

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

25 JUL -2 26:02

SENATE

S. NO. 58

Introduced by **SEN. WIN GATCHALIAN**

**AN ACT
AMENDING SECTIONS 8, 144, AND 225, AND ADDING A NEW SECTION 263-B AND 263-C OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

According to the 2023 National Nutrition Survey conducted by the Department of Science and Technology – Food and Nutrition Research Institute (“DOST-FNRI”), the smoking prevalence among adults ages 20 years old and above was 18.5% in 2021 and significantly increased to 23.2% in 2023.¹ Further, the prevalence of electronic cigarettes among adolescents ages 10 to 19 increased from 7.5% in 2021 to 39.9% in 2023,² a five-fold increase, while prevalence among adults ages 20 to 59 years old rose from 1.4% in 2021 to 9.9% in 2023.³

The striking increase in smoking prevalence could be attributed to several factors, such as the ease of access to these products and the attractiveness of flavored vapor products.

Under the Tax Code, nicotine salt or salt nicotine is taxed at PHP57.33 per milliliter (“mL”), while conventional ‘freebase’ or ‘classic’ nicotine is taxed at PHP66.15 per 10mL (or PHP6.15 per mL). Since the excise tax for nicotine salt is higher, there is room for misdeclaration in order to avail of a lower tax rate which can lead to a

¹ DOST-FNRI (2024). *Halfway Point to 2030: Key Findings of the 2023 National Nutrition Survey - Nutritional Status of Adults (20 to 59 years old)*. https://enutrition.fnri.dost.gov.ph/uploads/7_2023_NNS_ADULTS.pdf (date last accessed: May 29, 2025).

² *Id.*

³ *Id.*

decrease in tax collections. Further, since the cost is lower, these products can be sold at a lower selling price making it more affordable. In fact, per the Department of Trade and Industry, all the Philippine Standard Licenses it has issued only pertain to brands containing freebase nicotine.⁴

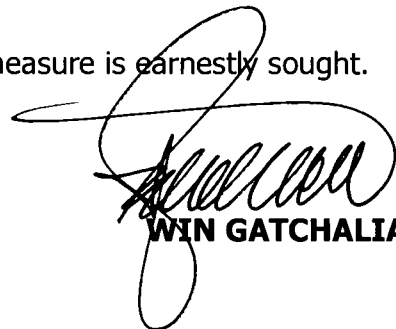
The lack of penalties for violation of the flavor ban on vapor products has encouraged manufacturers, importers, retailers, and distributors of vapor products to sell and market flavored vapor products. It is worth noting that a 2019 study found that vaping initiation among young adults is driven by flavored e-cigarettes and banning such flavors may reduce vaping initiation.⁵

Lastly, heated tobacco products ("HTPs") are taxed relatively lower than other cigarettes and vapor products, encouraging users to shift to HTPs.

To arrest the increase in smoking prevalence and vape use, there is an urgent need to revisit the taxation of these products. Thus, the proposed measure seeks to introduce the following:

1. Unitary excise tax for nicotine salt or salt nicotine and conventional 'freebase' or 'classic' nicotine at PHP66.15 per mL;
2. Imposition of a specific tax on vapor product devices at PHP120.00 per device and HTP devices at PHP500.00 per device;
3. Imposition of penalties for the manufacture, importation, sale, distribution, and possession of flavored vapor products; and
4. Increase the excise tax rate on HTPs from PHP35.83 to PHP41.00 per pack of 20 units or packaging combinations of not more than 20 units.

In view of the foregoing, the passage of this measure is earnestly sought.



WIN GATCHALIAN

⁴ Transcript of Stenographic Notes on the Public Hearing on the Rising Incidents of Illicit Trade on Excisable Products dated January 22, 2025, p. 75.

⁵ Landry, et. al. (2019). *The role of flavors in vaping initiation and satisfaction among U.S. adults*. Department of Health and Human Services – U.S.A. Retrieved from <https://pmc.ncbi.nlm.nih.gov/articles/PMC6903386/pdf/nihms-1537837.pdf> (date last accessed: May 29, 2025).

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

SECTION 1. Section 8 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 8. Duty of the Commissioner to Ensure the Provision and Distribution of Forms, Receipts, Certificates, and Appliances, and the Acknowledgment of Payment of Taxes.

(A) Provision and Distribution to Proper-Officials. – Any law to the contrary notwithstanding, it shall be the duty of the Commissioner, among other things, to prescribe, provide, and distribute to the proper officials the requisite licenses; internal revenue stamps; unique, secure and non-removable identification markings (hereafter called unique identification markings), such as codes or stamps, be affixed to or form part of all unit packets and packages and any outside packaging of **CIGARS AND** cigarettes, **HEATED TOBACCO**

1 **PRODUCTS, AND VAPOR PRODUCTS** and bottles of distilled spirits; labels
2 and other forms; certificates; bonds; records; invoices; books; receipts;
3 instruments; appliances and apparatus used in administering the laws falling
4 within the jurisdiction of the Bureau. For this purpose, internal revenue stamps,
5 or other markings and labels shall be caused by the Commissioner to be printed
6 with adequate security features.

