

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB No. 367



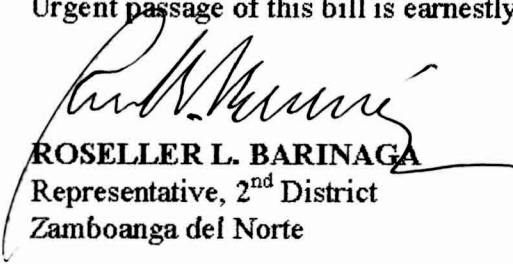
Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

This bill seeks to prescribe a general rule in the advertisement and/or promotion of cigarette and/or tobacco products and alcoholic beverages sold within the Philippines. This also imposes corresponding penalties for violations of said general rule.

Stricter policy on the advertisement and/or promotion of these products is a social imperative. There is a necessity for government's intervention to control the potential damage the indiscriminate distribution, sale and consumption of these products will impact on the greatest number of our youth.

Urgent passage of this bill is earnestly enjoined.


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

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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Introduced by Rep. Roseller L. Barinaga

AN ACT
TO PRESCRIBE A GENERAL RULE IN THE ADVERTISEMENT AND/OR
PROMOTION OF CIGARETTE AND/OR TOBACCO PRODUCTS AND ALCOHOLIC
BEVERAGES SOLD WITHIN THE PHILIPPINES, IMPOSE CORRESPONDING
PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* This Act shall be cited as the "General Advertising Act of 2004."

SEC. 2. *Declaration of Policy.* It is hereby declared the policy of the State to regulate the advertisement and/or promotion of cigarette and/or tobacco products and alcoholic products within the Philippines, except where the existing law of electronic media advertising is preempted by this Act.

SEC. 3. *Definitions.* For purposes of this Act, the following terms shall mean:

(a) "Advertisement" or "advertising" includes any written or verbal statement, illustration, or depiction which is calculated to induce smoking cigarette or tobacco products or drinking alcoholic products, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other public display, public transit card, other periodical literature, publication or in a radio or television broadcast, or in any other media; except that such term shall not include:

(i) labels on products; or

(ii) any editorial or other reading material (i.e. news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by either the

tobacco or alcoholic beverage industry member or retailer, and which is not written by or at the direction of either industry member or retailer.

(b) "Minor" or "minors" refers to persons under the age of 18 years old.

SEC. 4. *Compliance to Advertising Requirements.* All advertising of cigarette, tobacco, liquor and beer within the Philippines shall comply with the advertising requirements provided for in Section 5 herein.

SEC. 5. *Advertising Requirements.* Any advertising or advertisement authorized under this Act shall not:

(a) Contain any statement, design, device, or representation that is false or misleading;

(b) Contain any statement, design, device, or representation that is obscene or indecent;

(c) Refer to, portray or imply illegal conduct, illegal activity, abusive or violent relationships or situations, or anti-social behavior, except in the context of public service advertisements or announcements to educate and inform people of the dangers, hazards and risks associated with smoking or drinking by any person under the age of 21 years old;

(d) In any way, encourage consumption, even for a try, or promote the intoxicating effects of alcohol consumption, or overtly promote increased consumption of either cigarette, tobacco or alcoholic products;

(e) Advertise any promotional scheme such as "happy hour" or "all you can drink" for a certain discounted rate per bottle of any alcoholic product;

(f) Encourage or condone smoking at any time and/or drunk driving;

(g) Depict the act of smoking and/or drinking;

(h) Promote or encourage the sale to or use of cigarette or any tobacco product or alcohol by minors;

(i) Be directed or appeal primarily to minors by:

(i) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Claus that primarily appeals to minors;

(ii) employing any entertainment figure or group that appeals primarily to minors;

(iii) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors, or placing advertising on the comic pages of magazines, newspapers, or other publications;

(iv) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other media, or sponsoring any school, college or university activity;

(v) using models or actors in the advertising that are or reasonably appear to be minors;

(vi) advertising at an event where most of the audience is reasonably expected to be minors; or

(vii) using cigarette or tobacco products and/or alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use primarily by minors.

(j) Portray use of cigarette or tobacco products or alcohol by a person while that person is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination;

(k) *Contain claims or representations that individuals can obtain social, professional, educational, athletic, or financial success or status as a result of smoking cigarette or any tobacco product or consuming alcoholic beverage, or claim or represent that individuals can solve social, personal, or physical problems as a result of smoking or such consumption;*

(l) Offer cigarette or any tobacco product or alcoholic beverages to the general public without charge;

(m) Require the purchase, sale, or consumption of cigarette or any tobacco product or alcoholic beverage in order to participate in any promotion, program, or other activity; and

(n) Provide information regarding product availability and price, and factual information regarding product qualities, but may not imply by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical prowess, sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.

SEC. 6. *Preclusion from Sponsorship.* Members or retailers of either or both the cigarette/tobacco and alcohol industries are not precluded from sponsoring a theatrical, artistic, or scientific event that involves the display of drinking scenes.

SEC. 7. *Prohibition against Sponsoring in Schools.* Members or retailers of either or both the cigarette/tobacco and alcohol industries are prohibited from sponsoring an event that takes place on the premises of a school, college, university, or other educational institution.

SEC. 8. *Violations.* Any violation hereof shall be fined the amount of Fifty thousand pesos (P50,000.00) for every infraction committed. An imprisonment of not lower than six months but not to exceed one (1) year may be imposed on the Head or President or Chairman or Chief Executive Officer of the company should the a company committed more than three (3) *infractions at one single apprehension or complaint.*

Three (3) separate violations by a company shall merit an automatic perpetual revocation of the company's license to operate as business.

SEC. 9. *Separability Clause.* No provision of this Act shall be construed as a concession that any current law is unconstitutional. All provisions of law shall remain in full force and effect unless expressly repealed or modified by this Act. To the extent any law is inconsistent with the provisions hereof, this Act shall govern.

SEC. 10. *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.