Committee
on Health, Ecology, and Welfare
and as further substituted by the
Committee on Rules

Introduced by:

E. M. Espaldon
M. J. Reidy
A. C. Blaz

E. R. Dueñas
M. C. Ruth
D. L. G. Shimizu
D. Parkinson
E. P. Arriola
M. Z. Bordallo
J. P. Aguon
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
J. T. San Agustin
F. R. Santos
J. G. Bamba
D. F. Brooks
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO ADD CHAPTER 89 TO TITLE 10, GUAM
CODE ANNOTATED, TO REGULATE SMOKING
WITHIN PUBLIC PLACES AND PLACES OF
EMPLOYMENT.

- 1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1.** A new Chapter 89 is hereby added to Title 10, Guam Code
3 Annotated, to read:

1 "CHAPTER 89

2 REGULATION OF SMOKING

3 §89100. **Title.** This chapter shall be known, and may be cited, as the
4 Clean Indoor Air Act of 1992.

5 §89101. **Legislative findings and purpose.** The Legislature finds that
6 numerous studies have proven that tobacco smoke is a major contributor to
7 indoor air pollution; that breathing residual smoke is a cause of disease,
8 including lung cancer, in healthy nonsmokers; that special risk populations
9 are elderly people, individuals with cardiovascular disease, and individuals
10 with impaired respiratory function, including asthmatics and those with
11 obstructive airway disease; that a majority of both nonsmokers and smokers
12 desire to have restrictions placed on smoking in public places and places of
13 employment; and that smoking is a potential cause of fires, cigarette and
14 cigar burns, and ash stains on merchandise, causing losses to businesses.

15 The Legislature declares that the purposes of this chapter are (i) to
16 protect the public health and welfare by prohibiting smoking in public places
17 except in designated smoking areas, and by regulating smoking in places of
18 employment; and (ii) to strike a reasonable balance between the needs of
19 persons who smoke and the right of nonsmokers to breathe smoke-free air,
20 and to recognize that the right to breathe smoke-free air shall take priority.

21 §89103. **Definitions.** The following words and phrases, when used in
22 this chapter, shall be construed as follows:

23 "Bar" means an area which is devoted to the serving of alcoholic
24 beverages for consumption by guests on the premises and in which the
25 serving of food is only incidental to the consumption of such beverages.
26 Although a restaurant may contain a bar, the term "bar" shall not include the
27 restaurant dining area.

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

5 "Dining area" means any enclosed area containing a counter or tables
6 upon which meals are served.

7 "Employee" means any person who is employed by an employer in
8 consideration of direct or indirect monetary wages or profit.

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

12 "Enclosed area" means all space between a floor and ceiling which is
13 enclosed on all sides by solid walls or windows (exclusive of doors and
14 passageways).

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

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

25 "Restaurant" means any coffee shop, cafeteria, public school cafeteria
26 or eating establishment which is operated by, under contract to, or on behalf
27 of a business or employer as defined in this §89103.

1 "Retail tobacco store" means a retail store utilized primarily for the sale
2 of tobacco products and accessories and in which the sale of other products is
3 merely incidental.

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

6 "Smoking" means inhaling, exhaling, or burning any lighted cigar,
7 cigarette, or other tobacco product.

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

13 **§89104. Application of chapter to territorial facilities.** All enclosed
14 facilities owned, leased, occupied by or operated for and on behalf of the
15 government of Guam shall be subject to the provisions of this chapter.

16 **§89105. Prohibition of smoking in public places.** Smoking shall be
17 prohibited in all enclosed public places, including, but not limited to the
18 following places:

19 (1) Elevators.

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

23 (3) Restrooms.

24 (4) Service lines.

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

27 (6) Restaurants; provided, however, that this prohibition does

1 not prevent (i) designation of a contiguous area within a restaurant
2 that contains a maximum of not more than fifty percent (50%) of the
3 seating capacity of the restaurant as a smoking area, or (ii) providing
4 separate rooms for smokers and nonsmokers, so long as the rooms
5 designated for smoking do not contain more than fifty percent (50%)
6 of the seating capacity of the restaurant.

7 (7) Public area of aquariums, galleries, libraries, and museums
8 when open to the public; provided, however, that this prohibition
9 does not prevent the designation of a separate room for smoking in
10 such areas.

11 (8) Any building not open to the sky which is primarily used for
12 exhibiting motion pictures, stage shows, musical recitals or other
13 performances, except when smoking is part of a stage production.

14 (9) Sports arenas and convention halls, except in designated
15 smoking areas therein with adequate and effective ventilation which
16 removes smoke and purifies the recirculated air.

17 (10) Every place of meeting or public assembly during such time
18 as a public meeting is in progress.

19 (11) Waiting rooms, hallways, wards and semiprivate rooms
20 for health facilities, including, but not limited to, hospitals, clinics,
21 physical therapy facilities, doctors' offices and dentists' offices.

22 (12) Polling places.

23 **§89106. Regulation of smoking in places of employment.** (a) It shall be
24 the responsibility of employers to provide smoke-free areas for nonsmoking
25 employees within existing facilities to the maximum extent possible.

26 (b) Within ninety (90) days of the effective date of this chapter, each
27 employer having an enclosed place of employment shall adopt, implement,

1 make known and maintain a written smoking policy, consistent with the
2 provisions of this chapter.

3 (c) The smoking policy shall be communicated to all employees within
4 three (3) weeks of its adoption.

5 (d) All employers shall supply a written copy of the smoking policy upon
6 request of any existing or prospective employee.

7 (e) Notwithstanding any other provisions of this §89106, every
8 employer shall have the right to designate any place of employment, or
9 portion thereof, as a nonsmoking area.

10 **§89107. Where smoking not regulated.** (a) Notwithstanding any other
11 provisions of this chapter, the following areas shall not be subject to the
12 smoking restrictions of this chapter:

13 (1) Bars.

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

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

17 (4) Retail tobacco stores.

18 (5) Restaurants, hotel and motel conference or meeting rooms,
19 and public and private assembly rooms while these places are being
20 used for private functions.

21 (6) A private enclosed office work place occupied exclusively by
22 one (1) or more smokers.

23 **§89108. Posting of signs.** (a) "Smoking or "No Smoking" signs,
24 whichever are appropriate, with letters of not less than one inch (1") in height
25 or the international "No Smoking" symbol (consisting of a pictorial
26 representation of a burning cigarette enclosed in a red circle with a red bar
27 across it) shall be clearly and conspicuously posted in every building where

1 smoking is regulated by this chapter by the owner, operator, manager or
2 other person having control of such building or other place.

3 (b) Every theater owner, manager or operator shall conspicuously post
4 signs in the lobby stating that smoking is prohibited within the theater or
5 auditorium.

6 (c) Every restaurant shall have posted at every entrance a conspicuous
7 sign clearly stating if a nonsmoking section is available, and where such a
8 section is available, and every patron shall be asked to his or her preference.

