A BILL FOR AN ACT

To further amend title 41 of the code of the Federated States of Micronesia (Annotated), as amended, by creating a new chapter 12 entitled: “Tobacco Control Act” to regulate the manufacturing, labeling, promotion, distribution, sale, use of tobacco products, and to implement the provisions of the World Health Organization Framework Convention on Tobacco Control, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1. Section 1. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by creating a new chapter 12 to be entitled “Tobacco Control Act”.

2. Section 2. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1201 under chapter 12 to read as follows:

   “Section 1201. Short Title. This chapter is known and may be cited as the “Federated States of Micronesia Tobacco Control Act.”

3. Section 3. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1102 under chapter 12 to read as follows:

   "Section 1202. Definitions. The following terms shall have the following meanings for the
purposes of this Act:

(1) ‘Advertisement’ means any commercial communication through any media or means, that is intended to have, or is likely to have, the direct, indirect, or incidental effect of the following:

(a) creating an awareness of a tobacco product, brand manufacturer, or seller;

(b) promoting the purchase or use of a tobacco product or brand of a tobacco advertisement includes, but is not limited to, words, names, messages, mottos, slogans, letters, numbers, pictures, images, colors and other graphics, sounds, and any other auditory, visual, or sensory matter, in whole or part, that is or are:

(i) commonly identified or associated with a tobacco product, brand, manufacturer, or seller;

(ii) otherwise an indicia of product, brand, manufacturer, or seller identification;

(2) ‘Brand’ means a brand of tobacco product;

(3) ‘Brand variant’ means a tobacco product distinguishable from another tobacco product by
any means, including the following:

(a) the tobacco product is sold under different brand names;

(b) the tobacco is sold under the same brand name, but differs in one or more of the following ways:

(i) containing or not containing menthol;

(ii) being otherwise different flavored;

(iii) producing different quantities of tar, nicotine, carbon-monoxide or other constituents;

(iv) allegedly differing in mildness;

(v) having or not having filter tips or cork tips;

(vi) being sold in retail packages containing number of pieces;

(vii) being of different length or mass;

(4) ‘Body corporate’ means an association, corporation, corporate body, corporate identity company, person, government agency or institution identified by a particular name;

(5) ‘Class’ in relation to tobacco product, means a class of tobacco product, and includes
manufactured cigarettes, cigarettes tobacco, pipe tobacco, cigars, cigarillos, bidis or anything containing tobacco products.


(7) ‘Distributor’ means a person who engages in business of selling tobacco products, and includes a wholesaler, importer or exporter, but does not include a retailer who engages in the business of selling tobacco products by retail only.

(8) ‘Designated smoking area’ means any area not prohibited pursuant to Chapter 8 of title 41 of the Code of the Federated States of Micronesia.

(9) ‘Exporter’ means any person who sends tobacco products outside the Federated States of Micronesia for sale or supply in another country.

(10) ‘Inspector’ means a person or class of person designated as an inspector under section 1110 of this Act.

(11) ‘Manufacturer’ means any person that manufactures, fabricates, produces, processes,
packs and/or labels tobacco products for the
purpose of sale or distribution, and includes
all entities inter alia that is associated with
the manufacturer, including an entity that
controls or is controlled by the manufacturer,
or that is controlled by the same entity that
controls the manufacturer.

(12) ‘Manufacturing’ means fabricating,
producing, processing, packing and/or labeling
tobacco products for the purpose of sale or
distribution.

(13) ‘minor’ means a person under the age of
eighteen.

(14) ‘Package’ means any pack, carton,
wrapping or other container in which tobacco
products are customarily sold at retail.

(15) ‘Public place’ means any place, fixed
or mobile, accessible to the general public or
place for collective use, regardless of
ownership or right of access, whether by
expressed or implied invitation. An enclosed
public place is a partially or fully completed
building or structure, including a mine or
tunnel, that is separated from the outdoors, or
areas enclosed by a roof or similar over-head
covering; and/or at least 2 or more partial or full walls.

(16) ‘Retailer’ means a person who engages in the retail selling of tobacco products.

(17) ‘Secretary’ means the Secretary of Health and Social Affairs or his/her designee.

(18) ‘Seller’ means any person who supplies any tobacco product for a fee or other consideration, and includes any manufacturer, distributor, wholesaler, importer, exporter, and retailer.

(19) ‘Smoking’ means inhaling and expelling of smoke of cigarettes, cigars, or tobacco products in any form whatsoever, and includes the act of handling a lighted tobacco product.

(20) ‘Smoke-free’ means free of any direct or indirect exposure resulting from smoking.

(21) ‘Tobacco’ means any preparation of dried leaves of the nicotiana tobacum plant of the nightshade family.

(22) ‘Tobacco industry’ means tobacco manufacturers, wholesale distributors, and importers.

(23) ‘Tobacco product’ means any product containing tobacco in any form that is intended
for human use. A tobacco product includes all parts and materials inter alia, such as papers, filters and filter wrappers, over-wrappers, rods, portion pouches, cigars, cigarettes, smokeless tobacco, pipe tobacco and roll your own tobacco, and similar matter, as applicable, even if sold separately.

(24) ‘Tobacco use’ means any form of consuming tobacco including smoking, chewing, or otherwise inhaling or ingesting.

(25) ‘Toxic constituent’ means any substance prescribed by regulations to be a toxic constituent, and includes any substance found in a tobacco product or in its smoke.

(26) ‘Work place’ means any place in which persons perform duties of paid or unpaid employment or work including private offices, common areas and any other area including work vehicles which generally is used during the course of employment or work. Workplaces shall not include private residences except to the extent that they are used for commercial purposes.

(27) Terms and expressions used and not defined in this Act shall, unless the context
otherwise requires, have the same meaning as in
the Convention.”

Section 4. Title 41 of the Code of the Federated
States of Micronesia (Annotated), as amended, is hereby
further amended by inserting a new section 1203 under
chapter 12 to read as follows:

“Section 1203. Product Regulation

(1) No person shall manufacture, sell, or
import a tobacco product except in compliance
with this Act and any regulations made under
this Act.

(2) Every manufacturer and importer of a
tobacco product shall provide the Secretary, in
the prescribed manner and within the prescribed
time, information about the product and its
emissions as required by Regulations
promulgated under this Act.

(3) The Secretary may make regulations:

(a) establishing standards for the
manufacture of tobacco products, including:

(i) prescribing the amount of
substances that may be contained in the product
or its emission;

(ii) prescribing substances that may
not be added to tobacco products;
(iii) prescribing product design standards to reduce the harmful effects of tobacco products and to reduce their appeal to minor; and 

(b) prescribing test methods, including methods to assess conformity with the standards; 

(c) prescribing information that manufacturers must provide to the Minister and or the public about tobacco products and their emission, including sales data and information on product composition, ingredients, hazardous properties and brand elements; and 

(d) generally as needed to carry out this part of the Act.”

Section 5. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1104 under chapter 12 to read as follows:

“Section 1204. Prohibition of Tobacco Product Promotion, Advertisement, Sponsorship and Sale. 

(1) No person shall promote or cause to promote by any other person, a tobacco product or a tobacco product-related brand element through direct or indirect means, including
through sponsorship of an organization, service, physical establishment or vehicle of any kind, or event.

(2) No person shall sell, promote, distribute or cause to be sold, promoted or distributed, any item other than a tobacco product which bears the brand name (alone or in conjunction with any other word), trade-mark, trade-name, distinguishing guise, logo, graphic arrangement, design, slogan, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of tobacco product.

(3) No person shall promote or cause to promote by any other person, a tobacco product or a tobacco product-related brand element, except as prescribed by this Act or its regulation.

(4) Notwithstanding any regulation made under this Act, no person shall promote or cause to promote tobacco products or brand elements:

(a) in a manner that allows a consumer
or purchaser of tobacco products to be deceived
or misled concerning its character, properties,
toxicity, composition, merit or safety;

(b) that does not display, in the
prescribed form and manner, the information
required in accordance with this Act or any
regulations about the product and its
emissions, health hazards and effects arising
from the use of the product or from its
emissions and other health-related messages
such as advice on how to quit smoking;

(c) through means of promotion that can
be viewed from outdoors;

(d) utilizing any item other than a
tobacco product, or a physical establishment or
vehicle of any kind, which bears the brand name
(alone or in conjunction with any other word),
trade-mark, trade-name, distinguishing guise,
logo, graphic arrangement, design, slogan,
symbol, motto, selling messages, recognizable
color or pattern of colors, or any other
indicia of product identification identical or
similar to, or identifiable with, those used
for any brand of tobacco product;

(e) utilizing any athletic, musical,
artistic or any other social or cultural event,
or any entry or team in any event, in the brand
name (alone or in conjunction with any other
word), trade-mark, trade-name, distinguishing
guise, logo, graphic arrangement, design,
slogan, symbol, motto, selling message,
recognizable color or pattern of colors, or any
other indicia of product identification
identical or similar to, or identifiable with,
those used for any brand of tobacco product;

(5) No person or entity shall offer or
provide any consideration, direct or indirect,
for the purchase of a tobacco product,
including a gift to a retailer, purchaser or a
third party, bonus, premium, cash rebate or
right to participate in a game, lottery or
contest, or distribute a tobacco product
without monetary consideration, or in
consideration of the purchase of a product or
service or the performance of a service,
whether requiring the purchase of a tobacco
product or not.

(6) No person or entity shall directly
target individuals with promotional, including
informational material, such as direct mail,
telemarketing, “consumer survey”, or “research” or person-to-person conversation by a business in the tobacco industry or person acting to further its interests.

(7) No person shall advertise, arrange for, or participate in the advertising of any tobacco product, brand, manufacturer or seller, directly or indirectly. This prohibition shall apply to advertising in, as well as to advertising transmitted into or out of the Federated States of Micronesia;

(8) No person shall:

(a) display, exhibit, announce, broadcast or telecast, or cause or permit to be displayed, exhibited, announced, broadcast or telecast, or authorize the display, exhibition, announcement, broadcast or telecast to the public of a tobacco product advertisement;

(b) whether or not for payment or other consideration, publish, broadcast or disseminate on behalf of another person a tobacco product advertisement or arrange for a tobacco product advertisement to be published, broadcast, or disseminated;

(c) print or publish, or cause or
permits to be printed or published, or authorize the printing or publication of a tobacco product advertisement in any printed publication, book, magazine, leaflet, handbill, newspaper or other printed matter intended for the public.

(9) Subsections (1), (2), (3), (4), (5), (6), (7), and (8) does not apply to the following:

(a) a tobacco product advertisement that is an accidental or incidental accompaniment to a film or video;

(b) any tobacco product advertisement included in any book, magazine, or newspaper printed outside FSM, or in any radio or television transmission originating outside FSM, or any film, video recording or visual disk originating outside FSM, unless:

(i) the principal purpose of the book, magazine, newspaper, broadcast, telecast, film, video recording or visual disk is the promotion of the use of a tobacco product or smoking; or

(ii) the book, magazine, newspaper, broadcast, telecast, film, video recording or visual disk is intended for sale, distribution,
or exhibition in the FSM; or

(iii) in the case of, a tobacco

product advertisement in any radio, television, electronic transmission or data message, the advertisement is targeted primarily at an audience in the FSM.

(10) For the purpose of monitoring compliance with this Section, tobacco manufacturers, wholesale distributors, and importers, and any other sellers as may be prescribed in regulations, shall provide reports as required by this sub-section to the Department of Health and Social Affairs on a periodic basis, which shall be at least annually, and upon request, as prescribed as to content, format, periodicity, and all other details specified in regulations. Reports shall contain information in total and by brand on any tobacco advertising, promotion, or sponsorship including any donations, whether publicly acknowledged or not, undertaken during the reporting period, including, but not limited to:

(a) the kind of advertising, promotion or sponsorship, including its content, form,
and the medium used;

(b) the placement and extent or frequency of the advertising, promotion, or sponsorship;

(c) the identity of all persons and entities involved in the advertising, promotion or sponsorship, including advertising and production companies;

(d) the amount of financial and/or other resources used for the tobacco advertising, promotion or sponsorship; and

(e) other information as may be required by the Department of Health and Social Affairs.

(11) The Department shall make information from the reports required in this Article readily available to the public, subject to any precautions necessary for preventing misleading or promotional information, if any, from becoming public.

(12) Government shall not participate in, support, endorse, or accept:

(a) any legal or policy measure drafted by or in collaboration with the tobacco industry, or any offer of assistance with drafting such measures from the tobacco
industry;

(b) any education, instruction, or
training on any tobacco control policy matter
provided by or with any kind of contribution
from the tobacco industry;

(c) any partnership of any kind with the
tobacco industry;

(d) any non-binding or non-enforceable
agreement or tobacco industry code of conduct
in the place of legally enforceable tobacco
control measures; or

(e) any tobacco industry involvement in
any manner in any initiative, campaign,
program, or activity directly or indirectly
related to tobacco control or public health,
including but not limited to, any youth access
or education program, public education
campaign, or other tobacco control or public
health initiative.”

Section 6. Title 41 of the Code of the Federated
States of Micronesia (Annotated), as amended, is hereby
further amended by inserting a new section 1205 under
chapter 12 to read as follows:

“Section 1205. Restrictions or Limitations on
Distribution and Sale of Tobacco Products.
(1) No person shall sell or offer to sell tobacco to a person who is less than eighteen years of age.

(2) No person shall purchase a tobacco product for the use of a person under the age of eighteen years of age.

(3) No person shall allow a person under the age of eighteen to purchase or sell a tobacco product on premises occupied by the aforementioned person.

(4) It shall not be a defense to section 5 of this chapter that the person appeared to be eighteen years old or older.

(5) No person shall, for the purpose of political gain, offer, give, or distribute to any person a tobacco product.

(6) No person shall, for the purpose of inducing or promoting the sale of any tobacco product, offer, give or distribute to any person a free sample of the tobacco product.

(7) A retailer of tobacco products shall display clearly for the public a notice to the effect that the sale of any tobacco product to a minor is prohibited.

(8) It is not a defense for a person
charged under subsection (6) that the person believed that the person to whom the tobacco product was sold, given or provided was over the age of eighteen years at the time of the offense is alleged to have been committed, unless the accused took all reasonable steps to ascertain the age of the person to whom the tobacco product was sold, given, or provided.

(9) A person who contravenes subsections (1), (2), (3), (4), (5), (6), and (7), commits an offense.

(10) It is a defense to a prosecution under this section if a person proves that he/she:

(a) had reasonable cause to believe that the person purchasing the tobacco product, or for whom the tobacco product was purchased, or to whom the tobacco product was supplied, was not under the age of eighteenth years; or

(b) had taken all reasonable precautions to ensure that the purchaser presented a prescribed form of identification showing his or her age and that there was no apparent reason to doubt the authenticity of the document or that it was issued to the person producing it.
(11) No person shall sell or offer to sell tobacco products:

(a) by means of a display that permits a person to handle the tobacco product before paying for it;

(b) through a vending machine;

(c) through the mail or the internet;

(d) at a retail store unless signs bearing health warnings and other information are posted at the place in accordance with this Act and its regulations.

(12) No person shall offer tobacco products for sale (whether by retail or wholesale) and allow any part of a tobacco product, tobacco package, or tobacco carton to be visible from:

(a) outside the place; or

(b) an area inside the place visible to the public.”

Section 7. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1206 under chapter 12 to read as follows:

“Section 1206. Restrictions or Limitations on Packaging and labeling of Tobacco Products

(1) No person shall sell or offer to sell
tobacco products in any of the following manners:

(a) loose cigarette sticks or cigarette roll; or

(b) loose tobacco in an unopened package that contains less than thirty-four point two (34.2) grams of tobacco; or

(c) cigarettes in an unopened package that contains fewer than 20 cigarettes being no less than 84mm in length and weighing no less than 0.8 grams.

(2) No person shall sell tobacco products except in a package containing the quantities or number of units prescribed by this Act or regulations under this Act.

(3) No person shall sell, distribute, or display for sale or distribution, import, or export any tobacco products in a package, or with a label in a manner that allows a consumer or purchaser of tobacco products to be deceived or misled concerning its characteristics, properties, toxicity, composition, merit or safety.

(4) No person shall sell or offer to sell tobacco products in a place other than those
prescribed by regulations under this Act.

(5) No person shall sell or offer for sale a tobacco product unless:

(a) the package containing the product conforms with prescribed requirements;

(b) the package containing the product displays in accordance with this Act and its regulations with the following:

(i) a graphical health message;

(ii) a list of the harmful constituents of the product;

(iii) the emissions of the product (if any); and

(iv) in the case of a tobacco product intended for smoking, a list of the harmful constituents and their respective quantities present in the smoke.

(6) Prescribed regulations under this Act may provide that every unit packet and package of tobacco sold in FSM must carry messages that are in the form of, or include, pictures or pictograms.

(7) All tobacco products imported for sale or sold in FSM must carry a clear statement that the product is intended or made for sale in
(8) No manufacturer, distributor, importer, or retailer of a tobacco product shall distribute or supply any tobacco product in contravention of subsection 2 and 3 of this section.

(9) Any requirements arising from subsections 6 and 7 do not relieve a manufacturer, importer, or retailer of tobacco products of other obligations or liabilities arising from other requirements to warn consumers of the risks of using tobacco products.”

Section 8. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1207 under chapter 12 to read as follows:

“Section 1207. Control of Tobacco Use Indoors and Protection from Second-hand Smoke.

(1) The employer or a person in charge of a private or public workplace including but not limited to bars, restaurants, cafes and hotels shall ensure that no person shall use, smoke, or chew tobacco in any indoor part of the workplace.
(2) For the purpose of this Act, private or public work places and public places include inter alia the following:

(a) offices and office buildings including public areas, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, stairwells, restrooms amenity areas, laundry rooms and individual offices;

(b) health institutions;

(c) educational institutions of all levels;

(d) any premises in which children are cared for;

(e) any means of transportation used for commercial, public or professional purposes and used by more than one person;

(f) public transportation terminals;

(g) retail establishments including shopping malls;

(h) cinemas;

(i) concert halls;

(j) sports stadia;

(k) bars and restaurants;

(l) pool and bingo halls;
(m) publicly owned facilities rented out for events;
(n) any other facilities accessible to the public;
(o) any other facilities that employ paid or unpaid personnel; and
(p) any other facilities or areas designated in regulations under this Act.

(3) An employer may designate a tobacco use area in a workplace not less than four weeks after its first year certification of operation.

(4) An area designated under subsection (3):
(a) shall be an outdoor area of the workplace where no work is normally undertaken; and
(b) shall not be located within 25 feet of any doorway, operable window, or air intake mechanism or in a place where smoke may then readily drift back into the indoor part of the workplace.

(5) Persons responsible for premises specified in section 1107 shall have a continuous duty to:
(a) prominently post “no smoking” signs as prescribed by the Department of Health and Social Affairs with regard to format, content, design, size, display, location, and all other details;

(b) remove all ashtrays from all indoor areas of the premises and any outdoor areas where smoking is prohibited;

(c) supervise observance of the smoking ban;

(d) take reasonable steps to discourage and stop any person from chewing and/or smoking where it is prohibited, including asking the person not to smoke, discontinuing service, asking the person to leave the premises or public transport vehicle when it is safe to do so, and contacting law enforcement or other appropriate authority; and

(e) investigate complaints and take any necessary action to ensure compliance, and do so without any explicit or implicit threat or act of retaliation against the complainant.

(6) A person who contravenes this section in relation to a workplace or public place, commits an offense.”
Section 9. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1208 under chapter 12 to read as follows:

"Section 1208. Licensing and Measures to Combat Smuggling

(1) Manufacturing of tobacco products is prohibited in FSM.

(2) No importer, or person, partnership, corporation or other entity shall conduct on any premises the business of importation, of tobacco products without first obtaining a tobacco importer license upon payment of the fee specified pursuant to this Act.

(3) No distributor or wholesaler, or person partnership, corporation or other entity shall conduct on any premises the business of distributing or whole selling tobacco products without first obtaining a tobacco distributor or wholesaler license upon payment of the fee specified pursuant to the laws and regulations of the FSM or its four states where applicable.

(4) No retailer or person partnership, corporation or other entity shall conduct on any premises the business of selling in retail..."
tobacco products without first obtaining a 
tobacco retail license upon payment of the fee 
specified pursuant to the laws and regulations 
of the FSM or its four states where applicable. 

(5) For the purpose of this Act, the FSM 
Department of Finance and Administration shall 
serve as the licensing authority and shall have 
the authority to prescribe the requirements 
pursuant to this Act and its prescribed 
regulations for the grant of new, renewal of a 
license or revocation of license, and determine 
the valid period of the license.”

Section 10. Title 41 of the Code of the Federated 
States of Micronesia (Annotated), as amended, is hereby 
further amended by inserting a new section 1209 under 
chapter 12 to read as follows:

“Section 1209. Testing and Reporting of 
Constituents, Additives, and Certain Business 
Information:

(1) Every importer, distributor, and 
exporter of tobacco products shall submit to 
the Department of Health and Social Affairs on 
at least an annual basis, unless otherwise 
prescribed, reports and returns containing the 
information specified in this Act and
regulations under this Act.

(2) For the purpose of this Act, the tests for the harmful constituents of brands of manufactured cigarettes and other tobacco products, and the respective quantities of those constituents present in the smoke, every importer of a tobacco product shall:

(a) Test all tobacco products annually per brand variant at a laboratory that is a part of the WHO Tobacco Laboratory Network (TobLabNet) and nominated by the FSM Secretary of Health and Social Affairs

(b) Test results shall be cleared by the FSM Department of Health and Social Affairs and submitted to the FSM Department of Finance and Administration at the time of registration or licensing in the form of the testing report and return form as may be prescribed under this Act or its regulation;

(3) Every importer or distributor of a tobacco product who fails:

(a) to submit any return required by subsection 1; or

(b) publish any report required by subsection 2, commits an offense.”
Section 11. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1210 under chapter 12 to read as follows:

"Section 1210. Inspection

(1) For the purpose of this Act, the FSM Secretary of Health and Social Affairs may appoint any qualified person or designate any class of persons to perform the duties of inspector or analyst at the FSM National Government. The responsibilities of an inspector shall be specified in the act of appointment.

(2) No tobacco control inspector may be assigned to duties involving any business or operation or articles in which he or she, or his or her parents, children or siblings, has any pecuniary interest whatsoever.

(3) Every person authorized as an inspector or analyst under subsection 1 of this section, may, at any reasonable time, to ascertain compliance with this Act and the regulation under it, enter and inspect any of the following places:

(a) referred to in section 7
subsection 2;

(b) where tobacco is tested, stored, packaged, labeled or sold;

(c) where anything used in the manufacture, storage, packing, promotion, sale or testing of tobacco is to be found;

(d) where information relating to the manufacture, storage, packaging, labeling, promotion, sale or testing of tobacco is to be found.

(4) Authorized inspectors and analysts shall have the following powers, which no person shall deny, obstruct, or hinder:

(a) Enter any port of entry where articles subject to this chapter are being received, shipped or prepared for export, and examine and take samples of articles, and examine anything which appears capable of being used for such preparation, packaging, storage, sale or conveyance;

(b) Detain and search any vehicle at any port of entry which is conveying any article subject to this chapter, and examine and take samples of any such article;

(c) Open and inspect any package which
contains any article subject to this chapter;

(d) Examine any books, accounts, documents, or other records that could contain any relevant information about articles subject to this chapter and make copies of them;

(e) Destroy or dispose of tobacco products, which has been imported which is decayed or putrefied or otherwise a danger to the public health, with prior notice to the owner;

(f) Call a member of the local or national police force for necessary assistance. Any member of the national police force shall aid the inspector as required;

(g) Question any person to determine compliance with this chapter.

(5) After any inspection, the tobacco control inspector shall give to the owner or person in charge a written report noting any violation of this chapter or the regulations. A copy of this report shall be given to the Secretary of Health.

(6) Any person aggrieved by any of these actions has a right to a heard in front of a panel which shall be conducted according to
Section 12. Title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1211 under chapter 12 to read as follows:

“Section 1211. Enforcement, Offences, and Penalties.

(1) Any person found guilty of violating any provision under section 1103 of this Act shall be liable for a fine of:

(a) in the case of an individual, not less than $500 and not more than $5,000 for the first offense, and of not less than $1,000 and not more than $10,000 for subsequent offences; and

(b) in the case of a manufacturer, not less than $1,000 and not more than $10,000 for the first offense, and of not less than $2,000 and not more than $20,000 for subsequent offences.

(2) Any person found guilty of violating any provision under section 1104 of this Act shall be liable for a fine of:

(a) in the case of an individual, not
less than $500 and not more than $5,000 for the first offence, and of not less than $1,000 and not more than $10,000 for subsequent offences; and

(b) in the case of a manufacturer, not less than $1,000 and not more than $10,000 for the first offence, and of not less than $2,000 and not more than $20,000 for subsequent offences.

(3) Any person found guilty of violating any provision under section 1105 of this Act shall be liable for a fine of:

(a) in the case of an individual, not less than $500 and not more than $5,000 for the first offence, and of not less than $1,000 and not more than $10,000 for subsequent offences; and

(b) in the case of a manufacturer, not less than $1,000 and not more than $10,000 for the first offence, and of not less than $2,000 and not more than $20,000 for subsequent offences.

(4) Any person found guilty of violating any provision under section 1106 of this Act shall be liable for a fine of:
(a) in the case of an individual, not less than $500 and not more than $5,000 for the first offence, and of not less than $1,000 and not more than $10,000 for subsequent offences;

(b) in the case of the proprietor of a retail establishment, not less than $1,000 and not more than $10,000 for the first offence, and of not less than $2,000 and nor more than $20,000 for subsequent offences; and

(c) in the case of a manufacturer, not less than $1,500 and not more than $10,000 for the first offence, and of not less than $2,500 and not more than $20,000 for subsequent offences.

(5) Any proprietor, owner or manager of any premises listed under section 1106 of this Act found guilty of failing to enforce the smoke-free policy applicable to the facility under his or her responsibility, including the posting of prescribed signs and ensuring that any designated smoking areas meet the requirements of the Act and its regulations, shall be liable for a fine of not less than $500 and not more than $5,000 for the first offence, and of not less than $1,000 and not
(6) Any person found guilty of smoking in a place or area where smoking is prohibited under section 1106 of this Act and Title 41, Section 801 shall be liable for a fine of not less than $500 and not more than $1,000 for the first offence, and of not less than $1,000 and not more than $2,500 for subsequent offences.

(7) Any person found guilty of violating any provision under section 1107 and 1108 of this Act shall be liable for a fine of:

(a) in the case of an individual, not less than $2,500 and not more than $10,000 for the first offence, and of not less than $5,000 and not more than $20,000 for the subsequent offences;

(b) in the case of a proprietor of a retail establishment, not less than $3,000 and not more than $10,000 for the first offence, and of not less than $6,000 and not more than $20,000 for the subsequent offences;

(c) in the case of a wholesale distributor, not less than $3,500 and not more than $10,000 for the first offence, and of not less than $7,000 and not more than $20,000 for subsequent offences.
subsequent offences;

(d) in the case of a manufacturer, not less than $4,000 and not more than $10,000 for the first offence, and of not less than $8,000 and not more than $20,000 for subsequent offences;

(8) In addition to any fines imposed, any person found guilty of violating any provision under section 1709 of this Act shall be liable for a penalty equivalent to the proceeds from the distribution of illegal tobacco products as well as taxes and duties owed on those products.

(9) Nothing in this Act shall preclude the criminal enforcement of its provisions in a Court of competent jurisdiction.

(10) Where a person is found guilty of an offence under any section of this Act other than section 1709, the Court may impose an additional fine in addition to any other penalty, following an application by the prosecuting party appended to the statement of offence, equal to the amount of monetary benefit gained by the person as a result of the offence, even if the maximum fine is imposed
(11) A person who commits or continues an offence under this Act on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(12) Any person found to have violated any requirement under this Act or implementing regulations may be ordered to pay the reasonable costs associated with any inspection, investigation, and enforcement action brought about by the non-compliance."

Section 13. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 2/13/16

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper
(by request)