



Senate  
Office of the Secretary

CONGRESS OF THE PHILIPPINES  
SIXTEENTH CONGRESS  
*First Regular Session*

'13 JUL -4 P4:38

SENATE

S. B. No. **499**

RECEIVED BY: *ja*

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INTRODUCED BY SENATOR FRANKLIN M. DRILON

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**EXPLANATORY NOTE**

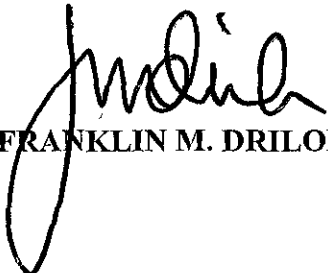
In previous Congresses, we realized the need to shield our citizens from the harmful health effects brought about by tobacco products by approving Republic Act No. 9211 or "The Tobacco Regulation Act of 2003," which mandated textual health warnings on cigarettes.

However, studies indicate that textual health warnings are not effective. While present smokers understand that tobacco use is harmful, studies point that most are not completely aware of its true risks. Studies on the subject revealed that such health warnings are several times more effective in terms of encouraging cessation and prevention than text-only labels.

The proposed "Picture-Based Health Warning Act of 2013" mandates the placing of graphic health warnings on cigarette packaging to further strengthen the government's efforts to discourage smoking. Verily, it prescribes that all cigarette packages and other tobacco products found in the market, including cartons or master cases, must bear highly visible full-color picture-based health warnings.

By strategically placing meaningful graphic images along with text warnings to cigarette cartons and other tobacco products, we hope to effectively deter smoking in the same way that other countries where this system have been set in place were able to reduce the incidence of smoking in their respective jurisdictions.

Foregoing considered, the immediate passage of this bill is earnestly sought.

  
FRANKLIN M. DRILON



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**AN ACT TO EFFECTIVELY INSTILL HEALTH CONSCIOUSNESS THROUGH  
PICTURE-BASED WARNINGS ON TOBACCO PRODUCTS**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress  
assembled:*

1           **Section 1. Short title.** - This Act shall be known as "The Picture-Based Health Warning  
2 Law."

3           **Section 2. Declaration of Principles.** - The State shall protect and promote the right to  
4 health of the people and instill health consciousness among them.

5           The State shall protect consumers from trade malpractices and from substandard and  
6 hazardous products.

7           The State accepts that, as a State-Party to the World Health Organization's Framework  
8 Convention on Tobacco Control (FCTC), a treaty that reaffirms the right of all people to the  
9 highest standards of health, the Philippines is obliged to inform every person of the health  
10 consequences of tobacco consumption & exposure to tobacco smoke; to enact effective measures  
11 to curb and reduce tobacco use, especially among the youth; and to protect public health policy  
12 from the commercial and vested interests of the tobacco industry.

1           The State is cognizant of the Philippine's duty under Article 11 of the FCTC which is to  
2 adopt and implement by September 2008 effective health warnings on tobacco products that  
3 should describe the harmful effects of tobacco use.

4           The State recognizes that based on empirical data, text warnings have been shown to be  
5 insufficient in conveying the dangers of tobacco products while graphic or picture-based health  
6 warnings have been shown to be more effective in conveying the truth about the dangers of  
7 exposure and consumption of tobacco smoke.

8           ***Section 3. Purpose.*** - The purpose of this Act is:

- 9           a. to have health warnings that effectively warn of the devastating effects of tobacco  
10 use and exposure to second hand smoke;
- 11           b. to remove signs or terms or any other direct or indirect means on or in tobacco  
12 product packages that create or are likely to create a false impression about the  
13 health effects of tobacco products, including but not limited to misleading or  
14 deceptive descriptors like "low tar," "light," "ultra light" or "mild;"
- 15           c. to further promote the right to health and information of the people;
- 16           d. to strengthen the role of the Department of Health in promoting the right to health  
17 and instilling health consciousness among Filipinos.