9 **§89109. Enforcement.** (a) This chapter may be enforced by:

10 (1) Any peace officer as defined by §5.55, Title 8, Guam Code
11 Annotated; and

12 (2) Any employee of the Department of Public Health and
13 Social Services when authorized in writing by the Director of Public
14 Health and Social Services to enforce the provisions of this chapter;
15 and

16 (3) Any employee of the Guam Environmental Protection
17 Agency when authorized in writing by the Administrator of the
18 Guam Environmental Protection Agency to enforce the provisions of
19 this chapter; and

20 (4) Any citizen acting under the authority of §20.20, Title 8,
21 Guam Code Annotated.

22 (b) With the exception of situations arising under the provisions of
23 subparagraph (a)(4) of §89109 of this chapter, enforcement of this chapter
24 shall be undertaken subject to the provisions of Chapter 25, Title 8, Guam
25 Code Annotated.

26 **§89110. Violations and penalties.** (a) It shall be unlawful for any
27 person who owns, operates or otherwise controls any premises subject to

1 regulation under this chapter to fail to comply with any of its provisions.

2 (b) It shall be unlawful for any person to smoke in any area where
3 smoking is prohibited by the provisions of this chapter.

4 (c) Any person who violates any of the provisions of subparagraph (a)
5 and (b) of this §89110 shall, upon conviction thereof, be punished by:

6 (1) A fine not exceeding One Hundred Dollars (\$100) for a first
7 violation.

8 (2) A fine not exceeding Two Hundred Dollars (\$200) for a
9 second violation.

10 (3) A fine not exceeding Five Hundred Dollars (\$500) for each
11 additional violation thereafter.

12 (d) Any business which violates any of the provisions of subparagraphs
13 (a) and (b) of this §89110 shall, upon conviction thereof, be punished by:

14 (1) A fine not exceeding One Thousand Dollars (\$1,000) for a
15 first violation.

16 (2) A fine not exceeding Two Thousand Dollars (\$2,000) for a
17 second violation.

18 (3) A fine not exceeding Three Thousand Dollars (\$3,000) for
19 each additional violation thereafter.

20 **§89111. Nonretaliation.** No person or employer shall discharge or in
21 any manner retaliate against any employee because such employee exercises
22 any rights afforded by this chapter.

23 **§89112. Other applicable laws.** This chapter shall not be interpreted or
24 construed to permit smoking where it is otherwise restricted by other
25 applicable laws.

26 **§89113. Severability.** If any provision, clause, sentence or paragraph
27 of this chapter or the application thereof to any person or circumstances shall

1 be held invalid, such invalidity shall not effect the other provisions of this
2 chapter which can be given effect without the invalid provision or
3 application; and to this end the provisions of this chapter are declared to be
4 severable."

5 **Section 2. Effective date.** This Act shall be effective thirty (30) days
6 after its enactment.



TWENTY FIRST
GUAM LEGISLATURE

Dr. David L.G. Shimizu

SENATOR

Chairman: Committee on Health, Ecology & Welfare

May 12, 1992

The Honorable
Joe T. San Agustin
Speaker, 21st Guam Legislature
Agana, Guam

via: Committee on Rules

Dear Mr. Speaker:

The Committee on Health, Ecology & Welfare, to which was referred the **Bill 232 , AN ACT TO REGULATE SMOKING WITHIN PUBLIC PLACES AND PLACES OF EMPLOYMENT** herein reports back and recommends the **Bill 232 to Do Pass as Substituted.**

Votes of committee members are as follows:

___ 10 ___	To Pass
___ 0 ___	Not To Pass
___ 0 ___	To The Inactive File
___ 1 ___	Abstained
___ 0 ___	Off-Island
___ 1 ___	Not Available

Sincerely,

Dr. David L.G. Shimizu

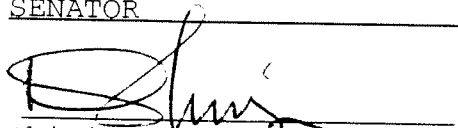
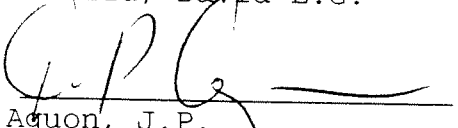
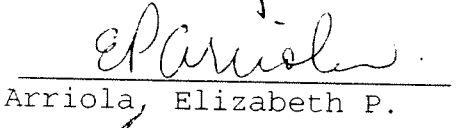
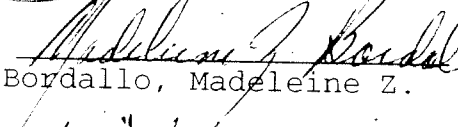
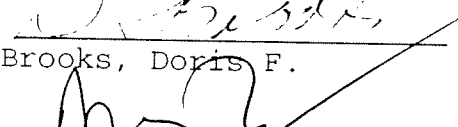
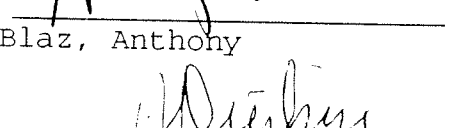
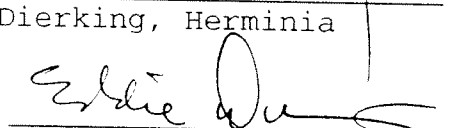
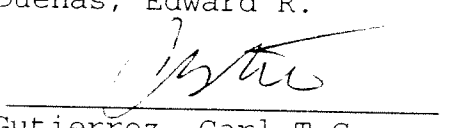


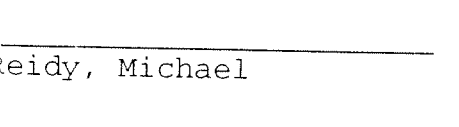
attachments



VOTE SHEET

Committee on Health, Ecology & Welfare

Substituted **Bill 232. AN ACT TO REGULATE SMOKING WITHIN PUBLIC PLACES AND PLACES OF EMPLOYMENT.**

SENATOR	TO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 Shimizu, David L.G.	<input checked="" type="checkbox"/>			
 Aguon, J.P.	<input checked="" type="checkbox"/>			
 Arriola, Elizabeth P.	<input checked="" type="checkbox"/>			
 Bordallo, Madeleine Z.	<input checked="" type="checkbox"/>			
 Brooks, Doris F.	<input checked="" type="checkbox"/>			
 Blaz, Anthony	<input checked="" type="checkbox"/>			
 Dierking, Herminia	<input checked="" type="checkbox"/>			
 Duenas, Edward R.	<input checked="" type="checkbox"/>			
 Gutierrez, Carl T.C.			<input checked="" type="checkbox"/>	
 Mailloux, Gordon				<input checked="" type="checkbox"/>
 Manibusan, Marilyn D.A.	<input checked="" type="checkbox"/>			
Reidy, Michael				

h
5/11/92

h
5/11/92

5/11/92
h

COMMITTEE ON HEALTH, ECOLOGY, AND WELFARE

COMMITTEE REPORT
ON
BILL NO. 232

"AN ACT TO REGULATE SMOKING WITHIN
PUBLIC PLACES AND PLACES OF EMPLOYMENT."

BACKGROUND

Bill No. 232 (attachment1) was referred to the Committee on Health, Ecology, and Welfare by the Committee on Rules.

The bill was introduced by Senator Ernesto Espaldon. A fiscal note was requested from the Bureau of Budget and Management Research and based on the information provided (Attachment 3), the Bureau advised that there will be a fiscal impact but its undetermined to what extent due to several factors involved. Examples of cost factors involved are posting of signs in public and private places, other factors involved regarding the enforcement of the law by peace officers and employees from the Department of Public Health and Social Services and the Guam Environmental Protection Agency.

The Committee on Health, Ecology, and Welfare conducted a public hearing on April 22, 1991, at 9:00 am, in the Legislative Public Hearing Room. The Committee Vice-Chairman Senator John P. Aguon conducted the hearing with other committee members present who were: Senators Marilyn Manibusan, Doris Brooks, and Michael Reidy. Also present was Senator Martha Ruth.

TESTIMONY

The following appeared before the committee to present testimony:

1. Mr. Greg Borja, Mayor of Santa Rita, who is in favor of the bill and testified orally, stated that he worked for the Federal Government over thirty sum odd years, and elaborated that the civil service on Guam have practiced assigning designated smoking areas. He also read before the committee a news article from the Pacific Daily News dated April 20, 1991, news brief, that second hand smoke causes cancer risk. The National Environmental Protection Agency founded scientific evidence that it causes lung cancer.
2. Ms. Christie Anderson who testified as a private citizen, who read aloud in her written testimony stated that, " Most studies of second-hand smoke exposure have focused on the increased risk of lung cancer experienced by nonsmokers. Most recently, scientists concluded that more than 17 percent of lung cancers in nonsmokers can be attributed to exposure during childhood and adolescence. Another recent study indicated that many more nonsmokers may suffer from heart disease than from lung cancer as a result of breathing second-hand smoke."
3. Dr. Greg Miller, of the American Cancer Society, read in his written testimony that, " Cigarette smoke kills more people than aids, heroin, cocaine, homicides, automobile accidents and alcohol combined. It is the #1 killer, yet it is preventable because smoking is a choice. Side-stream smoke is toxic to humans and in most cases they have no choice but to breathe it in."
4. Mr. Peter Ada, the acting Director of the Department of Public Health and Social Services, who was asked by the acting chairman, "Can this law be implemented without further establishment of other rules and regulations because it is absent in the bill?", Mr. Ada responded by asking if the acting chairman was referring to the Government or Private entities. Sen. Aguon responded, "everyone". Mr. Ada replied, " You are going to have problems especially with the private sector."

5. Ms. Christie Anderson also transmitted a message from Mr. John Salas, President of the Guam Hotel and Restaurant Association, that the association is already implementing provisions from the bill which they have no problem in the proposed legislation. Mr. Salas wanted clarification on employee work sites and felt more definition was needed to ensure clarity in this area.

6. Senator Brooks was concerned about the effect in regulating towards the private sector if such a bill was implemented. Ms. Anderson responded that forty three states in the U.S. mainland regulate in some ways and that eight states have regulated in the private sectors. She also added that, " this is not a courtesy issue, but a public health issue. Smokers as well as nonsmokers want this kind of legislation." Mr. Mark Ransom added, " Let's put this in a perspective and take care of the health problem."

7. Senator Reidy stated he is in full support of the enactment of bill 232 into law.

COMMITTEE FINDINGS

The Committee finds that smokers and nonsmokers alike are agreeable to regulate smoking in public places and places of employment. The Committee finds that the Guam Hotel and Restaurant Association are presently regulating smoking in their perspective area as well as most other private sectors throughout the territory. The Committee further finds that such a legislation will set a precedent for all to know that smoking is bad for anyone's health. The Committee much further finds that most states in the U.S. mainland have regulated in some ways and also have regulated in the private sectors by a few of the states.

COMMITTEE RECOMMENDATION

The committee recommends bill 232, AN ACT TO REGULATE SMOKING WITHIN PUBLIC PLACES AND PLACES OF EMPLOYMENT, to be passed as substituted.

Attachments

1. Bill 232
2. Committee Report
3. Referral letter
4. Fiscal Note
5. Christie Anderson
6. Dr. Greg Miller
7. DPH&SS
8. Mark Ransom
9. Vince Arriola
10. Paul Tobiason
11. Lea Bush
12. Dorothy Horn
13. Victor Torres
14. Dr. Vince Lizama
15. Thomas Colby
16. GHP&DA
17. Mark Colby
18. Kathy Phillips

TWENTY FIRST GUAM LEGISLATURE
1992 (SECOND) REGULAR SESSION

Bill No. 232
As substituted by the
Health, Ecology, and
Welfare Committee

Introduced by:

E.M. Espaldon
M.J. Reidy
A.C. Blaz
E.R. Duenas
M.C. Ruth
D.L.G. Shimizu
D. Parkinson
E.P. Arriola
M.Z. Bordallo

AN ACT TO REGULATE SMOKING WITHIN
PUBLIC PLACES AND PLACES OF EMPLOYMENT

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

2 Section 1. Title. This Act shall be known, and may be cited, as the
3 Clean Indoor Air Act of [~~1991~~] 1992.

4 Section 2. Legislative Findings and Purpose. The Legislature hereby
5 finds: Numerous studies have found that tobacco smoke is a major
6 contributor to indoor air pollution; and
7 Reliable studies have shown that breathing [~~second-hand~~] residual smoke is
8 a cause of disease, including lung cancer, in healthy nonsmokers. [At]
9 Special risk populations are elderly people, individuals with cardiovascular
10 disease, and individuals with impaired respiratory function, including
11 asthmatics and those with obstructive airway disease; and

1 Numerous other studies have also shown that a majority of both
2 nonsmokers and smokers desire to have restrictions placed on smoking in
3 public places and places of employment; and

4 Smoking is a potential cause of fires, and cigarette and cigar burns and ash
5 stains on merchandise cause losses to businesses.

6 [Accordingly,] The Twenty-First Guam Legislature further finds and
7 declares that the purposes of this Act are:

8 (1) to protect the public health and welfare by prohibiting smoking in
9 places except in designated smoking areas, and by regulating smoking in
10 places of employment; and

11 (2) to strike a reasonable balance between the needs of persons who
12 smoke and the right of nonsmokers to breathe smokefree air, and to
13 recognize that the right to breathe smokefree air shall take priority.

14 Section 3. [(3)] Definitions. The following words and phrases, when
15 used in this Act, shall be construed as defined in this Section:

16 1. "Bar" means an area which is devoted to the serving of
17 alcoholic beverages for consumption by guests on the premises and in
18 which the serving of food is only incidental to the consumption of
19 such beverages. Although a restaurant may contain a bar, the term
20 "bar" shall not include the restaurant dining area.

21 2. "Business" means any sole proprietorship, partnership,
22 corporation or other business entity formed for profit-making
23 purposes, including retail establishments as well as professional
24 corporations and other entities where legal, medical, or other
25 professional services are delivered.

26 3. "Dining area" means any enclosed area containing a counter or
27 tables upon which meals are served.

1 4. "Employee" means any person who is employed by an employer
2 in the consideration for direct or indirect monetary wages or profit.

3 5. "Employer" means any business, including the Government of
4 Guam and any of its autonomous agencies, which employs the services
5 of one or more individual persons.

6 6. "Enclosed Area" means all space between a floor and ceiling
7 which is enclosed on all sides by solid walls or windows (exclusive of
8 doors and passageways).

