



GOVERNMENT OF KOSRAE

Office of the Governor

Post Office Box 158

Kosrae, Federated States of Micronesia 96944

Telephone: 691-370-3002/3003..Facsimile: 691-370-3162

October 17, 2016

The Honorable Tulensa W. Palik
Speaker
Eleventh Kosrae State Legislature
Tofol, Kosrae FM 96944

Dear Mr. Speaker:

Kulo nu sin God ke moul lasr. Paing kom a Honorable Members ke Sroasr Masap kewa.

Wangin pa pusra yok lasr nuka sripa yok lun L.B. 11-126. Oinge nga fulela lusen len 30 la in eis comments nuka, panang oru el putatyang nuke pusren masap su orala kosrae State Law No. 11-83.

"TO AMEND STATE LAW NO. 11-149, BY AMENDING 12 OF THE KOSRAE STATE CODE AT SECTION 12.1606 THEROF, TO PROHIBIT SMOKING TOBACCO PRODUCTS WITHIN 20 FEET FROM ENTRANCES AND EXITS TO AND FROM ANY PUBLIC PLACES, AND TO RENUMBER SUBSEQUENT SECTIONS, AND FOR OTHER PURPOSES."

Certified copy ke masap se inge pa attached nuke letter luk.

Kulo ma lulap.

Lyndon H. Jackson
Governor, State of Kosrae

Rec'd 10/18/2016
@ 10:00 am
RSL / [Signature]



ELEVENTH KOSRAE STATE LEGISLATURE
P.O. BOX 187
TOFOL, KOSRAE STATE
FEDERATED STATES OF MICRONESIA 96944
TELEPHONE: (691) 370-3019/3177

September 14, 2016

Tulensa W. Palik
SPEAKER

Robert I. Taulung
VICE SPEAKER

Jarinson M. Charley
FLOOR LEADER

LELU:
Alber T. Welly
Gilton A. Esahu
Reedson P. Abraham
Salpasr E. Tilfas
Tulensa W. Palik

TAFUNSAK:
Alokoa Jb. Sigrah
Maker L. Palsis
Robert I. Taulung
Rolner L. Joe

MALEM
Jarinson M. Charley
Morgan S. Jonas
Sasaki L. George

UTWE
Josaiah F. Waguk
Rinson H. Edmond

The Honorable Lyndon H. Jackson
Governor
State of Kosrae
Federated States of Micronesia 96944

Dear Governor Jackson,

I have the honor to transmit herewith for your consideration and action on **L.B. No. 11-126; TO AMEND STATE LAW NO. 11-149, BY AMENDING TITLE 12 OF THE KOSRAE STATE CODE AT SECTION 12.1606 THEREOF, TO PROHIBIT SMOKING OF TOBACCO PRODUCTS WITHIN 20 FEET FROM ENTRANCES AND EXITS TO AND FROM ANY PUBLIC PLACE, AND TO RENUMBER SUBSEQUENT SECTIONS, AND FOR OTHER PURPOSES;** which passed the Legislature, Fourth Regular Session, by two-thirds of the members of the Legislature, a quorum is present.

Respectfully yours,

Andy J. Andrew
Chief Clerk
Kosrae State Legislature

Enclosures:

LEGISLATIVE BILL No. 11-126

**ELEVENTH KOSRAE STATE LEGISLATURE
FOURTH REGULAR SESSION
August 8, 2016 – September 10, 2016**

A BILL FOR AN ACT

TO AMEND STATE LAW NO. 10-149, BY AMENDING TITLE 12 OF THE KOSRAE STATE CODE AT SECTION 12.1606 THEREOF, TO PROHIBIT SMOKING OF TOBACCO PRODUCTS WITHIN 20 FEET FROM ENTRANCES AND EXITS TO AND FROM ANY PUBLIC PLACE, AND TO RENUMBER SUBSEQUENT SECTIONS; AND FOR OTHER PURPOSES.

