

STANDING COMMITTEE REPORT NO. 23-52

RE: C.B. NO. 23-11/H&SA

SUBJECT: TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY CREATING A NEW CHAPTER 11 TO PROHIBIT THE IMPORTATION OF E-CIGARETTES INTO THE FEDERATED STATES OF MICRONESIA FOR COMMERCIAL ACTIVITY, PROVIDE FOR PERSONAL USE EXEMPTION, ESTABLISH ENFORCEMENT AND REGULATION AUTHORITY, MANDATE DESTRUCTION OF SEIZED E-CIGARETTES, REQUIRE RECORDS MANAGEMENT ON SEIZED AND DESTROYED E-CIGARETTES.

JANUARY 19, 2024

The Honorable Esmond B. Moses  
Speaker, Twenty-Third Congress  
Federated States of Micronesia  
Third Regular Session, 2024

Dear Mr. Speaker:

Your Committee on Health & Social Affairs to which was referred C.B. NO. 23-11, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED, BY CREATING A NEW CHAPTER 11 TO PROHIBIT THE IMPORTATION OF E-CIGARETTES INTO THE FEDERATED STATES OF MICRONESIA FOR COMMERCIAL ACTIVITY, PROVIDE FOR A PERSONAL USE EXEMPTION, ESTABLISH ENFORCEMENT AND REGULATION AUTHORITY, MANDATE DESTRUCTION OF SEIZED E-CIGARETTES, REQUIRE RECORDS MANAGEMENT ON SEIZED AND DESTROYED E-CIGARETTES, AND FOR OTHER PURPOSES.",

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begs leave to report as follows:

The intent and purpose of this bill are expressed in the title.

The Committee provides a bill summary of C.B. No. 23-11 below:

- 1) prohibits the importation of e-Cigarettes into the FSM for commercial activity purposes;
- 2) provides a personal use exemption for individual persons entering the FSM up to three (3) e-cigarettes that must be declared to the Division of Immigration and the Customs Administration upon arrival at a port of entry;
- 3) establishes the enforcement authority of the Department of Finance and Administration to implement the prohibition on importation by affording the Department with the authority to seize and destroy e-Cigarettes at a the port of entry;
- 4) impose a 14 day deadline on the Department of Finance - Customs Administration to destroy any and all seized e-Cigarettes;
- 5) require the Department of Finance - Customs Administration to properly dispose of and/or recycle seized e-Cigarettes and component batteries;
- 6) authorize the Secretary of the Department of Finance to impose administration penalties for violations of the ban on the importation of e-Cigarettes;
- 7) set out limitations on Department of Finance - Customs Administration enforcement, prohibiting seizure of e-Cigarettes that are within the personal use exemption limit, up to three (3) e-Cigarettes;

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- 8) require the Department of the Finance to maintain electronic records of all e-Cigarettes seized and destroyed (disposed of and/or recycled) for at least 10 years;
- 9) require the Secretary of Finance to develop proper disposal procedures for e-Cigarettes in collaboration with the Department of Environment, Climate Change, and Emergency Management (DECEM); and
- 10) establishes the Secretary of Finance authority to implement the bill by regulation and enact regulations within 60 calendar days of the bill becoming law.

SUMMARY OF THE COMMITTEE ON HEALTH & SOCIAL AFFAIRS JANUARY 12, 2024 HEARING ON C.B. NO. 23-11:

Congressional Members present at the January 12, 2024, Committee hearing: Chairwoman Perpetua S. Konman, Speaker Esmond B. Moses, Vice Speaker Robson U. Romolow, Floor Leader Quincy Lawrence, Senator Joseph J. Urusemal, and Senator Merlynn Abello-Alfonso.

Witnesses present at the January 12, 2024 Committee hearing to testify: FSM Department of Health Secretary Marcus Samo, FSM Department of Health Assistant Secretary for Health Pretrick Moses, FSM Department of Health NCD Program Coordinator X-ner Luther, Department of Justice Acting Secretary Leonito Bacalando, and Department of Finance Assistant Secretary for Customs and Tax Administration Mr. Randy Sue.<sup>1</sup>

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<sup>1</sup> Shrew Jones with the Kosrae Chamber of Commerce and Chuuk Chamber of Commerce representative joined the hearing virtually and listened in, but did not testify. All four state chambers of commerce were sent an hearing notice to join the hearing.