9 7. "Place of Employment" means any enclosed area under the
10 control of an employer which employees normally frequent during the
11 course of employment, including, but not limited to, work areas,
12 employee lounges and restrooms, conference rooms, and hallways. [a.]
13 A private residence is not a "place of employment" unless it is used as
14 a child care or health care facility. [~~b. The dining area of a restaurant
15 is not a "place of employment".]~~

16 8. "Public Place" means any enclosed area to which the public is
17 invited or in which the public is permitted, including but not limited
18 to, banks, health care facilities, public transportation facilities,
19 reception areas, restaurants, retail food production and marketing
20 establishments, retail stores, theaters and waiting rooms.

21 9. "Restaurant" means any coffee shop, cafeteria, public school
22 cafeteria or eating establishment which is operated by, under
23 contract to, or on behalf of a business or employer as defined in this
24 Act.

25 10. "Retail Tobacco Store" means a retail store utilized
26 primarily for the sale of tobacco products and accessories and in
27 which the sale of other products is merely incidental.

1 11. "Service Line" means any indoor line at which one (1) or more
2 persons are waiting for or receiving services of any kind.

3 12. "Smoking" means inhaling, exhaling, or burning [~~or carrying~~]
4 any lighted cigar, cigarette, or other tobacco products [~~combustible~~
5 ~~substance in any manner or in any form~~].

6 13. "Sports Arena" means the enclosed area of any sports
7 pavilions, gymnasiums, health spas, swimming pools, roller and ice
8 rinks, bowling alleys and other similar places where members of the
9 general public assemble either to engage in physical exercise,
10 participate in athletic competition or witness sports events.

11 Section 4. Application of Act to Territorial Facilities. All enclosed
12 facilities owned, leased, occupied by or operated for and on behalf of the
13 government of Guam shall be subject to the provisions of this Act.

14 Section 5. Prohibition of Smoking in Public Places.

15 (A) Smoking shall be prohibited in all enclosed public places,
16 including, but not limited to the following places:

17 1. Elevators

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

20 3. Rest rooms.

21 4. Service Lines

22 ~~5. Retail stores, except areas in said stores not open to the~~
23 ~~public and all areas within retail tobacco stores.]~~

24 5 [6]. All areas available to and customarily used by the general
25 public in all businesses patronized by the public.

26 6 [7]. Restaurants, provided, however, that this prohibition does
27 not prevent (a) designation of a contiguous area within a restaurant
28 that contains a maximum of not more than fifty percent (50%) of the

1 seating capacity of the restaurant as a smoking area, or (b) providing
2 separate rooms for smokers and nonsmokers, so long as the rooms
3 designated for smoking do not contain more than fifty percent (50%)
4 of the seating capacity of the restaurant.

5 Z [8]. Public areas of aquariums, galleries, libraries, and
6 museums when open to the public; provided, however, that this
7 prohibition does not prevent the designation of a separate room for
8 smoking in such areas.

9 g [9]. Any building not open to the sky which is primarily used
10 for exhibiting motion picture, stage, musical recital or other
11 performances, except when smoking is part of a stage production.

12 q [10]. Sports arenas and convention halls, except designated
13 smoking areas with adequate and effective ventilation which removes
14 smoke and purifies the recirculated air.

15 10 [11]. Every place of meeting or public assembly during such
16 time as a public meeting is in progress.

17 11 [12]. Waiting rooms, hallways, wards and semiprivate rooms
18 for health facilities, including, but not limited to, hospitals, clinics,
19 physical therapy facilities, doctors' offices and dentists' offices.

20 12 [13]. Polling places.

21 (B) Notwithstanding any other provision of this Act, any owner,
22 operator, manager or other person in control of a business as defined in this
23 Act may declare that entire business as either a smoking or nonsmoking
24 area.

25 Section 6. Regulation of Smoking in Places of Employment.

26 (A) It shall be the responsibility of employers to provide smoke-free
27 areas for nonsmoking employees within existing facilities to the maximum

1 extent possible [, but employers are not required to incur any expense to
2 make physical modifications in providing these areas].

3 (B) Within ninety (90) days of the effective date of this Act, each
4 employer having an enclosed place of employment shall adopt, implement,
5 make known and maintain a written smoking policy, consistent with the
6 provisions of this Act, ~~[which shall contain at a minimum the following~~
7 ~~requirements:~~

8 ~~1. Any employee in a place of employment shall have the right to~~
9 ~~designate his or her work area as a nonsmoking area and to post the~~
10 ~~same with an appropriate sign or signs. If, due to the proximity of~~
11 ~~smokers, size of the work area, poor ventilation or other factors, such~~
12 ~~designation does not reduce the effects of smoke to the satisfaction~~
13 ~~of the employee, the employer shall make additional accommodation~~
14 ~~by expanding the size of the work area subject to the prohibition~~
15 ~~against smoking or implementing other measures reasonably designed~~
16 ~~to eliminate the effects of smoke on the employees.~~

17 ~~2. Smoking shall be prohibited in all common work areas in a~~
18 ~~place of employment, unless every person who works in that area~~
19 ~~agrees in writing that a smoking area will be designated.~~

20 ~~3. Prohibition of smoking in auditoriums, classroom conference~~
21 ~~and meeting rooms, elevators, hallways, medical facilities and rest~~
22 ~~rooms.~~

23 ~~4. Provisions and maintenance of separate and contiguous~~
24 ~~nonsmoking areas of less than fifty percent (50%) of the seating~~
25 ~~capacity and floor space in cafeterias, lunchrooms, and employee~~
26 ~~lounges or provision and maintenance of separate and equal sized~~
27 ~~cafeterias, lunchrooms, and employee lounges for smokers and~~
28 ~~nonsmokers.~~

1 ~~5. In any dispute arising under the smoking policy, the health~~
2 ~~concerns of the nonsmoker shall be given precedence.]~~

3 (C) The smoking policy shall be communicated to all employees within
4 three (3) weeks of its adoption.

5 (D) All employers shall supply a written copy of the smoking policy
6 upon request of any existing or prospective employee.

7 (E) Notwithstanding any other provisions of this section, every
8 employer shall have the right to designate any place of employment, or
9 portion thereof, as a nonsmoking area.

10 Section 7. Where Smoking not Regulated.

11 (A) Not withstanding any other provisions of this Act, the following
12 areas shall not be subject to the smoking restrictions of this Act;

13 1. Bars.

14 2. Private residences, except when used as child care facility or
15 health care facility.

16 3. Hotel and motel rooms rented to guests.

17 4. Retail tobacco stores.

18 5. Restaurants, hotel and motel conference or meeting rooms,
19 and public and private assembly rooms while these places are being
20 used for private functions.

21 6. A private enclosed office work place occupied exclusively by
22 smoker.

23 Section 8. Posting of Signs.

24 (A) "Smoking" or "No Smoking" signs, whichever are appropriate, with
25 letters of not less than one inch (1") in height or the international "No
26 Smoking" symbol (consisting of a pictorial representation of a burning
27 cigarette enclosed in a red circle with a red bar across it) shall be clearly
28 and conspicuously posted in every building where smoking is regulated by

1 this Act by the owner, operator, manager or other person having control of
2 such building or other place.

