

**TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH**

**LEGISLATURE**

**IN THE HOUSE OF REPRESENTATIVES**

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**Regular Session, 2021**

**H. B. 22- 54**

**A BILL FOR AN ACT**

To 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; and for other purposes.

**BE IT ENACTED BY THE 22<sup>ND</sup> NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

1           **Section 1. Findings and Purpose.** The Legislature finds that tobacco use  
2 is a critical risk factor associated with the onset and poor health outcomes of the  
3 most common diseases which burden the Commonwealth of the Northern Mariana  
4 Islands (CNMI or Commonwealth). Non-communicable diseases such as diabetes,  
5 heart disease, and cancer prematurely take the lives of more CNMI residents than  
6 any other cause. Tobacco use is a risk factor for diabetes, heart disease,  
7 hypertension, various cancers, and chronic obstructive pulmonary disease. When  
8 coupled with other unhealthy habits such as poor diet and physical inactivity,  
9 tobacco use has an even greater chance of limiting life expectancy.

10           According to the 2016 CNMI Non-Communicable Diseases and Risk  
11 Factor Hybrid Survey, one out of four (25.2%) of adults in the Commonwealth

1 smoke cigarettes. One out of five (19.1%) adults in the Commonwealth chew  
2 betelnut, and the majority (87.6%) add tobacco to their betelnut. Moreover, the top  
3 three (3) ethnic groups that utilize tobacco are Chamorros, Carolinians, and other  
4 Pacific Islanders. Roughly 35% of all Chamorros, Carolinians, and other Pacific  
5 Islanders were cigarette smokers in 2016, which is 10% higher than the overall  
6 adult smoking rate in the CNMI. The Legislature finds that these ethnic groups are  
7 also disproportionately impacted by non-communicable diseases, and suffer as a  
8 result from lower quality of life and premature death.

9       The Legislature finds that smokers have a 30% to 40% higher risk of type  
10 2 diabetes than nonsmokers, and this risk increases with the number of cigarettes  
11 smoked per day. The Legislature further finds that in 2016, 25% of Chamorro adults  
12 had diabetes. People who have diabetes are also significantly affected by smoking  
13 habits. High levels of nicotine from smoking can impede the efficacy of insulin, so  
14 those with diabetes who smoke need larger doses of insulin to control their blood  
15 sugar. Moreover, when patients with diabetes are able to quit smoking, their  
16 condition can become easier to manage. The Legislature finds that strategies to  
17 reduce tobacco use, such as tobacco taxes, are important strategies to prevent type  
18 2 diabetes in the Commonwealth.

19       The Legislature further finds that in 2016, 58% of all Chamorro adults in  
20 the CNMI had high blood pressure. High blood pressure damages arteries and  
21 veins, which raises the risk of stroke, kidney failure, heart disease, and heart attack.

1 Tobacco use further increases the risk of heart attack and stroke, making Chamorro  
2 adults in the Commonwealth particularly vulnerable to morbidity and mortality due  
3 to poor cardiovascular health.

4 The Legislature finds that according to the 2015 Cancer in U.S Affiliated  
5 Pacific Islands Report (USAPI), Breast Cancer is the leading cancer in the CNMI  
6 followed by Colon & Rectum, Lung & Bronchus, and Uterus. All four cancers have  
7 tobacco as one of the contributing risk factors.

8 The Legislature also finds that according to the 2019 Youth Risk Behavior  
9 Survey (YRBS) conducted by the CNMI Public School System, 26.3% of middle  
10 school students had tried smoking cigarettes. Of the 26.3%, 10.8% first tried  
11 cigarette smoking before 11 years old. Further, 2.2% of middle school students  
12 smoked more than 10 cigarettes per day, 43.4% of all middle schoolers reported  
13 ever trying an electronic vapor product, and 9.6% reported currently using  
14 smokeless tobacco. The 2019 YRBS also reports that 44.8% of high school students  
15 had ever tried smoking cigarettes. Of the 44.8%, 18% first tried cigarette smoking  
16 before 13 years old and 4.1% were smoking more than 10 cigarettes per day. Of  
17 CNMI high school students, 64.5% reported ever trying an electronic vapor  
18 product, and 16.1% reported currently using smokeless tobacco. The Legislature  
19 finds there is much evidence to support that tobacco use at an early age can lead to  
20 more unhealthy behaviors, including alcohol and drug use, as adults. Tobacco  
21 taxation is an especially effective strategy to reduce the likelihood that young



1 people use tobacco. The Legislature finds that reduced consumption of tobacco in  
2 the CNMI will improve health outcomes, enhance quality of life, and extend life  
3 expectancy.

4 The Legislature finds that the World Health Organization (WHO) and the  
5 US Centers for Disease Control and Prevention (CDC) both recommend tax rates  
6 on tobacco to be a minimum of 70% of the retail price in order to increase the price  
7 to reduce the use of tobacco, and that tobacco tax rates be tied to inflation to ensure  
8 that tobacco remains prohibitively expensive to use. The Legislature finds that  
9 current taxation rates fall below this recommended minimum.

