



HOUSE OF REPRESENTATIVES
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2004

PUBLIC LAW NO. 14-15
H. B. No. 14-98, HD1

AN ACT

To amend Title 2, Division 3 of the Commonwealth Code by adding a new Chapter 8 to require that waste containers have a lid or cover and to prohibit the accumulation of trash or garbage without a waste container.

BE IT ENACTED BY THE FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This Act may be cited as the “Waste Container Lid Requirement Act of 2004.”

Section 2. Findings. The Legislature finds that it is a public nuisance and a health hazard for garbage or trash to be accumulated on either public or private property without tightly fitting lids or covers on the waste containers. Frequently, trash or garbage is seen scattered on streets or on sidewalks. This not only affects the environment, but additionally, the appearance of unclean streets has a negative impact on the tourism industry. Waste containers without lids, and trash or garbage piled without waste containers consistently attract dogs, cats, and rats. In addition, windy conditions cause trash or garbage to be blown out of open waste containers or spread piles of unsecured trash or garbage.

Section 3. Amendment. Title 2, Division 3 of the Commonwealth Code is hereby amended to add a new Chapter 8 as follows:

“CHAPTER 8.

WASTE CONTAINER REQUIREMENTS

§ 3801. Definitions. For purposes of this Act the following terms shall have the meanings indicated:

- (a) “Business” means a building or property used for business, manufacturing, or other commercial purposes.

(b) “Garbage” means all waste from the preparation and consumption of food, and all refuse and waste from the handling, storage, preparation, and sale of produce.

(c) “Person” means any individual, partnership, corporation, association or government entity, corporation or agency.

(d) “Trash” means all materials, which are not garbage, discarded from residences, dwellings, hotels, clubs, restaurants, shops, stores, or other places of business.

(e) “Waste container” means a receptacle used for the temporary storage of garbage or trash.

§ 3802. Waste Containers – General.

(a) All persons including business owners and governmental entities:

(1) Shall not keep trash or garbage on their premises except in a suitable waste container.

(b) Shall deposit and cause to be deposited all garbage or trash into waste containers with tight fitting lids or covers. Waste container lids shall be kept closed at all times other than when the container is being filled or emptied.

(c) Shall not use cardboard boxes, buckets, paper bags, paint pails, and other similar containers as waste containers.

Appropriate waste containers shall provide sufficient storage between collections.

(b) A person in the business of providing trash collection services, including providing waste containers for the use of its customers and clients, may only provide waste containers that conform with the requirements prescribed in subsection (a) of this section.

§ 3803. Maintenance of Areas around Waste Containers. All persons including business owners and governmental entities within the Commonwealth shall keep waste container areas free of garbage or trash.

§ 3804. Violations.

(a) *Notice of violation.* The Department of Public Health through the Bureau of Environmental Health shall have the authority to issue notices of violations to any person not in compliance with §§ 3802 and 3803 of this chapter, or any regulation promulgated hereunder. Within 30 days after issuance of the notice, the aggrieved person shall either –

(1) take necessary steps to cure the violation and pay any assessed civil fine as provided in subsection (b) of this section at the CNMI Treasury office, or

(2) submit a written request to the Department of Public Health for an administrative hearing to protest the violation notice.

(b) *Penalty: civil fine.* Any person who fails to comply with §§ 3802 and 3803 is subject to a civil fine of \$100 for each violation and an additional \$50 for each day the person fails to comply with this chapter. The Department of Public Health may waive the fine for good cause shown including but not limited to situations where the violation notice is issued to a person for the first time or where financial hardship prevents a person from complying in a timely manner.

(c) *Administrative hearing.*

(1) All hearings under this section shall be conducted pursuant to 1 CMC §§ 9109 and 9110. For purpose of those sections in the Administrative Procedures Act and this section the term “agency” shall mean such hearing officer as appointed by the Secretary of the Department of Public Health and

(2) The agency shall have the general power to issue subpoenas, summon witnesses, require production, administer oaths, and other powers that may be necessary to implement this section.

