

TITLE 6: CRIMES AND CRIMINAL PROCEDURES
DIVISION 3: MISCELLANEOUS OFFENSES

§ 3171. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section unless the context clearly indicates otherwise:

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

(b) “Bar” means an establishment that 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 those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

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

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

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

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

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

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

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

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

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

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

(m) “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.

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

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

(p) “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, electronic cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.

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

(r) “Electronic nicotine delivery system or electronic cigarette” is a battery-powered electronic device and like products, containing nicotine-based liquid that is vaporized and inhaled, used to stimulate the experience of smoking tobacco. This term shall include any such devices whether they are manufactured as e-cigarettes, e-cigars, or under any other product.

Source: [PL 13-38](#), § 4(101); repealed and reenacted by [PL 16-46](#), § 3(3171), modified; subsection (p) was amended and subsection (r) was enacted by [PL 19-32](#) §§ 2–3 (Feb. 11, 2016), modified.

Commission Comment: [PL 13-38](#) took effect on December 13, 2002. [PL 13-38](#) established a Tobacco Control Fund (codified as [3 CMC § 2191](#)) wherein a portion of the collections from [4 CMC § 1402\(a\)\(16\)](#) along with other collections are credited to, and contained the following findings and purpose, in addition to a severability clause:

Section 1. Findings and Purpose. Cigarette Smoking is the single most critical risk associated with the leading chronic diseases in the CNMI,

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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.

The Commission removed figures that repeated words pursuant to [1 CMC § 3806\(e\)](#). Public Law 16-46, effective September 29, 2009, contained severability and savings clause provisions and the following:

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

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

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

2. An estimated 3,000 lung cancer deaths and more than 35,000 coronary heart disease deaths occur annually among adult nonsmokers in the United States as a result of exposure to secondhand smoke. Approximately 60% of non-smokers in the United States have biological evidence of secondhand smoke exposure. (*Secondhand Smoke*. National Center for Chronic Disease Prevention and Health Promotion. Center for Disease Control and Prevention www.cdc.gov/tobacco)

3. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000

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Americans annually. (National Cancer Institute (NCI), "Health Effects of Exposure to Environmental Tobacco Smoke: the Report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," *Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI)*, August 1999.)

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

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

6. Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (Cal EPA), "Health Effects of Exposure to Environmental Tobacco Smoke", *Tobacco Control* 6(4): 246-353, Winter, 1997.)

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

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

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

10. A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association Between Exposure to Environmental Tobacco Smoke and the Development of Acute Coronary Syndromes: the CARD102000 Case-control Study," *Tobacco Control* 11(3): 220-225, September 2002.)

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

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

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

14. It is the duty of the Commonwealth Legislature to provide a healthy and safe environment for the people of the CNMI as well as for visitors to our islands. This includes establishing smoke-free public and workplaces for the benefit of all, and particularly for the elderly and children. Accordingly, the Legislature finds and declares that the purposes of this Act are: (1) to protect the public health and welfare by

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prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

PL 19-32 became effective on February 11, 2016 and included findings and purpose, severability, and savings clauses. The Commission decapitalized “Nicotine Delivery System” and “Electronic” in subsection (r) for the purpose of conformity, pursuant to 1 CMC § 3806(f). The Commission changed “terms” to “term” in subsection (r) pursuant to 1 CMC § 3806(g).