10 The Legislature also finds that the CNMI's current definition of "cigarette"  
11 under 4 CMC § 1401(d) of its excise tax laws allows for certain tobacco products  
12 to avoid the excise tax rate imposed on cigarettes. Specifically, tobacco products  
13 that are labelled as "cigars" or "filtered cigars" (also known as "little cigars"), when  
14 upon consideration of their packaging, design, intended use, and actual use, are  
15 more like cigarettes than cigars. The Legislature finds that other jurisdictions have  
16 recognized "little cigars" as cigarettes for state excise tax purposes, or otherwise  
17 increased the taxes imposed on these products to the same rate as cigarettes, to tax  
18 these products for what they are and appear to be, and not based solely on the  
19 labelling.

20 The Legislature further finds that the CNMI's public health and health care  
21 infrastructure lacks the funding necessary to prevent and offset the negative health

1 effects of tobacco use, and to establish sustained non-communicable disease and  
2 risk factor prevention and control programs. Through this Act, the Legislature aims  
3 to update the definition of “cigarette” in the CNMI’s excise tax laws in order to  
4 properly tax tobacco products for what they are; bring tobacco tax rates to the  
5 recommended level; set these rates to increase with inflation; and invest the tobacco  
6 tax revenues into health promotion and disease prevention and control programs  
7 for better health outcomes of CNMI residents.

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

10               “§1401(d) “Cigarette” means and includes ~~any preparation of finely~~  
11 ~~cut tobacco or other smokable substance, material, or product rolled in paper and~~  
12 ~~enclosed and packed so that it is held together for smoking.~~ any product that  
13 contains nicotine, is intended to be burned or heated under ordinary conditions of  
14 use, and consists of or contains: (1) any roll of tobacco wrapped in paper or in any  
15 substance not containing tobacco; or (2) tobacco, in any form, that is functional in  
16 the product, which because of its appearance, the type of tobacco used in the filler,  
17 or its packaging and labeling, is likely to be offered to, or purchased by, consumers  
18 as a cigarette; or (3) any roll of tobacco wrapped in any substance containing  
19 tobacco which, because of its appearance, the type of tobacco used in the filler, or  
20 its packaging and labeling, is likely to be offered to, or purchased by, consumers as  
21 a cigarette described in clause (1) of this definition. The term “cigarette” includes

1 “roll-your-own” tobacco (i.e., any tobacco which, because of its appearance, type,  
2 packaging, or labeling is suitable for use and likely to be offered to, or purchased  
3 by, consumers as tobacco for making cigarettes). For the purposes of this definition  
4 of “cigarette,” 0.09 ounces of “roll-your-own” tobacco shall constitute one  
5 individual “cigarette.” The term “cigarette” shall not include cigars products  
6 wrapped entirely in whole tobacco leaf that do not have a filter.”

7 **Section 3. Amendment.** 4 CMC §1402(a)(16) and (17) are hereby  
8 amended to read as follows:

9 “§1402.

10 (a) General. For the privilege of first sale, use, manufacture, lease or rental  
11 of goods, commodities, resources, or merchandise in the Commonwealth for  
12 business purposes or for personal use exceeding the value specified in subsection  
13 (c) of this section, there is imposed an excise tax as follows:

14 (16) Cigarettes, ~~\$2.75 (two dollars and seventy-five cents)~~ \$4.00  
15 (four dollars) per every twenty cigarettes, or fractional equivalent thereof;  
16 ~~for three years after September 16, 2014 thereafter, \$3.75 (three dollars and~~  
17 ~~seventy-five cents)~~ and thereafter \$0.50 cents per every twenty cigarettes or  
18 fractional equivalent thereof, every calendar year for six years. Beginning  
19 in the calendar year following the sixth year increase, and thereafter every  
20 three calendar years, the tax rate set forth in §1402(a)(16) shall be adjusted  
21 by the CNMI Division of Revenue and Taxation, based on the cumulative



change for the previous three years in the Consumer Price Index (CPI) for all items as determined by the CNMI Department of Commerce. In the case of a reduction in the cumulative Consumer Price Index for Saipan, the tax rate shall remain the same and shall not be reduced. In the event that the requisite CPI data are not available, the CNMI Division of Revenue and Taxation shall use the CPI inflation rates published by the U.S. Bureau of Labor Statistics to calculate the tax rate adjustment;

(17) Tobacco, ~~or tobacco substitutes,~~ or vaporizable products and vaporizer, liquids, chewable tobacco products, ~~or and~~ other smokable or snuffable substance, material or product that contains nicotine, other than cigarettes, ~~sixty~~ seventy-five percent of the invoice price;”

**Section 4. Amendment.** 3 CMC §2177 is hereby amended to read as follows:

“(a) There shall be established a separate fund to be known as the Tobacco Control Fund. There shall be credited to said fund ~~30% of the increase in~~ 45% of the cigarette tax authorized under 4 CMC §1402(a)(16) and 4 CMC §1402(a)(17), together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the Secretary of Finance based on professionally prepared, written analyses; any appropriation, grant, gift, or other contribution explicitly made to said fund; and any income derived from the investment of amounts credited

