



The Senate

NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500129
SAIPAN, MP 96950

SEN. COMM. 16-183
(HOUSE)

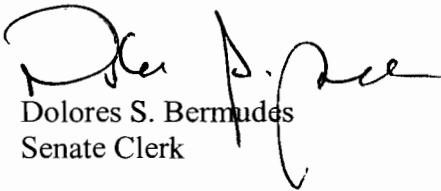
September 03, 2009

Honorable Arnold I. Palacios
Speaker
House of Representatives
Sixteenth Northern Marianas Commonwealth
Legislature
Saipan, MP 96950


Dear Speaker Palacios:

The Senate, in its 3rd Day, Fourth Regular Session on September 03, 2009, adopted Joint **Conference Committee Report No. 16-03** by unanimous voice vote of the members present on **House Bill No. 16-47, HD2, SD1, CCS1**, entitled, "To repeal and reenact Title 6, Division 3, Chapter 1, Article 4 of the Commonwealth Code to prohibit smoking in all workplaces and public places, and for other purposes."

Sincerely,


Dolores S. Bermudes
Senate Clerk

Transmitted to House:

Received by:  Date: 9/3/09 Time: 4:28 PM



NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
CAPITOL HILL
SAIPAN, MP 96950

CONFERENCE COMMITTEE REPORT NO. **16-03**

September 3 2009
RE: H.B. No. 16-47, HD2, SD1

S. Adopted 9/3/09

Honorable Pete P. Reyes
President of the Senate
Sixteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

And

Honorable Arnold I. Palacios
Speaker, House of Representatives
Sixteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

Your conference committee to which H.B. No. 16-47, HD2, SD1 was referred, entitled:

To repeal and reenact Title 6, Division 3, Chapter 1, Article 4 of the Commonwealth Code to prohibit smoking in all workplaces and public places, and for other purposes.

begs leave to report as follows:

I. RECOMMENDATION:

Your conference committee recommends that the Senate and the House pass H.B. No. 16-47, HD2, SD1 as amended by the Senate and House Conference Committees in a joint meeting in the form of H.B. 16-47, HD2, SD1, CCS1, attached herewith.

II. FINDINGS.

The House of Representatives rejected the Senate's amendments (SD1) to the above-referenced bill in a House session on May 19, 2009. The house speaker and senate president appointed a conference committee on May 29, 2009 and July 24, 2009, respectively, to meet and discuss the bill and report back to their respective houses.

Rep. Ralph Dlg. Torres and Sen. Paul A. Manglona, conference committee chairs of their respective house, called for joint meeting of the two conference committees that was held on August 26, 2009. The

joint meeting was attended by members from the Commonwealth Diabetes Coalition and the Commonwealth Substance Abuse Prevention Coalition who were invited to testify on the bill.

Coalition members resoundingly urged the committees to delete the senate amendment that afforded the privilege to business establishments a partial or total exemption from the bill's smoking prohibition upon payment of an annual fee of \$2,000.00 for partial exemption and \$10,000.00 for total exemption. The exemptions, argued the coalition members, would defeat the fundamental purpose of the legislation which is to enhance the health of employees and public in general at public and private places of business by prohibiting smoking in all enclosed areas and outdoor areas within 25 feet of entrances and exits to these places.

Coalition members argued further, and the committees agreed, that absent the Commonwealth's own statistics on the effects of such a legislation on the local economy, especially the tourism sector, the vast majority of independent studies done in other jurisdictions that have adopted similar anti-smoking legislation have shown that there is no or negligible negative economic impact of clean indoor air policies, with many studies finding that there may be some positive effects on local businesses. Other studies also have shown that in some jurisdictions implementation of legislation similar to H.B. 16-47 resulted in a decrease in teen smoking. This is despite the fact that there are those, smokers and non-smokers, who harbor unsubstantiated fears to the contrary.

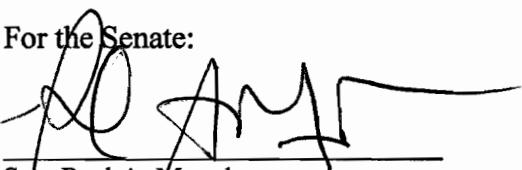
The committees also agreed with the position of the coalition members that there should be an absolute ban on smoking at all public health and educational institutions in the Commonwealth. Not only is this legislation borne out of the strong concern to keep the air clean for the protection of all, especially our children, those with respiratory problems, and employees, but is consistent with each person's right under Section 9, Article I of the Commonwealth's Constitution to a clean and healthful environment in all areas, including land, air, and water. Considering the importance of 1) generating revenues at our airport terminals, 2) granting some convenience to travelers who smoke, and 3) the casino industries in Tinian and now emerging in Rota, the committees saw the need to permit smoking in fully enclosed, well-ventilated areas in the Commonwealth's airports, and to allow smoking in the gaming areas of casino establishments. Coalition members did not object to this amendment.

III. CONCLUSION:

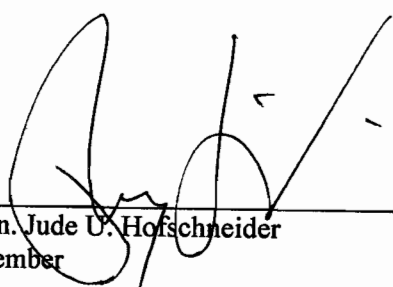
Based on the foregoing, your conference committee concludes that the discussion and agreement reached by the conferees from the House and the Senate on further amendments to H.B. 16-47, HD2, SD1 will further the purpose of protecting the health of our local residents and visitors and the cleanliness of our environment. Therefore, the committee recommends the Senate and the House to pass the bill in its CCS1 version at its next session.

Respectfully submitted,

For the Senate:

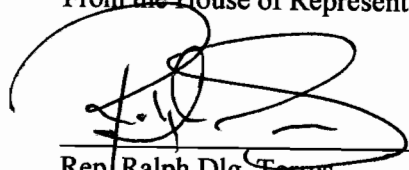

Sen. Paul A. Manglona
Chair

Sen. Luis P. Crisostomo
Member



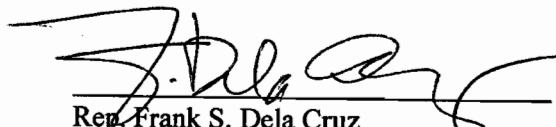
Sen. Jude U. Hofschneider
Member

From the House of Representatives:



Rep. Ralph Dlg. Torres
Chairman

Rep. Justo S. Quitugua
Member



Rep. Frank S. Dela Cruz
Member

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2008

H. B. NO. 16-47, HD2, SD1, CCS1

A BILL FOR AN ACT

TO REPEAL AND REENACT TITLE 6, DIVISION 3, CHAPTER 1,
ARTICLE 4 OF THE COMMONWEALTH CODE TO PROHIBIT SMOKING
IN ALL WORKPLACES AND PUBLIC PLACES, AND FOR OTHER
PURPOSES.

BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act may be cited as the “Smoke-free Air Act of
2 2008.”

3 **Section 2. Findings and Purpose.** The Commonwealth Legislature adopts the
4 findings of the Americans for Nonsmokers’ Rights Foundation (ANRF) and finds that:

5 1. Secondhand smoke is a known human carcinogen (cancer-causing agent) that is
6 associated with an increased risk of lung cancer and coronary heart disease in
7 nonsmoking adults. Young children are particularly susceptible to secondhand smoke
8 because their lungs are not fully developed. Exposure to secondhand smoke is associated
9 with an increased risk for sudden infant death syndrome, asthma, bronchitis, and
10 pneumonia in young children. Each year, in the United States, secondhand smoke is
11 associated with an estimated 8,000-26,000 new asthma cases in children and an estimated
12 150,000-300,000 new cases of bronchitis and pneumonia in children less than 18 months
13 (7,500-15,000 of which will require hospitalization). (*Secondhand Smoke*. National
14 Center for Chronic Disease Prevention and Health Promotion. Center for Disease
15 Control and Prevention www.cdc.gov/tobacco.)

16 2. An estimated 3,000 lung cancer deaths and more than 35,000 coronary heart
17 disease deaths occur annually among adult nonsmokers in the United States as a result of
18 exposure to secondhand smoke. Approximately 60% of non-smokers in the United States

1 have biological evidence of secondhand smoke exposure. (*Secondhand Smoke*. National
2 Center for Chronic Disease Prevention and Health Promotion. Center for Disease
3 Control and Prevention www.cdc.gov/tobacco)

4 3. Numerous studies have found that tobacco smoke is a major contributor to indoor
5 air pollution, and that breathing secondhand smoke (also known as environmental
6 tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease,
7 stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in
8 1999 that secondhand smoke is responsible for the early deaths of up to 65,000
9 Americans annually. (National Cancer Institute (NCI), "Health Effects of Exposure to
10 Environmental Tobacco Smoke: the Report of the California Environmental Protection
11 Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National
12 Institutes of Health, National Cancer Institute (NCI)*, August 1999.)

13 4. The Public Health Service's National Toxicology Program has listed secondhand
14 smoke as a known carcinogen. (Environmental Health Information Service (EHIS),
15 "Environmental Tobacco Smoke: First Listed in the Ninth Report on Carcinogens," *U.S.
16 Department of Health and Human Services (DHHS), Public Health Service, National
17 Toxicology Program, 2000.*)

18 5. A study of hospital admissions for acute myocardial infarction in Helena,
19 Montana, before, during, and after a local law eliminating smoking in workplaces and
20 public places was in effect has determined that laws to enforce smoke free workplaces
21 and public places may be associated with a reduction in morbidity from heart disease.
22 (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced Incidence of
23 Admissions for Myocardial Infarction Associated with Public Smoking Ban: Before and
24 After Study," *British Medical Journal* 328: 977-980, April 24, 2004.)

25 6. Secondhand smoke is particularly hazardous to elderly people, individuals with
26 cardiovascular disease, and individuals with impaired respiratory function, including
27 asthmatics and those with obstructive airway disease. Children exposed to secondhand
28 smoke have an increased risk of asthma, respiratory infections, sudden infant death
29 syndrome, developmental abnormalities, and cancer. (California Environmental Protection

1 Agency (Cal EPA), "Health Effects of Exposure to Environmental Tobacco Smoke", *Tobacco*
2 *Control* 6(4): 346-353, Winter, 1997.)

3 7. The Americans with Disabilities Act (ADA, 42 U.S.C. §12101 et seq.), which
4 requires that disabled persons have access to public places and workplaces, deems
5 impaired respiratory function to be a disability. (Daynard, R.A., "Environmental Tobacco
6 Smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.)

7 8. The U.S. Surgeon General has determined that the simple separation of smokers
8 and nonsmokers within the same air space may reduce, but does not eliminate, the
9 exposure of nonsmokers to secondhand smoke. (Department of Health and Human
10 Services. *The Health Consequences of Involuntary Smoking: A Report of the Surgeon*
11 *General*. Public Health Service, Centers for Disease Control, 1986.) The Environmental
12 Protection Agency has determined that secondhand smoke cannot be reduced to safe
13 levels in businesses by high rates of ventilation. Air cleaners, which are only capable of
14 filtering the particulate matter and odors in smoke, do not eliminate the known toxins in
15 secondhand smoke. (Environmental Protection Agency (EPA), "Indoor Air Facts No. 5:
16 Environmental Tobacco Smoke," *Washington, D.C.: Environmental Protection Agency*
17 *(EPA)*, June 1989.)

18 9. The Centers for Disease Control and Prevention has determined that the risk of
19 acute myocardial infarction and coronary heart disease associated with exposure to
20 tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses
21 such as those received from secondhand smoke or actively smoking one or two cigarettes
22 a day, and has warned that all patients at increased risk of coronary heart disease or with
23 known coronary artery disease should avoid all indoor environments that permit smoking.
24 (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the
25 cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April
26 24, 2004.)

27 10. A significant amount of secondhand smoke exposure occurs in the workplace.
28 Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart
29 attack and higher rates of death from cardiovascular disease and cancer, as well as

1 increased acute respiratory disease and measurable decrease in lung function. (Pitsavos,
2 C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.;
3 Toutouzas, P., "Association Between Exposure to Environmental Tobacco Smoke and the
4 Development of Acute Coronary Syndromes: the CARDIO2000 Case-control Study,"
5 *Tobacco Control* 11(3): 220-225, September 2002.)

6 11. Smoke-filled workplaces result in higher worker absenteeism due to respiratory
7 disease, lower productivity, higher cleaning and maintenance costs, increased health
8 insurance rates, and increased liability claims for diseases related to exposure to
9 secondhand smoke. ("The High Price of Cigarette Smoking," *Business & Health* 15(8),
10 Supplement A: 6-9, August 1997.)

11 12. Numerous economic analyses examining restaurant and hotel receipts and
12 controlling for economic variables have shown either no difference or a positive
13 economic impact after enactment of laws requiring workplaces to be smokefree. Creation
14 of smokefree workplaces is sound economic policy and provides the maximum level of
15 employee health and safety. (Glantz, S.A. & Smith, L. The Effect of Ordinances
16 Requiring Smoke-free Restaurants on Restaurant Sales in the United States. *American*
17 *Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The
18 Economic Impact of Smoke-free Workplaces: an Assessment for Nova Scotia, prepared
19 for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September
20 2001.)

21 13. Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on
22 merchandise and fixtures causes economic damage to businesses. ("The High Price of
23 Cigarette Smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

24 14. It is the duty of the Commonwealth Legislature to provide a healthy and safe
25 environment for the people of the CNMI as well as for visitors to our islands. This
26 includes establishing smoke-free public and workplaces for the benefit of all, and
27 particularly for the elderly and children. Accordingly, the Legislature finds and declares
28 that the purposes of this Act are: (1) to protect the public health and welfare by
29 prohibiting smoking in public places and places of employment; and (2) to guarantee the

1 right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe
2 smoke-free air shall have priority over the desire to smoke.

3 **Section 3. Repealer and re-enactment.** Title 6, Division 3, Chapter 1, Article 4
4 of the Commonwealth Code is hereby repealed in its entirety and reenacted as follows:

5 **“Article 4. Prohibition of Smoking.**

6 **§3171. Definitions**

7 **§3172. Prohibition of smoking in government facilities**

8 **§3173. Prohibition of smoking in public places**

9 **§3174. Prohibition of smoking in places of employment**

10 **§3175. Prohibition of smoking on property of the Public School System**

11 **§3176. Reasonable distance**

12 **§3177. Where smoking not regulated**

13 **§3178. Declaration of establishment as non-smoking**

14 **§3179. Posting of signs**

15 **§3780. Non-retaliation**

16 **§3181. Enforcement**

17 **§3182. Violations and penalties**

18 **§3183. Public education**

19 **§3184. Governmental agency cooperation**

20 **§3185. Prohibition of the use of cigarettes or tobacco products as prizes**

21 **§3186. Disposition of fines**

22 **§3187. Other applicable law**

23
24 **§ 3171. Definitions.** The following words and phrases, whenever used in
25 this article, shall be construed as defined in this section unless the context clearly
26 indicates otherwise:

27 (a) “Attached bar” means a bar area of a restaurant.

28 (b) “Bar” means an establishment that is devoted to the serving of
29 alcoholic beverages for consumption by guests on the premises and in which the

1 serving of food is only incidental to the consumption of those beverages,
2 including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

3 (c) "Business" means a sole proprietorship, partnership, joint venture,
4 corporation, or other business entity, either for-profit or not-for-profit, including
5 retail establishments where goods or services are sold as well as professional
6 corporations and other entities where legal, medical, dental, engineering,
7 architectural, or other professional services are delivered.

8 (d) "Employee" means a person who is employed by an employer in
9 consideration for direct or indirect monetary wages or profit, and a person who
10 volunteers his or her services for a non-profit entity.

11 (e) "Employer" means a person, business, partnership, association,
12 corporation, including a municipal corporation, trust, or non-profit entity that
13 employs the services of one or more individual persons.

14 (f) "Enclosed area" means an area or space bounded by walls, with or
15 without windows, continuous from floor to ceiling and enclosed by one or more
16 doors, including but not limited to an office, function room, or hallway. If an
17 outdoor area, as defined herein, has a structure capable of being enclosed by walls
18 or covers, regardless of the materials or removable nature of the walls or covers,
19 the area will be considered enclosed when the walls or covers are in place.

20 (g) "Health care facility" means an office or institution providing care
21 or treatment of diseases, whether physical, mental, or emotional, or other medical,
22 physiological, or psychological conditions, including but not limited to, hospitals
23 or other clinics, including nursing homes, homes for the aging or chronically ill,
24 laboratories, and offices of surgeons, chiropractors, physical therapists,
25 physicians, dentists, and all specialists within these professions. This definition
26 shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and
27 wards within health care facilities.

28 (h) "Outdoor area" means any space open to the outside air at all
29 times.

1 (i) "Person" means any individual, firm, fiduciary, partnership,
2 corporation, trust or association, however formed, club, trustee, agency or
3 receiver.

4 (j) "Place of employment" means an area under the control of a public
5 or private employer that employees normally frequent during the course of
6 employment, including, but not limited to, work areas, employee lounges,
7 restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias,
8 hallways, and vehicles. A private residence is not a "place of employment" unless
9 it is used as a child care, adult day care, or health care facility.

10 (k) "Public place" means an enclosed area to which the public is
11 invited or in which the public is permitted, including but not limited to, banks,
12 educational facilities, health care facilities, laundromats, public transportation
13 facilities, reception areas, restaurants, retail food production and marketing
14 establishments, retail service establishments, retail stores, shopping malls, sports
15 arenas, theaters, and waiting rooms. A private residence is not a "public place"
16 unless it is used as a child care, adult day care, or health care facility.

17 (l) "Restaurant" means an eating establishment, including but not
18 limited to, coffee shops, cafeterias, sandwich stands, and private and public school
19 cafeterias, which gives or offers for sale food to the public, guests, or employees,
20 as well as kitchens and catering facilities in which food is prepared on the
21 premises for serving elsewhere. The term "restaurant" shall include an attached
22 bar.

23 (m) "Retail tobacco store" means a retail store utilized primarily for the
24 sale of tobacco products and accessories and in which the sale of other products is
25 merely incidental.

26 (n) "Service line" means an indoor line in which one (1) or more
27 persons are waiting for or receiving service of any kind, whether or not the service
28 involves the exchange of money.

1 (o) "Shopping mall" means an enclosed public walkway or hall area
2 that serves to connect retail or professional establishments.

3 (p) "Smoking" means inhaling, exhaling, burning, or carrying any
4 lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any
5 manner or in any form.

6 (q) "Sports arena" means sports pavilions, stadiums, gymnasiums,
7 health spas, boxing arenas, swimming pools, bowling alleys, and other similar
8 places where members of the general public assemble to engage in physical
9 exercise, participate in athletic competition, or witness sports or other events.

10 **§ 3172. Prohibition of smoking in government facilities.** Except as
11 otherwise provided for in this article, smoking is prohibited in all enclosed areas
12 and outdoor areas within 25 feet of any doorway entrance or exit to a government
13 facility that is owned, leased or operated by the Government of the
14 Commonwealth of the Northern Mariana Islands or any instrumentality thereof,
15 including but not limited to office buildings, warehouses and vehicles owned or
16 leased by the same; provided that the head of any department, agency, board,
17 commission, authority, corporation or entity of the Commonwealth Government,
18 including municipalities and agencies thereof, may by regulation adopt
19 prohibitions against smoking that more stringent than those provided in this
20 article.

21 **§ 3173. Prohibition of smoking in public places.** Except as otherwise
22 provided in this article, smoking is hereby prohibited in all enclosed areas of
23 public places within the Commonwealth of the Northern Mariana Islands,
24 including but not limited to the following:

25 (a) Galleries, libraries, and museums.

26 (b) Areas available to and customarily used by the general public in
27 businesses and non-profit entities patronized by the public, including but not
28 limited to, professional offices, banks, laundromats, hotels, and motels.

29 (c) Educational facilities, both public and private.

1 (d) Elevators.

2 (e) Facilities primarily used for exhibiting a motion picture, stage,
3 drama, lecture, musical recital, or other similar performance.

4 (f) Health care facilities.

5 (g) Licensed child care and adult day care facilities.

6 (h) Lobbies, hallways, and other common areas in apartment buildings,
7 condominiums, retirement facilities, nursing homes, and other multiple-unit
8 residential facilities.

9 (i) Polling places.

10 (j) Buses and taxicabs.

11 (k) Restaurants, including attached bars except as provided in
12 § 3177(a) of this Act.

13 (l) Restrooms, lobbies, reception areas, hallways, and other common-
14 use areas.

15 (m) Supermarkets, retail food outlets, department stores, and retail
16 stores.

17 (n) Rooms, chambers, places of meeting or public assembly, including
18 school buildings, under the control of an agency, board, commission or
19 department, to the extent the place is subject to the jurisdiction of the
20 Commonwealth government.

21 (o) Service lines.

22 (p) Shopping malls.

23 (q) Sports arenas, including enclosed places in outdoor arenas.

24 **§ 3174. Prohibition of smoking in places of employment.**

25 (a) To the extent otherwise permitted pursuant to this article, smoking
26 shall be prohibited in all enclosed facilities within places of employment, or
27 within 25 feet of any person who is not smoking if the place or site of work is an
28 outdoor area or area other than an enclosed area, without exception. This includes
29 common work areas, auditoriums, classrooms, conference and meeting rooms,

1 private offices, elevators, hallways, medical facilities, cafeterias, employee
2 lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

3 (b) All employers shall advise their employees, agents, subagents,
4 contractors, customers, and all other persons who are physically present on the
5 premises at the place of employment during business hours, whether in an
6 enclosed area or not, of the prohibition against smoking under this section.

7 (c) Employers, including employees, agents, subagents, or any person
8 acting on behalf of the employer at the place of employment, shall have the duty
9 to assist the Department of Public Health with the enforcement of this section by
10 reporting a violation under this section immediately to the Department of Public
11 Health. Failure to report may subject the person, persons and the employer to the
12 penalties under § 3182(b).

13 **§ 3175. Prohibition of smoking on property of the Public School**

14 **System.**

15 (a) It shall be unlawful at all times for any person or an employee of
16 any public school or college to smoke on school or college property. Any person
17 or employee who knowingly violates this section shall be subject to the penalties
18 under §3182 of this Article.

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

22 (c) The Public School System and the Northern Marianas College
23 shall establish by regulation a policy dealing with students who violate this law.
24 This policy shall, at a minimum, include mandatory education classes on the
25 hazards of tobacco use.

26 **§ 3176. Reasonable distance.** Smoking is prohibited within a reasonable
27 distance of 25 feet outside an enclosed area where smoking is prohibited, so as to
28 insure that tobacco smoke does not enter the area through entrances, windows,

1 ventilation systems, or other means. In no case shall this provision be used to
2 apply or permit smoking on school or college property.

3 **§ 3177. Where smoking not regulated.** Notwithstanding any provision
4 of this article to the contrary, the following areas shall be exempt from the
5 provisions of §§ 3173 and 3174:

6 (a) Bars, including open air bars, but not attached bars, at the earlier of
7 (1) an established time when the kitchen ceases servicing dinner meals or (2)
8 10:00 p.m.; provided that smoke from these places does not infiltrate into areas
9 where smoking is prohibited under the provisions of this article.

10 (b) Private residences, except when used as a licensed child care, adult
11 day care, or health care facility.

12 (c) Hotel and motel rooms that are rented to guests and are designated
13 as smoking rooms; provided, however, that not more than twenty percent (20%)
14 of rooms rented to guests in a hotel or motel may be so designated. The status of
15 rooms as smoking or nonsmoking may not be changed, except to add additional
16 nonsmoking rooms.

17 (d) Private and semiprivate rooms in nursing homes and long-term
18 care facilities that are occupied by one (1) or more persons, all of whom are
19 smokers and have requested in writing to be placed in a room where smoking is
20 permitted; provided that smoke from these places does not infiltrate into areas
21 where smoking is prohibited under the provisions of this article.

22 (e) Outdoor areas of places of employment except those covered by
23 the provisions of § 3174 and § 3176.

24 (f) Enclosed gaming areas of a casino establishment.

25 (g) Fully enclosed and well-ventilated smoking areas at the departure
26 terminal of Commonwealth airports.

27 **§ 3178. Declaration of establishment as non-smoking.** Notwithstanding
28 any other provision of this article, an owner, operator, manager, or other person in
29 control of an establishment, facility, or outdoor area may declare that entire

1 establishment, facility, or outdoor area as a nonsmoking place, including the
2 outdoor area within 25 feet of the entrance or exit to such establishment. Smoking
3 shall be prohibited in any place in which a sign conforming to the requirements of
4 § 3179(a) is posted.

5 **§ 3179. Posting of signs.**

6 (a) "No Smoking" signs or the international "No Smoking" symbol
7 (consisting of a pictorial representation of a burning cigarette enclosed in a red
8 circle with a red bar across it) shall be clearly and conspicuously posted in every
9 public place and place of employment where smoking is prohibited by this article,
10 by the owner, operator, manager, or other person in control of that place.

11 (b) Every public place and place of employment where smoking is
12 prohibited by this article shall have posted at every entrance a conspicuous sign
13 clearly stating that smoking is prohibited.

14 (c) All ashtrays shall be removed from any area where smoking is
15 prohibited by this article by the owner, operator, manager, or other person having
16 control of the area.

17 **§ 3180. Non-retaliation.** No person or employer shall discharge, refuse to
18 hire, or in any manner retaliate against an employee, applicant for employment, or
19 customer because that employee, applicant, or customer exercises any rights
20 afforded by this article or reports or attempts to prosecute a violation of this
21 article.

22 **§ 3181. Enforcement.**

23 (a) This article shall be enforced by the Department of Public Health or an
24 authorized designee.

25 (b) Notice of the provisions of this article shall be given to all applicants
26 for a business license in the Commonwealth of the Northern Mariana Islands.

27 (c) Any citizen who desires to register a complaint under this article may
28 initiate enforcement with the Secretary of the Department of Public Health or his
29 designee.

1 (d) The Department of Public Health, the Fire Division of the Department
2 of Public Safety, or their designees shall, while an establishment is undergoing
3 otherwise mandated inspections, inspect for compliance with this article.

4 (e) An owner, manager, operator, or employee of an establishment
5 regulated by this article shall inform persons violating this article of the
6 appropriate provisions thereof, report the violation to the Department of Public
7 Safety and Department of Public Health as soon as practicable and may request
8 assistance from the Department of Public Safety if such assistance is deemed
9 necessary to stop the violation and physically remove the person or persons
10 causing the violation.

11 (f) Notwithstanding any other provision of this article, an employee or
12 private citizen may bring legal action to compel the enforcement of this article.

13 (g) In addition to the remedies provided by the provisions of this section,
14 the Department of Public Health or any person aggrieved by the failure of the
15 owner, operator, manager, or other person in control of a public place or a place of
16 employment to comply with the provisions of this article may apply for injunctive
17 relief to enforce those provisions in any court of competent jurisdiction.

18 **§ 3182. Violations and penalties.**

19 (a) A person who smokes in an area where smoking is prohibited by the
20 provisions of this article shall be guilty of a civil infraction, punishable by:

21 (1) A fine not to exceed fifty dollars (\$50) for a first violation.

22 (2) A fine not to exceed one hundred dollars (\$100) for a second
23 violation.

24 (3) A fine not to exceed two hundred dollars (\$200) for a third and
25 subsequent violation and the completion of a mandatory tobacco
26 prevention and/or cessation course.

27 (b) A person who owns, manages, operates, or otherwise controls a public
28 place or place of employment and who fails to comply with the provisions of this
29 article shall be guilty of a civil infraction, punishable by:

1 (1) A fine not to exceed two hundred dollars (\$200) for a first
2 violation.

3 (2) A fine not to exceed three hundred dollars (\$300) for a second
4 violation within one (1) year.

5 (3) A fine not exceeding five hundred dollars (\$500) for each
6 additional violation within one (1) year.

7 (c) In addition to the fines established by this section, violation of this
8 article by a person who owns, manages, operates, or otherwise controls a
9 public place or place of employment may result in the suspension or
10 revocation of any business license issued to the person for the premises on
11 which the violation occurred.

12 (d) Each day in which a violation of this article occurs shall be
13 considered a separate and distinct violation.

14 **§ 3183. Public education.** The Department of Public Health shall engage
15 in a continuing program to explain and clarify the purposes and requirements of
16 this article to citizens affected by it, and to guide owners, operators, and managers
17 in their compliance with it. The program may include publication of a brochure
18 for affected businesses and individuals explaining the provisions of this article.

19 **§ 3184. Governmental agency cooperation.** The Secretary of the
20 Department of Public Health shall annually request other governmental branches,
21 departments, and autonomous agencies having facilities within the
22 Commonwealth of the Northern Mariana Islands to establish local operating
23 procedures in cooperation and compliance with this article. This includes urging
24 all federal agencies and the Public School System to update their existing smoking
25 control regulations to be consistent with the current health findings regarding
26 secondhand smoke.

27 **§ 3185. Prohibition of the use of cigarettes or any tobacco products as**
28 **prizes.** The use of any device, amusement machine game, raffle, fund-raising or
29 prize to aid, promote or induce sales or purchases of cigarettes or any tobacco

1 products or the giving of any cigarettes or any tobacco products in connection
2 with any device, amusement machine game, raffle, fund-raising or prize is
3 prohibited. Any person who knowingly violates this provision is guilty of a
4 misdemeanor and upon conviction shall be punished by a fine of \$500 per
5 violation.

6 **§ 3186. Disposition of fines.**

7 (a) Fifty percent (50%) of the fines collected pursuant to this article
8 shall be deposited in the General Fund.

9 (b) Fifty percent (50%) of the fines collected pursuant to this article
10 shall be allocated to the Department of Public Health for enforcement purposes.
11 The Secretary of Finance shall establish a "Smoke-free Enforcement" revolving
12 account for this purpose. The Secretary of the Department of Public Health shall
13 be the expenditure authority of the "Smoke-free Enforcement" account. Funds in
14 the account shall be available for expenditure without further appropriation by the
15 legislature and shall not be reprogrammed for any other purpose.

16 **§ 3187. Other applicable laws.** This article shall not be interpreted or
17 construed to permit smoking where it is otherwise restricted by other applicable
18 laws."

19 **Section 4. Severability.** If any provision of this Act or the application of any such
20 provision to any person or circumstance should be held invalid by a court of competent
21 jurisdiction, the remainder of this Act or the application of its provisions to persons or
22 circumstances other than those to which it is held invalid shall not be affected thereby.

23 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not
24 be construed as affecting any existing right acquired under contract or acquired under
25 statutes repealed or under any rule, regulation or order adopted under the statutes.
26 Repealers contained in this Act shall not affect any proceeding instituted under or
27 pursuant to prior law. The enactment of this Act shall not have the effect of terminating,
28 or in any way modifying, any liability, civil or criminal, which shall already be in
29 existence at the date this Act, becomes effective.

1 pursuant to prior law. The enactment of this Act shall not have the effect of terminating,
2 or in any way modifying, any liability, civil or criminal, which shall already be in
3 existence at the date this Act, becomes effective.

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

6

Prefiled: 2/27/08

Date: February 29, 2008

Introduced By: /s/ Rep. Justo S. Quitugua

Reviewed for Legal Sufficiency by:

/s/ Ian Catlett

House Legal Counsel