

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5500



Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

AN ACT
AMENDING REPUBLIC ACT NO. 9211, OTHERWISE KNOWN AS "AN ACT
REGULATING THE PACKAGING, USE, SALE, DISTRIBUTION AND
ADVERTISEMENTS OF TOBACCO PRODUCTS, AND FOR OTHER PURPOSES"

EXPLANATORY NOTE

More than a decade since it was enacted into law, the effective implementation of the first comprehensive national legislation on tobacco control in the country largely remains a severe challenge to this day. It was observed that there were loopholes and gaps in the Tobacco Regulation Act of 2003 or Republic Act No. 9211 that urgently need to be addressed to fully realize the intent of this landmark piece of legislation. Majority of its provisions are poorly implemented by the enforcement agencies and institutions and most local government units.

One loophole that has been noted was in the definition of "public places" which is construed to mean only such places that are enclosed or confined. This definition under the law veers away from the World Health Organization's Guidelines on Protection from Exposure to Tobacco Smoke consistent with the WHO Framework Convention on Tobacco Control, which covers all places accessible to the general public.

Another loophole is in the provision on the prohibition of smoking in certain public places which does not make specific mention of public places such as parks and playgrounds, entertainment halls, concert grounds, convention centers, and sporting arenas where the general public, including children, pregnant women, and the elderly engage in different activities. Hence, this bill seeks to cover these places under the definition.

Another problem under the present law is the composition of the Inter-Agency Committee on Tobacco or the IAC-Tobacco which is headed by the Department of Trade and Industry instead of the Department of Health considering that the law is fundamentally a health law. Section 2 of RA 9211 primarily provides the State policy, "...to protect the populace from hazardous products and promote the right to health and instil health consciousness among them."

The bill removes a representative from the Tobacco Industry among the members of the IAC-Tobacco which is vested with the exclusive power and function to administer and implement the provisions of RA 9211 since that which is being regulated and monitored cannot and should never be part of the monitoring and regulating body.

Moreover, it seeks to prohibit smoking not only in public conveyances but in private conveyances as well where there are children, senior citizens and pregnant women. Lastly, the bill makes the posting of smoking and non-smoking signages part of the requirements for the issuance and/or renewal of business permits and/or permits to operate for various establishments and facilities.

In view of promoting the right to health of the general public and instilling health consciousness among them, approval of this significant measure is earnestly requested.


ANGELINA "HELEN" D.L. TAN, M.D.
4th District, Quezon

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

SECTION. 1. Section 4 of Republic Act No. 9211 is hereby amended to read as follows:

"Section 4. Definition of Terms. - As used in this Act:

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n. "Public Places" - refer to [enclosed or confined] areas of all hospitals, medical clinics, schools, public transportation terminals and offices, and buildings such as private and public offices, recreational places, shopping malls, movie houses, hotels, restaurants, and the like OR ALL PLACES ACCESSIBLE TO THE GENERAL PUBLIC OR PLACES FOR COLLECTIVE USE;

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SEC. 2. Section 5 of Republic Act No. 9211 is hereby amended to read as follows:

"Section 5. *Smoking Ban in Public Places*. - Smoking shall be absolutely prohibited in the following public places:

a. Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for persons under eighteen (18) years old, LIKE PLAYGROUNDS AND PARKS, AMONG OTHERS;

b. Elevators and stairwells, HIGHWAYS, STREETS, COVERED WALKS OR PATHWAYS, PEDESTRIAN UNDERPASS AND OVERPASS OR FOOTBRIDGES, WAITING SHEDS, AND SIDEWALKS;

c. Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;

d. Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories;

e. Public conveyances and public facilities including airport and ship terminals, and train and bus stations, restaurants and conference halls, except for separate smoking areas; and

f. Food preparation areas.”