18           ***Section 4. Definition of terms.*** -

- 19           a. "***Insert***" means any communication inside an individual package and/or carton  
20 purchased at either wholesale or retail by consumers, such as a leaflet or brochure.
- 21
- 22           b. "***Onsert***" means any communication affixed to the outside of an individual package  
23 and/or carton purchased at either wholesale or retail by consumers, such as a brochure

1           beneath the outer cellophane wrapping or glued to the outside of the cigarette  
2           package.

3  
4  
5           c. **"Picture-based Health Warning"** means warning labels that are composed of a  
6           photographic picture warning on health dangers or other problems related to tobacco  
7           use or exposure to tobacco smoke and an accompanying textual warning that is  
8           related to the picture, as issued by the Department of Health (DOH) in accordance  
9           with Section 15 of this Act.

10          d. **"Principal Display Surface"**, means:

11                   1. in the case of a package and carton that has at least two equal sized sides  
12                   or surfaces, other than the top and bottom, that may be displayed or visible  
13                   under normal or customary conditions of sale or use, the areas of each of  
14                   the 2 largest surfaces;

15                   2. the largest surface of any spherical, cylindrical or conical container of  
16                   tobacco products and in the case of a package and carton that does not  
17                   have a particular side or surface that is predominantly displayed or visible  
18                   under normal or customary conditions of sale or use, the total surface area  
19                   of the package;

20                   3. all surfaces or panels, exterior or interior, of any tobacco product  
21                   packaging or carton not specified above.

22          e. **"Tobacco Product Package"** means the packet and package of tobacco products and  
23           any outside packaging and labelling of tobacco products for sale, distribution,  
24           exportation, importation, trade, exchange, or exhibition, such as, but not limited to,  
25           packs, tins, boxes, pouches, flip-tops, slide and shell packages, cartons, transparent  
26           wrappers, clear packaging, packages containing one product unit, master cases, or  
27           other containers of tobacco products.

1 f. *"Tobacco Products"* means products entirely or partly made of leaf tobacco as raw  
2 material, which are manufactured to be used for smoking, sucking, chewing or  
3 snuffing, or by any other means of consumption.

4 **Section 5. Picture-based Health Warning.** - Ninety (90) days after the effectivity of this  
5 Act, cigarette packages and other tobacco product packages found in the market including  
6 package insert and onserts, and any outside packaging and labelling, shall bear highly visible  
7 full-color "Picture-based Health Warnings," as prescribed, as to all particulars, that shall have  
8 two components: a photographic picture warning and an accompanying textual warning that is  
9 related to the picture.

10 a. The Picture-based Health Warnings shall be printed on at least 60% of the principal  
11 display surfaces of any tobacco package; it shall occupy no less than 60% of the front  
12 and 60% of the back panel of the packaging, as described in Sec. 4;

13 b. It shall be located at the upper portions of the said panels or Principal Display Areas;

14 c. Nothing shall be printed or applied on a location where it is likely to obscure or cover,  
15 in part or in whole, the Picture-based Health Warnings;

16 d. No part of the warning may be obliterated, obscured, folded, severed or become  
17 unreadable when the tobacco package is opened or closed or when a wrapper on the  
18 package is removed;

19 e. The Picture-based Health Warning shall be printed in accordance with guidelines  
20 prescribed by the DOH, or in the absence thereof, in full color, with the minimum  
21 resolution of 600 dpi using at least 4-color printing;

22 f. A minimum of eight (8) variations of Picture-based Health Warnings shall be printed  
23 simultaneously and these shall be rotated periodically, not just for each brand family

1 but also for each brand within the family for each package size and type, so that at  
2 any time within the twelve (12) month period, when a set of Picture-based Health  
3 Warnings are scheduled to be rotated, the variations of the warnings shall appear in  
4 the market with proportionate frequency and equal display of health warnings and  
5 messages on retail packages;

6 g. In no case shall the Picture-based Health Warning measure less than 2475 square  
7 millimeters in size regardless of the type of tobacco package. Furthermore, the  
8 shortest side of the health warning shall measure no less than 55 millimeters;

9 h. Picture-based Health Warning specifications-

10 1. The text warning accompanying the picture shall be worded in such manner  
11 that an ordinary layman will understand what the picture is about and what are  
12 the ill-effects of smoking on the health of the smoker and of the people around  
13 him;

14 2. The text warning shall be placed on areas of the photograph where it will not  
15 obscure the picture itself but will be prominently displayed;

16 3. The text shall use up no more than 30% of the entire area of the Picture-based  
17 Health Warning and shall appear in clearly legible type and in contrast by  
18 typograph, layout and color, without the use of any border, frame or any other  
19 design that will effectively lessen the size of the textual warning; and

20 4. The accompanying text shall be printed in English on the front panel and  
21 Filipino on the back panel and alternately, Filipino on the front panel and  
22 English on the back panel. In the case of other containers where there is only  
23 one (1) external surface area, the accompanying text will likewise alternately  
24 be in English or Filipino.

25 **Section 6. Side Panel.** - In addition to the Picture-based Health Warning, cigarette  
26 packages, as well as other tobacco product packages found in the market, shall bear, on one side

1 panel, additional information as issued by the DOH according to Section 15 of this Act, such as,  
2 but not limited to, additional health warnings, hotlines or websites for tobacco-related concerns,  
3 or tips on how to stop smoking. This information shall be prominently displayed and the text  
4 thereto shall appear in clearly legible type and in contrast by typograph, layout and color,  
5 without the use of any border or frame or any other design that will effectively lessen the size of  
6 the additional health warnings.

7 **Section 7. Descriptors.** - Ninety (90) days after the effectivity of this Act, no cigarette  
8 packs or other tobacco product packages shall contain any term, descriptor, trademark, figurative  
9 or any other sign including colors, images, or numbers, or any other package or product design  
10 or feature, that directly or indirectly create or are likely to create the false impression that a  
11 particular tobacco product is less harmful than any other tobacco product or brand, or that  
12 promote a tobacco product by any means that are false, misleading, deceptive, or likely to create  
13 an erroneous impression about its characteristics, health effects, hazards or emissions, such as,  
14 but not limited to, "low tar", "light", "ultra-light", or "mild," "extra," "ultra," and similar terms in  
15 any language that might mislead consumers, or corresponding symbols or colors signifying the  
16 same.

17 No cigarette packs or other tobacco product packages shall contain information that may  
18 imply that one variant or brand is safer than the other, such as, but not limited to, statements  
19 indicating that the tobacco product contains "reduced levels" of contents, substances, and  
20 emissions. Figures for emission yields, such as for tar, nicotine and carbon monoxide, shall be  
21 prohibited, including when used as part of a brand name or trademark.

22 **Section 8. Minimum Principal Display Surface/ Prohibition on Smaller Packages** - To  
23 ensure the visibility, prominence, and impact of Picture-based Health Warnings, no person or  
24 legal entity shall make, fabricate, import, sell or distribute cigar, cigarette or other tobacco  
25 products with packages that have for its Principal Display Surface, a total area of less than 4950  
26 square millimeters for each of the two largest sides in the case of tobacco packages described in  
27 Sec 4 d (1). For other tobacco packages that fall under Section 4 d (2) and 4 d (3), the minimum  
28 size for the principal display surface shall also be 4950 square millimeters.

1           **Section 9. Costs.** - All printing costs pertaining to packaging and labelling shall be  
2 shouldered by tobacco manufacturers and/or importers.

3           **Section 10. Prohibition on Sales.** - No person or legal entity shall sell or commercially  
4 distribute or display any cigarette or tobacco product without ensuring that the labels and  
5 packages, as well as any other container used in displaying the cigarette or tobacco products,  
6 meet the requirements under this Act. Manufacturers and distributors of tobacco products shall  
7 ensure the removal from all displays of non-compliant tobacco products manufactured and  
8 distributed by them within 120 days from the effectivity of this Act.

9           **Section 11. Prohibition on Obstruction of Display.** - No person or legal entity shall  
10 obscure or cover in part or in whole the Picture-based Health Warning in the selling areas. The  
11 Picture-based Health Warnings shall be prominently displayed whenever the said packages are  
12 commercially displayed.

13           **Section 12. Liability of Manufacturers, Importers, and Distributor.** - Manufacturers,  
14 importers, and distributors of tobacco products shall be directly liable for any violations of the  
15 provisions of this Act. In the case of a business entity or establishment, the chairperson of the  
16 Board of Directors, the owner, president, manager and the corporate officials thereof shall be  
17 directly responsible therefore and shall be made accountable. Agents/representatives of the  
18 aforecited manufacturers, importers, and distributors who commit any violation of the provisions  
19 of this Act and its implementing rules shall be jointly and severally liable with the  
20 manufacturers, importers, and distributors.

21           **Section 13. Liability of Retailers and Sellers.** - Retailers and sellers of tobacco products  
22 shall be directly liable for violations of Section 10 and 11 of this Act. In the case of a business  
23 entity or establishment, the chair of the Board of Directors, the owner, president, manager and  
24 the corporate officials thereof shall be directly responsible and shall be made accountable.

25           **Section 14. Penalties for Non Compliance.** -



1 a. The following penalties shall individually apply to manufacturers, importers, and  
2 distributors of tobacco products as well as their agents/representatives for any  
3 violation of this Act:

4 1. On the first offense, a fine of not more than One Million Pesos (Php  
5 1,000,000.00) shall be imposed;

6 2. On the second offense, a fine of Five Million Pesos (Php 5,000,000.00), shall  
7 be imposed;

8 3. On the third offense, in addition to a fine of not more than Twenty Million  
9 Pesos (Php 20,000,000.00) or imprisonment of not more than five (5) years, or  
10 both at the discretion of the court, the business permits and licenses, in the  
11 case of a business entity *or* establishment shall be revoked or cancelled.

12 If the guilty officer is a foreign national, he shall be deported after service of sentence  
13 and/or payment of applicable fines without need of further deportation proceedings and shall be  
14 forever barred from re-entering the Philippines. Filing of the appropriate case may be  
15 commenced by the DOH; the Philippine National Police (PNP); a Prosecutor by himself; or any  
16 private citizen.

17 Each batch of non-compliant tobacco packages, regardless of size, that are withdrawn  
18 from the manufacturing facility, imported into the Philippines for sale to the market, transferred  
19 to other facilities, or delivered to the retail establishments after the compliance date shall  
20 constitute one offense. An additional penalty of One Hundred Thousand Pesos (Php 100,000.00)  
21 per day shall be made for each day the violation continues after having received the order from  
22 the DOH or other appropriate body, notifying the company of the infraction.

23 b. The following penalties shall individually apply to retailers/sellers of tobacco  
24 products as well as their agents/representatives for any violation of this Act:

- 1           1. On the first offense, a fine of not more than Five Thousand Pesos (Php  
2           5,000.00) shall be imposed;
- 3           2. On the second offense, a fine of Ten Thousand Pesos (Php 10,000.00) shall be  
4           imposed;
- 5           3. On the third offense, in addition to a fine of not more than Twenty Thousand  
6           Pesos (Php 20,000.00) or imprisonment of not more than one (1) year, or both  
7           at the discretion of the court, the business permits and licenses, in the case of a  
8           business entity or establishment shall be revoked or cancelled.

9           If the guilty officer is a foreign national, he shall be deported after service of sentence  
10          and/or payment of applicable fines without need of further deportation proceedings and shall be  
11          forever barred from re-entering from the Philippines. Filing of the appropriate case may be  
12          commenced by the DOH; the PNP; a Prosecutor by himself; or any private citizen.

13          Each day that non-compliant tobacco packages are found in the retail establishments of  
14          the retailers after the compliance date shall constitute one offense. An additional penalty of Five  
15          Thousand Pesos (Php 5,000.00) per day shall be made for each day the violation continues after  
16          having received the order from the DOH or other appropriate body, notifying the retailers of the  
17          infraction.

18          ***Section 15. Picture-Based Health Warning Guidelines*** - Thirty days (30) days after the  
19          effectivity of this Act, and every year thereafter, or as frequently as the need arises, the DOH  
20          shall issue a template of Picture-based Health Warnings to be rotated, as well as guidelines  
21          respecting the printing instructions, specific pictures, design, or content of the information  
22          relating to the Picture-based Health Warnings, and other information that must appear in the  
23          tobacco product packages. The DOH shall consider the recommendations of leading non-  
24          government organizations that have established and proven records of dealing with tobacco-  
25          related diseases and deaths; Provided, however, that the absence of recommendations shall not  
26          delay the issuance of the template and guidelines. All Picture-based Health Warnings issued shall

1 comply with the specifications above and must always present the devastating effects of tobacco  
2 use and exposure to tobacco smoke.

3 In light of technological developments in printing quality and package design, the DOH  
4 shall have the authority to provide additional printing guidelines beyond those specified in  
5 Section 5(e), to ensure that picture warnings remain effective and with impact.

6 Picture-based Health Warning regulations issued by the DOH Secretary upon  
7 recommendation of non-government organizations shall be presumed compliant with the  
8 specifications listed above for purposes of implementation by the tobacco companies.

9 Tobacco manufacturers and importers shall have no more than two (2) months to comply  
10 with any new templates issued.

11 **Section 16. Administrative Power:** - Within one (1) year from the effectivity of this Act,  
12 the DOH shall issue Guidelines and Administrative Sanctions to facilitate the implementation of  
13 this Act, but this should, in no case, delay the implementation of this Act and the deadlines/time  
14 frames set herein.

15 The DOH, in coordination with the Food and Drug Administration, is hereby charged  
16 with implementing and enforcing the provisions of this Act and shall:

17 a. promulgate rules governing the hearings on alleged violations of this Act. The  
18 hearings shall be summary in nature and shall be conducted by means of position  
19 papers and affidavits. Any decision must be rendered by the DOH no longer than  
20 thirty (30) days from the date of filing;

21 b. impose, after notice and hearing and in accordance with the degree of the offense and  
22 the nature of the business of the offender, administrative fines of up to Ten Million  
23 Pesos (Php 10,000,000.00), the proceeds of which will be used for health promotion  
24 campaigns on tobacco control of the DOH. *Provided*, That manufacturers, importers,

1 and distributors of tobacco products as mentioned in Section 12 of this Act, shall have  
2 a higher penalty compared to retailers and sellers, as provided in Section 13 of this  
3 Act;

4 c. issue other administrative rules and regulations it deems necessary to effectively  
5 implement the provisions of this law, such as but not limited to, seizure, forfeiture,  
6 and destruction of non-compliant packages as described under this law.

7 The non-issuance of the Regulations and Administrative Sanctions by the DOH shall not  
8 prevent the coming into force of this Act.

9 The DOH shall have the power to call upon law enforcement agencies, and the managing  
10 authorities in the economic zones for assistance in the implementation and enforcement of its  
11 decisions, orders, rules and regulations. In addition, the DOH may also deputize, whenever  
12 necessary, local government executives and representatives of the national government agencies,  
13 tobacco control organizations and concerned sectors to help monitor compliance with and report  
14 any violation of this Act.

15 The filing of an administrative case for an act constituting a violation of the  
16 administrative regulations to be issued by the DOH shall not preclude the simultaneous or  
17 subsequent filing of criminal charges for the same act constituting a violation under this Act,  
18 through criminal proceedings authorized under Section 14 of this Act. In the same manner,  
19 neither shall the filing of criminal charges preclude the filing of administrative cases.

20 ***Section 17. Strict Compliance and Inspections.*** - Absolutely no extensions of time to  
21 comply with the provisions of this Act shall be granted to tobacco manufacturers and importers  
22 or any other affected party.

23 For purposes of enforcing the law and ensuring compliance therewith, the DOH, through  
24 FDA or other deputized law enforcement agency, or its authorized representative, upon  
25 presenting appropriate credentials to the owner, manager, or agent in charge, is authorized (1) to

1 enter, at reasonable hours, any factory, warehouse or establishment in which tobacco products  
2 are manufactured, processed, packed or held, for introduction into domestic commerce or are  
3 held after such introduction, or (2) to enter any vehicle being used to transport or hold the  
4 tobacco products in question; and (3) to inspect, in a reasonable manner, such factory,  
5 warehouse, or establishment or vehicle and all pertinent equipment, finished and unfinished  
6 materials, containers and labeling therein. If the officer, employee, or person designated to make  
7 any such inspection of a factory, warehouse or other establishment has obtained any sample in  
8 the course of the inspection, upon completion of the inspection and prior to leaving the premises,  
9 he shall give the owner, manager, or agent-in-charge a receipt describing the samples obtained.

10 The DOH shall have the power to punish the refusal of the owner, manager, agent-in-  
11 charge or employee of the factory, warehouse, establishment, or vehicle who, despite the  
12 presentation of appropriate credentials by the officer or employee designated to conduct the  
13 inspection, refuses the entry of such officer or employee.

14 **Section 18. Citizen Suits.** - For purposes of enforcing the provisions of this Act or its  
15 implementing rules and regulations, any citizen may file an appropriate civil, criminal or  
16 administrative action in the proper courts or administrative body against:

17 (a) Any person or entity who violates or fails to comply with the provisions of this  
18 Act, its implementing rules and regulations, including the template, guidelines, or other  
19 regulations; or

20 (b) The DOH and other implementing agencies with respect to rules and regulations  
21 issued inconsistent with this Act; and/or

22 (c) Any public officer who willfully or grossly neglects the performance of an act  
23 specifically enjoined as a duty by this Act, its implementing rules and regulations,  
24 including the template, guidelines, or other regulations; or abuses his authority in the  
25 performance of his duty; or, in any manner, improperly performs his duties under this

1 Act or its implementing rules and regulations including the template, guidelines, or other  
2 regulations.

3 The administrative, civil and criminal actions allowed under this section shall be  
4 alternative and cumulative and shall not preclude any other person from filing a similar action.

5 **Section 19. Other obligations of the Tobacco Industry.** Compliance with the Act shall  
6 not remove or diminish any other obligations of tobacco manufacturers, importers, distributors,  
7 retailers, and sellers, including but not limited to, obligations to warn and inform consumers  
8 about the health hazards of tobacco use and exposure to tobacco smoke.

9 **Section 20. Separability Clause.** - If any clause, provision, paragraph or part thereof shall  
10 be declared unconstitutional or invalid, such judgment shall not affect, invalidate or impair any  
11 other part hereof but such judgment shall be merely confined to the clause, provision, paragraph  
12 or part directly involved in the controversy in which such judgment has been rendered.

13 **Section 21. Repealing Clause.-** All other laws, decrees, executive order and other  
14 administrative issuances and parts thereof which are inconsistent with the provisions of this Act  
15 are hereby modified, superseded or repealed accordingly.

16 **Section 22. Effectivity.** - This Act shall take effect fifteen (15) days following its  
17 publication in the Official Gazette or in a major daily newspaper of national circulation in the  
18 Philippines.

Approved,