



House Journal  
SIXTH SPECIAL SESSION, 2003

Second Day

Friday

July 18, 2003

*NOTE: The verbatim journal could not be produced due to intelligibility of the recording; the following is a summary.*

The House of Representatives of the Thirteenth Northern Marianas Commonwealth Legislature convened in its **Second Day**, **Sixth Special Session**, on **Friday, July 18, 2003**, at **10:05 a.m.**, in the House Chamber, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Heinz S. Hofschneider, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll. Eleven members were present, Representatives Francisco DLG. Aldan, Oscar M. Babauta, Norman S. Palacios and Manuel A. Tenorio were excused. Representatives Joseph P. Deleon Guerrero, Stanley T. Torres and William S. Torres came in late.

At 10:08 a.m., the Speaker declared a short recess to present H. R. NO. 13-161 to the family of the late Honorable Joseph T. Ogumoro.

The House recessed at 10:08 a.m.

**RECESS**

The House reconvened at 10:35 a.m.

**ADOPTION OF JOURNALS**

None

**PREFILED AND INTRODUCTION OF BILLS**

H. B. NO. 13-311: A Bill for An Act to establish the CNMI Municipal Savings Bond; and for other purposes.

Offered by: Rep. William S. Torres  
Referred to: Committee on Ways and Means

H. B. NO. 13-312: A Bill for An Act to amend title 4 CMC Division 5 Chapter 5, § 5553; to prohibit the possession and sales of alcoholic beverages that are not labeled in English including other unauthorized alcoholic beverages; and for other purposes.

Offered by: Rep. Andrew S. Salas

H. B. NO. 13-313: A Bill for An Act to amend PL 13-3 regarding reprogramming authority; and for other purposes.

Offered by: Rep. Daniel O. Quitugua

H. B. NO. 13-314: A Bill for An Act to reappropriate the fund balance of \$60,000 from SNILD Res. 12-2, the Obyan Beach Road Paving & Draining project, for the paving of the Louise Concepcion Sablan road in San Vicente.

Offered by: Rep. Martin B. Ada  
Referred to: Committee on Ways and Means

### **PREFILED AND INTRODUCTION OF RESOLUTIONS**

H. R. NO. 13-163: A House Resolution requesting the Board of Directors of the Marianas Public Lands Authority to designate a parcel of public land for lease to the Marianas Automotor Sports Association for drag racing.

Offered by: Rep. Martin B. Ada and seventeen others

H. R. NO. 13-164: A House Resolution to respectfully request that the Honorable Governor Juan N. Babauta and Mr. John S. Reyes, Secretary of Public Works, reprogram the fund balance of \$100,000 from SNILDR 12-2 to pave the Louise Concepcion Sablan road in San Vicente.

Offered by: Rep. Martin B. Ada

### **MESSAGES FROM THE GOVERNOR**

GOV. COMM. 13-558 – 7/10/03 – From Acting Governor Benavente extending the emergency declaration for the island of Anatahan for an additional 30 days.

### **SENATE COMMUNICATIONS**

SEN. COMM. 13-197: From Sen. President Manglona, Sen. Adriano and Sen. Songao relative to H. B. NO. 13-300.

SEN. COMM. 13-198: From Sen. President Manglona regarding the rescheduled session date.

*Floor Leader Attao moved for the suspension of Rule V, Section 5 to allow the Speaker to deliberate on SEN. COMM. 13-197, was seconded and carried by voice vote.*

*Speaker Hofschneider stepped down from the dais to deliberate and Floor Leader Attao chaired the floor.*

*Rep. Deleon Guerrero also took the podium and deliberated on the same communication.*

*(Rep. Deleon Guerrero stepped out of the Chamber at 11:25 a.m.)*

The House recessed for lunch at 11:58 a.m. and reconvened at 2:25 p.m.

*(Rep. Castro was not in the Chamber when the session reconvened.)*

### **HOUSE COMMUNICATIONS**

HSE. COMM. 13-69: From Rep. Herman Palacios to Dr. James Hofschneider regarding medical referral patients in Hawaii.

*The Speaker recognized Rep. Seman, Chairman of the Health and Welfare Committee with regards to MISC. COMM. 13-69. The Chairman stated that he has spoken with the Medical Referral Office staff on island and will be taking a trip to Hawaii to get first hand information on the issue.*

HSE. COMM. 13-70 – Rep. Ada’s trip report for June 24-29, 2003.

### **COMMUNICATIONS FROM THE JUDICIAL BRANCH**

None

### **COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE**

None

### **COMMUNICATIONS FROM DEPARTMENTS & AGENCIES**

DEPT. & AGENCY COMM. 13-264 – From Asst. AG’s to Dr. James Hofschneider regarding the Medical Referral Memorandum of December 3, 2002.

*With reference to DEPT. & AGENCY COMM. 13-264, Rep. Herman Palacios asked for clarification as to the whether the memorandum is in fact stating that medical referral escorts are eligible for transportation costs which was previously stopped.*

*The Speaker stated that the AG’s opinion states for the continuance of the current practice of determining the need for an escort and payment for the costs pending further review of the memorandum by the Secretary of Public Health.*

DEPT. & AGENCY COMM. 13-265 – July 14, 2003 – From Mr. Ben Lieto, Acting Director, EMO inviting the Speaker or his representative to participate in an exercise specifically for preparedness in the event of a weapons of mass destruction or terrorist incident.

*Speaker Hofschneider urged members to attend the Homeland Security Preparedness exercises.*

DEPT. & AGENCY COMM. 13-266 – June 29, 2003 – From MVA Chairman David M. Sablan to Mr. Ray Yumul with regards to his application for the position of Managing Director.

DEPT. & AGENCY COMM. 13-267 – June 11, 2003 – From Acting Director Schrack, DOF, regarding Rep. Torres request for documents pertaining to the budget.

*Rep. Stanley Torres stated that he has received the updated information from the Department of Finance and that the Committee is now gearing up for preparation of the FY 2004 appropriations act.*

DEPT. & AGENCY COMM. 13-268 – From Acting Director Schrack designating Mr. John J. Santos as the Director of the Division of Customs.

### **OTHER COMMUNICATIONS**

MISC. COMM. 13-217 – July 7, 2003 - From Ms. Frances Muña, SNIMC Administrative Officer, transmitting a certified copy of 7SMC-6RS-32 thru 7SMC-6RS-48.

MISC. COMM. 13-218 – July 11, 2003 – From Acting Director Tony Cabrera, LB, with regards to assignment of coordinators for Labor Day activities.

MISC. COMM. 13-219 – Press Release from the Office of the Attorney General with regards to the issuance of entry permits.

### **REPORTS OF SPECIAL AND CONFERENCE COMMITTEES**

*The House went into recess for the duplication and distribution of S. C. R. NO. 13-092.*

*The House recessed at 2:58 p.m. and reconvened at 3:20 p.m.*

*The House suspended the Rules for the placement of S. C. R. NO. 13-092.*

**S. C. R. NO. 13-092:** Reporting on H. B. NO. 13-086, entitled, “To establish a public corporation for hospital services known as The Commonwealth Hospital Corporation; and for other purposes.” *Your Committee on Health and Welfare recommends passage of the bill as substituted by the Committee.*

*S. C. R. NO. 13-092 was adopted by voice vote.*

### **UNFINISHED BUSINESS**

None

### **RESOLUTION CALENDAR**

*The House suspended the Rules for the placement and adoption of H. R. NO. 13-163.*

H. R. NO. 13-163: A HOUSE RESOLUTION REQUESTING THE BOARD OF DIRECTORS OF THE MARIANAS PUBLIC LANDS AUTHORITY TO DESIGNATE A PARCEL OF PUBLIC LAND FOR LEASE TO THE MARIANAS AUTOMOTOR SPORTS ASSOCIATION FOR DRAG RACING.

*H. R. NO. 13-163 was adopted by voice vote.*

### **BILL CALENDAR**

*The House acted on H. B. NO. 13-300, H. B. NO. 13-086, HS1, H. B. NO. 13-313, H. B. NO. 13-269, H. B. NO. 13-184, and H. B. NO. 13-312, respectively.*

*Floor leader Attao moved for the filing of H. B. NO. 13-300.*

*The vote was by voice.*

H. B. NO. 13-300: A BILL FOR AN ACT TO FULLY FUND THE COMMONWEALTH PRISON PROJECT BY APPROPRIATING FROM INTEREST INCOME FROM BOND ISSUANCE IN THE AMOUNT OF \$3,900,000, BY AMENDING PL 12-64, AS AMENDED, TO SPECIFY THE REVENUE SOURCE FOR REPAYMENT OF BOND ISSUANCE AND TO AUTHORIZE THE USE OF ANY AVAILABLE FUNDS TO PROVIDE AN ALTERNATIVE INTERIM FUNDING SOURCE; AND FOR OTHER PURPOSES.

