

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

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 917

HOUSE OF REPRESENTATIVES	
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REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by Representative H. Harry L. Roque, Jr.

"AN ACT STRENGTHENING THE INTER-AGENCY COMMITTEE-TOBACCO (IAC-TOBACCO) TO ENSURE COMPLIANCE WITH ARTICLE 5.3 OF THE WORLD HEALTH ORGANIZATION FRAME WORK CONVENTION ON TOBACCO CONTROL (WHO FCTC) THEREBY AMENDING FOR THIS PURPOSE SECTIONS 2, 4, 29, 31, 32, 36 AND 39 OF REPUBLIC ACT 9211, OTHERWISE KNOWN AS THE TOBACCO REGULATION ACT OF 2003"

EXPLANATORY NOTE

The Philippines has a solemn obligation to protect and promote the right to health, which is intimately linked with the self-preservation and self-perpetuation of the Filipino people. Article II, Section 15 of the 1987 Philippine Constitution mandates that the State "shall protect and promote the right to health of the people and instill health consciousness among them."

In the Philippines, at least eighty seven thousand six hundred (87,600) Filipinos die every year from tobacco-related diseases, or approximately two hundred forty (240) deaths every day.¹ In 2009, the Philippines was revealed to have one of the highest smoking populations in the world, ranking 9th for males and 16th for females.² These figures underscore the urgent need to adopt and implement more effective measures to curb tobacco consumption.

As a State Party to the *World Health Organization Framework Convention on Tobacco Control* ("WHO FCTC"), the world's first public health treaty which aims to address the global tobacco epidemic and to provide protection to the world's population against the health hazards tobacco use and tobacco smoke, the Philippines has an international obligation to uphold the principles contained therein.

¹ Department of Health National Tobacco Control Coordinating Office, data available at <<http://www.beat-tobacco.ph/national-tobacco-control-strategy/introduction/>> Last accessed on 14 January 2014; see also Quimbo SLA, Casoria AA, Miguel-Baquilod M, Medalla FM, Xu X, Chaloupka FJ. (2012), *The Economics of Tobacco and Tobacco Taxation in the Philippines*, Paris: International Union Against Tuberculosis and Lung Disease.

² American Cancer Society (2009); *The Tobacco Atlas*, 3rd ed., 23-25.

Protection against tobacco industry interference³ is an indispensable requirement to the realization of all provisions of the WHO FCTC. This is premised on the principle that there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.⁴ Recognizing the need to counter the tobacco industry's efforts to undermine tobacco control⁵ and to inform the public of the tobacco industry's efforts to undermine tobacco control measures,⁶ Article 5.3 of the FCTC states that "[i]n setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law." Article 5.3 is grounded in extensive evidence showing that the tobacco industry has been subverting tobacco control measures on a global scale.⁷ The tobacco industry has vast accesses to resources and employs sophisticated techniques to impede tobacco control measures.⁸

Republic Act No. 9211 or the *Tobacco Regulation Act of 2003* ("RA 9211"), the first comprehensive law on tobacco control in the Philippines, became effective in 2003, two years before the FCTC came into force. The main policy areas of RA 9211 are: (a) smoke-free environment, (b) sale to minors, (c) health warnings, and (d) advertising, promotions, and sponsorships. RA 9211 created the Inter-Agency Committee-Tobacco ("IAC-T") to implement the provisions of the Act. Significantly, Section 29 (g) of RA 9211 provides that a "representative from the Tobacco Industry to be nominated by the legitimate and recognized associations of the industry" be among the members of the IAC-T. The representation of tobacco industry interests in a regulatory body mandated to implement, enforce, and monitor the implementation of a tobacco control measure contravenes Article 5.3 of the WHO FCTC. Notably, RA 9211 does not contain any provision prohibiting and/or preventing tobacco industry interference with public health policies, nor does it contain any safeguards for its member agencies and organizations to be protected from tobacco industry tactics. Hence, RA 9211, which specifically created the IAC-T to implement the provisions of the law, must be urgently amended.

There is a gap in the implementation of the Philippines' obligation to implement Article 5.3 of the WHO FCTC as a result of the composition of the IAC-T under RA 9211. Considering the vast range of forms that tobacco industry interference may take, it is necessary to alter the composition of the IAC-T under RA 9211 to eliminate the main venue by which the tobacco industry is able to exert its commercial and vested interests through its participation in the government's administration and implementation of tobacco control measures.

³"Tobacco industry interference" refers to the broad array of tactics utilized by the tobacco industry to interfere with or influence public health measures related to tobacco control in order to promote its interests.

⁴Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control ("**FCTC Guidelines**"), Conference of the Parties, Decision WHO FCTC/COP2(14), available at <http://www.who.int/WHO_FCTC/guidelines/adopted/guidel_2011/en/>.

⁵ WHO FCTC, Preamble.

⁶ World Health Assembly ("WHA") Resolution WHA54.18, citing the findings of the Committee of Experts on Tobacco Industry Documents; WHO, TOBACCO COMPANY STRATEGIES TO UNDERMINE TOBACCO CONTROL ACTIVITIES AT THE WHO (July 2000).

⁷ WHA54.18.

⁸ Briefing Paper: Implementing Article 5.3, from the Second Session of the Conference of the Parties to the WHO FCTC, available at <http://www.WHO_FCTC.org/images/stories/2007/fca-2007-cop-article5-3-cop2-briefing-en.pdf>, last accessed 10 August 2014.

As a State Party to the FCTC, the Philippines is internationally bound to comply with its treaty obligations in good faith and to show political commitment not to undermine the objectives set out in the FCTC.⁹Hence, the immediate approval of this Bill requiring the removal of the tobacco industry in the IACT is earnestly sought.

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



REP. H. HARRY L. ROQUE, JR.

⁹*Secretary of Justice vs. Hon. Ralph C. Lantion*, supra; Vienna Convention on the Law of Treaties, Section 26

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11 Introduced by Representative H. Harry L. Roque, Jr. KABAYAN Partylist
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16 AN ACT

17 STRENGTHENING THE INTER-AGENCY COMMITTEE-TOBACCO (IAC-
18 TOBACCO) TO ENSURE COMPLIANCE WITH ARTICLE 5.3 OF THE WORLD
19 HEALTH ORGANIZATION FRAME WORK CONVENTION ON TOBACCO
20 CONTROL (WHO FCTC) THEREBY AMENDING FOR THIS PURPOSE
21 SECTIONS 2, 4, 29, 31, 32, 36 AND 39 OF REPUBLIC ACT 9211, OTHERWISE
22 KNOWN AS THE TOBACCO REGULATION ACT OF 2003

23
24 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
25 *assembled:*

26
27 SEC. 1. Section 2 of Republic Act 9211, otherwise known as the Tobacco Regulation
28 Act of 2003, is hereby amended to read as follows:

29
30 SECTION 2. Policy.—It is the policy of the State to protect the
31 populace from hazardous products and promote the right to health
32 and instill health consciousness among them. For these purposes,
33 the government shall institute a policy whereby the use, sale and
34 advertisements of tobacco products shall be regulated in order to
35 promote a healthful environment and protect the citizens from the
36 hazards of tobacco smoke.

37
38 SEC. 2. Section 4 of the same Act is hereby amended by inserting new paragraphs to
39 read as follows and the same are hereby renumbered accordingly:

40
41 "Section 4. Definition of Terms - As used in this Act:

42
43 x x x

44
45 (V) "TOBACCO INDUSTRY" - REFERS TO ORGANIZATIONS,
46 ENTITIES, ASSOCIATIONS, AND INDIVIDUALS THAT WORK
47 FOR AND IN BEHALF OF THE TOBACCO INDUSTRY, SUCH AS
48 BUT NOT LIMITED TO TOBACCO MANUFACTURERS,
49 WHOLESALE DISTRIBUTORS, IMPORTERS OF TOBACCO
50 PRODUCTS, TOBACCO RETAILERS, FRONT GROUPS AND/OR

