

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**SIXTEENTH CONGRESS**  
Second Regular Session

House Bill No. **4892**



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Introduced by HON. ALETA C. SUAREZ

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**EXPLANATORY NOTE**

Electronic cigarettes (e-cigarette) or similar devices such as electric vaping devices, personal vaporizers, and electronic nicotine delivery systems have become very popular recently. They are primarily marketed as "healthier" substitutes for cigarettes or other tobacco products. E-cigarettes use a heating element that vaporizes a liquid solution commonly known as e-juice, which usually is a mixture of propylene glycol, vegetable glycerine, polyethylene glycol 400, flavorings, and a variable concentration of nicotine. Although there are attestations to the efficacy of e-cigarettes in making smokers stop or minimize their use of or addiction to tobacco products, said apparatuses remain a concern to health experts. The effects of inhaling pure nicotine have yet to be shown or supported by scientific studies.

This gives rise to the concern of lack of regulation over e-cigarettes and similar devices. E-cigarettes are not regulated in the same manner as tobacco products because they do not contain tobacco – thus falling outside the ambit of the Tobacco Regulation Act. Thus, these devices are accessible to anyone who wishes to use them including minors.

Despite the exercise of discretion and utmost care by retailers in the sale of e-cigarettes and similar devices to minors, there are no clear and defined regulations imposing penalties for the commission of such sales or the gearing of advertisements or product packaging towards the sale to minors. The lack of regulation compounded by product accessibility, popularity, and attractive design make such devices appealing to young adults, teenagers, and minors thereby encouraging their experimentation with or outright use of the same.

This bill seeks to regulate the sale of electric cigarettes and similar devices such as electronic vaping devices, personal vaporizers (PVs), or electronic nicotine delivery systems (ENDS) are electronic inhaler devices.

Considering the foregoing reasons, the passage of this bill is earnestly requested.

  
**ALETA C. SUAREZ**  
Representative  
3rd District, Quezon Province

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**AN ACT**  
**REGULATING THE SALE AND DISTRIBUTION OF ELECTRONIC CIGARETTES**

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

**SECTION 1. *Short Title.***—This Act shall be known and cited as the “E-Cigarette Regulation Act of 2014.”

**SEC. 2. *Declaration of Policy.***—It is the policy of the State to protect the people from hazardous products and promote the right to health and instill health consciousness among the public.

**SEC. 3. *Electronic Cigarette.***— For purposes of this Act, “electronic cigarette (e-cigarette)” shall refer to electronic cigarettes, electronic vaping devices, personal vaporizers (PVs), or electronic nicotine delivery systems (ENDS), all of which are electronic inhaler devices that vaporize liquid nicotine into an aerosol mist and are meant to mimic and serve as a substitute for smoking tobacco.

**ACCESS RESTRICTIONS**

**SEC. 4. *Vending Machines, Self-Service Facilities.*** – Unless the vending machine has a mechanism for age verification, the sale or distribution of e-cigarettes to minors by means of a vending machine or any self-service facility or similar contraption or device is prohibited, except at point-of-sale establishments.

**SEC. 5. *Retailer Compliance with Respect to Self-Service Facilities.*** – All retailers shall ensure that all electronic cigarette-related self-service displays or facilities, advertising, labeling and other items that are located within their establishments are compliant with the requirements of this Act: *Provided*, That non-compliant items shall be removed from the establishment.

**SEC. 6. *Minimum Age Sales and Purchases.*** – The following acts shall be prohibited:

- a. The sale, distribution, or transfer of e-cigarettes by any person to minors;
- b. Purchasing or otherwise receiving, in exchange for consideration, e-cigarettes from a minor;
- c. The sale, purchase, and use of e-cigarettes by minors; and
- d. For a minor to use e-cigarettes, electronic vaping devices, PVs, or ENDSs.

It shall not be a defense for any person committing any of the prohibited acts herein that he did not know or was not aware of the real age of the minor.

**SEC. 7. *Sale of Electronic Cigarettes and Similar Products within School Perimeters.*** – The sale or distribution of e-cigarettes shall be prohibited within one hundred (100) meters from any perimeter point of a school, public playground, or such other facilities particularly frequented by and intended for minors.

**SEC. 8. *Signage.*** – Point-of-sale establishments offering, distributing, or selling e-cigarettes to consumers shall post the following statement in a clear and conspicuous manner: “SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF ELECTRONIC CIGARETTES IS UNLAWFUL” or “IT IS UNLAWFUL FOR ELECTRONIC CIGARETTES TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER 18 YEARS OF AGE.”

**SEC. 9. *Proof of Age Verification.*** – Retailers shall ascertain that no individual purchasing an e-cigarette is below eighteen (18) years of age. In case of doubt, retailers shall verify the age of the buyer through any valid identification card exhibiting the buyer’s photograph and age or date of birth.

## ADVERTISING AND PROMOTIONS

**SEC. 10. *Restrictions on Advertising.*** – The following restrictions shall apply to all e-cigarettes:

- a. Advertisements shall not be aimed at or particularly appeal to persons under eighteen (18) years of age.
- b. Advertisements shall not feature a celebrity or contain an endorsement, implied or express, from a celebrity.
- c. Advertisements shall not contain cartoon characters or subjects that depict humans or animals with comically exaggerated features or that attribute human or unnatural characteristics to animals, plants or other objects.
- d. Advertisements shall only depict persons who are or who appear to be above twenty-five (25) years of age.
- e. Advertisements shall not show, portray or depict scenes where the actual use of, act of using, or puffing of e-cigarettes.

**SEC. 11. *Restrictions on Print Media Advertising.*** – The following restrictions shall apply to all print media e-cigarettes and similar devices advertisements:

- a. Advertisements shall not be placed in any printed publication unless there is reasonable basis to believe that at least seventy five percent (75%) of the readers of such publication are eighteen (18) years of age and above, and the number of youth who read it constitutes less than ten percent (10%) of all youth in the Philippines.
- b. Advertisements shall not be placed on the packaging or outside covers, whether front or back, of a magazine, newspaper, journal, or other publication printed for general circulation.

**SEC. 12. *Restrictions on Outdoor Advertising.*** – The following restrictions shall apply to all outdoor advertisements of e-cigarettes:

- a. Outdoor advertisements shall not be placed on billboards, wall murals, or transport stops or stations which are within one hundred (100) meters from any perimeter point of school, public playground or other facility frequented particularly by persons below eighteen (18) years of age.
- b. Outdoor advertisements shall not, either individually or when placed in deliberate combination with other outdoor e-cigarette advertisements, exceed seventy (70) square meters in total size.
- c. Outdoor advertisements shall not be placed on taxis, buses, trains, or other public conveyance; neither shall the same be placed in stations, terminals, or platforms of such modes of transportation, except point-of-sale establishments.

**SEC. 13. *Restrictions on Advertising in Cinemas.*** – Advertisements for e-cigarettes are prohibited in connection with the showing of any film where persons below eighteen (18) years of age are permitted admission.

**SEC. 14. *Restrictions on Television and Radio Advertising.*** – Advertisements shall not be broadcast on television and radio between seven o'clock in the morning and nine o'clock at night.

**SEC. 15. *Restrictions on Advertising in Audio, Video, and Computer Cassettes/Discs and Similar Medium.*** – No electronic advertisements shall be incorporated within any video or audio cassette, videogame machine, optical disc, or any similar medium, unless access to the item is restricted to persons eighteen (18) years of age or older. For the purpose of this Section, "video game" shall refer to any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or monitor that interacts with the user of the device.

**SEC. 16. *Restrictions on Advertising on the Internet and Similar Medium.*** – Advertisements are prohibited on the Internet and other similar media, unless the site is restricted to persons eighteen (18) years of age or older. A site will be deemed restricted if a person cannot obtain access beyond the first page of the website without first establishing that he or she is at least eighteen (18) years old. This limitation applies to commercial communications and shall not prevent the use of company Internet websites to provide information regarding a company, its products and smoking and health related information. This Section shall not prohibit business-to-business transactions conducted on the Internet and other similar medium between e-cigarettes, electronic vaping devices, PVs, or ENDSs manufacturers, retailers, and distributors.

**SEC. 17. *Ban on Advertisements.*** – Beginning 1 January 2014, all e-cigarette advertising on television, cable television, radio, and other forms of mass media shall be prohibited. Beginning 1 July 2014, all cinema and outdoor advertising shall be prohibited. No leaflets, posters and similar outdoor advertising materials may be posted, except inside the premises of point-of-sale retail establishments.

**SEC. 18. *Restrictions on the Promotions of E-Cigarettes.*** – The following restrictions shall apply on promotions of e-cigarettes:

a. Promotions must be directed only to persons at least eighteen (18) years old. No person below eighteen (18) years old or who appear to be below eighteen (18) years old may participate in such promotions. The participants in promotions must be required to provide proof of age.