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Chairwoman Konman welcomed the witnesses and public to the committee hearing. Chairwoman opened the hearing with a brief statement detailing the need for the national government to ban the importation of e-Cigarettes. Chairwoman opened the floor to opening statements from congressional members and witnesses, and asked the witnesses to explain the health impacts of e-cigarette smoking.

Secretary Samo thanked the Committee for the opportunity to testify on C.B. No. 23-11 and proceeded with his brief opening statement. Secretary testified that although the Department of Health does not have precise data points on the health impacts of smoking e-cigarettes in the FSM population, it is better to have some import control regulations on e-cigarettes at a national level than none. Secretary informed the Committee that it is too early to scientifically confirm every health impact of e-cigarette usage, but recent and ongoing scientific research indicates that e-cigarettes negatively impact health and e-cigarettes does more damage than good. Secretary explained that his duty and the Department's responsibility is to approach this matter from the public health perspective where it is clear that regular cigarette smoking along with current tobacco usage is a major contributor to NCDs and the mortality rate in the FSM. Secretary emphasized that the Department is tasked with significant public health challenges and increasing usage of e-cigarettes will only burden the Department's limited resources even more. Secretary expressed support for the bill recognizing the bill as start that will help to curtail smoking of e-cigarettes and subsequent health consequences. Secretary added how e-cigarettes are practically unregulated at the state level

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due to lack of state law and/or limited enforcement where there is state law. Secretary expressed strong support for the bill and recognized the bill as a first step.

It is important for the Committee to note that Yap and Chuuk do not have any state law regulating electronic smoking devices (e.g. e-cigarettes). Kosrae and Pohnpei have state laws with some regulation of e-cigarettes. Kosrae state law (L.B. No. 10-203) prohibits the sale of electronic cigarettes by law and violation of the state law is a category one misdemeanor.

Pohnpei state law (S.L. No. 9L-113-19) prohibits the possession, use, sale, and offer of sale of any electronic smoking device and electronic smoking substance. A violation of the Pohnpei state law is a misdemeanor, where upon conviction can result in prison up to three month and/or fine of \$500, as well as forfeiture of the device and/or substance to the state. The state law also requires any person entering Pohnpei to surrender any electronic smoking device and electronic smoking substance to Pohnpei Port Authority, but the person can retrieve the device and/or substance when departing the state. Pohnpei state law has limited power to enforce the surrender of electronic smoking device and electronic smoking substance at a port of entry because the national government has jurisdiction at the airports, among other ports of entry and there is no regulation at the national level.

Chairwoman Konman asked the Department of Health to report to the Committee on the prevalence of e-cigarettes usage in the FSM and share any statistics collected. Chairwoman reiterated that

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she received reports from private schools in Chuuk that students are smoking e-cigarettes in the classroom.

Secretary Samo testified that the Department does not have exact numbers on the prevalence of specific e-cigarette usage in the FSM nor the quantity of e-cigarettes in the country, but the Department knows it does more damage than good. NCD Program Coordinator X-ner Luther expanded on the Secretary's testimony, and explained that e-cigarettes pose the same dangers as tobacco which is why importation of e-cigarettes should be banned. Mr. Luther reported to the Committee that data on regular cigarette (tobacco and nicotine) usage shows that tobacco and nicotine are the main contributors to NCDs (non-communicable diseases) in the FSM. Nicotine, a highly addictive chemical compound in tobacco, is one of the main substances used in e-cigarettes.<sup>2</sup>

Chairwoman Konman asked the Department of Justice to share its position on the bill.

Acting Secretary of Justice Bacalando testified the bill covers an important topic worthy of examination. Acting Secretary recognized that tobacco use is an issue that the national government must address and look at to formulate the most effective solution. Acting Secretary expressed support for the Committee taking the initiative to address this issue in the bill, but noted that the Department will like a little time to study the bill more thoroughly in order to provide comments on

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<sup>2</sup> U.S. Federal Drug Administration, *Nicotine is Why Tobacco Products are Addictive*, June 29, 2022, available at <https://www.fda.gov/tobacco-products/health-effects-tobacco-use/nicotine-why-tobacco-products-are-addictive> (last accessed Jan. 18, 2024).

