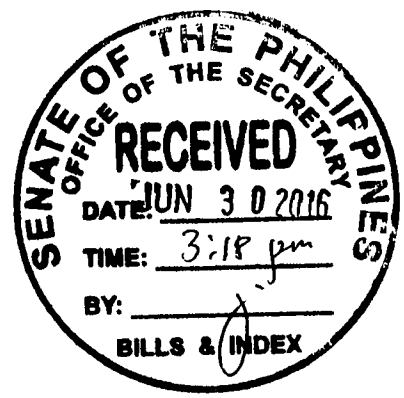


SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

SENATE  
S. B. No. 79



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INTRODUCED BY SENATOR ALAN PETER "COMPAÑERO" S. CAYETANO

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**AN ACT IMPOSING A CIGARETTE FLOOR PRICE ON TOBACCO PRODUCTS  
TO PREVENT ACCESS THERETO BY THE YOUTH AND TO ADDRESS THE ILLICIT TRADE OF  
TOBACCO PRODUCTS TO CHILDREN**

**EXPLANATORY NOTE**

*Children are a gift from the Lord; they are a reward from him.*  
- Psalm 127:3 (NLT)

Decades from now, today's children will be the leaders and movers in society. They will assume leadership positions and shape the direction of the nation. However, some children may already face a bleak future due to circumstances that they are in at the moment. For instance, children like Joshua and Gian, aged nine and six respectively, who make a living scouring mountains of trash for recyclable items to sell. In a news report, they were featured as hardly being able to make enough money for themselves, yet every day, after spending hours clawing through garbage, they visit a *sari-sari store* to buy cigarettes out of their own hard-earned money.<sup>1</sup> Not only does this deprive them of enough resources to buy essentials like food; it also puts their health at risk.

According to the Global Youth Tobacco Survey conducted by the World Health Organization (WHO), as of 2011, nearly 3 out of 10 high school students have smoked cigarettes.<sup>2</sup> The percentage of Filipino teens aged 13 to 15 who smoke rose from 19.6% in 2003 to 27.3% in 2011.<sup>3</sup> In the data from the Department of Health (DOH) and WHO, as of 2012, 17 years old is the average age of young smokers in the Philippines. One in 10 non-smoking Filipino youth intends to smoke the following year. Half of youth smokers have purchased cigarettes from a store; while the rest got their sticks from informal sources such as dole-outs from close relatives and peers.

Despite the increase in sin taxes and other anti-tobacco measures, Nielsen Corporation (formerly AC Nielsen), a global marketing research firm, reveals that smoking has not significantly decreased. In fact, it posted a 7% increase in 2014 and prevalence is projected to increase by 5.9% in 2015. What happened was there was a mere shift in the use of economy-priced brands.<sup>4</sup>

In the Philippines, Filipino smokers consume over 3.5 billion packs of cigarettes a year, according to WHO-Tobacco Free Initiative. Due in part to anti-tobacco legislation, industry estimates reveal that the average daily consumption declined slightly from 2012 to 2013 as consumers reacted to changes in prices brought about by increases in excise taxes. While cigarette prices increased, downtrading or switching from a high priced brand to a cheaper brand increased to an all-time high of more than 70% based on tobacco industry data. The proliferation of cheap brands in the market exacerbates downtrading, which is fueled by the smuggling of cheap cigarettes into the country.

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<sup>1</sup><http://www.gmanetwork.com/news/story/261506/newstv/reportersnotebook/pinoy-child-smokers-on-the-rise-aided-by-cheap-cigarettes>

<sup>2</sup>Global Youth Tobacco Survey Fact Sheet 2011, available at [http://www.wpro.who.int/philippines/mediacentre/factsheet/GYTS\\_2011.pdf?ua=1](http://www.wpro.who.int/philippines/mediacentre/factsheet/GYTS_2011.pdf?ua=1).

<sup>3</sup>Supra note 1.

<sup>4</sup><http://www.euromonitor.com/tobacco-in-the-philippines/report>

Article II, Section 13 of the Philippine Constitution provides that, "The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being." Article II, Section 15 further provides, "The State shall protect and promote the right to health of the people and instill health consciousness among them."