3 (B) Every theater owner, manager or operator shall conspicuously post
4 signs in the lobby stating that smoking is prohibited within the theater or
5 auditorium.

6 (C) Every restaurant shall have posted at every entrance a conspicuous
7 sign clearly stating if a nonsmoking section is available, and where such a
8 section is available, every patron shall be asked to his or her preference.

9 Section 9. Enforcement.

10 (A) This Act may be enforced by:

- 11 1. Any peace officer as defined by 8 GCA §5.55; and
- 12 2. Any employee of the Department of Public Health and Social
13 Services when authorized in writing by the Director of the
14 Department of Public Health and Social Services to enforce the
15 provisions of this Act; and
- 16 3. Any employee of the Guam Environmental Protection Agency
17 when authorized in writing by the Administrator of the Guam
18 Environmental Protection Agency to enforce the provisions of this
19 Act; and
- 20 4. Any citizen acting under the authority of 8 GCA §20.20.

21 (B) With the exception of situations arising under the provision of
22 Section 9 (A)(4) of this Act, enforcement of this Act shall be undertaken
23 subject to the provisions of Chapter 25, 8 GCA.

24 Section 10. Violations and Penalties.

25 (A) It shall be unlawful for any person who owns, operates or
26 otherwise controls any premises subject to regulation under this Act to
27 fail to comply with any of its provisions.

1 (B) It shall be unlawful for any person to smoke in any area where
2 smoking is prohibited by the provisions of this Act.

3 (C) Any person who violates any provision of this Act as indicated in
4 Sections 10 (a) and (b) shall, upon conviction thereof, be punished by:

5 1. A fine not exceeding One Hundred Dollars (\$100) for a first
6 violation.

7 2. A fine not exceeding Two Hundred Dollars (\$200) for a second
8 violation of this Act [~~with in one (1) year~~].

9 3. A fine not exceeding Five Hundred Dollars (\$500) for each
10 additional violation [~~of this Act within one (1) year~~] thereafter.

11 (D) Any entity which violates any provision of this Act as indicated in
12 Sections 10(a) and (b) shall, upon conviction thereof be punished by:

13 1. A fine not exceeding one thousand dollars (\$1,000) for a first
14 violation.

15 2. A fine not exceeding two thousand dollars (\$2,000) for a
16 second violation of this act.

17 3. A fine not exceeding three thousand dollars (\$3,000) for each
18 additional violation thereafter.

19 Section 11. Nonretaliation. No person or employer shall discharge or in
20 any manner retaliate against any employee because such employee
21 exercises any rights [~~afforded~~] afforded by this Act.

22 Section 12. Other Applicable Laws. This Act shall not be interpreted
23 or construed to permit smoking where it is otherwise restricted by other
24 applicable laws.

25 Section 13. Severability. If any provision, clause, sentence or
26 paragraph of this Act or the application thereof to any person or
27 circumstances shall be held invalid, such invalidity shall not affect the
28 other provisions of this Act which can be given effect without the invalid

1 provision or application; and to this end the provisions of this Act are
2 declared to be severable.

3 Section 14. Effective Date. This Act shall be effective thirty days
4 (30) from and after its passage.

TWENTY FIRST GUAM LEGISLATURE
1991 (FIRST) REGULAR SESSION

Bill No. 232

Introduced by:

E.M. Espaldon
E.M. Espaldon
M. J. REIDY M. J. R
A. BLAZ A. B
E. U. OUEZUM
M. C. RUTHY
Shiny
Tom
E. P. ...
M. J. ...

AN ACT TO REGULATE SMOKING WITHIN
PUBLIC PLACES AND PLACES OF EMPLOYMENT

Hew

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

Section 1. Title. This Act shall be known, and may be cited, as the
Clean Indoor Act of 1991 .

Section 2. Legislative findings and Purpose. The Legislature hereby
finds: Numerous studies have found that tobacco smoke is a major
contributor to indoor air pollution; and
Reliable studies have shown that breathing second hand smoke is a cause
of disease, including lung cancer, in healthy nonsmokers. At special risk
are elderly people, individuals with cardiovascular disease, and
individuals with impaired respiratory function, including asthmatics and
those with obstructive airway disease; and
Numerous studies have shown that a majority of both nonsmokers and
smokers desire to have restrictions placed on smoking in public places and

places of employment; and

Smoking is potential cause of fires, and cigarette and cigar burns and ash stains on merchandise cause losses to businesses.

Accordingly, the Twenty First Guam Legislature finds and declares that the purposes of this Act are:

(1) to protect the public health and welfare by prohibiting smoking in public places except in designated smoking areas, and by regulating smoking in places of employment; and

(2) to strike a reasonable balance between the needs of persons who smoke and the right of nonsmokers to breathe smokefree air, and to recognize that the right to breathe smokefree air shall take priority.

(3) Definitions. The following words and phrases, when used in this Act, shall be construed as defined in this section:

1. "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.

2. "Business" means any sole proprietorship, partnership, corporation or other business entity formed for profit-making purposes.

Section 11. Nonretaliation. No person or employer shall discharge or in any manner retaliate against any employee because such employee exercises any rights afforded by this Act.

Section 12. Other Applicable Laws. This Act shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Section 13. Severability. If any provision, clause, sentence or paragraph of this Act or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Act which can be given effect without the invalid provision or application; and to this end the provisions of this Act are declared to be severable.

Section 14. Effective Date. This Act shall be effective thirty days (30) from and after its passage.

///

///

///

including retail establishments as well as professional corporations and other entities where legal, medical, or other professional services are delivered.

3. "Dining area" means any enclosed area containing a counter or tables upon which meals are served.

4. "Employee" means any person who is employed by an employer in the consideration for direct or indirect monetary wages or profit.

5. "Employer" means any business, including the Government of Guam and any of its autonomous agencies, which employs the services of one or more individual persons.

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

7. "Place of Employment" means any enclosed area under the control of an employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms, and hallways.

a. A private residence is not a "place of employment" unless it is used as a child care or health care facility.

b. The dining area of a restaurant is not a "place of

employment".

8. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, health care facilities, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail stores, theatres and waiting rooms.

9. "Restaurant" means any coffee shop, cafeteria, public school cafeteria or eating establishment which is operated by, under contract to, or on behalf of a business or employer as defined in this Act.

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

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

12. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other combustible substance in any manner or in any form.

13. "Sports Arena" means the enclosed area of any sports pavillions, gymnasiums, health spas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public

assemble either to engage in physical exercise, participate in athletic competition or witness sports events.

Section 4. Application of Act to Territorial Facilities. All enclosed facilities owned, leased, occupied by or operated for and on behalf of the government of Guam shall be subject to the provisions of this Act.

Section 5. Prohibition of Smoking in Public Places.

(A) Smoking shall be prohibited in all enclosed public places, including, but not limited to the following places:

1. Elevators
2. Buses, taxicabs, and other means of public transit, and ticket, boarding, and waiting areas of public transport depots.
3. Restrooms.
4. Service lines.
5. Retail stores, except areas in said stores not open to the public and all areas within retail tobacco stores.
6. All areas available to and customarily used by the general public in all businesses patronized by the public.
7. Restaurants, provided, however, that this prohibition does not prevent (a) designation of a contiguous area within a restaurant that contains a maximum of fifty percent (50%) of the seating capacity of the

restaurant as a smoking area, or (b) providing separate rooms for smokers and nonsmokers, so long as the rooms designated for smoking do not contain more than fifty percent (50%) of the seating capacity for the restaurant.

