

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2140



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

AN ACT
PROVIDING FOR STRICTER REGULATIONS IN THE PACKAGING, USE, SALE, DISTRIBUTION
AND ADVERTISEMENTS OF TOBACCO PRODUCTS, AMENDING FOR THE PURPOSE REPUBLIC
ACT NO. 9211, OTHERWISE KNOWN AS THE "TOBACCO REGULATION ACT OF 2003"

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.

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 is likewise a concern 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 instill health consciousness among them."

The bill also 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 it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 2 of Republic Act 9211, otherwise known as the Tobacco Regulation Act of 2003, is hereby amended to read as follows:

"SECTION 2. Policy. - It is the policy of the State to protect the populace from hazardous products and promote the right to health and instill health consciousness among them. [It is also the policy of the State, consistent with the Constitutional ideal to promote the general welfare, to safeguard the interests of the workers and other stakeholders in the tobacco industry.] For [this] THIS purpose[s], the government shall institute a [balanced] policy whereby the PACKAGING, use, sale, DISTRIBUTION and advertisement[s] of tobacco products shall be regulated in order to promote a healthful environment and protect the citizens from the hazards of tobacco smoke, IN ACCORDANCE WITH THE WORLD HEALTH ORGANIZATION FRAMEWORK CONVENTION ON TOBACCO CONTROL (WHO FCTC) [and at the same time ensure that the interests of tobacco farmers, growers, workers and stakeholders are not adversely compromised]."

SEC. 2. Sections 4 (g) and 4 (n) of the same Act are hereby amended to read as follows:

"g. ["Minor"] YOUNG PERSON — refers to any person below [eighteen (18)] TWENTY-ONE (21) years old;

x x x x x

n. "Public Places"—refer to [enclose or confined areas of] all PLACES ACCESSIBLE TO THE PUBLIC OR PLACES FOR COLLECTIVE USE REGARDLESS OF OWNERSHIP OR RIGHT TO ACCESS SUCH AS hospitals, medical clinics, schools, public transportation terminals and offices, WORKPLACES and building such as private and public offices, recreational places, shopping malls, movie houses, hotels, restaurants AND SUCH OTHER PUBLIC PLACES AS MAY BE DEFINED BY THE LOCAL GOVERNMENT UNITS [and the like];"

SEC. 3. All references to "minor" shall be amended to read as "young person."

SEC. 4. Section 4 of the same Act is hereby amended by inserting new paragraphs to read as follows and the same are hereby re-lettered accordingly:

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

x x x x x

V. "TOBACCO ADVERTISEMENT AND PROMOTION" – REFERS TO ANY FORM OF COMMERCIAL COMMUNICATION, RECOMMENDATION, OR ACTION WITH THE AIM, EFFECT OR LIKELY EFFECT OF PROMOTING A TOBACCO PRODUCT OR TOBACCO USE, EITHER DIRECTLY OR INDIRECTLY, INCLUDING THE PUBLIC DISPLAY OF TOBACCO PRODUCTS, ANY MESSAGE OR IMAGE PROMOTING SMOKING, TOBACCO USE, TOBACCO PRODUCTS, BRAND NAMES, OR TOBACCO COMPANY NAMES, LOGOS, INSIGNIAS OR ANY PROMOTIONAL MATERIAL OR STRUCTURE THAT CONTAINS THESE, SUCH AS POSTERS, STREAMERS, SIGNAGES, STANDEES, BILLBOARDS, FLIERS, UMBRELLAS, PARASOLS, BUNTINGS, AWNINGS,

TARPAULINS, STORE DISPLAY, CDS, FILM, T-SHIRTS, CAPS, SWEATSHIRTS, VISORS, BACKPACKS, SUNGLASSES, WRITING IMPLEMENTS, TOWELS, MUGS, CANDIES, STICKERS, ASHTRAYS, PAPER NAPKIN HOLDERS, LIGHTERS AND THE LIKE;

W. "TOBACCO INDUSTRY" – REFERS TO ORGANIZATIONS, ENTITIES, ASSOCIATIONS, AND INDIVIDUALS THAT WORK FOR AND ON BEHALF OF THE TOBACCO INDUSTRY, SUCH AS TOBACCO MANUFACTURERS, WHOLESALE DISTRIBUTORS, IMPORTERS OF TOBACCO PRODUCTS, TOBACCO RETAILERS, FRONT GROUPS AND/OR ORGANIZATIONS, INCLUDING LAWYERS, SCIENTISTS AND LOBBYISTS WHO WORK TO FURTHER THE INTERESTS OF THE TOBACCO INDUSTRY;

