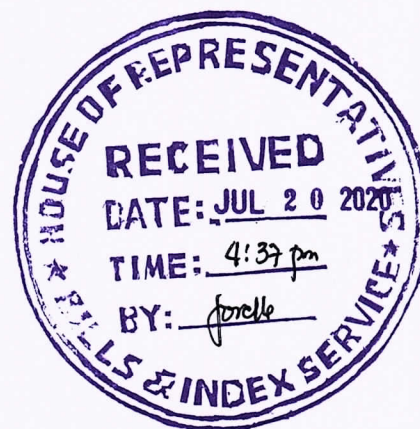


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7129



Introduced by **ANG PROBINSYANO**
Party-List Representative Alfred Delos Santos

EXPLANATORY NOTE

During the past few years, we have seen a rise on the use of products advertised as alternatives to conventional cigarettes. We now have vape, e-cigarretes, heated tobacco products (HTP) and other novel tobacco products. Due to the proliferation of use of these products, many studies have been conducted on its safety and effect on health since there are some being advertised as a less dangerous option compared to conventional cigarettes or as a way to slowly wean off of cigarette use.

Based on the 2016 Report of the World Health Organization (WHO), the use of both adulterated and unadulterated electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS) triggers several significant pathological changes and long-term use of these products increases the user's risk of acquiring lung cancer, chronic pulmonary disease, among others. The Center for Disease Control likewise found an increase in cases of lung injuries due to ENDS/ENNDS use as of January 21, 2020.¹ These and many other studies found certain carcinogenic chemicals and components that cause throat and lung irritation among others.

Many other countries have recognized the potential health effects of vape, HTPs and novel tobacco products. Twenty two (22) countries have banned it, while six (6) countries imposed restrictions on its sale and use.²

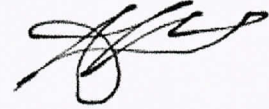
Thus, in line with the State policy of promoting the right to health of the people and instilling health consciousness among them as provided in our Constitution,

¹ Centers for Disease Control and Protection, "Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products," available at https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html.

² Emily Payne, "UP IN SMOKE: Vaping is banned in countries like Mexico and Thailand – here are the countries where it's illegal or restricted," The Sun, January 22, 2020, available at <https://www.thesun.co.uk/travel/4289492/countries-vaping-banned-explained/>.

1 this representation believes that a law regulating the sale, use, and
2 advertisement of vape and similar products is proper. Regulation is required in
3 order to ensure that the detrimental effects on health is lessened and to decrease
4 the number of people being encouraged to try vaping. Regulation is also
5 necessary to avoid sale of vape products to minors who are vulnerable to peer
6 suggestions and trendy advertising. Lastly, this bill seeks to ensure that the
7 health and wellness of Filipinos are protected through effective regulation of
8 vaping.

9
10 It is for the foregoing reasons that the passage of this bill is earnestly sought.



ALFRED C. DELOS SANTOS
Representative, Ang Probinsyano Partylist

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HOUSE BILL NO. 7129

Introduced by **ANG PROBINSYANO**
Party-List Representative Alfred Delos Santos

AN ACT
REGULATING THE PACKAGING, USE, SALE, DISTRIBUTION, AND
ADVERTISEMENT OF ELECTRONIC NICOTINE/NON-NICOTINE DELIVERY
SYSTEMS (ENDS/ENNDS), HEATED TOBACCO PRODUCT (HTP), AND
NOVEL TOBACCO PRODUCTS

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 “Vape Regulation Act of 2020.”

SECTION 2. *Declaration of Policy.* – It is the policy of the State to protect and promote the right to health of the people and instill health consciousness among them. It is likewise the policy of the state to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

SECTION 3. *Definition of Terms.* – For the purpose of this Act, the following terms shall mean:

- a) “Advertisement” shall mean any visual and/or audio message through words, images, or any other means disseminated to the public about a particular product through broadcast, print or electronic means of mass media, including outdoor advertisements. For purposes of this Act, advertisement shall particularly pertain to HTP, ENDS/ENNDS, and novel tobacco products;
- b) “Advertiser” shall mean a person or entity on whose account of for whom an advertisement is prepared and disseminated by the advertising agency, which is service established and operated for the

- 1 purpose of counseling or creating and producing and/or
2 implementing advertising program in various forms of media;
- 3 c) "Buffer Zone" is a ventilated area between the door of a designated
4 vaping area (DVA) not located in an open space and the vape-free
5 area.
- 6 d) "Designated Vaping Area" (DVA) is an area of a building or
7 conveyance where vaping may be allowed, which may be in an open
8 space or separate area with proper ventilation subject to the specific
9 standards provided in this Act;
- 10 e) "Distributor" shall pertain to any person to whom an ENDS/ENNDS,
11 HTP, or novel tobacco product is delivered or sold for purposes of
12 distribution in commerce. The term shall exclude manufacturers,
13 retailers, or common carriers transporting such products;
- 14 f) "Electronic Nicotine/Non-Nicotine Delivery System"
15 (ENDS/ENNDS), otherwise known as electronic cigarettes or vapes,
16 are e-liquids, solutions, or refills, whether or not containing nicotine,
17 and an electronic delivery device or any combination thereof, that
18 produces aerosol, mist or vapor that users inhale by mimicking the
19 act of smoking. ENDS/ENNDS deliver nicotine and/or other
20 chemicals into the lungs after on end of a plastic or metal cylinder
21 is placed in the mouth, like a cigarette or cigar, and inhaled to draw
22 a mixture of air and vapors from the device into the respiratory
23 system. They contain electronic vaporization systems, rechargeable
24 batteries and chargers, electronic controls and replaceable
25 cartridges containing nicotine and/or other chemicals.
26 ENDS/ENNDS shall be coextensive with the term "vapor products"
27 as defined in Republic Act No. 11467.
- 28 g) "Heated Tobacco Product" (HTP) shall mean a product thhat may be
29 consumed through heating tobacco, either electrically or through
30 other means, sufficient to release an aerosol that can be inhaled,
31 without burning or combustion of the tobacco. HTPs include liquid
32 solutions and gels that are part of the product and are heated to
33 generate an aerosol.
- 34 h) "Manufacturer" shall pertain to any person or entity, including a re-
35 packer, who makes, fabricates, assembles, processes, or labels a
36 finished product;
- 37 i) "Novel Tobacco Product" refers to all substances, devices and
38 innovations entirely or partly made of tobacco leaf as raw material,
39 already existing or to be developed in the future, intended to be used
40 as substitutes for cigarettes, conventional tobacco products,
41 ENDS/ENNDS or HTPs.
- 42 j) "Public Places" shall pertain to enclosed or confined areas of all
43 hospitals, medical clinics, schools, public transportation terminals
44 and offices, private and public buildings, recreational spaces,
45 shopping malls, theaters, restaurants, hotels, and the like;

- 1 k) "Retailer" refers to any person or entity that sells ENDS/ENNDS,
2 HTP, or novel tobacco products for the buyer's personal
3 consumption;
- 4 l) "Vaping" shall mean the act of using an ENDS/ENNDS, HTP, or
5 novel tobacco product.
6

7 SECTION 4. *Prohibition on the use and sale of ENDS/ENNDS, HTP or novel*
8 *tobacco products..* – Vaping shall be absolutely prohibited within the premises
9 and one hundred meters from the following locations:

- 10 a) Elevators;
- 11 b) Hospitals, medical, dental and optical clinics, health centers,
12 nursing homes, sanitarium, dispensaries, and laboratories, both
13 private and public;
- 14 c) Inside enclosed areas in all forms of common carriers conducting
15 public transportation;
- 16 d) Inside restaurants, canteens, diners, and all other food service
17 establishments, unless allowed by the owner or management; and
- 18 e) Playschools, preparatory schools, elementary schools, high schools,
19 colleges and universities, youth centers, and all other facilities for
20 use of persons under eighteen (18) years of age.
21

22 The sale of ENDS/ENNDS, HTP, and novel tobacco products, device,
23 liquid, solution, juice, refill, cartridge, or any product required for the use of
24 ENDS/ENNDS, HTP, and novel tobacco products, shall also be prohibited within
25 one hundred (100) meters from the areas specified above.
26

27 SECTION 5. *Designated Vaping Areas* – The following standards shall be
28 strictly followed in assigning or creating Designated Vaping Areas (DVA) on
29 public places other than those provided under the preceding section:
30

- 31 a) There shall be no opening that will allow air to escape from the DVA
32 to the vape-free area of the building or conveyance, except for a
33 single door equipped with an automatic door closer; provided that,
34 if the DVA is not located in an open space, such door shall open
35 directly towards a Buffer Zone;
- 36 b) The DVA shall not be located in or within ten (10) meters from
37 entrances, exits or any place where people pass or congregate, or in
38 front of air intake ducts;
- 39 c) The combined area of the DVA and the Buffer Zone shall not be
40 larger than twenty percent (20%) of the total floor area of the
41 building or conveyance, provided that in no case shall such area be
42 less than ten (10) square meters;
- 43 d) No building shall have more than one DVA;
- 44 e) The ventilation system for the DVA other than in an open space and
45 for the Buffer Zone shall be independent of all ventilation systems
46 servicing the rest of the building or conveyance

- f) Minors shall not be allowed inside the DVA and buffer zone;
- g) The DVA shall have highly visible and prominently displayed signages which include the following:
 - i. Vaping Area signage;
 - ii. Graphic health warnings on the use of ENDS/ENNDS, HTP and novel tobacco products; and
 - iii. Prohibition on the entry of persons below eighteen (18) years old.

SECTION 6. *Minimum Age for Sale of ENDS/ENNDS, HTP and Novel Tobacco Products by Retailers.* – It shall be unlawful for retailers and distributors to sell any ENDS/ENNDS, HTP and novel tobacco product, device, liquid, solution, juice, refill, cartridge, or any other product required for the use of ENDS/ENNDS, HTP, and novel tobacco product to minors.

It shall not be a defense for the retailer or distributor that he/she did not know the true age of the minor. It shall also not be a defense that he/she did not know or had reason to believe that the product is for the minor's consumption.

If there is doubt as to the age of the buyer, the retailer or distributor shall verify the date of birth of the buyer through any valid government-issued identification card.

SECTION 7. *Mandatory Inclusion of Health Warnings on Labels, Packagings, and Advertisements.* – All labels or packagings of ENDS/ENNDS, HTP, and novel tobacco products, device, liquid, solution, juice, refill, cartridge, or any product required for the use of ENDS/ENNDS, HTP, and novel tobacco products, shall have health warnings beginning one year from the issuance of the joint memorandum from the DOH and FDA.

The contents of the health warning shall be based on the guidelines issued jointly by the Department of Health (DOH) and Food and Drug Association (FDA). The joint issuance shall be issued strictly within sixty (60) days from the effectivity of this Act. The DOH and FDA, in coordination with the Department of Trade and Industry (DTI) shall ensure that all manufacturers of these products shall be given copies of the issuance. They shall also cause the publication of the guidelines in a newspaper of general circulation.

SECTION 8. *Ban on Advertisements.* – All advertisements in print, broadcast or electronic media showcasing, promoting, or showing the use of ENDS/ENNDS, HTP or novel tobacco products shall be prohibited upon effectivity of this Act. Only point-of-sale establishments of the said products may place advertisements within its premises.

1 SECTION 9. *Ban on Sponsorships.* – One year from the effectivity of this
2 Act, companies which manufacture, distribute or sell ENDS/ENNDS, HTP, and
3 novel tobacco products, device, liquid, solution, juice, refill, cartridge, or any
4 product required for the use of ENDS/ENNDS, HTP, and novel tobacco products
5 are prohibited from sponsoring any sport, concert, cultural or art even, as well
6 as individual and team athletes, artists, or performers where such sponsorship
7 shall involve the advertisement of any of the aforementioned products.

8
9 SECTION 10. *Compliance Monitoring.* – The DOH, FDA, and DTI shall form
10 an Inter-Agency Committee on Vape and Similar Products (IAC-VSP) which shall
11 be the monitoring committee for compliance of affected parties under the
12 provisions of this Act.

13
14 SECTION 11. *Sanctions.* – In case of violation of any section of this Act, the
15 following sanctions shall apply:

- 16
17 a) Violation of Section 4, 5 and 6. – A fine of not less than fifty
18 thousand pesos (PhP 50,000.00) but not more than one hundred
19 thousand pesos (PhP 100,000.00) for the first offense.

20
21 A fine of not less than one hundred thousand pesos (PhP
22 100,000.00) but not more than two hundred thousand pesos
23 (PhP 200,000.00) for the second offense.

24
25 A fine of not less than two hundred thousand pesos (PhP
26 200,000.00) but not more than five hundred thousand pesos
27 (PhP 500,000.00) for the third offense, and the cancellation of the
28 business permits and license to operate.

- 29
30 b) Violation of Sections 7, 8, and 9. - A fine of not less than one
31 hundred thousand pesos (PhP 100,000.00) but not more than
32 two hundred thousand pesos (PhP 200,000.00) for the first
33 offense.

34
35 A fine of not less than two hundred thousand pesos (PhP
36 200,000.00) but not more than five hundred thousand pesos
37 (PhP 500,000.00) for the second offense.

38
39 A fine of not less than five hundred thousand pesos (PhP
40 500,000.00) but not more than one million pesos (PhP
41 1,000,000.00) for the third offense, and the cancellation of the
42 business permits and license to operate.

43
44 SECTION 12. *Implementing Rules and Regulations* – The IAC-VSP shall,
45 within one hundred twenty days from the effectivity of this Act, issue the
46 Implementing Rules and Regulations for this Act.

1 SECTION 13. *Separability Clause.* – If any provision or part of this Act is
2 held invalid or unconstitutional, the remaining provisions or parts unaffected
3 shall remain in full force and effect.
4

5 SECTION 14. *Repealing Clause.* – All laws, executive orders, presidential
6 decrees or issuances, letters of instruction, administrative orders, rules, and
7 regulations contrary to or inconsistent with the provisions of this Act are hereby
8 repealed, amended, or modified accordingly.
9

10 SECTION 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
11 after its publication in the Official Gazette or in a newspaper of general
12 circulation.
13

14 Approved,