

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB No. 366



Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

There is conclusive evidence implicating tobacco use in the incidence of numerous debilitating and fatal diseases.

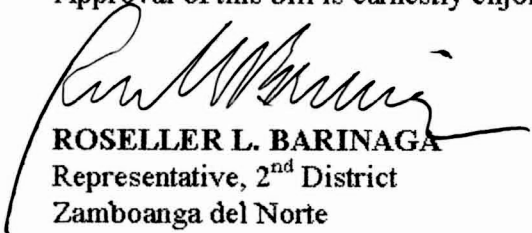
The display, advertising and promotion of products influences children's perception of what is considered normal behavior, and influences their decisions whether to purchase products.

It is important to protect children and others from advertising and other inducements to use tobacco, so that they will not begin smoking and subsequently become dependent on tobacco.

Too further prevent children from smoking, there should be effective restrictions on their access to tobacco.

This bill, therefore, seeks to limit access to smoking especially to minors.

Approval of this bill is earnestly enjoined.


ROSELLER L. BARINAGA
Representative, 2nd District
Zamboanga del Norte

THIRTEENTH CONGRESS OF THE)
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AN ACT
TO DEFINE THE PARAMETERS AND LIMITS OF AVAILABILITY OF
CIGARETTES AND OTHER TOBACCO PRODUCTS TO MINORS AND FOR OTHER
PURPOSES

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

SECTION 1. This Act shall be cited as the "Non-Smokers Health Protection Act."

SEC. 2. *Definition of Terms.* For purposes of this Act –

a) "Supply" means to sell, give, buy for, lend or otherwise provide a thing to a person, with or without consideration;

b) "Tobacco" means tobacco in any form in which it is used or consumed, and includes cigarettes, cigars, snuff and raw leaf tobacco, but does not include any food, drug or device that contains nicotine;

c) "Tobacco-related product" means a cigarette paper, cigarette tube, cigarette filter, cigarette maker or pipe, or any thing used in association with tobacco and prescribed in the regulations.

SEC. 3. *Supplying tobacco to child prohibited.* No person shall supply or offer to supply tobacco or a tobacco-related product to a child.

SEC. 4. *Exceptions to prohibition.* Section 3 hereof does not apply to –

(a) a parent or guardian of a child who supplies tobacco or a tobacco-related product to the child in a place other than a public place or a place to which the public ordinarily has access; or

(b) a person who gives tobacco or a tobacco-related product to a child if the gift is intended solely for use in traditional spiritual or cultural practices or ceremonies.

SEC. 5. *Defense of accused.* In a prosecution or proceeding for a contravention of Section 3 hereof, the accused has a defense if he or she can prove on a balance of probabilities that, before supplying or offering to supply the tobacco or tobacco-related product to the child, the accused attempted to verify that the child was at least 18 years of age by asking for and being shown documentation prescribed in the regulations for the purpose of verifying age, and reasonably believed that the documentation was authentic and that the person was at least 18 years of age.

SEC. 6. *Inference as conclusive evidence.* In a prosecution or proceeding for a contravention of subsection (1), where a container or package gives rise to a reasonable inference that the contents of the container or package are tobacco or a tobacco-related product, in the absence of evidence to the contrary, the contents shall be conclusively deemed to be tobacco or a tobacco-related product.

SEC. 7. *Tobacco not to be displayed.* No person shall display or permit to be displayed tobacco or a tobacco-related product such that it is visible to children in any place or premises in which tobacco or tobacco-related products are sold.

SEC. 8. *Tobacco not to be advertised or promoted.* No person shall advertise or promote tobacco or a tobacco-related product

(a) in any place or premises in which tobacco or tobacco-related products are sold;

(b) in any place or premises to which children are permitted access;

(c) on an outdoor sign of any type, including

(i) a billboard or portable sign, or

(ii) a sign on a bench, vehicle, building or other structure; or

(d) inside a building or other structure or vehicle if the advertisement or promotion is visible from outside the building, structure or vehicle.

SEC. 9. *Prohibition against Vending Machines.* The use, possession or operation of a vending machine that provides tobacco or tobacco-related products, if the possession or operation is otherwise authorized by law, is prohibited.

SEC. 10. *Penalty Clause.* A person who contravenes a provision of this Act, or a provision of the regulations, is guilty of an offense and is liable –

(a) for a first offense, to a fine of not more than P50,000;

(b) for a second offense, to a fine or not more than P100,000;

(c) for a third or subsequent offense, to a fine of not more than P200,000.

A person who contravenes Section 3 or the Implementing Rules and Regulations specifically affecting Section 7 hereof is guilty of an offense and is liable to a fine of not more than P10,000, for a first offense, and not more than P20,000. for a second or subsequent offense.

If a corporation commits an offense under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offense is also guilty of the offense and is liable to a fine of not more than the amount that could be levied against the corporation.

SEC. 11. *Separability Clause.* If any part or provision of this Act is declared unconstitutional, the remaining parts or provisions not affected thereby, shall remain in full force and effect.

SEC. 12. *Effectivity.* This Act shall take effect fifteen (15) days from its publication in two national newspapers of general circulation after its approval by the President.

Approved.