

SIXTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session



Senate
Office of the Secretary

13 DEC 11 P1 20

SENATE

RECEIVED BY: *fa*

S.B. No **2011**

Introduced By Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

Electronic cigarettes (e-cigarette) or similar devices such as electric vaping devices, personal vaporizers, and electronic nicotine delivery systems are battery-powered gadgets that are designed to curb addiction to cigarettes or other tobacco products by allowing users to mimic cigarette or tobacco smoking with the use of a similar looking albeit tobacco-free device.

E-cigarettes use a heating element that vaporizes a liquid solution commonly known as e-juice, which usually is a mixture of propylene glycol, vegetable glycerine, polyethylene glycol 400, flavorings, and a variable concentration of nicotine.

Although there are attestations to the efficacy of e-cigarettes in making smokers stop or minimize their use of or addiction to tobacco products, said apparatuses remain a concern to health experts. The effects of inhaling pure nicotine have yet to be shown or supported by scientific studies.

This gives rise to the concern of lack of regulation over e-cigarettes and similar devices. E-cigarettes are not regulated in the same manner as tobacco products because they do not contain tobacco – thus falling outside the ambit of the Tobacco Regulation Act. Thus, these devices are accesible to anyone who wishes to use them including minors.

Despite the exercise of discretion and utmost care by retailers in the sale of e-cigarettes and similar devices to minors, there are no clear and defined regulations imposing penalties for the commission of such sales or the gearing of advertisements or product packaging towards the sale to minors. The lack of regulation compounded by product accesibility, popularity, and attractive design make such deviceess appealing to young adults, teenagers, and minors thereby encouraging their experimentation with or outright use of the same.

This bill seeks to regulate the sale and use to minors of e-cigarettes and similar devices such as electronic vaping devices, personal vaporizers (PVs), or electronic nicotine delivery systems (ENDS) are electronic inhaler devices.

In view of the foregoing, early passage of this bill is earnestly sought



MANUEL "LITO" M. LAPID
Senator
MLR

1 advertising, labelling and other items that are located within their establishments are
2 compliant with the requirements of this Act: *Provided*, That non-compliant items shall be
3 removed from the establishment.

4
5 **SEC. 6. *Minimum Age Sales and Purchases.*** -- The following acts shall be
6 prohibited:

7 a. The sale, distribution, or transfer of e-cigarettes by any person to minors;
8 *Provided*, That the transfer is in exchange for some form of consideration;

9 b. Purchasing or otherwise receiving, in exchange for consideration, e-cigarettes
10 from a minor;

11 c. The sale, purchase, and use of e-cigarettes by minors; and

12 d. For a minor to use e-cigarettes, electronic vaping devices, PVs, or ENDSs.

13 It shall not be a defense for any person committing any of the prohibited acts
14 herein that he did not know or was not aware of the real age of the minor.

15
16 **SEC. 7. *Sale of Electronic Cigarettes and Similar Products within School***
17 ***Perimeters.*** -- The sale or distribution of e-cigarettes shall be prohibited within one
18 hundred (100) meters from any perimeter point of a school, public playground, or such
19 other facilities particularly frequented by and intended for minors.

20
21 **SEC. 8. *Signage.*** -- Point-of-sale establishments offering, distributing, or selling e-
22 cigarettes to consumers shall post the following statement in a clear and conspicuous
23 manner: "SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF ELECTRONIC
24 CIGARETTES IS UNLAWFUL." or "IT IS UNLAWFUL FOR ELECTRONIC
25 CIGARETTES TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS
26 UNDER 18 YEARS OF AGE."

27
28
29 **SEC. 9. *Proof of Age Verification.*** -- Retailers shall ascertain that no individual
30 purchasing an e-cigarette is below eighteen (18) years of age. In case of doubt, retailers
31 shall verify the age of the buyer through any valid identification card exhibiting the
32 buyer's photograph and age or date of birth.

33 **ADVERTISING AND PROMOTIONS**

34
35 **SEC. 10. *Restrictions on Advertising.*** -- The following restrictions shall apply to
36

1 all e-cigarettes:

2 a. Advertisements shall not be aimed at or particularly appeal to persons under
3 eighteen (18) years of age.

4 b. Advertisements shall not feature a celebrity or contain an endorsement,
5 implied or express, from a celebrity.

6 c. Advertisements shall not contain cartoon characters or subjects that depict
7 humans or animals with comically exaggerated features or that attribute human or
8 unnatural characteristics to animals, plants or other objects.

9 d. Advertisements shall only depict persons who are or who appear to be above
10 twenty-five (25) years of age.

11 e. Advertisements shall not show, portray or depict scenes where the actual use
12 of, act of using, or puffing of e-cigarettes.

13

14 **SEC. 11. Restrictions on Print Media Advertising.** - The following restrictions
15 shall apply to all print media e-cigarettes and similar devices advertisements:

16 a. Advertisements shall not be placed in any printed publication unless there is
17 reasonable basis to believe that at least seventy five percent (75%) of the readers of such
18 publication are eighteen (18) years of age and above, and the number of youth who read
19 it constitutes less than ten percent (10%) of all youth in the Philippines.

20 b. Advertisements shall not be placed on the packaging or outside covers,
21 whether front or back, of a magazine, newspaper, journal, or other publication printed
22 for general circulation.

23

24 **SEC. 12. Restrictions on Outdoor Advertising.** - The following restrictions shall
25 apply to all outdoor advertisements of e-cigarettes:

26 a. Outdoor advertisements shall not be placed on billboards, wall murals, or
27 transport stops or stations which are within one hundred (100) meters from any
28 perimeter point of school, public playground or other similar facilities frequented
29 particularly by persons below eighteen (18) years of age.

30 b. Outdoor advertisements shall not, either individually or when placed in
31 deliberate combination with other outdoor e-cigarette advertisements, exceed seventy
32 (70) square meters in total size.

33 c. Outdoor advertisements shall not be placed on taxis, buses, trains, or other
34 public conveyance; neither shall the same be placed in stations, terminals, or platforms
35 of such modes of transportation, except point-of-sale establishments.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SEC. 13. *Restrictions on Advertising in Cinemas.* -- Advertisements for e-cigarettes are prohibited in connection with the showing of any film where persons below eighteen (18) years of age are permitted admission.

SEC. 14. *Restrictions on Television and Radio Advertising.* -- Advertisements shall not be broadcast on television and radio during prime time, as may be determined or defined by the Movie and Television Review and Classification Board.

SEC. 15. *Restrictions on Advertising in Audio, Video, and Computer Cassettes/Discs and Similar Medium.* -- No electronic advertisements shall be incorporated within any video or audio cassette, videogame machine, optical disc, or any similar medium, unless access to the item is restricted to persons eighteen (18) years of age or older. For the purpose of this Section, "video game" shall refer to any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or monitor that interacts with the user of the device.

SEC. 16. *Restrictions on Advertising on the Internet and Similar Medium.* -- Advertisements are prohibited on the Internet and other similar media, unless the site is restricted to persons eighteen (18) years of age or older. A site will be deemed restricted if a person cannot obtain access beyond the first page of the website without first establishing that he or she is at least eighteen (18) years old. This limitation applies to commercial communications and shall not prevent the use of company Internet websites to provide information regarding a company, its products and smoking and health related information. This Section shall not prohibit business-to-business transactions conducted on the Internet and other similar medium between e-cigarettes, electronic vaping devices, PVs, or ENDSs manufacturers, retailers, and distributors.

SEC. 17. *Ban on Advertisements.* -- After one (1) month upon signing of this Act, all e-cigarette advertising on television, cable television, radio, and other forms of mass media shall be prohibited.

After six (6) months upon signing of this Act, all cinema and outdoor advertising shall be prohibited. No leaflets, posters and similar outdoor advertising materials may

1 be posted, except inside the premises of point-of-sale retail establishments.

2

3 **SEC. 18. *Restrictions on the Promotions of E-Cigarettes.*** -- The following
4 restrictions shall apply on promotions of e-cigarettes:

5 a. Promotions must be directed only to persons at least eighteen (18) years old.
6 No person below eighteen (18) years old or who appear to be below eighteen (18) years
7 old may participate in such promotions. The participants in promotions must be
8 required to provide proof of age.

9 b. Communications to consumers about promotions of e-cigarettes shall comply
10 with the provisions of this Act governing advertisements. In addition to the required
11 health warning, the age requirement for participation in any promotion must be clearly
12 marked on program materials distributed to consumers.

13 c. All stalls, booths and other displays concerning promotions of e-cigarettes
14 must be limited to point-of sale locations or adult-only facilities.

15 d. Telephone communications concerning promotional offers, programs, or
16 events must include a recorded health warning message in English or Filipino
17 consistent with the warnings specified in this Act.

18 e. No placement shall be made by any manufacturer, distributor, or retailer of
19 any e-cigarette or product package or advertisement as a prop in any television
20 program or motion picture produced for viewing by the general public or in a video,
21 optical disc or on a video game machine.

22 f. The name, logo, or other indicia of an e-cigarette brand may appear on related
23 items. If such name, logo, or other indicia of an e-cigarette brand is larger than fifty (50)
24 square centimeters, the item must carry a health warning consistent with the warnings
25 specified in this Act.

26 g. No merchandise such as, but not limited to, T-shirts, caps, sweatshirts, visors,
27 backpacks, sunglasses, writing implements and umbrellas, may be distributed, sold or
28 offered, directly or indirectly, with the name, logo or other indicia of an e-cigarette
29 brand displayed so as to be visible to others when worn or used. Clothing items must
30 be in adult sizes only.

31 h. No name, logo, or other indicia of an e-cigarette brand or element of a brand-
32 related marketing activity, may appear on items that are marketed to or likely to be
33 used by minors such as, but not limited to, sports equipment, toys, dolls, miniature
34 replicas of racing vehicles, video games, and food. The manufacturer or company must
35 take all available measures to prevent third parties from using the company's brand

1 names, logos, or other proprietary material on products that are directed toward
2 minors.

3 i. No advertisements on e-cigarettes may be placed on shopping bags.

4
5 **SEC. 18. Naming Rights.** -- Subject to the provisions of this Act:

6 a. No manufacturer may enter into any agreement pursuant to which payment is
7 made or other consideration is provided by such manufacturer to any sports league, or
8 any team involved in any such league, in exchange for use of any brand of e-cigarette.

9 b. No manufacturer may enter into any agreement for the naming rights of any
10 stadium or arena using an e-cigarette product brand name or otherwise cause a stadium
11 or arena to be named with such a brand name.

12
13 **SEC. 19. Restrictions on Sponsorships.** --

14 a. No sponsorship shall be provided for:

15 1) an event or activity which bears a brand name of an e-cigarette, unless
16 there is reasonable basis to believe that all persons who compete, or otherwise
17 take an active part, in the sponsored events or activities are persons eighteen (18)
18 years of age or older;

19 2) a team or an individual bearing a product name of an e-cigarette, unless
20 all persons sponsored are eighteen (18) years of age or older; or

21 3) a sponsored event or activity reasonably believed to be of particular
22 appeal to persons under eighteen (18) years old.

23 b. E-Cigarette brand sponsorships shall be prohibited except where there is a
24 reasonable basis to believe that:

25 1) attendance at the sponsored event or activity will comprise no less than
26 seventy-five-percent (75%) of persons at least eighteen (18) years old;

27 2) the sponsored event or activity will not be of particular appeal to
28 persons under eighteen (18) years old;

29 3) the sponsored event or activity will not receive exposure, other than as
30 a news item, on television or radio or the Internet, unless such exposure complies
31 with the provisions of this Act governing marketing of e-cigarettes through those
32 media; and

33 4) the principal activity associated with the sponsorship does not require
34 above-average physical fitness for someone of the age group of those taking
35 part.

1 c. All persons authorized to bear product advertisements for e-cigarettes, logos
2 or brand names at sponsored events shall be at least eighteen (18) years old.

3 d. All forms of advertising associated with or ancillary to sponsorship shall
4 comply with the marketing provisions of this Act.

5
6 **SEC. 20. *Restrictions on Sponsorships.*** -- Beginning 1 July 2014, e-cigarette
7 companies are hereby prohibited from sponsoring any sport, concert, cultural or art
8 event, as well as individual and team athletes, artists or performers where such
9 sponsorship shall require or involve the advertisement or promotion of any e-cigarette
10 product or use, name, logo or trademarks and other words, symbols, designs, colors or
11 other depictions commonly associated with or likely to identify an e-cigarette product:
12 Provided, That the attribution only to the name of the company in the roster of sponsors
13 shall be allowed: Provided further, That no manufacturer may register an e-cigarette
14 brand name as a company name after the passage of this Act.

15
16 **SEC. 21. *Restrictions on Sampling.*** -- The distribution of samples of e-cigarette
17 products to persons below eighteen (18) years old is prohibited.

18
19 **SEC. 22. *Legal Actions.*** -- Any legal action in connection with the industry shall
20 be governed by the provisions of the Philippine Civil Code and other applicable laws.

21 22 **IMPLEMENTING AGENCY AND APPLICATION**

23
24 **SEC. 22. *Implementing Agency.*** -- An Inter-Agency Committee (IAC), which shall
25 have the exclusive power and function to administer and implement the provisions of
26 this Act, is hereby created. The IAC shall be chaired by the Secretary of the Department
27 of Trade and Industry (DTI) with the Secretary of the Department of Health as Vice-
28 Chairperson. The

29 IAC shall have the following as members:

- 30 a. Secretary of the Department of Justice (DOJ);
31 b. Secretary of the Department of Finance (DOF);
32 c. Secretary of the Department of Science and Technology (DOST);
33 d. Secretary of the Department of Education (DepEd);
34 e. A Representative from the industry to be nominated by the legitimate and
35 recognized associations of the industry;

1 If the violation is committed by an establishment or business entity, the owner,
2 president, manager, or most senior officers thereof shall be held liable for the offense.

3 If a minor is caught selling, buying or using an e-cigarette product, the
4 provisions of Article 189 of Presidential Decree No. 603 otherwise known as The Child
5 and Youth Welfare Code, as amended, shall apply.

6 b. Violation of Sections 10 to 19. - On the first offense, a fine of not more than One
7 hundred thousand pesos (PhP100,000.00) or imprisonment of not more than one (1)
8 year, or both, at the discretion of the court shall be imposed.

9 On the second offense, a fine of Two hundred thousand pesos (PhP200,000.00) or
10 imprisonment of not more than two (2) years, or both, at the discretion of the court shall
11 be imposed.

12 On the third offense, in addition to a fine of not more than Four hundred
13 thousand pesos (PhP400,000.00) or imprisonment of not more than three (3) years, or
14 both, at the discretion of the court, the business permits and licenses, in the case of a
15 business entity or establishment, shall be revoked or cancelled.

16 In the case of a business entity or establishment, the owner, president, manager
17 or officials thereof shall be liable.

18 If the guilty officer is an alien, he shall summarily be deported after serving his
19 sentence, and shall be forever barred from re-entering the Philippines.

20 21 INFORMATION PROGRAM

22
23 **SEC. 26. *Information Drive*** - Consistent with the provisions of this Act, the DOH
24 shall, in cooperation with the DepEd and with the assistance of the Philippine
25 Information Agency (PIA), undertake a continuous information program on the
26 harmful effects of using e-cigarette products.

27 The DOH shall enlist the active participation of the public and private sectors in
28 the national effort to educate people on the possible effects of using e-cigarette
29 products.

30
31 **SEC. 27. *Appropriations***. - The amount necessary to implement the provisions
32 of this Act shall be included in the general appropriations act of the year of its
33 enactment.

1 **SEC. 28. Rules and Regulations.** -- The Department of Health, in coordination
2 with the Department of Interior and Local Government, shall formulate the rules and
3 regulations necessary to implement this Act.

4
5 **SEC. 29. Repealing Clause.** -- All laws, decrees, executive orders, issuances,
6 rules and regulations, or parts thereof not consistent with the provisions of this Act are
7 hereby repealed or modified accordingly.

8
9 **SEC. 30. Effectivity Clause.** -- This Act shall take effect fifteen (15) days after its
10 publication in two (2) newspapers of general circulation.

Approved,