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the bill. Acting Secretary stated that the Department will examine the bills implications on national government jurisdiction versus state government jurisdiction and provide comments accordingly. Acting Secretary added that there are areas of the bill that need more clarification such as the meaning of commercial activity, and whether the term should be defined by legislation or regulation.

Vice Speaker Romolow asked the Department of Health if there were statistics on a correlation of e-cigarette usage and deaths. Vice Speaker posed the need for a study on the effects of e-cigarettes in comparison to cigarettes and tobacco, so that can see if people are suffering and address the risk. Vice Speaker stated that there may be statistics on cigarettes and tobacco correlation to deaths in the FSM, but not e-cigarettes. Vice Speaker added that the private sector imports e-cigarettes into the FSM for commercial activity and the way to deal with the concerns raised in the hearing is to put an age limit on who can purchase, rather than a total ban on importation since do not know the statistics. Vice Speaker also raised the concern that similar and other unhealthy products that are harmful to citizens and children are allowed to come into the country. Vice Speaker reiterated the unfairness of a total ban on the importation of e-cigarettes when there are other products with the same or similar effect on the health or livelihood of our people, but are not banned.

Chairwoman Konman stated that there is nothing good about either tobacco or e-cigarette to our health, and only serves to bring in money for other people.

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Senator Urusemal commented on the level of priority of the e-cigarette issue to the Executive Departments as the bill was not proposed from the Executive, but introduced by the Chairwoman.

Chairwoman Konman discussed how she received reports from private schools in Chuuk that students are smoking e-cigarettes in the classroom, and it has become so common that the private schools have been forced to discipline and/or suspend students for usage. Chairwoman added that many parents of students do not know what e-cigarettes are and may not understand the harmful health effects because the e-cigarettes, vapes, and e-pens do not look like cigarettes and smell nice with different flavors. Chairwoman stated the school principals were the ones who informed the parents that e-cigarettes are bad. Chairwoman described how e-cigarettes can be more dangerous than regular cigarettes and can lead to the early onset of chronic diseases,<sup>3</sup> and lead to increase in cancer cases in the FSM. Chairwoman added that one e-cigarette smoking cartridge (liquid substance mixture of nicotine, additives, compounds and/or chemicals vaporized by the device for the user to inhale) that is used can contain around 800 puffs, so when a small child gets an e-cigarette, it will last them for a long time.

Vice Speaker Romolow discussed how he does not see how the bill's intent of a total importation ban on e-cigarettes for commercial activity will actually prevent children from getting

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<sup>3</sup> See *Chronic Health Effects Associated with Electronic Cigarette Use: A Systematic Review*, FRONTIERS IN PUBLIC HEALTH, Oct. 6, 2022, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9584749/> (last accessed Jan. 18, 2024); see also *E-Cigarette Use, Small Airway Fibrosis and Constructive Bronchiolitis*, NEJM EVID; 1 (6), May 2022, available at <https://evidence.nejm.org/doi/pdf/10.1056/EVIDoa2100051> (last accessed Jan. 18, 2024).



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e-cigarettes, since the bill allows persons to enter the country with up to three e-cigarettes. Vice Speaker stated that even with a ban on importation of e-cigarettes, the states would still need to regulate and it is up to the states to decide as they wish to regulate or not regulate on whether children can bring e-cigarettes to schools and people can use e-cigarettes in public places. Vice Speaker provided that if the intent of the bill is to stop e-cigarettes from reaching the hands of our children, then must look into regulating the age to possess, sell, and buy e-cigarettes, just like other similarly harmful products. Vice Speaker added that the national government does not put a total ban on other products that are detrimental to one's health and well-being, which raised concerns on the right to choose what to smoke if he wishes to do so.

NCD Program Coordinator X-ner Luther testified that e-cigarettes manufacturers and producers target young people as the market population,<sup>4</sup> which is the reason why e-cigarettes are particularly dangerous and should be banned. Mr. Luther discussed how the same manufacturers and producers of regular cigarettes are also involved in the manufacturing and production of e-cigarettes. Mr. Luther identified the claimed business sector impact as a myth created by the cigarette industry to prevent regulation. Mr. Luther explained that e-cigarettes are a new product, recently introduced to the FSM, as such there is no real market for it, but the business sector is trying to create a market. Mr. Luther further noted that irrespective of

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<sup>4</sup> See World Health Organization (WHO), *Urgency Action needed to Protect Children and Prevent the uptake of e-cigarettes*, Dec. 14, 2023, <https://www.who.int/news/item/14-12-2023-urgent-action-needed-to-protect-children-and-prevent-the-uptake-of-e-cigarettes> (last accessed Jan. 18, 2024).

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any economic impact argument, e-cigarettes should be banned because just like cigarettes there are no health benefits.

Mr. Luther discussed how the Department of Health is working diligently on this health issue and Congress' passage of the bill will help create a healthier environment for our youth. According to Mr. Luther, the states have asked the Department of Health to help regulate e-cigarettes and total ban on importation will significantly help.

Floor Leader Lawrence raised concern on the personal use exception in the bill because it serves as a loophole. Floor Leader explained that if the bill intention is to ban the importation of e-cigarettes, there should be a total ban; not permit persons to enter with up to three e-cigarettes. Floor Leader expressed support for a total ban on the importation of e-cigarettes.

Senator Abello-Alfonso expressed support for the bill and applauded the Chairwoman for her efforts. Senator explained that she will not support something that is clearly not healthy and agreed with Floor Leader that there should be a total ban on importation of e-cigarettes with no personal use exception. Senator noted that there may be opposition from the business sector on this matter namely because cigarettes are allowed to be imported, which raises the issue on what is the difference between regular cigarettes and e-cigarettes. Senator asked the Department of Health to opine on her concerns and the extent of

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data on vaping in other countries that may show that vaping is not a healthy practice and is discouraged.<sup>5</sup>

NCD Program Coordinator X-ner Luther answered that the Department may not currently have data specifically on e-cigarettes in the FSM, but have access to data on other countries that strongly demonstrates e-cigarette usage is not healthy. Mr. Luther expressed support for a total ban on the importation of e-cigarettes with no exceptions. Mr. Luther explained that while there may be difficulty in a total ban on importation of e-cigarettes, enough harm has been done in relation to tobacco and nicotine to our population to say we do not want any more. Mr. Luther discussed the use of tobacco and nicotine health burden on the FSM population in terms of lifestyle and NCD prevalence. Mr. Luther recommended the bill include provisions setting age limits to the sale, purchase, and/or usage, and recognized that research and consultation with different departments and communities will need to take place.

Chairwoman Konman read into the record 2020 Data reported by the Truth Initiative on e-cigarette smoking among youth in the United States:<sup>6</sup>

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<sup>5</sup> See National Institutes of Health, *NIH-funded Studies Show Damaging Effects of Vaping, Smoking on Blood Vessels*, Oct. 26, 2022, available at <https://www.nih.gov/news-events/news-releases/nih-funded-studies-show-damaging-effects-vaping-smoking-blood-vessels> (last accessed Jan. 18, 2024); see also American Lung Association, *The Impact of E-Cigarettes on the Lung*, updated May 31, 2023, available at <https://www.lung.org/quit-smoking/e-cigarettes-vaping/impact-of-e-cigarettes-on-lung> (last accessed Jan. 18, 2024).

<sup>6</sup> Truth Initiative, E-Cigarette Fact Sheet, May 2021 at 7, available at [https://truthinitiative.org/sites/default/files/media/files/2022/03/Truth\\_E-Cigarette\\_Factsheet\\_update\\_May\\_2021.pdf](https://truthinitiative.org/sites/default/files/media/files/2022/03/Truth_E-Cigarette_Factsheet_update_May_2021.pdf) (last accessed Jan. 18, 2024). See also Centers for Disease Control and Prevention, *Quick Facts on the Risks of E-Cigarettes for Kids, Teens, and Youth Adults*, available at [https://www.cdc.gov/tobacco/basic\\_information/e-](https://www.cdc.gov/tobacco/basic_information/e-)

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- 15 to 17 year-olds have more than 16X greater odds to be current JUUL users vs. adults
- Young people who had ever used e-cigarettes had 7X higher odds of becoming smokers one year later compared with those who had never vaped
- Use of disposable e-cigarettes increased about 1,000% among high school e-cigarette users in 2020

Vice Speaker Romolow asked the witnesses if the e-cigarette packaging and/or device product contains any wording that demonstrates the product is targeting children, not merely that using bright colors and fun packaging. Vice Speaker discussed how other products like liquor, beer, among other drinks can be imported into the FSM even though they are not healthy. Vice Speaker stated that he has a right to decide what he wants to drink or do and the proposed ban on importation for commercial activity is interfering with his right to choose. Vice Speaker also expressed concern that the bill is targeting commercial activity because does not see the difference between personal use and commercial use, and does not see the difference between e-cigarettes in comparison to other unhealthy products that are permitted to be imported.

Senator Abello-Alfonso asked the Department of Health whether there was any ongoing social awareness programs on vapes. Senator raised the importance of the Department educating parents and getting the information out to the communities on

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[cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html](#) (last access Jan. 18, 2024).

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this health issue. Senator explained that parents may not think vapes are harmful, but just something that keeps the youth entertained.

NCD Program Coordinator X-ner Luther responded that prevention is the priority as the Department of Health and is tasked with the duty of prevention. Mr. Luther added that a ban on the importation of e-cigarettes without any exception will aid the Department in its mandate. Mr. Luther explained that the Department's public health teams are already struggling to stop the continuous increase of NCDs, oral and lung cancer in communities.

Chairwoman Konman asked the Department of Justice position is that more information is needed before this bill can be passed by Congress. Chairwoman emphasized that there is no reason to wait, stating that e-cigarettes are already in our stores and from her perspective as a doctor e-cigarettes are not healthy.

Acting Secretary of Justice Bacalando responded that Congress will gauge the urgency of this bill and decide on timeline for passage depending on Congress position to expedite the bill or not. Acting Secretary stated not advocating Congress wait on a bill that is important to Congress and recognized that public health is very important. Acting Secretary explained how the Department of Justice would like time to review the bill provision for potential legal challenges as recognize that there will likely be attempts to poke holes in the measure. Acting Secretary discussed how time will aid the Department's in recommending effective solutions to legal issues with the bill and formulating a viable defense to defend against legal

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challenges in advance of any lawsuit. Acting Secretary noted that the one's freedom of choice is not absolute and that there may be a constitutional issue if the bill discriminates versus application to all.

Senator Abello-Alfonso questioned the Department of Justice on the implications, if any, on state powers and whether national or state has enforcement power where there is a national law prohibiting the importation of e-cigarettes and a person sneaks the e-cigarette or vape into the country.

Acting Secretary of Justice Bacalando testified that if the bill were to become law, Customs and Border agents, as well as the immigration and quarantine officials, will enforce and implement the provisions at the ports of entry. Acting Secretary explained that any actions past a port of entry is the state jurisdiction, which is why the national government should wait for the states to regulate first. Acting Secretary added that the national government will have to advocate to the states to implement legal measures regulating e-cigarettes that are complimentary to the bill. Acting Secretary added that once e-cigarettes in the stores, it is up to the states.

Chairwoman Konman emphasized the national government does not need to wait for the states to act, especially when that states are taking a long time to adequately regulate and enforce. Chairwoman reiterated her support for a total ban on the importation of e-cigarettes.

The Committee asked the Customs Administration whether the division had the capacity of to seize and destroy e-cigarettes

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and report on the current processes in place that can be used to safely dispose of e-cigarettes and e-cigarette batteries. The Committee also asked the Customs Administration to provide any feedback and/or recommendations on the bill.

The Customs Administration testified that the division within the Department of Finance and Administration is charged with enforcement and regulation. Customs expressed that the division shared some of the concerns raised by the Executive Departments during the hearing. Customs discussed how the issue of coordination between the states and national government must be addressed as Customs is currently facing challenges with the prohibition on plastic bags (P.L. No. 21-76), particularly related to establishing and imposing penalties by regulation and disposal of plastic bags seized or confiscated. Customs explained that it is much clearer to the Executive the penalty amount the Department can or cannot impose if specified in the legislation. Customs added that the Division does not have a current disposal process, as evident by the endless storage of confiscated plastic shopping bags, nor does the Division have the expertise to establish a proper disposal process for e-cigarettes.

During the hearing, the Customs Administration also proposed the following recommendations to the bill for consideration by the Committee:

- 1) instead of leaving the penalties imposed to be defined by regulation, specify the amount of fines for violation and other penalties by law;

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- 2) change Customs requirement to retain records on seizure and disposal from 10 years to 6 years in order to maintain consistency with the Division's existing regulation on record-keeping; and
- 3) specify how Customs should dispose of the e-cigarettes.

Chairwoman thanked the witnesses for their testimony, opened the floor for closing statements and subsequently adjourned the committee hearing.

COMMITTEE RECOMMENDED AMENDMENTS TO C.B.23-11:

Upon consideration of the hearing testimony, your Committee recommends the following amendments to the bill as follows:

1. Page 1, title, after "prohibit the importation" insert "and exportation of nicotine delivery systems, including"
2. Page 1, title, delete "provide for a personal use exemption" and insert "provide for the surrender of nicotine delivery systems"
3. Page 1, title, before "e-Cigarettes" delete "of"
4. Page 1, title, delete "provide for a personal use exemption establish enforcement and regulation authority, mandate destruction of seized e-Cigarettes," and insert "to provide the Secretary of the Department of Finance and Administration with enforcement and regulation authority, to provide the Secretary of the Department of



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Finance and Administration with the authority to seize nicotine delivery systems at FSM ports of entry, and to require"

5. Page 1, title, delete "s management on seized and destroyed e-Cigarettes" and insert the following  
"-keeping on seized, disposed, and/or stored nicotine delivery systems for 6 years"
6. Page 1, line 3, delete "FSM e-Cigarette Import" insert "Nicotine Delivery System Import and Export"
7. Page 1, line 4, delete "2023" and insert "2024"
8. Page 1, line 14, delete "e-Cigarette Import" and insert "Nicotine"
9. Page 2, line 5, delete "." and insert ":"
10. Page 2, line 6, delete "1" and insert "2"
11. Page 2, line 7, insert "(1) "Commercial Activity" mean activities of industry and trade, including but not limited to, the buying or selling of goods and actions conducted for purpose of facilitating buying and selling, and/or carried on for a profit;"
12. Page 2, line 8, delete "." and insert ";"
13. Page 2, line 9, delete "2" and insert "3"

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14. Page 2, lines 12-17, delete "(3) "e-Cigarette" or "electronic cigarette" means an electronic device that simulates tobacco smoking through the use of a battery containing a solution of nicotine, additives, compounds and/or chemicals, which produces a vapor, aerosol or mist for the user to inhale."

and insert

"(4) "Exporter" means any retail establishment, distributor, wholesaler, warehouse operation, company, or entity by or for whom any goods are sent outside the FSM for commercial activity, and includes the consignee and any other person who is beneficially interested in the goods;"

15. Page 2, line 14, delete "4" and insert "5"

16. Page 2, line 20, delete "5" and insert "6"

17. Page 2, line 20, delete "person," and insert "retail establishment, distributor, wholesaler, warehouse operator"

18. Page 2, line 21, delete "imported," and insert "received inside the FSM for commercial activity,"

19. Page 2, line 24, delete "6" and insert "7"

20. Page 3, line 5, delete "7" and insert "(8)"

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Nicotine Delivery System" means any device that delivers nicotine, additives, compounds, chemicals and/or any mixture thereof through any aerosol or vapor substance for the user to inhale, and any component or part to the device, irrespective if the device is disposable, electronic, battery operated or not. For purposes of this bill, nicotine delivery systems include but are not limited to vapes, vape pens, vaporizers, e-cigarettes, e-pens, e-pipes, e-hookahs, and e-cigars."

(9) "Port of entry" or "FSM port of entry" means a port of entry designated by the Secretary of the FSM Department of Justice under section 202 of title 18 of the Code of the FSM.

(10)"

21. Page 3, line 16, delete "of e-Cigarettes" insert "and Export of Nicotine Delivery Systems"
22. Page 3, lines 17 - 18, delete "It shall be unlawful to import e-Cigarettes into the Federated States of Micronesia for commercial activity."

and insert

"(1) It shall be unlawful for any importer to bring a nicotine delivery system into the FSM.

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(2) It shall be unlawful for any person to import a nicotine delivery system into the FSM and/or bring a nicotine delivery system into the FSM.

(3) It shall be unlawful for any exporter to send a nicotine delivery system outside the FSM.

(4) It shall be unlawful for any person to export a nicotine delivery system outside FSM and/or send a nicotine delivery system into the FSM."

