

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

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 3914



Introduced by **Representative Jaime R. Fresnedi**

EXPLANATORY NOTE

This bill seeks to amend Republic Act No. 11900 or the “*Vaporized Nicotine and Non-Nicotine Products Regulation Act*”. It proposes to transfer the jurisdiction over vapes, heated tobacco products (HTPs) and other imitation tobacco products from the Department of Trade and Industry (DTI) to the Food and Drug Administration (FDA). The bill also aims to prohibit the marketing and distribution of vapes, HTPs and other imitation tobacco products online. Lastly, it further provides that the age by which these products may be increased from eighteen (18) to twenty-one (21).

The Vape Law assigned the jurisdiction over vapes and heated tobacco products (HTPs) to the Department of Trade and Industry (DTI). Under this set-up, the DTI is tasked with the regulation of vape products and is to come up with the technical standards for safety, consistency and quality of these products. Considering how vapes pose serious threats to health, it should rightfully fall under a health agency who possesses the scientific expertise to effectively regulate these products.

This bill also proposes that the online marketing and distribution of vape products be prohibited as it is observed that the regulation of the sale of these products online is ineffective. Many under the allowable age now carry around vape products due to how readily available they have become through these channels. In fact, the DOH noted a 110% increase in e-cigarette use among Filipino youth, from 11.7% in 2015 to 24.6% in 2019. The Global Youth Tobacco Survey also found that 14%, or one in every seven students aged 13-15, use e-cigarettes, an age group below the legal limit.

The passage of Republic Act No. 11467, otherwise known as the *Sin Tax Reform Act of 2020* imposed taxes on vapes, HTPs and other tobacco products to discourage consumption of these products due to health risks. The same law also provided that age of access to these products should be to twenty-one (21). However, the enactment of Republic Act No. 11900 or the *Vaporized Nicotine and Non-Nicotine Products Regulation Act* quickly overturned the progressive provisions of the regulations put forth in the Sin Tax Law as it lowered access from twenty-one (21) to eighteen (18).

This regulation of vapes, HTPs and other novel tobacco products is not only a matter of business or economy, but it is much rather a health issue that poses a grave risk to our people, most especially the youth. Thus, these proposed amendments to the existing Vape Law are crucial and will allow the State to fulfill its mandate in protecting the health of the people.

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



JAIME R. FRESNEDI
Representative
Lone District, Muntinlupa City

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HOUSE BILL NO. 3914

Introduced by **Representative Jaime R. Fresnedi**

AN ACT

AMENDING REPUBLIC ACT NO. 11900, OTHERWISE KNOWN AS “AN ACT REGULATING THE IMPORTATION, MANUFACTURE, SALE, PACKAGING, DISTRIBUTION, USE AND COMMUNICATION OF VAPORIZED NICOTINE AND NON-NICOTINE PRODUCTS AND NOVEL TOBACCO PRODUCTS”

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

SECTION 1. Section 6 of Republic Act No. 11900 is hereby amended to read as follows:

“Section 6. *Minimum Age Sales and Purchase.* — The minimum allowable age for the purchase, sale and use of Vaporized Nicotine and Non-Nicotine Products, their devices, or Novel Tobacco Products shall be [eighteen (18)] **TWENTY-ONE (21)** years old.

It shall not be a defense for the person selling or distributing that he or she did not know or was not aware of the real age of the purchaser. Neither shall it be a defense that he or she did not know nor had any reason to believe that the product was for the consumption of a person below [eighteen (18)] **TWENTY-ONE (21)** years of age.”

Sec. 2. Section 7 of the same Act is hereby amended to read as follows:

“Section 7. *Proof-of-Age Verification.* — Retailers shall ensure that no individual below [eighteen (18)] **TWENTY-ONE (21)** years of age is allowed to purchase Vaporized Nicotine and Non-Nicotine Products, their devices, or Novel Tobacco Products. It shall be the responsibility of retailers to verify the age of buyers. For this purpose, the presentation of any valid government-issued identification card exhibiting the buyer's photograph and age or date of birth shall be required. Retailers shall ensure direct delivery only to individuals who must be [eighteen (18)] **TWENTY-ONE (21)** years old and above.”

Sec. 3. Section 8 of the same Act is hereby repealed.

Sec. 4. Let all the succeeding Sections be renumbered accordingly.

Sec. 5. Section 10 of the same Act is hereby amended to read as follows:

“Section 10. *Point-of-Sale Signage*. — Point-of-sale establishments offering, selling, or distributing Vaporized Nicotine and Non-Nicotine Products shall post the following statement in a clear and conspicuous manner:

“The sale or distribution of Vaporized Nicotine and Non-Nicotine Products to or by persons below [eighteen (18)] **TWENTY-ONE (21)** years of age is illegal. These products are harmful and contain nicotine which is a highly addictive substance. It is not recommended for use by nonsmokers.” or “Ang pagbenta at pagbili ng Vaporized Nicotine and Non-Nicotine Products sa at ng mga taong wala pang [labingwalong (18)] **DALAWAMPU’T ISANG** taong gulang ay pinagbabawal. Ang mga produktong ito ay nakakasama sa kalusugan at mayroong nicotine, isang nakakalulong na kemikal. Hindi ito inirerekomenda na gamitin ng mga hindi naninigarilyo.””

Sec. 6. Section 12 of the same Act is hereby amended to read as follows:

“Section 12. *Product Communication Restrictions*. — Advertisement of Vaporized Nicotine and Non-Nicotine Products, or Novel Tobacco Products and other forms of consumer communication shall be allowed in points-of-sale or retail establishments, through direct marketing[, and on the internet]: *Provided*, That the following guidelines shall apply:

(a) These shall not be targeted to or particularly appeal to persons under [eighteen (18)] **TWENTY-ONE (21)** years of age. Markings or characters that are likely to appeal to the youth such as the use cartoons, anime, manga, animated characters, youth influencers, personalities and the like are prohibited;

(b) x x x

(c) x x x

(d) x x x

(e) x x x

(f) x x x

(g) x x x

“[(h) Online advertisements on e-commerce platforms shall only be visible after the appropriate age verification measures under this Act;]

(i) x x x

(j) x x x

(k) x x x

(l) x x x

(m) x x x”

Sec. 8. Section 13(a) of the same Act is hereby amended to read as follows:

“Section 13. *Restrictions on Vaporized Nicotine and Non-Nicotine Product or Novel Tobacco Product Promotional Activities.* — The following restrictions shall apply to any promotional activity related to Vaporized Nicotine and Non-Nicotine Products or Novel Tobacco Products:

(a) Promotional events and activities, such as, but not limited to, product sampling or product offers, shall only be conducted by trained product experts and must be directed only to person at least [eighteen (18)] **TWENTY-ONE (21)** years of age. No person below [eighteen (18)] **TWENTY-ONE (21)** of age shall participate in such promotions. The participants in such promotions shall be required to provide proof of their age: *Provided*, That the invitation to these promotional events and activities shall contain the appropriate health warnings;

(b) x x x

(c) x x x

(d) x x x

(e) x x x

(f) x x x

(g) x x x

(h) x x x

(i) x x x”

Sec. 9. Section 14 of the same Act is hereby amended to read as follows:

“Section 14. *Restrictions on Sponsorship.* — The following restrictions shall apply to all Vaporized Nicotine and Non-Nicotine Product or Novel Tobacco Product promotional sponsorships:

(a) x x x

(b) No person below [eighteen (18)] **TWENTY-ONE** years of age may participate in sponsored events. The participants in the sponsored event shall be required to provide proof of age. Invitations to these events shall contain the appropriate health warnings;

(c) x x x

(d) x x x

(e) x x x

(f) x x x

(g) x x x

(h) x x x”

Sec. 10. Section 15 of the same Act is hereby amended to read as follows:

“Sec. 15. *Use in Public Place.* — The use of Vaporized Nicotine and Non-Nicotine Products shall be prohibited in all indoor public places except in DVAs, or in point-of-sale establishments for purposes of conducting product demonstrations.

The use of Vaporized Nicotine and Non-Nicotine Products shall be absolutely prohibited in the following public places:

(a) Centers of youth activity such as play schools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for persons under [eighteen (18)] **TWENTY-ONE**;

(b) x x x

(c) x x x

(d) x x x

(e) x x x

(f) x x x

(g) x x x

(h) x x x”

Sec. 11. Section 17 of the same Act is hereby amended to read as follows:

“Section 17. *Standards for Designated Vaping Areas.* — Designated Vaping Areas (DVAs) shall comply with the following standards:

(a) Persons below [eighteen (18)] **TWENTY-ONE** of age shall not be allowed within the DVA;

(b) Every DVA shall have the following signages highly visible and prominently displayed:

(i) "Vaping Area" signage; and

(ii) Prohibition on entry of persons below [eighteen (18)] **TWENTY-ONE** years of age and pregnant women.

(c) x x x

(d) x x x

(e) x x x

(f) x x x

(g) x x x

(h) x x x

(i) x x x

(j) x x x

(k) x x x

(l) x x x

x x x”

Sec. 12. Section 18 of the same Act is hereby amended to read as follows:

“Section 18. *Product Standard Requirements.* — The [DTI] FDA, in consultation with the [FDA] **STAKEHOLDERS**, shall set technical standards for safety, consistency, and quality of the products requiring registration in the immediately succeeding section based on international standards: *Provided*, That no vapor product with a nicotine content above sixty-five milligrams per milliliter (65mg/ml) shall be allowed to be sold in the market. The compliance with these product standards shall be mandatory.

Sec. 13. Section 19 of the same Act is hereby amended to read as follows:

“Section 19. *Product Registration.* — All manufacturers and importers of the following products shall register with the [DTI] FDA by submitting information demonstrating conformity with Section 18 of this Act:

- (a) HTP Consumable;
- (b) HTP Device;
- (c) Vapor Product Refill;
- (d) Vapor Product Device; and
- (e) Novel Tobacco Products.

Vaporized Nicotine and Non-Nicotine Products, Novel Tobacco Products, Heated Tobacco Product Devices and Vapor Product Devices may be sold to the general public after submission of the product registration requirements under this Act.

The [DTI] FDA, upon due process, may order the immediate recall, ban or seizure from public sale or distribution of Vaporized Nicotine and Non-Nicotine Products, HTP Devices, Vapor Product Devices, and Novel Tobacco Products for failure to comply with this section in relation to Section 18 of this Act.

Only duly registered Vaporized Nicotine and Non-Nicotine Products or their devices, or Novel Tobacco Products with the applicable graphic health warnings are allowed to be sold, advertised or distributed through whatever means.

[For online sales, the Secretary of the DTI, upon due process, shall have the power to issue an order directing that a noncompliant website, webpage, online application, social media account, or other similar platform be taken down and preventing online sellers, which are noncompliant with the registration requirements provided under this Act, from selling online. The Secretary of the DTI shall order the immediate recall, ban or seizure from public sale or distribution of noncompliant Vaporized Nicotine and Non-Nicotine Products or their devices, and Novel Tobacco Products as provided under this section. The

DTI and the BIR shall also maintain a list on their website, to be updated monthly, of brands of Vaporized Nicotine and Non-Nicotine Products and Novel Tobacco Products registered with the DTI and the BIR that are eligible to be sold online.

Internet websites and/or e-commerce and/or other similar media selling platform providers shall only allow duly registered online sellers or retailers with the DTI and the BIR.]

Sec. 14. Section 21 of the same Act is hereby amended to read as follows:

“Section 21. *Jurisdiction.* — The [DTI] **FDA** shall have exclusive jurisdiction over any and all issues, requirements, and subject matters related to Vaporized Nicotine and Non-Nicotine Products, and their devices, as well as Novel Tobacco Products, which are provided for in this Act.”

Sec. 15. Section 23 of the same Act is hereby amended to read as follows:

“Section 23. *Penalties for Non-compliance.* — The following penalties shall apply:

(a) x x x

(b) x x x

(c) x x x

(d) x x x

[Online sellers and d]Distributors of Vaporized Nicotine and Non-Nicotine Products or Novel Tobacco Products [and online platforms] that are noncompliant with Section 8 of this Act shall be ordered by the [DTI] **FDA** to immediately suspend trading of such products and shall be liable for the fines and penalties imposed under this section. Suspension shall continue until the manufacturer, seller, distributor or online platform has complied with the requirements provided under Section 8 of this Act.

x x x”

Section. 16. *Repealing Clause.* – Any provision of law, Presidential Decree, Executive Orders, rules and regulations contrary to the provisions of this Act is hereby repealed or modified accordingly.

Section. 17. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,