Under this proposed legislation, setting a Minimum Cigarette Price (MCP) per pack of cigarettes will decisively deny youth access to cheap and affordable cigarettes and support the beneficial health impact of the current legal reforms by delivering the following:

- 1) Tobacco players who resort to tax evasion will no longer be able to sell their products at cheap affordable prices;
- 2) There will be no more price discounting or offers of cheap affordable cigarettes below MCP;
- 3) Increased revenue for government through higher tax and VAT collection; and
- 4) Robust enforcement of significant financial penalties and imprisonment for offenders.

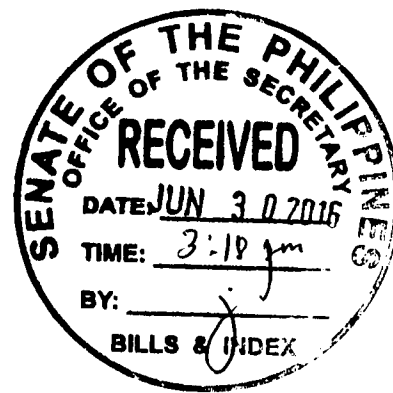
The Department of Trade and Industry (DTI) and the Bureau of Internal Revenue (BIR) shall issue a price memorandum or advisory specifying the MCP on a per pack basis. This bill sets the minimum cigarette price at Forty-four Pesos (Php44.00) per pack effective January 1, 2016, and Fifty-one Pesos (Php51.00) per pack effective January 1, 2017. Thereafter, consistent with the increase in excise taxes under Republic Act No. 10351, the MCP shall likewise be increased annually by four percent (4%) effective January 1, 2018, through a similar price memorandum or advisory issued by the aforementioned agencies. In the computation of the MCP, the following components shall be taken into consideration: excise tax, VAT, production cost, operating cost, and annual inflation. This measure penalizes selling below the MCP and prohibits price promotions or discounts related to the MCP in order to strengthen enforcement.

It is hoped that this measure will mitigate youth smoking and put a check on tobacco smuggling so that generations of youth leaders would be raised up as healthy and productive members of society.

In view of the foregoing, approval of this bill is earnestly sought.



**ALAN PETER "COMPAÑERO" S. CAYETANO**  
*Senator*



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TOBACCO PRODUCTSTO CHILDREN**

*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 Minimum Cigarette Price Law.*"  
2

3           SEC. 2. **Declaration of Principles.**- The State shall protect and promote the right to health of  
4 the people and instill health consciousness among them. The State also recognizes the vital role of  
5 the youth in nation-building and shall promote and protect their physical, moral, spiritual,  
6 intellectual, and social well-being.  
7

8           SEC. 3. **Purpose.** - The objectives of this Act are:

- 9           a) To impose a Minimum Cigarette Price (MCP) per pack on cigarettes in order to  
10 prevent the access of smokers, particularly the youth, to cheap cigarettes;  
11           b) To address the smuggling of cigarettes which are sold at cheap prices;  
12           c) To prevent discounting and price offers below the MCP; and  
13           d) To bring in fresh revenues to government as tax evasion is averted and value added  
14 tax (VAT) collection is increased with the corresponding increase in the prices of  
15 cigarettes.  
16

17           SEC. 4. **Coverage.**-This Act shall apply to all locally-manufactured and imported cigarettes  
18 intended for sale in the Philippines.  
19

20           SEC. 5. **Definition of Terms.**- As used in this Act:

- 21           a) **Cigarette** refers to any roll or tubular construction, which contains tobacco or its  
22 derivatives and is intended to be burned or heated under ordinary conditions of use;  
23           b) **Minimum Cigarette Price (MCP)** means the floor price of cigarettes per pack sold by  
24 manufacturers, importers and retailers to consumers. When cigarettes are sold per

- 1 stick, the aggregate price of the individual sticks in a pack should not be less than the  
2 MCP per pack. The MCP shall apply to cigarettes packed by machine in twenties (20s);  
3 c) **Operating Cost** refers to non-production cost such as marketing, distribution, selling  
4 and other operating related expenses; and  
5 d) **Production Cost** means the basic cost incurred in producing a pack of cigarettes,  
6 including among others, all other costs associated with cigarette manufacturing such as  
7 tax stamps, warehousing costs, freight, transportation, security, insurance and other  
8 production-related expenses.

