

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTENTH CONGRESS

First Regular Session

HOUSE BILL NO. 3059

Introduced by REP. HERMILANDO I. MANDANAS

EXPLANATORY NOTE

This House Bill seeks to amend Sections 141, 142, 143 and 145 of the National Internal Revenue Code (R.A. 8424) to promote equitable sharing of costs and benefits among all stakeholders, parties affected, involved, or in one way or another connected with the Alcohol and Tobacco Industry. This industry influences the lives of almost all Filipinos as farmers, manufacturers, distributors, retailers, suppliers, workers and consumers. And many more benefits from the public welfare and services funded by Government through the substantial excise and other taxes, fees and related charges received from the industry.

There had been significant and material changes in the economic and social conditions in the Philippines since October 1, 1996, when Congress approved the basis of taxation of alcohol and tobacco products, introducing multi-tiered tax rate classification, specifying the excise tax rates, and legislating periodic amendments.

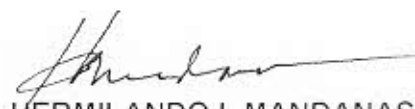
This House Bill underscores the reality that equitable sharing of costs and benefits among all parties influenced by the Industry can be best implemented by using current net retail prices of alcohol and tobacco as basis for classification of alcohol and tobacco products instead of legislated amendments. The net retail prices used since October 1, 1996, or about 14 years ago, are still being used to classify brands and excise taxes are being increased by programmed legislated provisions, completely ignoring current market realities. This Bill is not changing the method of computing excise taxes, neither the number of classifications, nor the multi-tiered tax rates system. The only amendment being proposed is the use of current net retail prices to serve as bases for classifying brands of alcohol and tobacco products.

Since October 1, 1996, the net retail prices of these alcohol and tobacco products have substantially increased, and in some products by at least 100%. The classifications of the brands of the alcohol and tobacco products subject to excise tax are no longer sensitive to the market place, despite legislated adjustments in the specific tax rates since 1997. Government revenues needed for the current social needs have not increased as much as the benefits of other stakeholders.

Accordingly, to have a more equitable sharing of costs and benefits, we have to generate excise tax revenues in line with market realities. This bill seeks to amend the provisions of Sections 141, 142, 143, and 145 of the NIRC, as amended, by deleting the pertinent legislative provisions and Annexes A-D of the law. This proposal will, effectively, reclassify the alcohol and tobacco products based on their current net retail prices without increasing the specific tax rates.

This measure will also improve the overall mechanism of the excise tax system which eventually will generate sustainable and higher tax revenues for the national government to redistribute social benefits among stakeholders. A more market oriented and realistic socio-economic environment for the alcohol and tobacco industry will also be created.

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



HERMILANDO I. MANDANAS
2nd District of Batangas



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

FIFTEENTH CONGRESS

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House Bill No. 3059

Introduced by REP. HERMILANDO I. MANDANAS

**AN ACT TO PROMOTE EQUITABLE SHARING OF COSTS AND BENEFITS
IN THE ALCOHOL AND TOBACCO INDUSTRY, AMENDING FOR THE
PURPOSE SECTIONS 141, 142, 143 AND 145 OF THE NATIONAL INTERNAL
REVENUE CODE OF 1997, AS AMENDED"**

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

SECTION 1. Section 141 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 141. *Distilled Spirits.* - On distilled spirits, there shall be collected, subject to the provisions of Section 133 of this Code, excise tax as follows:

"(a) If produced from the sap of nipa, coconut, cassava, camote, or buri palm or from the juice, syrup or sugar of the cane, provided such materials are produced commercially in the country where they are processed into distilled spirits, per proof liter, Eleven pesos and sixty-five centavos (P11.65);

"(b) If produced from raw materials other than those enumerated in the preceding paragraph, the tax shall be in accordance with the net retail price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity (excluding the excise tax and the value-added tax) as follows:

"(1) Less than Two hundred and fifty pesos (P250.00) - One hundred twenty-six pesos (P126.00), per proof liter;

"(2) Two hundred and fifty pesos (P250.00) up to Six hundred and seventy-five pesos (P675.00) - Two hundred fifty-two pesos (P252.00), per proof liter; and

"(3) More than Six hundred and seventy five pesos (P675.00) -Five hundred four pesos (P504.00), per proof liter.