23. Page 3, lines 19 - 25" delete the following:

"Section 7. Chapter 11 of title 54 of the Code of the Federated States of Micronesia (Annotated), as amended, is hereby further amended by inserting a new section 1122 of subchapter 2 to read as follows:

Section 1122. Personal Use Exemption.

Section 1121 shall not apply to any person bringing in up to three e-Cigarettes for personal use at the port of"

24. Page 4, lines 1-4, delete the following:

"entry. All persons entering the FSM shall declare all e-Cigarette(s) brought into the FSM for personal use on the Division of Immigration and Customs Administration form at the port of entry."

25. Page 4, line 5, delete "8" and insert "7"

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26. Page 4, line 9, delete "9" and insert "8"
27. Page 4, lines 17-18, delete "e-Cigarette" and insert "nicotine delivery system"
28. Page 4, line 19, delete "14" and insert "30 calendar"
29. Page 4, line 20, delete "e-Cigarette(s)" and insert "nicotine delivery system"
30. Page 4, lines 21-23, delete "destroy any e-Cigarette(s) seized, including the destruction, proper disposal and/or recycling of e-cigarette batteries." and insert "dispose of and/or properly store nicotine delivery systems."
31. Page 5, lines 1-9, delete "The Secretary of the Department of Finance shall have the authority to impose administrative penalties as established by regulation for violation of the prohibition on the import of e-Cigarettes in accordance with the rulemaking requirements under Title 17 of the Code of the Federated States of Micronesia.

and insert

"The Secretary of the Department of Finance shall have the authority to impose administrative fines upon an finding of a violation of this Act by any person and/or importer as follows:

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- a. In the case of a person's first offense in violation of this Act, the Secretary shall impose a fine of not less than \$500. In the case of a person's subsequent offenses in violation of this Act, the Secretary shall impose a fine of not less than \$1,000.
- b. In the case of an importer's first offense in violation of this Act, the Secretary shall impose a fine of \$2,500. In the case of an importer's subsequent offenses in violation of this Act, the Secretary shall impose a fine of not less than \$5,000.
- c. "

32. Page 5, lines 10-14, delete "Limitations on Enforcement Authority. The Department of Finance shall not seize, destroy, and/or issue an administrative penalty where one e-Cigarette is brought into the FSM for personal use in accordance with section 1122."

and insert "Exception to Administrative fines for Voluntary Surrender.

- a. The Department of Finance shall not issue an administrative penalty for violation of this Act under Section 1131(2) when a person voluntarily surrenders all nicotine delivery systems in their possession to the Division of Immigration and/or Customs Administration at a FSM port of entry prior to any inspection and/or seizure conducted under

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Section 1131(1). This exception does not apply to importers.

b. All nicotine delivery systems voluntarily surrendered shall be destroyed in accordance with Section 1131(1)."

33. Page 5, line 25, delete "e-Cigarettes seized and destroyed" and insert "nicotine delivery systems seized, disposed of, and/or stored"
34. Page 6, line 1, delete "10" and insert "6"
35. Page 6, line 2, delete "destruction, disposal and recycle of e-Cigarettes batteries" and insert "disposal of nicotine delivery systems. The Secretary of Finance shall make all records under this section publicly available."
36. Page 6, lines 16-17, delete "e-Cigarette" and insert "storage and"
37. Page 6, line after "procedures" insert "for seized nicotine delivery systems"
38. Page 6, line 22, delete "60" and insert "90"
39. Page 6, line 24, insert "(4) The Secretary of the FSM Department of Justice shall cause to be posted at all FSM ports of entry signage on the importation ban of nicotine delivery systems, ability to voluntarily surrender

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nicotine delivery systems at an FSM port of entry, and penalties for violation of this Act."

#### CONCLUSION

The Committee on Health and Social Affairs has reviewed C.B. No. 23-11, and considered all testimony from the January 12, 2024 hearing. Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. 23-64. Your Committee recommends that C.B. 23-64 be placed on the bill calendar for passage on First Reading, and Second and Final Reading in the form attached hereto as C.B. No. 23-64 C.D.1.



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Respectfully submitted,

/s/ Perpetua S. Konman  
Perpetua S. Konman, chair

/s/ Merlynn Abello-Alfonso  
Merlynn Abello-Alfonso, vice chair

/s/ Tiwiter Aritos  
Tiwiter Aritos, member

/s/ Joseph J. Urusemal  
Joseph J. Urusemal, member