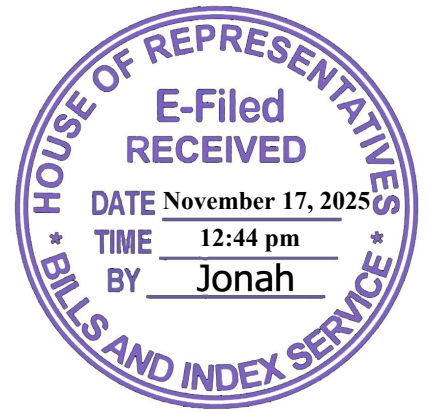


TWENTIETH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES
HOUSE BILL No. 6024

INTRODUCED BY HON. RICARDO S. CRUZ, JR.

EXPLANATORY NOTE

Effective regulation of tobacco and imitation tobacco products is essential to safeguard the health and well-being of our youth. Without strict laws in place, we risk exposing a new generation to nicotine addiction and long-term health consequences. Republic Act No. 11467, or the Sin Tax Reform Act of 2020, provided stringent regulation on the manufacture, importation, sale, packaging, advertising, and distribution of vapor products and heated tobacco products (HTPs). However, even before the full implementation of the Sin Tax Reform Act on May 25, 2022, bills were already filed to amend the same, which eventually became Republic Act No. 11900 or the "Vaporized Nicotine and Non-Nicotine Products Regulation Act" (Vape Law).

The Vape Law was enacted with the alleged objective of regulating the importation, manufacture, sale, packaging, distribution, use, and communication of electronic cigarettes such as HTPs, vapes, and their novel variants. However, even during the debates and deliberations of the Vape Bill, public health experts, medical associations, and advocates, have raised serious concerns over the said bill's provisions, particularly its regulatory framework, minimum age limit, and flavor availability.

The Vape Law overturns, among others, three key safeguard provisions of the Sin Tax Reform Act.

First, the jurisdiction to regulate vapes and HTPs was transferred from the Food and Drug Administration (FDA) to the Department of Trade and Industry (DTI). The regulation was lodged with the FDA as these products are harmful to health and necessarily should be regulated by health agency. The Department of Health (DOH) and the FDA are at the forefront of tobacco control in the Philippines. The DTI does not have the mandate and the expertise to determine the health effects of any product, let alone these sin products, which are harmful to health.

Second, the prohibition to sell to persons below the age of twenty-one (21) was lowered to eighteen (18) years old. The World Health Organization (WHO)¹, the DOH², and the Philippine Pediatric Society³ have consistently warned that vaping products are harmful and highly addictive, especially for adolescents whose brains are still developing. Lowering the age threshold to 18, as done by the Vape Law, contradicts evidence-based public health policy.

Third, the Vape Law created confusion in the implementation of flavor restriction, allowing more flavors, instead of just plain tobacco and plain menthol. These flavors made vapes more appealing to the youth. The Vape Law opened the floodgates for thousands of appealing flavors, enticing the youth and first-time users to experiment. The WHO FCTC also recommends banning flavors that attract minors.

Also, embedded in the Vape Law are regulations that actually favor tobacco industry interests over public health such as: allowing online sale of vapes and HTPs, permitting point of sale display with minimal limitations, and allowing events that promote these sin products, among others.

This proposed measure reorients the country's vape regulation framework toward health-centered, science-based policy that prioritizes youth protection and public health. It corrects the regulatory setback brought about by the Vape Law and reinforces the role of government in preventing a new generation of nicotine addiction.

In line with the policy adopted by its original proponent Senator Pia S. Cayetano, this bill therefore serves as a counterpart measure. It is for the reasons stated above that the passage of this measure is earnestly sought.


RICARDO S. CRUZ, JR.

¹ World Health Organization. (2023, December 14). Urgent action needed to protect children and prevent the uptake of e-cigarettes [News release]. Retrieved from <https://www.who.int/news/item/14-12-2023-urgent-action-needed-to-protect-children-and-prevent-the-uptake-of-ecigarettes><https://www.who.int/news/item/14-12-2023-urgent-action-needed-to-protect-children-and-prevent-the-uptake-of-ecigarettes>

² Department of Health - CARO. (n.d.). Nicotine in e-cigarettes can impact youth learning, memory and attention. Retrieved [date you accessed it], from <https://caro.doh.gov.ph/nicotine-in-e-cigarettes-can-impact-youth-learning-memory-and-attention/>

³ Philippine Pediatric Society Tobacco Control Advocacy Group. (2018, November 26). Position statement on raising tobacco excise tax [PDF]. Retrieved from <https://pps.org.ph/wpcontent/uploads/2019/09/PPS-Position-statement-on-raising-tobacco-excise-tax-on-E-cigarettes-UPDATED.pdf>

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AN ACT
REGULATING THE MANUFACTURE, IMPORTATION, SALE, DISTRIBUTION,
USE, ADVERTISEMENT, PROMOTION, AND SPONSORSHIP OF ELECTRONIC
NICOTINE DELIVERY SYSTEMS AND ELECTRONIC NON-NICOTINE
DELIVERY SYSTEMS, HEATED TOBACCO PRODUCTS, AND OTHER
IMITATION TOBACCO PRODUCTS, REPEALING FOR THE PURPOSE
REPUBLIC ACT NO. 11900, OTHERWISE KNOWN AS THE "VAPORIZED
NICOTINE AND NON-NICOTINE PRODUCTS REGULATION ACT"

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

Section 1. *Short Title.* – This Act shall be known as the "Vapes and HTPs Regulation Act."

Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to promote and protect the right to health of the people and instill health consciousness among them. The State also recognizes the importance of protecting the public, especially the youth, from exposure to products that may compromise their health, safety, and quality of life. Towards this end, the State shall implement measures to safeguard public health from the risks and hazards associated with the use of Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS), Heated Tobacco Products (HTPs), and other imitation tobacco products.

Sec. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- a) *Advertisement* – refers to any visual and/or audible message or post

generated, sent, received, or disseminated to the public about or on a particular product that promote or give publicity by words, designs, images, or any other means through broadcasts, electronic, optical, print, or whatever form of mass or social media, including indoor, outdoor, and online advertisements, such as but not limited to signs and billboards.

- b) *Advertising* – refers to the business of conceptualizing, presenting, making available, and communicating to the public, through any forms of mass or social media, including documentaries and testimonials, 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 refer to ENDS/ENNDS, HTPs and other imitation tobacco products advertising. This shall specifically refer to any posts, messages, or images depicting smoking or vaping as a lifestyle, or promoting or encouraging smoking or vaping, or the purchase or use of ENDS/ENNDS, HTPs, and other imitation tobacco products trademarks, brand names, design, and manufacturer's names.
- c) *Distributor* – refers to any person, entity, or establishment that imports ENDS/ENNDS, HTPs, and other imitation tobacco products for distribution to other establishments or outlets.
- d) *Designated Vaping Area (DVA)* – refers to an area of a building or conveyance where vaping may be allowed, which may be in an open space or separate area with proper ventilation subject to the specific standards provided in this Act.
- e) *Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS)*, otherwise known as Vapes – refer to combinations of non-tobacco e-liquids, solutions or refills, and an electronic delivery device, or any combination thereof, that produce an aerosol, mist, or vapor that users inhale by mimicking the act of smoking.
- f) *Heated Tobacco Products (HTPs)* – refer to a form of tobacco product that uses an electronic device to heat processed tobacco leaves, and produces aerosols for inhalation by mimicking the behavior of smoking conventional cigarettes.

- g) *Imitation Tobacco Products* refer to any product, device, or article –
 - i) That resembles, or is designated to resemble or replace a tobacco product;
 - ii) That is capable of being smoked or inhaled;
 - iii) That creates the resemblance of smoking;
 - iv) That may be used in such a way as to mimic the act of smoking; or
 - v) That which is sold in a package designed to resemble the packaging commonly associated with tobacco products.

Provided, That this provision shall not apply to pharmaceutical products approved by the Food and Drug Administration (FDA) as a smoking cessation tool or device.

- h) *Nicotine Shot/Concentrates* – refer to high strength preparations of nicotine designed to be added to e-liquid preparations to increase its nicotine content.
- i) *Promotion* – refers to a social media post or an event or activity organized by, on behalf of, or together with a ENDS/ENNDS, HTPs or imitation tobacco product manufacturer, distributor, importer or retailer with the aim of promoting a brand of ENDS/ENNDS, HTPs or other imitation tobacco products. It may also refer to the display of the product or manufacturer's name, trademark, logo, etc. This includes the paid use of ENDS/ENNDS, HTPs or imitation tobacco products bearing the brand names, trademarks, logos, etc. in social media, movies, television, and other forms of entertainment.
- j) *Retailer* – refers to any person, entity, or establishment that sells ENDS/ENNDS, HTPs, and other imitation tobacco products to individuals for personal consumption.
- k) *Vape-free* – refers to air that is 100% free from smoke, vapor, or aerosol from tobacco products, ENDS/ENNDS, HTPs, and other imitation tobacco products.
- l) *Sponsorship* – refers to any public or private contribution from a third party in relation to an event, team, or activity, or social media post which promotes a brand of ENDS/ENNDS, HTPs, or other imitation tobacco products.
- m) *Vaping* – refers to the act of inhaling and exhaling the aerosol and other

emissions produced by ENDS/ENNDS or other imitation tobacco products.

n) *Young Person* – refers to any person below twenty-one (21) years old.

Sec. 4. Prohibition on the Use of ENDS/ENNDS, HTPs, and other imitation tobacco products in Public Places. – Vaping, or the use of ENDS/ENNDS, HTPs, or other imitation tobacco products shall be prohibited in all places where tobacco smoking or the use of cigarettes is prohibited by other pertinent laws and issuances. Nothing shall prevent Local Government Units (LGUs) or other government agencies from issuing ordinances or circulars providing for stricter standards or an outright ban.

Sec. 5. Prohibited Areas for Use of ENDS/ENNDS, HTPs, and other imitation tobacco products. – The use of ENDS/ENNDS, HTPs, and other imitation tobacco products, including the establishment of DVAs, shall be prohibited in the following public places:

- a) Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, tech-voc institutions, boarding houses, dormitories, youth hostels, gyms, sports clubs, and recreational facilities for young and elderly persons;
- b) Within the buildings and premises of public and private hospitals, medical, dental and optical clinics, health centers, nursing homes, dispensaries and laboratories;
- c) Elevators and stairwells;
- d) Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible material;
- e) Food preparation and serving areas; and
- f) Places of worship

Sec. 6. Standards for Designated Vaping Areas. – All DVAs shall strictly comply with the following standards:

- a) The DVA shall be in an open space in an outdoor area, or in a separate indoor area with proper ventilation;
- b) If the DVA is located indoors, there shall be no opening that will allow air to escape from the DVA to the vape-free area of the building or

conveyance, except for a single door equipped with an automatic door closer: *Provided*, That the buffer zone shall have no other opening except for a single door equipped with an automatic door closer, which shall be at least two (2) meters away from the door of the DVA, and that vaping is prohibited in the buffer zone;

- c) The DVA and its ventilation outlets shall not be located in or within ten (10) meters from entrances, exits or any place where people pass or congregate, or in front of air intake ducts;
- d) The combined area of the DVA and the buffer zone shall not be larger than fifteen percent (15%) of the total floor area of the building or conveyance: *Provided*, That in no case shall such area be less than ten (10) square meter;
- e) No building or conveyance shall have more than one (1) DVA;
- f) The ventilation system for the DVA, other than in open space and for the buffer zone, shall be independent of all ventilation systems for the rest of the building or conveyance;
- g) Young persons and pregnant women and such other vulnerable persons identified by the Department of Health (DOH) shall not be allowed inside the DVA and the buffer zone;
- h) There shall be no selling, serving, or giving of food and beverages in the DVA and its buffer zone;
- i) The DVA shall have no tables and chairs; and
- j) The DVA shall have the following signages highly legible, visible and prominently displayed:
 - (i) "Vaping Area" signage;
 - (ii) Graphic health warnings (GHW) on the effects of vaping;
 - (iii) Prohibition on the entry of young persons and pregnant women and such other vulnerable persons identified by DOH; and
 - (iv) Signage stating "food and drinks are prohibited in this area".

Provided, That nothing in this Act shall compel persons-in-charge to establish designated vaping areas nor prevent them from instituting more stringent measures in their buildings and establishments to better ensure a vape-free environment in

their premises.

Sec. 7. Prohibition on Sales to and by Young Persons and Use by Young Persons. – The following acts shall be prohibited:

- a) For any retailer to sell or distribute ENDS/ENNDS, HTPs, and other imitation tobacco products to any young person;
- b) For any person to purchase ENDS/ENNDS, HTPs, and other imitation tobacco products from a young person; and
- c) For a young person to purchase or use ENDS/ENNDS, HTPs, and other imitation tobacco products.

For purposes of this Act, 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 young person to whom it was sold. Neither shall it be a defense that he or she did not know nor had any reason to believe that the ENDS/ENNDS, HTPs, or other imitation tobacco products was for the consumption of a young person to whom it was sold.

Sec. 8. Restrictions on Flavors. – The manufacture, sale, distribution, and use of ENDS/ENNDS, HTPs, and other imitation products with flavors other than plain tobacco or plain menthol is prohibited. No combination of other flavors shall be allowed.

Sec. 9. Prohibition on the Retail or Use of Nicotine Shots. – The retail or use of nicotine shots and/or concentrates shall be strictly prohibited.

Sec. 10. Prohibition on Online Selling of ENDS/ENNDS, HTPs, and Other Imitation Tobacco Products and Accessories. – The sale of ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories via the internet, or through online markets shall be strictly prohibited.

Sec. 11. Point-of-Sale Restriction. – The distribution, sale, and offering for sale and use of ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories shall be strictly prohibited in places where sale and use of conventional cigarettes are prohibited.

Sec. 12. Sale of ENDS/ENNDS, HTPs and Other Imitation Tobacco Products and Accessories within School Perimeters and Residential Areas. – The sale or distribution of ENDS/ENNDS, HTPs, and other imitation tobacco products and

accessories is prohibited within a minimum distance of two hundred (200) meters from any point of the perimeter of a school, public playground, or other facility frequented by young persons and residential areas. Nothing in this provision or elsewhere in this Act shall be construed as limiting the powers of LGUs under the General Welfare Clause.

Sec. 13. *License to Operate and Certificate of Product Registration.* – All persons, entities, or establishments engaged in the manufacture, importation, distribution, and sale of ENDS/ENNDS, HTPs, and other imitation tobacco products shall first secure a License to Operate (LTO) from the FDA. ENDS/ENNDS, HTPs, and other imitation tobacco products shall be submitted for product registration with the FDA and shall be issued a Certificate of Product Registration (CPR) before being sold to the general public.

Sec. 14. *Health Claims.* – Unless approved by the FDA, any person, entity, organization, or establishment is prohibited from stating or publishing any health claims on ENDS/ENNDS, HTPs, and other imitation tobacco products, such as but not limited to claims of reduced health risk or reduced exposure to carcinogenic ingredients.

Sec. 15. *Restrictions on Advertisement, Sponsorship, Promotion, and Point of Sale.* – Any form of advertising, sponsorship, promotion, including promotional sales which offer, among others, price cuts, discounts, coupons, raffle prizes, exchange gifts, and bundling discounts for purchases of ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories, such as but not limited to clips, bags, holders, lanyards, and other similar accessories shall be prohibited.

No person, establishment, or entity engaged in the sale of ENDS/ENNDS, HTPs, and imitation tobacco products shall display such products, including their devices and consumables, at the point of sale or in any manner that makes them visible to the public.

No person shall use the FDA logo, the words "Food and Drug Administration" or "Philippine FDA", or any imitation of such words, initials, or logo in print and other forms of broadcast, media, including the internet, in connection with any ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories, merchandise, impersonation, solicitation, or commercial activity in a manner that

convey such use is approved, endorsed, or authorized by the FDA. Engaging in any form of ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories advertisement and promotion, including advertising in social media, online media, and the internet is likewise prohibited.

Promoting, directly or indirectly, ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories in an event, activity, program, or project where ENDS/ENNDS, HTPs, and imitation tobacco products and accessories company is a participant as a facilitator, sponsor, contributor, donor, or benefactor is prohibited.

Unless approved by the FDA as a cessation device, promoting or advertising, directly or indirectly, ENDS/ENNDS, HTPs, and other imitation tobacco products, as a healthier alternative to smoking or a smoking cessation tool, is prohibited.

ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories' importers, manufacturers, sellers, distributors, and retailers are prohibited from directly or indirectly sponsoring any sport, concert, educational, cultural, art, or any event.

Individual or team athletes, artists, celebrities, performers, influencers, and health professionals are likewise prohibited from accepting sponsorships, endorsing, posting, or promoting ENDS/ENNDS, HTPs, and other imitation products and accessories, which includes the mention or tagging through social media, of the names or brands of ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories. All persons receiving remuneration, in whatever form, for promoting or encouraging the use of ENDS/ENNDS, HTPs, and other imitation tobacco products shall also be covered by the ban under this Section.

Sec. 16. *Smoking/Vaping Restriction Awareness Campaign.* – The DOH, as may be necessary, shall prescribe guidelines for the implementation of smoking/vaping restriction awareness campaigns, which may include but not be limited to information drives, and posting of warning signages in public.

Sec. 17. *Warning on Packaging of ENDS/ENNDS, HTPs, and Other Imitation Tobacco Products.* – All containers and packages of *ENDS/ENNDS and HTPs* shall bear the GHWs as provided under Republic Act No. 10643 or the "Graphic Health Warnings Law." All containers and packages of other imitation tobacco products or its accessories shall contain appropriate health warnings, whose content, format,

and specifications are to be designated by the DOH: *Provided*, That the DOH shall regularly review and revise the said health warnings, and issue additional warnings and messages on health risks as they deem appropriate.

Sec. 18. *Role of Government Agencies.* – The DOH, in consultation with the FDA, the Department of Trade and Industry (DTI), and concerned agencies, shall promulgate rules, regulations, and standards on packaging, ingredients, graphic health warning, detailed information on the allowable nicotine containing e-liquid, the strength of e-liquids, compliance with applicable electrical and safety standards.

The FDA, in collaboration with LGUs, shall check the compliance of manufacturers, importers, distributors, and retailers with this Act through surveillance inspections and investigations and take appropriate action for non-compliance.

The DepEd and CHED, in coordination with the DOH, shall conduct an information campaign on nicotine addiction and the ill effects of smoking and vaping.

LGUs are encouraged to enact local ordinances in support of the minimum mandatory requirements under this Act and the general welfare of their constituents. Nothing in this Act shall be construed as limiting the powers of LGUs under the General Welfare Clause: *Provided*, That the minimum requirements under this Act are complied with.

Sec. 19. *Penalties.* – The following penalties shall apply:

- a) Violations of Sections 4 and 5 of this Act:
 - i) First offense: a fine of not less than Five Thousand Pesos (Php 5,000.00) but not more than Ten Thousand Pesos (Php 10,000.00) shall be imposed.
 - ii) Second Offense: a fine of not less than Ten Thousand Pesos (Php 10,000.00) but not more than Twenty Thousand Pesos (Php 20,000.00) shall be imposed.
 - iii) Third Offense: In addition to a fine of Twenty Thousand Pesos (Php 20,000.00), the business permits and licenses to operate shall be cancelled or revoked.
- b) Violation of Section 7 of this Act:
 - i) First offense: a fine not less than Twenty Thousand Pesos (Php

20,000) or an imprisonment of not more than thirty (30) days, upon the discretion of the court. For succeeding offenses, both penalties shall apply in addition to the revocation of business licenses or permits in the case of a business entity or establishment.

- ii) The DOH and the Department of Social Welfare and Development (DSWD) shall implement appropriate intervention programs, including but not limited to, counselling of young person and his/her parent/guardian, when a young person is caught selling, buying, or using ENDS/ENNDS, HTPs, and other imitation tobacco products.
- c) Violations of Sections 8 to 15 of this Act:
 - i) First offense: a fine of not more than One Hundred Thousand Pesos (Php 100,000.00) or imprisonment of not more than one (1) year, or both, at the discretion of the court shall be imposed.
 - ii) Second Offense: a fine of not more than Two Hundred Thousand Pesos (Php 200,000.00) or imprisonment of not more than two (2) years, or both, at the discretion of the court shall be imposed.
 - iii) Third Offense: in addition to a fine of not more than Four Hundred Thousand Pesos (Php 400,000.00) or imprisonment of not more than three (3) years, or both, at the discretion of the court, and in the case of a business entity, partnership, corporation, association, or any juridical person, the business permits, licenses, in the case of a business entity or establishment, shall be revoked or cancelled.
- d) Violation of Section 17 of this Act shall be penalized in accordance with Section 14 of Republic Act No. 10643 otherwise known as "the Graphic Health Warnings Law.

In case any violation of this Act is committed by a business entity, partnership, corporation, association or any juridical person, the partner, president, director or manager who shall consent to or shall knowingly tolerate such violation shall be directly liable and responsible for the act of the employees and shall be criminally liable as a co-principal.

If the guilty officer is an alien, he shall be summarily deported after serving his sentence and shall be forever barred from re-entering the Philippines.

Sec. 20. *Implementing Rules and Regulations.* – Within sixty (60) days from the approval of this Act, the DOH, in consultation with the FDA, and other concerned agencies and stakeholders, shall promulgate the necessary implementing rules and regulations (IRR) for the effective implementation of this Act.

Sec. 21. *Transitory Provision.* – All persons, establishments, and entities engaged in the importation, manufacture, distribution, sale, or promotion of ENDS/ENNDS, HTPs, and other imitation tobacco products and accessories shall be given a period of eighteen (18) months from the issuance of the implementing rules and regulations of this Act to comply with this Act.

Sec. 22. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

Sec. 23. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.

Sec. 24. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days following its complete publication in the Official Gazette or a newspaper of general circulation.

Approved,