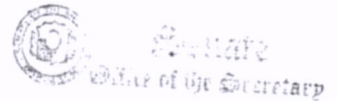


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



'18 MAR 14 P 1:10

RECEIVED

SENATE

SENATE BILL NO. 1744

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT
REGULATING ELECTRONIC CIGARETTES

EXPLANATORY NOTE

Electronic cigarettes are a rapidly emerging and diversified product class that typically deliver nicotine via an inhaled aerosol.¹ They are generally made up of three basic parts, an atomizer, a cartridge, and a rechargeable battery. The cartridge stores the solution (e-juice) that is commonly composed of propylene glycol, glycerol, nicotine, and flavorings. The e-juice is heated and turned into vapor by the heating element, the atomizer.² By heating the e-juice, e-cigarettes are able to mitigate 95% of the release of harmful emissions that are observed at high levels in conventional cigarettes.

E-cigarettes have become an increasingly popular choice among smokers, either on the assumption that such products pose less risk to conventional smoking-related diseases, or that such products are vehicles to quitting smoking altogether. However, they are not completely harm-free. These products still emit potentially harmful toxicants in the vapor if expressed at high levels.³ There needs to be a form of regulation for such products in order to protect the interest of public health.

As they are designed to mimic conventional cigarette smoking, initiation of non-smokers, particularly the youth, to nicotine-dependency is a cause for concern.⁴ The use of products containing nicotine poses potential harm to youth with its addictive and teratogenic properties.⁵ Action,

¹ https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_non-508.pdf

² <http://www.lung.org/stop-smoking/smoking-facts/e-cigarettes-and-lung-health.html>

³ <https://www.bhf.org.uk/heart-matters-magazine/news/e-cigarettes>

⁴ Department of Health Website <http://www.doh.gov.ph/node/64>

⁵ https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_non-508.pdf

therefore, must be taken at the national level to prevent access to e-cigarettes by the youth and regulation of its marketing that should not be directed to attract minors. This will take the form of restricting age sales, prohibiting minor use, and policing marketing rules to ensure that promotions do not target minors as well as undermine smoking cessation messages.

Regulation on the use, sale and distribution, and advertising of these products is wanting. This poses possible dangers to adult consumers, who should be assured by producers of the quality and safety of such products and informed of the components found in the same. There have been reported incidents of exploding batteries or defective electrical systems which need to be addressed.

Moreover, adult consumers should not be made to believe that such products indeed have the propensity for harm reduction due to smoking, and producers and distributors should not be allowed to freely claim nor indirectly imply that such products are safer alternatives, in the absence of any definitive finding and approval by the proper government authorities.

This bill will require producers to register their e-cigarette products with the Department of Trade and Industry prior to market placement to ensure that such products have sufficiently passed quality and safety requirements and avoid untoward incidents to consumers during use. The following health warning is likewise mandated on nicotine containers of these products: 'This product may damage your health and is addictive,' in line with their risk profile which is different from that of conventional cigarettes.

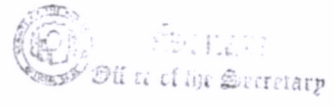
In the interest of public health and safety, there must be legislative action to vigilantly regulate e-cigarettes given the lack of scientific foundation to substantiate claims of safety and quality.

The immediate passage of this bill is earnestly requested.



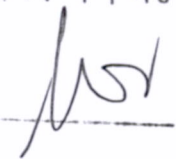
JOSEPH VICTOR G. EJERCITO

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



'18 MAR 14 P1 :10

SENATE

RECEIVED 

SENATE BILL NO. 1744

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT
REGULATING ELECTRONIC CIGARETTES

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 “E-Cigarette
2 Regulation Act of 2018.”
3
- 4 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the
5 State to protect and promote the right to health of the people and instill health
6 consciousness among them.
7
- 8 **SEC. 3. Definitions.** As used in this Act, the following terms shall mean:
9
- 10 (a) “E-cigarette” refers to a product that can be used for the
 - 11 consumption of a nicotine-containing vapour;
 - 12 (b) “Ingredient” means any substance that is added to the mixture and
 - 13 present in the finished product.
 - 14 (c) “Nicotine” means nicotinic alkaloids, including any salt or complex
 - 15 of nicotine whether derived from tobacco or synthetically produced.
 - 16 (d) “Nicotine mixture” means the nicotine-containing liquid, solid or
 - 17 other non-tobacco substance in the product.
 - 18 (e) “Refill container” means a container for holding nicotine mixture to
 - 19 refill certain e-cigarettes.
 - 20 (f) “Emissions” means substances that are released when a product is
 - 21 consumed as intended, such as substances found in cigarette smoke,
 - 22 or the aerosol generated by an e-cigarette.

- 1 (g) "Package" shall refer to packs, boxes, cartons or containers of any
2 kind in which the electronic component of an e-cigarette is offered
3 for sale to consumers.
- 4 (h) "Nicotine container" shall refer to bottles, boxes, cartons, or
5 containers of any kind in which a nicotine-containing product is
6 offered for sale to consumers for use with an e-cigarette product
7 system.
- 8 (i) "Producer" shall refer to any location at which an individual can
9 purchase or otherwise obtain e-cigarette products.
- 10 (j) "Principal display surface" shall refer to the panel of the nicotine
11 container that faces the consumer when displayed for sale.
- 12 (k) "Advertising" shall refer to the business of conceptualizing,
13 presenting, making available and communicating to the public,
14 through any form of mass media, any fact, data, or information
15 about the attributes, features, quality or availability of consumer
16 products, services, or credit. For the purpose of this Act, advertising
17 shall be understood as e-cigarette advertising.
- 18 (l) "Vaping" shall refer to the act of using an e-cigarette.

19
20 **SEC. 4. Health Warnings.** - Only nicotine containers shall bear textual
21 health warnings with the following warning: "This product may damage your
22 health and is addictive".
23

24 The health warning shall occupy 30% of the lower part of the principal
25 display surface of the nicotine container. No other health warning shall be
26 required for e-cigarette products.
27

28 **SEC. 5. Minimum Age Sales and Purchase.** - The following acts shall be
29 prohibited:
30

- 31 (a) The sale, distribution, or transfer of e-cigarettes by any person to
32 minors (anyone below 18 years old).
33 (b) Purchasing, or otherwise receiving e-cigarettes from a minor.
34 (c) The sale, purchase, and use of e-cigarettes by minors.
35

36 It shall not be a defense for the person selling or distributing that
37 he/she did not know or was not aware of the real age of the minor. Neither
38 shall it be a defense that he/she did not know nor had any reason to believe
39 that the product was for the consumption of the minor to whom it was sold.
40

41 **SEC. 6. Retailer Signage.** - Producer establishments offering,
42 distributing, or selling e-cigarettes to consumers shall post the following
43 statement in a clear and conspicuous manner: "SALE/DISTRIBUTION TO OR
44 PURCHASE BY MINORS OF E-CIGARETTES IS UNLAWFUL" or "IT IS

1 UNLAWFUL FOR E-CIGARETTES TO BE SOLD/DISTRIBUTED TO OR
2 PURCHASED BY PERSONS UNDER 18 YEARS OF AGE.”

3
4 **SEC. 7. *Proof of Age Verification.*** - Retailers shall ascertain that no
5 individual purchasing an e-cigarette is below eighteen (18) years of age.
6

7 **SEC. 8. *Product Communication Restrictions.*** - Advertisements shall
8 be allowed in retailer establishments, through direct marketing, and on the
9 internet. These shall not be aimed at or particularly appeal to persons under
10 eighteen (18) years of age. These should not undermine quit-smoking
11 messages and encourage non-tobacco or nicotine users to use the product.
12 These should not contain any information that is untrue or not scientifically
13 substantiated, in particular with regards to product characteristics, health
14 effects, risks or emissions.
15

16 **SEC. 9. *Restrictions on Advertisement in Print Media.*** - Advertising
17 and other promotional communications of e-cigarettes shall be permitted so
18 long as the publication is not intended for minors and generally has an adult
19 readership or subscriber base.
20

21 **SEC. 10. *Public Place Use.*** - Use of e-cigarettes indoors is prohibited in
22 schools, hospitals, government offices, and facilities intended particularly for
23 minors. In all other enclosed places open to the general public, e-cigarette use
24 shall be allowed, provided that the owner of such places shall post the
25 following statement in a clear manner at every entrance point of the such
26 places: “USE OF E-CIGARETTES IS ALLOWED INSIDE.” For places that do
27 not allow e-cigarette use indoors, the owner of such places shall post the
28 following statement at every entrance: “NO VAPING INSIDE.”
29

30 **SEC. 11. *Product Standard Requirements.*** - The following shall be
31 required for all e-cigarettes sold in the Philippines:
32

- 33 (a) E-cigarette tanks shall have a capacity of no more than 5ml;
- 34 (b) The maximum volume of nicotine-containing e-liquid for sale in one
35 refill container shall be limited to 30ml;
- 36 (c) E-liquids shall have a nicotine strength of no more than 20mg/ml;
- 37 (d) Nicotine containers shall be child-resistant and tamper evident;
- 38 (e) Producers of electrical devices intended to be used in combination
39 with an e-cigarette shall ensure that such devices comply with
40 applicable electrical safety standards as may be determined by the
41 Bureau of Product Standards of the Department of Trade and
42 Industry;

- 1 (f) Batteries must comply with applicable industry requirements as may
2 be determined by the Bureau of Product Standards of the
3 Department of Trade and Industry;
- 4 (g) All ingredients in the product should be listed on the label where
5 they are used in quantities of 0.1% or more of the final formulation
6 of the e-liquid. Where a flavour ingredient contains several
7 component chemicals, it can be described on the label by the name of
8 the flavour. For confidentiality reasons companies may choose to
9 describe individual ingredients used in quantities below 0.1% of the
10 final formulation by category.
- 11 (h) A full list of ingredients in the flavouring must be included in
12 notifications through the DTI;
- 13 (i) Packs shall include an information leaflet about safe use of the
14 product. This shall also include appropriate advice on product
15 storage, particularly on how to ensure the battery does not
16 malfunction;
- 17 (j) All e-cigarettes and e-liquids shall be notified to the Department of
18 Trade and Industry before they can be sold in the market.

19
20 **SEC. 12. Market Placing.** - Producers and distributors must comply
21 with the following:

- 22
23 (a) Producers must submit information about their products to the DTI;
- 24 (b) Retailers do not need to submit information for any products they
25 sell unless they also qualify as a producer. Retailers shall have six
26 (6) months from the date of effectivity of this Act to sell through
27 stock of products that do not comply with the labelling and product
28 composition requirements of this Act.
- 29 (c) This Act shall not cover nicotine-containing products that are
30 authorized as medicines and those that have health claims.
- 31 (d) Producers shall have six months to register their products with the
32 DTI and submit information demonstrating compliance with
33 product standards and assessment requirements.

34
35 **SEC. 13. Penalties for Noncompliance.** - The following penalties shall
36 individually apply to producers, importers, distributors, and sellers of e-
37 cigarettes as well as their agents for any violation of this Act:

- 38
39 (a) On the first offense, a fine of not more than FIFTY THOUSAND
40 PESOS (P50,000.00);
- 41 (b) On the second offense, a fine of not more than ONE HUNDRED
42 THOUSAND (P100,000.00); and
- 43 (c) On the third offense, a fine of not more than FIVE HUNDRED
44 THOUSAND PESOS (P500,000.00) or imprisonment of not more than five (5)

1 years, or both, at the discretion of the court: Provided, That the business
2 permits and licenses, in the case of a business entity or establishment shall be
3 revoked or cancelled.

4
5 Non-compliant e-cigarettes found in the market for sale or distribution
6 shall be subject to confiscation.

7
8 If the guilty officer is a foreign national, he shall be deported after
9 service of sentence and/or payment of applicable fines without need of
10 further deportation proceedings and shall be permanently barred from re-
11 entering the Philippines.

12
13 **SEC. 14. *Implementing Rules and Regulations.*** - Within three (3)
14 months from the date of effectivity of this Act, the DTI shall issue the
15 implementing rules and regulations for this Act. The non-issuance of the IRR
16 will not suspend the effectivity of this Act or the introduction of new e-
17 cigarettes in the market.

18
19 **SEC. 15. *Separability Clause.*** - If any provision or part hereof, is held
20 invalid or unconstitutional, the remainder of the law or the provision not
21 otherwise affected shall remain valid and subsisting.

22
23 **SEC. 16. *Repealing Clause.*** - Any law, presidential decree or issuance,
24 executive order, letter of instruction, administrative order, rule or regulation
25 contrary to or is inconsistent with the provision of this Act is hereby repealed,
26 modified, or amended accordingly.

27
28 **SEC. 17. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days
29 after its publication in at least two (2) newspapers of general circulation.

30
31 Approved,