

SENATE
S. No. 1183

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Introduced by Senator Francis "Tol" N. Tolentino

AN ACT
PROHIBITING THE USE, SALE, MANUFACTURE, DISTRIBUTION, TRADE,
IMPORTATION, AND MARKETING OF ELECTRONIC NICOTINE OR
ELECTRONIC NON-NICOTINE DELIVERY SYSTEMS (ENDS/ENNDS) IN THE
PHILIPPINES, APPLYING THE PRECAUTIONARY PRINCIPLE, AND FOR
OTHER PURPOSES.

EXPLANATORY NOTE

Article II, Section 15 of the 1987 Constitution provides: "*The State shall protect and promote the right to health of the people and instill health consciousness among them.*" It is therefore the responsibility of the state to protect its citizens from health risks and hazards whether known or unknown. The precautionary principle as recognized in A.M. No. 09-6-8-SC or the Rules of Procedure for Environmental Cases, states, that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.

The effects of Electronic Nicotine or Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS) like electronic cigarettes, Vape, and Juul among others, on a person's health are still unknown. Although marketed as a healthier alternative to traditional cigarette smoking, some studies have reported that they bring about health problems of their own equal or even greater in risk than regular cigarettes. What makes these products more dangerous is that they tend to attract younger users, the young professionals, students and even minors, as they come in fragrant

scents and delicious flavors, and as using ENDS/ENNDS is viewed by impressionable minds as a "cool" activity. Instead of just helping existing smokers quit smoking as advertised, these products also create smokers out of the new generation.

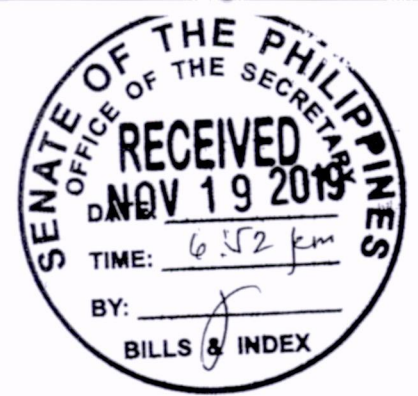
Last November 15, 2019, the Department of Health confirmed the country's first reported case of electronic cigarette or vaping-associated lung injury from Central Visayas. The time to act is now.

With these reasons in mind, and also in seeing the wisdom of similar policies implemented in countries that have realized that under uncertainty it is better to err on the side of caution, such as India, China, certain states in the USA, and other jurisdictions that have banned vape products, and countries such as Australia and Singapore that have even declared them as "poison", this bill aims to prohibit the use, sale, manufacture, distribution, trade, importation, and marketing of Electronic Nicotine or Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS) in the Philippines until otherwise declared as not harmful.



FRANCIS "TOL" N. TOLENTINO

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



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PHILIPPINES, APPLYING THE PRECAUTIONARY PRINCIPLE, AND FOR
OTHER PURPOSES.

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 "Electronic Smoking
2 Prohibition Act."

3 Sec. 2. *Policy.* — It is the policy of the state to protect and promote the right
4 to health of the people and instill health consciousness among them, especially the
5 youth. It is likewise the policy of the state to follow the precautionary principle in
6 that when activities may lead to morally unacceptable harm that is scientifically
7 plausible but uncertain, actions shall be taken to avoid or diminish that harm.

8 Sec. 3. *Definition of Terms.* — As used in this Act, the term -

9 (A) *Electronic Nicotine or Electronic Non-Nicotine Delivery Systems*
10 *(ENDS/ENNDS)* – refers to devices that heat a solution or product to
11 create an aerosol which the user then inhales, which frequently also
12 contain flavors. This includes but is not limited to e-Cigarettes, Heat-
13 Not-Burn devices, Vape, e-Sheesha, e-Nicotine Flavored Hookah, and
14 the like devices. This shall also include the solutions, e-liquids, heat

1 sticks, packets, or any other form of product used for the devices,
2 whether containing nicotine or not.

3 (B) *Department* – refers to the Department of Health.

4 (C) *President* – refers to the President of the Republic of the Philippines.

5 Sec. 4. *Prohibition* – The use, sale, including online sale, manufacture,
6 distribution, trade, importation, and marketing of ENDS/ENNDS shall be prohibited
7 within the jurisdiction of the Philippines.

8 Sec. 5. *Lifting the prohibition* – The President may, upon the recommendation
9 of the Department, after a comprehensive study and research, lift the prohibition on
10 ENDS/ENNDS, should it be proven that their use is substantially less harmful than
11 cigarettes to the health of users and non-users alike.

12 Upon the lifting of the prohibition, ENDS/ENNDS shall be subject to the same
13 regulations provided for in Republic Act No. 9211, otherwise known as the Tobacco
14 Regulation Act of 2003. ENDS/ENNDS shall also be subject to the jurisdiction of the
15 Food and Drug Administration under a category the latter deems appropriate.

16 Sec. 6. *Prohibition on flavors* – Upon the lifting of the prohibition, the
17 President may, upon the recommendation of the Department, prohibit the use, sale,
18 including online sale, manufacture, distribution, trade, importation, importation, or
19 marketing of artificial flavors or varieties of ENDS/ENNDS.

20 Sec. 7. *Penalties*. The Department shall assess a penalty against violators of
21 this Act. *Provided*, that the penalty shall not be less than fifty thousand pesos
22 (Php50,000.00) but not more than one million pesos (Php1,000,000.00) for each
23 violation

24 Sec 8. *Implementing Rules and Regulations*. — The Secretary of the
25 Department of Health shall promulgate the rules and regulations to implement this
26 Act within ninety (90) days from the effectively of this Act.

27 Sec. 9. *Separability Clause*. —If any provision or part thereof is held invalid or
28 unconstitutional, the remainder of the law or the provision not otherwise affected
29 shall remain valid and subsisting.

30 Sec. 10. *Repealing Clause*. — Any law, presidential decree or issuance,
31 executive order, letter of instruction, administrative order, rule, or regulation

1 contrary to or inconsistent with the provisions of this Act is hereby repealed,
2 modified, or amended accordingly.

3 Sec. 11. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after
4 its publication in at least two (2) newspapers of general circulation.

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Approved,