SEC. 2. Section 6 of Republic Act No. 9211 is hereby amended to read as follows:

“SECTION 6. Designated Smoking and Non-smoking Areas. - In all [enclosed] places that are open to the general public, GOVERNMENT AND private workplaces, ENTERTAINMENT HALLS, CONCERT GROUNDS, CONVENTION CENTERS, SPORTING VENUES AND COMPLEXES, PUBLIC TRANSPORT TERMINALS, TAXI STANDS, and other places not covered under the preceding section, where smoking may expose a person other than the smoker to tobacco smoke, the owner, proprietor, operator, possessor, manager or administrator of such places shall establish smoking and non-smoking areas. Such areas may include a designated smoking area within the building, which may be in an open space or separate area with proper ventilation, but shall not be located within the same room that has been designated as a non-smoking area, PROVIDED, THAT IN ALL SCHOOL-RELATED ACTIVITIES, WHETHER WITHIN OR OUTSIDE THE SCHOOL PREMISES AND WHETHER HELD INDOORS OR OUTDOORS, SMOKING SHALL BE ABSOLUTELY PROHIBITED.

All designated smoking areas shall have at least one (1) legible and visible sign posted, namely “SMOKING AREA” for the information and guidance of all concerned. In addition, the sign or notice posted shall include a warning about the health effects of direct or secondhand exposure to tobacco smoke. Non-Smoking areas shall likewise have at least one (1) legible and visible sign, namely: “NON-SMOKING AREA” or “NO SMOKING.”

THESE SMOKING AND NON-SMOKING SIGNAGES SHOULD BE MADE PART OF THE REQUIREMENTS FOR THE ISSUANCE AND/OR RENEWAL OF THE BUSINESS PERMITS AND/OR PERMITS TO OPERATE OF ESTABLISHMENTS, HEALTH FACILITIES OR SCHOOLS AND THE FAILURE TO COMPLY THEREWITH IS A GROUND FOR THE DENIAL OR REVOCATION OF SUCH PERMITS.

SEC. 3. A new Section 6-A of Republic Act No. 9211 is hereby appended to read as follows:

“Section 6-A. Smoking in Private Conveyances. – Smoking is absolutely prohibited in private conveyances where there are minors, senior citizens and pregnant women. Private conveyance shall refer to any vehicle that is not considered a public conveyance as defined in Section 4 (m) herein.”

SEC. 4. Section 29 of Republic Act No. 9211 is hereby amended to read as follows:

"SECTION 29. Implementing Agency. - An Inter-Agency Committee—Tobacco (IAC-Tobacco), which shall have the exclusive power and function to administer and implement the provisions of this Act, is hereby created. The IAC-Tobacco shall be chaired by the Secretary of the Department of HEALTH (DOH) [Trade and Industry (DTI)] with the Secretary of the Department of TRADE AND INDUSTRY (DTI) [Health (DOH)] as Vice Chairperson. The IAC-Tobacco shall have the following as members:

- a. Secretary of the Department of Agriculture (DA);
- b. Secretary of the Department of Justice (DOJ);
- c. Secretary of the Department of Finance (DOF);
- d. Secretary of the Department of Environment and Natural Resources (DENR);
- e. Secretary of the Department of Science and Technology (DOST);
- f. Secretary of the Department of Education (DepEd);
- g. Administrator of the National Tobacco Administration (NTA); AND

h. A representative from a nongovernment 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. 5. Section 32 of Republic Act No. 9211 is hereby amended to read as follows:

"SECTION 32. Penalties. - The following penalties shall apply:

a. Violation of Sections 5 [and] 6 AND 6-A. - On the first offense, a fine of not less than TWO THOUSAND [Five hundred] pesos (PHP2,000.00) [(Php500.00)] but not more than THREE [One] thousand pesos (PHP3,000.00) [(Php1,000.00)] shall be imposed.

On the second offense, a fine of not less than THREE [One] thousand pesos (PHP3,000.00) [(Php1,000.00)] but not more than Five thousand pesos (Php5,000.00) shall be imposed.

On the third offense, in addition to a fine of [not less than] TEN [Five] thousand pesos (PHP10,000) [(Php5,000.00)] but not more than Ten thousand pesos (Php10,000.00), the business permits and licenses to operate shall be cancelled or revoked.

SEC. 6. If any part hereof, is held invalid or unconstitutional, the remainder of the provision not otherwise affected shall remain valid and subsisting.

SEC. 7. Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC. 8. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,