

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 5873



Introduced by
Honorable Cristal L. Bagatsing

AN ACT
REGULATING THE MANUFACTURE, DISTRIBUTION, SALE,
IMPORTATION AND USE OF ALL ELECTRONIC NICOTINE DELIVERY
SYSTEMS AND HEAT STICKS IN THE PHILIPPINES

EXPLANATORY NOTE

The Department of Health (DOH) renewed its call for a ban on electronic cigarettes and vaping products after the country reported its first case of an illness with their use. In the United States, some 42 people have died while 2,172 were sickened from the use of e-cigarettes.

Initially marketed as a healthier alternative to tobacco, the e-cigarettes still contain the addictive nicotine and potentially harmful chemicals.

This bill requires all producers of e-cigarette and Vapes products to register with the Department of Trade and Industry before it can be sold to the public and to ensure that the product have passed quality and safety requirements. Health warning signs should also be indicated just like any other tobacco product but with the words that "it is addictive".

This bill therefore, also provides the Product Standard Requirement as well as the Health Warnings and the restrictions on Product Communications.

In view thereof immediate passage of this Bill is earnestly sought.


HON. CRISTAL L. BAGATSING

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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 E-Cigarettes or Vape Regulation Act of 2019.

SECTION 2. **Declaration of Policy.** – It is hereby declared that policy of the State to protect and promote the right to health of the people and instill health consciousness among them.

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

- a. Electronics cigarettes – refers to devices, often resembling cigarettes, cigars or pipes, designed to deliver nicotine or related substances to users in the form of a vapor. It is also known as electronic nicotine delivery systems. (ENDS). Electronic cigarettes are hereinafter referred to interchangeably with E-cigarettes.
- b. Heat sticks for purposes of this Act, it shall refer to tobacco stick containing tobacco, glycerin, water, guar gum, cellulose fibers, propylene glycol, and flavors. Nicotine is naturally present in tobacco. Nicotine is released in the Aerosol generated when IQOS (I Quit Original Smoking) is used. Tobacco sticks do not contain GMO Tobacco (genetically modified organisms).

As the tobacco is heated and not burned, IQOS does not generate smoke but rather an aerosol resulting from the evaporation of water, glycerin and nicotine. Glycerin is used in many consumer products (food, pharmaceuticals, and cosmetics) and is on the European list of approved food additives. It has also been approved by health regulators for inhalation products. The long term effects of inhaling glycerin are not known but based on the results of short term studies are expected to be much less than from inhalation of cigarette smoke.

- c. Vaping – the act of inhaling and exhaling the vapor produced by an electronic cigarette or similar devices.
- d. E- Liquid, e-juice or simply juice refers to a liquid solution that produces aerosol when heated by an atomizer. The main ingredients of a e-liquids are usually a mixture of propylene glycol (PG) vegetable lychin (VL), and/or polyethylene glycol 400 (PEG 400), sometimes with different levels of alcohol mixed with concentrated or extracted flavoring, and optionally, a variable concentration of tobacco-derived nicotine.
- e. Nicotine means nicotine alkaloids including any salt or complex of nicotine whether derived from tobacco or synthetically produced.
- f. Nicotine mixture means the nicotine-containing liquid, solid or other non-tobacco substance in the product.
- g. Refill container refers to a container for holding nicotine mixture to refill certain e-cigarette.
- h. Emissions means substance that are released when a product is consumed as intended, such as substances found in cigarette smoke, or the aerosol generated by an e-cigarette.
- i. Package refers to packs, boxes, cartons or containers of any kind in which the electronic component of an e-cigarette is offered for sale to consumers.
- j. Nicotine container shall refer to bottles, boxes, cartons or containers of any kind in which a nicotine-containing product is offered for sale to consumers for use with an e-cigarette product system.
- k. Producer shall refer to any location at which an individual can purchase or otherwise obtain e-cigarette products.

SECTION 4. **Health Warnings.** – Manufacturers of e-cigarettes and heat sticks shall put health warnings in the packaging of their products. The Department of Health shall prescribe the standard for the sizes, content and other matters regarding the health warning sign that said e-cigarette and heat stick must bear.

SECTION 5. **Minimum Age, Sales and Purchase.** – The following acts shall be prohibited:

- a. The sale, distribution, or transfer of e-cigarettes and heat sticks by any person to minors (anyone below 18 years old).
- b. Purchasing or otherwise receiving e-cigarettes and heat sticks from a minor.
- c. The sale, purchase and use of e-cigarettes and heat sticks by minors. It shall 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 or had any reason to believe that the product was for the consumption of the minor to whom it was sold.

SECTION 6. **Retailer Signage.** – Producer establishments offering, distributing or selling e-cigarettes and heat sticks to consumers shall post the following statement in a clear manner: “Sale/Distribution TO OR PURCHASE BY MINORS OF E-CIGARETTES AND HEAT STICKS IS UNLAWFUL” or “IT IS UNLAWFUL FOR E-CIGARETTES AND HEAT STICKS TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSON UNDER 18 YEARS OF AGE.”

SECTION 7. **Proof of Age Verification.** – Retailers shall ascertain that no individual purchasing an e-cigarette and heat stick is below eighteen (18) years of age.

SECTION 8. **Product Communication Restrictions.** – *Advertisements shall be allowed in* retailer establishments, through direct marketing only. These shall not be aimed at or particularly appeal to persons under eighteen (18) years of age. These should not undermine quit-smoking messages and encourage non-tobacco or nicotine users to use the product. These should not contain any information that is untrue or not scientifically substantiated in particular with regards to product characteristics, health effects, risks or emissions.

SECTION 9. **Public Place Use.** – Use of e-cigarettes and heat sticks indoors is prohibited in schools, hospitals, government offices, and facilities intended particularly for minors. In all other enclosed places open to the general public, e-cigarette and heat stick use shall be allowed, provided that the owner of such places shall post the following statement in a clear manner at every entrance point of such places: “USE OF E-CIGARETTES AND HEAT STICKS IS ALLOWED INSIDE.” For places that does not allow e-cigarettes use

indoors, the owner of such places shall post the following statement at every entrance: "NO VAPING INSIDE."

SECTION 10. ***Product Standard Requirements.*** – The following shall be required for all e-cigarettes sold in the Philippines.

- a. E-cigarette shall have a capacity of no more than 5 ml.
- b. The maximum volume of nicotine-containing-e liquid for sale in one refill container shall be limited to 30 ml.
- c. E-liquids shall have a nicotine strength of no more than 20 mg/ml.
- d. Nicotine containers shall be child resistant and tamper evident;
- e. Producers of electrical devices intended to be used in combination with an e-cigarette shall ensure that such devices comply with electrical safety standards as may be determined by the Bureau of Product Standards of the Department of Trade and Industry;
- f. Compliance of batteries with applicable industry requirements.
- g. All ingredients in the product should be listed on the label as well as the label by the name of the flavor.
- h. Appropriate advice on product storage.
- i. All e-cigarettes and e-liquids shall be notified to the Department of Trade and Industry before they can sold to the market.

SECTION 11. ***Penalties for Non-Compliance.*** – The following penalties shall individually apply to producers, importers, distributors and sellers of e-cigarettes as well as their agents for any violation of this Act.

- a) On the first offense, a fine of not more than FIFTY THOUSAND PESOS (P50,000.00);
- b) On the second offense, a fine of not more than ONE HUNDRED THOUSAND PESOS (P100,000.00);
- c) On the third offense a fine of not more than FIVE HUNDRED THOUSAND PESOS (P500,000.00) or imprisonment of not more than five (5) years or both, at the discretion of the court. Provided, that the business permits and licenses, in the case of a business entity or establishment shall be revoked or cancelled.

Non-compliant e-cigarettes found in the market for sale or distribution shall be subject to confiscation.

If the guilty officer is a foreign national, he shall be deported after service sentence and/or payment of applicable fines without need of further deportation proceedings and shall be permanently barred from re-entering the Philippines.

SECTION 12. ***Implementing Rules and Regulations.*** – Within three (3) months from the effectivity date of this Act, the DTI in full coordination and consultation with the DOH shall issue the implementing rules and regulations of this Act.

The non-issuance of the IRR will not suspend the effectivity of this Act or the introduction of new e-cigarettes in the market.

SECTION 13. *Separability Clause.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 14. *Repealing Clause.* – Any law, presidential decree, or issuance, executive order, letter of instruction, administrative order, rules or regulations contrary to or is inconsistent with the provision of this Act is hereby repealed, modified or amended accordingly.

SECTION 15. *Effectivity Clause.* – this Act shall take effect in fifteen (15) days after publication in the Official Gazette or in one (1) newspaper of general circulation in the Philippines.

Approved,