



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

SEP 29 2009

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

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

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law 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." The bill was passed by the House of Representatives and the Senate of the Sixteenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 16-46**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in cursive script, reading "Benigno R. Fitial".

BENIGNO R. FITIAL

cc: Lt. Governor; Attorney General, Office of the Attorney General;
Secretary, Department of Public Health; Commissioner, Department of Public
Safety; Secretary, Department of Commerce; Managing Director, Marianas
Visitors Authority; Judicial Branch; All department and activity heads;
Commissioner of Education, Public School System; President, Northern Marianas
College; All Mayors; All Municipal Councils; Executive Director, Commonwealth
Law Revision Commission; Special Assistant for Programs and Legislative Review



House of Representatives

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. BOX 500586
SAIPAN, MP 96950

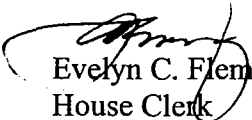
September 11, 2009

The Honorable Benigno R. Fitial
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Fitial:

I have the honor of transmitting herewith for your action **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.", which was passed by the House of Representatives and the Senate of the Sixteenth Northern Marianas Commonwealth Legislature.

Sincerely yours,


Evelyn C. Fleming
House Clerk

Attachment



HOUSE OF REPRESENTATIVES
SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH REGULAR SESSION, 2009

PUBLIC LAW NO. 16-46

House Bill No. 16-47, HD2, SD1, CCS1

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.

In the HOUSE OF REPRESENTATIVES

Offered by Representatives: Justo S. Quitugua and Joseph P. Deleon Guerrero

Date: February 29, 2008

Referred to: Committee on Health, Education and Welfare
Public Hearing: None
Standing Committee Report No. 16-35

Passed First and Final Reading on October 3, 2008

Rejected Senate Amendments on May 19, 2009

Conference Committee Report No. 16-2

Passed Final Reading on September 9, 2009

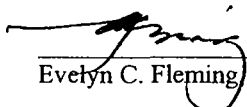
In the SENATE

Referred to Committee on Health and Welfare Programs
Public Hearing: None
Standing Committee Report No. 16-45

Passed First and Final Reading on April 15, 2009

Conference Committee Report No. 16-3

Passed Final Reading on September 3, 2009


Evelyn C. Fleming, House Clerk



HOUSE OF REPRESENTATIVES
SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2008

PUBLIC LAW NO. 16-46
H. B. No. 16-47, HD2, SD1, CCS1

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 2008."

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

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

15 2. An estimated 3,000 lung cancer deaths and more than 35,000 coronary heart disease
16 deaths occur annually among adult nonsmokers in the United States as a result of exposure to
17 secondhand smoke. Approximately 60% of non-smokers in the United States have biological
18 evidence of secondhand smoke exposure. (*Secondhand Smoke*. National Center for Chronic

1 Disease Prevention and Health Promotion. Center for Disease Control and Prevention
2 www.cdc.gov/tobacco)

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

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

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

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

1 EPA), "Health Effects of Exposure to Environmental Tobacco Smoke", *Tobacco Control* 6(4): 346-
2 353, 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 impaired
5 respiratory function to be a disability. (Daynard, R.A., "Environmental Tobacco Smoke and
6 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 and
8 nonsmokers within the same air space may reduce, but does not eliminate, the exposure of
9 nonsmokers to secondhand smoke. (Department of Health and Human Services. *The Health*
10 *Consequences of Involuntary Smoking: A Report of the Surgeon General*. Public Health
11 Service, Centers for Disease Control, 1986.) The Environmental Protection Agency has
12 determined that secondhand smoke cannot be reduced to safe levels in businesses by high
13 rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter
14 and odors in smoke, do not eliminate the known toxins in secondhand smoke.
15 (Environmental Protection Agency (EPA), "Indoor Air Facts No. 5: Environmental Tobacco
16 Smoke," *Washington, D.C.: Environmental Protection Agency (EPA)*, June 1989.)

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

25 10. A significant amount of secondhand smoke exposure occurs in the workplace.
26 Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack
27 and higher rates of death from cardiovascular disease and cancer, as well as increased acute
28 respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos,
29 D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P.,

1 "Association Between Exposure to Environmental Tobacco Smoke and the Development of
2 Acute Coronary Syndromes: the CARDIO2000 Case-control Study," *Tobacco Control* 11(3):
3 220-225, September 2002.)