X. "TOBACCO SPONSORSHIP" – REFERS TO ANY FORM OF CONTRIBUTION TO ANY EVENT, ACTIVITY, INDIVIDUAL OR PERSON, WHETHER JURIDICAL OR NON-JURIDICAL, WITH THE AIM, EFFECT OR LIKELY EFFECT OF PROMOTING A TOBACCO PRODUCT OR TOBACCO USE EITHER DIRECTLY OR INDIRECTLY;

Y. "UNNECESSARY INTERACTIONS" – REFER TO ALL INTERACTIONS WITH THE TOBACCO INDUSTRY THAT IS NOT STRICTLY NECESSARY FOR THE LATTER'S EFFECTIVE REGULATION, SUPERVISION AND CONTROL."

Z. "WORKPLACES" – REFER TO ANY PLACE USED BY PEOPLE DURING THEIR EMPLOYMENT OR WORK, WHETHER DONE FOR COMPENSATION OR VOLUNTARILY, INCLUDING ALL ATTACHED OR ASSOCIATED PLACES COMMONLY USED BY THE WORKERS IN THE COURSE OF THEIR WORK, SUCH AS CORRIDORS, ELEVATORS, STAIRWELLS, TOILETS, LOBBIES AND LOUNGES, AS WELL AS VEHICLES USED IN THE COURSE OF WORK SUCH AS TAXIS, AMBULANCES, AND DELIVERY VEHICLES."

SEC. 5. Section 5 of the same Act is hereby amended to read as follows:

"SECTION 5. Smoking in Public Places. – EXCEPT FOR PLACES LISTED IN SECTION 6 HEREOF, [S]moking shall be absolutely prohibited in [all] THE FOLLOWING public places [such as, but not limited to]:

a. Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels, BOARDING HOUSES, DORMITORIES, and recreational facilities, PROVIDED, THAT THIS SHALL ALSO PERTAIN TO ALL SCHOOL RELATED ACTIVITIES, WHETHER WITHIN OR OUTSIDE THE SCHOOL PREMISES, AND WHETHER HELD INDOORS OR OUTDOORS [for persons under eighteen (18) years old];

b. [Elevators and stairwells] PREMISES, BUILDINGS, AND GROUNDS OF GOVERNMENT AGENCIES;

c. Location 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 conveyance and public TRANSPORT facilities including ELEVATORS, airport and ship terminals and train and bus stations, WAITING SHEDS, [restaurant and conference halls, except for separate smoking areas] and ALL OTHER PASSENGER QUEUING OR WAITING AREAS;

f. Food preparation AND SERVICE areas, INCLUDING RESTAURANTS; [.]

G. STAIRWELLS, PEDESTRIAN UNDERPASSES, OVERPASSES, FOOTBRIDGES, AND COVERED WALKS OR PATHWAYS AND SUCH OTHER PUBLIC PLACES AS DEFINED IN SECTION 4(N) OF R.A. NO. 9211, AS AMENDED;

H. ALL ENCLOSED PUBLIC PLACES; AND

I. ALL AREAS WITHIN TEN (10) METERS OF ENTRANCES, EXITS, AIR INTAKE DUCTS, AND PLACES WHERE PEOPLE PASS OR CONGREGATE."

SEC. 6. Section 6 of the same Act shall be amended to read as follows:

"SECTION 6. Designated Smoking [and Non-Smoking] Areas. – [In all enclosed places that are open to the general public, private workplaces 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.] SMOKING SHALL BE PERMITTED ONLY IN OUTDOOR OPEN SPACES: PROVIDED, THAT SMOKING IS PROHIBITED WITHIN TEN (10) METERS OF ENTRANCES, EXITS, AND AIR INTAKE DUCTS, INCLUDING WINDOWS AND SIMILAR WALL OPENINGS: PROVIDED FURTHER, THAT DESIGNATED SMOKING AREAS SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

A. A BUILDING SHALL BE ALLOWED TO HAVE ONE (1) DESIGNATED SMOKING AREA, WHICH SHALL BE INDOORS;

B. THE DESIGNATED SMOKING AREA SHALL HAVE A MINIMUM AREA OF FIVE (5) SQUARE METERS;

C. PERSONS BELOW THE MINIMUM AGE OF TWENTY-ONE (21) SHALL NOT BE ALLOWED INSIDE THE DESIGNATED SMOKING AREA; AND

D. FOOD AND DRINKS ARE NOT ALLOWED IN THE DESIGNATED SMOKING AREA.

All designated smoking areas shall have at least one (1) legible and visible sign posted, namely "SMOKING AREA" AND ONE (1) GRAPHIC HEALTH WARNING for the Information and guidance of all concerned. In addition, the sign or not posted shall include a warning about the health effects of direct or second-hand exposure to tobacco smoke. Non-smoking areas shall likewise have at least one (1) legible and visible sign, namely: "NO 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 ESTABLISHMENTS, HEALTH FACILITIES OR SCHOOLS AND THE FAILURE TO COMPLY THEREWITH IS A GROUND FOR THE DENIAL OR REVOCATION OF SUCH PERMITS."

