

THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND REGULAR SESSION, 2002

Public Law 13-38
H.B. NO. 13-202,HS1,HD1

AN ACT

TO AMEND 4 CMC § 1402(A)(16) THROUGH (20); TO RESTRICT CIGARETTE SMOKING AND FOR OTHER PURPOSES.

**BE IT ENACTED BY THE THIRTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Findings and Purpose. Cigarette Smoking is the single most critical risk associated with the leading chronic diseases in the CNMI, namely, cancer, heart disease, and emphysema. Heart disease and cancer make up more than 60% of the off-island medical referral costs. More than \$2 million is spent each year treating diseases related to tobacco and alcohol use in the CNMI. Studies indicate that the pervasive use of tobacco among minors and young adults will likely decrease if the price of tobacco is increased. In response to concerns for the health of the youth and public as a whole, a number of states have increased the excise taxes on tobacco products. Furthermore the Healthy People 2010 Initiative, which the CNMI has adopted, has identified the objective to increase the national average of state and federal taxes on tobacco products to \$2.00 by year 2010. It is therefore in the best interest of the CNMI to increase taxes on alcohol and tobacco products. This increase in revenue would be reserved for funding tobacco control programs.

Section 2. Repealer and Reenactment. 4 CMC § 1402 (a) (16) through (20) are hereby repealed and reenacted to read as follows:

“(16) Cigarettes, one dollar and seventy-five cents (\$1.75) per every twenty (20) cigarettes, or fractional equivalent thereof, for eight years after the effective date of this Act; thereafter, two dollars (\$2.00) per every twenty (20) cigarettes or fractional equivalent thereof.

(17) Tobacco or tobacco substitute or chewable tobacco product, or other smokable or snuffable substance, material or product, other than cigarettes, sixty percent (60%) of the invoice price;

(18) Beer and malt beverages, 2 cents (\$0.02) per fluid ounce or fractional equivalent thereof;

(19) Distilled alcoholic beverages, 18 cents (\$0.18) per fluid ounce or fractional equivalent thereof;

(20) Wine and sake, 5 cents (\$0.05) per fluid ounce or fractional equivalent thereof;”

Section 3. Tobacco Control Fund. There shall be established a separate fund to be known as the Tobacco Control Fund. There shall be credited to said fund 30% of the increase in the cigarette tax authorized under Section 2 of this Act, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the Secretary of Finance based on professionally-prepared, written analyses; any appropriation, grant, gift, or other contribution explicitly made to said fund; and any income derived from the investment of amounts credited to said fund. Amounts credited to said fund shall be expended, subject to appropriation by the Legislature to supplement other funding for the following purposes:

(a) for Department of Public Health activities relating to the monitoring of morbidity and mortality from cancer and other tobacco-related illnesses in the CNMI;

(b) for the support of prenatal and maternal care, provided, however, that such prenatal and maternal care programs incorporate smoking cessation assistance and guidance regarding the harmful effects of smoking on fetal development;

(c) for comprehensive school health education programs, to be administered jointly by the Department of Health and the Public School System relating to the hazards of tobacco use by CNMI youth; and

(d) for workplace-based and community smoking prevention and smoking cessation programs, for tobacco-related public service advertising and education programs, to be administered by the Department of Public Health; In conjunction with the preparation of the Commonwealth's comprehensive annual financial report, the Secretary of the Department of Public Health shall prepare and issue an annual report detailing the revenues and expenditures of said fund in accordance with generally accepted accounting principals. The annual report shall also, at a minimum, report on the qualitative and quantitative progress on the above purposes of the Fund.

Section 4. A new article is added to Title 6, Division 3, Chapter 1 of the Commonwealth Code to read as follows:

Section 101. Definitions. Whenever used in this Article unless the context shall otherwise require, the following words or terms shall have the following meanings:

(a) "person" means any individual, firm, fiduciary, partnership, corporation, trust or association, however formed, club, trustee, agency or receiver;

(b) "smoking" means the lighting of any cigar, cigarette, pipe or tobacco product or having possession of any lighted cigar, cigarette, pipe or other tobacco product.

