

DEPARTMENT ADMINISTRATIVE ORDER NO. 24-03
Series of 2024

TO: ALL CONCERNED

**SUBJECT: SUSPENSION OF ONLINE SELLING OF VAPOR PRODUCTS,
VAPOR PRODUCT DEVICES, AND VAPOR PRODUCT SYSTEMS
ON E-MARKETPLACES**

WHEREAS, Republic Act (RA) No. 7394 (Consumer Act of the Philippines) provides that it shall be the policy of the State to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry, and towards this end, the State shall implement measures to achieve the protection against hazards to health and safety. Furthermore, it shall be the duty of the State to protect the public against unreasonable risks of injury associated with consumer products, to investigate into causes and prevention of product related deaths, illness and injuries and to assure the public of the consistency of standardized products;

WHEREAS, pursuant to Section 2 of RA 11900 (Vaporized Nicotine and Non-Nicotine Products Regulation Act), and its declared policies of the State to promote the right to health of the people and instill health consciousness among them, and to provide for balanced policies and regulatory standards in order to protect the citizens from the hazards of regulated, unregulated and substandard novel consumer products within its coverage, the government is mandated to regulate the importation, assembly, manufacture, sale, packaging, distribution, use, advertisement, promotion and sponsorship of these novel consumer products in order to promote a healthy environment, protect the citizens from potential hazards, reduce the harm, and ensure that the sale to minors and the illicit trade thereof in the country are prevented;

WHEREAS, RA 11900 expressly places Vapor Products (Section 3[aa]), Vapor Product Devices (Section 3[bb]), and Vapor Product System (Section 3(cc)), hereinafter collectively referred to as "Vapor Products, and their Devices and Systems" within its regulatory coverage;

WHEREAS, under Section 8 of RA 11900, it is required that measures be adopted to ensure that persons below eighteen (18) years of age are denied access to the sale or distribution of the products regulated therein, through internet websites or via e-commerce and/or similar media platforms; **WHEREAS**, in addition to the mandatory requirement that measures be adopted to ensure that persons below eighteen (18) years of age are denied access to regulated products, RA 11900 further requires that the sale of Vapor Products, and their Devices and Systems through internet websites or via e-commerce and/or other similar media platforms shall only be made by online sellers or distributors registered with the Department of Trade and Industry (DTI) or the Securities and Exchange Commission (SEC), and the products being sold online shall be compliant with the health warning requirements as well as other Bureau of Internal Revenue (BIR) requirements, and that proof-of-age verification shall likewise be complied as regards their delivery in accordance with Section 7 thereof;

WHEREAS, pursuant to Section 12(h) of RA 11900, online advertisements of Vapor Products, and their Devices and Systems on e-commerce platforms shall only be visible after the appropriate age verification measures;

WHEREAS, pursuant to Rule V, Section 2 of the DTI Department Administrative Order (DAO) No. 22-16, series of 2022, or the Implementing Rules and Regulations (IRR) of RA 11900, retailers

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shall ensure that no individual below eighteen (18) years of age shall be allowed to purchase Vapor Products, and their Devices and Systems;

WHEREAS, in the course of monitoring online sales, distribution, and advertisements of Vapor Products, and their Devices and Systems pursuant to Section 21 of RA 11900 granting the DTI the exclusive jurisdiction over any and all issues, requirements, and subject matters related to Vapor Products, and their Devices and Systems, the DTI has identified numerous and repeated violations of RA 11900 and other related issuances regarding Vapor Products, and their Devices and Systems;

WHEREAS, an alarming number of these violations of RA 11900 and other related issuances have occurred and continue to occur via online sales of Vapor Products, and their Devices and Systems on e-marketplaces, which underscores the urgency of immediate actions to protect minors by ensuring that there is no online promotion, advertising, distribution and sale to minors of Vapor Products, and their Devices and Systems, and to protect the public against unreasonable risks of injury associated with the sale and proliferation of illegal Vapor Products, and their Devices and Systems;

WHEREAS, upon due notice, consultation, and opportunity given to companies operating e-marketplaces and other stakeholders to participate and submit their views, both the DTI and various companies and entities operating e-marketplaces recognize and agree on the need for stricter measures that would ensure compliance with RA 11900 and its provisions on preventing access to Vapor Products, and their Devices and Systems by minors and curbing the proliferation of illegal, unregulated and substandard Vapor Products, and their Devices and Systems;

WHEREAS, RA 4109 vests the DTI with the power to initiate and undertake investigation to determine the nature of organization and business methods of any entrepreneur, person, corporation, association, partnership or firm engaged in the manufacture, marketing and distribution of the products in connection with any known or reported violation or non-compliance with the law, or any rule or regulation promulgated in accordance therewith;¹

WHEREAS, Executive Order (EO) No. 913, series of 1983, strengthened the rulemaking and adjudicatory powers of the DTI in implementing, administering, executing, and enforcing "trade and industry laws" or laws that regulate trade and industry activities, in order to further protect consumers, by empowering the DTI Secretary to promulgate rules and regulations to implement the provision and intent of "trade and industry laws," which power shall extend to the implementation of the objectives, policies, international agreements, international grants, and the approved plans, projects, and activities of the DTI;

WHEREAS, among the trade and industry laws that the DTI is tasked to implement are RA 11900, as well as the Consumer Act of the Philippines, which provides administrative procedures and penalties for violations of its provisions, and further empowers the DTI to continue exercising the powers and duties vested upon it under existing laws,² in accordance with the declared policy of the State to protect the interests of the consumer and promote his/her general welfare by establishing and enforcing standards of conduct for business and industry;³

¹ See §4(g), RA 4109.

² Section 155, RA 7394.

³ Implementing Rules and Regulations (IRR) of RA 7394 (Consumer Act of the Phil.), DTI Department Administrative Order No. 08-01, s. 2008, [January 21, 2008]



WHEREFORE, in view of the foregoing, and pursuant to powers vested under existing laws, rules and regulations, and to ensure DTI's administration and effective enforcement of RA 11900 and other relevant applicable laws and regulations, this Order is hereby issued **ENJOINING all companies and entities operating e-marketplace(s)** with online merchants of Vapor Products, and their Devices and Systems to:

1. Ensure compliance with Section 6 (Minimum Age Sales and Purchase), Section 7 (Proof-of-Age Verification), Section 8 (Online Trade), Section 12 (Product Communication Restrictions), and Section 13 (Restrictions on Promotional Activities) of RA 11900 on the part of their respective e-marketplace(s) and online merchants;
2. Present and submit to DTI satisfactory proof that adequate and effective measures are in place to ensure that their respective e-marketplace(s) and online merchants are fully compliant with the proof-of-age verification and all other mandatory legal requirements of RA 11900 and other pertinent laws, and as indicated in item 1 hereof;
3. In the meantime, temporarily suspend the online sale, distribution, and advertising of Vapor Products, and their Devices and Systems through their respective e-marketplace(s) and online merchants, until the presentation and submission, to the satisfaction of DTI, of adequate and effective measures to ensure compliance with the proof-of-age verification and all other mandatory legal requirements of RA 11900 and other pertinent laws, and as indicated in Item 1 hereof, on the part of their respective e-marketplace(s) and online merchants;
4. Submit to the DTI a sworn certification on full compliance with your obligations under RA 11900 and other laws and related issuances, including but not limited to:
 - a. That due diligence has been exercised as regards the online merchants on their respective e-marketplace(s), pursuant to which the submission by these online merchants of all the necessary IDs, permits and licenses, including but not limited to, valid government-issued IDs, business permit from the corresponding local government unit, registration with the DTI, SEC or Cooperative Development Authority, and registration with the BIR, are required and maintained as part of the records of the company or entity operating the e-marketplace(s);
 - b. That there is a contract by and between them and each of the online merchants in their respective e-marketplace(s) on the sale procedures and limitations for the sale, procedures, limitations, and other relevant conditions for the sale of Vapor Products, and their Devices and Systems as may be imposed by applicable law or regulation, and that true copies of the aforesaid contracts are maintained in the records of the company or entity operating the e-marketplace(s);
 - c. That Vapor Products, and their Devices and Systems listed or to be listed on their respective e-marketplace(s) have the necessary registration, license or permit, graphic health and fiscal markings, and proof of compliance with all other mandatory standards required by existing laws and regulations, true copies of which are maintained in the records of the company or entity operating the e-marketplace(s);
 - d. That upon request or inspection by authorized officers or employees of DTI, the company or entity operating the e-marketplace(s) shall provide access to, or copies of the pertinent documents and records indicated in this Order; and



- e. That the e-marketplace undertakes to adopt necessary measures to ensure continued compliance with the law and rules.

In light of the temporary suspension of the online sale, distribution, and advertising of Vapor Products, and their Devices and Systems through e-marketplace(s) and online merchants, the sale or distribution of Vapor Products, and their Devices and Systems through the e-marketplace(s) shall be allowed only after the concerned company or entity operating such e-marketplace(s) is able to demonstrate, to the satisfaction of DTI, that it has instituted adequate and effective measures to ensure that its e-marketplace(s) and online merchants are in full compliance with the proof-of-age verification and all other mandatory legal requirements under RA 11900, RA 11967 (Internet Transactions Act or RA 11967), RA 7394, and other relevant laws and regulations. Failure to comply with this Order may warrant the pursuit of Formal Charge and the possible imposition of penalties under the provisions of RA 11900, RA 11967, RA 7394 and other relevant laws and regulations. This is without prejudice to other courses of action, remedies and sanctions that the DTI may pursue and/or impose under other applicable laws and rules.

All concerned DTI officials and their respective personnel are hereby enjoined to observe relevant laws, policies, rules, and regulations, to ensure the legality and validity of all acts pursuant to this Order.

Let copies of this Order be furnished to: (a) DTI-Fair Trade Group, (b) DTI-Regional Offices; (c) other concerned DTI offices and units; (d) all concerned companies and entities operating e-marketplace(s) with online merchants of Vapor Products, and their Devices and Systems, (e) University of the Philippines Law Center – Office of the National Administrative Register.

This Order shall take effect immediately and shall remain in force until further orders.

Issued this 16th day of July 2024, Makati City, Philippines.


ALFREDO E. PASCUAL

Secretary

Department of Trade and Industry

Copy furnished:

- (a) DTI-Fair Trade Group;
- (b) DTI-Regional Offices;
- (c) other concerned DTI offices and units;
- (d) all concerned companies and entities operating e-marketplace(s) with online merchants of Vapor Products, and their Devices and Systems, including but not limited to:
 - Carousell Philippines
 - Grab Philippines
 - Lazada Philippines
 - META Philippines
 - Pick-A-Roo Philippines
 - Shopee Philippines
 - TikTok Philippines;
- (e) University of the Philippines Law Center – Office of the National Administrative Register.