"(c) Medicinal preparations, flavoring extracts, and all other preparations, except toilet preparations, of which, excluding water, distilled spirits form the chief ingredient, shall be subject to the same tax as such chief ingredient.

"This tax shall be proportionally increased for any strength of the spirits taxed over proof spirits, and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirits, or transformed into any other substance either in the process of original production or by any subsequent process.

"Spirits or distilled spirits' is the substance known as ethyl alcohol, ethanol or spirits of wine, including all dilutions, purifications and mixtures thereof, from whatever source, by whatever process produced, and shall include whisky, brandy, rum, gin and vodka, and other similar products or mixtures.

"Proof spirits' is liquor containing one-half (1/2) of its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths (0.7939) at fifteen degrees centigrade (15°C). A 'proof liter' means a liter of proof spirits.

"Net retail price', as determined by the Bureau of Internal Revenue through a price survey to be conducted by the Bureau of Internal Revenue itself, or by the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which the distilled spirits is sold on retail in at least ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the distilled spirits is sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

ON THE SECOND YEAR AFTER THE EFFECTIVITY OF THIS ACT, AND EVERY TWO YEARS THEREAFTER, A SURVEY OF NET RETAIL PRICES AS OF JUNE 30 OF THE SAID YEAR SHALL BE CONDUCTED BY THE BUREAU OF INTERNAL REVENUE TO DETERMINE THE NEW CLASSIFICATION OF EACH BRAND OF DISTILLED SPIRITS. THE RESULT OF THE SURVEY ON NET RETAIL PRICES AND THE NEW CLASSIFICATION OF EACH BRAND OF DISTILLED SPIRITS SHALL BE SUBMITTED TO AND APPROVED BY THE SECRETARY OF FINANCE ON OR BEFORE OCTOBER 1 OF THE SAID YEAR. THE NEW CLASSIFICATION OF EACH BRAND OF DISTILLED SPIRITS SHALL BE EFFECTIVE JANUARY 1 OF THE FOLLOWING YEAR.

"Variants of existing brands and variants of new brands which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however,* That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand.

"New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price.

'NEW BRANDS' SHALL MEAN A BRAND REGISTERED AFTER THE EFFECTIVITY OF THIS ACT.

"Willful understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual net retail price.

['New brand' shall mean a brand registered after the date of effectivity of R.A. No. 8240].

"Suggested net retail price' shall mean the net retail price at which new brands, as defined above, of locally manufactured or imported distilled spirits are intended by the manufacturer or importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those marketed nationwide, and in other regions, for those with regional markets. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and determine the correct tax bracket to which a particular new brand of distilled spirits, as defined above, shall be classified. After the end of eighteen (18) months from such validation, the Bureau of Internal Revenue shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax bracket which a particular new brand of distilled spirits shall be classified [*Provided, however,* That brands of distilled spirits introduced in the domestic market between January 1, 1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress].

"The rates of tax imposed under this Section shall be increased by eight percent (8%) every two years starting on January 1, 2007 until January 1, 2011.

"Any downward reclassification of present categories, for tax purposes, of existing brands of distilled spirits duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

"[The classification of each brand of distilled spirits based on the average net retail price as of October 1, 1996, as set forth in Annex 'A', including the classification of brands for the same products which, although not set forth in said Annex 'A', were registered and were being commercially produced and marketed on or after October 1, 1996, and which continue to be commercially produced and marketed after the effectivity of this Act, shall remain in force until revised by Congress.]

"Manufacturers and importers of distilled spirits shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every third month thereafter,

submit to the Commissioner a sworn statement of the volume of sales for each particular brand of distilled spirits sold at his establishment for the three-month period immediately preceding.

"Any manufacturer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of distilled spirits.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

"Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

"If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation."

SEC. 2. Section 142 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC 142. *Wines*. - On wines, there shall be collected per liter of volume capacity, the following taxes:

"(a) Sparkling wines/champagnes regardless of proof, if the net retail price per bottle (excluding the excise tax and the value-added tax) is:

"(1) Five hundred pesos (P500.00) or less - One hundred forty-five pesos and sixty centavos (P145.60); and

"(2) More than Five hundred pesos (P500.00) - Four hundred thirty-six pesos and eighty centavos (P436.80).

"(b) Still wines containing fourteen percent (14%) of alcohol by volume or less, Seventeen pesos and forty-seven centavos (P17.47); and

"(c) Still wines containing more than fourteen percent (14%) but not more than twenty-five percent (25%) of alcohol by volume, Thirty-four pesos and ninety-four centavos (P34.94).

"Fortified wines containing more than twenty-five percent (25%) of alcohol by volume shall be taxed as distilled spirits. 'Fortified wines' shall mean natural wines to which distilled spirits are added to increase their alcohol strength.

"Net retail price', as determined by the Bureau of Internal Revenue through a price survey to be conducted by the Bureau of Internal Revenue itself, or by the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue,

shall mean the price at which wine is sold on retail in at least ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the wine is sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

ON THE SECOND YEAR AFTER THE EFFECTIVITY OF THIS ACT, AND EVERY TWO YEARS THEREAFTER, A SURVEY OF NET RETAIL PRICES AS OF JUNE 30 OF THE SAID YEAR SHALL BE CONDUCTED BY THE BUREAU OF INTERNAL REVENUE TO DETERMINE THE NEW CLASSIFICATION OF EACH BRAND OF WINES. THE RESULT OF THE SURVEY ON NET RETAIL PRICES AND THE NEW CLASSIFICATION OF EACH BRAND OF WINES SHALL BE SUBMITTED TO AND APPROVED BY THE SECRETARY OF FINANCE ON OR BEFORE OCTOBER 1 OF THE SAID YEAR. THE NEW CLASSIFICATION OF EACH BRAND OF WINES SHALL BE EFFECTIVE JANUARY 1 OF THE FOLLOWING YEAR.

"Variants of existing brands and variants of new brands which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however,* That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand.

"New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price.

"'New brand' shall mean a brand registered after the date of effectivity of [R.A. No. 8240] THIS ACT.

"'Suggested net retail price' shall mean the net retail price at which new brands, as defined above, of locally manufactured or imported wines are intended by the manufacturer or importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those marketed nationwide, and in other regions, for those with regional markets. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and determine the correct tax bracket to which a particular new brand of wine, as defined above, shall be classified. After the end of eighteen (18) months from such validation, the Bureau of Internal Revenue shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax bracket which a particular new brand of wines shall be classified[: *Provided, however,* That brands of wines introduced in the domestic market between January 1, 1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress].

"The rates of tax imposed under this Section shall be increased by eight percent (8%) every two years starting on January 1, 2007 until January 1, 2011.

"Any downward reclassification of present categories, for tax purposes, of existing brands of wines duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

["The classification of each brand of wines based on the average net retail price as of October 1, 1996, as set forth in Annex 'B', including the classification of brands for the same products which, although not set forth in said "Annex B", were registered and were being commercially produced and marketed on or after October 1, 1996, and which continue to be commercially produced and marketed after the effectivity of this Act, shall remain in force until revised by Congress.]

"Manufacturers and importers of wines shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of wines sold at his establishment for the three-month period immediately preceding.

"Any manufacturer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon discovery, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of wines.

"Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

"Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

- * "If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation."

SEC. 3. Section 143 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 143. *Fermented Liquors.* - There shall be levied, assessed and collected an excise tax on beer, lager beer, ale, porter and other fermented liquors except *tuba*, *basi*, *tupuy* and similar fermented liquors in accordance with the following schedule:

"(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is less than Fourteen pesos and fifty centavos (P14.50), the tax shall be Eight pesos and twenty- seven centavos (P8.27) per liter;

"(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fourteen pesos and fifty centavos (P14.50) up to Twenty-two pesos (P22.00), the tax shall be Twelve pesos and thirty centavos (P12.30) per liter;

"(c) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Twenty-two pesos (P22.00), the tax shall be Sixteen pesos and thirty-three centavos (P16.33) per liter.

"Variants of existing brands and variants of new brands which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however,* That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand.

"Fermented liquors which are brewed and sold at micro-breweries or small establishments such as pubs and restaurants shall be subject to the rate in paragraph (c) hereof.

"New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price.

"'New brand' shall mean a brand registered after the date of effectivity of [R.A. No. 8240] **THIS ACT.**

"'Suggested net retail price' shall mean the net retail price at which new brands, as defined above, of locally manufactured or imported fermented liquor are intended by the manufacturer or importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those marketed nationwide, and in other regions, for those with regional markets. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and determine the correct tax bracket to which a particular new brand of fermented liquor, as defined above, shall be classified. After the end of eighteen (18) months from such validation, the Bureau of Internal Revenue shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax bracket which a particular new brand of fermented liquors shall be classified[; *Provided, however,* That brands of fermented liquors introduced in the domestic market between January 1, 1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress].

"'Net retail price', as determined by the Bureau of Internal Revenue through a price survey to be conducted by the Bureau of Internal Revenue itself, or the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which the fermented liquor is sold on retail in at least twenty (20) major supermarkets in Metro Manila (for brands of fermented liquor marketed

nationally), excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed outside Metro Manila, the 'net retail price' shall mean the price at which the fermented liquor is sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

ON THE SECOND YEAR AFTER THE EFFECTIVITY OF THIS ACT, AND EVERY TWO YEARS THEREAFTER, A SURVEY OF NET RETAIL PRICES AS OF JUNE 30 OF THE SAID YEAR SHALL BE CONDUCTED BY THE BUREAU OF INTERNAL REVENUE TO DETERMINE THE NEW CLASSIFICATION OF EACH BRAND OF FERMENTED LIQUORS. THE RESULT OF THE SURVEY ON NET RETAIL PRICES AND THE NEW CLASSIFICATION OF EACH BRAND OF FERMENTED LIQUORS SHALL BE SUBMITTED TO AND APPROVED BY THE SECRETARY OF FINANCE ON OR BEFORE OCTOBER 1 OF THE SAID YEAR. THE NEW CLASSIFICATION OF EACH BRAND OF FERMENTED LIQUORS SHALL BE EFFECTIVE JANUARY 1 OF THE FOLLOWING YEAR.

[“The classification of each brand of fermented liquor based on its average net retail price as of October 1, 1996, as set forth in Annex 'C', including the classification of brands for the same products which, although not set forth in said Annex 'C', were registered and were being commercially produced and marketed on or after October 1, 1996, and which continue to be commercially produced and marketed after the effectivity of this Act, shall remain in force until revised by Congress.]

“The rates of tax imposed under this Section shall be increased by eight percent (8%) every two years starting on January 1, 2007 until January 1, 2011.

“Any downward reclassification of present categories, for tax purposes, of existing brands of fermented liquor duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

“Every brewer or importer of fermented liquor shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of fermented liquor sold at his establishment for the three-month period immediately preceding.

“Any brewer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as brewer or importer of fermented liquor.

“Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

“Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

"If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation."

SEC. 4. Section 145 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 145. *Cigars and Cigarettes.* -

"(A) Cigars. - There shall be levied, assessed and collected on cigars an ad valorem tax based on the net retail price per cigar (excluding the excise tax and the value-added tax) in accordance with the following schedule:

"(1) If the net retail price per cigar is Five hundred pesos (P500.00) or less, ten percent (10%); and

"(2) If the net retail price per cigar (excluding the excise tax and the value-added tax) is more than Five hundred pesos (P500.00), Fifty pesos (P50.00) plus fifteen percent (15%) of the net retail price in excess of Five hundred pesos (P500.00).

"(B) Cigarettes Packed by Hand. - There shall be levied, assessed and collected on cigarettes packed by hand a tax at the rates prescribed below:

"[Effective on January 1, 2005, Two pesos (P2.00) per pack;]

"[Effective on January 1, 2007, Two pesos and twenty-three centavos (P2.23) per pack;]

"Effective on January 1, 2009, Two pesos and forty-seven centavos (P2.47) per pack; and

"Effective on January 1, 2011, Two pesos and seventy-two centavos (P2.72) per pack.

"Duly registered or existing brands of cigarettes or new brands thereof packed by hand shall only be packed in thirties.

"(C) *Cigarettes Packed by Machine.* - There shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below:

"(1) If the net retail price (excluding the excise tax and the value-added tax) is below Five pesos (P5.00) per pack, the tax shall be:

"[Effective on January 1, 2005, Two pesos (P2.00) per pack;]

"[Effective on January 1, 2007, Two pesos and twenty-three centavos (P2.23) per pack;]

"Effective on January 1, 2009, Two pesos and forty-seven centavos (P2.47) per pack; and

"Effective on January 1, 2011, Two pesos and seventy-two centavos (P2.72) per pack.

"(2) If the net retail price (excluding the excise tax and the value-added tax) is Five pesos (P5.00) but does not exceed Six pesos and fifty centavos (P6.50) per pack, the tax shall be:

"[Effective on January 1, 2005, Six pesos and thirty-five centavos (P6.35) per pack;]

"[Effective on January 1, 2007, Six pesos and seventy-four centavos (P6.74) per pack;]

"Effective on January 1, 2009, Seven pesos and fourteen centavos (P7.14) per pack; and

"Effective on January 1, 2011, Seven pesos and fifty-six centavos (P7.56) per pack.

"(3) If the net retail price (excluding the excise tax and the value-added tax) exceeds Six pesos and fifty centavos (P6.50) but does not exceed Ten pesos (P10.00) per pack, the tax shall be:

"[Effective on January 1, 2005, Ten pesos and thirty-five centavos (P10.35) per pack;]

"[Effective on January 1, 2007, Ten pesos and eighty-eight centavos (P10.88) per pack;]

"Effective on January 1, 2009, Eleven pesos and forty-three centavos (P11.43) per pack; and

"Effective on January 1, 2011, Twelve pesos (P12.00) per pack.

"(4) If the net retail price (excluding the excise tax and the value-added tax) is above Ten pesos (P10.00) per pack, the tax shall be:

"[Effective on January 1, 2005, Twenty-five pesos (P25.00) per pack;]

"[Effective on January 1, 2007, Twenty-six pesos and six centavos (P26.06) per pack;]

"Effective on January 1, 2009, Twenty-seven pesos and sixteen centavos (P27.16) per pack; and

"Effective on January 1, 2011, Twenty-eight pesos and thirty centavos (P28.30) per pack.

"Variants of existing brands and variants of new brands of cigarettes which are introduced in the domestic market after the effectivity of this Act shall be taxed under the proper classification thereof based on their suggested net retail price: *Provided, however,* That such classification shall not, in any case, be lower than the highest classification of any variant of that brand.

"A 'variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand.

"Duly registered or existing brands of cigarettes or new brands thereof packed by machine shall only be packed in twenties.

"Any downward reclassification of present categories, for tax purposes, of existing brands of cigars and cigarettes duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

"New brands, as defined in the immediately following paragraph, shall initially be classified according to their suggested net retail price.

"New brand' shall mean a brand registered after the date of effectivity of [R.A. No. 8240] **THIS ACT**.

"Suggested net retail price' shall mean the net retail price at which new brands, as defined above, of locally manufactured or imported cigarettes are intended by the manufacturer or importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those marketed nationwide, and in other regions, for those with regional markets. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and determine the correct tax bracket under which a particular new brand of cigarette, as defined above, shall be classified. After the end of eighteen (18) months from such validation, the Bureau of Internal Revenue shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax bracket under which a particular new brand of cigarettes shall be classified[: *Provided, however,* That brands of cigarettes introduced in the domestic market between January 1, 1997 and December 31, 2003 shall remain in the classification under which the Bureau of Internal Revenue has determined them to belong as of December 31, 2003. Such classification of new brands and brands introduced between January 1, 1997 and December 31, 2003 shall not be revised except by an act of Congress].

"Net retail price', as determined by the Bureau of Internal Revenue through a price survey to be conducted by the Bureau of Internal Revenue itself, or the National Statistics Office when deputized for the purpose by the Bureau of Internal Revenue, shall mean the price at which the cigarette is sold on retail in at least twenty (20) major supermarkets in Metro Manila (for brands of cigarettes marketed nationally), excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed only outside Metro Manila, the 'net retail price' shall mean the price at which the cigarette is sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

ON THE SECOND YEAR AFTER THE EFFECTIVITY OF THIS ACT, AND EVERY TWO YEARS THEREAFTER, A SURVEY OF NET RETAIL PRICES AS OF JUNE 30 OF THE SAID YEAR SHALL BE CONDUCTED BY THE BUREAU OF INTERNAL REVENUE TO DETERMINE THE NEW CLASSIFICATION OF EACH BRAND OF CIGARETTES. THE RESULT OF THE SURVEY ON NET RETAIL PRICES AND THE NEW CLASSIFICATION OF EACH BRAND OF CIGARETTES SHALL BE SUBMITTED TO AND APPROVED BY THE SECRETARY OF FINANCE ON OR BEFORE OCTOBER 1 OF THE SAID YEAR. THE NEW CLASSIFICATION OF EACH BRAND OF CIGARETTES SHALL BE EFFECTIVE JANUARY 1 OF THE FOLLOWING YEAR.

[“The classification of each brand of cigarettes based on its average net retail price as of October 1, 1996, as set forth in Annex ‘D’, including the classification of brands for the same products which, although not set forth in said Annex ‘D’, were registered and were being commercially produced and marketed on or after October 1, 1996, and which continue to be commercially produced and marketed after the effectivity of this Act, shall remain in force until revised by Congress.]

“Manufacturers and importers of cigars and cigarettes shall, within thirty (30) days from the effectivity of this Act and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of cigars and/or cigarettes sold at his establishment for the three-month period immediately preceding.

“Any manufacturer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon discovery, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of cigars or cigarettes.

“Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the aggregate amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

“Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

“If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation.”

SEC. 5. *Transitory Provision.* - The average net retail price of each brand of distilled spirits, wines, fermented liquors and cigarettes as of October 1, 2010 as submitted by the Bureau of Internal Revenue and approved by the Secretary of Finance will be set forth as Annexes of this Act and shall be the bases of the classification of these products upon the effectivity of this Act.

SEC. 6. *Implementing Rules and Regulations.* - The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 7. *Separability Clause.* - If any of the provisions of this Act is declared invalid by a competent court, the remainder of this Act or any provision not affected by such declaration of invalidity shall remain in force and effect.

SEC. 8. *Repealing Clause.* - All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and such other presidential issuances as are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly.

SEC. 9. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation whichever comes earlier.

Approved,