Section 102. Smoking in Public Places Prohibited.

(a) No person shall smoke in any supermarket, retail food outlet, or in any department store. The owner, manager or other person in charge of such a facility, building or place as herein described in this paragraph shall post conspicuously a notice at each entrance indicating that smoking is prohibited therein.

(b) No person shall smoke in any restaurant with a seating capacity of 50 or more persons, except in an area specifically designated as a moking area. In such case, smoking may be permitted in an area or areas that have been specifically designated by notice or sign, only if nonsmoking areas of sufficient

size and capacity are available to accommodate nonsmokers. Smoking and nonsmoking areas in any restaurant need not be separated by walls, partitions or other physical barriers; provided, however, that nonsmoking areas in any part of a restaurant, as provided herein, shall be two times the floor space size of the smoking area.

(c) No person shall smoke in any courthouse, public or private school building, college, museum, library, airport building, waiting area of a health care facility, group child care center, school-aged day care center, family day care center or in any public building, or at any open meeting of a governmental body except in an area which has specifically been designated as a smoking area. An area shall be designated as a smoking area only if nonsmoking areas of sufficient size and capacity are available to accommodate nonsmokers.

(d) No person shall smoke in any building occupied by any CNMI government branch, department, or autonomous agency whether the building or office space is owned or leased by the CNMI government, except in an area which has specifically been designated as a smoking area. An area shall be designated as a smoking area only if nonsmoking areas of sufficient size and capacity are available to accommodate nonsmokers.

(e) The owner, manager, department secretary, executive director, or other person in charge of a facility, building, or place described above shall post conspicuously such notices or signs at each entrance indicating that smoking is prohibited therein except in specifically designated areas, and shall post conspicuously such notice or signs indicating which is the nonsmoking area and which is the smoking area.

(f) Enforcement.

(1) Any person who knowingly violates this section by smoking in any of the public places so indicated is guilty of a misdemeanor and

upon conviction shall be punished by a fine of not more than \$500 and/or imprisonment of not more than 30 days.

(2) In addition to paragraph (1) of this subsection, any person aggrieved by the willful failure, or refusal to comply, of an owner, manager, department secretary, executive director, or other person in charge of facility, building, or a place wherein the alleged smoking violation occurred, with any of the provisions of this section may complain in writing to the Department of Public Health. The Secretary of the Department of Public Health shall respond, in writing within 30 days after receiving the complaint, to the complainant that he has inspected the area described in the complaint and has enforced the provisions of this section. The Secretary shall also provide a copy of the original complaint and his response thereto with the owner, manager, department secretary, executive director, or other person in charge of a facility, building, or place wherein the alleged violation took place.

Section 103. Smoking on Public School Grounds Prohibited

(a) It shall be unlawful for any employee of Public School System to smoke within any public school ground. Any employee who knowingly violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 and/or imprisonment of not more than 30 days.

(b) It shall be unlawful for any student enrolled in public schools, colleges or trade schools in the Northern Marianas to use tobacco products of any type on school grounds.

(c) The Public School System and the Northern Marianas College shall establish by regulation a policy dealing with students who violate this law. This policy may include, but not be limited to, mandatory education classes on the hazards of tobacco use for first offense, suspension for second offense, and expulsion for third offense.

Section 104. Use Of Cigarettes Or Any Tobacco Products As Prizes Is Prohibited The use of any device, amusement machine games, raffle, fund-raising or prize to aid, promote or induce sales or purchases of cigarettes or any tobacco products or the giving of any cigarettes or any tobacco products in connection with any device, amusement machine games, raffle, fund-raising or prize is prohibited.”

Section 5. Severability. If any provisions of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 6. Effective Date. This Act shall take effect upon its approval by the Governor, or it becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/S/ _____
HEINZ S. HOFSCHEIDER
SPEAKER OF THE HOUSE

/S/ _____
EVELYN C. FLEMING
HOUSE CLERK

Approved this 13th day of December, 2002

/S/ _____
Juan N. Babauta
Governor
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS