



Department of Education
Region X- Northern Mindanao
DIVISION OF MALAYBALAY CITY
Cor. Don Carlos and Guingona Sts., Malaybalay City



DIVISION MEMORANDUM

No. 310 s. 2014

387
DepED-MALAYBALAY CITY DIVISION

RELEASED

Date: 10/20/14 Time: 9:15AM

To: Education Program Supervisor /Coordinators
Public Schools District Supervisors
Public/Private Elementary School Heads
Public/Private Secondary School Heads

Edilberto L. Oplenaria
From : **EDILBERTO L. OPLENARIA**
Schools Division Superintendent
This Division

Date : October 16, 2014

Re : **DISSEMINATION OF DepED MEMORANDUM NO. 115 S. 2014 RE : DISSEMINATION OF REPUBLIC ACT NO. 106431 (An Act to Effectively Instill Health Consciousness Through Graphic Health Warnings on Tobacco Products)**

For information and guidance this Office disseminates a copy of DepED MEMORANDUM NO. 115, S. 2014 RE : DISSEMINATION OF REPUBLIC ACT NO. 106431 (An Act to Effectively Instill Health Consciousness Through Graphic Health Warnings on Tobacco Products) which is self explanatory.

Immediate dissemination of this information is desired.

To be indicated in the perpetual Index
Under the following subjects:

Students/pupils
Schools

Teachers
Health Education

alo/ELO



Republic of the Philippines
Department of Education

09 OCT 2014

DepEd MEMORANDUM
No. **115**, s. 2014

DISSEMINATION OF REPUBLIC ACT NO. 106431

(An Act to Effectively Instill Health Consciousness Through Graphic Health Warnings on Tobacco Products)

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Directors of Services, Centers and Heads of Units
Regional Directors
Schools Division Superintendents
Heads, Public and Private Elementary and Secondary Schools
All Others Concerned

1. For the information and guidance of all concerned, enclosed is a copy of Republic Act (RA) No. 106431 dated July 15, 2014 entitled **An Act to Effectively Instill Health Consciousness Through Graphic Health Warnings on Tobacco Products**.
2. In order to sustain the government's efforts to promote healthy environment and inform the public of the health risks associated with cigarette smoking and tobacco use, attention shall be given to the provisions indicated in **Section 16: Implementing Agencies** stating the mandate of the Department of Education on the said law particularly on the use of Graphic Health Warning templates to educate children on the ill-effects of tobacco and to include these in relevant subject areas under the K to 12 Curriculum.
3. Immediate dissemination of this Memorandum is desired.


BR. ARMIN A. LUISTRO FSC
Secretary

Encl.: As stated

References:

DepEd Order: Nos. 6, s. 2012 and 75, s. 2007

To be indicated in the Perpetual Index
under the following subjects:

BUREAUS AND OFFICES
HEALTH EDUCATION

LEGISLATION
SCHOOLS

S. No. 37
H. No. 4590

Republic of the Philippines
Congress of the Philippines
Metro Manila
Sixteenth Congress
First Regular Session

Began and held in Metro Manila, on Monday, the twenty-second day
of July, two thousand thirteen.

[REPUBLIC ACT NO. **10643**]

AN ACT TO EFFECTIVELY INSTILL HEALTH CONSCIOUSNESS
THROUGH GRAPHIC HEALTH WARNINGS ON TOBACCO
PRODUCTS

*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 Graphic Health Warnings Law".

SEC. 2. *Declaration of Principles.* - The State shall
protect and promote the right to health of the people and
install health consciousness among them.

The State shall protect consumers from trade malpractices
and from substandard tobacco products.

The State accepts that, as a State-Party to the World
Health Organization's Framework Convention on Tobacco
Control (FCTC), a treaty that reaffirms the right of all people

to the highest standards of health, the Philippines is obliged to inform every person of the health consequences of tobacco consumption and exposure to tobacco smoke; to enact effective measures to curb and reduce tobacco use, especially among the youth; and to protect public health policy from the commercial and vested interests of the tobacco industry.

The State is cognizant of the Philippines' duty under Article 11 of the FOTC which is to adopt and implement by September 2008 effective health warnings on tobacco products that should describe the harmful effects of tobacco use

The State recognizes that based on empirical data, text warnings have been shown to be insufficient in conveying the dangers of tobacco products while Graphic Health Warnings have been shown to be more effective in conveying the truth about the dangers of exposure and consumption of tobacco smoke.

SEC. 3. *Purposes.* - The purposes of this Act are:

- (a) to have Graphic Health Warnings that effectively warn of the devastating effects of tobacco use and exposure to second hand smoke;
- (b) to remove misleading or deceptive numbers or descriptors like "low tar", "light", "ultra lights" or "mild" which convey or tend to convey that a product or variant is healthier, less harmful or safer; and
- (c) to further promote the right to health and information of the people.

SEC. 4. *Definition of Terms.* -

- (a) "Insert" means any communication inside an individual package and/or carton purchased at either wholesale or retail by consumers, such as a leaflet or brochure.
- (b) "Onset" means any communication affixed to the outside of an individual package and/or carton purchased at either wholesale or retail by consumers, such as a brochure beneath the outer cellophane wrapping or glued to the outside of the cigarette package.

(c) "Graphic Health Warnings" refer to the photographic image printed on the tobacco product package which accurately depicts the hazards of tobacco use and is accompanied by textual warning related to the picture.

(d) "Principal Display Surface", means:

- (1) In the case of a package and carton that has at least two (2) equal sized sides or surfaces, other than the top and bottom, that may be displayed or visible under normal or customary conditions of sale or use, the areas of each of the two (2) largest surfaces;

(2) In the case of a spherical, cylindrical or conical container of tobacco products, the two (2) largest surfaces that are predominantly displayed; and


(3) In the case of a package and carton that do not have a particular side or surface that is predominantly displayed or visible under normal or customary conditions of sale or use or those that are not described under subsections 1 and 2, fifty percent (50%) of the three (3) dominant sides or the total surface thereof, whichever is bigger, which will ensure that the Graphic Health Warnings are visibly shown.

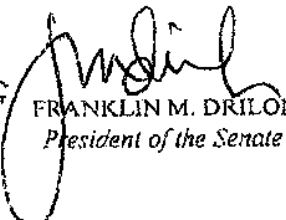
(e) "Tobacco Product Package" means the packet and package of tobacco products and any outside packaging and labelling of tobacco products for sale and distribution in the domestic market, importation, trade, exchange, or for exhibition, such as, but not limited to, packs, tins, boxes, pouches, flip-tops, slide and shell packages, cartons, packages containing one (1) product unit, or other containers of tobacco products containing the logo or trademark of the tobacco companies, primarily intended for consumers or for retail sale. *Provided,* That for mastercases that contain the logo or trademark of tobacco brands, such mastercases shall contain the textual health warning "SMOKING KILLS" which shall be printed in the same single color and in bold print as the trademark logo. *Provided, further,* That textual health warnings shall be of equal prominence and visibility as the logo or trademark of tobacco companies. Such textual warnings on the mastercase shall occupy not more than fifty percent (50%) of each principal display panel of the mastercase.

SEC. 21. *Compliance with Existing International Conventions.* - Nothing in this Act shall modify the measures adopted to give effect to the obligations of the Philippines under international conventions existing at the time of the enactment of this Act.


SEC. 22. *Effectivity.* - This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a major daily newspaper of national circulation in the Philippines.

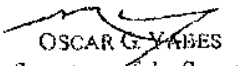
Approved,


 FELICIANO BELMONTE JR.
*Speaker of the House
 of Representatives*

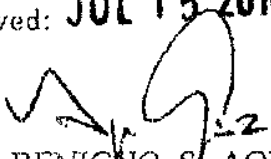

 FRANKLIN M. DRILON
President of the Senate

This Act which is a consolidation of Senate Bill No. 27 and House Bill No. 4590 was finally passed by the Senate and the House of Representatives on June 11, 2014.


 MARILYN T. BARUA YAP
*Secretary General
 House of Representatives*


 OSCAR G. YANES
Secretary of the Senate

Approved: JUL 15 2014


 BENIGNO S. AQUINO III
President of the Philippines



CERTIFIED COPY


 MARIANITU M. DIMAANDAL
 DIRECTOR IV
 MALACANANG RECORDS OFFICE

748-204

877-18-2014

Eight (8) months after the validity of the initial set of templates, no person or legal entity shall sell or commercially distribute or display any cigarette or tobacco product without ensuring that the labels and packages, as well as any other container used in displaying the cigarette or tobacco products, meet the requirements under this Act, as mandated under Section 10 of this Act.

SEC. 16. Implementing Agencies. - For purposes of the implementation of this Act, the following government agencies are given these mandates:

(1) The DOH shall issue the templates as required under Sections 6, 7 and 15.

(2) The BIR shall ensure that cigarette stamps are not affixed on noncompliant packages and shall certify under oath that the products withdrawn are compliant with this Act.

(3) The Inter-Agency Committee on Tobacco (IAC-T) created under Republic Act No. 9211 or the Tobacco Regulation Act of 2003 shall monitor compliance with the law, and *motu proprio* or upon any sworn written complaint, institute the appropriate action for any violation of this Act as provided under Section 14 and this section.

(4) The DTI shall hear complaints filed by the IAC-T or any private citizen, corporation or organization, for any violation of this Act, and after notice and hearing, impose administrative fines of not more than Two million pesos (P2,000,000.00) for any violation of this Act, the proceeds of which will be used for health promotion campaigns on tobacco control of the DOH and the Department of Education (DepED). The imposition of the administrative fines shall take into consideration the annual gross sales, capital investment and employee size of the manufacturers, importers and distributors, and in the case of retailers and sellers, their total assets.

(5) The DepED shall use Graphic Health Warnings templates to educate children on the ill-effects of tobacco and shall ensure that these are included in relevant subjects under the K-12 curriculum.

Within six (6) months from the effectiveness of this Act, the Implementing Rules and Regulations (IRR) Committee led by the DOH and the DTI, and to be composed of the Department of Justice (DOJ), the Department of Finance (DOF), the Department of Environment and Natural Resources (DENR), the Department of Science and Technology (DOST), the DepED, the National Tobacco Administration (NTA) and the Department of Agriculture (DA) shall draft and issue the IRR for its effective implementation, after public consultations with stakeholders such as NGOs, farmers, and industry representatives. *Provided*, That the non-issuance of the IRR shall not prevent the coming into force of this Act.

SEC. 17. Creation of Oversight Congressional Committee. - A Congressional Oversight Committee co-chaired by the Senate Committee on Health and Demography and the House Committee on Health, is hereby constituted to monitor and review the implementation of this Act.

SEC. 18. Strict Compliance and Inspections. - Absolutely no extensions of time to comply with the provisions of this Act shall be granted to tobacco manufacturers and importers or any other affected party.

SEC. 19. Separability Clause. - If any clause, provision, paragraph or part thereof shall be declared unconstitutional or invalid, such judgment shall not affect, invalidate or impair any other part hereof but such judgment shall be merely confined to the clause, provision, paragraph or part directly involved in the controversy in which such judgment has been rendered.

SEC. 20. Repealing Clause. - Section 13 on Warning on Cigarette Packages of Republic Act No. 9211, DOI Administrative Order No. 2010-0013 and BIR Revenue Regulations No. 3-2006, Sections 18(e) and 23(a)(1)(b) are hereby repealed. All other laws, decrees, executive orders and other administrative issuances and parts thereof which are inconsistent with the provisions of this Act are hereby modified, superseded or repealed accordingly.

responsible for providing display materials that are in violation of this Act.

(1) On the first offense, a fine of not more than Five hundred thousand pesos (P500,000.00);

(2) On the second offense, a fine of not more than One million pesos (P1,000,000.00); and

(3) On the third offense, a fine of not more than Two million pesos (P2,000,000.00) or imprisonment of not more than five (5) years, or both, at the discretion of the court. Provided, That the business permits and licenses, in the case of a business entity or establishment, shall be revoked or cancelled.

If the guilty officer is a foreign national, he shall be deported after service of sentence and/or payment of applicable fines without need of further deportation proceedings and shall be permanently barred from re-entering the Philippines.

Each withdrawal or importation into the Philippine customs territory of noncompliant tobacco packages, regardless of size, for sale to the market, after the compliance date shall constitute one (1) offense. An additional penalty of One hundred thousand pesos (P100,000.00) per day shall be imposed for each day the violation continues after having received the order from the Department of Trade and Industry (DTI) notifying the company of the infraction.

