



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

18th Congress
First Regular Session

Office of the Minority Floor Leader



HOUSE BILL No. 5630

**BY REP. BIENVENIDO "BENNY" M. ABANTE, JR.
AND THE MINORITY BLOC**

EXPLANATORY NOTE

If vaping is not declared illegal, or at the very least regulated and studied, today's youth and succeeding generations will serve as guinea pigs for vaping. And this representation would be remiss in his duty if nothing is done about it. GJ

As Dr. Robert Proctor, a historian of Stanford University, a prestigious US educational institution detailed the history of discovery of cigarette-lung cancer link, the evidentiary traditions, corporate denial and global toll of cigarette smoking, this representation cannot help but connect a similar pattern with vaping, albeit on a more accelerated pace.¹

Mechanisation and mass marketing towards the end of the 19th century popularized cigarette habit. But it was only recognized as the cause of the epidemic of global lung cancer only in the 1940s and 1950s. Cigarettes causes about 1.5 million deaths from lung cancer per year and that number will rise by nearly 2 million per year by 2020 and thereafter.² E-cigarette was invented in 2003 by Chinese smoker and pharmacist Hon Lik in 2003, and yet in a

¹ The history of the discovery of the cigarette-lung cancer link: evidentiary traditions, corporate denial, global toll
By Dr Robert N Proctor, History Department, Stanford University, Stanford, California 94305, USA.

² *ibid.*

recent update on vaping-related illness, the US Centers for Disease Control and Prevention stated that 1,888 confirmed and probable cases have been reported in 49 US states, An Illinois report brings the toll to 38 deaths in 24 states.³

And the strangest coincidence of pattern that vaping is following is the historical path that cigarette-smoking went thru. Global information related to vaping does not have any clinical study to cite what it may cause to the human body and yet it is certain that there is a causal link between a whole set of illness and vaping as the US Center for Disease Control and Prevention suggest.

But what makes this a “clear and present danger” at an unprecedented accelerated pace is, unlike the medium of advertisement for cigarettes, vaping is being peddled not only thru regular stores but in the internet as well, affording a medium like we have never seen before, reaching even our youth without censure or warning. In the US House of Representative Bill No. 293 on Youth Vaping Prevent Act of 2019, the Congress recognized that youth use of electronic cigarettes and hookah (waterpipe) has tripled among high school students from 4.5% in 2013 to 13.4% in 2014. Approximately 2 million US high school student currently use these products.⁴ We have yet to see statistical data for the Philippines, but this product is globally available and has already reach Philippine shores.

DOH Secretary Francisco T. Duque was quoted as saying that “while there is a lack of conclusive data regarding the long-term effects of using e-cigarettes (or vaping), its health risks cannot be set aside. The precautionary principle recommends that, until conclusive data regarding their safety have been established, regulatory measures should be aim at reducing exposure to these products.”

This representation agrees with the observation of the DOH Secretary, but in a more alarming view. This product was only invented in 2003 and yet, in the first of future victims of this product, a 16-year old girl from Central Visayas contracted lung injury from four months use of e-cigarette or vaping which the US Center for Disease Control and Prevention designated as e-cigarette, or vaping, product use-associated lung injury (or “EVALI”).⁵

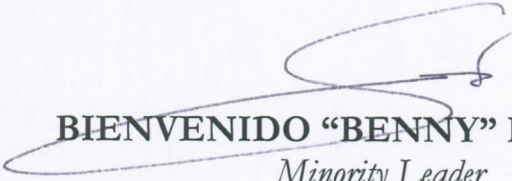
Until then that we have already conducted a study on vaping’s long-term effects, it should be STRICTLY regulated in general and the youth be

³ US Vaping illnesses rise to 1,888 with pace picking up again (Inquirer. Net. Associated Press/6:30am, 1 November 2019).

⁴ Text - H.R.293 - 116th Congress (2019-2020): Youth Vaping Prevention Act of 2019 | Congress.gov | Library of Congress.

