

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

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
8 revenues by allowing these “little cigars” or “filtered cigars” to be taxed as cigars
9 based on 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 its becoming law without such approval.

Prefiled: 1/18/2023

Date: 1/18/2023

Introduced by: _____

Rep. John Paul P. Sablan

Reviewed for Legal Sufficiency by:

J. M. Kelly 1-11-23
House Legal Counsel

OM
[Signature]
1/17/2023