

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

First Regular Session

House Bill No. 40



Introduced by **HON. ROZZANO RUFINO B. BIAZON**

EXPLANATORY NOTE

The health risks and hazards attributed to smoking and use of tobacco products are well documented throughout recent history. Numerous researches, studies, experiments and tests yielded conclusive reports that smoking cigars, cigarettes, pipes and other tobacco-based products are hazardous to human health. Several diseases are found to have been directly caused by smoking or constant exposure and inhalation of second-hand or even third-hand smoke. Nicotine, the substance found in tobacco products, is highly addictive and causes the smoker to become highly dependent on the nasty habit. Furthermore, cigars, cigarettes and other tobacco products also contain tar, a carcinogenic substance that can cause cancer.

Numerous campaigns and programs have been painstakingly orchestrated by the Government and the private sector as well, to discourage or altogether stop smoking. This is to prevent the further worsening of smokers' health and to minimize the risks posed by second and third-hand smoke to the general public. A massive information and awareness drive coupled with stricter laws, rules and regulations imposed on the tobacco industry is indeed a positive step in the right direction to eradicate the threats posed by smoking.


However, with these developments, a new trend have seemingly emerged. Considered as a "healthier" alternative to cigarette smoking, "vaping" or the use of "electronic cigarettes" is now the new craze. Generally classified as Electronic Nicotine Delivery Systems (ENDS), these devices have already penetrated the Philippine market and have become popular especially among the younger generation today. The manufacturers and distributors of these devices offer them as a "safer" substitute to the real thing. Without inhaling and exhaling real tobacco smoke, enthusiasts of this practice claim that these devices actually help smokers quit their habit more easily by saving them the torture of the effects of withdrawal.

While the use of ENDS such as electronic cigarettes/e-cigs, vaping devices, and the like seem relatively harmless and better compared to smoking the real thing, there is still no conclusive nor validated study to back up these claims. On the contrary, several research on ENDS show that these devices are not totally risk-free and may in fact provide more damage to one's health in the long run due to the presence of chemicals and other harmful substances

in the "juices" that are being utilized in "vaping". While some manufacturers claim that their "juices" contain 0% nicotine, further studies proved otherwise. Nicotine is still being induced by the user through these devices thus making their use highly addictive as well. While there may be vapors or scented aroma instead of smoke or foul odor to speak of, the telltale effects of "vaping" and use of "e-cigarettes" are nonetheless the same as cigar or cigarette smoking. Moreover, being electronic devices that produce heat, ENDS are susceptible to malfunctions or glitches. There are documented instances wherein ENDS suddenly explode while in use, causing damage or injury to the user. Hence, these devices are not relatively safe as advertised.

In clear circumvention of the law, consumers of these paraphernalia can even use them in areas that expressly prohibit smoking. Technically speaking, these devices do not fall under the category of "tobacco" or "tobacco product" as regulated by Republic Act No. 9211, otherwise known as the Tobacco Regulation Act of 2003. Unregulated and unchecked, the sale or distribution of these products even to minors is legitimately possible. There then lies another problem. Hence, in the interest of public health and the protection of minors against bad habits that may prove damaging to their health and general well-being, it is the duty of the State to intervene and regulate the proliferation of ENDS in the market and to strictly prohibit the use, sale and distribution of these products to minors.

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


ROZZANO RUFINO B. BIAZON
Representative
Lone District, Muntinlupa City

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Introduced by **HON. ROZZANO RUFINO B. BIAZON**

AN ACT
REGULATING THE USE, SALE AND DISTRIBUTION OF ELECTRONIC
NICOTINE DELIVERY SYSTEMS (ENDS) AND FOR OTHER PURPOSES

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 “*ENDS Regulation Act*”.

Sec. 2. *Policy.* – It is the policy of the State to protect the populace from hazardous products and promote the right to health and instill health consciousness among them. For these purposes, the government shall institute a policy whereby the use, sale and distribution of Electronic Nicotine Delivery Systems or “ENDS” such as but not limited to electronic cigarettes, vaping devices and the like, shall be regulated in order to promote a healthful environment for the general public.

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

- a. Distributor – any person to whom Electronic Nicotine Delivery Systems is delivered to or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer or common carrier of such product.
- b. Electronic Nicotine Delivery Systems or “ENDS” – encompasses products that contain tobacco-derived substances, but in which tobacco is not necessary for operation. They are battery-powered devices that provide inhaled doses of nicotine or other substances by delivering a vaporized propylene glycol/nicotine mixture.
- c. E-liquid/E-Juice – refers to the liquid substance or substances being used in ENDS. It is usually heated by the atomizer in an ENDS to produce vapor.

Sec. 4. *Prohibited Places.* – The use of ENDS shall be absolutely prohibited in the following public places:

- a. Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for persons under eighteen (18) years old;
- b. Elevators and stairwells;
- c. Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- d. Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories;
- e. Public conveyances and public facilities including airport and ship terminals and train and bus stations, restaurants and conference halls, except for separate smoking areas; and
- f. Food preparation areas.

Sec. 5. *Prohibition to Minors.* – The use of ENDS by minors is strictly prohibited. It shall be unlawful for any distributor, retailer or any person to sell or distribute ENDS and E-liquids/E-juices to minors for any purpose or reason whatsoever.

Sec. 6. *Signage.* —Point-of-Sale establishments offering, distributing or selling ENDS and E-liquids/E-juices to consumers, shall post the following statement in a clear and conspicuous manner: “SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF ELECTRONIC CIGARETTES, VAPING DEVICES AND E-LIQUIDS/E-JUICES IS STRICTLY PROHIBITED” or “IT IS UNLAWFUL FOR ELECTRONIC NICOTINE DELIVERY SYSTEMS AND E-LIQUIDS/E-JUICES TO BE SOLD/DISTRIBUTED TO OR PURCHASED BY PERSONS UNDER 18 YEARS OF AGE.”

Sec. 7. *Regulation by the Food and Drugs Administration.* – The Food and Drugs Administration (FDA) is hereby tasked to regulate the use, sale and distribution of E-liquids or E-juices used in ENDS that are made available to the public for general consumption.

Sec. 8. *Penalties.* — The following penalties shall apply:

- a. On the first offense, any person, business entity or establishment in violation of any the provisions of this Act shall be fined the amount of Five Thousand Pesos (Php5,000.00) or an imprisonment of not more than thirty (30) days or both, upon the discretion of the court.
- b. For succeeding offenses, a fine of Ten Thousand Pesos (Php10,000.00) and imprisonment of not more than thirty (30) days in addition to the revocation of business licenses or permits in the case of a business entity or establishment.
- c. If the violation is by an establishment or business entity, the owner, president, manager, or the most senior officers thereof shall be held liable for the offense.

- d. If a minor is caught using, selling, or buying any ENDS or any E-liquid/E-juice, the provisions of Section 20 of Republic Act No. 9344, As Amended, otherwise known as the "Juvenile Justice and Welfare Act of 2006", shall apply.

Sec. 9. *Repealing Clause*. — All laws, decrees, ordinances, administrative orders, rules and regulations, or any part thereof, which are inconsistent with this Act are hereby repealed or amended accordingly.

Sec. 10. *Separability Clause* — Should any provision of this Act be subsequently declared unconstitutional, the other provisions not so declared shall remain in full force and effect.

Sec. 11. *Effectivity*. — This Act shall take effect after 15 days from its publication in at least two (2) newspapers of general circulation.

Approved,