



Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City



**SIXTEENTH CONGRESS**

Second Regular Session

House Bill No. **5013**

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Introduced by **HON. ELEANDRO JESUS F. MADRONA**

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**EXPLANATORY NOTE**

The passage of Republic Act 10351 or the Excise Tax Reform Law in 2012 enabled the government to achieve some gains in additional revenues. However, it has created copious questions and issues with regard to tax collections as well as tax evasion and it has failed to considerably reduce smoking incidence.

Considering that this law was enacted on the premise that higher excise taxes would also bring better tax collections and would make smoking less affordable for smokers, particularly the youth, additional solutions need to be brought to bear so the country can address these unintended consequences with a view to benefit the general public.

In a survey commissioned by the Department of Health (DOH), the Social Weather Stations (SWS) reported that while there was a reduction in cigarette consumption in some socio-economic classes and age groups, the overall smoking incidence had not significantly decreased since R.A. 10351 came into effect. This means that there are still 20 million smokers today in the Philippines, the same number of smokers as in 2011, prior to the tax increase.

Based on the same SWS survey, 45 percent of smokers merely switched to cheaper brands when tax increased. Undoubtedly, this is due to the proliferation of super cheap or discount brands in the market. When a cigarette pack or stick is sold very cheap, smokers including the youth, have easy access to affordable cigarettes resulting in the lack of change in overall smoking incidence.

Under the new tax structure, any cigarette manufacturer that sells products below the tax it pays to the government is not operating in the spirit of achieving one of the intentions of RA 10351, which is to reduce the overall smoking incidence especially among the youth. Any cigarette manufacturer that sells products at cheap prices by avoiding paying tax is doing so against the laws of the country and is simply producing and selling products at more affordable prices to smokers, including the youth. This is also contrary to the spirit and objective of RA 10351.

While the newly-enacted Graphic Health Warning Law or Republic Act 10643 aims to further discourage youth smoking by attaching scary pictures on cigarette packs, it needs to be complemented with some form of price discipline.

This is because a young smoker needs to buy or have a face-to-face encounter with a graphic-laden cigarette pack before the desired impact of the law is achieved.

Meanwhile, the mere recitation of the minimum cigarette price would be enough for a young smoker to reconsider and realize that buying cheap is no longer a pocket-friendly option.

This bill also aims to bring to life the following provisions of the 1987 Constitution which states that: "*The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being (Section 13, Article II)*" and "*The State shall protect and promote the right to health of the people and instill health consciousness among them (Section 15, Article II)*."

Setting a **Minimum Cigarette Price (MCP)** per pack of cigarettes will decisively deny youth access to cheap affordable cigarettes and support the beneficial health impact of the excise tax reform law by delivering the following:

- 1) Tobacco players who resort to tax evasion will no longer be able to sell their products at cheap affordable prices;
- 2) There will be no more price discounting or offers of cheap affordable cigarettes below MCP;
- 3) Increased revenue for government through higher tax and VAT collection; and
- 4) Robust enforcement of significant financial penalties and imprisonment for repeat offenders.

The Department of Trade and Industry (DTI), in coordination with the Bureau of Internal Revenue (BIR), shall implement this initiative.

In view of the foregoing, the passage of this bill is earnestly requested.



**ELEANDRO JESUS F. MADRONA**



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**"AN ACT TO PREVENT YOUTH ACCESS TO TOBACCO BY MANDATING A  
MINIMUM CIGARETTE PRICE"**

*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 as "*The Minimum Cigarette  
Price Law.*"

SEC. 2. **Declaration of Principles.**— The State shall protect and promote the  
right to health of the people and instill health consciousness among them. The State  
also recognizes the vital role of the youth in nation-building and shall promote and  
protect their physical, moral, spiritual, intellectual, and social well-being.

SEC. 3. **Purpose.** - The objectives of this Act are:

- a) To impose a Minimum Cigarette Price (MCP) per pack on cigarettes in order  
to prevent access of smokers, particularly the youth, to cheap cigarettes;
- b) To address tax evasion of tobacco companies selling cigarettes at cheap  
prices;
- c) To prevent discounting and price offers below the MCP; and
- d) To bring in fresh revenues for government as tax evasion is averted and  
value added tax (VAT) collection will increase with a corresponding increase  
in the prices of cigarettes.

SEC. 4. **Coverage.**— This Act shall apply to all locally-manufactured and  
imported cigarettes intended for sale in the Philippines.

