



TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

P.O. BOX 500586 SAIPAN, MP 96950

RALPH N. YUMUL

CHAIRMAN

STANDING COMMITTEE REPORT NO. 23-11

DATE: April 4, 2023

RE: HOUSE BILL No. 23-7

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Third Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred:

House Bill No. 23-7: "To amend 4 CMC §1401(d) to increase revenues by properly taxing tobacco products."

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. NO. 23-7 be passed by the House in its current form.

HOUSE CLERK'S OFC

RECEIVED BY *fl*

DATE 04/13 TIME 3:39pm

II. ANALYSIS:

A. Purpose:

The purpose of this Act is to amend 4 CMC, §1401(d) to increase revenues by properly taxing tobacco products.

B. Committee Findings:

Your Committee finds that the CNMI's current definition of "cigarette" under 4 CMC § 1401(d) of its excise tax laws allows for certain tobacco products to avoid the excise tax rate imposed on cigarettes. Specifically, tobacco products that are labelled as "cigars" or "filtered cigars" (also known as "little cigars"), when upon consideration of their packaging, design, intended use, and actual use, are more like cigarettes than cigars. Your Committee finds that other jurisdictions have recognized "little cigars" as cigarettes for state excise tax purposes, or otherwise increased the taxes imposed on these products to the same rate as cigarettes, to tax these products for what they are and appear to be, and not based solely on the labelling. This Act is updating the definition of "cigarette" in order to properly tax tobacco products.

Moreover, your Committee finds that tobacco tax increases are one of the most effective ways to reduce smoking and other tobacco use, especially among kids. Nationally, every 10 percent increase in cigarette prices reduces youth smoking by about seven percent and total cigarette consumption by about four percent. Every state that has significantly increased its cigarette tax has enjoyed substantial increases in revenue, even while reducing smoking. Higher tobacco taxes also save money by reducing tobacco-related health care costs, including Medicaid expenses. The CNMI can realize even greater health benefits and cost savings by allocating some of the revenue to programs that prevent children from smoking and help smokers quit.

Your Committee finds that to ensure that all tobacco products are properly taxed, that the proposed amendments are necessary and is a proper use of legislative power. In addition, reducing tobacco health related care costs, the substantial increase in revenue, and the potential reduction in youth smoking, your Committee agrees with the intent and purpose of House Bill No. 23-7 and recommends that the House pass the legislation in its current form.

C. Public Comments/Public Hearing:

The Committee did not solicit comments for House Bill 23-7, however, during the 21st Legislature comments were received from the following:

- 1) Hon. Edward Manibusan, CNMI Attorney General
- 2) Mr. David Atalig, Secretary, Department of Finance
- 3) Mr. Jose Mafnas, Director, Division of Customs
- 4) Saipan Chamber of Commerce

Comments received from the CNMI AG recommended several amendments that the Committee had incorporated into the Act. Secretary Atalig stated, "For the following reasons, the Department of Finance finds itself in support of the proposed amendment...". Director Mafnas stated, "Customs is in support of the amendment to ensure proper taxation of all tobacco products." Executive Director Laszlo stated, "SCC will not be submitting a position on this bill." All four comments were attached as part of House Standing Committee Report 21-61.

In the 22nd Legislature, two similar legislations were introduced and merged to create an Act that would update the definition of tobacco products in the CNMI's excise tax laws; bring tobacco tax rates to the recommended level; set tobacco tax rates to increase with inflation; and invest tobacco tax revenues in health promotion and disease prevention and control programs in the CNMI.

Comments were received from the following and were attached as part of House Standing Committee Report 22-17.

- 1) Esther L. Muna, Chief Executive Officer, CHCC and Lauri B. Ogumoro, Chairperson, Board of Trustees
- 2) Charnessa Lizama, Coordinator, Tobacco Prevention and Control Program, CHCC
- 3) Hannah Isabel Shai, Coordinator, Diabetes Prevention and Control Program, CHCC
- 4) Kaitlyn Neises-Mocanu, Special Assistant for Policy, Sustainability and Development, CHCC.
- 5) Amber Mendiola, Community Member
- 6) David R. Maratita, Director, Alcoholic Beverage and Tobacco Control (ABTC), Department of Commerce
- 7) David DLG. Atalig, Secretary, Department of Finance

D. Legislative History:

House Bill No. 23-7 was introduced by Representative John Paul P. Sablan on February 03, 2023 and was subsequently referred to the House Standing Committee on Ways and Means for disposition.

Similar legislations were introduced and passed by the 21st and 22nd House of Representatives.

E. Cost-Benefit Analysis:


If implemented, HB 23-07 will increase tobacco tax collections for a category of tobacco products not currently taxed. This will apply a tax imposed on “roll your own” tobacco products purchased by consumers to make themselves. The potential collections for a scenario of a pack containing .45 ounces in each pack sold at a price of \$8 per package, would amount to approximately \$4.80. If a total of 1,000 packages were sold within the CNMI a year, this would increase excise tax collections for these tobacco products by \$4,800. A breakdown of the figures is shown below.

