

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

*Public Law 12-48*

FIRST REGULAR SESSION, 2000

**H. B. NO. 12-57, CS1**

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**AN ACT**

To repeal and reenact 3 CMC Div.2, Chapter 1, Article 2; and for other purposes.

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

**Section 1. Title.** This Act may be cited as the Commonwealth Environmental Health and Sanitation Act of 2000.

**Section 2. Findings.** The Legislature finds that there is a long-standing need to revise our statutes relating to environmental health and sanitation. The present statute dates back to the time of the Trust Territory, and has not been revised in more than twenty years. Lack of a comprehensive, detailed environmental health and sanitation statute has led to problems with the administration and enforcement of existing statutes and regulations.

**Section 3. Amendment.** 3 CMC, Div. 2, Chapter 1, Article 2 is hereby repealed in its entirety and replaced to read as follows:

“**Article 2. Sanitation.**

§ 2121. **Definitions.** For purposes of this Act, the following terms shall have the meanings set forth below:

(a) Barber Shops and Beauty Parlors means all establishments where services are provided for: (1) noninvasive topical treatment of the face, hair, fingers, toes, scalp, or neck; (2) exfoliating, waxing, electrolysis, massaging, or cleansing externally of the body; (3) shampooing, arranging, adorning, braiding, weaving, curling, waving, tinting, dyeing, conditioning, shaving, clipping, trimming, or cutting human hair by hand or mechanical appliance or implements; or (4) trimming, manicuring, or giving a pedicure of human nails.

(b) Bathing House means any building, room, place or establishment other than a regularly licensed and established hospital, health clinic, or dispensary wherein baths are given whether by steam, vapor, electric cabinet, electric light, sponge, shower, sun, tub, mud, mineral, Finnish, Russian, Swedish or Turkish bath, salt glows, electric or magnetic treatment, alcohol rubs, and rubs or massages with or without any other ingredients.

(c) Blood borne Illness means an illness resulting from contact with blood from an infected source or person, including, but not limited to, HIV and Hepatitis B.

(d) Child Care Facility means any person that receives or arranges placement of one or more children outside the child's or children's regular home with a caretaker who is not related to such child or children, apart from the legal guardian or custodian, whether for gain or otherwise, for the purpose of providing regular care or training for such child or children during either the day or night or both. "Child care facility" shall include, but not be limited to, family day care centers, day nurseries, nursery schools, kindergarten schools, or similar institutions or units regardless of name.

(e) Communicable Disease means a disease caused by an infectious agent or the toxic product produced by an infectious agent that can be transmitted directly or indirectly from one individual to another.

(f) Critical Control Point means a fundamental element of a process or procedure that must be carried out in a specific controlled manner to ensure that the overall process or procedure does not create an unacceptable health risk or produce any byproduct that creates an unacceptable health risk.

(g) Duly Authorized Representative means the Deputy Secretary for Public Health Administration, the Medical Director of Public Health, the Environmental Health Officer, or Environmental Health Inspector, as designated by the Secretary.

(h) Foodborne Illness means an illness resulting from the ingestion of food or drink.

(i) Funeral Establishment means any place used for such activities as are incident, convenient or related to the preparation and arrangements for the funeral, transportation, burial, cremation or other disposition of dead human bodies.

(j) Health Clinic means a building, room, place, or establishment where physical and health examinations, health consultations, or the care or treatment of sick and/or injured people is provided or made available outside a hospital, and shall include optical clinics, acupuncture clinics, dental clinics, chiropractic clinics and any other establishment other than a hospital where health care is provided.

(k) Health Inspector means an individual duly authorized by the Secretary of Health to represent the Division of Public Health, Bureau of Environmental Health during a sanitary inspection, investigation, or other public environmental health related duty.