SEC. 5. **Definition of Terms.** – As used in this Act:

- a) **“Cigarette”** refers to any roll or tubular construction, which contains tobacco or its derivatives and is intended to be burned or heated under ordinary conditions of use;
- b) **“Minimum Cigarette Price” (“MCP”)** means the floor price of cigarettes per pack sold by manufacturers, importers and retailers to consumers. When cigarettes are sold per stick, the aggregate price of the individual sticks in a pack should not be less than the MCP per pack. The MCP shall apply to cigarettes packed by machine in twenties (20s);
- c) **“Operating Cost”** refers to non-production cost such as marketing, distribution, selling and other operating related expenses; and
- d) **“Production Cost”** means the basic cost incurred in producing a pack of cigarettes, including among others, all other costs associated with cigarette manufacturing such as tax stamps, warehousing costs, freight, transportation, security, insurance and other production-related expenses.

SEC. 6. **Minimum Cigarette Price.**— Within thirty (30) days after the effectivity of this Act, the Department of Trade and Industry (DTI) and the Bureau of Internal Revenue (BIR) shall issue a price memorandum or advisory specifying the MCP on a pack basis, as follows:

Effective on January 1, 2015, Thirty-eight pesos (Php38.00) per pack;

Effective on January 1, 2016, Forty-four pesos (Php44.00) per pack; and

Effective on January 1, 2017, Fifty-one pesos (Php51.00) per pack.

Thereafter, consistent with the increase in excise taxes under Republic Act No. 10351, the MCP shall likewise be increased annually by four percent (4%) effective January 1, 2018, through a similar price memorandum or advisory issued by the aforementioned agencies.

In the computation of the MCP, the following components were taken into consideration: excise tax, VAT, production cost, operating cost and annual inflation.

SEC. 7. **Selling Below MCP.**— It shall be unlawful for any manufacturer, importer or retailer to sell cigarettes less than the MCP. When cigarettes are sold per stick, the aggregate price of the individual sticks in a pack should not be less than the MCP per pack.

SEC. 8. ***Prohibition on Price Promotions Related to MCP.*** - No manufacturer, importer or retailer shall engage in price promotion that would undermine the purpose of this Act.

SEC. 9. ***Implementing Agencies.*** - The DTI, in coordination with the BIR, shall implement the provisions of this Act and shall be vested with the following powers and functions:

- a) Promulgate and publish within three (3) months from the effectivity of this Act the necessary implementing rules and regulations;
- b) Cause the immediate dissemination of the MCP, including liabilities such as fines and penalties in case of violation, through publication in a newspaper of general circulation or other means of communication deemed effective to convey the information to the public, such as radio, television and other mass media;
- c) Deputize law enforcement agencies such as the Philippine National Police, National Bureau of Investigation and the Bureau of Customs as well as local government units to effectively implement this Act;
- d) Without prejudice to the power to issue temporary closure or temporary restraining order for a period which shall not be more than ten (10) days, the aforesaid implementing agencies may, after due notice and hearing, issue cease and desist orders, reprimand, censure, suspend, revoke or cancel any permit, license, authority or registration or order the permanent closure of any establishment violating the provisions of this Act; and
- e) Require tobacco manufacturers and importers to submit quarterly sworn declarations of their selling prices or as frequently as may be required under the implementing rules and regulations.

SEC. 10. ***Liability of Manufacturers, Importers and Retailers.***— Tobacco manufacturers, importers and retailers shall be directly liable for violations of Sections 6, 7 and 8 of this Act. In the case of a business entity or establishment, the owner, president, manager and the corporate officials thereof shall be directly responsible and shall be made accountable.

SEC. 11. ***Penalties for Non Compliance.***— Imprisonment for a period of not less than six (6) months nor more than five (5) years and a fine ranging from Fifty Thousand Pesos (Php50,000.00) up to Two Million Pesos (Php2,000,000.00) depending on the quantity of cigarettes, shall be imposed upon any manufacturer, importer or retailer who sells any cigarettes less than the MCP, or who violates any

provision of this Act or any order, rule or regulation issued pursuant to this Act. In case of a business entity or establishment, both penalties shall apply in addition to the suspension or revocation of business licenses or permits.

Whenever any of the offenses described above is committed by a corporation or association, the president and each of the directors or managers of said corporation or association, or its agent or representative in the Philippines in case of a foreign corporation or association who shall have knowingly permitted or failed to prevent the commission of such offenses, shall be held liable as principals thereof.

SEC. 12. **Separability Clause.**— If any provision or part of this Act is declared invalid or unconstitutional, other provisions which are not affected thereby shall continue to be in full force or effect.

SEC. 13. **Repealing Clause.**— All laws, orders, rules and regulations, or parts thereof which are inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

SEC. 14. **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.

*Approved,*