Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. **5207**

Introduced by **Representatives KRISTINE SINGSON-MEEHAN, FRANCISCO PAOLO P. ORTEGA V, ANGELO MARCOS BARBA, ERIC G. YAP, PRESLEY C. DE JESUS, MAURICIO G. DOMOGAN, MA. RACHEL J. ARENAS, JOSEPH S. TAN, JOSEPH "Jojo" L. LARA, MILAGROS AQUINO MAGSAYSAY, DANTE S. GARCIA, RAMON N. GUICO, JR., JOCELYN P. TULFO, JB BERNOS, ARTHUR F. CELESTE, MARLYN PRIMICIAS-AGABAS, ELEANOR C. BULUT-BEGTANG, KENNETH PAOLO TERENG, MAXIMO Y. DALOG JR., BABY ALINE VARGAS-ALFONSO, SOLOMON R. CHUNGALAO, FAUSTINO MICHAEL T. DY, III, IAN PAUL L. DY, MA. GEORGINA P. DE VENECIA, CAROLINE B. AGYAO, ROBERT RAYMUND M. ESTRELLA, MARK O. COJUANGCO, CHING B. BERNOS, ANTONIO "Tonypet" T. ALBANO, RAMON C. NOLASCO, RONALD V. SINGSON, ED CHRISTOPHER S. GO, MIDY N. CUA, CIRIACO B. GATO, JR., BRIAN POE, TIMOTHY JOSEPH "Tim" CAYTON, GIL "KabarangayJr" ACOSTA, and ALLAN U. TY**

EXPLANATORY NOTE

Due to the prevalence of illicit tobacco products, the government's excise tax collection has been declining since 2022. In 2023, the Bureau of Internal Revenue (BIR) reported that the government has lost around 15.9% or PhP25.5 billion in revenue due to illicit trade in cigarettes. This lost revenue amounting to billions of pesos adversely affected the government's funding for health programs.

Further, despite the legitimate objective behind the annual excise tax increase of discouraging nicotine consumption, a remarkable shift to e-cigarettes has been noted among legal age smokers. According to the Global Adult Tobacco Survey, e-cigarette usage in the Philippines has doubled from 2015 to 2021 with 2.1% or 1.6 million Filipinos using e-cigarette products. This likewise led to the proliferation of unregistered vape products in the market which entice the public, especially the minors, due to their affordability, high volume capacity, high puff count, enticing flavors and accessibility. Even with the advent of Revenue Memorandum Circular No. 59-2024 requiring all vape products sold in the market to bear internal revenue stamps, several non-compliant products which are presumed to be without the requisite excise tax payments, remain available in the market. This alarming trend poses an additional burden to the implementation of the government's health programs, as illicit products do not undergo product safety and quality assurance tests.

Furthermore, there has been a proliferation of mislabeled vapor products, where some items are mislabeled as containing only freebase or conventional nicotine but actually contain salt nicotine, to evade the imposition of higher taxes. This, thus, resulted in millions of excise taxes evaded by illicit traders who exploit the regulatory gaps under Republic Act No. 11467 and its implementing rules considering the government's current lack of technical capacity to differentiate the nicotine type of vapor products, *i.e.,* whether it is salt nicotine, or freebase or conventional nicotine. Consequently, these illicit traders capitalize on such regulatory gaps to evade higher taxes imposed on certain nicotine varieties, ultimately undermining public health efforts and fair market practices.

It is also important to emphasize that the distinction between salt nicotine and freebase or conventional nicotine under Republic Act No. 11467 no longer has a valid basis. Originally, it was believed that there was a distinction between nicotine-salt based products and freebase products, with the former allegedly posing a higher risk of contracting lung injuries. However, recent studies have shown that the supposed distinction is no longer relevant, since it has been found that lung injuries are actually not caused by the use of nicotine-salt products. As such, the distinction in their taxation under Republic Act No. 11467 should also be removed.

In view of the foregoing, the Bill seeks to remove the inordinate distinction on the excise taxes imposed between nicotine salt and freebase vapor products, through the imposition of one tax rate for all vapor products regardless of the type of nicotine used. This is in accordance with the principle of uniformity in taxation, where articles or kinds of property of the same class are taxed at the same rate.

The Bill also proposes a differentiated and lower excise tax rate for vapor products, consistent with international harm reduction strategies. Public Health England and recent UK government data affirm that e-cigarettes are approximately 95% less harmful than combustible cigarettes and more effective than traditional nicotine replacement therapies for smoking cessation. Furthermore, the Tax Foundation recommends lower taxation for vapor products due to their reduced harm and externalities. A lower tax rate will encourage smokers to transition to less harmful alternatives, supporting public health objectives while maintaining safeguards against youth uptake.

The Bill also seeks to adjust the computation of floor price or minimum price of covered products to also take into account their reasonable production cost and trade margins based on the lowest price brand registered with the Bureau of Internal Revenue. This is to align with the related provision of Republic Act No. 12022, otherwise known as the "Anti-Agricultural Economic Sabotage Act."

All told, this Bill seeks to lessen the burden on the legitimate businesses, level the playing field, discourage illegal trading practices that expose consumers to unregulated products, and ensure fair competition in the market. This measure is intended to support the sustainability and growth of legitimate enterprises, while ensuring receipt of government revenue through just and equitable taxes that contribute to the funding of essential government programs.

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

HON. KRISTINE SINGSON-MEEHAN
Deputy Speaker

HON. FRANCISCO PAOLO P. ORTEGA, V
Deputy Speaker

HON. ANGELO MARCOS BARBA

HON. ERIC G. YAP	**HON. PRESLEY C. DE JESUS**
HON. MAURICIO G. DOMOGAN	**HON. MA. RACHEL J. ARENAS**
HON. JOSEPH S. TAN	**HON. JOSEPH "Jojo" L. LARA**
HON. MILAGROS AQUINO MAGSAYSAY	**HON. DANTE S. GARCIA**
HON.RAMON N. GUICO, JR.	**HON. JOCELYN P. TULFO**
HON. JB BERNOS	**HON. ARTHUR F. CELESTE**
HON. MARLYN PRIMICIAS-AGABAS	**HON. ELEANOR C. BULUT-BEGTANG**
HON. KENNETH PAOLO TERENG	**HON. MAXIMO Y. DALOG JR.**
HON. BABY ALINE VARGAS-ALFONSO	**HON. SOLOMON R. CHUNGALAO**
HON. FAUSTINO MICHAEL T. DY, III	**HON. IAN PAUL L. DY**
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HON. ROBERT RAYMUND M. ESTRELLA	**HON. MARK O. COJUANGCO**
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HON. RAMON C. NOLASCO

HON. RONALD V. SINGSON

HON. ED CHRISTOPHER S. GO

HON. MIDY N. CUA

HON. CIRIACO B. GATO JR

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AN ACT
AMENDING SECTIONS 144, 145, 263-A, 288-A (C) AND 289 OF REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AND FOR OTHER PURPOSES

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

SECTION. 1. Section 144 of the National Internal Revenue Code of 1997, as amended by Republic Act. No. 11467, is hereby further amended to read as follows:

"**Sec. 144. Tobacco Products, Heated Tobacco Products, and Vapor Products.—**

"x x x

"(C) **Vapor Products**. — There shall be levied, assessed and collected on vapor products[~~— an excise tax at the rates prescribed below~~]**CONTAINING ANY LIQUID SUBSTANCE, REGARDLESS OF NICOTINE TYPE, INCLUDING NICOTINE-FREE LIQUIDS OR ANY SIMILAR PRODUCT, WHETHER CLASSIFIED AS NICOTINE SALT OR SALT NICOTINE OR CONVENTIONAL 'FREEBASE' OR 'CLASSIC' NICOTINE, AN EXCISE TAX AT THE RATE OF TEN PESOS (₱10.00) PER MILLILITER OR A**

FRACTION THEREOF, EFFECTIVE IMMEDIATELY UPON THE EFFECTIVITY OF THIS ACT.

~~[“(1) *Nicotine Salt or Salt Nicotine.* – There shall be levied, assessed and collected on any liquid substance, regardless of nicotine content, including nicotine-free liquids or any similar product, further classified as nicotine salt or salt nicotine, an excise tax based on the following schedules:~~

~~“Effective on January 1, 2020, Thirty-seven pesos (₱37.00) per milliliter or a fraction thereof;~~
~~“Effective on January 1, 2021, Forty-two pesos (₱42.00) per milliliter or a fraction thereof;~~
~~"Effective on January 1, 2022, Forty-seven pesos (₱47.00) per milliliter or a fraction thereof; and~~
~~“Effective on January 1,2023, Fifty-two pesos (₱52.00) per milliliter or a fraction thereof.~~

~~“*Provided*, That the rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective on January 1, 2024, through revenue regulations issued by the Secretary of Finance.~~

~~“(2) *Conventional ‘Freebase’ or ‘Classic’ Nicotine.* – There shall be levied, assessed and collected on any liquid substance, regardless of nicotine content, including nicotine-free liquid or any similar product, further classified as conventional ‘freebase’ or ‘classic’ nicotine an excise tax based on the following schedules:~~

~~“Effective on January 1, 2020, Forty-five pesos (₱45.00) per ten (10) milliliters or a fraction thereof;~~
~~“Effective on January 1, 2021, Fifty pesos (₱50.00) per ten (10) milliliters or a fraction thereof;~~
~~‘Effective on January 1, 2022, Fifty-five pesos (₱55.00) per ten (10) milliliters of a fraction thereof; and~~
~~‘Effective on January 1, 2023, Sixty pesos (₱60.00) per ten (10) milliliters or a fraction thereof.~~

~~"*Provided,* That the rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective January 1, 2024, through revenue regulations to be issued by the Secretary of Finance.]~~

"THE RATE OF TAX IMPOSED UNDER THIS SUBSECTION SHALL BE INCREASED BY FIVE PERCENT (5%) BEGINNING JANUARY 1, 2027.

“x x x

The Bureau of Internal Revenue is mandated to issue a revenue regulation prescribing the floor price or the minimum price of vapor products taking into account the sum of the excise and value-added taxes provided herein**, REASONABLE PRODUCTION COST**, **AND TRADE MARGINS BASED ON THE LOWEST PRICE BRAND REGISTERED WITH THE BUREAU OF INTERNAL REVENUE**.

“x x x

SECTION 2. Section 145 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 11346, is hereby further amended to read as follows:

"Sec. 145. Cigars and Cigarettes. –

"x x x"

Selling of tobacco products at a price lower than the combined excise and value-added taxes imposed under the law, **REASONABLE PRODUCTION COST, AND TRADE MARGINS BASED ON THE LOWEST PRICE BRAND REGISTERED WITH THE BUREAU OF INTERNAL REVENUE** shall be prohibited. The seller of such products shall be punished with a fine of not less than ten (10) times the amount of excise plus value-added taxes due but not less than Two hundred thousand pesos (₱200,000.00) nor more than Five hundred thousand pesos (₱500,000.00), and imprisonment of not less than four (4) years but not more than six (6) years.

The Bureau of Internal Revenue is mandated to issue a revenue regulation prescribing the floor price or the minimum price of cigarettes taking into account the sum of the excise and value-added taxes provided herein, **REASONABLE PRODUCTION COST, AND TRADE MARGINS BASED ON THE LOWEST PRICE BRAND REGISTERED WITH THE BUREAU OF INTERNAL REVENUE**.

"x x x"

SECTION 3. Section 263-A of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"**Sec. 263-A. Selling of Heated Tobacco Products and Vapor Products at** [~~a lower~~] **PRICE LOWER THAN THE** [~~combined excise and value-added taxes~~] **FLOOR PRICE OR MINIMUM PRICE**. –

Any person who sells heated tobacco products and vapor products at a price lower than the [~~combined excise and value-added taxes~~] **FLOOR PRICE OR MINIMUM PRICE** prescribed by the Bureau of Internal Revenue shall be punished with a fine of not less than ten (10) times the amount of excise plus value-added taxes due but not less than Two hundred thousand pesos (₱200,000.00) nor more than Five hundred thousand pesos (₱500,000.00), and imprisonment of not less than four (4) years but not more than six (6) years.

"x x x."

SECTION 4. Section 288-A (C) of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"Sec. 288-A. Disposition of Revenues from Excise Tax on Sweetened Beverages, Alcohol, Tobacco Products, Heated Tobacco Products, and Vapor Products. -

"xxx

(C) Revenues from Excise Tax on Tobacco Products - The provisions of existing laws to the contrary notwithstanding, the total revenues collected from the excise tax on tobacco products shall be distributed in the following manner:

xxx

The fund shall be exclusively utilized for programs to promote economically viable alternatives for tobacco farmers and workers such as:

(a) Programs that will provide inputs, training, and other support for tobacco farmers who shift to production of agricultural products other than tobacco including, but not limited to, high-value crops, spices, rice, corn, sugarcane, coconut, livestock and fisheries;

(b) Programs that will provide [~~financial~~] **CASH AND EDUCATIONAL** assistance for tobacco farmers [~~who are displaced or who cease to produce tobacco.~~], **INCLUDING THOSE WHO ARE ALSO PLANTERS OF OTHER CROPS, OR LIKEWISE ENGAGED IN FISHING, AND THEIR CHILDREN;**

(c) Cooperative programs to assist tobacco farmers in planting alternative crops or implementing other livelihood projects;

(d) Livelihood programs and projects that will promote, enhance, and develop the tourism potential of tobacco-growing provinces;

(e) Infrastructure projects such as farm-to-market roads, bridges, schools, hospitals, rural health facilities, **MULTIPURPOSE BUILDINGS, CURING BARNS** and irrigation systems; [~~and~~]

(f) Agro-industrial projects that will enable tobacco farmers to be involved in the management and subsequent ownership of projects, such as post-harvest and secondary processing like cigarette-manufacturing and by-product utilization~~.~~**;**

(g) **PROGRAMS THAT WILL IMPROVE THE MEDICAL AND EDUCATIONAL FACILITIES OF HOSPITALS AND SCHOOLS IN TOBACCO PRODUCING LOCAL GOVERNMENT UNIT; AND**

(h) **SUPPLEMENTAL SOURCE OF FUNDING FOR TOBACCO-GROWING LOCAL GOVERNMENT UNITS TO COMPLY WITH THE UPDATED SALARY SCHEDULE FOR CIVILIAN GOVERNMENT PERSONNEL PURSUANT TO EO 64, SERIES OF 2024 AND DOF DAO 074-2024."**

SECTION 5. Section 289 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"Sec. 289. Special Financial Support to Beneficiary Provinces Producing Virginia Tobacco. –

"x x x

"Provided, That this Section shall be implemented in accordance with the guidelines of Memorandum Circular No. 61-A dated November 28, 1993, which amended Memorandum Circular No. 61, entitled 'Prescribing Guidelines for Implementing Republic Act No. 7171', dated January 1, 1992 and that the funds be utilized to further advance self-reliance and expand viable alternatives for Virginia-tobacco farmers and workers through:

"(1) Cooperative projects that will enhance better quality of products, increase productivity, guarantee the market and as a whole increase farmers' income;

"(2) Livelihood projects particularly the development of alternative farming systems to enhance farmers' income;

"(3) Agro-industrial projects that will enable tobacco farmers in the Virginia tobacco-producing provinces to be involved in the management and subsequent ownership of these projects such as post-harvest and secondary processing like cigarette manufacturing and by-product utilization;

"(4) Infrastructure projects such as farm-to-market roads, bridges, schools, hospitals, rural health facilities, **MULTIPURPOSE BUILDINGS, CURING BARNS** and irrigation systems;

"(5) Programs and projects that will promote, enhance, and develop the tourism potential of Virginia tobacco-growing provinces; [~~and~~]

"(6) Programs that will provide [~~financial~~] **CASH AND EDUCATIONAL** assistance for tobacco farmers [~~that were displaced or who cease to produce tobacco.~~], **INCLUDING THOSE WHO ARE ALSO PLANTERS OF OTHER CROPS, OR LIKEWISE ENGAGED IN FISHING, AND THEIR CHILDREN;**

"(7) PROGRAMS THAT WILL IMPROVE THE MEDICAL AND EDUCATIONAL FACILITIES OF HOSPITALS AND SCHOOLS IN VIRGINIA TOBACCO PRODUCING LOCAL GOVERNMENT UNITS; AND

"(8) SUPPLEMENTAL SOURCE OF FUNDING FOR TOBACCO-GROWING LOCAL GOVERNMENT UNITS TO COMPLY WITH THE UPDATED SALARY SCHEDULE FOR CIVILIAN GOVERNMENT PERSONNEL PURSUANT TO EO 64, SERIES OF 2024 AND DOF DAO 074-2024."

SECTION 6. *Implementing Rules and Regulations.* – Such rules and regulations, as may be necessary for the effective implementation of this Act, shall be promulgated by the Secretary of Finance upon the recommendation of the Commissioner of Internal Revenue.

SECTION 7. *Separability Clause.* - If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SECTION 8. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 9. *Effectivity Clause*. **-** This Act is self-executory and shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the Official Gazette, without the need for the issuance of implementing rules and regulations.

Approved.