

Senator seeks regulation of e-cigarettes use, promotion

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CITING the duty of the state to protect public health, a senator is seeking the regulated use and promotion of electronic cigarettes (e-cigarettes) in the country.

In filing Senate Bill (SB) 2011, or the E-Cigarette Regulation Act of 2013, Sen. Manuel Lapid said the use of e-cigarettes, which is offered as an alternative to smokers to minimize their addiction to tobacco products, “remains a concern to health experts.”

“E-cigarettes are not regulated in the same manner as tobacco products because they do not contain tobacco—thus falling outside the ambit of the Tobacco Regulation Act. Thus, these devices are accessible to anyone who wishes to use them, including minors,” Lapid said in his explanatory note.

He said that even with the “exercise of discretion and utmost care by retailers in the sale of e-cigarettes and similar devices to minors, there are no clear and defined regulations imposing penalties for the commission of such sales or the gearing of advertisements or product packaging toward the sale to minors.”

“The lack of regulation, compounded by product accessibility, popularity and attractive design, makes such devices appealing to young adults, teenagers and minors, thereby encouraging their experimentation with or outright use of the same,” he said.

Lapid said SB 2011 seeks to regulate the sale and use by minors of e-cigarettes and similar devices, such as electronic vaping devices, personal vaporizers (PVs), or electronic nicotine delivery systems (ENDS) and electronic inhaler devices.

He said his proposal is anchored on the state policy to protect the people from “hazardous products and promote the right to health and instill health consciousness among the public.”

The proposed measure covers e-cigarettes, electronic vaping devices, PVs, or ENDS that “vaporize liquid nicotine into an aerosol mist and are meant to mimic and serve as a substitute for smoking tobacco.”

SB 2011 prohibits the sale and distribution of such products to minors.

The bill prohibits the sale or distribution of e-cigarettes within 100 meters from a school, public playground, or other facilities particularly frequented by and intended for minors.

It requires point-of-sale establishments offering, distributing, or selling e-cigarettes to post a disclaimer on their products, stating clearly that the sale to minors or those below 18 years old is unlawful; and requires retailers to verify the age of their customers through valid identification cards.

SB 2011 also provides a comprehensive guideline to e-cigarette manufacturers on advertising, promotions and even sponsorships.

The bill bars the use of celebrity endorsers and “cartoon characters or subjects that depict humans or animals with comically exaggerated features or that attribute human or unnatural characteristics to animals, plants or other objects” in advertisements, which must not be oriented toward minors.

The ads will only depict persons who are or appear to be above 25 years old, and shall not portray or depict scenes where there is actual use of, act of using, or puffing of e-cigarettes.

The proposed measure bars print advertisements, “unless there is reasonable basis to believe” that at least 75 percent of the

readers of the publication are 18 years old and above, and its youth readership comprises less than 10 percent of all youth in the Philippines.

The ads shall not be placed on the packaging or outside covers, whether front or back, or a magazine, newspaper, journal or other publication printed for general circulation.

Outdoor advertisements shall not be placed on billboards, wall murals, or transport stops or stations within a hundred meters from schools, public playgrounds, or similar facilities frequented by minors; and shall not be more than 70 square meters in total size either individually or when placed in “deliberate combination” with other outdoor ads.

The outdoor ads shall not be placed on public transportation, and in stations, terminals or platforms of public transportation except point-of-sale establishments.

Such ads cannot be placed in connection with the showing of any film which minors are allowed to see.

Under the bill, radio and television ads on e-cigarettes are not allowed during prime time, as may be determined or defined by the Movie and Television Review and Classification Board (MTRCB).

No electronic advertisements shall be incorporated within any video or audio cassette, videogame machine, optical disc, or any similar medium unless access is restricted to adults.

Internet advertisements are barred unless the site is restricted to adults, a limitation that applies only to commercial communications and not private company web sites.

Under SB 2011, all e-cigarette advertising on television, cable television, radio and other forms of mass media will be prohibited; after six months, all cinema and outdoor advertising shall be prohibited.

The proposed measure also provides that telephone communications on promotional offers, programs or events must include a recorded health-warning message in English or Filipino.

It prohibits the distribution or sale of merchandise such clothes, caps, visors, backpacks, writing implements and umbrellas bearing an e-cigarette brand visible to others when used; and limits clothing sizes for adults only.

The e-cigarette brand should also not appear on items that are used by minors such as toys, sports equipment, video games, and food; and on shopping bags.

SB 2011 prohibits e-cigarette manufacturers from sponsoring events whose target audience are minors.

E-cigarette brand sponsorships are prohibited unless there is “reasonable basis” to believe that 75 percent of those in attendance at the sponsored activity are at least 18 years old, the activity would not attract minors, among others.

Under the bill, beginning July 1, 2014, e-cigarette companies are barred from sponsoring any sport, concert, cultural or art event; and individual and team athletes, artists or performers where the sponsorship would require the advertisement or promotion of the product.

Only the attribution to the name of the company in the roster of sponsors would be allowed.

SB 2011 creates an Inter-Agency Committee (IAC) to implement the proposed measure, to be chaired by the trade secretary and vice-chaired by the health secretary.

The members are the Secretaries of justice, of finance, of science, and of education; and a representative each from the industry to be nominated by the recognized associations of the industry, and a non-governmental organization involved in public health promotion nominated by the Department of Health in consultation with concerned NGOs.

Under SB 2011, first-time offenders of the provisions on access restrictions face a minimum fine of P5,000 or a maximum jail

time of 30 days; while succeeding offenses would result to the imposition of both penalties plus the revocation of business licenses or permits.

Minors who violate that will be subject to the Chief and Youth Welfare Code.

First-time violation of the advertising and promotions provisions of the proposed bill would entail a maximum fine of P100,000, or one-year imprisonment, or both; the second offense, P200,000 fine and a two-year jail term, or both.

On the third offense, in addition to a maximum fine of P400,000, or three-year imprisonment or both, the business permits and licenses shall be revoked or canceled.

In the case of business establishments, the owner, president, manager or officials would be held liable.

If the guilty officer is an alien, he will be summarily deported after serving sentence and forever barred from re-entering the Philippines.

