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SENATE

Senate Bill No. 541 RECEIVED BY SF

Introduced by Senator Juan Miguel F. Zubiri

**AN ACT
REGULATING ELECTRONIC CIGARETTES**

EXPLANATORY NOTE

Electronic Cigarettes, also known as E-cigarettes, e-vaporizers or vape are battery operated devices used to inhale aerosol, which could contain nicotine, flavorings and other chemicals. It resembles traditional tobacco cigarettes and comes in many shapes, sizes and designs. The emergence of e-cigarettes in the market has attracted many consumers, smokers and non-smokers alike. They can be utilized as a substitute for those who are looking to quit smoking, as it is marketed to pose less health threats compared to actual tobacco cigarettes. These products however, also appeal to the youth as a form of initiation or a "starter" to actual cigarette smoking, which poses a concern as it promote nicotine-dependency at an early age.

A research conducted by Dartmouth College in New Hampshire, United States, reveals that while electronic cigarettes can help smokers beat the smoking habit, 81 times as many adolescent and young adult users move on to a regular smoking habit.

While many people believe that smoking e-cigarettes is less harmful than actual tobacco and considers it as a better substitute, the United States Food and Drug Administration issued an advisory stating that electronic cigarettes is not a proven nicotine replacement therapy and reiterating the World Health Organization's statement that there is no scientific evidence to confirm the product's safety and efficacy.

The solution that is burned in the electronic cigarette, commonly called the e-juice usually contains nicotine, which is a highly addictive substance. It is also known to cause changes in the brain that increase the risk of addiction to other drugs, especially in younger people. Nicotine can also cause impairment in the prefrontal brain development in adolescents which can lead to attention deficit disorder and poor impulse control.

While the safety and efficacy of the use of electronic cigarettes is still being studied, regulation on the use, distribution and sales of the product is imperative, especially since one of the most popular users of these products are the youth.

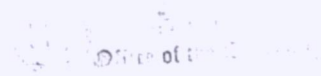
This bill seeks to provide guidelines on the sales, marketing, and use of electronic cigarettes. It also provides for a product standard requirement for all electronic cigarettes sold in the country.

Studies are still being conducted on the efficacy of this relatively new technology, and while there is no certainty on whether or not the use of electronic cigarettes could be harmful, we must be able to provide the proper regulations to protect our consumers.

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



JUAN MIGUEL F. ZUBIRI



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**AN ACT
REGULATING ELECTRONIC CIGARETTES**

*Be it enacted by the Senate and the 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 2019."

3 **SEC. 2. Declaration of Policy.** - It is hereby declared the policy of the State to
4 protect and promote the right to health of the people and instill health consciousness
5 among them.

6 **SEC. 3. Definitions.** As used in this Act, the following terms shall mean:

7
8 (a) "E-cigarette" refers to a product that can be used for the consumption of a nicotine-
9 containing vapor.

10 (b) "Ingredient" means any substance that is added to the mixture and present in the
11 finished product.

12 (c) "Nicotine" means nicotinic alkaloids, including any salt or complex of nicotine
13 whether derived from tobacco or synthetically produced.

14 (d) "Nicotine mixture" means the nicotine-containing liquid, solid or other non-tobacco
15 substance in the product.

16 (e) "Refill container" means a container for holding nicotine mixture to refill certain e-
17 cigarettes.

18 (f) "Emissions" means substances that are released when a product is consumed as
19 intended, such as substances found in cigarette smoke, or the aerosol generated by an
20 e-cigarette.

21 (g) "Package" shall refer to packs, boxes, cartons or containers of any kind in which the
22 electronic component of an e-cigarette is offered for sale to consumers.

23 (h) "Nicotine container" shall refer to bottles, boxes, cartons, or containers of any kind
24 in which a nicotine-containing product is offered for sale to consumers for use with an
25 e-cigarette product system.

1 (i) "Producer" shall refer to any location at which an individual can purchase or otherwise
2 obtain e-cigarette products.

3 (j) "Principal display surface" shall refer to the panel of the nicotine container that faces
4 the consumer when displayed for sale.

5 (k) "Advertising" shall refer to the business of conceptualizing, presenting, making
6 available and communicating to the public, through any form of mass media, any fact,
7 data, or information about the attributes, features, quality or availability of consumer
8 products, services or credit. For the purpose of this Act, advertising shall be understood
9 as e-cigarette advertising.

10 (l) "Vaping" shall refer to the act of using an e-cigarette.

11 **SEC. 4. Health Warnings.** - All nicotine containers shall bear the following
12 textual health warning: "This product may damage your health and is addictive".

13 The health warning shall occupy 30% of the lower part of the principal display
14 surface of the nicotine container. No other health warning shall be required for e-
15 cigarette products.

16 **SEC. 5. Minimum Age Sales and Purchase.** - The following acts shall be
17 prohibited:

18 (a) The sale, distribution, or transfer of e-cigarettes by any person to minors (anyone
19 below 18 years old);

20 (b) Purchasing, or otherwise receiving e-cigarettes from a minor; and,

21 (c) The sale, purchase, and use of e-cigarettes by minors.

22 **SEC. 6. Retailer Signage.** - The producer and establishments offering,
23 distributing, or selling e-cigarettes to consumers shall post the following statement in a
24 clear and conspicuous manner: "SALE/DISTRIBUTION TO OR PURCHASE BY MINORS
25 OF E-CIGARETTES IS UNLAWFUL" or "IT IS UNLAWFUL FOR E-CIGARETTES TO BE
26 SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER 18 YEARS OF AGE."

27 **SEC. 7. Proof of Age Verification.** - Retailers shall ascertain that no individual
28 purchasing an e-cigarette is below eighteen (18) years of age. For this purpose, the
29 retailer may require the purchaser to present valid identification.

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

37 **SEC. 9. Restrictions on Advertisement in Print Media.** - Advertising and
38 other promotional communications of e-cigarettes shall be permitted as long as the

1 publication is not intended for minors and generally has an adult readership or
2 subscriber base.

3 **SEC. 10. *Public Place Use.*** - Use of e-cigarettes indoors is prohibited in schools,
4 hospitals, government offices, and facilities intended particularly for minors. In all other
5 enclosed places open to the general public, e-cigarette use shall be allowed, provided
6 that the owner of such places shall post the following statement in a clear manner at
7 every entrance point of such places: "USE OF E-CIGARETTES IS ALLOWED INSIDE." For
8 places that do not allow e-cigarettes use indoors, the owner of such places shall post
9 the following statement at every entrance: "NO VAPING INSIDE."

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

12 (a) E-cigarette tanks shall have a capacity of no more than 5ml;

13 (b) The maximum volume of nicotine-containing e-liquid for sale in one refill container
14 shall be limited to 30ml;

15 (c) E-liquids shall have a nicotine strength of no more than 20mg/ml;

16 (d) Nicotine containers shall be child-resistant and tamper evident;

17 (e) Producers of electrical devices intended to be used in combination with an e-cigarette
18 shall ensure that such devices comply with applicable electrical safety standards as may
19 be determined by the Bureau of Product Standards of the Department of Trade and
20 Industry;

21 (f) Batteries must comply with applicable industry requirements as may be determined
22 by the Bureau of Product Standards of the Department of Trade and Industry;

23 (g) All ingredients in the product should be listed on the label where they are used in
24 quantities of 0.1% or more of the final formulation of the e-liquid. Where a flavor
25 ingredient contains several component chemicals, it can be described on the label by
26 the name of the flavor. For confidentiality reasons, companies may choose to describe
27 individual ingredients used in quantities below 0.1% of the final formulation by category.

28 (h) A full list of ingredients in the flavoring must be included in notifications through the
29 DTI;

30 (i) Packs shall include an information leaflet about safe use of the product. This shall
31 also include appropriate advice on product storage, particularly on how to ensure the
32 battery does not malfunction; and

33 (j) All e-cigarettes and e-liquids shall be notified to the Department of Trade and
34 Industry before they can be sold in the market.

35 **SEC. 12. *Market Placing.*** - Producers and distributors must comply with the
36 following:

37 (a) Producers must submit information about their products to the DTI;

1 (b) Retailers do not need to submit information for any products they sell unless they
2 also qualify as a producer. Retailers shall have six (6) months from the date of effectivity
3 of this Act to sell through stock of products that do not comply with the labelling and
4 product composition requirements of this Act;

5 (c) This Act shall not cover nicotine-containing products that are authorized as medicines
6 and those that have health claims;

7 (d) Producers shall have six months from the date of effectivity of this Act to register
8 their products with the DTI and submit information demonstrating compliance with
9 product standards and assessment requirements.

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

13 (a) On the first offense, a fine of not more than Fifty Thousand Pesos (P50,000.00);

14 (b) On the second offense, a fine of not more than One Hundred Thousand Pesos
15 (P100,000.00); and

16 (c) On the third offense; a fine of not more than Five Hundred Thousand Pesos
17 (P500,000.00) or imprisonment of not more than five (5) years, or both, at the discretion
18 of the court: *Provided*, that the business permits and licenses, in the case of a business
19 entity or establishment shall be revoked or cancelled.

20 Non-compliant e-cigarettes found in the market for sale or distribution shall be
21 subject to confiscation.

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

25 **SEC. 14. Implementing Rules and Regulations.** - Within ninety (90) days
26 from the date of effectivity of this Act, the DTI shall issue the implementing rules and
27 regulations for this Act. The non-issuance of the IRR will not suspend the effectivity of
28 this Act or the introduction of new e-cigarettes in the market.

29 **SEC. 15. Separability Clause.** - If any provision of this Act is declared
30 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall
31 continue to be in full force and effect.

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

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

38
39 *Approved,*