1 to said fund. Amounts credited to said fund shall be expended, subject to  
2 appropriation by the Legislature to supplement other funding for the following  
3 purposes:

4 (a~~1~~) for ~~Department of Public Health~~ Commonwealth Healthcare  
5 Corporation activities relating to the monitoring of morbidity and  
6 mortality in the CNMI from cancer and other tobacco-related illnesses  
7 in the CNMI from illnesses which are caused or exacerbated by tobacco  
8 use;

9 (b~~2~~) for the support of prenatal and maternal care programs, ~~provided,~~  
10 ~~however, that such prenatal and maternal care programs which~~  
11 ~~incorporate smoking cessation assistance and guidance regarding the~~  
12 ~~harmful effects of smoking on fetal development, and for programs~~  
13 ~~designed to prevent or curb tobacco and betelnut use, prevent chronic~~  
14 ~~disease, improve chronic disease management, and foster healthy~~  
15 ~~living~~;

16 (c~~3~~) for comprehensive school health education programs, ~~to be~~ which may  
17 be administered jointly by the ~~Department of Public Health~~  
18 Commonwealth Healthcare Corporation, ~~and the Public School System,~~  
19 and the Private School Coalition, ~~relating to the hazards of tobacco use~~  
20 ~~by CNMI youth~~ designed to prevent non-communicable disease and  
21 related risk factors in youth; and



1           ~~(d4) for workplace-based and community smoking prevention and smoking~~  
2           ~~cessation programs, for tobacco-related public service advertising and~~  
3           ~~education programs, to be administered by the Department of Public~~  
4           ~~Health; for targeted policy, systems and environmental changes that~~  
5           ~~support healthy lifestyle behaviors for all people of the CNMI; and~~  
6           (5) for data collection, research, monitoring, evaluation, and reporting on  
7           tobacco use in the CNMI and the effectiveness of tobacco control policies and  
8           programs.

9           In conjunction with the preparation of the Commonwealth's comprehensive  
10          annual financial report, the Secretary of the Department of Public Health The Chief  
11          Executive Officer of the Commonwealth Healthcare Corporation shall prepare and  
12          issue to the Speaker of the House and the President of the Senate of the CNMI  
13          Legislature an annual report detailing the revenues and expenditures of ~~said fund~~  
14          the Tobacco Control Fund in accordance with generally accepted accounting  
15          principles. The annual report shall also, at a minimum, report on the qualitative and  
16          quantitative progress of programs and activities that receive funding from the  
17          Tobacco Control Fund ~~on the above purposes of the fund.~~

18               (b) There shall be established a separate fund to be known as the Tobacco  
19          Enforcement Fund. There shall be credited to said fund 5% of the tax authorized  
20          under 4 CMC §1402(a)(16) and 4 CMC §1402(a)(17), together with any penalties.  
21          The Tobacco Enforcement Fund shall be divided between the Division of Customs

1 and the Division of Revenue and Taxation to be used for the implementation,  
2 collection, and enforcement of taxes assessed on cigarettes and all other tobacco  
3 products. The Division of Customs shall be allocated 3.5 percent and the Division  
4 of Revenue and Taxation shall be allocated 1.5 percent.”

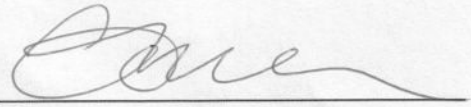
5       **Section 5. Severability.** If any provision of this Act or the application of  
6 any such provision to any person or circumstance should be held invalid by a court  
7 of competent jurisdiction, the remainder of this Act or the application of its  
8 provisions to persons or circumstances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

10       **Section 6. Savings Clause.** This Act and any repealer contained herein  
11 shall not be construed as affecting any existing right acquired under contract or  
12 acquired under statutes repealed or under any rule, regulation or order adopted  
13 under the statutes. Repealers contained in this Act shall not affect any proceeding  
14 instituted under or pursuant to prior law. The enactment of this Act shall not have  
15 the effect of terminating, or in any way modifying, any liability civil or criminal,  
16 which shall already be in existence at the date this Act becomes effective.

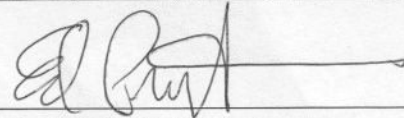
17       **Section 7. Effective Date.** This Act shall take effect upon its approval by  
18 the Governor or upon its becoming law without such approval.

Prefiled: 4/20/2021

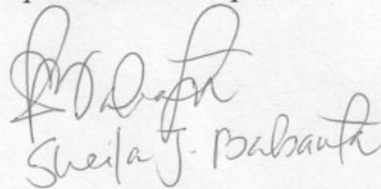
Date: 4/20/2021

Introduced by: 


Rep. Christina Marie E. Sablan



Rep. Edwin K. Propst



Reviewed for Legal Sufficiency by:

  
House Legal Counsel