

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2008

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

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
24 smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible
25 are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-
26 983, April 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
4 the 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 **§ 3176. Full Exemption**

14 **~~§31778. Declaration of establishment as non-smoking~~**

15 **~~§31789. Posting of signs~~**

16 **~~§377980. Non-retaliation~~**

17 **~~§31801. Enforcement~~**

18 **~~§31812. Violations and penalties~~**

19 **~~§31823. Public education~~**

20 **~~§31834. Governmental agency cooperation~~**

21 **~~§31845. Prohibition of the use of cigarettes or tobacco products as prizes~~**

22 **~~§31856. Disposition of fines~~**

23 **~~§31867. Other applicable law~~**

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

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

1 (b) “Bar” means an establishment that is devoted to the serving of
2 alcoholic beverages for consumption by guests on the premises and in which the
3 serving of food is only incidental to the consumption of those beverages,
4 including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

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

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

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

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

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

1 (h) “Outdoor area” means any space open to the outside air at all
2 times.

3 (i) “Person” means any individual, firm, fiduciary, partnership,
4 corporation, trust or association, however formed, club, trustee, agency or
5 receiver.

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

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

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

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

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

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

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

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

13 **§ 3172. Prohibition of smoking in government facilities.** Smoking is
14 prohibited in all enclosed areas and outdoor areas within 15 feet of any doorway
15 entrance or exit to a government facility that is owned, leased or operated by the
16 Government of the Commonwealth of the Northern Mariana Islands or any
17 instrumentality thereof, including but not limited to schools, college campuses,
18 office buildings, warehouses and vehicles owned or leased by the same.

19 **§ 3173. Prohibition of smoking in public places.** ~~Smoking~~ Except as
20 otherwise provided in this article, smoking shall be is hereby prohibited in all
21 enclosed areas of public places within the Commonwealth of the Northern
22 Mariana Islands, including but not limited to the following ~~places~~:

23 (a) Galleries, libraries, and museums.

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

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

28 (d) Elevators.

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

3 (f) Health care facilities.

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

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

8 (i) Polling places.

9 (j) Buses and taxicabs.

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

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

14 (m) Retail stores.

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

19 (o) Service lines.

20 (p) Shopping malls.

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

22 **§ 3174. Prohibition of smoking in places of employment.**

23 (a) ~~Smoking~~ To the extent otherwise permitted pursuant to this article,
24 smoking shall be prohibited in all enclosed facilities within places of
25 employment, or within 15 feet of any person who is not smoking if the place or
26 site of work is an outdoor area or area other than an enclosed area, without
27 exception. This includes common work areas, auditoriums, classrooms,
28 conference and meeting rooms, private offices, elevators, hallways, medical

1 facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other
2 enclosed facilities.

3 ~~(b) This prohibition on smoking shall be communicated to all existing~~
4 ~~employees by the effective date of this article and to all prospective employees~~
5 ~~upon their application for employment.~~ All employers shall advise their
6 employees, agents, subagents, contractors, customers, and all other persons who
7 are physically present on the premises at the place of employment during business
8 hours, whether in an enclosed area or not, of the prohibition against smoking
9 under this section.

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

16 **§ 3175. Prohibition of smoking on property of the Public School**
17 **System.**

18 (a) ~~It shall be unlawful for any employee of the Public School System~~
19 ~~to smoke within any public school ground. Any employee who knowingly~~
20 ~~violates this section shall be subject to the penalties under §3182 of this Article.~~

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

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

28 ~~**§ 3176. Reasonable distance.** Smoking is prohibited within a reasonable~~
29 ~~distance of 25 feet outside an enclosed area where smoking is prohibited, so as to~~

1 ~~insure that tobacco smoke does not enter the area through entrances, windows,~~
2 ~~ventilation systems, or other means except on public school grounds.~~

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) Unless exempt pursuant to subsection (g), bars ~~Bars~~ and ~~than~~
7 attached bars at the earlier of (1) an established time when the kitchen ceases
8 servicing dinner meals or (2) 10:00 p.m.; provided that smoke from these places
9 does not infiltrate into areas where smoking is prohibited under the provisions of
10 this article.