*The Speaker declared H. B. NO. 13-300 filed by the House by voice vote.*

*Floor Leader Attao moved for the passage of H. B. NO. 13-086, HS1, and the motion was seconded.*

H. B. NO. 13-086, HS1: A BILL FOR AN ACT TO ESTABLISH A PUBLIC CORPORATION FOR HOSPITAL SERVICES KNOWN AS THE COMMONWEALTH HOSPITAL CORPORATION; AND, FOR OTHER PURPOSES.

*Speaker Hofschneider commented that this legislation is long overdue. He further stated that through this legislation, it will allow hospital operate under corporation similar to that of CUC. Now, the management, through a governing board, would be able to allocate moneys where it deems is most needed.*

*The Speaker declared H. B. NO. 13-086, HS1 passed by the House on First and Final Reading by a vote of 12-0, as follows:*

Rep. Martin B. Ada	yes
Rep. Francisco DLG. Aldan	excused
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	excused
Rep. Gloria DLC. Cabrera	yes
Rep. Pedro P. Castro	absent
Rep. Joseph P. Deleon Guerrero	absent
Rep. Arnold I. Palacios	yes
Rep. Herman T. Palacios	yes
Rep. Norman S. Palacios	excused
Rep. Daniel O. Quitugua	yes
Rep. Andrew S. Salas	yes
Rep. Benjamin B. Seman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	excused
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Rep. Heinz S. Hofschneider	yes

*Floor Leader Attao moved for the passage of H. B. NO. 13-313 and the motion was seconded.*

H. B. NO. 13-313: A BILL FOR AN ACT TO AMEND TITLE 4 CMC DIVISION 5 CHAPTER 5, § 5553; TO PROHIBIT THE POSSESSION AND SALES OF ALCOHOLIC BEVERAGES THAT ARE NOT LABELED IN ENGLISH INCLUDING OTHER UNAUTHORIZED ALCOHOLIC BEVERAGES; AND FOR OTHER PURPOSES.

*The Speaker declared H. B. NO. 13-313 passed by the House on First and Final Reading by a vote of 12-0, as follows:*

Rep. Martin B. Ada	yes
Rep. Francisco DLG. Aldan	excused
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	excused
Rep. Gloria DLC. Cabrera	yes
Rep. Pedro P. Castro	absent
Rep. Joseph P. Deleon Guerrero	absent
Rep. Arnold I. Palacios	yes
Rep. Herman T. Palacios	yes
Rep. Norman S. Palacios	excused
Rep. Daniel O. Quitugua	yes
Rep. Andrew S. Salas	yes
Rep. Benjamin B. Seman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	excused
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Rep. Heinz S. Hofschneider	yes

*Floor Leader Attao moved for the passage of H. B. NO. 13-269, and the motion was seconded.*

H. B. NO. 13-269: A BILL FOR AN ACT TO PUNISH THE ACTS OF COUNTERFEITING REGISTERED TRADEMARKS; AND FOR OTHER PURPOSES.

*Rep. Stanley Torres offered an amendment to substitute H. B. NO. 13-269. The motion was seconded and carried by voice vote.*

*The substitute, adopted as HSI reads as follows:*

**[ A BILL FOR AN ACT**

To punish the acts of counterfeiting registered trademarks; and for other purposes.

**BE IT ENACTED BY THE THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

**Section 1. Title.** This Act may be cited as “The Private Labels Protection Act of 2003.”

**Section 2. Findings.** The Legislature is alarmed by continuing activities in the Commonwealth involving forging and counterfeiting of private labels and possession of

reproduction materials. Such activities negatively affect trade and commerce within the CNMI and encourages consumer fraud. Effective deterrence of such activities calls for specific penalties for those persons who engage in such conduct. The purpose of this Act is to define what constitutes criminal activity and to provide for appropriate punishment.

**Section 3. Amendment.** Division 1 of Title 6 of the Commonwealth Code is hereby amended by adding a new chapter entitled “Private Labels Protection” with the following new sections:

“Chapter \_\_. Private Labels Protection.

§ 101. Counterfeiting of Registered Trademarks.

(a) Whoever intentionally and knowingly reproduces, counterfeits, copies, or colorably imitates a registered mark and applies such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services or in connection with such use, shall be guilty of the crime of counterfeiting. The crime of counterfeiting shall be punishable as follows:

(1) If the goods or services to which the forged or counterfeit trademarks or service marks are attached, affixed, or used in connection with, or to which the offender intended they be attached, affixed, or used in connection with, have a retail sale value of \$1,000 or more, the offender commits a felony punishable by imprisonment of not less than two years but not more than five years and a fine of three times the retail value of the legitimate items, or three times the profits received by the offender, whichever is greater.

(2) If the goods or services to which the forged or counterfeit trademarks or service marks are attached, affixed, or used in connection with, or to which the offender intended they be attached, affixed, or used in connection with, have a retail sale value of less than \$1,000, the offender shall be punished by imprisonment of not less than one year but not more than two years and a fine of three times the retail value of the legitimate items, or three times the profits received by the offender, whichever is greater.

(b) When an offender has in the last five years been convicted of counterfeiting under this section, or vending counterfeit goods under section 102 of this Chapter and is convicted of counterfeiting goods or services, irrespective of their retail sale value, the offender shall be punished by imprisonment of not less than ten years but not more than 15 years and a minimum fine of \$10,000 or treble the actual retail price of the items, whichever is greater.

(c) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act, 15 U.S.C. § 1051 et seq., shall be applicable in a prosecution under this section.

(d) The term “registered mark” means:

(1) a trademark or trade name registered in the United States Patent and Trademark Office, or in any state or territory of the United States, or in the Commonwealth, or in any other country, or protected by the Amateur Sports Act of 1978, 36 U.S.C. § 380 or recognized by common law, whether or not the offender knew such trademark or trade name was so registered or protected; and

(2) used without the consent of the registrant.

§ 102. Using or Trafficking Counterfeit Goods or Services.

(a) Whoever intentionally and knowingly:

(1) uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services; or

(2) traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services; or

(3) sells or offers for sale goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services, shall be guilty of the crime of using, trafficking, attempting to traffic, selling, or offering for sale, counterfeit goods or services, punishable as follows:

(i) If the goods or services which the offender sells, or offers for sale, have a retail sale value of \$1,000 or more, the offender shall be punished by imprisonment of not less than two years but not more than five years and a fine of three times the retail value of the legitimate items, or three times the profits received by the offender, whichever is greater.



(ii) If the goods or services which the offender sells, or offers for sale, have a retail sale value of less than \$1,000, the offender commits a misdemeanor, punishable by imprisonment of not more than one year and a fine of three times the retail value of the legitimate items, or three times the profits received by the offender, whichever is greater.

(b) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act, 15 U.S.C. § 1051 et seq. shall be applicable in a prosecution under this section.

(c) The term “registered mark” means:

(1) a trademark or trade name registered in the United States Patent and Trademark Office, or in any state or territory of the United States, or in the Commonwealth, or in any country, or protected by the Amateur Sports Act of 1978, 36 U.S.C. § 380, or recognized by common law, whether or not the offender knew such trademark or trade name was registered or protected; and

(2) used without the consent of the registrant.

(d) Enforcement.

(1) Any goods to which the forged or counterfeit trademarks or service marks are attached or affixed, or any tools or other reproduction materials for the reproduction of any specific forged or counterfeit trademark or service mark, which are produced or possessed in violation of this section, shall be seized by any law enforcement officer and shall be destroyed upon the written consent of the offender or by judicial determination that the seized goods, tools or other reproduction materials have attached or affixed to them a forged or counterfeit trademark or service mark, unless the owner of the registered or protected trademark or service mark which has been forged or counterfeited approves a different disposition. The owner of the registered or protected trademark shall be responsible for the actual costs incurred in the disposition of said forged or counterfeited goods.

(2) Any personal property, including, but not limited to, any item, object, tool, machine, or vehicle of any kind, employed as an instrumentality in the commission, or in aiding or abetting in the commission, of the crime, or using, trafficking, attempting to traffic, selling, or offering for sale, counterfeit goods or services, as proscribed by subsection (a)(1)-(3) of this section, shall be seized and is subject to forfeiture by the Commonwealth.

(e) No owner, officer, employee, or agent who provides, rents, leases, licenses, or sells real property upon which a violation of subsection (a) occurs shall be subject to criminal penalty under this section unless he or she is proven to have actual knowledge that the mark is counterfeit and is either a principal to the offense or an accessory after the fact. The above shall not be deemed to create, delete, or in any way affect any civil claim that may exist against such person.

§ 103. **Definition.** The term “traffic” as used in this chapter means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or to make or obtain control of with intent so to transport, transfer, or dispose of.”