- b. Communications to consumers about promotions of e-cigarettes shall comply with the provisions of this Act governing advertisements. In addition to the required health warning, the age requirement for participation in any promotion must be clearly marked on program materials distributed to consumers.
- c. All stalls, booths and other displays concerning promotions of e-cigarettes must be limited to point-of sale locations or adult-only facilities.
- d. Telephone communications concerning promotional offers, programs, or events must include a recorded health warning message in English or Filipino consistent with the warnings specified in this Act.
- e. No placement shall be made by any manufacturer, distributor, or retailer of any e-cigarette or product package or advertisement as a prop in any television program or motion picture produced for viewing by the general public or in a video, optical disc or on a video game machine.
- f. The name, logo, or other indicia of an e-cigarette brand may appear on related items. If such name, logo, or other indicia of an e-cigarette brand is larger than fifty (50) square centimeters, the item must carry a health warning consistent with the warnings specified in this Act.
- g. No merchandise such as, but not limited to, T-shirts, caps, sweatshirts, visors, backpacks, sunglasses, writing implements and umbrellas, may be distributed, sold or offered, directly or indirectly, with the name, logo or other indicia of an e-cigarette brand displayed so as to be visible to others when worn or used. Clothing items must be in adult sizes only.
- h. No name, logo, or other indicia of an e-cigarette brand or element of a brand- related marketing activity, may appear on items that are marketed to or likely to be used by minors such as, but not limited to, sports equipment, toys, dolls, miniature replicas of racing vehicles, video games, and food. The manufacturer or company must take all available measures to prevent third parties from using the company's brand names, logos, or other proprietary material on products that are directed toward minors.
- i. No advertisements on e-cigarettes may be placed on shopping bags.

**SEC. 18. *Naming Rights.*** – Subject to the provisions of this Act:

- a. No manufacturer may enter into any agreement pursuant to which payment is made or other consideration is provided by such manufacturer to any sports league, or any team involved in any such league, in exchange for use of any brand of e-cigarette.
- b. No manufacturer may enter into any agreement for the naming rights of any stadium or arena using an e-cigarette product brand name or otherwise cause a stadium or arena to be named with such a brand name.

**SEC. 19. *Restrictions on Sponsorships.* –**

a. No sponsorship shall be provided for:

- 1) an event or activity which bears a brand name of an e-cigarette, unless there is reasonable basis to believe that all persons who compete, or otherwise take an active part, in the sponsored events or activities are persons eighteen (18) years of age or older;
- 2) a team or an individual bearing a product name of an e-cigarette, unless all persons sponsored are eighteen (18) years of age or older; or
- 3) a sponsored event or activity reasonably believed to be of particular appeal to persons under eighteen (18) years old.

b. E-Cigarette brand sponsorships shall be prohibited except where there is a reasonable basis to believe that:

- 1) attendance at the sponsored event or activity will comprise no less than seventy-five-percent (75%) of persons at least eighteen (18) years old;
- 2) the sponsored event or activity will not be of particular appeal to persons under eighteen (18) years old;
- 3) the sponsored event or activity will not receive exposure, other than as a news item, on television or radio or the Internet, unless such exposure complies with the provisions of this Act governing marketing of e-cigarettes through those media; and
- 4) the principal activity associated with the sponsorship does not require above-average physical fitness for someone of the age group of those taking part.

c. All persons authorized to bear product advertisements for e-cigarettes, logos or brand names at sponsored events shall be at least eighteen (18) years old.

d. All forms of advertising associated with or ancillary to sponsorship shall comply with the marketing provisions of this Act.

**SEC. 20. *Restrictions on Sponsorships.* –** Beginning 1 July 2014, e-cigarette companies are hereby prohibited from sponsoring any sport, concert, cultural or art event, as well as individual and team athletes, artists or performers where such sponsorship shall require or involve the advertisement or promotion of any e-cigarette product or use, name, logo or trademarks and other words, symbols, designs, colors or other depictions commonly associated with or likely to identify an e-cigarette product: Provided, That the attribution only to the name of the company in the roster of sponsors shall be allowed: Provided further, That no manufacturer may register an e-cigarette brand name as a company name after the passage of this Act.

**SEC. 21. *Restrictions on Sampling.*** – The distribution of samples of e-cigarette products to persons below eighteen (18) years old is prohibited.

**SEC. 22. *Legal Actions.*** – Any legal action in connection with the industry shall be governed by the provisions of the Philippine Civil Code and other applicable laws.