(b) The following penalties shall individually apply to retailers/sellers of tobacco products as well as their agents/representatives for any violation of Sections 6 and 7 of this Act, insofar as they are involved in the display, offering for sale and selling of the covered products, as well as Section 11 of this Act:

(1) On the first offense, a fine of not more than Ten thousand pesos (P10,000.00);

(2) On the second offense, a fine of not more than Fifty thousand pesos (P50,000.00); and

(3) On the third offense, a fine of not more than One hundred thousand pesos (P100,000.00) or imprisonment of not more than one (1) year, or both, at the discretion of the court. The business permits and licenses, in the case of a business entity or establishment shall be revoked or cancelled.

Each day that noncompliant tobacco packages are found in the retail establishments of the retailers after the compliance date shall constitute one (1) offense. An additional penalty of Five thousand pesos (P5,000.00) per day shall be imposed for each day the violation continues after having received the order from the DTI notifying the retailers of the infraction.

(c) The imposition of the fines shall take into consideration the annual gross sales, capital investment and employee size of the manufacturers, importers and distributors, and in the case of retailers and sellers, their total assets.

SEC. 15. Graphic Health Warnings Templates and Timeline. - Thirty days (30) days after the effectivity of this Act, the DOH shall issue a maximum of twelve (12) templates of Graphic Health Warnings to be rotated, as well as guidelines with respect to the specific pictures, design, or content of the information relating to the Graphic Health Warnings, and other information that must appear in the tobacco product packages. The DOH shall consider the recommendations of leading nongovernment organizations (NGOs) that have established and proven records of dealing with tobacco-related diseases and deaths. All Graphic Health Warnings issued shall comply with the specifications above and must always present the devastating effects of tobacco use and exposure to tobacco smoke.

Under Section 6, manufacturers are given a period of one (1) year from the issuance of the initial set of templates to comply therewith. The initial set of templates is valid for two (2) years from implementation.

Within one (1) year from the effectivity of the initial set of templates, the DOH shall issue a new set of templates which will take effect upon expiration of the initial set. These new templates shall be valid for two (2) years and so on.

(4) The accompanying text shall be printed in Filipino on the front panel and English on the back panel. In the case of other containers where there is only one (1) external surface area, the accompanying text will alternately be in English or Filipino.

SEC. 7. Side Panel. - Cigarette packages and other tobacco product packages found in the market, shall bear, on one (1) side panel, additional information which shall be issued by the DOH together with the templates in accordance with Section 15 of this Act, namely; additional health warnings, notices or webites for tobacco-related concerns, or tips on how to stop smoking. This information shall be prominently displayed and the text thereto shall appear in clearly legible type and in contrast by typography, layout, and color, without the use of any border or frame or any other design that will effectively lessen the size of the additional health warnings. *Provided*, That such additional information shall not occupy more than thirty percent (30%) of the display surface of one (1) side panel. This is in addition to any fiscal markings as may be required by other government agencies such as the BIR.

SEC. 8. Descriptors. - One (1) year after the issuance of the templates by the DOH, no cigarette packs or other tobacco product packages withdrawn from a manufacturing facility or imported into the Philippine customs territory, shall bear any number or descriptor such as, "low tar", "light", "ultra-light", or "mild", "extra", "ultra", and similar terms in any language that claims or misleads a consumer to believe that a tobacco product or variant is healthier, safer or less harmful.

SEC. 9. Costs. - All printing costs pertaining to packaging and labeling shall be shouldered by tobacco manufacturers and/or importers.

SEC. 10. Prohibition on Sale. - No person or legal entity shall sell or commercially distribute or display any cigarette or tobacco product without ensuring that the labels and packages, as well as any other container used in displaying the cigarette or tobacco products, meet the requirements under this Act. Manufacturers, importers, retailers and distributors

of tobacco products shall ensure the removal from all displays of noncompliant tobacco products manufactured, imported, distributed or sold by them eight (8) months after the Graphic Health Warnings are required, as mandated under Section 6

Noncompliant packages thereafter found in the market on display, for sale or distribution shall be subject to removal and/or confiscation.

SEC. 11. Prohibition on Obstruction of Display. - No person or legal entity shall obscure or cover in part or in whole the Graphic Health Warnings in the selling areas. The Graphic Health Warnings shall be prominently displayed whenever the said packages are commercially displayed.

