

AN ACT

to regulate the manufacture, labeling, promotion, distribution and use of tobacco products.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

PART I - PRELIMINARY

§1. Short Title

This Act may be cited as the Republic of the Marshall Islands Tobacco Control Act, 2006.

§2. Definitions

In this Act, unless the context otherwise requires -

- (a) “**appeal**” refers to the ability of a product to provide physical or psychological pleasure, satisfaction, or other positive quality to the consumer;
- (b) “**brand element**” includes the brand name, trade-mark, trade-name, distinguishing guise, logo, graphic arrangement, design, slogan, symbol, motto, selling message, recognizable color or pattern or colors, or any other indicia of product identification identical or similar to, or identifiable with those used for any brand of tobacco product;
- (c) “**character**” refers to the distinctive qualities of a tobacco product;
- (d) “**composition**” refers to the content, arrangement or combination of substances included in the processing and manufacture of tobacco products;
- (e) “**distribute**” means to sell, offer to sell, expose for sale, give, supply exchange, convey, consign, deliver, furnish, or transfer possession for commercial purposes, or offer to do so, whether for a fee or other consideration or as a sample, gift, prize, or otherwise being lighted;

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- 2 (f) **“emission”** means any substance or combination of substances that is produced as a
3 result of a tobacco being lighted;
- 4 (g) **“inspector”** means a person or class of persons designated as an inspector under section
5 10(1);
- 6 (h) **“manufacturer”** includes any entity that is associated with the manufacturer, including
7 an entity that controls or is controlled by the manufacturer or that is controlled by the
8 same entity that controls the manufacturer;
- 9 (i) **“Minister”** means the Minister of Health or his or her designate;
- 10 (j) **“Ministry”** means the Ministry of Health;
- 11 (k) **“package”** means the container, receptacle or wrapper in which a tobacco product is sold
12 or displayed at retail, including a carton that contains smaller packages;
- 13 (l) **“promotion”** means the practice of fostering awareness of and positive attitudes toward a
14 product, brand or manufacturer for the purpose of selling the product or encouraging
15 tobacco use, through various means including direct advertisement, discounts, incentives,
16 rebates, free distribution, promotion of brand elements through related events and
17 products through a public medium of communication;
- 18 (m) **“Tobacco Control Account”** means the bank account established under section 12(1)
19 and administered by the Secretary of the Ministry of Health and the Secretary of the
20 Ministry of Finance:
- 21 (n) **“Secretary”** means the Secretary of Health or his or her designate;
- 22 (o) **“tobacco product”** means a product composed in whole or in part of tobacco, including
23 tobacco leaves and any extract of tobacco leaves. It includes cigarette papers, tubes and
24 filters;
- 25 (p) **“toxicity”** refers to the quality, relative degree or specific degree of being toxic or
26 poisonous;

- 1 (q) “vending machine” means any means of distribution of tobacco products that is not
2 mediated by a human being;
- 3 (r) “child” means a person under 18 years old.
- 4

5 **§3. Purpose**

6 The purpose of this Act is to reduce tobacco use and its consequent harm by:

- 7 (a) protecting children and other nonsmokers from inducements to use tobacco;
- 8 (b) protecting nonsmokers from exposure to tobacco smoke;
- 9 (c) ensuring that the population is adequately informed about the risks of tobacco use
10 and exposure to second hand tobacco smoke and about the benefits of quitting
11 smoking;
- 12 (d) promoting a climate where nonsmoking and the absence of tobacco promotion is
13 the norm.
- 14

15 **PART II – GENERAL REQUIREMENTS**

16 **§4. Product regulation**

- 17 (1) No person shall manufacture, sell, or import a tobacco product except in compliance with
18 this Act and any regulations made under this Act.
- 19 (2) Every manufacturer and importer of a tobacco product shall provide the Secretary, in the
20 prescribed manner and within the prescribed time, information about the product and its
21 emissions as required by Regulations promulgated under this Act.
- 22 (3) No person shall sell, offer for sale, distribute, advertise or promote any brand of tobacco
23 products that was not sold, distributed, advertised or promoted in the country at least one
24 year before the effective date of this Act.
- 25 (4) The Minister may make regulations:
- 26 (a) establishing standards for the manufacture of tobacco products, including -

- 1 (i) prescribing the amount of substances that may be contained in the product
2 or its emission;
- 3 (ii) prescribing substances that may not be added to tobacco products;
- 4 (iii) prescribing product design standards to reduce the harmful effects of
5 tobacco products and to reduce their appeal to youth; and
- 6 (b) prescribing test methods, including methods to assess conformity with the
7 standards;
- 8 (c) prescribing information that manufacturers must provide to the Minister and or
9 the public about tobacco products and their emission, including sales data and
10 information on product composition, ingredients, hazardous properties and brand
11 elements; and
- 12 (d) generally as needed to carry out this part of the Act.
- 13

14 PART III – PACKAGING AND LABELLING

15 §5. Requirements for packaging and labelling

- 16 (1) No person shall manufacture, sell, or import a tobacco product unless the package
17 containing it displays, in the prescribed form and manner, information required by the
18 regulations concerning -
- 19 (a) the product and its emissions;
- 20 (b) health hazards and effects arising from the use of the product or from its
21 emissions;
- 22 (c) health related messages, including advice on how to quit smoking;
- 23 (d) markings designed to facilitate efforts to identify illegally manufactured or
24 distributed tobacco products or products for which tax has not been paid.
- 25 (2) No person shall package tobacco in a manner that allows a consumer or purchase of
26 tobacco products to be deceived or misled concerning its character, properties, toxicity,

1 composition, merit or safety.

2 (3) Requirements under subsections (1) and (2) do not relieve a manufacturer or retailer of
3 other obligations or liabilities arising from other applicable legal norms to warn
4 consumers of the risks of using tobacco products.

5 (4) The Minister may make regulations on:

6 (a) the content and format of information that must appear on packages and in leaflets
7 pursuant to section 9;

8 (b) information that may not appear on packages; and

9 (c) generally as needed to carry out this part of the Act.

10 11 **PART IV – ADVERTISING AND PROMOTION**

12 **§6. Requirements for advertising and promotion**

13 (1) No person shall promote or cause to promote by any other person, a tobacco product or a
14 tobacco product-related brand element, except as prescribed by the Act or regulations.

15 (2) Notwithstanding regulations made under this Act, no person shall promote or cause to
16 promote tobacco products or brand elements;

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

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

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

25 (d) utilizing any item other than a tobacco product, or a physical establishment or
26 vehicle of any kind, which bears the brand name (alone or in conjunction with any

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2 other word), trade-mark, trade-name, distinguishing guise, logo, graphic
3 arrangement, design, slogan, symbol, motto, selling messages, recognizable color
4 or pattern of colors, or any other indicia of product identification identical or
5 similar to, or identifiable with, those used for any brand of tobacco product;

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

12 (3) Nothing in subsection 2(e) of this section shall prevent a person from sponsoring or
13 causing to be sponsored any athletic, musical, artistic or any other social or cultural
14 event, or any entry or team in any event, in the name of a corporation which
15 manufactures a tobacco product, provided that both the corporate name and the
16 corporation were registered and in use in this country prior to **31 January 2006** and that
17 the corporate name does not include any brand name (alone or in conjunction with any
18 other word), trade-mark, trade-name, distinguishing guise, logo, graphic arrangement,
19 design, slogan, symbol, motto, selling message, recognizable color or pattern of colors, or
20 any other indicia of product identification identical or similar to, or identifiable with,
21 those used for any brand of tobacco product.

22 (4) Nothing in this section shall apply to the publication by a manufacturer of a tobacco
23 product advertisement in a printed publication that is intended for distribution only to
24 employees of the tobacco trade for trade purposes.

25 (5) No person shall offer or provide any consideration, direct or indirect, for the purchase of
26 a tobacco product, including a gift to a purchaser or a third party, bonus, premium, cash

1 rebate or right to participate in a game, lottery or contest, or distribute a tobacco product
2 without monetary consideration, or in consideration of the purchase of a product or
3 service or the performance of a service.

4 (6) The Minister may make regulations:

- 5 (a) prescribing the form and manner of any health messages to be required on
6 promotional material or representations by any means;
- 7 (b) prescribing the format, content and placement of any tobacco promotion;
- 8 (c) requiring tobacco manufacturers to report the amount of monetary expenditures
9 on tobacco promotion by brand and by type of media and prescribing the format
10 and frequency of reporting;
- 11 (d) prescribing schedules for the implementation of promotional restrictions;
- 12 (e) generally as needed to carry out this part of the Act.
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14 PART V - DISTRIBUTION

15 §7. Prohibitions in relation to distribution of tobacco

- 16 (1) No person shall sell or offer to sell tobacco to a child.
- 17 (2) It shall not be a defense to the above-mentioned clause that the person appeared to be 18
18 years old or older.
- 9 (3) It shall be a defense to subsection (1) that the purchaser presented a prescribed form of
1) 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.
- (4) Nothing in this section prevents a person from giving tobacco or a tobacco related
product to a young person if the gift is made solely for use in traditional, spiritual or
cultural practices or ceremonies.
- (5) No person shall sell or offer to sell tobacco products except in a package containing the
quantities or number of units prescribed by regulation.

- 1 (6) No person shall sell or offer to sell tobacco products in a place other than those
2 prescribed by regulations.
- 3 (7) Notwithstanding any regulation made under this Act, no person shall sell or offer to sell
4 tobacco products in the following places;
- 5 (a) health institutions, including hospitals, pharmacies, and health clinics;
- 6 (b) educational institutions, including primary, secondary, and post secondary
7 schools;
- 8 (c) facilities with a significant portion of youth clientele, including parks, movie
9 theaters and sports facilities; and
- 10 (d) such other places as may be prescribed by regulations.
- 11 (8) No person shall sell or offer to sell a tobacco product unless it is hidden from view of the
12 general public at point of sale.
- 13 (9) Notwithstanding subsection (8), retailers may post signs indicating that tobacco products
14 are available for sale, the specific products or brands available for sale, and their
15 respective prices, provided that brand elements are not visibly displayed.
- 16 (10) No person shall sell or offer to sell tobacco products –
- 17 (a) by means of a display that permits a person to handle the tobacco product before
18 paying for it;
- 19 (b) through a vending machine;
- 20 (c) through the mail or the internet;
- 21 (d) at a retail store unless signs bearing health warnings and other information are
22 posted at the place in accordance with the regulations.
- 23 (11) No person shall, at any place or premises in which tobacco or tobacco-related products
24 are sold at retail, display any sign respecting the legal age to purchase tobacco or
25 tobacco-related products unless the signs is supplied or approved by the Ministry of
26 Health.

1 (12) The Minister may make regulations:

- 2 (a) prescribing acceptable forms of identification under subsection (3);
3 (b) prescribing quantities of tobacco to be sold in a single package;
4 (c) prescribing places where tobacco products may be sold;
5 (d) prescribing required signage at point of sale;
6 (e) generally as needed to carry out this part of the Act.

7
8 **PART VI - USE**

9 **§8. Smoking in work place and public areas prohibited**

- 10 (1) No person shall smoke tobacco or hold lighted tobacco in enclosed, indoor areas of any
11 private or public work place, or any public place.
- 12 (2) For the purpose of this Act, private or public work places and public places include inter
13 alia the following:
- 14 (a) offices and office buildings including public areas, corridors, lounges, eating
15 areas, reception areas, elevators, escalators, foyers, stairwells, restrooms, laundry
16 rooms and individual offices;
- 17 (b) factories;
- 18 (c) health institutions;
- 19 (d) educational institutions of all levels;
- 20 (e) any premises in which children are cared for a fee;
- 21 (f) any means of transportation used for commercial, public or professional purposed
22 and used by more than one person;
- 23 (g) public transportation terminals
- 24 (h) retail establishments including shopping malls;
- 25 (i) cinemas;
- 26 (j) church halls;

- 1 (k) sports facilities;
- 2 (l) bars and restaurants;
- 3 (m) pool halls;
- 4 (n) publicly owned facilities rented out for events;
- 5 (o) any other facilities accessible to the public; and
- 6 (p) any other facilities that employ paid personnel.
- 7 (3) All private and public workplaces and public places shall post signs, in accordance with
- 8 regulations, that clearly indicate that the establishment is smoke free.
- 9 (4) The Minister may make regulations:
- 10 (a) prescribing the location, content and format of any signs required to identify
- 11 smoke free establishments;
- 12 (b) generally as needed to carry out this part of the Act.
- 13

14 PART VII – MEASURES TO COMBAT SMUGGLING

15 §9. Requirements for export

- 16 (1) No tobacco product shall be exported from the Republic of the Marshall Islands without
- 17 the posting by the manufacturer or exporter of a bond for shipment with the Ministry of
- 18 Finance in the manner and an amount to be prescribed by regulations and containing the
- 19 following information and documents, as applicable:
- 20 (a) the name, license number, address, telephone, fax numbers and e-mail of the
- 21 manufacturer, including the country of manufacturer;
- 22 (b) the name, license number, address, telephone, fax numbers and e-mail of the
- 23 exporter, including the country of export;
- 24 (c) the name, license number, address, telephone, and fax numbers and e-mail of the
- 25 importer or purchaser, and any person who receives the shipment of the importer
- 26 or purchaser's behalf;

- 1 (d) the name, address, telephone, and fax numbers of the intended carrier(s) of the
2 shipment and the means of transport;
- 3 (e) the names of the cities and countries through which the shipment will be
4 transported;
- 5 (f) identification of the country of final destination;
- 6 (g) the name, license number, address, telephone, and fax numbers of any distributors
7 and other intermediaries handling the shipment;
- 8 (h) the date of the shipment, the period of time over which the shipment is to be in
9 transit, the date of expected arrival in the country of final destination, and the
10 itinerary correlated with dates of entry and exit for each point of entry and exit;
- 11 (i) physical description of the products shipped, including lot, batch or serial
12 numbers of all products contained in the shipment;
- 13 (j) number of individual packages, number of sticks in each package or gram
14 amount, as applicable, number of bulk packages, number of individual packages
15 contained in each bulk package, and the weight of each bulk package contained in
16 the shipment;
- 17
- 18 (k) copies of all purchase orders, invoices, shipping or transport, and transit
19 documents related to the shipment;
- 20 (l) a description of any tax stamps or special marking or design features on packages
21 contained to the shipment;
- 22 (m) an affidavit of the exporter stating that:
- 23 (i) he or she has exhausted all reasonable means to investigate the degree of
24 demand for the products in the country of destination and determined that
25 there is legitimate demand there for the number of products ordered and
26 shipped;

- 1 (ii) there is no substantial basis for believing that any person receiving or
2 handling the shipment has been or is involved in illegal commercial activity
3 or that the products will be sold illegally;
- 4 (iii) he or she has complied with all labeling and other legal requirements;
- 5 (iv) information and documents supplied are true and correct to the best of his
6 or her knowledge.
- 7 (2) The bond made pursuant to subsection (1) shall be forfeited unless the manufacturer or
8 exporter, as applicable, provides the Secretary of the Ministry of Health with the following
9 information within 30 calendar days of the date the goods are shipped.
- 10 (3) Evidence of the claim of custody and proof that all goods reached their final destination
11 without any product being sold or distributed without the full payment of all applicable
12 duties, including but not limited to:
- 13 (a) copies of all bills of lading or other evidence of receipt by all importers and
14 intermediaries;
- 15 (b) proof of payment of all applicable duties;
- 16 (c) copies of invoices received from any intermediaries handling the shipment;
- 17 (d) copies of delivery records;
- 18 (e) copies of all payment records;
- 19 (f) any other information required by the Minister in implementing regulations.
- 20 (4) The Minister may make regulations under this Part to establish requirements to enable the
21 tracking and tracing of tobacco products through the distribution from the manufacturer to
22 the point where all relevant duties and taxes have been paid, for the purpose of assisting
23 law enforcement authorities to detect and investigate illicit manufacture and distribution of
24 tobacco products and identify those responsible for illegal activities under the Act.
- 25 (5) Regulations under subsection (4) may include but are not limited to the use of:
- 26 (a) overt or covert markings to uniquely identify each individual tobacco product and

1 or any of its packaging;

2 (b) overt markings to clearly identify the legal intended end-market destination of
3 tobacco products;

4 (c) scanning of tobacco products and their packaging or other procedures that identify
5 their origin and passage through the distribution chain; and

6 (d) any other relevant technology that may emerge.

7
8 **PART VIII – INSPECTION**

9 **§10. Appointment and powers of inspectors**

10 (1) For the purpose of this Act, the Minister in consultation with the Public Service
11 Commission may appoint any person or designate any class of persons to perform the
12 duties of inspector. Responsibilities of an inspector shall be specified in the act of
13 appointment.

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

17 (a) those places referred to in section 8(2);

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

19 (c) where layouts and requirements stated in section 7(9) are to be found;

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

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

24 (3) Authorized inspectors shall have the following powers, which no person shall deny,
25 obstruct, or hinder -

- 1 (a) the power to examine, open, and test any equipment, tools, materials, packages or
2 anything the authorized officer reasonably believes is used or capable of being used
3 for the manufacture, packaging, labeling, storage, distribution or advertising or
4 promotion (if allowed) of tobacco products;
- 5 (b) the power to examine any operation or process carried out on the premises;
- 6 (c) the power to examine and make copies of or from any books, documents, notes,
7 files, including electronic files, or other records the authorized officer reasonably
8 believes might contain information relevant to determining compliance with
9 regulatory requirements;
- 10 (d) the power to interview or question any licensee or other person involved in
11 manufacturing, importing, exporting, transporting, packaging, marketing (if
12 allowed) or distributing tobacco products, any owner of the premises, or any
13 person using the premises, and his or her employees, agents, contractors and
14 workers, all of whom shall cooperate fully and truthfully with any inspection or
15 investigation;
- 16 (e) the power to make samples of tobacco products or components of products
17 anywhere they are found and have them tested;
- 18 (f) the power to stop, search, and detain any aircraft, ship, vehicles or other means of
19 transport or storage in which the authorized officer reasonably believes tobacco
20 products are contained or conveyed and to examine, open, take samples of and
21 have tested any tobacco products or product components found therein; and
- 22 (g) the power to seize and detain, or order the storage without removal or alteration of
23 any tobacco product the authorized officer reasonably believes does not comply
24 with regulatory requirements, upon providing the licensee or owner of the tobacco
25 products, or if he or she is unavailable, any other person on the premises where the
26 tobacco products are located, written notice of the seizure and detention and the

1 grounds for it. If any tobacco product so seized and detained is determined to meet
2 regulatory requirements, it shall be returned immediately to the premises from which it was
3 seized. If any tobacco product is determined not to meet regulatory requirements, it may be
4 confiscated and destroyed or subject to other disposal, as ordered by the adjudicator of the
5 case.

6 (4) An inspector entering a place to inspect it under this section must, on request, provide the
7 operator of the place with proof of identity and produce a certificate or appointment signed
8 by the Minister, or by a person designated in accordance with regulations.

9 (5) An inspector may not enter a dwelling-place except with the consent of the occupant or
10 under the authority of a search warrant issued in accordance with applicable laws of the
11 Republic.

12 (6) No person shall hinder in any way the performance of the duties of an inspector or analyst,
13 mislead them by concealment or false statements, or refuse to provide them with any
14 information or document to which they are entitled under this Act, or destroy any such
15 information or document.

16 (7) During an inspection under this Act, an inspector may seize any tobacco product or other
17 thing by means of which or in relation to which the inspector believes on reasonable
18 grounds that this Act has been contravened.

20 PART IX – ENFORCEMENT

21 §11. Offences and penalties

22 (1) Any person found guilty of violating any provision under section 4 of this Act shall be
23 liable for a fine of:

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

1 (b) in the case of a manufacturer, not less than \$1,000 and not more than
2 \$10,000 for the first offense, and of not less than \$2,000 and not more than
3 \$20,000 for subsequent offences.

4 (2) Any person found guilty of violating any provision under section 5 of this Act shall be
5 liable for a fine of:

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

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

12 (3) Any person found guilty of violating any provision under section 6 of this Act shall be
13 liable for a fine of:

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

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

20 (4) Any person found guilty of violating any provision under section 7 of this Act shall be
21 liable for a fine of:

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

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

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

7 (5) Any proprietor, owner or manager of any premises listed under section 8 of this Act found
8 guilty of failing to enforce the smoke-free policy applicable to the facility under his or her
9 responsibility, including the posting of prescribed signs and ensuring that any designated
10 smoking areas meet the requirements of the Act and its regulations, shall be liable for a
11 fine of not less than \$500 and not more than \$5,000 for the first offence, and of not less
12 than \$1,000 and not more than \$10,000 for subsequent offences.

13 (6) Any person found guilty of smoking in a place where smoking is prohibited under section
14 8 of this Act shall be liable for a fine of not less than \$500 and not more than \$1,000 for
15 the first offence, and of not less than \$1,000 and not more than \$2,500 for subsequent
16 offences.

17 (7) Any person found guilty of violating any provision under section 9 of this Act shall be
18 liable for a fine of:

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

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

- 1 (c) in the case of a wholesale distributor, not less than \$3,500 and not more than
2 \$10,000 for the first offence, and of not less than \$7,000 and not more than
3 \$20,000 for subsequent offences;
- 4 (d) in the case of a manufacturer, not less than \$4,000 and not more than \$10,000 for
5 the first offence, and of not less than \$8,000 and not more than \$20,000 for
6 subsequent offences;
- 7 (8) In addition to any fines imposed, any person found guilty of violating any provision under
8 section 9 of this Act shall be liable for a penalty equivalent to the proceeds from the
9 distribution of illegal tobacco products as well as taxes and duties owed on those products.
- 10 (9) Nothing in this Act shall preclude the criminal enforcement of its provisions in a Court of
11 competent jurisdiction.
- 12 (10) Where a person is found guilty of an offence under any section of this Act other than
13 section 9, the Court may impose an additional fine in addition to any other penalty,
14 following an application by the prosecuting party appended to the statement of offence,
15 equal to the amount of monetary benefit gained by the person as a result of the offence,
16 even if the maximum fine is imposed under another provision.
- 17 (11) A person who commits or continues an offence under this Act on more than one day is
18 liable to be convicted for a separate offence for each day on which the offence is
19 committed or continued.
- 20 (12) Any person found to have violated any requirement under this Act or implementing
21 regulations may be ordered to pay the reasonable costs associated with any inspection,
22 investigation and enforcement action brought about by the non-compliance.
- 23 (13) The Minister shall make regulations in respect of the following matters -
- 24 (a) the powers and duties of inspectors;
- 25 (b) the taking of samples;
- 26 (c) the procedure to be followed by inspectors during an inspection;

- 1 (d) the procedure to be followed during an inspection for seizure, as well as the one to
2 be applied and restoration of any tobacco product;
- 3 (e) procedures in relation to fines imposed and collected under the Act;
- 4 (f) prescribed forms;
- 5 (g) any other matters as are necessary for the effective administration and enforcement
6 of this Act.

7

8 **PART X – FINANCIAL PROVISIONS**

9

10 **§12. Establishment of the Tobacco Control Fund**

- 11 (1) There is hereby established a Fund to be known as the Tobacco Control Fund, which shall
12 comprise of :
- 13 (a) the sum of all fines collected under the Act and regulations;
- 14 (b) the sum of all fees and charges collected under the Act and regulations.
- 15 (2) All fines, fees and charges imposed under this Act shall be paid to the Ministry of Finance
16 and all monies received by the Ministry of Finance under this section shall be deposited
17 into the Tobacco Control Account.
- 18 (3) The Tobacco Control Account shall be administered by the Secretary of the Ministry of
19 Health and the Secretary of the Ministry of Finance.
- 20 (4) Fines, fees and charged collected under the Act and regulations shall be deposited as
21 follows -
- 22 (a) subject to Subsections 5 and 6 of this Section, 40 % (forty percent) into the
23 Tobacco Control Account for the funding of authorized costs of the Ministry of

1 health, as approved by the Cabinet, for the effective administration and
2 enforcement of the Act; and

3 (b) 60 % (sixty percent) to be deposited into the General Fund.

4 (5) Administration of this part of the Act will be subject to the provisions of the Financial
5 Management Act 1990 and Procurement Code 1988.

6 (6) The Minister of Health shall, no later than 01 October each year, report to the Cabinet on
7 the following –

8 (a) the total amount collected and paid into the Tobacco Control Account; and

9 (b) how the Tobacco Control Account was applied.

10 (7) Procedures relating to the collection, deposit and refund of bonds pursuant to section 9(1)
11 of this Act shall be in the manner and form prescribed by regulations.

12
13 **PART XI – ADMINISTRATION OF THE ACT**

14 **§13. Administration of the Act**

15 This Act and regulations promulgated under the Act shall be administered by the Ministry
16 of Health.

17
18 **§14. Effective Date**

19 This Act shall take effect on the date of certification in accordance with Article IV of the
20 Constitution and the Rules and Procedures of the Nitijela.

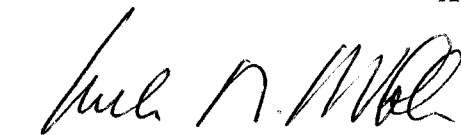
CERTIFICATE

I hereby certify:

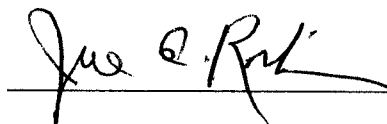
- (i) That Nitijela Bill No: 119 was passed by the Nitijela of the Republic of the Marshall Islands on the 6th day of November, 2006; and
- (ii) That I am satisfied that Nitijela Bill No.: 119 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 5th day of December, 2006.

Attest:



Ruben R. Zackhras
Vice-Speaker
Nitijela of the Marshall Islands



Joe E. Riklon
Clerk
Nitijela of the Marshall Islands