7 Internal revenue stamps, whether of a bar code or fusion design, or other
8 markings shall be firmly and conspicuously affixed or printed on each pack of
9 cigars and cigarettes, **HEATED TOBACCO PRODUCTS, AND VAPOR**
10 **PRODUCTS**, and bottles of distilled spirits subject to excise tax in the manner
11 and form as prescribed by the Commissioner, upon approval of the Secretary of
12 Finance.

13 To further improve tax administration, **CIGARS AND** cigarettes, **HEATED**
14 **TOBACCO PRODUCTS, VAPOR PRODUCTS**, and alcohol manufacturers shall
15 be required to install automated volume-counters of packs and bottles to deter
16 over-removals and misdeclaration of removals."

17 **SECTION 2.** Section 144 of the National Internal Revenue Code of 1997, as
18 amended, is hereby further amended to read as follows:

19 **"Sec. 144. Tobacco Products, Heated Tobacco Products, and**
20 **Vapor Products. –**

21 "x x x

22 **"(B) Heated Tobacco Products. –** There shall be levied, assessed and
23 collected on heated tobacco products an excise tax at the rate **OF FORTY-**
24 **ONE PESOS (P41.00) PER PACK OF TWENTY (20) UNITS OR PACKAGING**

COMBINATIONS OF NOT MORE THAN TWENTY (20) UNITS. [prescribed
below:

~~Effective on January 1, 2020, Twenty five pesos (P25.00) per pack of twenty
(20) units or packaging combinations of not more than twenty (20) units;~~

~~Effective on January 1, 2021, Twenty seven pesos and fifty centavos (P27.50)
per pack of twenty (20) units or packaging combinations of not more than twenty
(20) units;~~

~~Effective on January 1, 2022, Thirty pesos (P30.00) per pack of twenty (20)
units or packaging combinations of not more than twenty (20) units; and~~

~~Effective on January 1, 2023, Thirty two pesos and fifty centavos (P32.50) per
pack of twenty (20) units or packaging combinations of not more than twenty (20)
units.]~~

"The rates of tax imposed under this Subsection, shall be increased by five
percent (5%) every year effective on January 1, [2024] **2026** through revenue
regulations issued by the Secretary of Finance.

"x x x

**(C) HEATED TOBACCO PRODUCT DEVICE. – EFFECTIVE JANUARY
1, 2026, AN EXCISE TAX EQUIVALENT TO FIVE HUNDRED PESOS
(P500.00) PER HEATED TOBACCO PRODUCT DEVICE SHALL BE
IMPOSED.**

"[(C)](D) Vapor Products. – There shall be levied, assessed and
collected on vapor products [an excise tax at the rates prescribed below:]
**CONTAINING ANY LIQUID SUBSTANCE, REGARDLESS OF NICOTINE
CONTENT, INCLUDING NICOTINE-FREE LIQUIDS OR ANY SIMILAR**

1 **PRODUCT, WHETHER CLASSIFIED AS NICOTINE SALT OR SALT**
2 **NICOTINE, OR CONVENTIONAL 'FREEBASE' OR 'CLASSIC' NICOTINE,**
3 **AN EXCISE TAX AT THE RATE OF SIXTY-SIX PESOS AND FIFTEEN**
4 **CENTAVOS (P66.15) PER MILLILITER OR A FRACTION THEREOF.**

5 ~~“(1) Nicotine Salt or Salt Nicotine.—There shall be levied, assessed and~~
6 ~~collected on any liquid substance, regardless of nicotine content, including~~
7 ~~nicotine-free liquids or any similar product, further classified as nicotine salt or~~
8 ~~salt nicotine, an excise tax based on the following schedules:~~

9 ~~“Effective on January 1, 2020, Thirty seven pesos (P37.00) per milliliter~~
10 ~~or a fraction thereof;~~

11 ~~“Effective on January 1, 2021, Forty two pesos (P42.00) per milliliter or a~~
12 ~~fraction thereof;~~

13 ~~“Effective on January 1, 2022, Forty seven pesos (P47.00) per milliliter~~
14 ~~or a fraction thereof; and~~

15 ~~“Effective on January 1, 2023, Fifty two pesos (P52.00) per milliliter or a~~
16 ~~fraction thereof.~~

17 ~~“Provided, That the rates of tax imposed under this Subsection shall be~~
18 ~~increased by five percent (5%) every year effective on January 1, 2024, through~~
19 ~~revenue regulations issued by the Secretary of Finance.~~

20 ~~“(2) Conventional 'Freebase' or 'Classic' Nicotine.—There shall be levied,~~
21 ~~assessed and collected on any liquid substance, regardless of nicotine content,~~
22 ~~including nicotine free liquid or any similar product, further classified as~~
23 ~~conventional 'freebase' or 'classic' nicotine an excise tax based on the following~~
24 ~~schedules:~~

~~"Effective on January 1, 2020, Forty five pesos (P45.00) per ten (10) milliliters or a fraction thereof;~~

~~"Effective on January 1, 2021, Fifty pesos (P50.00) per ten (10) milliliters or a fraction thereof;~~

~~"Effective on January 1, 2022, Fifty five pesos (P55.00) per ten (10) milliliters of a fraction thereof; and~~

~~"Effective on January 1, 2023, Sixty pesos (P60.00) per ten (10) milliliters or a fraction thereof.]~~

"Provided, That the rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective January 1, ~~[2024]~~ **2026**, through revenue regulations to be issued by the Secretary of Finance.

"x x x

"Unit packets and any outside wrapping of vapor products and other similar products shall carry a health warning compliant with Republic Act No. 10643, otherwise known as 'The Graphic Health Warnings Law' **AND INTERNAL REVENUE STAMPS UNDER THIS CODE.**

"x x x."

(E) VAPOR PRODUCT DEVICE. – EFFECTIVE JANUARY 1, 2026, AN EXCISE TAX EQUIVALENT TO ONE HUNDRED TWENTY PESOS (P120.00) PER VAPOR PRODUCT DEVICE, INCLUDING DISPOSABLE, REFILLABLE, OR OTHER SIMILAR DEVICE, SHALL BE IMPOSED.

SEC. 3. Section 225 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SEC. 225. *When Property to be Sold or Destroyed.* –

1 **"x x x**

2 Distilled spirits, liquors, cigars, cigarettes, **HEATED TOBACCO**
3 **PRODUCTS, VAPOR PRODUCTS**, other manufactured products of tobacco,
4 and all apparatus used in or about the illicit production of such articles may,
5 upon forfeiture, be destroyed by order of the Commissioner, when the sale of
6 the same for consumption or use would be injurious to public health or
7 prejudicial to the enforcement of the law.

8 **"x x x."**

9 **SEC. 4.** A new Section 263-B shall be introduced in the National Internal
10 Revenue Code of 1997, as amended. The new Section 263-B shall read as follows:

11 **SEC. 263-B. MANUFACTURING, IMPORTING, SELLING, OR**
12 **DISTRIBUTION OF FLAVORED VAPOR PRODUCTS:— ANY PERSON WHO**
13 **MANUFACTURES, IMPORTS, SELLS, OR DISTRIBUTES VAPOR**
14 **PRODUCTS WITH FLAVORING OTHER THAN PLAIN TOBACCO OR PLAIN**
15 **MENTHOL IN VIOLATION OF SECTION 144 (C) OF THIS CODE SHALL BE**
16 **PUNISHED WITH A FINE OF NOT LESS THAN ONE MILLION FIVE**
17 **HUNDRED THOUSAND PESOS (P1,500,000.00) BUT NOT MORE THAN**
18 **FIFTEEN MILLION PESOS (P15,000,000.00) AND IMPRISONMENT FOR**
19 **A TERM OF NOT LESS THAN SIX (6) YEARS AND ONE (1) DAY BUT NOT**
20 **MORE THAN TWELVE (12) YEARS.**

21 **SEC. 5.** A new Section 263-C shall be introduced in the National Internal
22 Revenue Code of 1997, as amended. The new Section 263-C shall read as follows:

23 **SEC. 263-C. UNLAWFUL POSSESSION OF FLAVORED VAPOR**
24 **PRODUCTS. — IT SHALL BE UNLAWFUL FOR ANY PERSON TO HAVE IN**

1 **HIS POSSESSION VAPOR PRODUCTS WITH FLAVORING OTHER THAN**
2 **PLAIN TOBACCO OR PLAIN MENTHOL WHICH ARE PROHIBITED UNDER**
3 **SECTION 144 (C) OF THIS CODE. ANY PERSON WHO HAS BEEN FOUND**
4 **GUILTY UNDER THIS SECTION SHALL BE SUBJECT TO THE FOLLOWING**
5 **PENALTIES:**

6 **(i) ON THE FIRST OFFENSE, A FINE OF ONE HUNDRED**
7 **THOUSAND PESOS (P100,000.00);**

8 **(ii) ON THE SECOND OFFENSE, A FINE OF THREE HUNDRED**
9 **THOUSAND PESOS (P300,000.00); AND**

10 **(iii) ON THE THIRD OFFENSE, A FINE OF FIVE HUNDRED**
11 **THOUSAND PESOS (P500,000.00) OR IMPRISONMENT OF NOT LESS**
12 **THAN ONE (1) MONTH AND ONE (1) DAY BUT NOT MORE THAN SIX (6)**
13 **MONTHS.**

14 **SEC. 6.** If any provision of this Act is declared unconstitutional or invalid,
15 other parts or provision hereof not affected thereby shall continue to be in full force
16 and effect.

17 **SEC. 7.** All laws, orders, issuances, circulars, rules and regulation or parts
18 thereof, which are inconsistent with the provisions of this Act are hereby repealed or
19 modified accordingly.

20 **SEC. 8.** This Act shall take effect after fifteen (15) days following its complete
21 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,