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

**Section 5. Savings Clause.** This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective. Nothing in this Act shall impair, impede, or affect the right of any person to bring a civil action to enforce any rights or remedies accruing to them.

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

Introduced By: /s/ Rep. Stanley T. Torres ]



*The Speaker declared H. B. NO. 13-269, HD1 passed by the House on First and Final Reading by a vote of 12-0, as follows:*

Rep. Martin B. Ada	yes
Rep. Francisco DLG. Aldan	excused
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	excused
Rep. Gloria DLC. Cabrera	yes
Rep. Pedro P. Castro	absent
Rep. Joseph P. Deleon Guerrero	absent
Rep. Arnold I. Palacios	yes
Rep. Herman T. Palacios	yes
Rep. Norman S. Palacios	excused
Rep. Daniel O. Quitugua	yes
Rep. Andrew S. Salas	yes
Rep. Benjamin B. Seman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	excused
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Rep. Heinz S. Hofschneider	yes

*H. B. NO. 13-184 was withdrawn from the Committee on JGO and was placed on the Calendar.*

H. B. NO. 13-184: A BILL FOR AN ACT TO SEPARATE THE DIVISION OF CORRECTIONS FROM THE DEPARTMENT OF PUBLIC SAFETY, AND TO ELEVATE IT TO DEPARTMENT WITHIN THE EXECUTIVE BRANCH.

*H. B. NO. 13-184 was passed without amendment on First Reading by voice vote.*

*The Speaker urged the JGO Committee to come up with the final version of the bill that the committee has been working on by August 1 and consider budgetary matters in light of the Ways and Means Committee's preparation of the FY 2004 budget.*

*Floor Leader Attao moved for the passage of H. B. NO. 13-312 and the motion was seconded.*

H. B. NO. 13-312: A BILL FOR AN ACT TO AMEND TITLE 4 CMC DIVISION 5 CHAPTER 5, § 5553; TO PROHIBIT THE POSSESSION AND SALES OF ALCOHOLIC BEVERAGES THAT ARE NOT LABELED IN ENGLISH INCLUDING OTHER UNAUTHORIZED ALCOHOLIC BEVERAGES; AND FOR OTHER PURPOSES.

*The Speaker declared H. B. NO. 13-312 passed by the House of First and Final Reading by a vote of 12-0, as follows:*

Rep. Martin B. Ada	yes
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Rep. Francisco DLG. Aldan	excused
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	excused
Rep. Gloria DLC. Cabrera	yes
Rep. Pedro P. Castro	absent
Rep. Joseph P. Deleon Guerrero	absent
Rep. Arnold I. Palacios	yes
Rep. Herman T. Palacios	yes
Rep. Norman S. Palacios	excused
Rep. Daniel O. Quitugua	yes
Rep. Andrew S. Salas	yes
Rep. Benjamin B. Seman	yes
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	excused
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes
Rep. Heinz S. Hofschneider	yes

### MISCELLANEOUS BUSINESS

None

### ANNOUNCEMENTS

*Rep. Tebuteb announced that the Soft Opening of the Chamolinian Village is on Saturday at the Carolinian Utt.*

*The Speaker announced and urged the members to be present on Monday for the Okinawan visit and presentation of H. R. NO. 13-151.*

*The House recessed at 4:20 p.m. and scheduled to reconvene on Tuesday, July 22, 2003 at 10:00 a.m.*

Respectfully submitted,

Lavida S. Palacios, Journal Clerk  
House of Representatives

### APPEARANCE OF LOCAL BILLS

H. L. B. NO. 13-043: A Local Bill for an Act for the Second Senatorial District to earmark the amount of not less than One Hundred Eighty Thousand Dollars (\$180,000.00) per year from the Tinian casino gaming revenue generated under the Revised Tinian Casino Gaming Control Act of 1989 for the repayment of the principal and interest owed on the Tinian Civic Center Loan, and for other purposes. (REP. NORMAN S. PALACIOS) [2<sup>nd</sup> APPEARANCE]

H. L. B. NO. 13-044: A Local Bill for An Act for the Third Senatorial District to name certain public buildings on Saipan pursuant to chapter 4, Article 2 o the commonwealth code to appropriate Twenty-Five Thousand Dollars (\$25,000) to defray the costs of the dedication, building improvements and inscriptions; and for other purposes. (Rep. William S. Torres) [2<sup>nd</sup> APPEARANCE]