<u>Tobacco Product Type</u>	<u>Value</u>	<u>60% Ad Valorem Excise Tax</u>
Roll your own - Cigarettes - .45 ounces	\$8	\$4.80
<u>Total Packages Sold</u>	<u>Total Value</u>	<u>60% Ad Valorem Total</u>
1,000	\$8,000	\$4,800


III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 23-7 and recommends its passage in its current form.


Respectfully submitted,



Rep. Ralph N. Yumul, Chairman

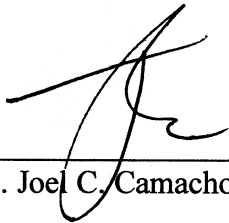


Rep. Blas Jonathan “BJ” T. Attao, Vice Chair



Rep. Roman C. Benavente, Member

Rep. Angelo A. Camacho, Member



Rep. Joel C. Camacho, Member

Rep. Vicente C. Camacho, Member



Rep. Manny Gregory T. Castro, Member

Rep. Joseph A. Flores, Member



Rep. Thomas John BLC. Manglona, Member

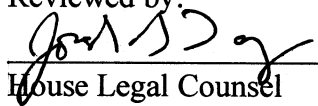
Rep. Julie Marie A. Ogo, Member



Rep. John Paul P. Sablan, Member

Rep. Patrick H. San Nicolas, Member

Reviewed by:



House Legal Counsel

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2023

First Regular Session, 2023

H. B. 23-7

A BILL FOR AN ACT

To amend 4 CMC §1401(d) to increase revenues by properly taxing tobacco products.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Legislative Findings and Intent.** The Legislature finds that the
2 CNMI's current definition of "cigarette" under its Excise Tax laws at
3 4 CMC § 1401(d), allows for certain tobacco products to escape taxation by being
4 classified as "little cigars" when in fact the tobacco products are more like
5 cigarettes. These tobacco products are generally labelled as "little cigars" or
6 "filtered cigars" but upon inspection they appear to be more like cigarettes as they
7 contain filters and may also be flavored. The CNMI has lost significant tax revenues
8 by allowing these "little cigars" or "filtered cigars" to be taxed as cigars based on
9 the labelling of these products. This practice must end.

10 The Legislature further finds that other jurisdictions have recognized and
11 dealt with this issue by enacting legislation to tax tobacco products for what they
12 are, and appear to be, and not based solely on labelling.

1 Therefore, to ensure that all tobacco products are properly taxed, the
2 Legislature finds and declares that this amendment is necessary and is a proper use
3 of legislative power.

4 **Section 2. Amendment.** 4 CMC §1401(d) is hereby amended as follows:

5 “(d) “Cigarette” means and includes ~~any preparation of finely cut~~
6 ~~tobacco or other smokable substance, material, or product rolled in paper~~
7 ~~and enclosed and packed so that it is held together for smoking. The term~~
8 ~~“cigarette” shall not include cigars. any product that contains nicotine, is~~
9 ~~intended to be burned or heated under ordinary conditions of use, and~~
10 ~~consists of or contains (1) any roll of tobacco wrapped in paper or in any~~
11 ~~substance not containing tobacco; or (2) tobacco, in any form, that is~~
12 ~~functional in the product, which, because of its appearance, the type of~~
13 ~~tobacco used in the filler, or its packaging and labeling, is likely to be~~
14 ~~offered to, or purchased by, consumers as a cigarette; or (3) any roll of~~
15 ~~tobacco wrapped in any substance containing tobacco which, because of its~~
16 ~~appearance, the type of tobacco used in the filler, or its packaging and~~
17 ~~labeling, is likely to be offered to, or purchased by, consumers as a cigarette~~
18 ~~described in clause (1) of this definition. The term “cigarette” includes “roll-~~
19 ~~your-own” (i.e., any tobacco which, because of its appearance, type,~~
20 ~~packaging, or labeling is suitable for use and likely to be offered to, or~~
21 ~~purchased by, consumers as tobacco for making cigarettes). For purposes of~~

1 this definition of “cigarette”, 0.09 ounces of “roll-your-own” tobacco shall
2 constitute one individual “cigarette”.”

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

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

15 **Section 5. Effective Date.** This Act shall take effect upon its approval by
16 the Governor, or it becoming law without such approval.

Prefiled: 1/18/2023

Date: 1/18/2023

Introduced by: /s/ Rep. John Paul P. Sablan

/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Roman C. Benavente
/s/ Rep. Angelo A. Camacho
/s/ Rep. Joel C. Camacho
/s/ Rep. Manny G. T. Castro
/s/ Rep. Marissa R. Flores
/s/ Rep. Ralph N. Yumul

Reviewed for Legal Sufficiency by:

/s/ John M. Bradley
House Legal Counsel