INTRODUCED BY: Senator

Alokoa Jb. Sigrah

DATE: June 23, 2016

ACTION BY THE LEGISLATURE

PASSED FIRST READING: August 29, 2016

REFERRED TO: SCR No. 11-219

PASSED SECOND READING: August 31, 2016



Andy J. Andrew
Chief Clerk
Kosrae State Legislature



ELEVENTH KOSRAE STATE LEGISLATURE

P.O. BOX 187

TOFOL, KOSRAE STATE

FEDERATED STATES OF MICRONESIA 96944

TELEPHONE: (691) 370-3019/3177

LEGISLATIVE BILL No. 11-126

Tulensa W. Palik
SPEAKER

Robert I. Taulung
VICE SPEAKER

Jarinson M. Charley
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Alber T. Welty
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Josaiah F. Waguk
Rinson H. Edmond

We hereby certify that the foregoing Bill has passed Second and Final Readings in the Legislature, Fourth Regular Session, 2016, by two-thirds of the members of the Eleventh Kosrae State Legislature, a quorum is present.

Tulensa W. Palik
Speaker
Eleventh Kosrae State Legislature

Andy J. Andrew
Chief Clerk
Kosrae State Legislature

A BILL FOR AN ACT

To amend State Law No. 9-149, by further amending Title 12 of the Kosrae State Code at Section 12.1606 thereof, to prohibit smoking of tobacco products within 20 feet from entrances and exits to and from any public place, and to renumber subsequent sections, and for other purposes.

1 Section 1. Purpose. The purpose of this act is to amend State Law 9-149 to
2 further amend Title 12 of the Kosrae State Code at Section 12.1606 to prohibit
3 smoking of tobacco products within 20 feet from entrances and exits to and any public
4 place, and to renumber subsequent sections.

5 Section 2. Amendment. Title 12, Chapter 16, Section 12.1606 of the Kosrae
6 State Code is hereby amended to read as follows:

7 “Section 12.1601. Title. This act shall be known as the Indoor Clean Air Act
8 of 2010.

9 Section 12.1602. Definitions. For purpose of this Act, the following terms shall
10 have the meaning stated bellow:

11 (1) “Smoking” means the activity of inhaling and exhaling smoke from tobacco
12 and other substances that are lit in cigars, cigarettes, and pipes and to possess or
13 transport cigars, cigarettes, pipes and smoking article while lit;

14 (2) “Public Place” means that portion of any building or vehicle used by and open
15 to the public, regardless of whether the building or vehicle is owned in whole or
16 in part by private persons or entities, the Kosrae State Government, or other
17 public entity, and regardless of whether a fee is charged for admission or use.

18 Public place include, but are not limited to: Elevators, public conveyances such

1 as buses, taxis, trains, airplanes, or other transportation facilities or means of
2 transportation, museums, concert halls, theaters, auditorium, exhibition halls,
3 indoor sports arenas, hospitals, nursing homes, health care facilities or clinics,
4 enclosed shopping centers, retail stores, retail services establishments, financial
5 institutions, educational facilities, ticket areas, public hearing facilities, legislative
6 chambers, courthouses and the immediately adjacent hallways and offices, public
7 restrooms, libraries, restaurants, waiting areas, lobbies, reception areas. A public
8 place does not include a private residence, unless such residence in used as a
9 licensed day care center;

10 (3) "Restaurant" means an eating establishment, including but not limited to,
11 coffee shop, cafeterias, sandwich stands, and private and public school
12 cafeterias, which gives or offers for sale of feed to the public, guests, or
13 employees, as well as kitchens and catering facilities in which food is prepared on
14 the premises for serving elsewhere. The term "restaurant" shall include a bar area
15 within a restaurant;

16 (4) "Place of Employment" means an area under the control of a public or private
17 employer, including, but not limited to, work areas, private offices, employee
18 lounges, restrooms, conference rooms, meeting rooms, classrooms, employee
19 cafeterias, hallways, and vehicles. A private residence is not a "place of
20 employment" unless it is used as a child care, adult day care, or health care
21 facility;

ELEVENTH KOSRAE STATE LEGISLATURE

EIGHTH SPECIAL SESSION, JUNE 2016

L.B. No. 11-126

1 (5) “Enclosed Areas” means all space between a floor and ceiling that is enclosed
2 on all sides by permanent or temporary walls or windows (exclusive of doorways)
3 which extend from the floor to within two feet of the ceiling;

