

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

SIXTEENTH CONGRESS  
Second Regular Session

HOUSE BILL NO. **5589**



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Introduced by Representative LEAH S. PAQUIZ of ANG NARS Party - List

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#### EXPLANATORY NOTE

The Philippines has a solemn obligation to protect and promote the right to health, which is intimately linked with the self-preservation and self-perpetuation of the Filipino people. Article II, Section 15 of the 1987 Philippine Constitution mandates that the State *"shall protect and promote the right to health of the people and instill health consciousness among them."*

In the Philippines, at least eighty seven thousand six hundred (87,600) Filipinos die every year from tobacco-related diseases, or approximately two hundred forty (240) deaths every day.<sup>1</sup> In 2009, the Philippines was found to have one of the highest smoking populations in the world, ranking 9<sup>th</sup> for males and 16<sup>th</sup> for females.<sup>2</sup> These figures underscore the urgent need to adopt and implement more effective measures to curb tobacco consumption.

Certain policies has been issued, both local and international, and yet the mortality incidence due to smoking and smoking related illness remains pervasive. In 2003, Republic Act (RA) No. 9211 or the *Tobacco Regulation Act of 2003*, the first comprehensive law on tobacco control in the Philippines has been enacted with the following main purpose: (a) smoke-free environments, (b) access restrictions for minors, (c) health warnings, and (d) ban on tobacco advertising, promotions, and sponsorships.

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<sup>1</sup> Department of Health National Tobacco Control Coordinating Office, data available at <<http://www.beat-tobacco.ph/national-tobacco-control-strategy/introduction/>> Last accessed on 14 January 2014; see also Quimbo SLA, Casoria AA, Miguel-Baquilod M, Medalla FM, Xu X, Chaloupka FJ. (2012), *The Economics of Tobacco and Tobacco Taxation in the Philippines*, Paris: International Union Against Tuberculosis and Lung Disease.

<sup>2</sup> American Cancer Society (2009); *The Tobacco Atlas*, 3rd ed., 23-25.

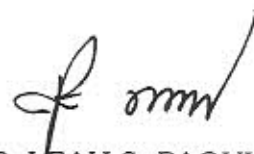
To achieve the foregoing purposes, RA 9211 created the Inter-Agency Committee-Tobacco ("IAC-Tobacco") to implement the tobacco regulation act. The composition of IAC-Tobacco includes "representative from the Tobacco Industry to be nominated by the legitimate and recognized associations of the industry" shall be among the members of the IAC-Tobacco

Later on in 2005, the Philippines ratified the *World Health Organization Framework Convention on Tobacco Control* ("WHO FCTC"), the world's first public health treaty which aims to address the global tobacco epidemic and provide protection to the world's population against the health hazards of tobacco use and tobacco smoke. Corollary, the Philippines has an international obligation to uphold the principles therein. On protection against tobacco industry interference, Article 5.3 of the WHO FCTC mandates that:

"[i]n setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law."

Categorically, inconsistencies between RA 9112 and WHO FCTC insofar as the non-interference of tobacco industry vis-à-vis presence of tobacco industry in the tobacco regulation, implementation, and monitoring exists due primarily to the period of time of its enactment (2003 for RA 9112) and ratification (2005 for WHO FCTC) and tobacco industry's interests vis-a-vis public health policy interests.<sup>3</sup>

Given the foregoing, there exist an urgent need to harmonize the two conflicting policies in order to serve the best interest of Filipinos to their right to health.



REP. LEAH S. PAQUIZ  
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<sup>3</sup> Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control ("**FCTC Guidelines**"), Conference of the Parties, Decision WHO FCTC/COP2(14), available at <[http://www.who.int/WHO\\_FCTC/guidelines/adopted/guidel\\_2011/en/](http://www.who.int/WHO_FCTC/guidelines/adopted/guidel_2011/en/)>.



1 (V) "TOBACCO INDUSTRY" - REFERS TO ORGANIZATIONS,  
2 ENTITIES, ASSOCIATIONS, AND INDIVIDUALS THAT WORK FOR AND  
3 IN BEHALF OF THE TOBACCO INDUSTRY, SUCH AS BUT NOT  
4 LIMITED TO TOBACCO MANUFACTURERS, WHOLESALE  
5 DISTRIBUTORS, IMPORTERS OF TOBACCO PRODUCTS, TOBACCO  
6 RETAILERS, FRONT GROUPS AND/OR ORGANIZATIONS, INCLUDING  
7 BUT NOT LIMITED TO LAWYERS, SCIENTISTS AND LOBBYISTS WHO  
8 WORK TO FURTHER THE INTERESTS OF THE TOBACCO INDUSTRY;  
9 AND

10  
11 (W) "UNECESSARY INTERACTIONS" - REFERS TO ALL  
12 INTERACTIONS WITH THE TOBACCO INDUSTRY THAT IS NOT  
13 STRICTLY NECESSARY FOR THE LATTER'S EFFECTIVE  
14 REGULATION, SUPERVISION AND CONTROL."

15  
16 SECTION 3. Section 29 of Republic Act 9211 is hereby amended to read as follows:

17  
18 "SECTION 29. Implementing Agency. — An Inter-Agency  
19 Committee—Tobacco CONTROL (IAC-Tobacco CONTROL), which shall  
20 have the exclusive power and function to administer and implement the  
21 provisions of this Act, is hereby created. The IAC-Tobacco CONTROL shall  
22 be chaired by the Secretary of the [Department of Trade and Industry (DTI)]  
23 DEPARTMENT OF HEALTH (DOH) with the Secretary of the [Department  
24 of Health (DOH)] DEPARTMENT OF EDUCATION (DepEd) as Vice  
25 Chairperson. The IAC-Tobacco CONTROL shall have the following as  
26 members:

- 27 a. Secretary of the Department of Agriculture (DA);  
28 b. Secretary of the Department of Justice (DOJ);  
29 c. Secretary of the Department of Finance (DOF);  
30 d. Secretary of the Department of Environment and Natural Resources  
31 (DENR);  
32 e. Secretary of the Department of Science and Technology (DOST);  
33 f. Secretary of the [Department of Education (DepEd)]  
34 DEPARTMENT OF TRADE AND INDUSTRY (DTI); AND  
35 [g. Administrator of the national Tobacco Administration (NTA);]  
36 [h. A representative from the Tobacco Industry to be nominated by  
37 the legitimate and recognized associations of the industry; and]  
38 [i.] G. AT LEAST THREE (3) representatives from [a] nongovernment  
39 organizations (NGOS) involved in public health promotion, WITHOUT  
40 ECONOMIC TIES TO THE TOBACCO INDUSTRY, OR DO NOT  
41 KNOWINGLY REPRESENT OR RECEIVE PAYMENT FROM ANY  
42 TOBACCO PRODUCT MANUFACTURER OR WHOLESALER, OR ANY  
43 PARENT, AFFILIATE OR SUBSIDIARY OF A TOBACCO PRODUCT  
44 MANUFACTURER OR WHOLESALER, OR ANY PERSON, INTEREST

1 GROUP, ADVOCACY ORGANIZATION, LAW FIRM, ADVERTISING  
2 AGENCY, OR OTHER BUSINESS OR ORGANIZATION THAT  
3 REPRESENTS THE INTERESTS OF THE TOBACCO INDUSTRY,  
4 nominated by DOH in consultation with the concerned NGOs.  
5

6 THE DEPARTMENT SECRETARIES SHALL DESIGNATE THEIR  
7 RESPECTIVE AUTHORIZED PERMANENT REPRESENTATIVE TO THE  
8 IAC-TOBACCO CONTROL; PROVIDED, SAID PERMANENT  
9 REPRESENTATIVE SHALL HAVE A RANK NOT LOWER THAN  
10 ASSISTANT SECRETARY.  
11

12 IN ORDER TO FACILITATE COORDINATION AMONG MEMBERS  
13 OF THE IAC-TOBACCO CONTROL, THE DEPARTMENT OF HEALTH  
14 AS THE LEAD AGENCY SHALL PROVIDE THE SECRETARIAT. THE  
15 SECRETARIAT SHALL ACT AS THE COORDINATING BODY OF THE  
16 IAC-TOBACCO CONTROL AND SHALL PROVIDE THE FOLLOWING  
17 FUNCTIONS SUCH AS, BUT NOT LIMITED TO, SETTING OF  
18 MEETINGS, MANAGING OF IMPORTANT LOGISTICS AND  
19 CIRCULATION OF INFORMATION AND DOCUMENTS AMONG  
20 MEMBERS.”  
21