9  
10 **SEC. 6. *Minimum Cigarette Price.***- Within thirty (30) days after the effectivity of this Act,  
11 the Department of Trade and Industry (DTI) and the Bureau of Internal Revenue (BIR) shall issue a  
12 price memorandum or advisory specifying the MCP on a per pack basis, as follows:

13 Effective January 1, 2017, Forty-four Pesos (Php44.00) per pack; and

14 Effective January 1, 2018, Fifty-one Pesos (Php51.00) per pack.

15 Thereafter, consistent with the increase in excise taxes under Republic Act No. 10351, the  
16 MCP shall likewise be increased annually by four percent (4%) effective January 1, 2019, through a  
17 similar price memorandum or advisory issued by the aforementioned agencies.

18  
19 In the computation of the MCP, the following components shall be taken into consideration:  
20 excise tax, VAT, production cost, operating cost, and annual inflation.

21  
22 **SEC. 7. *Selling Below the MCP.***- It shall be unlawful for any manufacturer, importer or  
23 retailer to sell cigarettes less than the MCP. When cigarettes are sold per stick, the aggregate price  
24 of the individual sticks in a pack should not be less than the MCP per pack.

25  
26 **SEC. 8. *Prohibition on Price Promotions Related to MCP.***- No manufacturer, importer or  
27 retailer shall engage in price promotion that would undermine the purpose of this Act.

28  
29 **SEC. 9. *Implementing Agencies.*** - The DTI, in coordination with the BIR, shall implement the  
30 provisions of this Act and shall be vested with the following powers and functions:

- 31 a) Promulgate and publish, within three (3) months from the effectivity of this Act, the  
32 necessary implementing rules and regulations;
- 33 b) Cause the immediate dissemination of the MCP, including liabilities, such as fines and  
34 penalties in case of violation, through publication in a newspaper of general circulation  
35 or other means of communication deemed effective to convey the information to the  
36 public, such as radio, television and other mass media;
- 37 c) Deputize law enforcement agencies such as the Philippine National Police, National  
38 Bureau of Investigation and the Bureau of Customs, as well as local government units, to  
39 effectively implement this Act;

- 1 d) Without prejudice to the power to issue temporary closure or temporary restraining  
2 order for a period which shall not be more than ten (10) days, the aforesaid  
3 implementing agencies may, after due notice and hearing, issue cease and desist orders,  
4 reprimand, censure, suspend, revoke or cancel any permit, license, authority or  
5 registration, or order the permanent closure of any establishment violating the  
6 provisions of this Act; and
- 7 e) Require tobacco manufacturers and importers to submit quarterly sworn declarations  
8 of their selling prices or as frequently as may be required under the implementing rules  
9 and regulations.

10  
11 **SEC. 10. *Liability of Manufacturers, Importers and Retailers.*** - Tobacco manufacturers,  
12 importers and retailers shall be directly liable for violations of Sections 6, 7, and 8 of this Act. In the  
13 case of a business entity or establishment, the owner, president, manager and corporate officials  
14 thereof shall be directly responsible and liable for violation of this Act.

15  
16 **SEC. 11. *Penalties for Non-Compliance.***- Imprisonment for a period of not less than six (6)  
17 months and not more than five (5) years and a fine ranging from Fifty Thousand Pesos  
18 (Php50,000.00) to Two Million Pesos (Php2,000,000.00), depending on the quantity of the  
19 cigarettes involved in the violation, shall be imposed upon any manufacturer, importer or retailer  
20 who sells any cigarette less than the MCP, or who violates any provision of this Act or any order,  
21 rule or regulation issued pursuant to this Act. In case of a business entity or establishment, both  
22 penalties shall apply in addition to the suspension or revocation of business licenses or permits.

23  
24 **Whenever any of the offenses described above is committed by a corporation or association,**  
25 **the president and each of the directors or managers of the said corporation or association, or its**  
26 **agent or representative in the Philippines in case of a foreign corporation or association, who shall**  
27 **have knowingly permitted or failed to prevent the commission of such offenses, shall be held liable**  
28 **as principals thereof.**

29  
30 **SEC. 12. *Separability Clause.*** - If any provision or part of this Act is declared invalid or  
31 unconstitutional, the other provisions not affected thereby shall continue to be in full force or effect.

32  
33 **SEC. 13. *Repealing Clause.*** -All laws, orders, rules and regulations, or parts thereof  
34 inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

35  
36 **SEC. 14. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in the  
37 Official Gazette or in at least two (2) newspapers of general circulation.

38  
39 *Approved,*