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

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

18 (d) Retail tobacco stores; provided that smoke from these places does
19 not infiltrate into areas where smoking is prohibited under the provisions of this
20 Article.

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

26 (f) Outdoor areas of places of employment except those covered by
27 the provisions of § 3174 and § 3176.

28 (g) Designated smoking section or sections, not more than ten percent
29 of the total square footage of the common areas of a hotel, motel, transient place

1 of abode, bar, restaurant, pub, club, lounge, golf resort, or airport terminal upon
2 application to the Department of Public Health and payment of annual fee of
3 \$2,000.

4 **§ 31776. Full Exemption.** Any private establishment, whether in an
5 enclosed area or not, that is open for business to the general public may apply to
6 the Department of Public health for full exemption under this article upon
7 payment of an annual fee of \$10,000.

8 **§ 31787. Declaration of establishment as non-smoking.**
9 Notwithstanding any other provision of this article, an owner, operator, manager,
10 or other person in control of an establishment, facility, or outdoor area may
11 declare that entire establishment, facility, or outdoor area as a nonsmoking place,
12 including the outdoor area within 15 feet of the entrance or exit to such
13 establishment. Smoking shall be prohibited in any place in which a sign
14 conforming to the requirements of § 31798(a) is posted.

15 **§ 31798. Posting of signs.**

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

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

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

27 **§ 318079. Non-retaliation.** No person or employer shall discharge, refuse
28 to hire, or in any manner retaliate against an employee, applicant for employment,
29 or customer because that employee, applicant, or customer exercises any rights

1 afforded by this article or reports or attempts to prosecute a violation of this
2 article.

3 **§ 31810. Enforcement.**

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

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

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

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

14 (e) An owner, manager, operator, or employee of an establishment
15 regulated by this article shall inform persons violating this article of the
16 appropriate provisions thereof, report the violation to the Department of Public
17 Safety and Department of Public Health as soon as practicable and may request
18 assistance from the Department of Public Safety if such assistance is deemed
19 necessary to stop the violation and physically remove the person or persons
20 causing the violation.

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

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

29 **§ 31821. Violations and penalties.**

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

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

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

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

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

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

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

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

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

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

25 **§ 31832. Public education.** The Department of Public Health shall engage
26 in a continuing program to explain and clarify the purposes and requirements of
27 this article to citizens affected by it, and to guide owners, operators, and managers
28 in their compliance with it. The program may include publication of a brochure
29 for affected businesses and individuals explaining the provisions of this article.

1 **§ 31843. Governmental agency cooperation.** The Secretary of the
2 Department of Public Health shall annually request other governmental branches,
3 departments, and autonomous agencies having facilities within the
4 Commonwealth of the Northern Mariana Islands to establish local operating
5 procedures in cooperation and compliance with this article. This includes urging
6 all federal agencies and the Public School System to update their existing
7 smoking control regulations to be consistent with the current health findings
8 regarding secondhand smoke.

9 **§ 31854. Prohibition of the use of cigarettes or any tobacco products**
10 **as prizes.** The use of any device, amusement machine game, raffle, fund-raising
11 or prize to aid, promote or induce sales or purchases of cigarettes or any tobacco
12 products or the giving of any cigarettes or any tobacco products in connection
13 with any device, amusement machine game, raffle, fund-raising or prize is
14 prohibited. Any person who knowingly violates this provision is guilty of a
15 misdemeanor and upon conviction shall be punished by a fine of \$500 per
16 violation.

17 **§ 31865. Disposition of fines.**

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

20 (b) Fifty percent (50%) of the fines collected pursuant to this article
21 shall be allocated to the Department of Public Health for enforcement purposes.
22 The Secretary of Finance shall establish a “Smoke-free Enforcement” revolving
23 account for this purpose. The Secretary of the Department of Public Health shall
24 be the expenditure authority of the “Smoke-free Enforcement” account. Funds in
25 the account shall be available for expenditure without further appropriation by the
26 legislature.

27 (c) Funds allocated to this account shall not be reprogrammed for any
28 other purpose.

1 § 31876. **Other applicable laws.** This article shall not be interpreted or
2 construed to permit smoking where it is otherwise restricted by other applicable
3 laws.”

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

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

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

17

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