

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th Congress
Second Regular Session

HOUSE BILL NO. **6462**



Introduced by: **HON. LORNA C. SILVERIO**

AN ACT
PROHIBITING THE SALE OF TOBACCO PRODUCTS AND OF OBJECTS IN THE FORM
OF CIGARETTES, CIGARS, TOBACCO AND SIMILAR TOBACCO PRODUCTS TO
MINORS AND FOR OTHER PURPOSES

EXPLANATORY NOTE

In 2007 Global Youth Tobacco Survey of the World Health Organization shows the rising prevalence of smoking among the youths in the Philippines, thus an almost forty percent (40%) increase in prevalence of smoking among school children thirteen (13) to fifteen (15) years old within the span of four (4) years. The World Health Organization has noted the health effects of smoking among youth people such as respiratory and non respiratory effects, addiction to nicotine, and the associated risk of other drug use. Smoking also hurts young people's physical fitness in terms of both performance and endurance, increases the risk of lung cancer and coronary heart disease. It is also associated with a host of other risky behaviors, such as fighting and engaging in unprotected sex.

The 1987 Constitution mandates the State to defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development (Art.XV, Sec.3, 1987 Constitution).

In this light, in 2003, Republic Act No. 9211, otherwise known as Tobacco Regulation Act of 2003 was enacted, providing regulation on tobacco control and prohibiting the sale of tobacco to minors. Subsequently, however, on September 4, 2005, the Philippine Senate ratified the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) where it enjoins the State to adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sale of tobacco products to persons under the age set by domestic and national law or eighteen (18). Such measures may include, among others, prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors (Art.16 (1c)), and the sale of cigarettes individually or in small packets which increase the affordability of such products to minors (Art.16(2)). These measures identified under WHO FCTC, however, are not presently under RA no. 9211. Meanwhile, cigarettes can still be bought individually or in small packets at sari-sari stores or other point of sale by children of parents and older siblings who smoke.

Inasmuch as the formation of the smoking habit usually begins at an early age aided by the easy access to cigarette, cigars, tobacco and similar tobacco products, as well as the presence of influences such as sales of sweets, snacks and toys in the form of tobacco products, there is need to fill the gap in R.A. No. 9211 in order to make it consistent with the WHO FCTC.

In view of the foregoing, approval of this bill is earnestly sought.

LORNA C. SILVERIO

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HOUSE BILL NO. 6462

Introduced by: HON. LORNA C. SILVERIO

**AN ACT PROHIBITING THE SALE OF TOBACCO PRODUCTS AND OF OBJECTS IN
THE FORM OF CIGARETTES, CIGARS, TOBACCO AND SIMILAR TOBACCO
PRODUCTS TO MINORS AND FOR OTHER PURPOSES**

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

SEC 1. Declaration of Policy.- It is the policy of the State to protect the children from hazardous products and promote the right to health and promote health awareness. It is also the policy of the State to safeguard the interests of children and the Constitutional ideal to promote the general welfare. For these purposes, the government shall regulate the sale, distribution, and promotion of tobacco products and their representations in all forms, in order to promote a healthy environment and protect the children from the harmful effects of tobacco products.

SEC 2. Definition of Terms - The following shall be defined as follows:

- A.) **Minors** refer to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination.
- B.) **Tobacco products** are products entirely or partly made of the tobacco leaf as primary material and manufactured to be used mainly for smoking.
- C.) **Point of sale** means any location at which an individual can purchase or otherwise obtain tobacco products or their representation or imitation;

SEC 3. Prohibitions.- The following acts by any person, natural or juridical are prohibited:

- A.) Sale of cigarettes individually or in full or small packets to minors which increase the affordability of such products, whether at point of sale or by means of vending machine or any self-service facility or similar contraption or device; and
- B.) Manufacture, sale, advertisement, promotion, and free distribution of sweets, snacks, toys, or any other objects in the form of tobacco products which appeal to minors.

SEC 4. Requirement of Photographic Identification – In case of doubt, the seller or distributor shall require the presentation of any valid form of photographic identification indicating the date of birth of the buyer to ensure that no individual purchasing a tobacco product is a minor.

It shall not be a defense for the person selling that he/she did not know or was aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the cigarette or any other tobacco product or product in the form of tobacco products was for the consumption of the minor to whom it was sold, given or distributed.

SEC 5. Signage - Point-of-Sale establishments offering, distributing, or selling tobacco products to consumers, shall post the following statement in a clear and conspicuous manner: "SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF TOBACCO PRODUCTS OR IN THE FORM OF TOBACCO PRODUCTS IS UNLAWFUL" or "IT IS LAWFUL FOR TOBACCO PRODUCTS OR THOSE IN THE FORM OF TOBACCO PRODUCTS TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER EIGHTEEN (18) YEARS OF AGE.

SEC 6. Penalties - Any violation of this Act shall be penalized with a fine of not more than Fifteen Thousand Pesos (Php 15,000.00) or imprisonment of not less than one (1) year but not more than three years, or both, at the discretion of the court. In addition to such penalty, any establishment, business or otherwise, found guilty shall have its Business Permit suspended for a period of not less than one (1) year but not more than two (2) years.

The penalty provided shall be imposed upon the proprietor for individual proprietorships, upon all partners for partnerships and the general partner/s for limited partnerships, the branch manager of the particular branch or the manager and the chief operating officer for incorporated businesses; and all such persons not falling within any of the descriptions/titles above-mentioned, being in-charge of the particular prohibited tobacco products or their representation or imitation and failing to follow the prohibitions here defined.

SEC 7. Separability Clause – Should any part or provision/s of this Act be declared invalid or unconstitutional, the other part or provision/s not so declared shall remain in full force and effect.

SEC 8. Repealing Clause – Any law, decree, executive order or issuance inconsistent with the provisions of this Act is repealed and or modified accordingly.

SEC 9. Effectivity – This Act shall take effect fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

Approved,