(l) Hotel, Motel, or Room Accommodation means any structure or any portion of any structure, including any lodging house, rooming house, dormitory, health spa, studio hotel, hotel, motel, or private club containing four or more guest rooms and intended to provide overnight accommodations or

accommodations by the hour for pay, whether monetary or in-kind. The term “hotel, motel, or room accommodation” shall not include any penal institution, hospital, clinic, nursing home, school, laboratory, or childcare facility.

(m) Imminent Health Hazard means a significant threat or danger to the health, safety and welfare of the public that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent harm or injury to persons in the community based on: (1) the extent of the potential harm or injury; and (2) the nature, severity, and duration of anticipated harm or injury.

(n) Massage Parlor means any building, room, place or establishment occupied and used for the purpose of using any method of applying pressure or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external part of the body with the hands or feet, or with the aid of any apparatus or appliance, with or without such supplementary aids such as rubbing alcohol, ointments, liniments, antiseptics, oil, powders, creams, lotions, or similar preparations. “Massage parlor” shall not include a regularly licensed and established hospital, health clinic or dispensary that provides non-medical and non-surgical manipulative exercises practiced upon the human body manually or otherwise by a health care provider with or without the use of therapeutic, electrical, mechanical or bathing devices.

(o) Penal Institution means any jail, detention center, prison, detention camp, juvenile detention home or cottages, or other facility operated by the CNMI Government and used as a holding facility, jail, or residential custodial facility. “Penal institution” shall not include hospitals or childcare facilities.

(p) Person means an individual, association, corporation, partnership, other legal entity, government, or governmental subdivision or agency.

(q) Person In Charge means the individual present in a place of employment who is the apparent supervisor of the business establishment and of the employees at the time of inspection, or in the event no designated supervisor is present, then any employee working at the place of employment.

(r) Restroom Facility means a room(s) equipped with a water closet or toilet and/or hand washing facility that meets Department of Public Works Building and Safety Code standards for employee and public usage that is clean, well maintained, in good repair, and adequately stocked with liquid soap and dispensers, toilet tissue and disposable towels or equipped with hot air hand dryer(s).

(s) School means any establishment, public or private, for the care and education of students from kindergarten through grade twelve and any college or university or educational institution of higher learning.

(t) Secretary means the Secretary of the Department of Public Health or his/her Duly Authorized Representative.

(u) Swimming Pool means any artificial structure, basin or tank constructed of impervious materials used or intended to be used for swimming, diving, wading, recreational bathing, or as a hot tub, whirlpool, or Jacuzzi by the general public, whether for a fee or free of charge, or by the customers, clients, guests or employees of any person, including, but not limited to, a commercial pool, community pool, a pool at a hotel, motel, resort, private or public club, private or public school, gymnasium, or health establishment. The term "swimming pool" shall not include private residential swimming pools located on private residential property and under the direct control of the owner or lessee(s), and used only by the owner or lessee(s), their family, and their guests.

(v) Tattoo and/or Body Piercing Shop means any premises where patrons can have the human epidermis punctured and stained with ink or other pigment leaving a permanent design or picture, or pierced for adornment with jewelry or studs.

(w) Temporary Food Service means a food establishment that operates for a

period of no more than thirty (30) consecutive days in conjunction with a single event or celebration.

(x) Vector means any organism capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including mosquitoes, flies, fleas, cockroaches, or other insects and ticks, mice, or rats.

(y) Vector borne Illness means an illness transmitted through a vector.

(z) Waterborne Illness means an illness resulting from submersion in, ingestion, or aspiration of contaminated water.

**§ 2122. Sanitary Permits.**

It shall be unlawful for any person to operate or open the following business without a valid and current sanitary permit for such establishment or activity:

- (a) Funeral establishments, crematoriums and cemeteries;
- (b) Any establishment or activity involving food or drink service, temporary food service, food retail, wholesale and transportation operations, pushcarts, caterers, or motor vehicle food vendors;
- (c) Food manufacturing, processing, packaging, importation, distribution, and warehousing facilities;
- (d) Barber shops and beauty parlors;
- (e) Ice, water, and other beverage bottling plants and distributors thereof;
- (f) Tattoo and/or body piercing shops;
- (g) Massage parlors, bathing houses, spas and gymnasiums;
- (h) Health clinics and convalescent homes;
- (i) Schools and other child-care facilities;
- (j) Penal institutions;
- (k) Hotels, motels, and other room accommodations;
- (l) Vector control and sanitation of aircraft, ships and commercial premises;

(m) Swimming pools and water parks.

Such permit shall be displayed at all times in a conspicuous place in the premises as designated by the Secretary. Only persons who comply with the pertinent provisions of this Act and the regulations promulgated there under shall be entitled to receive and retain such permit. Permit issuance and approval by the Secretary does not relieve the applicant from the obligation and responsibility of obtaining all necessary and required CNMI and/or Federal government permits.

**§ 2123. Regulations.**

(a) The Secretary shall promulgate rules and regulations as required relative to the activities and/or physical premises for the sanitary operations of:

(1) Funeral establishments, crematoriums and cemeteries;

(2) Any establishment or activity involving food or drink service, temporary food service, food retail, wholesale and transportation operations, pushcarts, caterers, or motor vehicle food vendors;

(3) Food manufacturing, processing, packaging, importation, distribution, and warehousing facilities;

(4) Barber shops and beauty parlors;

(5) Ice, water, and other beverage bottling plants and distributors thereof;

(6) Tattoo and/or body piercing shops;

(7) Massage parlors, bathing houses, spas and gymnasiums;

(8) Health clinics and convalescent homes;

(9) Schools and other child-care facilities;

(10) Penal institutions;

(11) Hotels, motels, and other room accommodations;

(12) Vector control and sanitation of aircraft, ships and commercial and private premises;

(13) Swimming pools and water parks.

(b) The regulations adopted by the Secretary shall cover, but not be limited to:

- (1) water supply adequacy in quantity and quality;
- (2) disposal of sewage, refuse, and other wastes in compliance with CNMI environmental health standards in a manner that will not create a nuisance or health hazard;
- (3) cleanliness of premises and facilities;
- (4) protection of implements, equipment, and other materials against dust, dirt and contamination;
- (5) properly constructed equipment and the maintenance of such equipment;
- (6) restroom facilities;
- (7) control and exclusion of insects, rodents and other vectors;
- (8) infectious disease control.

(c) Before any person shall commence to operate or open for business any establishment or activity listed in subsection (a) of this Section, where a sanitary permit is required, he or she shall complete an application requesting a pre-operation inspection by a Health Inspector. The Health Inspector shall inspect the location to determine whether such business or establishment satisfies the sanitation and environmental health standards established by this Act and the regulations promulgated there under. If the application is for a temporary food service establishment, then it shall also include the beginning and ending dates of the proposed operation.

**§ 2124. Form and Charges for Permit and Annual Renewal.** The Secretary shall prescribe the form of the permit. All sanitary permits issued under this Act and regulations promulgated there under shall terminate and be renewable annually on the

anniversary of the date of application. No refunds shall be made on the unused portions of the permit or upon applications that have been denied.

**§ 2125. Fees.**

(a) The Secretary, through the promulgation of regulations, shall establish the fees for the issuance of sanitary permits, the duplication of sanitary permits, inspections, compliance education and consultation, and other activities provided for under this Act.

(b) All fees collected by the Department of Public Health under this Act shall be paid into the General Fund and placed to the credit of the Department of Public Health Account and such moneys hereby appropriated continuously and shall be used only for the administration and enforcement of the provisions of this Act or regulations promulgated there under.

**§ 2126. Transfer of Permit Forbidden.** It shall be unlawful to transfer a permit to another person or to another location or to post it on or use it in any way in connection with any other premises other than that for which it was issued.

**§ 2127. Inspection.**

(a) Pre-operation Inspections. Before a sanitary permit is issued, a Health Inspector shall conduct one or more pre-operation inspections to verify that:

(1) the applicant has been issued a business license by the Department of Commerce to conduct the particular business for which the sanitary permit is being requested;

(2) the applicant has obtained a Certificate of Occupancy from the Department of Public Works after establishing that the building and equipment, as defined in the Building and Safety Code at 7 CMC §7122, are in compliance with law; and

(3) the applicant's establishment is sanitary and complies with the requirements of this Act and the regulations promulgated thereunder.

(b) Inspection Frequency.

(1) Once a sanitary permit has been granted to an applicant, a Health Inspector shall conduct an inspection of the establishment at least once every six (6) months thereafter unless otherwise provided below.

(2) Except as provided in subsection (d) below, at such time that an establishment receives a grade “A” on three (3) consecutive inspections, inspections of the establishment shall be reduced to one (1) per year until such time that the establishment receives a grade “B” or lower on an inspection. After receiving a grade “B” or lower, the establishment shall be subject to inspections once every six (6) months until such time that the establishment again qualifies for the reduced number of inspections under this section.

(c) Inspection for Permit Renewal. The Health Inspector shall inspect an establishment before issuing an annual renewal of the sanitary permit.

(d) Additional Inspections. Additional inspections shall be prioritized, and may be conducted more frequently than once every six (6) months based on consideration of the following:

(1) past performance on an inspection, which uncovered adverse public health conditions and nonconformance with critical control points as specified in the regulations promulgated pursuant to this Act;

(2) the risk of potential hazards unique to the specific type of business conducted, including the extent of potential hazard to the public;

(3) the number of people who may be affected should an imminent health hazard occur, and whether the population served is a highly susceptible population to the potential hazard; and

(4) complaints received by the Secretary concerning the establishment's operation or sanitary condition that may present an unacceptable health risk.

**§ 2128. Access to Premises and Due Notice.** After the Health Inspector presents official credentials and provides notice of intent to inspect the establishment or premises during the hours of operation or other reasonable time, the person in charge shall permit the Health Inspector access, either in the company of an employee or otherwise, to all persons employed by, and to all parts of the establishment or premises, and shall permit examination and copying of any and all records, to insure compliance with this Act and the regulations promulgated there under. If the person in charge denies access to the Health Inspector, the Health Inspector shall inform the person in charge that:

(a) the holder of a sanitary permit is required to allow access to Health Inspectors as specified under §2128 of this Act; and

(b) access to the establishment or premises is a condition of maintaining a sanitary permit to operate an establishment specified in §2122 of the Act.

If, after the Health Inspector presents this information, the person in charge is still unwilling to grant access to the establishment or premises, the Health Inspector shall schedule a hearing within ten (10) working days to suspend the sanitary permit on the basis of being unable to conduct an inspection. The Health Inspector shall note in the inspection report the details surrounding the person in charge's refusal to grant access to the establishment or premises.

**§ 2129. Inspection Reports; Demerit Values; Demerit Scores.**

(a) Whenever the Health Inspector makes an inspection and discovers that any provision of this Act or regulations promulgated there under has been violated, he shall record his findings on an inspection report form for the permit holder or person in charge. For each violation of a critical control point a

demerit value shall be assigned as established in regulations promulgated pursuant to this Act. Upon completion of an inspection, the Health Inspector shall total the demerit point values for all requirements in violation, such total becoming the grade for the establishment. Grades shall be based on the following demerit scores:

(1) Grade A – An establishment having a score of not more than ten (10) demerits.

(2) Grade B - An establishment having a score of more than ten (10), but not more than twenty (20).

(3) Grade C - An establishment having a score of more than twenty (20), but not more than thirty (30).

(b) An establishment with a score of more than thirty (30) demerits shall be considered an imminent health hazard and shall not be granted a sanitary permit, or in the case of a renewal, shall be subject to immediate suspension and closure as specified in §2135(a). Immediately following such a grading during an inspection, the Health Inspector shall post a closure notice placard in an obvious location at the front door of the establishment to alert the public. Anyone other than the Secretary or a Health Inspector is prohibited from removing this placard.

**§ 2130. Content of Inspection Reports.** Whenever a Health Inspector makes an inspection, he shall notify the permit holder or person in charge of such violations by means of an inspection report as provided in §2129. In such notification, the Health Inspector shall:

(a) Set forth the specific violations found, together with the demerit score of the establishment;

(b) Establish a specific and reasonable period of time for correction of the violations found as specified in §2132.

(c) State that failure to correct any deficiencies in accordance with the provisions of any applicable laws, rules or regulations may result in suspension of the permit;

(d) State that an opportunity for appeal from any inspection findings will be provided if a written request for a hearing is filed with the Secretary within the period of time established for notice of corrections; and

(e) Request that the person in charge sign an acknowledgement of receipt of the inspection report. However, failure or refusal to sign receipt of the inspection report shall not relieve the permit holder or person in charge from the obligation to correct the violations noted in the inspection report within the specified time frame.

**§ 2131. Service of Inspection Reports.** Inspection reports provided for under this Act shall be deemed to have been properly served when a copy of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such inspection report has been sent by registered or certified mail return receipt requested, to the last known address of the permit holder. The permit holder or person in charge shall be required to maintain copies of the inspection report forms at the establishment for a period of seven (7) years. The Secretary shall also maintain files of the inspection report and proof of service.

**§ 2132. Timely Correction of Violations of Critical Control Points.**

(a) A permit holder who has received a demerit score of more than ten (10) points shall correct a violation of a critical control point and implement corrective actions within a reasonable time period as specified in the inspection report, or as provided in subsections (b) and (c) below.

(b) Considering the nature of the potential health risk involved and the complexity of the corrective action needed, a permit holder may avoid suspension of the sanitary permit under §2135(b) of this Act, if the permit holder can make corrections or repairs within the following time frames:

(1) Five (5) working days for deficiencies that involve general cleaning and easily resolvable critical control point violations;

(2) Fifteen (15) working days for deficiencies or violations that require more man-hours due to the scope of work, including but not limited to minor building repairs and the purchase of necessary equipment;

(3) Thirty (30) working days for deficiencies requiring the purchase of equipment or materials necessary for remodeling that may not be found on island, but must be requested from an off-island supplier or contractor.

(c) The Secretary may agree to an extension of the compliance period if:

(1) the permit holder provides in writing sufficient evidence that the specified time frame with which to comply is not feasible due to insurmountable circumstances and agrees to an alternative date;

(2) no imminent health hazard would result from the delay; and

(3) the reasons are deemed justified by the Secretary. However, a second request for an extension will be cause for suspension of the sanitary permit.

**§ 2133. Re-Grading After Corrective Action.** The applicant or person in charge of any establishment or premises that received a low grade may at any time make a written request for an inspection for the purpose of re-grading the establishment after corrective action has been completed. Upon receipt of a written request, which includes a signed statement from the person in charge that the initial inspection report's corrective actions have been carried out, a Health Inspector will schedule an inspection, for a fee, within ten (10) working days of receipt at the Bureau of Environmental Health office.

**§ 2134. Verification and Documentation of Correction.**

(a) At the next inspection after a Health Inspector advised an establishment or person to make a correction of a violation of a critical control point or deviation, the Health Inspector shall enter the specifics about the previous violation and information about the corrective action on the inspection report.

(b) After receiving notification that the permit holder has corrected a violation of a critical control point, or at the end of the specified period of time for correction, the Health Inspector shall verify correction of the violation through inspection, document the information on an inspection report, and enter the report in Bureau of Environmental Health records.