## **IMPLEMENTING AGENCY AND APPLICATION**

**SEC. 22. *Implementing Agency.*** – An Inter-Agency Committee (IAC), which shall have the exclusive power and function to administer and implement the provisions of this Act, is hereby created. The IAC shall be chaired by the Secretary of the Department of Trade and Industry (DTI) with the Secretary of the Department of Health as Vice-Chairperson. The IAC shall have the following as members:

- a. Secretary of the Department of Justice (DOJ);
- b. Secretary of the Department of Finance (DOF);
- c. Secretary of the Department of Science and Technology (DOST);
- d. Secretary of the Department of Education (DepEd);
- e. A Representative from the industry to be nominated by the legitimate and recognized associations of the industry;
- f. A representative from a Non-Government Organization (NGO) involved in public health promotion nominated by DOH in consultation with the concerned NGOs;

The Department Secretaries may designate their Undersecretaries as their authorized representatives to the IAC.

**SEC. 23. *Application to E-Cigarette, Electronic Vaping Device, PV, or ENDS Products.*** – The provisions of this Act shall apply to all e-cigarette products placed into commerce in the Philippines. Except as provided below, no provision of this Act shall apply to e-cigarette products intended or offered by the manufacturer for export and not for sale in the Philippines.

E-cigarette products intended or offered for export shall be subject only to the requirement that the shipping container shall be prominently marked on the outside “Export Only:” *Provided,* That, e-cigarette products which are marked for export, but are sold, traded or distributed in the Philippine market, shall be subject to immediate confiscation and destruction.

**SEC. 24. *Compliance Monitoring*** - Not later than one (1) year after the date of the effectivity of this Act, and annually thereafter, the IAC shall submit to the President and to both Houses of Congress a Compliance Monitoring Report on the compliance of the manufacturers on

all applicable laws and ordinances with respect to the manufacture and distribution of e-cigarette products.

The report shall contain pertinent information on the methods, goals and implementation program of said manufacturers with respect to the requirements of this Act.

## **PENAL PROVISIONS**

**SEC. 25. *Penalties*** - The following penalties shall apply:

a. Violation of Sections 4 - 8. – On the first offense, any person or any business entity or establishment selling to, distributing or purchasing an e-cigarette product for a minor shall be fined the amount of not less than Five thousand pesos (PhP5,000.00) or shall be imprisoned for not more than thirty (30) days, upon the discretion of the court. For succeeding offenses, both penalties shall apply in addition to the revocation of business licenses or permits in the case of a business entity or establishment.

If the violation is committed by an establishment or business entity, the owner, president, manager, or most senior officers thereof shall be held liable for the offense.

If a minor is caught selling, buying or using an e-cigarette product, the provisions of Article 189 of Presidential Decree No. 603 otherwise known as The Child and Youth Welfare Code, as amended, shall apply.

b. Violation of Sections 10 to 19. - On the first offense, a fine of not more than One hundred thousand pesos (PhP100,000.00) or imprisonment of not more than one (1) year, or both, at the discretion of the court shall be imposed.

On the second offense, a fine of Two hundred thousand pesos (PhP200,000.00) or imprisonment of not more than two (2) years, or both, at the discretion of the court shall be imposed.

On the third offense, in addition to a fine of not more than Four hundred thousand pesos (PhP400,000.00) or imprisonment of not more than three (3) years, or both, at the discretion of the court, the business permits and licenses, in the case of a business entity or establishment, shall be revoked or cancelled.

In the case of a business entity or establishment, the owner, president, manager or officials thereof shall be liable.

If the guilty officer is an alien, he shall summarily be deported after serving his sentence, and shall be forever barred from re-entering the Philippines.

## INFORMATION PROGRAM

**SEC. 26. *Information Drive*** - Consistent with the provisions of this Act, the DOH shall, in cooperation with the DepEd and with the assistance of the Philippine Information Agency (PIA), undertake a continuous information program on the harmful effects of using e-cigarette products.

The DOH shall enlist the active participation of the public and private sectors in the national effort to educate people on the possible effects of using e-cigarette products.

**SEC. 27. *Appropriations***. — The amount necessary to implement the provisions of this Act shall be included in the general appropriations act of the year of its enactment.

**SEC. 28. *Rules and Regulations***. — The Department of Health, in coordination with the Department of Interior and Local Government, shall formulate the rules and regulations necessary to implement this Act.

**SEC. 29. *Repealing Clause***. — All laws, decrees, executive orders, issuances, rules and regulations, or parts thereof not consistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 30. *Effectivity Clause***. — This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

**Approved,**