

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



Senate
Office of the Secretary

'16 AUG 23 P6:13

SENATE

RECEIVED BY: 

S. B. No. 1066

Introduced by SENATOR JOEL "TESDAMAN" VILLANUEVA

**AN ACT
PROHIBITING THE SALE OF TOBACCO PRODUCTS AND
MANUFACTURE AND SALE OF OBJECTS IN THE FORM OF
CIGARETTES, CIGARS, TOBACCO AND SIMILAR TOBACCO
PRODUCTS TO MINORS AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

In 2007 Global Youth Tobacco Survey of the World Health Organization shows the rising prevalence of smoking among the youths in the Philippines, thus an almost forty percent (40%) increase in prevalence of smoking among school children thirteen (13) to fifteen (15) years old within the span of four (4) years. Numerous scientific findings have established that the many ill-effects of smoking such as lung ailments and similar diseases, and that children exposed to second hand smoke [SHS] are shown to increase their risks of contracting lung cancer and coronary heart disease. The Philippines 2011 Global Youth Tobacco Survey found that more than two in five 13-15 year olds are exposed to SHS at home and nearly three in five are exposed to SHS outside the home. According to The Tobacco Atlas, SHS increases the risks of contracting lung cancer by 30 percent (small cell lung cancer by 300 percent) and coronary heart disease by 25 percent. Exposure to SHS killed more than 600,000 non-smokers globally in 2010. The causes of death include chemic heart disease, lower respiratory infections, asthma, and lung cancers. The Philippine Cancer Society estimates that around 3,000 non-smoking adult Filipinos die of lung cancer as a result of breathing SHS each year. [World Lung Foundation, Anti-Tobacco Campaign, 2015]

The 1987 Constitution mandates the State to defend "[t]he right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development" [Art. XV, Sec. 3, 1987 Constitution).

In this light, in 2003, Republic Act No. 9211, otherwise known as Tobacco Regulation Act of 2003 was enacted, providing regulation on tobacco control and

prohibiting the sale of tobacco products to minors. Subsequently, however, on 4 September 2005, the Philippine Senate ratified the World Health Organization Framework Convention on Tobacco Control (WHO FCTC). The Framework Convention on Tobacco Control enjoins the State to adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sale of tobacco products to persons under the age set by domestic law, national law or eighteen. Such measures may include, among others, prohibiting the manufacture and sale of sweets, snacks, toys or nay other objects in the form of tobacco products which appeal to minors [Art. 16 (1c)], and the sale of cigarettes individually or in small packets which increase the affordability of such products to minors [Art. 16 (2). These measures identified under WHO FCTC, however, are not presently prohibited under RA No, 9211. Meanwhile, cigarettes can still be bought individually or in small packets at *sari-sari* stores or other point of sale by children of parents and older siblings who smoke

Since the formation of the smoking habit usually starts at an early age aided by the easy access to cigarettes, cigars, tobacco and similar tobacco products, as well as the presence of influences such as sale of sweets, snacks and toys in the form of tobacco products, there is need to fill the gap in R.A. No. 9211 in order to make it consistent with the WHO FCTC.


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

1 **SEC. 1. Declaration of Policy.** – It is the policy of the State to protect the children
2 from hazardous products and promote the right to health and instill health
3 consciousness among them. It is also the policy of the State, consistent with the
4 Constitutional ideal to promote the general welfare, to safeguard the interests of
5 children. For these purposes, the government shall regulate sale, distribution and
6 promotion of tobacco products and their representations in all forms in order to
7 promote a healthful environment and protect the children from the hazards and
8 influence of tobacco products.

9
10 **SEC. 2. Definition of Terms.** – For the purposes of this Act, the following terms
11 shall mean as follows:

- 12 a) **Minors** refer to persons below eighteen (18) years of age or those over but
13 are unable to fully take care of themselves or protect themselves from abuse,
14 neglect, cruelty, exploitation or discrimination because of a physical or mental
15 disability or condition.
- 16 b) **Tobacco products** are products entirely or partly made of the leaf tobacco as
17 raw material, which are manufactured, to be used for smoking, sucking,
18 chewing or snuffing.
- 19 c) **Point-of-sale** means any location at which an individual can purchase or
20 otherwise obtain tobacco products or their representation or imitation;

SEC. 3. *Prohibitions.* – The following acts by any person, natural or juridical, are prohibited:

- a) Sale of cigarettes individually or in full or small packets to minors which increase the affordability of such products to minors, whether at point of sale or by means of vending machine or any self-service facility or similar contraption or device; and
- b) Manufacture, sale, advertisement, promotion and free distribution of sweets, snacks, toys, or any other objects in the form of tobacco products which appeal to minors.

SEC. 4. *Requirement of Photographic Identification.* – In case of doubt, the seller or distributor shall require the presentation of any valid form of photographic identification indicating the date of birth of the buyer to ensure that no individual purchasing a tobacco product is a minor.

It shall not be a defense for the person selling that she/he did not know or was aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the cigarette or any other tobacco product or product in the form of tobacco products was for the consumption of the minor to whom it was sold, given or distributed.

SEC. 5. *Signage.* – Point-of-Sale establishments offering, distributing or selling tobacco products to consumers, shall post the following statement in a clear and conspicuous manner: "SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF TOBACCO PRODUCTS OR IN THE FORM OF TOBACCO PRODUCTS IS UNLAWFUL" or "IT IS LAWFUL FOR TOBACCO PRODUCTS OR THOSE IN THE FORM OF TOBACCO PRODUCTS TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER EIGHTEEN (18) YEARS OF AGE".

SEC. 6. *Penalties.* – Any violation of this Act shall be penalized with a fine of not more than Fifteen Thousand Pesos (P15,000.00) or imprisonment of not less than one (1) year nor more than three years, or both, at the discretion of the court. In addition to such penalty, any establishment, business or otherwise, found guilty shall have its Business Permit suspended for a period of not less than one (1) year but not more than two (2) years.

The penalty provided shall be imposed upon the proprietor for individual proprietorships, upon all partners for partnerships and the general partner/s for limited partnerships, the branch manager of the particular branch or the manager and the chief operating officer for incorporated businesses; and all such persons not falling within any of the descriptions/titles above-mentioned, being in-charge of the particular prohibited tobacco products or their representation or imitation and failing to follow the prohibitions here defined.

SEC. 7. *Separability Clause.* – Should any part or provision/s of this Act be declared invalid or unconstitutional, the other part or provision/s not so declared shall remain in full force and effect.

1 **SEC. 8. *Repealing Clause.*** – Any law, decree, executive order or issuance
2 inconsistent with the provisions of this Act is repealed and or modified accordingly.

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4 **SEC. 9. *Effectivity.*** – This Act shall take effect fifteen (15) days from its publication
5 in at least two (2) national newspapers of general circulation.

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7 Approved,
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