**§ 2135. Suspension and Revocation of Permit.**

(a) The Secretary may suspend a sanitary permit without prior hearing thereby immediately closing the establishment if a violation is of a nature so as to constitute an imminent health hazard. Suspension without prior hearing may be imposed for such time until the violation is corrected, or may be imposed pending a hearing. Notice of suspension and closure shall be provided to the permit holder or person in charge prior to the suspension and closure taking effect. Hearings requested following the suspension of a permit without prior hearing should be scheduled as soon as possible, but not later than five (5) business days from the date of closure. Hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act.

(b) A sanitary permit may be suspended by the Secretary pursuant to this Section upon a finding that the permit holder or a person in his employ or under his supervision or control has continuously violated the requirements of this Act or the regulations promulgated there under, although such violations do not constitute an imminent health hazard; or if the establishment has failed to pay fees assessed against it for violations of the Act or the regulations promulgated there under; or if the establishment has in any way continuously

disregarded the Secretary's efforts to satisfy the requirements of this Act and the regulations promulgated there under. The Secretary shall provide notice of intent to suspend a sanitary permit by giving written notice thereof to the holder, in which case, the permit holder shall have ten (10) calendar days within which to request a hearing. Suspension may be imposed for such time until the violation is corrected or may be imposed as a penalty for repeated violations, in which case, it shall not exceed six (6) months. Hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act.

(c) Revocation of a permit may occur after a permit holder has had his permit suspended on two separate occasions, but continues to violate the requirements of this Act or the regulations promulgated there under, or if the establishment has resumed operations after being closed by the Secretary as provided for in this Act. The Secretary shall provide notice of intent to revoke a sanitary permit by giving written notice thereof to the permit holder, in which case the permit holder shall have ten (10) calendar days within which to request a hearing. A hearing for revocation of the sanitary permit shall be conducted in accordance with the provisions of the Administrative Procedures Act.

(d) Following a hearing, a judicial review of the Secretary's decision may be held in accordance with the provisions of the Administrative Procedures Act. Pending final determination upon such judicial review, it shall be discretionary with the Court to stay the enforcement of the order of suspension or revocation upon the furnishing of adequate bond.

**§ 2136. Reinstatement of Permit.** When the holder of a permit believes he has corrected a condition upon his premises or some other violation for which his permit has been suspended, he may write a letter to the Secretary for reinstatement of the permit. The Secretary, upon receipt of such letter, shall schedule an inspection of the premises within five (5) working days. If the findings of this inspection show that the violation has been corrected, the Secretary shall reinstate the permit where

suspension was imposed until such time that the violations were corrected. If suspension of the permit was imposed for reasons other than the need to take corrective action, the suspension will remain in effect through the period specified for suspension.

§ 2137. **Revoked Permit may not be Reinstated.** A permit is no longer valid and may not be reinstated when it has been revoked, except upon order of the Court.

§ 2138. **No New Permit.** No person whose permit has been revoked shall be eligible to obtain a new permit for a period of one (1) year.

§ 2139. **Closing.** The Secretary shall effect the closing of any establishment or activity whose permit has been suspended or revoked. Upon the request of the Secretary, the Commissioner of the Department of Public Safety shall provide police personnel to enforce such closing.

§ 2140. **Notification of Commissioner of Public Safety.** The Secretary shall notify the Commissioner of Public Safety of any suspension or revocation of a permit and the Commissioner of Public Safety shall assure that the suspended or revoked permit holder shall not resume operation until reinstated by the Secretary.

§ 2141. **Notice Posted of Closure.** Whenever any establishment requiring a permit is closed by the Secretary, the Health Inspector shall post a notice, easily visible to the public, stating that said establishment is closed by order of the Secretary for violations of this Act or the regulations promulgated there under. No person other than the Secretary or the Health Inspector shall remove, deface, destroy or conceal such notice.

§ 2142. **Inspection Report Public Information.** The inspection report shall be considered a public document and the Secretary shall make it available for inspection and copying as provided by law.