SEC. 7. A new Section 6-A of the same Act is hereby appended to read as follows:

"SECTION 6-A. SMOKING IN PRIVATE CONVEYANCES. – SMOKING IS ABSOLUTELY PROHIBITED IN PRIVATE CONVEYANCES WHERE THERE ARE YOUNG PERSONS, 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. 8. A new Section 9-A of the same Act is hereby appended to read as follows:

"SECTION 9-A. PROHIBITIONS ON YOUNG PERSONS. – THE SALE OF CIGARETTES INDIVIDUALLY, IN FULL OR IN SMALL PACKETS TO YOUNG PERSONS WHICH INCREASE THE AFFORDABILITY OF SUCH PRODUCT, WHETHER AT POINT OF SALE OR BY MEANS OF VENDING MACHINE OR ANY SELF-SERVICE FACILITY OR SIMILAR CONTRAPTION OR DEVICE, IS PROHIBITED.

THE MANUFACTURE, SALE, ADVERTISEMENT, PROMOTION, AND FREE DISTRIBUTION OF SWEETS, SNACKS, TOYS, OR ANY OTHER OBJECTS IN THE FORM OF TOBACCO PRODUCTS WHICH APPEAL TO YOUNG PERSONS ARE ALSO PROHIBITED."

SEC. 9. Section 10 of the same Act is hereby amended to read as follows:

"SECTION 10. Sale of Tobacco Products Within School Perimeters. – The sale or distribution of tobacco products is prohibited within A MINIMUM DISTANCE OF one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by minors. NOTHING IN THIS PROVISION OR ELSEWHERE IN THIS ACT SHALL BE CONSTRUED AS LIMITING THE POWERS OF LOCAL GOVERNMENT UNITS UNDER THE GENERAL WELFARE

CLAUSE.”

SEC. 10. A new Section 13-A of the same Act is hereby appended to read as follows:

“SECTION 13-A. PROHIBITED ACTS. – THE FOLLOWING ACTS ARE PROHIBITED:

(A) PLACING, POSTING, OR DISPLAYING TOBACCO ADVERTISEMENTS AND PROMOTION ITEMS INCLUDING TOBACCO PRODUCTS IN ANY PLACE, EXCEPT FOR THE PLACEMENT OF A SINGLE SIMPLE SIGN WITH WHITE BACKGROUND AND BLACK FONT AND NOT EXCEEDING TWELVE INCHES BY EIGHTEEN INCHES (12”X 18”) IN SIZE STATING ONLY THE FOLLOWING: “TOBACCO PRODUCTS AVAILABLE HERE” INSIDE POINT-OF-SALE ESTABLISHMENTS;

(B) PROMOTING, DIRECTLY OR INDIRECTLY, TOBACCO PRODUCTS AND/OR TOBACCO PRODUCT SUBSTITUTES IN AN EVENT, ACTIVITY, PROGRAM OR PROJECT WHERE A TOBACCO COMPANY IS A PARTICIPANT AS FACILITATOR, SPONSOR, CONTRIBUTOR, DONOR OR BENEFACTOR, WHETHER OR NOT THE SAME IS PART OF ITS CORPORATE SOCIAL RESPONSIBILITY ACTIVITIES;

(C) ENGAGING IN ANY FORM OF TOBACCO ADVERTISEMENT AND PROMOTION, INCLUDING ADVERTISING IN SOCIAL MEDIA, ONLINE MEDIA, AND THE INTERNET.”

SEC. 11. Section 28 of the same Act is hereby amended to read as follows:

“Section 28. Legal Action. – Any legal action in connection with the tobacco industry shall be governed by the provisions of the Philippines Civil Code and other applicable laws. THE DEPARTMENT OF JUSTICE SHALL SUBMIT AN ANNUAL REPORT TO THE IAC-TOBACCO ON THE NATURE AND STATUS OF SUCH CASES INITIATED PURSUANT TO THIS SECTION.”

SEC. 12. Section 29 of the same Act is hereby amended to read as follows:

“SECTION 29. Implementing Agency. — An Inter-Agency Committee—Tobacco Control (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 ALTERNATELY chaired by the [Secretary of the Department of Trade and Industry (DTI) with the] Secretary of the Department of Health (DOH) [as Vice Chairperson.] AND THE SECRETARY OF THE DEPARTMENT OF TRADE AND INDUSTRY (DTI) AT AN INTERVAL OF FIVE (5) YEARS RECKONED FROM THE EFFECTIVITY OF THIS ACT: PROVIDED, THAT THE DOH SECRETARY SHALL SERVE AS CHAIRPERSON FOR THE FIRST FIVE (5) YEARS WITH THE DTI SECRETARY 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 Environment and Natural Resources (DENR);

d. Secretary of the Department of Science and Technology (DOST);

e. Secretary of the Department of Education (DepEd);

F. SECRETARY OF THE DEPARTMENT OF FINANCE (DOF);

G. SECRETARY OF THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (DILG);

[f] H. Administrator of the National Tobacco Administration (NTA);

[g. A representative from the Tobacco Industry to be nominated by the legitimate and recognized associations of the industry; and]

I. DIRECTOR-GENERAL OF THE FOOD AND DRUG ADMINISTRATION (FDA);

J. CHAIRPERSON OF THE MOVIE AND TELEVISION REVIEW AND CLASSIFICATION

BOARD (MTRCB);

K. CHIEF OF THE PHILIPPINE NATIONAL POLICE (PNP);

L. CHAIRMAN OF THE METRO MANILA DEVELOPMENT AUTHORITY (MMDA);

M. PRESIDENT OF THE LEAGUE OF CITIES;

N. PRESIDENT OF THE LEAGUE OF PROVINCES;

O. PRESIDENT OF THE LEAGUE OF MUNICIPALITIES;

P. PRESIDENT OF THE LEAGUE OF BARANGAYS; AND

Q. ONE (1) REPRESENTATIVE EACH FROM AT LEAST THREE (3) NONGOVERNMENT ORGANIZATIONS (NGOs) INVOLVED IN PUBLIC HEALTH PROMOTION, WITHOUT ECONOMIC AND/OR FIDUCIARY TIES TO THE TOBACCO INDUSTRY, OR DO NOT KNOWINGLY REPRESENT OR RECEIVE PAYMENT FROM ANY TOBACCO PRODUCT MANUFACTURER OR WHOLESALER, OR ANY PARENT, AFFILIATE OR SUBSIDIARY OF A TOBACCO PRODUCT MANUFACTURER OR WHOLESALER, OR ANY PERSON, INTEREST GROUP, ADVOCACY ORGANIZATION, LAW FIRM, ADVERTISING AGENCY, OR OTHER BUSINESS OR ORGANIZATION THAT REPRESENTS THE INTEREST OF THE TOBACCO INDUSTRY, NOMINATED BY THE DOH IN CONSULTATION WITH THE CONCERNED NGOs.

THE DEPARTMENT SECRETARIES SHALL DESIGNATE THEIR RESPECTIVE AUTHORIZED PERMANENT REPRESENTATIVE TO THE IAC-TOBACCO: PROVIDED, THAT SAID PERMANENT REPRESENTATIVE SHALL HAVE A RANK NOT LOWER THAN AN ASSISTANT SECRETARY.

IN ORDER TO FACILITATE COORDINATION AMONG MEMBERS OF THE IAC-TOBACCO, THE DEPARTMENT OF HEALTH AS THE LEAD AGENCY SHALL PROVIDE THE SECRETARIAT. THE SECRETARIAT SHALL ACT AS THE COORDINATING BODY OF THE IAC-TOBACCO AND SHALL PROVIDE THE FOLLOWING FUNCTIONS SUCH AS SETTING OF MEETINGS, MANAGING OF IMPORTANT LOGISTICS AND CIRCULATION OF INFORMATION AND DOCUMENTS AMONG MEMBERS.

IN ADDITION TO THEIR COLLECTIVE POWER AND FUNCTION IN THE IAC-TOBACCO AND SUCH OTHER RESPONSIBILITIES MANDATED ELSEWHERE IN THIS ACT, THE AGENCIES REPRESENTED THEREIN SHALL EACH PERFORM THE FOLLOWING DUTIES AND FUNCTIONS:

(A) DOH AND FDA

I. PROMULGATE RULES, REGULATIONS AND STANDARDS ON PACKAGING, GRAPHIC HEALTH WARNINGS, DETAILED INFORMATION ON THE INGREDIENTS, ALLOWABLE NICOTINE AND INGREDIENT LEVELS, AND CONDITIONS FOR ALLOWING THE INTRODUCTION OF ANY MODIFIED RISK TOBACCO PRODUCT IN THE MARKET.

