



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

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 5072



Introduced by Representative **GERALDINE B. ROMAN**

EXPLANATORY NOTE

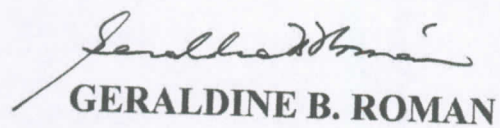
The Philippine Constitution provides that the State shall protect and promote the right to health of the people and instill health consciousness among them. The Constitution further states that the State shall promote the general welfare and mandates that the State adopt an integrated and comprehensive approach to health development. As a result, the State has an interest in protecting citizens from hazardous products.

In the recent months, several news items have been published on deaths and various serious illnesses that have been linked to smoking e-cigarettes. U.S. health officials through CNN have announced recently that they are now aware of at least 450 possible cases of severe lung diseases and several deaths that could be caused by vaping. There are many similar reports in many countries all over the world.

Although the original intention of e-cigarettes was to provide an alternative to tobacco smoking, pulmonary experts here and abroad have now come out in the open advocating the banning of the advertisement, sale, and use of e-cigarettes. Health experts declare that these e-cigarettes contain harmful and toxic chemicals that have led to serious pulmonary problems and even deaths. Vaping patients have landed in the Intensive Care Units of hospitals needing intubation and mechanical support to breathe. Even those who appeared young and healthy suffered shortness of breath, asthma, gastrointestinal symptoms, and all had general symptoms of fever, fatigue and weight loss. Lung scans showed "different mechanisms of injury." Lipoid pneumonia cases linked to vaping have also been reported.

A major area of concern in our country is the youth who are attracted to these smoking devices because of the various flavors that are offered and inviting packaging. Because of easy access and peer influence, smoking e-cigarettes is now very popular even among Filipino teenagers and college students. There are even sightings of pre-teens vaping. For them, e-cigarettes are harmless because this is what they have been told. For the older ones, vaping is the safest substitute for smoking.

The public must be informed of the dangers of smoking e-cigarettes. The State must also protect the public from harmful products. Accordingly, I earnestly seek the immediate passage of this Bill to regulate the use, sale, distribution, labeling, and advertisement of e-cigarettes.



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AN ACT
REGULATING THE PACKAGING, USE, SALE, DISTRIBUTION,
LABELING, AND ADVERTISEMENT OF ELECTRONIC CIGARETTES
AND FOR OTHER PURPOSES

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

SECTION 1. **Short Title.** - This Act shall be known as the "E-Cigarette Regulation Act of 2019".

SEC. 2. **Declaration of Policy.** - It is hereby declared the policy of the State to protect and promote the right to health of the people and instill health consciousness among them.

SEC. 3. **Definition of Terms.** - As used in this Act, the following terms shall be defined in the matter set forth below:

a. *E-cigarettes*, also known as electronic cigarettes, e-vaporizers, or electronic nicotine delivery systems, are battery-operated devices that people use to inhale an aerosol, which typically contains nicotine (though not always), flavorings, and other chemicals. They can resemble traditional tobacco cigarettes(*cig-a-likes*), cigars, or pipes, or even everyday items like pens or USB memory sticks. Some common nicknames for e-cigarettes are:

- e-cigs
- e-hookahs
- hookah pens
- vapes
- vape pens
- mods (customizable, more powerful vaporizers)

b. *Ingredient* means any substance that is added to the mixture and present in the finished product;

c. *Nicotine* means nicotinic alkaloids, including any salt or complex of nicotine, whether derived from tobacco or synthetically produced;

d. *Nicotine mixture* means the nicotine-containing liquid, solid or other non-tobacco substance in the product; it is also sometimes called liquid solution (*e-liquid* or *e-juice*) which is a solution containing varying amounts of nicotine, flavorings, and other chemicals;

e. *Refill container* means a container, a cartridge or reservoir for holding nicotine mixture or liquid solution (*e-liquid* or *e-juice*) to refill certain e-cigarettes;

f. *Emissions* means substances that are released when a product is consumed as intended, such as substances found in cigarette smoke, or the aerosol generated by an e-cigarette;

g. *Package* shall refer to packs, boxes, cartons or containers of any kind in which the electric component of an e-cigarette is offered for sale to consumers;

h. *Nicotine container* shall refer to bottles, boxes, cartons, or containers of any kind in which a nicotine-containing product is offered for sale to consumers for use with an e-cigarette product system;

i. *Producer* shall refer to any location at which an individual can purchase or otherwise obtain e-cigarette products;

j. *Principal display surface* shall refer to the panel of the nicotine container that faces the consumer when displayed for sale;

k. *Advertising* shall refer to the business of conceptualizing, presenting, making available and communicating to the public, through any form of mass media, any fact, data, or information about the attributes, features, quality or availability of consumer products, services, or credit. For the purpose of this Act, advertising shall be understood as e-cigarette advertising; and

l. *Vaping* shall refer to the act of using an e-cigarette.

SEC. 4. ***Health Warnings.*** - Nicotine containers and packages of e-cigarettes shall bear graphic health warnings that shall have two (2) components: photographic picture warnings and textual warnings. The textual health warnings shall bear the following: "This product is dangerous to your health and is addictive."

The health warnings shall occupy 30% of the lower part of the principal display surface of the nicotine containers and packages of e-cigarettes.

SEC. 5. ***Minimum Age Sales and Purchases.*** - The following acts shall be prohibited:

- a. The sale, distribution, or transfer of e-cigarettes by any person to minors;
- b. Purchasing, or otherwise receiving e-cigarettes from minors; and
- c. The sale, purchase, and use of e-cigarettes by minors.

It shall not be a defense for the person selling or distributing that the seller or distributor did not know or was not aware of the real age of the minor. Neither shall it be a defense that the seller or distributor did not know nor had any reason to believe that the product was for the consumption of the minor to whom it was sold.

SEC. 6. **Retailer Signage.** - Establishments offering, distributing, or selling e-cigarettes to consumers shall post the following statement in a clear and conspicuous manner: "THE SALE AND DISTRIBUTION TO OR PURCHASE BY MINORS OF E-CIGARETTES IS UNLAWFUL" or "IT IS UNLAWFUL FOR E-CIGARETTES TO BE SOLD AND DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER 18 YEARS OLD".

SEC. 7. **Proof of Age Verification.** - Retailers shall ascertain that no individual purchasing an e-cigarette is below eighteen (18) years old.

SEC. 8. **Access Restriction.** - The sale or distribution of e-cigarette products is prohibited within one hundred (100) meters from any point of the perimeter of a school, playground or other facility frequented by minors.

SEC. 9. **Product Communication Restrictions.** - The following restrictions shall apply to all e-cigarette advertising:

a. Advertisements shall not be aimed at or particularly appeal to persons under eighteen (18) years old.

b. Advertisements shall not feature a celebrity or contain an endorsement, implied or express by a celebrity.

c. Advertisements shall not contain cartoon characters or subjects that depict humans or animals with comically exaggerated features or that attribute human or unnatural characteristics to animals, plants or other objects.

d. Advertisements shall not show, portray or depict scenes where the actual use of, or the act of using, or puffing e-cigarettes is presented to the public.

SEC. 10. *Restrictions on Advertisement in Print Media.* The following restrictions shall apply to all print media e-cigarette advertisements:

- a. Advertisements shall not be placed in any printed publication unless there is a reasonable basis to believe that at least seventy-five percent (75%) of the readers of such publication are eighteen (18) years of age and above, and the number of youth who read it constitutes less than ten percent (10%) of all youth in the Philippines.
- b. Advertisements shall not be placed on the packaging or outside covers (front and back) of a magazine, newspaper, journal or other publication printed for general circulation.

SEC. 11. *Restrictions on Outdoor Advertising* – The following restrictions shall apply to all e-cigarette advertisements:

- a. Outdoor advertisements shall not be placed on billboards, wall murals, or transport stops or stations which are within the one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by persons below eighteen (18) years of age.
- b. Outdoor advertisements shall not be placed on taxis, buses, trains or other public conveyance or in stations, terminals or platforms thereof, except point-of-sale establishments.

SEC. 12. *Restrictions on Advertising in Cinemas.* – E-cigarette advertisements are prohibited in connection with the showing of any film where persons below eighteen (18) years old are permitted admission.

SEC. 13. ***Restrictions on Television.*** – Advertisements shall not be broadcast on television, cable television, and radio between seven o' clock in the morning and seven o' clock at night.

SEC. 14. ***Restriction on Advertising in Audio, Video and Computer Cassettes/discs and Similar Medium.*** – No electronic advertisements shall be incorporated within any video or audio cassette, videogame machine, optical disc or any similar medium, unless access to the item is restricted to persons eighteen (18) years of age or older. For the purpose of this Section, video game includes any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or monitor that interacts with the user of the device.

SEC. 15. ***Restrictions on Advertising on the Internet and Similar Medium.*** – Advertisements are prohibited on the internet and other similar medium unless that Internet site is restricted to persons eighteen (18) years of age or older. A site will be deemed restricted if a person cannot obtain access beyond the first page of the website unless the person has established that he or she is at least eighteen (18) years old. This Section shall prohibit business-to-business transactions conducted on the Internet, and other similar medium between e-cigarette manufactures, retailers and distributors.

SEC. 16. ***Ban on Advertisements.*** – Implementing Rules and Regulations shall be issued to absolutely prohibit all e-cigarette advertising on television, cable television and radio. Implementing Rules and Regulations shall also be issued to absolutely prohibit all cinema and outdoor e-cigarette advertising. No leaflets, posters and similar outdoor advertising materials shall be posted, except inside the premises of point-of-sale retail establishments. Implementing Rules and Regulations shall also be issued that will absolutely prohibit all forms of e-cigarette advertising in mass media except those advertisements placed inside the premises of point-of sale establishments.

SEC. 17. *Restrictions in Public Conveyances and Places.*—Vaping or use of e-cigarettes is prohibited in all forms of public conveyances, government-owned vehicles, accommodations and entertainment establishments, workplaces, enclosed or partially enclosed public places, public buildings and public outdoor spaces, except in duly designated vaping areas, as will be defined in the Implementing Rules and Regulations.

SEC. 18. *Product Standard Requirements.* - The following shall be required for all e-cigarettes sold in the Philippines:

- a. E-cigarette tanks shall have a capacity of no more than 5 ml;
- b. The maximum volume of nicotine-containing e-liquid for sale in one refill container shall be limited to 10 ml;
- c. E-liquids used for refill containers shall have a nicotine strength of no more than 20 mg/ml;
- d. E-cigarette containers/Nicotine containers shall be child- resistant and tamper evident;
- e. Producers of electrical devices intended to be used in combination with an e-cigarette shall ensure that such devices comply with the applicable electrical safety standards as may be determined by the Bureau of Product Standards of the Department of Trade and Industry;
- f. Batteries must comply with applicable industry requirements as may be determined by the Bureau of Product Standards of the Department of Trade and Industry;
- g. All ingredients in the product should be listed on the label where they are used in quantities of 0.1 % or more of the final formulation of the e-liquid. Where a flavor ingredient contains several component chemicals, it can be described on the label by the name of the flavor. For confidentiality reasons, companies may choose to describe individual ingredients used in quantities below 0.1 % of the final formulation by category;
- h. A full list of ingredients in the flavoring must be included in the notifications through the DTI;

- i. Nicotine, propylene glycol and glycerol used in the manufacture of the e-liquids shall meet the requirements of either the European or American Pharmacopoeia and other ingredients in the manufacture of the e-liquids, such as flavors, shall be of food grade; and
- j. Packs shall include an information leaflet about safe use of the product. This shall also include appropriate advice on product storage, particularly on how to ensure the battery does not malfunction.

SEC.19. **Market Placing.** - Producers and distributors must comply with the following:

- a. E-cigarette producers shall register their products with the DTI and submit information demonstrating compliance with product standards and assessment requirements before all e-cigarettes and e-liquids can be sold in the market;
- b. E-cigarette retailers do not need to submit information for any products they sell unless they also qualify as producers. Retailers shall have six (6) months from the date of effectivity of this Act to sell through the stock of e-cigarette products that do not comply with the labeling, and product composition requirements of this Act; and
- c. A new notification shall be submitted for each substantial modification of the product, such as, but not limited to new ingredients introduced in e-liquids.

SEC. 20. **Penalties for Non-Compliance.** - The following penalties shall individually apply to producers, importers, distributors, and sellers of e-cigarettes as well as their agents for any violation of this Act:

- a. On the first offense, a fine of not more than Fifty thousand pesos (Php 50,000.00);
- b. On the second offense, a fine of not more than One hundred thousand pesos (Php 100,000.00);
- c. On the third offense, a fine of not more than Five hundred thousand pesos (Php 500,000.00) or imprisonment of not more than five (5) years, or both, at the discretion of the court: Provided, That the business permits and licenses, in the case of a business entity or establishment shall be revoked or cancelled.

Non-compliant e-cigarettes found in the market for sale or distribution shall be subject to confiscation.

If the guilty officer is a foreign national, he shall be deported after service of sentence or payment of applicable fines without need of further deportation proceedings and shall be permanently barred from re-entering the Philippines.

SEC. 21. ***Implementing Rules and Regulations.*** - Within three (3) months from the date of effectivity of this Act, the DTI shall issue the Implementing Rules and Regulations for this Act. The non-issuance of the IRR will not suspend the effectivity of this Act or the introduction of new e-cigarettes in the market.

SEC. 22. ***Separability Clause.*** - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 23. ***Repealing Clause.*** - 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. 24. ***Effectivity Clause.*** - 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,