§ 2143. **Penalties and Fines for Violations of the Act.** Those permit holders found violating the requirements of this Act or the regulations promulgated there under shall, upon issuance of notice to the permit holder or person in charge by the Secretary, be fined and penalized in the following manner:

(a) First Offense: The permit holder shall receive a warning letter.

(b) Second Offense: A fine of up to \$500.00.

(c) Subsequent Offenses: The permit holder shall be subject to a fine of up to \$1,000.00 for each subsequent offense.

A permit holder who has received notice of imposition of a fine shall have ten (10) calendar days from the date of service of the notice to request a hearing. Hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act.

**§ 2144. Ceasing Operations and Reporting.**

(a) A permit holder shall immediately discontinue operations and notify a Health Inspector if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne, waterborne, vector borne illness or communicable disease outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

(b) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

**§ 2145. Resumption of Operations.** If operations are discontinued as specified under § 2144 or otherwise according to law, the permit holder shall obtain approval from a Health Inspector before resuming operations.

**§ 2146. Infectious Disease Control.**

(a) No person managing an establishment identified in §2122, that due to the nature of the services offered, poses a direct mode for disease transmission to the general public, shall permit an employee to work knowing or having reason to know that such employee has a communicable disease or is a carrier of such disease that would readily spread to the patrons of the establishment and the general public.

(b) No person managing an establishment identified in §2122 shall allow an employee or employee applicant with any form of head or body lice, scabies, or infected with an active viral disease, such as Chicken Pox, Measles, Mumps, or Tuberculosis, or afflicted with an unprotected pustular lesion on the hands, wrists, or exposed portions of the body, to work in their establishment. No employee or employee applicant shall work in such establishment knowing himself to have or having reason to believe that he has any of the diseases set forth above or is a carrier of any such disease.

(c) No person managing any food or drink service, or handling, establishment shall permit an employee or employee applicant to work in an area of the establishment where there would be a danger of disease transmission, knowing or having reason to know that such employee has a food borne or waterborne illness or is a carrier of such illness. No employee shall work in such an area of an establishment knowing him to have or having reason to believe that he has a food borne or waterborne illness or is a carrier of any such illness. If the manager or a person in charge suspects that any employee has a food borne or waterborne illness or is a carrier of such illness, he shall notify the Secretary immediately.

(d) No person managing a tattoo and/or body piercing shop shall permit a tattoo or body piercing artist or applicant to work in an area of the establishment where there would be danger of disease transmission, knowing or having reason to know that such employee has a blood borne illness or is a carrier of such illness. No tattoo or body piercing artist or applicant shall work in such an area of an establishment knowing himself to have or having reason to believe that he has a blood borne illness or is a carrier of any such illness. If the manager or a person in charge suspects that any employee has a blood borne illness or is a carrier of such illness, he shall notify the Secretary immediately.

**§ 2147. Procedures When Infection is Suspected.** When suspicion arises as to the possibility of transmission of infection from an employee or employee applicant, the Secretary is authorized to require:

(a) The immediate exclusion of the employee from all activity within the specific establishment for which transmission of a food borne, waterborne, or blood borne illness or communicable disease as specified in §2146 (a)-(d) is possible due to the nature of the services offered.

(b) The immediate closing of the establishment until no further danger of illness or communicable disease outbreak exists;

(c) Medical examination of the employee and/or his fellow employees, with such laboratory examinations as may be indicated.”

**Section 4. Report and Duration.** Upon the appointment of the members of the Commission, it shall have nine months to report its findings and recommendations to the Governor and the presiding officers of the Legislature. The duration of the Commission shall expire not later than one year after the effective date of this act.

**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:**

**ATTESTED TO BY:**

/s/ \_\_\_\_\_

**BENIGNO R. FITIAL**  
SPEAKER OF THE HOUSE

/s/ \_\_\_\_\_

**EVELYN C. FLEMING**  
HOUSE CLERK

Approved this 26<sup>th</sup> day of April, 2001

/s/ \_\_\_\_\_

**PEDRO P. TENORIO**  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS