



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

STANDING COMMITTEE REPORT NO.22- **22.43**
Date: July 28, 2021
RE: House Bill No. 22-12

Honorable Jude U. Hofschneider
President of the Senate
Twenty-Second Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President:

Your Committee on Judiciary, Government, Law and Federal Relations, to which was referred House Bill No. 22-12, entitled:

“To amend 4 CMC § 51420 (b) to authorize the Secretary of Commerce to establish and promulgate reasonable registration and permitting fees through adopted regulations; and for other purposes.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion and deliberation, your Committee recommends passing House Bill No. 22-12 in original form.

II. ANALYSIS:

A) Purpose:

The purpose of House Bill No. 22-12 is to amend 4 CMC § 51420 (b) to allow the Secretary of Commerce to promulgate and establish reasonable registration and permitting fees through adopted regulations.

B) Committee Findings:

Your Committee finds that Public Law 19-28 §2 (101)-(102) (December 18, 2015), as codified under 4 CMC § 51420, mandates that all vehicles which belong to tour companies be registered and issued a permit by the Department of Commerce so that they will be accounted for within the Commonwealth. Additionally, your Committee finds that Public Law 19-28 did not specify how the Department of Commerce may establish reasonable registration and permitting fees. The proposed legislation aims to address these concerns and allow fees aforementioned to be deposited into a revolving fund that will be used by the Department of Commerce to carry out the intent of Public Law 19-28.

Your Committee convened on July 28, 2021 to discuss the provisions of the proposed legislation. No member objected to the passage of House Bill No. 22-12 as it intends to provide the Secretary of Commerce the authority to establish reasonable fees as it was not clarified in Public Law 19-28. It is for this reason that your Committee strongly supports the provisions proposed in House Bill No. 22-12 and recommends its passage in current form.

C) Legislative History:

House Bill No. 22-12 was formally introduced by the late Representative Ivan A. Blanco, Rep. Roy C.A. Ada, Rep. Blas Jonathan “BJ” Attao, Rep. Joel C. Camacho, Rep. Angel A. Demapan, Rep. Joseph A. Flores, Rep. Joseph Leepan T. Guerrero, and Rep. John Paul P. Sablan on January 27, 2021 and was subsequently referred to the Senate Standing Committee on Judiciary, Government, Law and Federal Relations for disposition on June 24, 2021.

D) Public Hearing and Comment:

No public hearing was scheduled for House Bill No. 22-12; however, a Committee Meeting, which is open to the public, was held on July 28, 2021 to deliberate on the provisions stated in the proposed legislation. The meeting notices and agenda were officially posted on various legislative forums and social media to invite members of the general public to provide comments as indicated under *Item IV. Public Comments* of the agenda. However, no public comment was received by your Committee.

Your Committee requested for comments with a deadline to respond by July 9, 2021 and July 13, 2021. To date, status of comments received from the foregoing government agencies are as follows:

1. Secretary of Finance; *Received July 12, 2021*
2. 16th Saipan Municipal Council; *Received July 12, 2021*
3. Office of the Attorney General; *Received August 6, 2021*

E) Estimated Fiscal Cost:

The enactment of House Bill No. 22-12 may result in additional costs to the CNMI government for purposes of hiring additional staff and other resources for enforcement purposes. However, the proposed legislation aims to generate additional revenues to offset any cost that may incur.

F) Summary of Committee Amendments:

None.

III. CONCLUSION:

Your Committee agrees to the proposed amendments and the intent of House Bill No. 22-12 and recommends its passage in original form.

Respectfully submitted,



Senator Karl R. King-Nabors
Chairperson



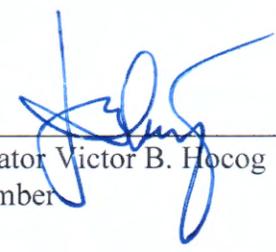
Senator Francisco Q. Cruz
Member



Senator Justo S. Quitugua
Member



Senator Vinnie F. Sablan
Vice Chairperson



Senator Victor B. Hocog
Member

Reviewed by:



Senate Legal Counsel

Attachment(s):

- *3 Written Comments:*
 1. Secretary of Finance; *Received July 12, 2021*
 2. 16th Saipan Municipal Council; *Received July 12, 2021*
 3. Office of the Attorney General; *Received August 6, 2021*

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 2021

First Regular Session, 2021

H. B. 22-12

A BILL FOR AN ACT

To amend 4 CMC § 51420 (b) to authorize the Secretary of Commerce to establish and promulgate reasonable registration and permitting fees through adopted regulations; and for other purposes.

**BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature finds
2 that Public Law 19-28, § 2 (101)–(102) (Dec. 18, 2015), codified under
3 4 CMC, § 51420, requires each vehicle belonging to tour companies be registered
4 and issued a permit by the Department of Commerce so that they will be accounted
5 for within the Commonwealth, most especially those that provide services for
6 profit. However, Public Law 19-28 did not provide clarity with respect to how the
7 Department of Commerce will establish reasonable registration and permitting fees.

8 Therefore, the purpose of this legislation is to amend 4 CMC, § 51420 (b),
9 to empower the Secretary of Commerce to promulgate and establish through
10 adopted regulations reasonable registration and permitting fees, and for other
11 purposes.

1 **Section 2. Amendment.** 4 CMC § 51420 (b) is hereby amended to read as
2 follows:

3 ~~“(b) The Secretary of Commerce shall promulgate rules and~~
4 ~~regulations consistent with this section.~~ Consistent with this Section, the
5 Secretary of Commerce shall have the authority to promulgate and establish
6 reasonable registration and permitting fees through adopted regulations for
7 the following vehicles belonging to tour operators:

8 (1) Any vehicle registered under the tour operator that
9 provides services for profit.

10 (c) Disposition of Registration and Permitting Fees. The Secretary
11 of Finance shall establish a Commerce Revolving Fund Account which
12 shall be accounted for separately from the General Fund. The funds
13 deposited into the revolving account shall be exclusively used for the
14 purpose of the administration of tour operator registration and permitting
15 program, enforcement, training and outreach programs, and shall also be
16 administered for personnel compensation such as overtime and night
17 differential during special inspection assignments issued by the Secretary
18 of Commerce.

19 The expenditure authority over the revolving account pursuant to
20 this Act is vested in the Secretary of Commerce. The funds deposited in the

1 revolving account shall be available for expenditure without further
2 appropriation and without fiscal year limitations.

3 (d) The Secretary of Commerce shall submit a report describing the
4 account status, deposits and detail expenditure of the revolving account
5 established under subsection (c) of this section. The report shall be
6 submitted not later than 30 days after June 30th of each year to the
7 chairpersons of the House Standing Committee on Ways and Means and the
8 Senate Standing Committee on Fiscal Affairs.”

9 **Section 3. Severability.** If any provision of this Act or the application of
10 any such provision to any person or circumstance should be held invalid by a court
11 of competent jurisdiction, the remainder of this Act or the application of its
12 provisions to persons or circumstances other than those to which it is held invalid
13 shall not be affected thereby.

14 **Section 4. Savings Clause.** This Act and any repealer contained herein shall
15 not be construed as affecting any existing right acquired under contract or acquired
16 under statutes repealed or under any rule, regulation or order adopted under the
17 statutes. Repealers contained in this Act shall not affect any proceeding instituted
18 under or pursuant to prior law. The enactment of this Act shall not have the effect
19 of terminating, or in any way modifying, any liability civil or criminal, which shall
20 already be in existence at the date this Act becomes effective.

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

Prefiled: 1/27/2021

Date: 1/27/2021

Introduced by: /s/ Rep. Ivan A. Blanco
/s/ Rep. Roy C.A. Ada
/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Joel C. Camacho
/s/ Rep. Angel A. Demapan
/s/ Rep. Joseph A. Flores
/s/ Rep. Joseph Leepan T. Guerrero
/s/ Rep. John Paul P. Sablan

Reviewed for Legal Sufficiency by:

/s/ John F. Cool
House Legal Counsel



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRB SAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

July 12, 2021

SFL 2021-195

Hon. Karl R. King-Nabors
Chairman
Senate Standing Committee on Judiciary,
Government, Law and Federal Relations
22nd Northern Marianas Commonwealth Legislature
P.O. Box 500129, Saipan MP 96950
Telephone: 1-(670)-664-8858



Subject: Commonwealth of the Northern Mariana Islands (CNMI) Department of Finance Comments and Recommendations on House Bill 22-12, "To amend 4 CMC § 51420 (b) to authorize the Secretary of Commerce to establish and promulgate reasonable registration and permitting fees through adopted regulations; and for other purposes."