(3) All hearings shall be commenced within 30 days of the filing of the written protest by the aggrieved person. Adequate notice shall be given to all parties and opportunity shall be made available to them to present such evidence as they may desire.

(4) Within 30 days after the hearing, the agency shall issue findings, decision and orders pursuant to 1 CMC § 9110, which shall not be judicially reviewable until final.

(d) *Administrative review.*

(1) Within 15 days of receipt by any person or party affected by findings, orders, or decisions of the agency made pursuant to subsection (d) of this section may appeal to the Secretary of the Department of Public Health by written notice. If no appeal is made to the Secretary within 15 days of issuance of the original findings, orders or decision, the findings, orders or decision shall be unreviewable administratively or judicially.

(2) Upon review, the Secretary may at his or her discretion:

(i) Restrict review to the existing record;

(ii) Supplement the record with new evidence;

(iii) Hear oral argument; or

(iv) Hear the matter de novo, in which case the hearing shall be conducted pursuant to 1 CMC §§ 9109 and 9110.

(3) Within 30 days after completing its review, the Secretary of the Department of Public Health shall in a written decision confirm or modify the agency findings, order or decision. Any modification shall include supplemental findings. The Secretary's decision shall constitute final action for purposes of judicial review.

(e) *Judicial review.* Judicial review of a final action of the Department of Public Health is authorized after exhaustion of administrative remedies, and must be initiated within 15 days of the issuance of the order or decision constituting final action. Judicial review shall be pursuant to 1 CMC § 9112. Notwithstanding any provision of law to the contrary, judicial review shall be confined to the administrative record.

(f) *Deposit of fines.* The Secretary of Finance shall establish a fund to be known as the Environmental Health Enforcement Fund which shall be further divided

into three separate subaccounts for each senatorial district as defined under 1 CMC § 1402(e); 90 percent of the fines collected under this section in each senatorial district shall be deposited into respective subaccounts and the remaining ten percent shall be deposited into the general fund. The funds in the environmental health enforcement funds shall be nonlapsing and shall be available for appropriation to fund the administration and enforcement of this chapter under the expenditure authority of the Secretary of the Department of Public Health for the Third Senatorial District subaccount, and the respective resident directors of the Department of Public Health for the First and Second Senatorial Districts subaccounts.

§ 3805. **Enforcement.** Law enforcement officers or authorized employees of the Bureau of Environmental Health under the Department of Public Health shall enforce compliance with this chapter.”

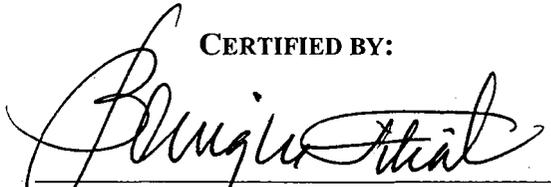
Section 4. Public Awareness Program. Enforcement of this Act shall begin 90 days after its effective date pursuant to Section 7. The Department of Public Health through its Bureau of Environmental Health shall conduct a comprehensive public awareness program within the 90-day period to inform the general public of the requirements of this Act including, but not limited to, the civil fines that may be assessed. Notwithstanding any law to the contrary, the Secretary of the Department of Public Health or the Governor may reprogram available funds to pay for the public awareness program.

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying,

any liability, civil or criminal, which shall already be in existence at the date this Act, becomes effective.

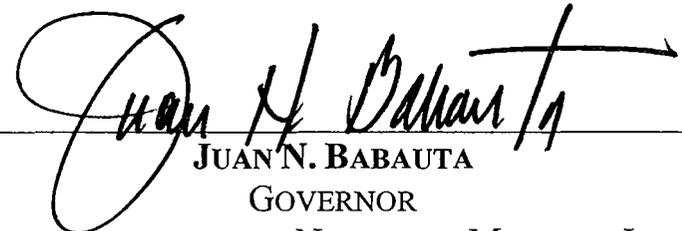
Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

ATTESTED TO BY:

EVELYN C. FLEMING
HOUSE CLERK

Approved on this *18th* day of *June*, 2004


JUAN N. BABAUTA
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS