



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial

Governor

Eloy S. Inos

Lt. Governor

23 SEP 2012

Honorable Eliceo D. Cabrera
Speaker, House of Representatives
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Honorable Paul A. Manglona
Senate President, The Senate
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 17-17, HD2, SS1, SD1, CCD1, HD1 entitled, "To strengthen penalties for minors consuming alcoholic beverages, and impose stiffer fines for persons or establishments who are providing and selling alcoholic beverages to minors, and to amend, repeal and reenact certain sections of 4 CMC, Division 5, Chapter 5; and for other purposes," which was passed by the House of Representatives and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 17-83**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Benigno R. Fitial".

BENIGNO R. FITIAL

cc: Lt. Governor; Attorney General's Office; Press Secretary; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



The House of Representatives

NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. Box 500586

Saipan, MP 96950

August 15, 2012

The Honorable Eloy S. Inos
Acting Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Acting Governor Inos:

I have the honor of transmitting herewith for your action **H. B. 17-17, HD2, SS1, SD1, CCD1, HD1**, entitled: "To strengthen penalties for minors consuming alcoholic beverages, and impose stiffer fines for persons or establishments who are providing and selling alcoholic beverages to minors, and to amend, repeal and reenact certain sections of 4 CMC, Division 5, Chapter 5; and for other purposes.", which was passed by the House of Representatives and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature.

Sincerely yours,



Linda B. Muña
House Clerk

Attachment



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

First Regular Session

February 5, 2010

Representative Edmund S. Villagomez, of Saipan, Precinct 3 (*for himself*, Representative Eliceo D. Cabrera,) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H.B. 17-17

AN ACT

TO STRENGTHEN PENALTIES FOR MINORS CONSUMING ALCOHOLIC BEVERAGES, AND IMPOSE STIFFER FINES FOR PERSONS OR ESTABLISHMENTS WHO ARE PROVIDING AND SELLING ALCOHOLIC BEVERAGES TO MINORS, AND TO AMEND, REPEAL AND REENACT CERTAIN SECTIONS OF 4 CMC, DIVISION 5, CHAPTER 5; AND FOR OTHER PURPOSES.

The Bill was referred to the House Committee on Judiciary and Governmental Operations, which submitted Standing Committee Report 17-42 and was adopted on January 28, 2011.

THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, MAY 12, 2011;

THE BILL WAS RECALLED FROM THE GOVERNOR ON MAY 31, 2012; WAS RECONSIDERED AND
PASSED ON FIRST AND FINAL READING, JULY 12, 2012 in the form of *H. B. 17-17, HD2, SS1, SD1,*
CCD1, HD1 and transmitted to the
THE SENATE.

The Bill was referred to the Senate Committee on Judiciary, Government, and Law, which submitted Standing Committee Report 17-60 and was adopted on October 5, 2011.

THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, OCTOBER 20, 2011;
THE BILL WAS RECONSIDERED AND PASSED BY THE SENATE ON FIRST AND FINAL READING,
AUGUST 8, 2012 *without amendments.*

The House of Representatives during its Eighth Day, Fourth Regular Session on November 10, 2011 rejected the Senate amendments and the Bill was sent to Conference, which submitted Conference Committee Report 17-8.

THE BILL WAS FINALLY PASSED ON JULY 12, 2012.

Linda B. Muña, House Clerk



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

Second Day, Fifth Special Session

July 12, 2012

H. B. 17-17, HD2, SS1, SD1, CCD1, HD1

AN ACT

TO STRENGTHEN PENALTIES FOR MINORS CONSUMING ALCOHOLIC BEVERAGES, AND IMPOSE STIFFER FINES FOR PERSONS OR ESTABLISHMENTS WHO ARE PROVIDING AND SELLING ALCOHOLIC BEVERAGES TO MINORS, AND TO AMEND, REPEAL AND REENACT CERTAIN SECTIONS OF 4 CMC, DIVISION 5, CHAPTER 5; AND FOR OTHER PURPOSES.