⁵ <https://newsinfo.inquirer.net/1190507/doh-cites-1st-ph-case-of-vape-related-injury>

PROHIBITED from using the same, lest we have another form of product like the cigarette that wreaked havoc from generation to generation, for a lack of understanding of its harmful effects on a long term basis. Accordingly, the immediate approval of this bill is sincerely requested.



BIENVENIDO "BENNY" M. ABANTE, JR.

Minority Leader



HOUSE OF REPRESENTATIVES

H.B. No. 5630

BY REP. BIENVENIDO "BENNY" M. ABANTE, JR.
AND THE MINORITY BLOC

AN ACT TO PREVENT AND REDUCE THE USE OF
ELECTRONIC CIGARETTES OR VAPING, AND FOR OTHER PURPOSES.

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

1 SECTION 1. *Short Title.* This Act shall be known and cited as "The Vaping Prevention Act
2 of 2019."
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4 SECTION 2. *State Policy.* – The State shall protect and promote the right to health of the
5 people and instill health consciousness among them. It is declared as a policy that the State
6 shall establish and maintain an effective health product regulatory system based on the
7 country's health needs and problems. The State must enhance its regulatory capacity and
8 strengthen its capacity for the regulation of health products and its industry, including its
9 use and distribution.
10

11 SECTION 3. *Definition of Terms.* –

- 12 a. Drugs means: (1) articles recognized in official pharmacopeias and formularies,
13 including official homeopathic pharmacopeias, or any documentary
14 supplement to any of them, which are recognized and adopted by the FDA;
15 (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or
16 prevention of disease in man or other animals; (3) articles (other than food)
17 intended to affect the structure of any function of the body of humans or
18 animals; or (4) articles intended for use as a component of any articles specified
19 in clauses (1), (2), or (3) but do not include devices or their components, parts
20 or accessories.
21 b. Electronic Cigarette (or "e-cigarette") shall mean any electronic device or
22 substitutes that delivers nicotine, flavor, or other substance via an aerosolized
23 solution (including an electronic cigarette, cigar, pipe, or hookah) to the user
24 inhaling from the device. This includes both electronic nicotine delivery
25 systems (ENDS) and electronic non-nicotine delivery systems (ENNDS) and
26 their components, whether sold separately or together.

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- c. Electronic-Liquid (or "e-liquid") are non-tobacco articles, including substitutes, which may or may not contain nicotine, designed to be used in conjunction with vaporizers for inhalation.
- d. Minimum Allowable Age shall refer to 25 years of age.
- e. Vaporizer is an electronic device or substitute paraphernalia that is used to heat and aerosolize/vaporize non-tobacco-containing e-liquids or refills for inhalation. The device is used in a manner similar to conventional cigarettes.

SECTION 3. *In General.* – The sale, distribution, manufacture, importation and exportation, or use of electronic Cigarette (or "e-cigarette"), and electronic-Liquid (or "e-liquid") or substitutes thereto, are hereby prohibited. Unless herein provided or under existing laws, the sale, distribution, manufacture, importation and exportation, or use of these products are considered unlawful and subject to a penalties and fines provided under this Act.

SECTION 4. *Guiding Principles.* –

- (A) Precautionary Principle. With insufficient scientific evidences on the safety profile of innovative products such as e-cigarettes and other delivery devices under the profile, the Department of Health (DOH) shall take precautionary measures to ensure the protection of the right to health of the public. In this regard, e-cigarettes and other products under the same line shall be classified as a health product and shall be regulated accordingly.
- (B) Absolute Prohibition. The minimum allowable age for the purchase and sale of e-cigarettes is 25 years of age to protect the youth from initiating nicotine consumption and being subjected to unnecessary risks resulting from nicotine addiction.
- (C) Protection of Vulnerable Populations. E-cigarettes have a wide variety of flavors that are used to increase not only the palatability of these products but an advertisement *per se* proven to become very popular amongst the youth. To minimize the appeal of such products to the youth, there shall be no flavors for e-liquids and refills, unless approved otherwise provided under this Act.
- (D) Restriction on Use. Following the precautionary principle, exposure of the rest of the population to the emissions of e-cigarettes should be minimized, if not completely avoided, due to the limited scientific data on the effects of e-cigarette emissions to human health. In this regard, the use of e-cigarettes is hereby prohibited and banned in enclosed public places and public conveyances, whether stationary or in motion, except in designated areas, as maybe provided by law.

SECTION 5. *Absolute Prohibition.* – The minimum allowable age for the purchase and sale of e-cigarette, e-liquid or substitutes thereto, is 25 years of age. For this purpose, the following acts are considered unlawful and subject to the corresponding penalties hereof:

- a. A person aged less than 25 years of age found using e-cigarette, e-liquid or substitutes thereto, or in possession thereof, shall be subject to a fine of One Thousand Pesos (P1,000.00) per infraction and the confiscation of the e-cigarette, e-liquid or substitutes in his possession.
- b. A person who sells e-cigarette, e-liquid or substitutes to a person aged less than 25 years of age shall be subject to a fine of Five Thousand Pesos (P5,000.00) per violation and the confiscation of the e-cigarette, e-liquid or substitutes thereto. On the fifth violation, any license issued in his favor by the appropriate agency designated under this Act shall be considered cancelled and revoked. If the offender is a juridical entity, in addition to the penalties provided under this

provision to the employee who committed the act, the owner of the establishment shall be subject to a fine of Two Hundred Fifty Thousand Pesos (P250,000.00) per violation.

SECTION 6. *Sale, Distribution, Importation & Exportation.* – The sale, distribution, manufacture, importation and exportation, or use of e-cigarette, e-liquid or substitutes thereto, shall be regulated by the DOH. For this purpose, the DOH shall issue implementing rules and regulations regulating the same.

SECTION 7. *Prohibition on Sale, Distribution, Importation & Exportation On-Line.* – Unless there is a mechanism for age verification, the sale, distribution, manufacture, importation and exportation, or use of e-cigarette, e-liquid or substitutes thereto, is hereby prohibited. For this purpose, the DOH, in consultation with the Department of Information, Communication & Technology (DICT), shall issue implementing rules and regulations regulating the same.

SECTION 8. *Prohibition on Sale, Distribution on Vending Machines and Self-Service Facilities.* – Unless there is a mechanism for age verification, the sale, distribution, manufacture, importation and exportation, or use of e-cigarette, e-liquid or substitutes thereto, is hereby prohibited. For this purpose, the DOH, in consultation with the Department of Information, Communication & Technology (DICT), shall issue implementing rules and regulations regulating the same.

SECTION 9. *Retailer Compliance with Respect to Self-Service Facilities.* – Each retailer shall ensure that all e-cigarette, e-liquid or substitutes thereto, sold under Sections 6-8 of this Act shall be properly labelled.

SECTION 10. *Ban on Use in Public Places.* – The use of e-cigarette 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.
- b. Elevators and stairwells.
- 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.
- f. Food preparation areas.
- g. Any places which, at the discretion of the Secretary of DOH, may expose the rest of the population, particularly the youth, to unnecessary emissions of e-cigarettes.

SECTION 11. *Designated Areas.* – In all enclosed places that are open to the general public, private workplaces and other places not covered under the preceding section, where the use of e-cigarette may expose a person other than the person using the same, the owner, proprietor, operator, possessor, manager or administrator of such places shall establish a designated area for its use. Such areas may include a designated 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-designated area.

If a designated area has already been provided which is compliant under Rep. Act No. 9211, it shall be considered compliance with the provision of this Act: Provided, that a signage shall be altered to include the use of e-cigarette.

SECTION 12. *Sales or Distribution to Minor.* – Under this Act, it shall be unlawful:

- a. For any retailer to sell or distribute e-cigarette, e-liquid or substitutes thereto, to a minor.
- b. For any person to purchase e-cigarette, e-liquid or substitutes thereto, from a minor.
- c. For a minor to sell or buy e-cigarette, e-liquid or substitutes thereto.
- d. For a minor to use e-cigarette, e-liquid or substitutes thereto, or be in possession thereof.

It shall not be a defense for the person selling or distributing that he/she did not know or was not 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 e-cigarette, e-liquid or substitutes thereto was for the consumption of the minor to whom it was sold.

A violation of this provision shall be subject to double the penalties provided under Section 5 of this Act.

SECTION 13. *Sales within School Perimeters.* – The sale or distribution of e-cigarette, e-liquid or substitutes thereto, is prohibited within one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by minors.

SECTION 14. *Signage.* – Point-of-Sale establishments offering, distributing or selling e-cigarette, e-liquid or substitutes to consumers, shall post the following statement in a clear and conspicuous manner: “SALE/DISTRIBUTION TO OR PURCHASE BY MINORS AND THOSE BELOW 25 YEARS OF AGE OF E-CIGARETTE, E-LIQUID OR SUBSTITUTES IS UNLAWFUL” or “IT IS UNLAWFUL FOR E-CIGARETTE, E-LIQUID OR SUBSTITUTES TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY MINORS AND PERSONS UNDER 25 YEARS OF AGE.”

SECTION 15. *Proof of Age Verification.* – In case of doubt as to the age of the buyer, retailers shall verify, by means of any valid form of photographic identification containing the date of birth of the bearer, that no individual purchasing e-cigarette, e-liquid or substitutes thereto, is below twenty-five (25) years of age.

SECTION 16. *Ban on Advertisement & Promotions.* – Upon the effectivity of this Act, all forms of advertisement and promotions on e-cigarette shall be prohibited, except inside the premises of point-of-sale retail establishments, except inside the premises of point-of-sale retail establishments selling or distributing e-cigarette, e-liquid or substitutes thereto. Sponsorships of e-cigarette are also prohibited.

SECTION 17. *Naming Rights.* – Subject to the provisions of this Act:

- a. No manufacturer may enter into any agreement pursuant to which payment is made or other consideration is provided by such manufacturer to any sports

league, or any team involved in any such league, in exchange for use of a e-cigarette, e-liquid or substitutes brand.

- b. No manufacturer may enter into any agreement for the naming rights of any stadium or arena using a e-cigarette, e-liquid or substitutes brand name or otherwise cause a stadium or arena to be named with such a brand name.

SECTION 18. *Ban on Sponsorships.* – E-cigarette companies are hereby prohibited from sponsoring any sport, concert, cultural or art event, as well as individual and team athletes, artists or performers where such sponsorship shall require or involve the advertisement or promotion of any e-cigarette company, e-cigarette, e-liquid or substitutes use, name, logo or trademarks and other words, symbols, designs, colors or other depictions commonly associated with or likely to identify e-cigarette.

SECTION 19. *Restrictions on Sampling.* – The distribution of samples of e-cigarette, e-liquid or substitutes to persons below twenty-five (25) years old is prohibited.

SECTION 20. *Legal Actions.* – Any legal action in connection with the e-cigarette industry shall be governed by the provisions of the Philippine Civil Code and other applicable laws.

SECTION 21. *Implementing Agency.* – The Department of Health (DOH) shall have the exclusive power and function to administer and implement the provisions of this Act.

SECTION 22. *Application.* – The provisions of this Act shall apply to all e-cigarette, e-liquid or substitutes placed into commerce in the Philippines. Except as provided below, no provision of this Act shall apply to e-cigarette, e-liquid or substitutes intended or offered by the manufacturer for export and not for retail sale in the Philippines.

E-cigarette, e-liquid or substitutes intended or offered for export shall be subject only to the requirement that the shipping container shall be prominently marked on the outside "Export Only." Provided, That, e-cigarette, e-liquid or substitutes which are marked for export, but are sold/traded or distributed in the Philippine market, shall be subject to immediate confiscation and destruction.

SECTION 23. *Compliance Monitoring.* – Not later than one (1) year after the date of the effectivity of this Act, and annually thereafter, the DOH shall submit to the President of the Philippines and to both Houses of Congress a Compliance Monitoring Report on the compliance of the manufacturers on all applicable laws and ordinances with respect to the manufacture and distribution of e-cigarette, e-liquid or substitutes.

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

SECTION 24. *Penalties.* – Except when a specific penalty is provided under this Act, a violation of any of the provisions of this Act, including rules and regulations duly issued by the DOH shall be subject to a fine of Five Thousand Pesos (P5,000.00) per violation. On the fifth violation, a fine of not more than One hundred thousand pesos (P100,000.00) or imprisonment of not more than one (1) year, or both, at the discretion of the court shall be imposed.

Any license issued in his favor by the appropriate agency designated under this Act shall be considered cancelled and revoked, including the confiscation of any e-cigarette, e-liquid

or substitutes in his possession or carried as inventory. If the offender is a juridical entity, in addition to the penalties provided under this provision to the employee who committed the act, the owner of the establishment shall be subject to a fine of Two Hundred Fifty Thousand Pesos (P250,000.00) per violation. In the case of a business entity or establishment, the owner, president, manager or officials thereof shall be liable.

Except in the case of use under Section 5 of this Act, if the offender is a minor, the provisions of Article 189 of Presidential Decree No. 603 otherwise known as The Child and Youth Welfare Code, as amended, shall apply.

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.

SECTION 25. *Information Drive.* – Consistent with the provisions of this Act, the DOH shall, in cooperation with the DepEd and with the assistance of the Philippine Information Agency (PIA), undertake a continuous information program on the effects of e-cigarette, e-liquid or substitutes.

The DOH shall enlist the active participation of the public and private sectors in the national effort to discourage the habit of e-cigarettes.

SECTION 26. *Congressional Oversight Committee.* – A Congressional Oversight Committee (COC) is hereby constituted which is mandated to monitor and review the implementation of this Act for a period not exceeding three (3) years. The COC shall be composed of the Chairpersons of the Senate Committees on Health, Trade and Commerce, and Public Information and the House of Representatives Committees on Trade and Industry, Health and Public Information and a Member of the House of Representatives appointed by the Speaker.

The Secretariat of the COC shall be drawn from the existing secretariat personnel of the standing committees comprising the Congressional Oversight Committee and its funding requirements shall be charged against the appropriations of both the House of Representatives and the Senate of the Philippines.

SECTION 27. *Implementing Rules.* – The DOH shall promulgate such rules and regulations necessary for the effective implementation of this Act within six (6) months from the date of publication of this Act. The said rules and regulations shall be submitted to the COC for its review. The COC shall approve the implementing rules and regulations within thirty (30) working days of receipt thereof: Provided, That in the event the implementing rules and regulations are not promulgated within the specified period, the specific provisions of this Act shall immediately be executory.

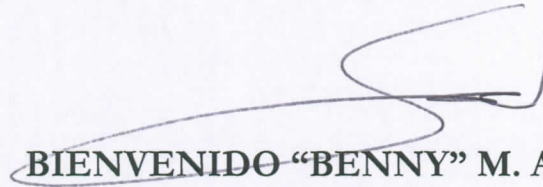
SECTION 28. *Appropriations.* – The amount necessary to implement the provisions of this Act shall be charged against the current year's appropriations of the concerned national government agencies. Thereafter, such funds as may be necessary for the continued implementation of this Act shall be included in the budgets of the concerned national government agencies under the annual General Appropriations Act.

SECTION 29. *Repealing Clause.* – All other laws, decrees, ordinances, administrative orders, rules and regulations, or any part thereof, which are inconsistent with this Act are repealed or amended accordingly.

282 SECTION 30. *Separability Clause.* – Should any provision of this Act be subsequently declared
283 unconstitutional, the other provisions not so declared shall remain in full force and effect.
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285 SECTION 31. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in
286 the Official Gazette and at least two (2) newspapers of national circulation.
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288 Approved:



BIENVENIDO "BENNY" M. ABANTE, JR.
Minority Leader