8. Public areas of aquariums, galleries, libraries, and museums when open to the public; provided, however, that this prohibition does not prevent the designation of a separate room for smoking in such areas.

9. Any building not open to the sky which is primarily used for exhibiting motion picture, stage, musical recital or other performances, except when smoking is part of a stage production.

10. Sports arenas and convention halls, except in designated smoking areas.

11. Every place of meeting or public assembly during such time as a public meeting is in progress.

12. Waiting rooms, hallways, wards and semiprivate rooms for health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices.

13. Polling places.

(B) Notwithstanding any other provision of this Act, any owner,

operator, manager or other person in control of a business as defined in this Act may declare that entire business as either a smoking or non smoking area.

Section 6. Regulation of Smoking in Places of Employment.

(A) It shall be the responsibility of employers to provide smoke-free areas for nonsmoking employees within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make physical modifications in providing these areas.

(B) Within ninety (90) days of the effective date of this Act, each employer having an enclosed place of employment shall adopt, implement, make known and maintain a written smoking policy which shall contain at a minimum the following requirements:

1. Any employee in a place of employment shall have the right to designate his or her work area as a nonsmoking area and to post the same with an appropriate sign or signs. If, due to the proximity of smokers, size of the work area, poor ventilation or other factors, such designation does not reduce the effects of smoke to the satisfaction of the employee, the employer shall make additional accommodation by expanding the size of the work area subject to the prohibition against smoking or

implementing other measures reasonably designed to eliminate the effects of smoke on the employees.

2. Smoking shall be prohibited in all common work areas in a place of employment, unless every person who works in that area agrees in writing that a smoking area will be designated.

3. Prohibition of smoking in auditoriums, classroom conference and meeting rooms, elevators, hallways, medical facilities and restrooms.

4. Provisions and maintenance of separate and contiguous nonsmoking areas of less than fifty percent (50%) of the seating capacity and floor space in cafeterias, lunchrooms, and employee lounges or provision and maintenance of separate and equal sized cafeterias, lunchrooms, and employee lounges for smokers and nonsmokers.

5. In any dispute arising under the smoking policy, the health concerns of the nonsmoker shall be given precedence.

(C) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.

(D) All employers shall supply a written copy of the smoking policy upon request of any existing or prospective employee.

(E) Notwithstanding any other provisions of this section, every employer shall have the right to designate any place of employment, or portion thereof, as a nonsmoking area.

Section 7. Where Smoking not Regulated.

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

1. Bars.
2. Private residences, except when used as a care facility or health care facility.
3. Hotel and motel rooms rented to guests.
4. Retail tobacco stores.
5. Restaurants, hotel and motel conference or meeting rooms, and public and private assembly rooms while these places are being used for private functions.
6. A private enclosed office workplace occupied exclusively by a smoker.

Section 8. Posting of Signs.

(A) "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch (1") in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning

cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every building where smoking is regulated by this Act by the owner, operator, manager or other person having control of such building or other place.

(B) Every theatre owner, manager or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theatre or auditorium.

(C) Every restaraunt shall have posted at every entrance a conspicuous sign clearly stating if a nonsmoking section is available, and where such a section is available, every patron shall be asked to his or her preference.

Section 9. Enforcement.

(A) This Act may be enforced by:

1. Any peace officer as defined by 8 GCA §5.55; and
2. Any employee of the Department of Public Health and Social Services when authorized in writing by the Director of the Department of Public Health and Social Services to enforce the provisions of this Act; and
3. Any employee of the Guam Environmental Protection Agency when authorized in writing by the Administrator of the Guam

Environmental Protection Agency to enforce the provisions of this Act; and

4. Any citizen acting under the authority of 8 GCA §20.20.

(B) With the exception of situations arising under the provision of Section 9 (A)(4) of this Act, enforcement of this Act shall be undertaken subject to the provisions of Chapter 25, 8 GCA.

Section 10. Violations and Penalties.

(A) It shall be unlawful for any person who owns, operates or otherwise controls any premises subject to regulation under this Act to fail to comply with any of its provisions.

(B) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Act.

(C) Any person who violates any provision of this Act shall, upon conviction thereof, be punished by:

1. A fine not exceeding One Hundred Dollars (\$100) for a first violation.

2. A fine not exceeding Two Hundred Dollars (\$200) for a second violation of this Act within one (1) year.

3. A fine not exceeding Five Hundred Dollars (\$500) for each additional violation of this Act within one (1) year.

TWENTY FIRST GUAM LEGISLATURE
1991 (FIRST) REGULAR SESSION

Bill No. 202

Introduced by:

E.M. Espaldon
E.M. Espaldon
M. J. REIDY M.R.
A. BLAZ
E. U. DUCAN
M. C. RUTHY
[Signature]
[Signature]
[Signature]

AN ACT TO REGULATE SMOKING WITHIN
PUBLIC PLACES AND PLACES OF EMPLOYMENT

New

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

Section 1. Title. This Act shall be known, and may be cited, as the
Clean Indoor Act of 1991.

Section 2. Legislative findings and Purpose. The Legislature hereby
finds: Numerous studies have found that tobacco smoke is a major
contributor to indoor air pollution; and
Reliable studies have shown that breathing second hand smoke is a cause
of disease, including lung cancer, in healthy nonsmokers. At special risk
are elderly people, individuals with cardiovascular disease, and
individuals with impaired respiratory function, including asthmatics and
those with obstructive airway disease; and
Numerous studies have shown that a majority of both nonsmokers and
smokers desire to have restrictions placed on smoking in public places and

places of employment; and

Smoking is potential cause of fires, and cigarette and cigar burns and ash stains on merchandise cause losses to businesses.

Accordingly, the Twenty First Guam Legislature finds and declares that the purposes of this Act are:

(1) to protect the public health and welfare by prohibiting smoking in public places except in designated smoking areas, and by regulating smoking in places of employment; and

(2) to strike a reasonable balance between the needs of persons who smoke and the right of nonsmokers to breathe smokefree air, and to recognize that the right to breathe smokefree air shall take priority.

(3) Definitions. The following words and phrases, when used in this Act, shall be construed as defined in this section:

1. "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.

2. "Business" means any sole proprietorship, partnership, corporation or other business entity formed for profit-making purposes.

Section 11. Nonretaliation. No person or employer shall discharge or in any manner retaliate against any employee because such employee exercises any rights afforded by this Act.

Section 12. Other Applicable Laws. This Act shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Section 13. Severability. If any provision, clause, sentence or paragraph of this Act or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Act which can be given effect without the invalid provision or application; and to this end the provisions of this Act are declared to be severable.

Section 14. Effective Date. This Act shall be effective thirty days (30) from and after its passage.

///

///

///



BUREAU OF BUDGET & MANAGEMENT RESEARCH
OFFICE OF THE GOVERNOR, Post Office Box 2950, Agana, Guam 96910



GIOVANNI T. SGAMBELLURI
DIRECTOR

APR 8 5 1991

Senator David L.G. Shimizu
Committee on Human Services &
Higher Education
Twenty-First Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Senator Shimizu:

Pursuant to Section 1903 of Chapter X of the Government Code of Guam,
transmitted herewith is a fiscal note on Bill No. 232.

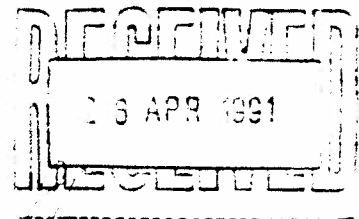
Should I be of any assistance, please contact my office.

Sincerely,

GIOVANNI T. SGAMBELLURI
Acting

Enclosures

cc: Sen. Carl T.C. Gutierrez
Chairperson, Committee on
Ways and Means



FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-F7

Bill No. 232
Amendatory Bill YES NO Date Received 3/26/91
Date Reviewed 4/8/91

Department/Agency Affected: ALL GOVERNMENT OF GUAM DEPARTMENTS

Department/Agency Head: N/A

Total FY Appropriation to Date: N/A

Bill Title (preamble) : AN ACT ENTITLED AS THE CLEAN INDOOR ACT OF 1991 WHICH
REGULATES SMOKING WITHIN PUBLIC PLACES AND PLACES OF
EMPLOYMENT.

Change in Law: NEW LAW

Bill's Impact on Present Program Funding:
 Increase Decrease Reallocation No Change

Bill is for: Operations Capital Improvement Other ()

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)		TOTAL
	GENERAL FUND	OTHER	
			<u>1/</u>

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<u>1/</u>					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$

AGENCY/PERSON/DATE CONTACTED: N/A

ESTIMATED POTENTIAL MULTI-YEAR REVENUES

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<u>N/A</u>					
OTHER						
TOTAL						

ANALYST Lorilee Topasna

DATE 4/9/91

DIRECTOR

Giovanni T. Scambelluri

DATE

FOOTNOTES: 1/ There will be a fiscal impact but it's undetermined to what extent due to several factors involved. (i.e., cost factor involved to post signs in public and private areas, other factors involved regarding...

TESTIMONY OF BILL NO. 232,
A CLEAN INDOOR AIR ACT FOR GUAM

My name is Christie Anderson, and I am the Executive Director of the American Cancer Society, Guam Unit. I have chosen to testify as an individual today because of my personal interest and viewpoint on this legislation.

I am one of many thousands of nonsmoking Americans whose risk of lung cancer is doubled because both my parents smoked during all my growing up years. I definitely have health effects as a result of this, including several episodes of asthma-like attacks in recent years.

While I realize that Bill No. 232 will not protect children from the second-hand smoke of their parents, its passage would send a clear message to everyone on Guam that environmental tobacco smoke (ETS) is hazardous to health. More than 600 medical and scientific studies have now been completed on the effects of second-hand smoke on nonsmokers. Evidence is clearly mounting that ETS does affect the health of nonsmokers forced to inhale the smoke of others. Just last week an independent scientific panel reported to the U. S. Environmental Protection Agency that ETS should be designated a hazardous substance under EPA's definition.

Most studies of second-hand smoke exposure have focused on the increased risk of lung cancer experienced by nonsmokers. Most recently, scientists concluded that more than 17 percent of lung cancers in nonsmokers can be attributed to exposure during childhood and adolescence. Another recent study indicated that many more nonsmokers may suffer from heart disease than from lung cancer as a result of breathing second-hand smoke.

More and more offices are becoming smoke-free for a variety of reasons. Many smokers are becoming more conscious of the need to be responsive to the health of other people around them. But there are still too many people exposed to ETS daily when they don't want to be.

Smokers do have the right to smoke, but their right ends at the point where their smoke enters my body. There are people who draw an analogy between laws regulating smoking in enclosed spaces to laws requiring people to wear motorcycle helmets or seat belts. I feel that this is like comparing apples and oranges. Seat belt and motorcycle helmet laws are primarily designed to protect the person wearing them; government has decided, rightly or wrongly, that people need to be required to take these safety measures for their own protection.

A better analogy is between laws regulating smoking in

Page 2
Christie Anderson
Testimony of Bill No. 232

enclosed areas and laws regulating drinking and driving. I'm sure there are people who feel it should be their "right" to drink and then drive. But society has determined that drinking and driving not only puts the driver in danger, it also puts in danger innocent people who could be involved in a traffic accident.

Research is now beginning to show that environmental tobacco smoke is hazardous to innocent people who must breathe it. We cannot rely on the courtesy of smokers to protect nonsmokers. It is not an issue of courtesy -- it is clearly an issue of public health. In order to define what "common courtesy" is, rules are needed. This legislation defines those rules and educates smokers that their second-hand smoke has an adverse effect on those around them.

Bill No. 232 is not designed to take cigarettes off the market. Distributors will continue to sell them, and people will continue to smoke. It is designed to protect people's health when they choose not to smoke.

Bill No. 232 does have some problems which I am sure the committee can rectify. I urge the Legislature to pass Bill No. 232 quickly -- to show your concern for the health of all Guam residents, as have the legislatures of all states and recently the Federated States of Micronesia.

Last November the Pacific Sunday News focused their Opinion page on whether Guam was adequately protecting its people from the hazards of second-hand smoke. Of the seven people interviewed for "Street Talk," six felt that more needed to be done to protect them from cigarette smoke, including a man who had been a heavy smoker until he had cancer surgery. This is a large majority in favor of smoke-free buildings, and I hope the Legislature will respond accordingly by passing Bill No. 232.

MARIANAS CHIROPRACTIC CLINIC

1015 N. MARINE DR
UPPER TUMON, GUAM 96911
PHONE: 671 646 6683 OR 7926
FAX: 671 646-5639

FACSIMILE COVER SHEET

Date: 5/16/91 Number of pages sent: 1

TO: Company: American Cancer Society

Attention: San Shimizu Bill #232

Fax No.: _____

Request that copy be sent to: _____

FROM: _____

Message:

RECEIVED
06 MAY 1991

THE TWENTIETH GUAM LEGISLATURE

RE: Testimony in favor of bill # 232An Act to Regulate Smoking within Public Places and Places of Employment

My name is Gregory J. Miller, I am a Chiropractic Physcian and I represent the Guam chapter of the American Cancer Society. The ACS is in favor of bill #232 and we appreciate Senator Espaldon and his co-sponsors for introducing this bill.

Cigarette smoke kills more people than AIDS, Herione, Cocaine, Homicides, Automobil accidents and Alcohol combined. It is the #1 killer, yet it is preventable because smoking is a choice. Side-Stream smoke is toxic to humans and in most cases they have no choice but to breathe it in.

The New England Journal of medicine reported in September of 1990 that children and adolescents exposed to household smoke from their parents cigarette habits suffered twice the rate of asthma and sinus problems associated with passive smoke.

Tobacco smoke contains more than 4700 chemicals many of which are considered hazardous by the EPA, forty-three of those compounds in tobacco smoke are known cancer causing agents. The list of causes by passive smoke is extensive.

The issue at hand is indoor pollution caused by cigarette smoke. Less than one half of our population smokes but unless we have some controll we are all put at risk of cancer and other deadly diseases because we all must breathe the same air. Only a smoker can choose not to smoke, but a non-smoker must breathe the toxic air he or she has no choice.

The purpose of the American Cancer Society is to eliminate cancer within our community. Cancer and other diseases that affect the non-smoker can be prevented, the most effective way is for the Legislature to act on this bill so that the Guam citizens can breathe clean indoor air.

Sincerely,


Gregory S. Miller, D.C.

GJM/sms



DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
 GOVERNMENT OF GUAM
 P. O. BOX 2816
 AGANA, GUAM 96910



COMMENTS ON BILL 232: AN ACT TO REGULATE SMOKING
 WITHIN PUBLIC PLACES AND PLACES OF EMPLOYMENT

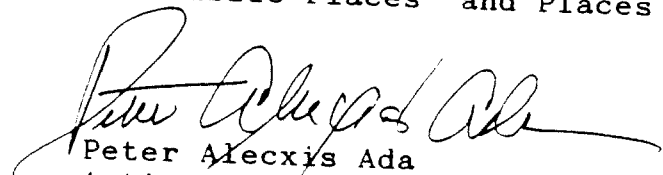
The Department of Public Health and Social Services supports the concept of the Clean Indoor Act of 1991. It is apparent that involuntary residual (second hand) smoke is a health hazard that leads to heart and respiratory diseases i.e. lung cancer, etc. or allergies. A study done by the U.S. Environmental Protection Agency in 1990 indicated approximately 3,700 deaths occur annually from second hand smoke.

All departments should strive to be tobacco (smoke) free public facilities and workplaces. The inclusion of other private workplaces and establishments where the public assembles is a remarkable milestone in the achievement of a comprehensive smoke free environment beneficial to the good health of Guam's residents. A reduction in the number of individuals with illnesses and in the cost of medical expenditures may very well be realized through the passage of this Act.

The attached amendments are included for the committee's review and disposition. Since the enforcement of this Act will involve this Department, I want to assure the members of the committee that this responsibility will be realized and appropriately carried out.

Please do not hesitate to call on this Department for clarification regarding enforcement of the proposed Act.

The Department appreciates this opportunity to submit our concerns, professional opinions, and full support for this Act, An Act to Regulate Smoking Within Public Places and Places of Employment.


 Peter Alexis Ada
 Acting Director

APR 22 1991

Attachment



Pursuant to the above mentioned comments, the following amendments are recommended:

Note:

The areas in brackets [] indicate portions with additions or deletions to the particular sentence or paragraph.

AN ACT TO [PROHIBIT] SMOKING WITHIN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Sec. 1

Title... as the Clean Indoor [Air] Act of 1991.

Sec. 2 Legislative findings and Purpose[s]

Numerous studies [indicate] that..;

Reliable studies have shown that breathing [residual (second hand)] tobacco smoke..;

[remove "At"] Special risk [populations] are..;

Numerous [other] studies have [also] shown that a majority of nonsmokers desire ..;

Smoking is [a] potential..;

According to the [Twenty-first] Guam Legislature, they [find] and [declare] the purposes of this Act are [as follows]:

Sec. 2(2)

Clarification of this section.

This section appears to indicate that there will be open negotiations for additional smoking areas between smokers, nonsmokers, and the regulating authorities. Such negotiations for a smoker's needs would most likely be to the advantage of smokers, tobacco marketers, and manufacturers. The maximum usage of resources derived from such entities would be to the disadvantage of nonsmokers and overwhelming for the government to regulate effectively.

The same sort of regulation negotiations have been occurring in other countries and similarly, in those countries, regulation negotiations with regard to lumber harvesting "rights". Such negotiations ultimately led to excessive deforestation. Although Guam may not lose large areas of natural forest resources, we are known for warm sunshine and most distinctly, clean, unpolluted air. Such trademarks certainly should be maintained to ensure continuous marketing of Guam as a tropical paradise.

Sec. 2(3)7

This section must remove the identification of a restaurant "dining area" as not being a place of employment. It should account for the health of employees who would be required to work in such areas, thereby involuntarily exposing themselves to residual (second hand) smoke .

Sec. 5(A)2

Buses, taxicabs, [airplanes,] and..;

Sec. 5(A)7(a)

designation of a contiguous area within a restaurant that contains a maximum of fifty percent (50%) of the seating capacity of the restaurant as a smoking area or (b)... of the restaurant. [In either instance, the smoking areas must have adequate and effective ventilation which removes smoke and purifies the recirculated air]..;

Sec. 5(A)9

Any building not open... performances [and smoking shall not be allowed to be part of a stage production.] [Remove "except when smoking is part of a stage production"].

Sec. 5(A)10

Sports arenas and convention halls, except in designated smoking areas [with adequate and effective ventilation which removes smoke and purifies the recirculated air]..;

Sec. 6(B)

Within ninety days ... and maintain a written [tobacco (smoke) free policy] which..;

Sec. 6(B)

Within ninety(90) days... written [tobacco (smoke) free] [remove "smoking"] policy...

Sec. 6(B)2

This section seemingly allows for the negotiation of a smoking policy. In order to strive for the attainment of tobacco (smoke) free workplaces, such negotiations cannot be allowed.

What of newly hired employees who do not smoke?

What about the possibility of employment discrimination against nonsmokers in hiring so as to maintain an established smoking workplace?

There must be no room for such negotiating as in section 2.2!

Sec. 6(B)3

Prohibition of ... hallways, [stairways], medical facilities, [libraries], and restrooms.

Sec. 6(B)4

Provisions and ... nonsmoking areas of [no] less than fifty percent ... nonsmokers [with adequate and effective ventilation which removes smoke and purifies recirculated air].

Sec. 6(D)

All employers shall supply a written copy of the [tobacco (smoke) free policy to existing and prospective employees].

Sec. 7(A)

Notwithstanding...of this Act;

1. Private residences, except when used as a facility or health care facility.
2. Single hotel or motel rooms rented to guests [that are designated as smoking rooms that have adequate and effective ventilation to remove smoke and purify the recirculated air].
3. Retail tobacco stores, [where adequate and effective ventilation is provided].

[Remove all other areas previously indicated in this section.]

Sec. 8(C)

Every restaurant shall have posted...stating [that smoking is prohibited and that a smoking] section is available..;

Sec. 10(C)

Any person who violates any provision of this Act [as indicated in sections 10 (a) and (B)] shall ... by:

1. A fine ... (\$100) for a first violation.
2. A fine ... (\$200) for a second violation of this Act.
3. A fine ... (\$500) for each additional violation thereafter.

[Sec. 10(D)

Any entity which violates any provision of this Act as indicated in sections 10 (a) and (B) shall, upon conviction thereof be punished by:

1. A fine not exceeding One Thousand Dollars (\$1000) for a first violation.
2. A fine not exceeding Two Thousand Dollars for (\$2000) for a second violation of this Act.
3. A fine not exceeding Three Thousand Dollars (\$3000) for each additional violation thereafter.]

Sec. 11

This section should more clearly define the meaning and parameters of "afforded."