4 (6) “Bar” means as establishment that is devoted to the serving of alcoholic
5 beverages for consumption of those beverages, including but not limited to,
6 taverns, nightclubs, cocktail lounges, and cabarets;

7 (7) “Business” means a sole proprietorship, partnership, joint venture,
8 corporation, or other business entity, either for-profit or not-for-profit,
9 including retail entities where legal, medical, dental, engineering, architectural, or
10 other professional services are delivered; and private clubs;

11 (8) “Employee” means a person who is employed by an employer in consideration
12 for direct or indirect monetary wages or profit, and a person who volunteers his or
13 her services for a non-profit entity;

14 (9) “Employers” means a person, business, partnership, association, corporation,
15 including a municipal corporation, trust, or non-profit entity that employs the
16 services of one or more individual persons;

17 (10) “Health Care Facility” means an office or institution providing care or
18 treatment of diseases, whether physical, mental, or emotional, or other medical,
19 physiological, or psychological conditions, including but not limited to, hospitals,
20 rehabilitation hospitals or other clinics, including weight control clinics, nursing
21 homes, long-term care facilities, homes for the aging or chronically ill,

1 laboratories, and offices of surgeons, chiropractors, physical therapist, physicians,
2 psychiatrists, dentists, and all specialists within these professions. This definition
3 shall include all waiting rooms, hallway, private rooms, semiprivate rooms, and
4 wards within health care facilities;

5 (11) "Private Club" means an organization, whether incorporated or not, which is
6 the owner, lessee, or occupant of a building or portion thereof used exclusively
7 for club purposes at all times, which is operated solely for a recreational,
8 fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for
9 pecuniary gain, and which only sells, alcoholic beverages incidental to its
10 operation;

11 Section 12.1603. Smoking prohibited in public places. Smoking shall be
12 prohibited in all enclosed areas of public places within the State of Kosrae.

13 Section 12.1604. Smoking prohibited at entrances or exits to and from public
14 places. Smoking shall be prohibited within 20 feet from entrances or exits to or
15 from public places within the State of Kosrae.

16 Section 12.1605. Prohibition of Smoking in Places of Employment. (1) Smoking
17 shall be prohibited in all enclosed places of employment without exception. This
18 includes common work areas, auditoriums, classrooms, conferences and meeting
19 rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee
20 lounges, stairs, restrooms, vehicles, and all other enclosed facilities. (2) This
21 prohibition on smoking shall be communicated to all existing employees by the

1 effective date of this Act and to all prospective employees upon their application
2 for employment. (3) Smoking in private vehicle is prohibited when any passenger
3 is a minor. Background Subsection (3) added by S.L. No. 10-85.

4 Section 12.1606. Owners, lessees to post clear boundary signs prohibiting
5 smoking. Owners, or in the case of a leased or rented space the lessee or other
6 person or manager in charge of the premises regulated under this chapter shall
7 make every reasonable effort to prohibit smoking in public places by posting
8 signs prohibiting or permitting smoking as appropriate under this chapter. Signs
9 shall be posted conspicuously at each building entrance and prominent locations
10 throughout the premises.

11 Section 12.1607. Violation.

12 1. A person who smokes in an area where smoking is prohibited by the
13 provisions of this Act shall be guilty of a category four misdemeanor
14 punishable by a fine or not less than fifty dollars (\$50.00) and not
15 exceeding two hundred dollars (\$200.00).

16 2. A person who owns, manages, operates, or otherwise controls a
17 a public place or place of employment and who fails to comply with
18 the provisions of this article shall be guilty of a category four
19 misdemeanor punishable by:

20 a) A fine of not less than fifty dollars (\$50.00) and not exceeding one
21 hundred dollars (\$100.00) for a first violation.

1 b) A fine of not less than one hundred dollars (\$100.00) for any subsequent
2 violations.

3 3. In addition to the fines established by this Section, violation of this Act
4 by a person who owns, manages, operates, or otherwise controls a public
5 place or place of employment may result in the suspension or revocation
6 of any permit or license issued by the State of Kosrae to the person for the
7 premises on which the violation occurred.

