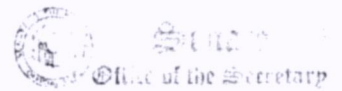


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



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SENATE
S. B. No. 2191

RECEIVED _____

Introduced by Senator Aquilino “Koko” Pimentel III

**AN ACT
REQUIRING THE USE OF PLAIN PACKAGING FOR ALL
TOBACCO PRODUCTS**

EXPLANATORY NOTE

The health hazards associated with smoking are well-documented, well-established, and—in the last few decades—well-publicized. Around the world, almost all countries have adopted legislation to curb this dangerous practice and regulate the production and sale of tobacco. The Philippines has kept pace with other nations in this regard, enacting laws that regulate where people can smoke, how tobacco is advertised, and what health warnings must be displayed on cigarette packs.

Yet despite these developments, the Philippines has been tagged as the second-largest tobacco consumer in Southeast Asia.¹ More troubling is the fact that a study by the World Health Organization (WHO) found that among Filipino students ages 13 to 15 years, 12% admitted to smoking cigarettes while 14.5% admitted to using other tobacco

¹ Francis Earl Cueto, “PH second largest tobacco consumer,” THE MANILA TIMES, February 11, 2015, *available at*: <http://www.manilatimes.net/ph-second-largest-tobacco-consumer/162373/>.

products.² Of those older than 15 years, the prevalence of tobacco product use was 24.7%, with daily users at 18.9%.³ While this is an improvement—in 2009, 28% or 17.3 million Filipinos ages 15 and older were smokers⁴—clearly more can still be done.

This measure proposes to require plain packaging for all tobacco products in order to reduce their attractiveness and increase the effectiveness of health warnings. In countries where plain packaging laws have been enacted and implemented, studies found that more smokers have attempted to quit smoking, among other indications that health warnings were more effective.⁵

In view of the foregoing, passage of this measure is earnestly sought.


AQUILINO "KOKO" PIMENTEL III

² "Global Youth Tobacco Survey, 2015," and "WHO report on the global tobacco epidemic, 2017," WORLD HEALTH ORGANIZATION, both available at: http://www.who.int/tobacco/surveillance/policy/country_profile/phl.pdf?ua=1.

³ *Supra* at Note 2.

⁴ Carmelita N. ERICTA, "17.3 Million Filipino Adults are Current Tobacco Smokers," PHILIPPINE STATISTICS AUTHORITY, available at: <https://psa.gov.ph/article/173-million-filipino-adults-are-current-tobacco-smokers>.

⁵ Martine Stead et al., "Is Consumer Response to Plain/Standardized Tobacco Packaging Consistent with Framework Convention on Tobacco Control Guidelines? A Systematic Review of Quantitative Studies," PLOS ONE, October 16, 2013, available at: <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0075919>; "Evaluation of tobacco plain packaging in Australia," AUSTRALIAN GOVERNMENT DEPARTMENT OF HEALTH, April 17, 2018, available at: <http://www.health.gov.au/internet/main/publishing.nsf/Content/tobacco-plain-packaging-evaluation>; and "Frequently asked questions: Plain packaging of tobacco products," WORLD HEALTH ORGANIZATION, available at: <http://www.who.int/campaigns/no-tobacco-day/2016/faq-plain-packaging/en/index1.html>.

SENATE
S. B. No. 2191

RELEASED



Introduced by Senator Aquilino “Koko” Pimentel III

AN ACT
REQUIRING THE USE OF PLAIN PACKAGING FOR ALL
TOBACCO PRODUCTS

*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
2 “Tobacco Plain Packaging Act.”

3

4 **SEC. 2.** *Declaration of Policy and Goals.* — *Article II, Section 15*
5 of the *Constitution* provides that the State shall protect and promote the
6 right to health of the people and instill health consciousness among
7 them.

8

9 In the interest of promoting individual health and general public
10 welfare, the State shall discourage Filipinos from taking up smoking or
11 using tobacco products and to encourage Filipinos to give up smoking
12 and using tobacco products. This Act aims to reduce the attractiveness of
13 tobacco products, eliminate the effects of tobacco packaging as a form
14 of advertising and promotion, address package design techniques that
15 may suggest that some products are less harmful than others, and
16 increase the noticeability and effectiveness of health warnings.

