

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

Sixteenth Congress
First Regular Session

House Bill No. **3686**



Introduced by AKBAYAN Representatives
Ibarra "Barry" M. Gutierrez III and Walden F. Bello

EXPLANATORY NOTE

The right to health is one of the fundamental rights enshrined in Section 15, Article II (State Policy) of the *1987 Philippine Constitution* which provides that "the State shall protect and promote the right to health of the people and instill health consciousness among them." Incorporated in this right is the right to health-related education and information.

Cigarette smoking is one of the biggest preventable threats to public health. With more than 4000 chemicals in tobacco smoke, at least 250 are identified to be harmful, and at least 50 are known to cause cancer. Exposure to tobacco smoke is as dangerous as consumption of tobacco, thus the tobacco epidemic is not only detrimental to the health of the user, but also to anyone else caught in the cloud of tobacco emissions.

Around 6 million people across the globe die yearly due to tobacco-related diseases. According to the Department of Health, 240 Filipinos die every day due to health complications brought about by tobacco use, amounting to 87,600 deaths every single year. Ranked as one of the top 20 nations with the highest smoking population at 21.44 million in 2009, there is an urgent need to enact effective tobacco control policies in the country.

As a State Party to the *Framework Convention on Tobacco Control*, a public health treaty initiated by the World Health Organization, the Philippines is mandated to develop and implement appropriate mechanisms to reduce the trenchant effects of tobacco consumption. Article 4 of

the *Framework Convention* provides that State Parties shall be guided by the principle that every person should be informed of the health consequences, addictive nature, and mortal threat posed by tobacco consumption and exposure to tobacco smoke. Article 11 serves as an execution of the said principle, stating that Parties shall, within three years after entry into force of the treaty, adopt, and implement effective measures to ensure that each unit packet and package of tobacco products and any outside packaging and labeling of such products.

The prevalent form of health warnings provided to the public is in the form of textual information, but studies have shown that graphic or picture-based warning labels are more effective in communicating the health risks involved in the use of tobacco products. Pictorial health warnings or picture-based health warnings have been found to be highly effective, especially among the youth, in motivating smokers to quit and encouraging non-smokers not to start smoking. A cross-country comparison made by the International Tobacco Control Policy Evaluation Project in 2012 confirmed that pictorial warning labels demonstrated greater effectiveness than text-only warnings on all self-reported measures of health warning effectiveness across 19 countries.

The need to adopt an effective tobacco control policy in the country has long been overdue. Present and future generations have to be protected from the health risks brought about by tobacco exposure and consumption. Apart from the commitment of the State to comply with its obligations with the *Framework Convention*, the enactment of this bill affirms the State's commitment to promote and protect the health of the people.

Immediate approval of this measure is, therefore, earnestly sought.


WALDEN F. BELLO


IBARRA "BARRY" M. GUTIERREZ III

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AN ACT
TO EFFECTIVELY INSTILL HEALTH CONSCIOUSNESS THROUGH PICTURE-
BASED HEALTH WARNINGS ON TOBACCO PRODUCTS

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 Picture-Based Health Warning Act.*"

2

3 **SECTION 2. *Declaration of Principles.***—The State shall protect and promote the right of
4 people to health and instill health consciousness among them.

5

6 The State shall protect consumers from trade malpractices and from substandard and hazardous
7 products.

8

9 The State accepts that, as a State Party to the World Health Organization's *Framework Convention*
10 *on Tobacco Control*, a treaty that reaffirms the right of all people to the highest standards of health,
11 the Philippines is obliged to (a) inform every person of the health consequences of tobacco
12 consumption and exposure to tobacco smoke; (b) enact effective measures to curb and reduce
13 tobacco use, especially among the youth; and (c) promote public health policy from the
14 commercial and vested interests of the tobacco industry.

15

1 The State recognizes its duty under Article 11 of the *Framework Convention* to adopt and
2 implement, by September 2008, effective health warnings on tobacco products that graphically
3 describe the harmful effects of tobacco use.

4
5 The State recognizes that based on empirical data, text warnings have been shown to be
6 insufficient in conveying the dangers of tobacco products, while graphic or picture-based health
7 warning have been shown to be more effective in conveying the truth of the dangers of exposure
8 and consumption of tobacco smoke.

9
10 **SECTION 3. *Purpose.***—The purposes of this Act are:

11
12 (a) To have effective health warnings exposing the devastating effects of tobacco use and
13 exposure to second hand smoke;

14
15 (b) To remove any direct or indirect signs or terms, on or in tobacco product packages, that
16 create or are likely to create a false impression about the health effects of tobacco products,
17 including, but not limited to misleading or deceptive descriptors, like “low tar”, “light”,
18 “mild”, or similar terms; and

19
20 (c) To strengthen the role of government agencies, particularly of the Department of Health and
21 the Department of Trade and Industry, in promoting right to health and instilling health
22 consciousness among Filipinos.

23
24 **SECTION 4. *Definitions.***—As used in this Act:

25
26 (a) “*Insert*” refers to any communication inside an individual package and/or carton purchased at
27 either wholesale or retail by consumers, such as, but not limited to, a leaflet or brochure.

28
29 (b) “*Onsert*” refers to any communication (1) affixed to the outside of an individual package or
30 carton or (2) glued to the outside of the cigarette package, purchased at either wholesale or
31 retail by consumers, including, but not limited to, a brochure beneath the outer cellophane
32 wrapping.

1 (c) "*Picture-based health warning*" refers to warning labels composed of (1) a photographic picture
2 warning on health dangers and effects, or other problems related to tobacco use or exposure
3 to tobacco smoke, and (2) an accompanying textual warning that is related to the picture,
4 made in accordance with the guidelines of printing as provided in Section 15 of this Act.

5
6 (d) "*Principal display areas*" are:

- 7
- 8 (1) The areas of each of the two largest surfaces, in the case of a package and carton that has
9 at least two equal-sized sides or surfaces other than the top or bottom that may be
10 displaced or visible under normal or customary conditions of sale or use;
 - 11 (2) The largest surface of a spherical, cylindrical or conical container of tobacco products,
12 and the total surface of the package in the case of a package and carton that does not
13 have a particular side or surface that is predominantly displayed or visible under normal
14 customary conditions of sale or use; and
 - 15 (3) All surfaces or panels, exterior or interior, of any tobacco product packaging or carton
16 not specified above.
- 17

18 (e) "*Tobacco product package*" refers to the packet and package of tobacco products and any
19 outside packaging and labeling of tobacco products for sale, distribution, exportation, trade,
20 exchange, or exhibition, such as, but not limited to, packs, tins, boxes, pouches, flip-tops,
21 slide and shell package, cartons, transparent wrappers, clear packaging, packages containing
22 one product unit, master cases, or other containers of tobacco products.

23
24 (f) "*Tobacco products*" refers to products entirely or partly made of leaf tobacco as raw material,
25 which are manufactured to be used for smoking, sucking, chewing or snuffing, or by any
26 other means of consumption.

27
28 **SECTION 5. *Picture-based Health Warning*.**—Within ninety (90) days from the effectivity
29 of this Act, cigarette packages and other tobacco product packages found in the market including
30 package inserts and onserts, and any outside packaging and labeling, shall bear highly visible full-
31 color *picture-based health warnings* which shall have a photographic picture warning and an
32 accompanying textual warning that is related to the picture:

1 (a) The *picture-based health warnings* shall be printed on at least eighty-five percent (85%) of the
2 principal display areas, as defined in this Act, of any tobacco package and shall occupy no
3 less than eighty-five percent (85%) of the front and eighty-five percent (85%) of the back
4 panel of the packaging;

5
6 (b) The *warning* shall be located at the upper portion of the said panels or principal display areas;

7
8 (c) Nothing shall be printed or applied on a location where it is likely to obscure or cover, in
9 part or in whole, the *picture-based health warnings*;

10
11 (d) No part of the *warning* may be obliterated, obscured, folded, severed or become unreadable
12 when the tobacco package is opened or closed;

13
14 (e) The *picture-based health warning* shall be printed in accordance with guidelines prescribed by the
15 Department of Health, or in the absence thereof shall be printed full color with minimum
16 resolution of 600 dpi using at least 4-color printing;