II. MONITOR CLOSELY THE COMPLIANCE OF MANUFACTURERS, IMPORTERS, DISTRIBUTORS, AND RETAILERS WITH THIS ACT AND OTHER RELATED LAWS AND REGULATION THROUGH SURVEILLANCE, INSPECTIONS, AND INVESTIGATIONS.

(B) DTI

I. ENSURE THAT TOBACCO CONTROL MEASURES ARE PROTECTED IN CRAFTING TRADE AND INVESTMENTS POLICIES, OR IN ENTERING IN TRADE AND INVESTMENTS AGREEMENT, OR IN EXTENDING INCENTIVES TO TOBACCO-RELATED BUSINESSES.

II. MONITOR TOBACCO PRODUCTS MANUFACTURERS', IMPORTERS', DISTRIBUTORS', AND RETAILERS' COMPLIANCE WITH THE PROVISIONS OF THIS ACT, REPUBLIC ACT NO. 10643, OTHERWISE KNOWN AS THE "GRAPHIC HEALTH WARNING LAW" AND THEIR IMPLEMENTING RULES AND REGULATIONS, AND STRICTLY IMPOSE SANCTIONS FOR ANY VIOLATION THEREOF.

(C) DA AND NTA

I. PROVIDE SUPPORT TO TOBACCO FARMERS, GROWERS, AND WORKERS BY GIVING TRAININGS AND SEMINARS TO IMPART NEW KNOWLEDGE, ATTITUDE, AND SKILLS AND ENABLE ENGAGEMENT IN ALTERNATIVE FARMING OR LIVELIHOOD UNDERTAKINGS.

(D) DOJ

I. PROMULGATE APPROPRIATE POLICIES FOR STRONGER COORDINATION AND COOPERATION WITH LAW ENFORCEMENT AUTHORITIES TO ENSURE THE DETERMINED AND EXPEDITIOUS PROSECUTION AND PUNISHMENT OF ANY VIOLATION OF THIS ACT.

II. SUBMIT ANNUAL REPORT TO THE IAC-TOBACCO ON THE NATURE AND STATUS OF CASES FILED BEFORE THE APPROPRIATE COURTS.

(E) DOF

I. REVIEW THE TAX RATES IMPOSED ON TOBACCO PRODUCTS AND RECOMMEND THE REVISION THEREOF WITH THE VIEW OF FURTHER CONTROLLING AND LIMITING TOBACCO USE AMONG FILIPINOS.

II. ENSURE THAT THE REGISTRATION OF TOBACCO PRODUCT BRANDS AND BRAND VARIANTS AS WELL AS PACKAGING AND LABELLING OF TOBACCO PRODUCTS AS REQUIRED UNDER REPUBLIC ACT NO. 10643 ARE COMPLIED WITH.

(F) DENR

I. ENSURE THAT FACTORIES AND ALLIED FACILITIES OF TOBACCO PRODUCTS ARE COMPLIANT WITH ENVIRONMENTAL LAWS AND DENR REGULATIONS.

II. ADOPT AND IMPLEMENT PROGRAMS THAT PROTECT THE PEOPLE FROM HEALTH HAZARDS POSED BY TOBACCO USE.

(G) DOST

I. DEVELOP AND PROMOTE TECHNOLOGIES AND METHODS TO REDUCE THE RISK OF DEPENDENCE AND INJURY FROM TOBACCO PRODUCT USAGE AND EXPOSURE, ALTERNATIVE USES OF TOBACCO, AND SIMILAR RESEARCH PROGRAMS.

(H) DEPED

I. EDUCATE AND INFORM ALL LEARNERS, TEACHING, AND NON-TEACHING PERSONNEL AND STAFF ON THE HAZARDS OF TOBACCO USE AND EXPOSURE TO SECOND-HAND SMOKE, ADVERSE SOCIO-ECONOMIC AND ENVIRONMENTAL CONSEQUENCES OF TOBACCO PRODUCTION AND CONSUMPTION, AND TOBACCO PROMOTION TACTICS OF THE TOBACCO INDUSTRY.

II. FACILITATE THE ENFORCEMENT OF TOBACCO CONTROL POLICIES IN SCHOOLS SUCH AS ABSOLUTE SMOKING BANS, ACCESS RESTRICTIONS, BAN ON PROMOTIONAL ITEMS FOR MINORS, SAMPLING RESTRICTIONS AND PROTECTION AGAINST TOBACCO INDUSTRY INTERFERENCE.

(I) DILG

I. CREATE PROGRAMS AND/OR CAMPAIGNS TO LESSEN THE PREVALENCE AND REGULATE THE ADVERSE EFFECTS OF SMOKING.

II. MONITOR AND ENSURE THE LGUs' ENFORCEMENT OF SMOKING BAN AS PROVIDED FOR BY LAWS, EXECUTIVE ORDERS, ORDINANCES AND OTHER ISSUANCES.

(J) MTRCB

I. ENFORCE THE TOBACCO ADVERTISING BAN ON OPTICAL MEDIA, MONITOR ANY VIOLATION THEREOF, AND VIGOROUSLY PURSUE ITS PROSECUTION AND PUNISHMENT.

II. REGULATE THE SHOWING OF SMOKING SCENES AND TOBACCO PRODUCTS IN TELEVISION AND IN MOVIES.

(K) PNP

I. ENFORCE THE SMOKING BAN PROVIDED FOR IN THIS ACT, OTHER LAWS AND EXECUTIVE ISSUANCES, AND IN ORDINANCES ENACTED BY LGUs.

II. APPREHEND VIOLATORS AND INSTITUTE THE CRIMINAL PROCEEDINGS FOR VIOLATIONS OF THIS ACT AND THE RULES AND REGULATIONS PROMULGATED FOR ITS IMPLEMENTATION.

(L) MMDA

I. PROMULGATE POLICIES DESIGNED FOR THE EFFECTIVE ENFORCEMENT OF THE SMOKING AND ADVERTISEMENT BANS PROVIDED FOR IN THIS ACT WITHIN METRO MANILA IN CONJUNCTION WITH THE CONCERNED LGUs.

II. APPREHEND VIOLATORS AND INSTITUTE THE APPROPRIATE CRIMINAL PROCEEDINGS FOR VIOLATIONS OF THIS ACT AND ITS IMPLEMENTING RULES AND REGULATIONS.

III. PROVIDE THE MEMBER LGUs WITH TECHNICAL ASSISTANCE IN POLICY DEVELOPMENT, CAPACITY BUILDING, COMMUNICATION STRATEGIES, AND COMPLIANCE MONITORING ON TOBACCO REGULATION.

(M) LEAGUE OF PROVINCES, CITIES, MUNICIPALITIES AND BARANGAYS

I. IMPLEMENT PROGRAMS AND ACTIVITIES TO FURTHER RAISE PUBLIC AWARENESS ON THE ADVERSE EFFECTS OF TOBACCO USE AND EXPOSURE TO SECOND-HAND SMOKE.

II. STRENGTHEN THE ENFORCEMENT OF TOBACCO CONTROL LAWS AND REGULATIONS THROUGH STRICT MONITORING, APPREHENSION AND PUNISHMENT OF VIOLATORS.

(N) NON-GOVERNMENT ORGANIZATIONS

I. PROVIDE TECHNICAL ASSISTANCE TO GOVERNMENT INSTITUTIONS TASKED TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS ACT.

II. CONTINUOUSLY ADVOCATE AND SUPPORT REFORMS THAT STRENGTHEN TOBACCO CONTROL."

SEC. 13. A new provision is hereby inserted to be denominated as Section 29-A to read as follows:

"SECTION 29-A. PROTECTION OF THE IAC-TOBACCO FROM TOBACCO INDUSTRY INTERFERENCE. – ALL MEMBERS OF THE IAC-TOBACCO ARE PROHIBITED FROM INTERACTING WITH THE TOBACCO INDUSTRY, EXCEPT WHEN STRICTLY NECESSARY FOR ITS EFFECTIVE REGULATION, SUPERVISION AND CONTROL. ANY NECESSARY INTERACTION MUST BE CONDUCTED PUBLICLY AND TRANSPARENTLY, AND EFFORTS MUST BE TAKEN TO PREVENT OR CORRECT ANY PERCEPTION OF PARTNERSHIP WITH THE TOBACCO INDUSTRY.

ALL MEMBERS OF THE IAC-TOBACCO ARE STRICTLY PROHIBITED FROM ACCORDING PREFERENTIAL TREATMENT TO THE TOBACCO INDUSTRY; SOLICITING OR ACCEPTING ANY GIFT, GRATUITY, FAVOR, ENTERTAINMENT OR ANYTHING OF MONETARY VALUE FROM THE TOBACCO INDUSTRY; FAILING TO DISCLOSE, RETAINING, AND/OR ACQUIRING ANY FINANCIAL OR MATERIAL INTEREST IN, OR OTHER POTENTIAL SOURCE OF CONFLICT OF INTEREST WITH THE TOBACCO INDUSTRY; AND ACCEPTING ANALOGOUS FAVORS FROM THE TOBACCO INDUSTRY."

SEC. 14. Section 31 of the same Act is hereby amended by inserting a third (3rd) and fourth (4th) paragraph which shall read as follows:

"SECTION 31. Compliance Monitoring –

x x x x x

A SEPARATE REPORT ENUMERATING THE MEASURES ESTABLISHED TO LIMIT INTERACTIONS WITH THE TOBACCO INDUSTRY AND ENSURE THE TRANSPARENCY OF THOSE INTERACTIONS THAT OCCUR, AS WELL AS POLICIES IMPLEMENTED TO PROTECT THEIR AGENCIES FROM TOBACCO INDUSTRY INTERFERENCE SHALL BE SUBMITTED BY THE MEMBERS OF THE IAC-TOBACCO."

THE IAC-TOBACCO AND THE LEAD AGENCIES MANDATED TO IMPLEMENT PROGRAMS AND PROJECTS, SHALL CARRY OUT AN INFORMATION DRIVE, PROVIDE INSTRUCTION ON THE HAZARDOUS EFFECT OF SMOKING, SUBMIT ANNUAL REPORTS ON THE PROGRESS OF THE PROGRAMS, PROJECTS AND OTHER ACTIVITIES MANDATED TO BE UNDERTAKEN, INDICATING THE SPECIFIC PROGRAMS OR ACTIVITIES CARRIED OUT, RECIPIENTS OR BENEFICIARIES, AND IMPACT OR EFFECT OF THE PROGRAMS ON TOBACCO CONTROL, AMONG OTHERS AND PERFORM SUCH OTHER DUTIES PURSUANT TO SECTIONS 28, 29, 33, 34, AND 35 OF THIS ACT."

SEC. 15. Section 32 of the same Act is hereby further 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 [Five hundred] TWO THOUSAND pesos (PHP 2,000.00) [(Php500.00)] but not more than [One thousand] THREE THOUSAND pesos [(Php1,000.00)] (PHP 3,000.00) shall be imposed.

On the second offense, a fine of not less than THREE THOUSAND [One thousand] pesos (PHP 3,000.00) [(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 Five thousand pesos (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.

b. Violation of Sections 7, 8, 9, 10, and 11.—On the first offense, any person or any business entity or establishment selling to, distributing or purchasing a cigarette or any other tobacco products for a minor shall be fined the amount of not less than Five thousand pesos (Php5,000.00) or an imprisonment of 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 by an establishment of business entity, the owner, president, manager, or the most senior officers thereof shall be held liable for the offense.

If a [minor] YOUNG PERSON is caught selling, buying or smoking cigarettes or any other tobacco products, the provisions of Article 189 of Presidential Decree No. 603 otherwise known as The Child and Youth Welfare Code, as amended, shall apply.

c. Violation of Sections 13 to 27.—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.

D. VIOLATION OF SECTION 29-A. - IF THE OFFENDER IS A PUBLIC OFFICIAL, SUCH PUBLIC OFFICIAL SHALL BE SUBJECT TO ADMINISTRATIVE DISCIPLINARY ACTION PURSUANT TO RULE XIV (DISCIPLINE) OF THE OMNIBUS RULES IMPLEMENTING BOOK V OF E.O. 292, AS MAY BE AMENDED, MODIFIED, CHANGED, ADDED TO, DELETED FROM, OR SUPERSEDED BY THE ENACTMENT OF ANY NEW LAW, WITHOUT PREJUDICE TO THE CRIMINAL AND/OR CIVIL ACTIONS UNDER EXISTING LAWS, RULES, AND REGULATIONS."

SEC. 16. A new Section 32-A of the same Act is hereby appended to read as follows:

"SECTION 32-A. VIOLATIONS OF SECTION 13-A SUBSECTIONS A, B, AND C BY MANUFACTURERS, IMPORTERS, AND DISTRIBUTORS. - ON THE FIRST OFFENSE, A FINE OF NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00) OR IMPRISONMENT OF NOT MORE THAN ONE (1) YEAR, OR BOTH AT THE DISCRETION OF THE COURT.

ON THE SECOND OFFENSE, A FINE OF SEVEN HUNDRED FIFTY THOUSAND (PHP 750,000.00) OR IMPRISONMENT OF NOT MORE THAN TWO (2) YEARS, OR BOTH AT THE DISCRETION OF THE COURT.

ON THE THIRD OFFENSE, A FINE OF ONE MILLION PESOS (PHP 1,000,000.00) 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 OFFICERS THEREOF SHALL BE LIABLE.

THE OFFICER OF A BUSINESS ENTITY WHO IS AN ALIEN AND WHO IS FOUND TO BE IN VIOLATION HEREOF SHALL BE SUMMARILY DEPORTED AFTER SERVING SENTENCE AND SHALL BE FOREVER BARRED FROM REENTERING THE PHILIPPINES."

SEC. 17. A new Section 32-B of the same Act is hereby appended to read as follows:

"SECTION 32-A. VIOLATIONS OF SECTION 13-A SUBSECTION A BY POINT OF SALE ESTABLISHMENTS. - IN THE CASE OF POINT-OF-SALE ESTABLISHMENTS, THE PENALTY FOR VIOLATIONS OF SECTION 13-A SUBSECTION A SHALL BE FIVE HUNDRED PESOS (PHP500.00) EACH DAY FOR MICRO BUSINESS ENTERPRISE; ONE THOUSAND PESOS (PHP1000.00) EACH DAY OF VIOLATION FOR SMALL SCALE BUSINESS ENTERPRISE AND ONE THOUSAND FIVE HUNDRED PESOS (PHP1500.00) EACH DAY FOR MEDIUM SCALE BUSINESS ENTERPRISE.

THE DEFINITION OF MICRO, SMALL AND MEDIUM ENTERPRISES (MSMEs) UNDER REPUBLIC ACT NO. 9501, OTHERWISE KNOWN AS "MAGNA CARTA FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSMEs)" SHALL APPLY.

IN THE CASE OF SARI-SARI STORES OR A NEIGHBORHOOD VARIETY STORE WITH AN INVESTMENT OF LESS THAN FIFTY THOUSAND PESOS (PHP 50,000), THE REGISTERED OWNER WHO COMMITTED VIOLATIONS UNDER SECTION 13-A SUBSECTION A OF THIS ACT SHALL BE PUNISHED WITH A WARNING ON THE FIRST OFFENSE; FIVE HUNDRED PESOS (PHP 500.00) PENALTY ON THE SECOND OFFENSE AND CLOSURE OF THEIR BUSINESS OPERATIONS ON THE THIRD OFFENSE."

SEC. 18. A new provision is hereby inserted to be denominated as Section 36-A to read as follows:

"SECTION 36-A. CITIZEN SUITS. - FOR PURPOSES OF ENFORCING THE PROVISIONS OF THIS ACT OR ITS IMPLEMENTING RULES AND REGULATIONS, ANY CITIZEN MAY FILE AN

APPROPRIATE CIVIL, CRIMINAL OR ADMINISTRATIVE ACTION IN THE PROPER COURTS OR ADMINISTRATIVE BODY AGAINST ANY PUBLIC OFFICER WHO WILFULLY OR GROSSLY NEGLECTS THE PERFORMANCE OF A RESPONSIBILITY SPECIFICALLY ENJOINED BY THIS ACT, ITS IMPLEMENTING RULES AND REGULATIONS, INCLUDING THE TEMPLATE, GUIDELINES, OR OTHER REGULATIONS; OR ABUSES HIS AUTHORITY IN THE PERFORMANCE OF HIS DUTY; OR, IN ANY MANNER, IMPROPERLY PERFORMS THE DUTIES MANDATED BY THIS ACT OR ITS IMPLEMENTING RULES AND REGULATIONS.

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

THE COURT SHALL EXEMPT SUCH ACTION FROM THE PAYMENT OF FILING FEES UPON PRIMA FACIE SHOWING OF THE NON-ENFORCEMENT OR VIOLATION COMPLAINED OF, EXEMPT THE PLAINTIFF FROM THE FILING OF AN INJUNCTION BOND FOR THE ISSUANCE OF PRELIMINARY INJUNCTION. IN THE EVENT THAT THE CITIZEN SHOULD PREVAIL, THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES, MORAL DAMAGES, AND LITIGATION COSTS AS APPROPRIATE."

SEC. 19. *Separability Clause.* - If any provision of this Act is held invalid or declared unconstitutional, the other provisions which are not affected thereby shall remain valid and subsisting.

SEC. 20. *Repealing Clause.* - All laws, decrees, presidential proclamations, executive orders, rules and regulations or parts thereof inconsistent herewith, are hereby repealed or modified accordingly.

SEC. 21. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,