1
2 **SEC. 3. *Definition of Terms.*** — As used in this Act, the following
3 terms shall mean:

4
5 (1) “*Cigarette*” shall refer to a roll of cut tobacco for smoking,
6 enclosed in paper;

7
8 (2) “*Cigarette carton or pack*” is any container for sale in which
9 cigarettes are directly placed;

10
11 (3) “*Health warning*” means any message, information, graphic,
12 or other thing that is required to appear on the retail packaging of
13 tobacco products by *Republic Act No. 10643 (R.A. 10643)*, or the
14 “*Graphic Health Warnings Law*”; and

15
16 (4) “*Tobacco products*” are products entirely or partly made of
17 leaf tobacco as raw material, which are manufactured to be used for
18 smoking, sucking, chewing or snuffing, or by any other means of
19 consumption.

20
21 **SEC. 4. *Coverage.*** — This Act is only applicable to tobacco
22 products that are introduced in the Philippine market, whether locally-
23 manufactured or imported. Cigarettes packs or cartons intended for
24 export need only comply with the requirements of *R.A. 10643*.

25
26 **SEC. 5. *Plain Packaging Requirements.*** — The retail packaging of
27 all covered tobacco products must comply with the following
28 requirements:

29
30 (1) The outer surfaces of the packaging must not have any
31 decorative ridges, embossing, bulges, or other irregularities of shape or
32 texture, or any other embellishments, other than as permitted by the
33 regulations;

1 (2) Any glues or other adhesives used in manufacturing the
2 packaging must be transparent and not colored; and

3
4 (3) The appearance of the cigarette pack or cigarette carton must
5 comply with the following requirements:

6
7 (a) Graphic Health Warnings must be displayed, as mandated by
8 *R.A. 10643*;

9
10 (b) The cigarette pack or carton must be in the color black; and

11
12 (c) Any brand, business, or company name must be printed in
13 accordance with the following specifications:

14
15 (i) In the font known as Lucida Sans;

16 (ii) Must be no larger than fourteen (14) points in size;

17 (iii) Must be in a normal weighted regular font; and

18 (iv) In the color white.
19

20 **SEC. 6. *Prohibition on Sales.*** — No person shall sell or
21 commercially distribute any cigarette or tobacco product without
22 ensuring that the labels and packages comply with the requirements
23 under this Act. Non-compliant packages found on display, for sale or
24 distribution, after the compliance period provided in this Act shall be
25 subject to removal and/or confiscation.
26

27 **SEC. 7. *Liability of Manufacturers, Importers, and Distributors.***
28 — Manufacturers, importers, and distributors of tobacco products shall
29 be directly liable for any violations of the provisions of this Act. In the
30 case of a business entity or establishment, the chairperson of the Board
31 of Directors, the president, manager and the corporate officials thereof,
32 the owner in the case of a sole proprietorship, and the partners in the
33 case of a partnership shall be directly responsible therefor and shall be
34 made accountable when such officials directly participated in violating
35 any provision of this Act. Agents or representatives of the

1 manufacturers, importers, and distributors who commit any violation of
2 the provisions of this Act and its implementing rules shall be solidarily
3 liable with the manufacturers, importers, and distributors.
4

5 **SEC. 8.** *Liability of Retailers and Sellers.* — Retailers and sellers
6 of tobacco products shall be directly liable for any violation of *Section 6*
7 of this Act. In the case of a business entity or establishment, the
8 chairperson of the Board of Directors, the president, manager and the
9 corporate officials thereof, the owner in the case of sole proprietorship,
10 and the partners in the case of a partnership shall be directly responsible
11 and shall be made accountable.
12

13 **SEC. 9.** *Penalties for Non-compliance.* — (1) The following
14 penalties shall individually apply to manufacturers, importers, and
15 distributors of tobacco products, as well as their agents/representatives
16 for any violation of this Act:
17

18 (a) For the first offense, a fine of not more than Five hundred
19 thousand pesos (PhP500,000.00);
20

21 (b) For the second offense, a fine of not more than One million
22 pesos (PhP1,000,000.00); and
23

24 (c) For the third and any subsequent offense, a fine of not more
25 than Two million pesos (P2,000,000.00) or imprisonment of not
26 more than five (5) years, or both, at the discretion of the court:
27 *Provided,* That the business permits and licenses, in the case of a
28 business entity or establishment, shall be revoked or cancelled.
29

30 If the guilty officer is a foreign national, he or she shall be
31 deported after service of sentence and/or payment of applicable fines
32 without need of further deportation proceedings, and shall be
33 permanently barred from re-entering the Philippines.
34

1 Each withdrawal or importation into the Philippine customs
2 territory of non-compliant tobacco packages after the compliance period
3 shall constitute one (1) offense. An additional penalty of One hundred
4 thousand pesos (PhP100,000.00) per day shall be imposed for each day
5 the violation continues after receipt of an order from the Department of
6 Trade and Industry (DTI) notifying the company of the infraction.

7
8 (2) The following penalties shall individually apply to retailers or
9 sellers of tobacco products, as well as their agents/ representatives, for
10 any violation of *Section 6* of this Act, insofar as they are involved in the
11 display, offering for sale and selling of the covered products:

12
13 (a) For the first offense, a fine of not more than Ten thousand
14 pesos (PhP10,000.00);

15
16 (b) For the second offense, a fine of not more than Fifty thousand
17 pesos (PhP50,000.00); and

18
19 (c) For the third and any subsequent offense, a fine of not more
20 than One hundred thousand pesos (PhP100,000.00) or
21 imprisonment of not more than one (1) year, or both, at the
22 discretion of the court. The business permits and licenses, in the
23 case of a business entity or establishment, shall be revoked or
24 cancelled.

25
26 Each day that non-compliant tobacco packages are found in the
27 retail establishments of the retailers after the compliance period shall
28 constitute one (1) offense. An additional penalty of Five thousand pesos
29 (PhP5,000.00) per day shall be imposed for each day the violation
30 continues after receipt of an order from the DTI notifying the retailers of
31 the infraction.

32
33 (3) The imposition of the fines shall take into consideration the
34 annual gross sales, capital investment, and employee size of the

1 manufacturers, importers, and distributors, and in the case of retailers
2 and sellers, their total assets.

3
4 **SEC. 10. *Period for Compliance.*** — The period of compliance for
5 this Act shall be within six (6) months from the promulgation of the
6 Implementing Rules and Regulations (IRR).

7
8 **SEC. 11. *Implementing Agencies.*** — The following government
9 agencies are given the following mandates in order to ensure the
10 effective implementation of this Act:

11
12 (1) The Department of Health (DOH) shall issue packaging
13 templates for the guidance of manufacturers, importers, and distributors;

14
15 (2) The Bureau of Internal Revenue shall ensure that cigarette
16 stamps are not affixed on non-compliant packages and shall certify
17 under oath that the products withdrawn are compliant with this Act;

18
19 (3) The Inter-Agency Committee on Tobacco (IAC-T) created
20 under *Republic Act No. 9211*, or the "*Tobacco Regulation Act of 2003*"
21 shall monitor compliance with this Act, and *motu proprio*, or upon any
22 sworn written complaint, institute the appropriate action for any
23 violation of this Act;

24
25 (4) The DTI shall hear complaints filed by the IAC-T or any
26 private citizen, corporation or organization, for any violation of this Act,
27 and after notice and hearing, impose administrative fines of not more
28 than Two million pesos (PhP2,000,000.00) for any violation of this Act,
29 the proceeds of which will be used for health promotion campaigns on
30 tobacco control of the DOH and the Department of Education (DepEd).
31 The imposition of the administrative fines shall take into consideration
32 the annual gross sales, capital investment, and employee size of the
33 manufacturers, importers, and distributors, and in the case of retailers
34 and sellers, their total assets;

1 (5) Within six (6) months from the effectivity of this Act, the
2 IRR Committee led by the DOH and the DTI, and to be comprised by
3 the Department of Justice (DOJ), the Department of Finance (DOF), the
4 Department of Environment and Natural Resources (DENR), the
5 Department of Science and Technology (DOST), the DepEd, the
6 National Tobacco Administration (NTA) and the Department of
7 Agriculture (DA) shall draft and issue the IRR, after public consultations
8 with stakeholders such as non-government organizations, farmers, and
9 industry representatives: *Provided*, That the non-issuance of the IRR
10 shall not prevent the coming into force of this Act.

11

12 **SEC. 12. *Separability Clause.*** — If any provision of this Act or
13 part thereof is declared unconstitutional or invalid, the remainder or any
14 provisions not affected thereby shall remain in force and effect.

15

16 **SEC. 13. *Repealing Clause.*** — Any laws, presidential decrees or
17 issuances, executive orders, letters of instruction, or rules or regulations
18 inconsistent with the provisions of this Act are hereby repealed or
19 modified accordingly.

20

21 **SEC. 14. *Effectivity Clause.*** — This Act shall take effect fifteen
22 (15) days after its complete publication in the Official Gazette or two (2)
23 newspapers of general circulation.

Approved,