22 SECTION 4. A new provision is hereby inserted into Republic Act 9211 as Article  
23 29-A to read as follows:  
24

25 “SECTION 29-A. PROTECTION OF THE IAC-TOBACCO  
26 CONTROL MEMBERS AND THEIR RESPECTIVE AGENCIES FROM  
27 TOBACCO INDUSTRY INTERFERENCE. - ALL MEMBERS OF THE IAC-  
28 TOBACCO CONTROL AND THEIR RESPECTIVE AGENCIES ARE  
29 PROHIBITED FROM INTERACTING WITH THE TOBACCO INDUSTRY,  
30 EXCEPT WHEN STRICTLY NECESSARY FOR ITS EFFECTIVE  
31 REGULATION, SUPERVISION AND CONTROL. ANY NECESSARY  
32 INTERACTION MUST BE CONDUCTED PUBLICLY AND  
33 TRANSPARENTLY, AND EFFORTS MUST BE TAKEN TO PREVENT OR  
34 CORRECT ANY PERCEPTION OF PARTNERSHIP WITH THE TOBACCO  
35 INDUSTRY.  
36

37 ALL MEMBERS OF THE IAC-TOBACCO CONTROL ARE  
38 STRICTLY PROHIBITED FROM ACCORDING PREFERENTIAL  
39 TREATMENT TO THE TOBACCO INDUSTRY; SOLICITING OR  
40 ACCEPTING ANY GIFT, GRATUITY, FAVOR, ENTERTAINMENT OR  
41 ANYTHING OF MONETARY VALUE FROM THE TOBACCO INDUSTRY;  
42 FAILING TO DISCLOSE, RETAINING, AND/OR ACQUIRING ANY  
43 FINANCIAL OR MATERIAL INTEREST IN, OR OTHER POTENTIAL  
44 SOURCE OF CONFLICT OF INTEREST WITH THE TOBACCO

1 INDUSTRY; AND ACCEPTING ANALOGOUS FAVORS FROM THE  
2 TOBACCO INDUSTRY.”  
3

4 SECTION 5. Section 31 of Republic Act 9211 is hereby amended to read as follows:  
5

6 “Section 31. *Compliance Monitoring* - Not later than one (1) year  
7 after the date of the effectivity of this Act, and annually thereafter, the IAC-  
8 Tobacco CONTROL shall submit to the President of the Philippines and to  
9 both Houses of Congress a Compliance Monitoring Report on the  
10 compliance of the manufacturers on all applicable laws and ordinances with  
11 respect to the manufacture and distribution of tobacco products.  
12

13 The report shall contain pertinent information on the methods, goals  
14 and implementation program of said manufacturers with respect to the  
15 requirements of this Act.  
16

17 A SEPARATE REPORT SHALL BE SUBMITTED BY THE  
18 MEMBERS OF THE IAC-TOBACCO CONTROL ENUMERATING THE  
19 MEASURES ESTABLISHED TO LIMIT UNECESSARY INTERACTIONS  
20 WITH THE TOBACCO INDUSTRY AND TO ENSURE THE  
21 TRANSPARENCY OF THOSE INTERACTIONS THAT OCCUR, AS WELL  
22 AS POLICIES IMPLEMENTED TO PROTECT THEIR AGENCIES FROM  
23 TOBACCO INDUSTRY INTERFERENCE.”  
24

25 SECTION 6. Section 32 of Republic Act 9211 is hereby amended to read as follows:  
26

27 A new provision is hereby inserted into Section 32 of Republic Act 9211 as Section  
28 32 subparagraph D , to read as follows

29 “Section 32. *Penalties* - The following penalties shall apply:  
30

31 x x x  
32

33 D. VIOLATION OF SECTION 29-A. - IF THE OFFENDER IS A  
34 PUBLIC OFFICIAL OR EMPLOYEE, HE OR SHE SHALL BE SUBJECT  
35 TO ADMINISTRATIVE DISCIPLINARY ACTION PURSUANT TO RULE  
36 XIV (DISCIPLINE) OF THE OMNIBUS RULES IMPLEMENTING BOOK V  
37 OF EO 292, AS MAY BE AMENDED, MODIFIED, CHANGED, ADDED  
38 TO, DELETED FROM, OR SUPERSEDED BY THE ENACTMENT OF  
39 ANY NEW LAW, WITHOUT PREJUDICE TO THE CRIMINAL AND/OR  
40 CIVIL ACTIONS UNDER EXISTING LAWS, RULES, AND  
41 REGULATIONS.  
42

43 SECTION 7. A new provision is hereby inserted into Republic Act 9211 as Article  
44 32-A to read as follows:

1  
2 "SECTION 32-A. CITIZEN SUITS. - FOR PURPOSES OF  
3 ENFORCING THE PROVISIONS OF THIS ACT OR ITS IMPLEMENTING  
4 RULES AND REGULATIONS, ANY CITIZEN MAY FILE AN  
5 APPROPRIATE CIVIL, CRIMINAL OR ADMINISTRATIVE ACTION IN  
6 THE PROPER COURTS OR ADMINISTRATIVE BODY AGAINST:  
7

8 (A) ANY PERSON WHO VIOLATES OR FAILS TO COMPLY WITH  
9 THE PROVISIONS OF THIS ACT AND ITS IMPLEMENTING RULES AND  
10 REGULATIONS; AND/OR  
11

12 (B) ANY PUBLIC OFFICER OR EMPLOYEE WHO WILLFULLY OR  
13 GROSSLY NEGLECTS THE PERFORMANCE OF AN ACT SPECIFICALLY  
14 ENJOINED AS A DUTY BY THIS ACT, ITS IMPLEMENTING RULES AND  
15 REGULATIONS; OR ABUSES HIS AUTHORITY IN THE PERFORMANCE  
16 OF HIS DUTY; OR, IN ANY MANNER, IMPROPERLY PERFORMS HIS  
17 DUTIES UNDER THIS ACT OR ITS IMPLEMENTING RULES AND  
18 REGULATIONS.  
19

20 THE ADMINISTRATIVE, CIVIL AND CRIMINAL ACTIONS  
21 ALLOWED UNDER THIS SECTION SHALL BE CUMULATIVE AND  
22 SHALL NOT PRECLUDE ANY OTHER PERSON FROM FILING A  
23 SIMILAR ACTION.  
24

25 THE COURT SHALL EXEMPT SUCH ACTION FROM THE  
26 PAYMENT OF FILING FEES AND STATEMENTS LIKEWISE, UPON  
27 PRIMA FACIE SHOWING OF THE NON-ENFORCEMENT OR  
28 VIOLATION COMPLAINED OF, EXEMPT THE PLAINTIFF FROM THE  
29 FILING OF AN INJUNCTION BOND FOR THE ISSUANCE OF  
30 PRELIMINARY INJUNCTION. IN THE EVENT THAT THE CITIZEN  
31 SHOULD PREVAIL, THE COURT SHALL AWARD REASONABLE  
32 ATTORNEY'S FEES, MORAL DAMAGES AND LITIGATION COSTS AS  
33 APPROPRIATE.  
34

35 SECTION 8. A new provision is hereby inserted into Republic Act 9211 as Article  
36 39-A to read as follows:  
37

38 "SECTION 39-A. COMPLIANCE WITH EXISTING  
39 INTERNATIONAL CONVENTIONS. - NOTHING IN THIS ACT SHALL  
40 MODIFY THE MEASURES ADOPTED TO GIVE EFFECT TO THE  
41 OBLIGATIONS OF THE PHILIPPINES UNDER INTERNATIONAL  
42 CONVENTIONS EXISTING AT THE TIME OF THE ENACTMENT OF  
43 THIS ACT."

1       SECTION 9. Repealing Clause. - All laws, decrees, presidential proclamations,  
2 executive orders, rules and regulations or parts thereof inconsistent herewith, are hereby  
3 repealed or modified accordingly.  
4

5       SECTION 10. Separability Clause. - If any provision of this Act is held invalid or  
6 declared unconstitutional, the other provisions which are not affected thereby shall remain  
7 valid and subsisting.  
8

9       SECTION 11. Effectivity. - This Act shall take effect fifteen (15) days after its  
10 complete publication in the Official Gazette or in two (2) newspapers of general circulation,  
11 whichever comes first.  
12

13       *Approved,*