17
18 (f) A minimum of eight (8) variations of *picture-based health warnings* shall be printed
19 simultaneously and these shall be rotated periodically so that the *warnings* shall appear in the
20 market with proportionate frequency;

21
22 (g) In no case shall the *picture-based health warning* be less than 2475 square millimeters in size
23 regardless of the type of tobacco package. The shortest side of the health warning shall
24 measure no less than 55 millimeters;

25
26 (h) *Picture-based health warning* specifications:

27
28 (1) The text warning accompanying the picture shall be worded in such manner that an
29 ordinary layman will understand what the picture is about and what the ill-effects of
30 smoking are on the health of the smoker and the people around the smoker;

31
32 (2) The accompanying text for the *picture-based health warning* shall be placed on areas of the
33 photograph where it will not obscure the picture itself and will be prominently displayed;

(3) The accompanying text shall use up no more than thirty percent (30%) of the entire area of the *picture-based health warning* and shall appear in clearly legible type and in contrast by typograph, layout and color, without the use of any border or frame or any other design that will effectively lessen the size of the textual warning; and

(4) The accompanying text shall be printed in English on the front panel and Filipino on the back panel and alternately, Filipino on the front panel and English on the back panel. In the case of other containers where there is only one (1) external surface area, the accompanying text will likewise alternately be in English or Filipino.

SECTION 6. *Side Panel.*—In addition to the *picture-based health warning*, cigarette packages, as well as other tobacco product packages found in the market, shall bear, on one side panel, additional information about the *picture-based health warning* as issued by the Department of Health according to the template and frequency provided in this Act. Information shall be prominently displayed and the text thereto shall appear in clearly legible type and in contrast by typograph, layout and color, without the use of any border of frame or any other design that will effectively lessen the size of the additional health warnings.

SECTION 7. *Descriptors.*—Within ninety (90) days from the effectivity of this Act, it shall be prohibited to print cigarette packs or other tobacco product packages which contain any term, descriptor, trademark, figurative or any other sign including colors, images, or numbers, or any package or product design or feature, that directly or indirectly creates or is likely to create the false impression that a particular tobacco product or brand is less harmful than any other tobacco product or brand, or that promote a tobacco product by any means that are false, misleading, deceptive, or likely to create an erroneous impression about its characteristics, health effects, hazard or emissions, such as, but are not limited to, “low tar”, “light”, “ultra light”, or “mild”.

SECTION 8. *Minimum Principal Display Surface/Prohibition on Smaller Packages.*—To ensure the visibility, prominence, and impact of *picture-based health warning*, no person or legal entity shall make, fabricate, sell or distribute cigarette packages or other tobacco product packages, or repackage cigarettes or other tobacco products with packages that have for its principal display area, a total area of less than 4950 square millimeters for each of the two largest

1 sides in the case of tobacco packages described in Section 4(d)(1). For other tobacco packages
2 that fall under Section 4(d)(2) and 4(d)(3), the minimum size for the principal display surface
3 shall also be 4950 square millimeters.

4
5 **SECTION 9. *Costs.***—All printing costs pertaining to packaging and labeling shall be
6 shouldered by tobacco manufacturers and/or importers.

7
8 **SECTION 10. *Prohibition on Sales.***—No person or legal entity shall sell or commercially
9 distribute or display any cigarette or tobacco product without ensuring that the labels and
10 packages meet the requirements under this Act.

11
12 **SECTION 11. *Prohibition on Display.***—No person or legal entity shall obscure or cover in
13 part or in whole the *picture-based health warning* in the selling areas. The *picture-based health warning*
14 shall be prominently displayed whenever the said packages are commercially displayed.

15
16 **SECTION 12. *Liabilities of Manufacturers, Importers, and Distributors.***—Manufacturers,
17 importers and distributors of tobacco products shall be directly liable for any violations of the
18 provisions of this Act. In the case of business entities or establishments, the chairperson of the
19 board of directors, the owner, president, manager, and the corporate officials thereof shall be
20 directly responsible therefore and shall be made accountable. Agents and/or representatives of
21 the manufacturers, importers, and distributors who commit any violation of the provisions of
22 this Act and its implementing rules shall be jointly and severally liable with the manufacturers,
23 importers, and distributors.

24
25 **SECTION 13. *Liability of Retailers and Sellers.***—Retailers and sellers of tobacco products
26 shall be directly liable for violations of Sections 10 and 11 of this Act. In the case of business
27 entities or establishments, the chairperson of the board of directors, the owner, president,
28 manager, and the corporate officials thereof shall be directly responsible therefore and shall be
29 made accountable.

30
31 **SECTION 14. *Administrative fines.***—Aside from the penalties for violations of trade and
32 industry laws and issuances, the following fines shall be imposed:
33

1 (a) A fine of one hundred thousand Philippine pesos (PhP100,000.00) shall be imposed on
2 manufacturers, importers, exporters and distributors of tobacco products as well as their
3 agents or representatives for every violation of this Act: *Provided*, That the manufacturers,
4 importers, exporters and distributors will be given a compliance period of not more than
5 sixty (60) days to stop the violation and comply with the provisions of this Act: *Provided*,
6 *further*, That each unit of a non-compliant tobacco package in the market shall constitute a
7 single violation of this Act: *Provided, finally*, That nothing in this Act shall prevent the
8 Department of Trade and Industry to issue a seizure and cease operations order, or an order
9 revoking or cancelling the business permits and licenses over the said manufacturers,
10 importers, exporters and distributors after the compliance period.

11
12 (b) A fine of five thousand Philippine pesos (PhP5,000.00) shall be imposed on retailers and
13 sellers of tobacco products as well as their agents or representatives for every violation of
14 this Act: *Provided*, That the retailers and sellers will be given a compliance period of not more
15 than thirty (30) days to stop the violation and comply with the provisions of this Act:
16 *Provided, further*, That nothing in this Act shall prevent the Department of Trade and Industry
17 to issue a seizure and cease operations order, or an order revoking or cancelling the business
18 permits and licenses over the said retailers and sellers after the compliance period.

19
20 If the guilty officer is an alien, he shall summarily be deported after finding of probable cause on
21 the second offense and shall be forever barred from re-entering the Philippines; and

22
23 Prosecution under this Section may be commenced by the Department of Trade and Industry,
24 the Department of Health, the Philippine National Police, a prosecutor, by himself, or any
25 private citizen.

26
27 **SECTION 15. *Schedule for Picture-based Health Warning Guidelines.***—Within thirty
28 (30) days from the effectivity of this Act, and every year thereafter, or as frequently as the need
29 arises, the Department of Health shall issue a template of *picture-based health warnings* to be rotated
30 as well as guidelines respecting the printing instructions, specific design or content of the
31 information relating to the *picture-based health warnings* that must appear in the tobacco product
32 packages. Recommendations of leading non-government organizations that have established and
33 proven records of dealing with tobacco related diseases and deaths shall be considered: *Provided*,
34 *however*, That the absence of recommendations shall not delay the issuance of the template

1 guidelines. All *picture-based health warnings* issued shall comply with the specifications above and
2 must always present the devastating effects of tobacco use and exposure to second hand tobacco
3 smoke. Nothing in this Act shall preclude the Department of Health from imposing standards
4 for tobacco product packages and printing that are beyond those provided in this Act.

5
6 *Picture-based health warnings* regulations issued by the Secretary of Health, upon recommendation
7 of non-government organizations, shall be presumed compliant with the specifications listed
8 above for the purposes of implementation by the tobacco companies.

9
10 Tobacco manufacturers and importers shall have no more than two (2) months to comply with
11 any new templates issued.

12
13 **SECTION 16. *Administrative Agency.*** – Within one (1) year from the effectivity of this Act,
14 the Department of Trade and Industry, upon consultation with the Department of Health, shall
15 issue regulations and administrative sanctions to facilitate the implementation of this Act. The
16 Department of Trade and Industry is hereby authorized without need of approval from
17 Congress:

18
19 (a) To promulgate rules governing the hearing of reported violations of this Act. The hearings
20 shall be summary in nature and shall be conducted by means of position papers and
21 affidavits. Decisions must be rendered by the Department of Trade and Industry no longer
22 than thirty (30) days from the date of filing; and

23
24 (b) To issue other administrative rules and regulations it deems necessary to effectively
25 implement the provisions of this Act, such as, but not limited to seizure, forfeiture, and
26 destruction of non-compliant packages as described under this Act.

27
28 The Department of Trade and Industry shall have the power to call upon law enforcement
29 agencies, and the managing authorities in the economic zone for assistance in the
30 implementation and enforcement of its decisions, orders, rules and regulations. In addition, the
31 Department of Trade and Industry may also deputize, when necessary, provincial governors, city
32 and municipal mayors, and representatives of the national government agencies, tobacco control
33 organizations, and concerned sectors to help monitor compliance with and report of any
34 violations of the provisions of this Act.

1
2 **SECTION 17. *Strict Compliance and Inspection.***—Absolutely no extension of time to
3 comply with the provisions of this Act shall be granted to tobacco manufacturers, or any
4 affected party, for enforcing the law and for ensuring compliance therewith. The Department of
5 Trade and Industry, upon presenting appropriate credentials to the owner, manager, or agent in
6 charge, is authorized to: (1) enter, at reasonable hours, any factory, warehouse, or establishment
7 in which tobacco products are manufactured, processed, packed or held, for introduction for
8 domestic commerce or are held after such introduction or to enter any vehicle used to transport
9 or hold such tobacco products; and (2) to inspect in any reasonable manner, such factory,
10 warehouse or establishment or vehicle and all pertinent equipment, finished and unfinished
11 materials, containers and labeling therein. If the officer, employee, or person designated making
12 any such inspection of a factory, warehouse, or other establishment has obtained any sample in
13 the course of the inspection, upon completion of the inspection and prior to leaving the
14 premises he shall give to the owner, manager, or agent in charge a receipt describing the samples
15 obtained.

16
17 **Section 18. *Citizen Suits.***—For purposes of enforcing the provisions of this Act or its
18 implementing rules and regulations, any citizen may file an appropriate civil or administrative
19 action in the proper courts or bodies against:

- 20
21 (a) Any person or entity who violates or fails to comply with the provisions of this Act, its
22 implementing rules and regulations, including the templates, guidelines or other regulations;
23
24 (b) The DTI, the DOH, and other implementing agencies with respect to rules and regulations
25 issued inconsistent with this Act; and
26
27 (c) Any public officer who willfully or grossly neglects the performance of any act specifically
28 enjoined as a duty by this Act, its implementing rules and regulations, including the template,
29 guidelines, or other regulations or abuses his authority in the performance of his duty, or in
30 any manner improperly performs his duties under this Act or its implementing rules and
31 regulations, including the template, guidelines, or other regulations.

32
33 The administrative, civil, and criminal actions begun under this section shall be alternative and
34 cumulative and shall not preclude any other person from filing a similar action.

1
2 In civil suits brought under this Act, the court shall exempt such action from the payment of
3 filing fees, except fees for actions not capable of pecuniary estimations, and shall likewise, prima
4 facie showing of the non-enforcement or violation complained of, exempt the plaintiff from the
5 filing of an injunction bond for the issuance of a preliminary injunction.
6

7 **SECTION 19. *Separability Clause.***—If any clause, provision, paragraph, or part thereof shall
8 be declared unconstitutional or invalid, such judgment shall not affect, invalidate, or impair any
9 other part hereof, but such judgment shall be merely confined to the clause, provision,
10 paragraph, or part directly involved to the controversy in which such judgment has been
11 rendered.
12

13 **SECTION 20. *Repealing Clause.***—All other laws, decrees, executive orders and other
14 administrative issuances and parts thereof which are inconsistent with the provisions of this Act
15 are hereby modified, superseded or repealed accordingly. Sections 13(c) and 32(c) of Republic
16 Act No. 9211 are hereby repealed.
17

18 **SECTION 21. *Effectivity.***—This Act shall take effect fifteen (15) days after its publication in at
19 least two (2) newspapers of general circulation.

Approved,