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

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

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

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

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

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

4 **§ 3171. Definitions**

5 **§ 3172. Prohibition of smoking in government facilities**

6 **§ 3173. Prohibition of smoking in public places**

7 **§ 3174. Prohibition of smoking in places of employment**

8 **§ 3175. Prohibition of smoking on property of the Public School System**

9 **§ 3176. Reasonable distance**

10 **§ 3177. Where smoking not regulated**

11 **§ 3178. Declaration of establishment as non-smoking**

12 **§ 3179. Posting of signs**

13 **§ 3780. Non-retaliation**

14 **§ 3181. Enforcement**

15 **§ 3182. Violations and penalties**

16 **§ 3183. Public education**

17 **§ 3184. Governmental agency cooperation**

18 **§ 3185. Prohibition of the use of cigarettes or tobacco products as prizes**

19 **§ 3186. Disposition of fines**

20 **§ 3187. Other applicable law**

21 **§ 3171. Definitions.** The following words and phrases, whenever used in this
22 article, shall be construed as defined in this section unless the context clearly indicates
23 otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 § 3172. Prohibition of smoking in government facilities. Except as
6 otherwise provided for in this article, smoking is prohibited in all enclosed areas and
7 outdoor areas within 25 feet of any doorway entrance or exit to a government facility
8 that is owned, leased or operated by the Government of the Commonwealth of the
9 Northern Mariana Islands or any instrumentality thereof, including but not limited to
10 office buildings, warehouses and vehicles owned or leased by the same; provided that
11 the head of any department, agency, board, commission, authority, corporation or
12 entity of the Commonwealth Government, including municipalities and agencies
13 thereof, may by regulation adopt prohibitions against smoking that are more stringent
14 than those provided in this article.

15 § 3173. Prohibition of smoking in public places. Except as otherwise
16 provided in this article, smoking is hereby prohibited in all enclosed areas of public
17 places within the Commonwealth of the Northern Mariana Islands, including but not
18 limited to the following:

- 19 (a) Galleries, libraries, and museums.
- 20 (b) Areas available to and customarily used by the general public in
21 businesses and non-profit entities patronized by the public, including but not limited
22 to, professional offices, banks, laundromats, hotels, and motels.
- 23 (c) Educational facilities, both public and private.
- 24 (d) Elevators.
- 25 (e) Facilities primarily used for exhibiting a motion picture, stage, drama,
26 lecture, musical recital, or other similar performance.
- 27 (f) Health care facilities.
- 28 (g) Licensed child care and adult day care facilities.

1 (h) Lobbies, hallways, and other common areas in apartment buildings,
2 condominiums, retirement facilities, nursing homes, and other multiple-unit
3 residential facilities.

4 (i) Polling places.

5 (j) Buses and taxicabs.

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

8 (l) Restrooms, lobbies, reception areas, hallways, and other common-use
9 areas.

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

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

14 (o) Service lines.

15 (p) Shopping malls.

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

17 **§ 3174. Prohibition of smoking in places of employment.**

18 (a) To the extent otherwise permitted pursuant to this article, smoking shall be
19 prohibited in all enclosed facilities within places of employment, or within 25 feet of
20 any person who is not smoking if the place or site of work is an outdoor area or area
21 other than an enclosed area, without exception. This includes common work areas,
22 auditoriums, classrooms, conference and meeting rooms, private offices, elevators,
23 hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles,
24 and all other enclosed facilities.

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

1 (c) Employers, including employees, agents, subagents, or any person acting
2 on behalf of the employer at the place of employment, shall have the duty to assist the
3 Department of Public Health with the enforcement of this section by reporting a
4 violation under this section immediately to the Department of Public Health. Failure
5 to report may subject the person, persons and the employer to the penalties under
6 § 3182(b).

7 **§ 3175. Prohibition of smoking on property of the Public School System.**

8 (a) It shall be unlawful at all times for any person or an employee of any
9 public school or college to smoke on school or college property. Any person or
10 employee who knowingly violates this section shall be subject to the penalties under
11 § 3182 of this Article.

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

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

19 **§ 3176. Reasonable distance.** Smoking is prohibited within a reasonable
20 distance of 25 feet outside an enclosed area where smoking is prohibited, so as to
21 insure that tobacco smoke does not enter the area through entrances, windows,
22 ventilation systems, or other means. In no case shall this provision be used to apply
23 or permit smoking on school or college property.

24 **§ 3177. Where smoking not regulated.** Notwithstanding any provision of
25 this article to the contrary, the following areas shall be exempt from the provisions of
26 §§ 3173 and 3174:

27 (a) Bars, including open air bars, but not attached bars, at the earlier of (1)
28 an established time when the kitchen ceases servicing dinner meals or (2) 10:00 p.m.;

1 provided that smoke from these places does not infiltrate into areas where smoking is
2 prohibited under the provisions of this article.

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

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

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

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

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

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

20 **§ 3178. Declaration of establishment as non-smoking.** Notwithstanding any
21 other provision of this article, an owner, operator, manager, or other person in control
22 of an establishment, facility, or outdoor area may declare that entire establishment,
23 facility, or outdoor area as a nonsmoking place, including the outdoor area within 25
24 feet of the entrance or exit to such establishment. Smoking shall be prohibited in any
25 place in which a sign conforming to the requirements of § 3179(a) is posted.

26 **§ 3179. Posting of signs.**

27 (a) "No Smoking" signs or the international "No Smoking" symbol (consisting
28 of a pictorial representation of a burning cigarette enclosed in a red circle with a red
29 bar across it) shall be clearly and conspicuously posted in every public place and

1 place of employment where smoking is prohibited by this article, by the owner,
2 operator, manager, or other person in control of that place.

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

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

9 **§ 3180. Non-retaliation.** No person or employer shall discharge, refuse to
10 hire, or in any manner retaliate against an employee, applicant for employment, or
11 customer because that employee, applicant, or customer exercises any rights afforded
12 by this article or reports or attempts to prosecute a violation of this article.

13 **§ 3181. Enforcement.**

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

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

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

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

24 (e) An owner, manager, operator, or employee of an establishment regulated
25 by this article shall inform persons violating this article of the appropriate provisions
26 thereof, report the violation to the Department of Public Safety and Department of
27 Public Health as soon as practicable and may request assistance from the Department
28 of Public Safety if such assistance is deemed necessary to stop the violation and
29 physically remove the person or persons causing the violation.

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

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

8 **§ 3182. Violations and penalties.**

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

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

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

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

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

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

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

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

26 (c) In addition to the fines established by this section, violation of this
27 article by a person who owns, manages, operates, or otherwise controls a public
28 place or place of employment may result in the suspension or revocation of any

1 business license issued to the person for the premises on which the violation
2 occurred.

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

5 **§ 3183. Public education.** The Department of Public Health shall engage in a
6 continuing program to explain and clarify the purposes and requirements of this
7 article to citizens affected by it, and to guide owners, operators, and managers in their
8 compliance with it. The program may include publication of a brochure for affected
9 businesses and individuals explaining the provisions of this article.

10 **§ 3184. Governmental agency cooperation.** The Secretary of the Department
11 of Public Health shall annually request other governmental branches, departments,
12 and autonomous agencies having facilities within the Commonwealth of the Northern
13 Mariana Islands to establish local operating procedures in cooperation and
14 compliance with this article. This includes urging all federal agencies and the Public
15 School System to update their existing smoking control regulations to be consistent
16 with the current health findings regarding secondhand smoke.

17 **§ 3185. Prohibition of the use of cigarettes or any tobacco products as**
18 **prizes.** The use of any device, amusement machine game, raffle, fund-raising or prize
19 to aid, promote or induce sales or purchases of cigarettes or any tobacco products or
20 the giving of any cigarettes or any tobacco products in connection with any device,
21 amusement machine game, raffle, fund-raising or prize is prohibited. Any person
22 who knowingly violates this provision is guilty of a misdemeanor and upon
23 conviction shall be punished by a fine of \$500 per violation.

24 **§ 3186. Disposition of fines.**

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

27 (b) Fifty percent (50%) of the fines collected pursuant to this article shall
28 be allocated to the Department of Public Health for enforcement purposes. The

1 Secretary of Finance shall establish a “Smoke-free Enforcement” revolving account
2 for this purpose. The Secretary of the Department of Public Health shall be the
3 expenditure authority of the “Smoke-free Enforcement” account. Funds in the
4 account shall be available for expenditure without further appropriation by the
5 legislature.

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

8 § 3187. **Other applicable laws.** This article shall not be interpreted or construed to
9 permit smoking where it is otherwise restricted by other applicable laws.”

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

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

1
2
3

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

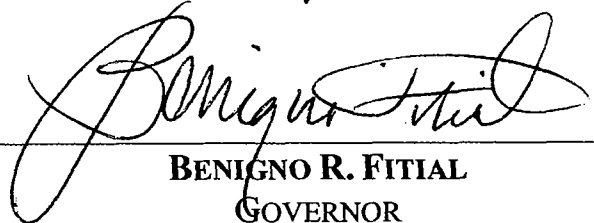
CERTIFIED BY:

ATTESTED TO BY:


ARNOLD I. PALACIOS
SPEAKER OF THE HOUSE


EVELYN C. FLEMING
HOUSE CLERK

APPROVED on this 29th day of SEPTEMBER, 2009


BENIGNO R. FITIAL
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS