

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

SEVENTEENTH CONGRESS
1st Regular Session

House Bill No. 925

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Introduced by Hon. Francis Gerald Aguinaldo Abaya

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.

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. Recognizing the need to counter the tobacco industry's efforts to undermine tobacco control and to inform the

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, Casarla 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.

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.

public of the tobacco industry's efforts to undermine tobacco control measures, 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.⁴ The tobacco industry has vast accesses to resources and employs sophisticated techniques to impede tobacco control measures.⁵

Republic Act No. 9211 or the Tobacco Regulation Act of 2003, 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 (IACT) 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 IACT. The representation of tobacco industry interests in a regulatory body mandated to implement, enforce, and monitor the implementation of a tobacco control measure is in contravention of Article 5.3 of the WHO FCTC. Notably, RA 9211 does not contain any provision addressing tobacco industry interference nor does it contain any safeguards for its member agencies and organizations to be protected from tobacco industry tactics. RA 9211 established the IACT to implement the provisions of the Act.

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 IACT under RA 9211. Considering the vast range of forms that tobacco industry interference may take, it is necessary to alter the composition of the IACT under RA 9211 so as 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.

As a State party to the FCTC, the Philippines is internationally bound to comply with its treaty obligations in good faith and show political commitment not to undermine the objectives set out in the FCTC.

For the foregoing reasons, the approval of this bill is earnestly sought.


FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite

⁴ World Health Assembly (WHA) Resolution WHA54.18

⁵ 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.

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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

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

1 **SECTION 1.** Section 2 of Republic Act 9211, otherwise known as the Tobacco
2 Regulation Act of 2003, is hereby amended to read as follows:
3

4 SECTION 2. Policy.—It is the policy of the State to protect the populace from
5 hazardous products and promote the right to health and instill health consciousness
6 among them. ~~[It is also the policy of the State, consistent with the Constitutional ideal~~
7 ~~to promote the general welfare, to safeguard the interests of the workers and other~~
8 ~~stakeholders in the tobacco industry.]~~ For these purposes, the government shall
9 institute a **[balanced]** policy whereby the use, sale and advertisements of tobacco
10 products shall be regulated in order to promote a healthful environment and protect
11 the citizens from the hazards of tobacco smoke~~[-, and at the same time ensure that the~~
12 ~~interests of tobacco farmers, growers, workers and stakeholders are not adversely~~
13 ~~compromised].~~
14

15 **SECTION 2.** Section 4 of the same Act is hereby amended by inserting new
16 paragraphs to read as follows and the same are hereby renumbered accordingly:
17

18 “Section 4. Definition of Terms - As used in this Act:

19
20 x x x

21
22 (V) “TOBACCO INDUSTRY” – REFERS TO ORGANIZATIONS, ENTITIES,
23 ASSOCIATIONS, AND INDIVIDUALS THAT WORK FOR AND IN BEHALF

1 OF THE TOBACCO INDUSTRY, SUCH AS BUT NOT LIMITED TO
2 TOBACCO MANUFACTURERS, WHOLESALE DISTRIBUTORS,
3 IMPORTERS OF TOBACCO PRODUCTS, TOBACCO RETAILERS,
4 FRONT GROUPS AND/OR ORGANIZATIONS, INCLUDING BUT NOT
5 LIMITED TO LAWYERS, SCIENTISTS AND LOBBYISTS WHO WORK TO
6 FURTHER THE INTERESTS OF THE TOBACCO INDUSTRY; AND
7

8 (W) "UNECESSARY INTERACTIONS" – REFERS TO ALL INTERACTIONS
9 WITH THE TOBACCO INDUSTRY THAT IS NOT STRICTLY NECESSARY
10 FOR THE LATTER'S EFFECTIVE REGULATION, SUPERVISION AND
11 CONTROL."
12

13 **SECTION 3.** Section 29 of the same Act is hereby further amended to delete sub-
14 paragraph h. to read as follows:
15

16 **SECTION 29.** Implementing Agency. — An Inter-Agency Committee—
17 Tobacco CONTROL (IAC-Tobacco CONTROL), which shall have the exclusive
18 power and function to administer and implement the provisions of this Act, is
19 hereby created. The IAC-Tobacco CONTROL shall be chaired by the
20 Secretary of the ~~[Department of Trade and Industry (DTI)]~~ DEPARTMENT OF
21 HEALTH (DOH) with the Secretary of the ~~[Department of Health (DOH)]~~
22 DEPARTMENT OF EDUCATION (DEPED) as Vice Chairperson. The IAC-
23 Tobacco CONTROL shall have the following as members:
24

- 25 a. Secretary of the Department of Agriculture (DA);
26
27 b. Secretary of the Department of Justice (DOJ);
28
29 c. Secretary of the Department of Finance (DOF);
30
31 d. Secretary of the Department of Environment and Natural Resources
32 (DENR);
33
34 e. Secretary of the Department of Science and Technology (DOST);
35
36 f. Secretary of the ~~[Department of Education (DepEd)]~~ DEPARTMENT OF
37 TRADE AND INDUSTRY (DTI); AND;
38
39 ~~[g. Administrator of the national Tobacco Administration (NTA);]~~
40
41 ~~[h. A representative from the Tobacco Industry to be nominated by the~~
42 ~~legitimate and recognized associations of the industry; and]~~
43
44 ~~[i.]~~ G. ONE (1) representative EACH from ~~[a]~~ AT LEAST THREE (3)
45 nongovernment organizationS (NGOS) involved in public health promotion,
46 WITHOUT ECONOMIC AND/OR FIDUCIARY TIES TO THE TOBACCO
47 INDUSTRY, OR DO NOT KNOWINGLY REPRESENT OR RECEIVE