Dear Chairman King-Nabors:

On behalf of the CNMI Department of Finance, it is a pleasure to provide the Senate Standing Committee on Judiciary, Government, Law and Federal Relations our comments and recommendations on House Bill 22-12, to amend 4 CMC § 51420 (b) to authorize the Secretary of Commerce to promulgate and establish reasonable registration and permitting fees for any vehicles registered under tour operators that provide services for profit.

Upon further review of the amended language of this legislation, the Department of Finance is pleased to continue its support of House Bill 22-12.

While I commend the Legislature for the inclusion of the outline identifying the authority and use of funds for accountability and enhanced internal control, as the Secretary of Finance, I am compelled to restate the need to replenish the general fund. As important as it is to ensure use of funds are properly regulated, the continued earmarks of potential revenues pose a concern with regards to the Commonwealth's ability to provide for administrative obligations levied against the account, most especially in anticipation of the Fiscal Year 2022 Budget due on October 1, 2021.

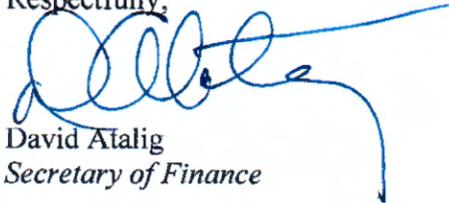
The fiscal rigidities that result in the application of legislated earmarks on government revenue sources create constraints to the ability of the government to respond to the changing circumstances in the community, establish new methods of addressing urgent policy objectives, and hinders the ability of the government to sufficiently address circumstances of revenue shortfalls. While the CNMI has been a grateful recipient of significant federal assistance to respond

to the pandemic, this funding will expire, and the limitations placed on the use and availability of general fund revenues will continue to impact the resiliency of the government's finances should the next disaster occur. As exemplified in the CNMI's response to this present crisis, flexibility in the allocation of funds through regular appropriation cycles, allows for the prudent prioritization of limited government resources to ensure the health and safety of the population.

Overall, this program fits within the government's overall policy of developing a tourism market in which its stakeholders are responsible for the overall wellbeing of our visitors. I recommend including coordinating measures to enhance this priority by ensuring that tour operator registrations are tied to the existing tour guide certification process codified under 4 CMC § 2173.

On behalf of the CNMI Department of Finance, I thank you for the opportunity to provide this letter. If you have any questions or need additional information, please do not hesitate to contact me at 664-1100 or email via david.atalig@dof.gov.mp.

Respectfully,

A handwritten signature in blue ink, appearing to read 'David Atalig', with a long horizontal stroke extending to the right and a curved line ending in an arrowhead pointing downwards.

David Atalig
Secretary of Finance



**16th SAIPAN AND NORTHERN ISLANDS
MUNICIPAL COUNCIL**

P.O. Box 500309 CK, Saipan, MP. 96950-0309
Telephone # (670) 664-2700/2701 • email: spnmunicipalcouncil@gmail.com

Ana Demapan-Castro
Chairperson

Antonia M. Tudela
Vice Chairperson & Secretary

Daniel I. Aquino
Council member

July 12, 2021

Honorable Karl King-Nabors
Chairman
Committee on Judiciary, Government,
Law and Federal Relations
Twenty-Second Northern Marianas Commonwealth Legislature
Saipan, MP 96950



Re: Comments on H.B. 22-12, H.B. 22-18 and H.B. 22-29, respectively.

Dear Chairman King-Nabors,

Hafa Adai!

The Sixteenth Saipan and Northern Islands Municipal Council hereby submits the comments as requested in your letter of June 28, 2021, from the Standing Senate Committee on Judiciary, Government, Law and Federal Relations on the following proposed legislations referred to your Committee for actions:

H.B. No. 22-12: To amend 4 CMC Section 1420(b) to authorize the Secretary of Commerce to establish and promulgate reasonable registration and permitting fees through adopted regulations; and for other purposes.

Authored by: Rep. Ivan Blanco and Seven Others

Council's Comment:

We support the intent of this proposed legislation as this would strengthen and protect our tourism industry; and clear intention that this registration and permitting fees are distinct and separate from the registration and permitting fees of the Department of Public - Safety Bureau of Motor Vehicle.

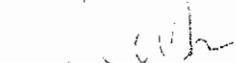
Further, it would support the Department of Commerce to enhance the efficiency of its operation to fulfill its mandated responsibilities. Furthermore, it is the intent of this proposed legislation for the Department of Commerce to be accountable to the laws, rules, and regulations in the establishment of its registration and permitting fees affecting tour operators in the CNMI. And more importantly, to identify and secure adequate funding source for the department's enforcement personnel.

In NMI Constitution Article X, Section 8, require the Department of Finance to ensure disbursement of public funds are for a public purpose. The Department of Finance created and adopted "*Regulations for the Control of Public Funds*" to achieve their constitutional mandate. These regulations and mandates by DOF to ensure compliance and accountability in the disbursement of all public funds. Whether the DOF needs additional enforcement criteria to satisfy the disbursement and/or accountability is separate from the Legislature's constitutional authority to operate independently, within the bounds of the law, as a separate branch of in the CNMI government as prescribed in NMI Constitution, Article II.

It is the Council's recommendation to further analyze the constitutional power of the Department of Finance through its power to establish regulations to enforce "*accountability of public funds expended*" by the government. This might be the most appropriate venue in the enforcement and accountability of all public funds expended by the government. In the same token, this would continue to allow the members of the legislature to independently decide the use of their appropriated funds to operate their elected offices efficiently and independently based on the demand by their duties and responsibilities to serve the public, and as a separate branch of our constitutional government.

More importantly, this proposed legislation appears or seems to create a clear argument of conflicting interpretation of the Constitutional authority within the separate branches of the government. The Council strongly recommends this Committee seek further legal analysis to have a clear understanding behind the motive and intent of this proposed legislation.

Respectfully submitted,


Ana Demapan-Castro
Chairwoman



Commonwealth of the Northern Mariana Islands Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

VIA EMAIL: sen.kking.nabors@gmail.com



August 6, 2021

OAGSEN: 2021-079
LSR No. 21-266

Hon. Karl King-Nabors
Chairman, Committee on Judiciary, Government,
Law and Federal Relations
The Senate
22nd Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Re: HB No. 22-12 (to authorize the Secretary of Commerce to promulgate regulations for reasonable registration and permitting fees); HB 22-18, HD1 (enhanced sentencing for crimes motivated by hate); HB 22-29 (repeal the public purpose presumption for legislative expenditures)

Dear Chairman King-Nabors:

Thank you for the opportunity to comment on the following legislation that are pending in your Committee: HB 22-12 (authorize regulations to set reasonable registration and permitting fees for tour company vehicles); HB 22-18, HD1 (enhanced sentencing for crimes motivated by hate); and HB 22-29 (repeal the public purpose presumption for legislative expenditures)

HB 22-12 (tour company vehicles registration fee)

The Bill will authorize the Secretary of Commerce to set fees for the registration of tour company vehicles with the Department of Commerce. This registration is duplicative of the registration required by the Bureau of Motor Vehicle. The rationale for the dual registration and fee collection of tour company vehicles by two government agencies is unclear.

HB 22-18, HD1 (Enhanced sentencing for the commission of crimes motivated by hate)

This Bill enhances the punishment for certain crimes if the defendant was motivated by a prejudice against certain protected classes of people. Such legislation has been approved, so long as the finding is made beyond a reasonable doubt by the trier of fact. *See Ex parte Boyd*, 58 S.W.3d 134 (Tex. Crim. App. 2001)

Civil Division
Telephone: (670) 237-7500
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Criminal Division
Telephone: (670) 237-7600
Facsimile: (670) 234-7016

Attorney General's Investigation Division
Telephone: (670) 237-7627
Facsimile: (670) 234-7016

Victim Witness Advocacy Unit
Telephone: (670) 237-7602
Facsimile: (670) 664-2349

(granting habeas relief because judge, not jury, made finding). The Commonwealth should join the majority of jurisdictions with a hate crime enhancement law.

While House Draft 1 of the Bill incorporates most of my recommendations to the House Standing Committee on Judiciary and Governmental Operations, the language in Section 104 has not changed and is unclear on how a hate crime finding changes sentencing. The language should be replaced with the following:

A minimum of 90 days confinement for a misdemeanor offense; and
A minimum of 180 days confinement for a felony offense.

Clarifying the enhanced sentencing provisions of Section 104 will ensure enforceability and stave off future legal challenges.

HB 22-29 (repeal of the public purpose presumption for legislative expenditures)

The proposed repeal of 1 CMC § 121(i) would subject legislative expenditures to the same standards of accountability and transparency. The bill would also strengthen, rather than undermine, the constitutional mandate in Section 8 of Article X of the Commonwealth Constitution that the expenditure of public funds must be for public purposes.

Please let me know if you have any questions.

Sincerely,



EDWARD MANIBUSAN
Attorney General

cc: All Members, The Senate