Be it enacted by the Seventeenth Northern Marianas
Commonwealth Legislature:

1 Section 1. Findings and Purpose. The Commonwealth Legislature finds
2 that according to the recent Youth Risk Behavior Survey conducted by the Public
3 School System in 2007, about 70 percent of high school students and 53 percent
4 of middle school students in the CNMI have had at least one drink of alcohol.
5 Although there are established statutes in the CNMI to prevent minors from
6 consuming alcohol, the Legislature finds that existing penalties need to be
7 strengthened to discourage alcohol consumption by minors and persons or
8 establishments from providing and selling alcoholic beverages to minors. The

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 Legislature further finds that the penalties for tobacco use by minors and illegal
 2 sales of tobacco products to minors are far more stringent than that of alcohol
 3 penalty provisions. It is, therefore, the purpose of this Act to increase the
 4 established penalties pertaining to minors consuming alcohol, and persons or
 5 establishments for providing and selling alcoholic beverages to minors. The
 6 Legislature further finds that certain provisions of the Alcoholic Beverage Control
 7 Act need to be amended, which include the licensing fees that was established
 8 since 1962 to meet current demands, to ensure effective and efficient monitoring
 9 of businesses selling alcoholic beverages as recommended by the Secretary of the
 10 Department of Commerce and Director of the Alcoholic Beverage and Tobacco
 11 Control Division.

12 **Section 2. Amendments.**

13 (a) Repeal and re-enactment. 4 CMC § 5526 is hereby repealed and re-
 14 enacted to read as follows:

15 “§5526. Classes and Fees

16 The Secretary of Commerce shall have the authority to create a
 17 new Class 7 Special Liquor License and to promulgate application filing
 18 and license fees for the following licenses only:

19 Class 1 Manufacturer’s License

20 Annual Sampling Fee

21 Class 2 Wholesale Agent’s License

22 Annual Sampling Fee

23 Class 3 Retail Dealer’s Non-Sale License:

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

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Beer and Wine

General

General (if Class A Restaurant license holder)

Annual Sampling Fee

Class 4 Retail Dealer's Off-Sale License:

Beer and Wine

General

Annual Sampling Fee

Class 5 Temporary Beer License

Class 6 Club License

Class 7 Special Liquor License

(b) 4 CMC §5527 is hereby amended to read as follows:

“§5527. Fees: License.

License fees shall be paid in full prior to the issuance of a license.

Upon payment of the required fee, each license shall be for a period of one year from the date of issuance.”

(c) 4 CMC §5528 is hereby amended to read as follows:

“§5528. Fees: Payment; Revocation.

Except for a temporary beer license which the Secretary of Commerce is authorized to issue for a period not to exceed three days, the license fee as specified in 4 CMC § 5526 for issuance of the license, is payable each year on the same day and month the license is issued. If the

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 license fee is not paid on or before the expiration date, a penalty of \$25.00
2 shall be assessed for each day the license is not renewed.”

3 (d) 4 CMC § 5554 is hereby amended by adding a subsection (a) and new
4 subsection (b) to read as follows:

5 “§ 5554. Hours of Sale: On-Sale Premises.

6 (a) An on-sale licensee shall not sell or serve any alcoholic
7 beverages after two a.m.. A licensee may begin selling and serving
8 alcoholic beverages at nine a.m., and shall secure and close his or her
9 business premises at two a.m., except as otherwise provided.

10 (b) The restriction in subsection (a) shall not apply to Class 7
11 licensees. The Class 7 Special On-Sale License authorizes an on-sale
12 licensee to sell or serve any alcoholic beverages from 9:00 a.m. to 2:00
13 a.m. during weekdays and from 9:00 a.m. to 4:00 a.m. on weekends and
14 holidays.”

15 (e) 4 CMC § 5559(c) is hereby amended to read as follows:

16 “§ 5559. Sale to Minors and Persons without Identification Card
17 Prohibited; Penalty; Defense.

18 (c) Any person who violates the provisions of subsection 5559 (a)
19 or subsection 5559 (b) of this section is guilty of a misdemeanor and shall
20 upon conviction, be fined not more than \$1,000 and/or imprisoned for not
21 more than one year, or both, and shall be required to perform not less than
22 80 hours but not more than 250 hours of community service which cannot
23 be suspended or converted to a fine.”

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 (f) 4 CMC § 5559 is hereby amended by adding new subsections (e), (f)
2 and (g) to read as follows:

3 “(e) Any parent, guardian, or other adult person having the lawful
4 custody, permanent or temporary, of any minor who suffers or permits or
5 lets, either willfully or negligently, such persons under the age of twenty-
6 one to violate the provision of this chapter shall be fined not more than
7 \$1000.

8 (f) The Department of Public Safety, Bureau of Motor Vehicle
9 shall issue to someone under 21 years old, their CNMI Driver’s License in
10 a vertical format with printing in red to the right of the picture. The license
11 shall state in red printing that he or she is “UNDER 21 UNTIL” the date
12 given. The licensee’s picture shall be located on the bottom left side of the
13 ID.

14 (g) The Office of the Mayor of Saipan, Tinian, Rota and the
15 Northern Islands shall issue to someone under 21 their respective
16 Municipal Identification Card (ID) in a vertical format with printing in red
17 to the right of the picture. The identification card shall state in red printing
18 that he or she is “UNDER 21 UNTIL” the date given. The identification
19 card holder’s picture shall be located on the bottom left side of the ID.”

20 (g) 4 CMC § 5565 is hereby amended to read as follows:

21 “§ 5565. Minors: Mixing or Serving Prohibited.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 A licensee, his agent, or employee shall not permit any person
2 under the age of 21 years to mix or serve any alcoholic beverages at any
3 on-sale establishment.”

4 (h) 4 CMC § 5566 is hereby amended to read as follows:

5 “§ 5566. Minors: Entering On-Sale Establishments; Prohibited.

6 With the exception of restaurants, no person under 21 years of age
7 shall be admitted or allowed to enter into any Class-3 On-Sale
8 establishment whose primary business is selling alcoholic beverages, such
9 as; night clubs, bars, cabarets, karaoke clubs and disco clubs. Provided
10 however, that the licensee may allow persons under the age of 21 years to
11 enter his or her establishment for the purpose of special youth programs or
12 events. In addition, the licensee shall notify the Director of Alcoholic
13 Beverage and Tobacco Control Division in writing, within 5 days, for
14 approval prior to the actual time and date of such program or event will
15 take place. Only non-alcoholic beverages shall be sold and served during
16 such activity, therefore, all alcoholic beverages must be secured or stored
17 away from the premises prior to the commencement of such special
18 program or event. Any violation of 4 CMC § 5565 and/or this section is
19 punishable by and in accordance with the penal provisions of 4 CMC §
20 5559(c).”

21 (i) 4 CMC § 5578 is hereby amended to read as follows:

22 “§5578. Appropriation of Licensing Fees and Civil Fines.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 The Secretary of Commerce or his designee shall cause all
2 licensing fees and civil fines received to be paid to the Commonwealth
3 Treasurer. Except for the application filing fees, authority and
4 responsibility for the allocation and expenditure of the licensing fees and
5 civil fines shall be vested in the legislature. All application filing fees
6 collected by the Department of Commerce, Alcoholic Beverage and
7 Tobacco Control Division, shall be allocated to that Division for the
8 purpose of the administration of alcoholic beverage licensing,
9 enforcement, training and prevention programs. Said filing fees may be
10 administered for personnel compensation such as overtime and night
11 differential during special operations with justification provided by the
12 Director of the Alcoholic Beverage and Tobacco Control Division and
13 approved by the Secretary of Commerce. The expenditure authority shall
14 lie with the Secretary of Commerce or the resident department directors in
15 Rota and Tinian to ensure alcohol and tobacco enforcement programs are
16 carried out. All such application filing fees collected shall be deposited
17 into a revolving fund and any unused funds at the end of a fiscal year shall
18 not lapse and shall be available without fiscal year limitation. Said funds
19 shall not be earmarked, reprogrammed, or transferred back to the general
20 fund, or any other account.”

21 (j) 4 CMC § 5559(b) is hereby repealed and re-enacted as follows:

22 “(b) No person shall sell, give, serve or permit his/her agent to sell,
23 give, or serve an alcoholic beverage to any person without first demanding

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 that the person present an official unexpired government document of
2 identification issued by the CNMI Government, Municipalities of the
3 CNMI, the United States Government, United State's states, United States
4 territories, or by foreign governments which bears the person's full name,
5 current photograph, sex, and date of birth indicating that the possessor is
6 twenty one (21) years of age or older and that said presentation and
7 verification occurs."

8 **Section 3. Repealer and Re-enactment.** Title 4 CMC, Division 5,
9 Chapter 5, Article 5 is hereby repealed and re-enacted as follows:

10 "Article 5. Enforcement and Penalties.

11 § 5590. Enforcement Powers.

12 The Department of Commerce Alcoholic Beverage and Tobacco
13 Control Division shall have all the powers of peace officers in the
14 enforcement of the provisions of this chapter and the regulations of the
15 department adopted under the provision of this chapter.

16 § 5591. Inspection Authority.

17 (a) Department of Commerce, Alcohol Beverage Control
18 Inspectors shall have the right at all times without notice and without legal
19 process to visit and have immediate access to every part of the premises of
20 every licensee for the purpose of making an examination and inspection of
21 the alcoholic beverages, books and records, transaction records,
22 surveillance videos and the manner of conducting the business.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 (b) The Alcoholic Beverage and Tobacco Control Division is
2 authorized under this chapter to secure, through adopted regulations, the
3 voluntary assistance of any person under the age of twenty (20) years to
4 post as a decoy and conduct undercover investigations against person or
5 business engaged in selling, giving, serving, or otherwise providing
6 alcoholic beverages to persons under the age of twenty-one (21); provided
7 that no person posing as a decoy may so assist or be requested to so assist
8 law enforcement agencies as a condition of probation or in connection
9 with a court's disposition or sentencing in any court proceedings.

10 (c) All individuals who are under 21 years of age who assist law
11 enforcement in furthering such investigations are immune from
12 prosecution under any part of this chapter.

13 § 5592. Seizure: Authority.

14 The Director of the Department of Commerce, Alcoholic Beverage
15 and Tobacco Control Division shall have the power to seize and hold
16 without legal process until an order of disposition is made by the court, the
17 following:

18 (a) Any alcoholic beverages manufactured in the CNMI by any
19 person other than a licensed manufacturer regardless of where found.

20 (b) Any stills, materials, or supplies capable of and intended for
21 use in manufacture of alcoholic beverages without a license.

22 (c) Any alcoholic beverages imported, possessed or owned in
23 violation of the provisions in this Chapter.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 (d) Any alcoholic beverages adulterated, diluted, misbranded or
2 mislabeled and any distilled spirit containers which have been refilled with
3 distilled spirits.

4 (e) Any vehicles used to carry or conceal any alcoholic beverages
5 which are subject to seizure.

6 § 5593. Seizure: Report.

7 Every person who seizes any alcoholic beverages, vehicles or other
8 property subject to seizure under the provision of this Article shall file
9 without delay a written report of the seizure with the Attorney General,
10 with notice to the Director.

11 § 5594. Seizure: Forfeiture.

12 (a) Upon receiving a written report of the seizure of alcoholic
13 beverages, vehicles or other property subject to seizure under the
14 provisions of this Article the Attorney General shall institute proceedings
15 in the Superior Court and have the seized property declared forfeited to the
16 government.

17 (b) Upon finding by the court that any alcoholic beverages,
18 vehicles or other property were seized in accordance with the provisions
19 of this Article, the court shall adjudge to seized property forfeited to the
20 government. In the event a vehicle subject to seizure is found to have
21 been used without the knowledge or consent of the owner it shall not be
22 forfeited. The burden is on the owner of the vehicle to show lack of
23 knowledge or consent.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 § 5595. Seizure: Release and Return.

2 Upon finding that any alcoholic beverages, vehicles or other
3 property were erroneously or illegally seized, the court shall order the
4 seized property released and returned to the person from whom the
5 property was seized.

6 § 5596. Disposition of Property Forfeited.

7 (a) *Unlicensed Manufacturer.* The court shall order destroyed all
8 alcoholic beverages forfeited by reason of adulteration, dilution or
9 manufacture in the Commonwealth by other than a licensed manufacturer
10 and distilled spirits in a container that has been refilled.

11 (b) *Beverages.* The court shall order the disposition of all alcoholic
12 beverages other than those specified in § 5595(a) by transfer to a
13 government agency, department or institution requesting such alcoholic
14 beverages for industrial, medicinal or scientific use, by public sale or by
15 destruction. A government agency, department or institution may file with
16 the court a request for any forfeited alcoholic beverages and the court shall
17 not order other disposition of the alcoholic beverages requested until the
18 request has been filed.

19 (c) *Stills and Supplies.* The court shall order the disposition of any
20 forfeited stills, materials and supplies by public sale or destruction.

21 (d) *Vehicles.* The court shall order the disposition of any forfeited
22 vehicles by transfer to any government agency, department or institution

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 requesting such vehicles and in the absence of any such request, by public
2 sale.

3 § 5597. Revocation of License: Causes.

4 A licensee of any class may be revoked on any of the following
5 grounds:

6 (a) The continuation of a license would be contrary to the public
7 interest;

8 (b) The violation of, causing or permitting a violation of, or failure
9 or refusal by a licensee to comply with any provision of this title or
10 regulation of the Alcoholic Beverage and Tobacco Control adopted under
11 this chapter;

12 (c) The misrepresentation of a material fact by any applicant in
13 obtaining or renewing a license;

14 (d) The plea, verdict, or judgment of guilty to any public offense
15 involving moral turpitude.

16 § 5598. Revocation or Suspension of License: Temporary.

17 Upon the filing of a sworn written report with the Director or by an
18 inspector setting forth pursuant to any grounds in § 5597 for the
19 suspension or revocation of a license, the Director may temporarily
20 suspend any license pending a regular hearing by the Department. No
21 temporary suspension by the Secretary shall exceed forty-eight (48) hours.
22 The Director shall upon temporarily suspending a license immediately

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 notify the Secretary in writing of his action and transmit to the Secretary
2 the report of the inspector, including the names of all witnesses.

3 § 5599. Revocation or Suspension of License: Hearing.

4 The Secretary upon receipt of the report required in § 5598 shall,
5 as soon as practicable, hold a hearing on such report, and may suspend or
6 revoke the license of any licensee found guilty of violating any of the
7 provisions of this Chapter.

8 § 5600. Revocation or Suspension of License: Accusation.

9 Without reference to the Director, any person may file an
10 accusation with the Secretary against any licensee setting forth a ground
11 for suspending or revoking a license.

12 § 5601. Civil Penalties and Fines.

13 The Secretary upon determining that any licensee is guilty of
14 violating any of the provisions of this Chapter may impose the following
15 fines and penalties:

16 (a) First Offense: a \$1,000 fine; and a four (4) hours mandatory
17 attendance of ABC Laws and Regulations Refresher Orientation by the
18 Licensee or his/her designee;

19 (b) Second Offense: a \$3,000 fine; and final notice for revocation
20 on third offense;

21 (c) Third Offense: revocation of license and a \$5,000 fine.

22 § 5602. Criminal Prosecution.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 The criminal prosecution of any person under the provision of this
2 chapter shall be in addition to and independent of the power of the
3 Director of Secretary to suspend or revoke any license and impose a fine.

4 § 5603. Criminal Penalty for Violations.

5 Any person who violates, causes or permits a violation of fails or
6 refuses to comply with any provision of this chapter or any order or
7 regulation of the ABTC Division not inconsistent with the provision of
8 this chapter for which a specific penalty is on provided, is guilty of a
9 misdemeanor, punishable by the following:

10 (a) First Offense: a fine of not more than \$1,000, or by
11 imprisonment of not more than one year, or by both and shall be required
12 to perform not less than 80 hours but not more than 250 hours of
13 community service which cannot be suspended or converted to a fine.;

14 (b) Second Offense: a fine of not more than \$3,000, or by
15 imprisonment of not more than three years, or both and shall be required
16 to perform not less than 80 hours but not more than 250 hours of
17 community service which cannot be suspended or converted to a fine.; and

18 (c) Third Offense: a fine of not more than \$5,000, or by
19 imprisonment of not more than five years, or both and shall be required to
20 perform not less than 80 hours but not more than 250 hours of community
21 service which cannot be suspended or converted to a fine.

22 § 5604. Penalty for Violations: Minors Purchasing Distilled Spirits
23 and other Alcoholic Beverages.

HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

1 Any person under the age of 21 years purchasing alcoholic
2 beverages in the form of distilled spirits or is in possession thereof,
3 including purchasing and in possession of any other alcoholic beverages,
4 shall be punished by a fine of not more than \$1,000, or by imprisonment
5 of not more than one year, or by both, and in addition shall be required to
6 perform not less than 80 hours but not more than 250 hours of community
7 service which cannot be suspended or converted to a fine.”

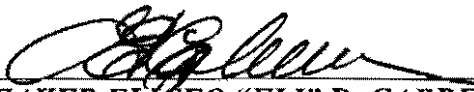
8 **Section 4. Severability.** If any provisions of this Act or the application
9 of any such provision to any person or circumstance should be held invalid by a
10 court of competent jurisdiction, the remainder of this Act or the application of its
11 provisions to persons or circumstances other than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

13 **Section 5. Savings Clause.** This Act and any repealer contained herein
14 shall not be construed as affecting any existing right acquired under contract or
15 acquired under statutes repealed or under any rule, regulation, or order adopted
16 under the statutes. Repealers contained in this Act shall not affect any proceeding
17 instituted under or pursuant to prior law. The enactment of the Act shall not have
18 the effect of terminating, or in any way modifying, any liability, civil or criminal,
19 which shall already be in existence on the date this Act becomes effective.

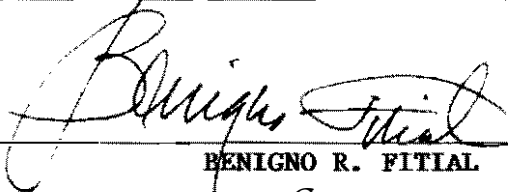
HOUSE BILL 17-17, HD2, SS1, SD1, CCD1, HD1

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

Attested to by: 
Linda B. Muña, House Clerk

Certified by: 
SPEAKER ELICEO "ELI" D. CABRERA
House of Representatives
17th Northern Marianas Commonwealth Legislature

APPROVED this **23rd** day of **SEPTEMBER**, 2012


BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands