


FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

OFFICE OF THE CLERK

8 MAR 27 1995

S E N A T E

RECEIVED BY: 

S. NO. 2147

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**INTRODUCED BY SENATOR AQUILINO Q. PIMENTEL, JR.**  
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Explanatory Note

The Constitution provides that the State shall protect and promote the right to health of the people and instill health consciousness among them. The State shall also protect consumers from trade malpractices and from substandard and hazardous products.

This bill seeks to effectively instill health consciousness through picture-based health warnings on tobacco products. The use of prominent, colored and graphic picture-based health warnings is a very effective means to convey to the public in general and to smokers in particular, the hazards and ill-effects of tobacco use, including those associated with second hand smoke. These warnings will also dissuade children and teenagers from using tobacco and educate them on the harmful effects of smoking. The removal of cigarette descriptors such as "light," "mild," and "low tar" will prevent smokers from believing that the use of "light" or "mild" cigarettes is an alternative to quitting.

A recent World Health Organization (WHO) Global Youth Tobacco Survey shows that 27% of Filipino teenagers aged 13 – 15 smoke. This reflects an increase of thirty per centum (30%) over the past two (2) years. Youth are less likely to smoke if they are aware of the real dangers of smoking and if the appeal of glamour associated with the cigarette pack is removed.

By convincing the millions of impoverished Filipinos, who form the bulk of the smoking population, to stop their use of tobacco, they will be able to channel their meager earnings into purchasing the necessities of life, such as food, clothing, shelter, education and medical care. This pro-poor bill will eventually result in more savings, more productivity, more money for health and education, less sickness and less health costs.

The picture-based health warnings will have designs unique to the Philippines which will serve as an effective method by which the government can identify tobacco packages that are smuggled into the country, thus eradicating this illegal activity.

To ensure the effective implementation of this Picture-Based Health Warning Act and to prevent the tobacco industry from utilizing the other arms of government to frustrate this effort on tobacco control, the Department of Health is given sole authority to administer and enforce the provisions of this law and the concurrent powers to issue the necessary rules and regulations, including the imposition of fines, issuance of subpoenas and confiscation of non-compliant tobacco packages. However, any action by the Department of Health in the exercise of its administrative authority shall not prejudice the State from imposing criminal sanctions on the violators of this proposed Act.

In order for the Philippines to comply in good faith with the World Health Organization Framework Convention on Tobacco Control, it should adopt and implement effective health warnings on tobacco product packages by September 2008.

In view of the foregoing considerations and in order to protect the present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke, approval of this bill is earnestly requested.

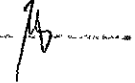


**AQUILINO Q. PIMENTEL, JR.**

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

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

**Section 1. Short Title:** This Act shall also be known as "The Picture Based Health Warning Act of 2008."

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

The State shall protect consumers from trade malpractices and from substandard and hazardous products;

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

The State is cognizant of the Philippine's duty under Article 11 of the FCTC, which is to adopt and implement, by September 2008, effective health warnings on tobacco products, that should describe the harmful effects of tobacco use, be 50% or more of principal display areas, and not contain any term, descriptor, trademark, figurative or any other sign that creates the false impression that a particular tobacco product is less harmful ( e.g. "low tar," "light," "ultra light," or "mild");

The State concedes that text warnings have been shown to be insufficient in conveying the dangers of tobacco products while graphic or picture-based health warnings have been shown to be more effective in conveying the truth about the dangers of exposure and consumption of tobacco smoke;

The State recognizes that tobacco and poverty form a vicious circle of debt and disease, and with the majority of the smoking population in the Philippines belonging to the most impoverished and least educated sectors of society.

**Section 3. Purpose.** The Act is aimed:

- a. to have health warnings that effectively warn of the devastating effects of tobacco use and exposure to second hand smoke
- b. to remove signs or terms or any other direct or indirect means on or in tobacco product packages that create or are likely to create a false impression about the health effects of tobacco products, including but not limited to misleading or deceptive descriptors like “low tar”, “light” , “mild”, or similar terms
- c. to strengthen the role of the Department of Health in promoting the right to health and instilling health consciousness among Filipinos

**Section 4. Definition:**

- a. “picture-based health warning” means warning labels that are composed of a photographic picture warning on health dangers or other problems related to tobacco use or exposure to tobacco smoke, and an accompanying textual warning that is related to the picture, as issued by the Department of Health according to Section 15 of this Act.
- b. “principal display surfaces”, means
  1. in the case of a package and carton that has at least two equal sized sides or surfaces, other than the top and bottom, that may be displayed or visible under normal or customary conditions of sale or use, the areas of each of the 2 largest surfaces;
  2. the largest surface of any spherical, cylindrical or conical container of tobacco products and in the case of a package and carton that does not have a particular side or surface that is predominantly displayed or visible under normal or customary conditions of sale or use, the total surface area of the package
  3. all surfaces or panels, exterior or interior, of any tobacco product packaging or carton not specified above

**Section 5. Picture-based health warning:** Beginning July 1, 2008 or within ninety (90) days from the effectivity of this Act, whichever is earlier, cigarette packages and other tobacco product packages, found in the market, including cartons or master cases, shall bear highly visible full-color “picture-based health warnings,” as prescribed as to all particulars, that shall have two components: a photographic picture warning and an accompanying textual warning that is related to the picture.

- a. The picture-based health warnings shall be printed on at least 60% of the principal display surfaces of any tobacco package; it shall occupy no less than 60% of the front and 60% of the back panel in the case of packaging described in Sec. (3)(a)&(b)
- b. It shall be located at the upper portions of the said panels or principal display areas
- c. Nothing shall be printed or applied on a location where it is likely to obscure or cover, in part or in whole, the picture-based health warnings.
- d. No part of the warning may be obliterated, obscured, folded, severed or become unreadable when the tobacco package is opened or closed.
- e. The picture-based health warning shall be printed in full color, with the minimum resolution of 600 dpi using at least 4-color printing;
- f. A minimum of eight (8) variations of picture-based health warnings shall be printed simultaneously and these shall be rotated periodically, so that at any time within the twelve (12) month period, when a set of

picture-based health warnings are scheduled to be rotated, the variations of the warnings shall appear in the market with proportionate frequency.

- g. In no case shall the picture-based health warning measure less than 2475 square millimeters in size regardless of the type of tobacco package. Furthermore, the shortest side of the health warning shall measure no less than 55 millimeters
- h. Picture-based health warning specifications –
  1. The text accompanying the picture for the picture-based health warning shall be placed on areas of the photograph where it will not obscure the picture itself and will be prominently displayed.
  2. The accompanying text shall use up no more than 30% of the entire area of the picture-based health warning and shall appear in clearly legible type and in contrast by typograph, layout and color, without the use of any border or frame.
  3. The accompanying text shall be printed in English on the front panel and Filipino on the back panel. In the case of other containers where there is only one (1) external surface area, the accompanying text will be in English only.

**Section 6. Side Panel:** In addition to the picture-based health warning, cigarette packages as well as other tobacco product packages found in the market, shall bear, on one side panel, concise information about the picture-based health warning as issued by the Department of Health according to Section 15 of this Act. This information shall be prominently displayed and the text thereto shall appear in clearly legible type and in contrast by typograph, layout and color, without the use of any border or frame.

**Section 7. Descriptors:** Beginning July 1, 2008, or within ninety (90) days from the effectivity of this Act, whichever is earlier, no cigarette packs or other tobacco product packages shall contain any term, descriptor, trademark, figurative or any other sign, (including colors, images, or numbers) or any package or product design feature, that directly or indirectly creates or is likely to create the false impression that a particular tobacco product or brand is less harmful than any other tobacco product or brand, or that promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”;

**Section 8. Costs:** All printing costs pertaining to packaging and labeling shall be shouldered by the tobacco companies.

**Section 9. Minimum Principal Display Surface/ Prohibition on Smaller Packages:** To ensure that the visibility, prominence, and impact of picture-based health warnings, no person or legal entity shall make, fabricate, or distribute cigarette packages or repackage cigarettes with packages that have for its principal display surface, a total area of less than 4950 sq millimeters for each of the two largest sides in case tobacco packages described in Sec 4 b(1). For other tobacco packages that fall under Section 4 b(2) and 4 b(3), the minimum size for the principal display surface shall also be 4950 square millimeters.

**Section 10. Prohibition on Sales:** No person or legal entity shall sell or commercially distribute or display any cigarette or tobacco product without ensuring that labels and packages meet the requirements under this Act.

**Section 11. Prohibition on Display:** No person or legal entity shall obscure or cover in part or in whole the picture-based health warning in the selling areas. The picture-based health warnings shall be prominently displayed whenever the said packages are commercially displayed.

**Section 12. Liability of Manufacturers, Importers, and Distributors:** Manufacturers, Importers, & Distributors of tobacco products shall be directly liable for any violations of the provisions of this Act. In the case of business entities or establishments, the chair of the Board of Directors, the owner, president, manager and the corporate officials thereof shall be directly responsible therefore and shall be made accountable. Agents/Representatives of the aforementioned Manufacturers, Importers, & Distributors who commit any violation of the provisions of this Act and its implementing rules shall be jointly and severally liable with the Manufacturers, Importers, & Distributors.

**Section 13. Liability of Retailers and Sellers:** Retailers and Sellers of tobacco products shall be directly liable for Section 10 & 11 of this Act. In case of business entities or establishments, the chair of the Board of Directors, the owner, president, manager and the corporate officials thereof shall be directly responsible therefore and shall be made accountable.

**Section 14. Penalties for Non Compliance:**

a. The following penalties shall apply to manufacturers, importers, exporters, and distributors of tobacco products as well as their agents/representatives for failure to comply with Sections 5-11 of this Act /for any violations of this Act:

First offense, a fine of not more than One Million pesos (Php1,000,000.00) shall be imposed

Second offense, a fine of Five Million pesos (Php 5,000,000.00), shall be imposed.

Third offense, in addition to a fine of not more than Twenty Million pesos (Php20,000,000.00) or imprisonment of not more than one (1) year, or both at the discretion of the court, the business permits and licenses, in the case of business entities or establishments, shall be revoked or cancelled.

If the guilty officer is an alien, he/she shall summarily be deported after the finding of probable cause on the second offense and shall be forever barred from re-entering from the Philippines.

Each batch of non-compliant tobacco packages, regardless of size, that are withdrawn from the manufacturing facility, imported into the Philippines for sale to the market, transferred to other facilities, or delivered to the retail establishments after the compliance date shall constitute one offense. And an additional penalty of one hundred thousand pesos (P100,000.00) per day shall be imposed for each day the violation continues after having received the order from the Department of Health or other appropriate body, notifying the company of the infraction.

b. The following penalties shall apply to retailers/sellers of tobacco products as well as their agents/representatives for failure to comply with Sections 10 and 11 of this Act /for any violations of this Act:

First offense, a fine of not more than five thousand pesos (Php5,000.00) shall be imposed

Second offense, a fine of ten thousand pesos (Php10,000.00), shall be imposed.

Third offense, in addition to a fine of not more than Twenty thousand pesos (Php20,000.00) or imprisonment of not more than one (1) year, or both at the discretion of the court, the business permits and licenses, in the case of business entities or establishments, shall be revoked or cancelled.

If the guilty officer is an alien, he shall summarily be deported after the finding of probable cause on the second offense and shall be forever barred from re-entering from the Philippines.

Each day that non-compliant tobacco packages are found in the retail establishments of the retailers after the compliance date shall constitute one offense. And an additional penalty of five thousand pesos (P5,000.00) per day shall be imposed for each day the violation continues after having received the order from the Department of Health or other appropriate body, notifying the retailers of the infraction.

c. Filing of the appropriate case may be commenced by the Department of Health; the Philippine National Police; a Prosecutor by himself; or any private citizen.

**Section 15. Schedule for Picture Based Health Warning Guidelines:** Beginning March 1, 2008, or within thirty (30) days from the effectivity of this act, whichever is earlier, and every year thereafter, or as frequently as the need arises, the Department of Health shall issue a template of picture-based health warnings to be rotated as well as guidelines respecting the printing instructions, specific pictures, design, or content of the information relating to the picture-based health warnings that must appear in the tobacco product packages. The template and the guidelines shall be based on the recommendation of the Philippine Cancer Society (PCS) and the Philippine College of Chest Physicians (PCCP), as approved by the Secretary of Health. In the absence of the two non-government organizations cited above, the Department of Health shall select other leading organizations that have an established and proven record of dealing with tobacco-related diseases and deaths. All picture-based health warnings issued shall comply with the specifications above and must always present the devastating effects of tobacco use & exposure to second hand smoke. Nothing in this Act shall preclude the Department of Health from imposing standards for tobacco product package design and printing that are beyond those provided in this Act.

Picture-based health warning regulations issued by the Department of Health Secretary upon recommendation of the PCS and PCCP, or other duly recognized non-government organizations, shall be presumed compliant with the specifications listed above for purposes of implementation by the tobacco companies.

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

**Section 16. Administrative Agency** – The Department of Health is hereby charged with implementing and enforcing the provisions of this Act..

Within one (1) year from the effectivity of this act, the Department of Health shall issue Regulations & Administrative Sanctions to facilitate the implementation of this Act. The Department of Health is hereby authorized:

- a. to promulgate rules governing the hearing on the reported violations of this Act, which shall be summary in nature, where the parties shall submit position papers and affidavits; the decision must be rendered by the Department of Health not later than thirty (30) days from the date of filing;
- b. to impose, after notice and hearing, administrative fines up to ten million pesos (P10,000,000), the proceeds of which will be used for health promotion campaigns on tobacco control of the Department of Health;
- c. other administrative rules and regulations it deems necessary to effectively implement the provisions of this law, such as but not limited to seizure, forfeiture, and destruction of non-compliant packages as described under this law.

The Department of Health shall have the power to call upon law enforcement agencies and the managing authorities in the economic zones for assistance in the implementation and enforcement of its decisions, orders, rules and regulations. In addition, the Department of Health may also deputize, whenever necessary, provincial governors, city and municipal mayors, and representatives of the national government agencies, tobacco control organizations and concerned sectors to help monitor compliance with and report any violation of this Act

The filing of an administrative case shall not preclude the criminal prosecution for the same act constituting a violation under this Act, through criminal proceedings authorized under Section 14 of this Act.

**Section 17. Strict Compliance and Inspections** - Absolutely no extensions of time to comply with the provisions of this Act shall be granted to tobacco manufacturers or any other affected party. For purposes of enforcing the law & for ensuring compliance therewith, the Department of Health, upon presenting appropriate credentials to the owner, manager, or agent in charge, are authorized (1) to enter, at reasonable hours, any factory, warehouse or establishment in which tobacco products are manufactured, processed, packed or held, for introduction into domestic commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such tobacco products; and (2) to inspect, in a reasonable manner, such factory, warehouse, or establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein. If the officer, employee, or person designated making any such inspection of a factory, warehouse or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, manager, or agent in charge a receipt describing the samples obtained.

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

- (a) Any person who violates or fails to comply with the provisions of this Act, its implementing rules and regulations, including the template, guidelines, or other regulations; or
- (b) The Department of Health with respect to rules and regulations issued inconsistent with this Act; and/or



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

In civil suits brought under this Act, the court shall exempt such action from the payment of filing fees, except fees for actions not capable of pecuniary estimations, and shall likewise, upon prima facie showing of the non-enforcement or violation complained of, exempt the plaintiff from the filing of an injunction bond for the issuance of a preliminary injunction.

**Section 19. Separability Clause** - In case any provision of this Act is declared unconstitutional or invalid, the other provisions hereof which are not affected thereby shall continue in full force and effect.

**Section 20. Repealing Clause.** — All other laws, decrees, executive order and other administrative issuances and parts thereof which are inconsistent with the provisions of this Act are hereby modified, superseded or repealed accordingly. Section 13c and Section 32c of Republic Act 9211 is hereby repealed.

**Section 21. Effectivity.** — This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in a major daily newspaper of national circulation in the Philippines.

Approved,