8 4. Violation of this Act is hereby declared to be a nuisance, which may be
9 abated by the Department of Health by restraining order, preliminary and
10 permanent injunction, or other means provided for by law, and the State
11 may take action to recover the costs of the nuisance abatement.

12 5. Each day on which a violation of this Act occurs shall be considered a
13 separate and distinct violation.

14 Section 12.1608. Penal Enforcement. The Office of the Attorney General
15 and the Division of Public Safety shall be responsible for the penal
16 enforcement and prosecution of any non-compliance or violation of this
17 Act.

18 Section 12.1609. Administrative Management. The Department of Health
19 Services shall function as the lead agency for implementing, management,
20 and enforcement of this Act, to include the following:

21 1. The Director of the Department of Health Services shall

1 adopt regulations in accordance with the Administrative
2 Procedure Act, as necessary to implement this chapter and
3 to provide for its effective and efficient administration.

4 2. Department of Health Services shall develop and
5 conduct a public education program to explain and clarify
6 the purposes and requirements of this chapter to the public,
7 and to guide owners, operators and managers on their
8 compliances therewith. The program may include, but not
9 limited to, publication of a brochure for affected business
10 and individuals explaining this chapter.

11 3. Department of Health Services shall conduct
12 familiarization training for its employees and those
13 departments and agencies having enforcement
14 responsibilities, to include refresher training at necessary
15 periodic intervals.

16 4. Department of Health Services shall collaborate and
17 coordinate with other government departments and
18 agencies, as well as community organizations, both local,
19 national and international, which share common interests
20 in achieving the intent of this Act, for the purpose of
21 of effectively and efficiently implementing this Act and

1 providing mutual support for and continuity in programs
2 with similar goals, but not for the purpose of supplanting
3 such programs.

4 5. Department of Health Services shall monitor
5 enforcement efforts and notify relevant departments,
6 agencies, boards and commissions of violators that
7 persistently fail to comply with Section 12.1605 or exhibit
8 a pattern of non-compliance for the purpose of
9 administrative action set forth in Section 12.1609.

10 Section 12.1610. Pattern of non-compliance-Action on permit or licence.

11 1. A person or business which operates or controls a public
12 place facility that does not comply with Section 12.1605 or
13 that exhibits a patterns of non-compliance with this Act is
14 subject to administrative action. For purpose of this section
15 and chapter, a “pattern of non-compliance” is evidenced by
16 being found guilty of three or more violations of this Act
17 within a calendar year or being found guilty of five or more
18 such violations within two consecutive years.

19 2. Non-compliance with Section 12.1605 or exhibiting a
20 pattern of non-compliances shall provide a basic for
21 suspension, revocation, non-renewal or other sanction of

1 any license or permit issued by the government. After
2 providing notice and opportunity for hearing pursuant to
3 the Administrative Procedure Act, the department, agency,
4 board or commission having regulatory authority over
5 such business or activity may, based upon the record of
6 evidence presented at any hearing, suspend, revoke, deny
7 renewal of or otherwise restrict the license or permit
8 issued or regulate by said department, agency, board or
9 commission or impose such other sanction as appropriate.
10 Such license include, but are not limited to, certificates of
11 incorporation, permits to transact business as foreign
12 corporations, business licenses, alcoholic beverage permits,
13 and/or health permits.

14 Section 12.1611. Delimitation of Act. No provision of this Act shall
15 restrict, impair, limit or affect the enforcement of other applicable
16 statutory provisions, nor shall it be interpreted to permit smoking in an
17 area in which smoking is prohibited by other applicable law or regulation.

18 Section 3. Effective Date. This act shall become law upon approval by the
19 Governor or upon its becoming law without such approval.

20

21 PASSED BY THE ELEVENTH KOSRAE STATE LEGISLATURE ON THE 31ST DAY

ELEVENTH KOSRAE STATE LEGISLATURE

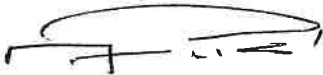
EIGHTH SPECIAL SESSION, JUNE 2016

L.B. No. 11-126

1 OF AUGUST, 2016.

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Tulensa W. Palik
Speaker, Eleventh Kosrae State Legislature

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Attested by: 

Chief Clerk

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Lyndon H. Jackson
Governor, State of Kosrae

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Date: _____

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