SEC. 12. Liability of Manufacturers, Importers, and Distributors. - Manufacturers, importers, and distributors of tobacco products shall be directly liable for any violations of the provisions of this Act. In the case of a business entity or establishment, the chairperson of the Board of Directors, the president, manager and the corporate officials thereof, owner in the case of a sole proprietorship, and partners in the case of a partnership shall be directly responsible therefore and shall be made accountable when such officials directly participated in violating any provision of this Act. Agents/distributors who commit any violation of the provisions of this Act and its implementing rules shall be jointly and severally liable with the manufacturers, importers, and distributors.

SEC. 13. Liability of Retailers and Sellers. - Retailers and sellers of tobacco products shall be directly liable for violations of Sections 10 and 11 of this Act. In the case of a business entity or establishment, the chairperson of the Board of Directors, the president, manager and the corporate officials thereof, owner in the case of sole proprietorship, and partners in the case of a partnership shall be directly responsible and shall be made accountable.

SEC. 14. Penalties for Noncompliance. -

(a) The following penalties shall individually apply to manufacturers, importers, and distributors of tobacco products as well as their agents/representatives for any violation of Sections 9 and 7, and Section 11 insofar as they are

(f) "Tobacco Products" means products entirely or partly made of leaf tobacco as raw material, which are manufactured to be used for smoking, sucking, chewing or snuffing, or by any other means of consumption.

SEC. 5. Coverage. - This Act is only applicable to tobacco products that are locally manufactured or imported and introduced in the Philippine market. Cigarettes intended or offered for export shall only be subject to the requirement that one (1) side panel of the mastercases, reams/cartons, and one (1) side panel of each cigarette pack primarily intended for retail sale to consumers, shall contain the following markings and information: "For sale only in _____," "Made under authority of _____," tax number assigned by the Bureau of Internal Revenue (BIR) to the domestic manufacturer that exports tobacco products and fiscal and regulatory marking requirements of the country where the tobacco products will be ultimately sold.

SEC. 6. Graphic Health Warnings. - One (1) year after the issuance of the templates by the Department of Health (DOH), cigarette packages and other tobacco product packages, including package inserts and onsets, and any outside packaging and labelling, withdrawn from the manufacturing facilities, or imported into the Philippine customs territory shall bear the prescribed highly visible full-color Graphic Health Warnings, that shall have two (2) components: a photographic picture warning and an accompanying textual warning that is related to the picture.

(a) The Graphic Health Warnings shall be printed on fifty percent (50%) of the principal display surfaces of any tobacco package; it shall occupy fifty percent (50%) of the front and fifty percent (50%) of the back panel of the packaging, as described in Section 4;

(b) The Graphic Health Warnings shall be located at the lower portions of the said panels or Principal Display Areas;

(c) Nothing shall be printed or applied on a location where it is likely to obscure or cover, in part or in whole, the Graphic Health Warnings or the location where the internal revenue stamp is to be affixed as may be required by the BIR;

(d) No part of the warning may be obliterated, obscured, folded, severed or become unreadable when the tobacco package is opened or closed or when a wrapper on the package is removed;

(e) The Graphic Health Warnings shall be printed in four colors /cm-yk-c/ screen 133 lines per inch based on a source file of 300 dpi;

(f) The printing of the Graphic Health Warnings shall be done using current available technology for purposes of providing vivid and realistic pictures, without the use of any border, frame or any other design that will effectively lessen the size of the warning;

The Graphic Health Warnings shall be printed or inscribed on the package in a color which contrasts conspicuously with the background of the package or its labels;

(g) A maximum of twelve (12) templates of Graphic Health Warnings shall be printed simultaneously and these shall be rotated periodically for each brand family and also for each variant, so that every twenty-four (24) months, the variations of the warnings shall appear in the market with approximately equal frequency and equal display of health warnings and messages on retail packages; and

(A) Graphic Health Warnings specifications -

(1) The text warning accompanying the photographic picture warning shall be worded in such manner that an ordinary layman will understand what the picture is about and what the ill-effects of smoking are on the health of the smoker and on the people around him;

(2) The text warning shall be placed on areas of the photograph where it will not obscure the picture itself but will be prominently displayed;

(3) The text shall use no more than twenty percent (20%) of the entire area of the Graphic Health Warnings and shall appear in clearly legible type and in contrast by typography, layout and color, without the use of any border, frame or any other design that will effectively lessen the size of the textual warning; and