



**POLICY ADVISORY NO. 24-01
SERIES OF 2024**

**ELEMENTS OF OFFENSES PROVIDED UNDER REPUBLIC ACT NO. 11900,
OR THE VAPORIZED NICOTINE AND NON-NICOTINE PRODUCTS
REGULATION ACT**

The Department of Trade and Industry–Office for the Special Mandate on Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products (OSMV), created under DTI Department Order No. 24–154, issues this Policy Advisory for the guidance of all concerned:

Republic Act No. 11900 (RA11900), or the “Vaporized Nicotine and Non-Nicotine Products Regulation Act”, regulates the importation, assembly, manufacture, sale, packaging, distribution, use, advertisement, promotion, and sponsorship of Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products to protect the public from its potential hazards, especially against unregulated and substandard products and/or devices.

RA11900 lapsed into law on 25 July 2022. It was published in several newspapers on 28 July 2022, and was effective on 13 August 2022 although its full implementation was subject to a transitory period of eighteen (18) months from the issuance of its Implementing Rules and Regulations (IRR).

The IRR of RA11900 was issued on 05 December 2022, and was published on 13 December 2022. The IRR was made effective on 28 December 2022. Thus, pursuant to the transitory period, full implementation of RA11900 was on 06 June 2024.

Given the offenses provided under RA11900, the OSMV recognizes the need: (1) to define the elements of these offenses to ensure an orderly enforcement of the law, and (2) to establish uniform and predictable resolutions to formal charges.



**OFFICE FOR THE SPECIAL MANDATE ON VAPORIZED NICOTINE AND NON-NICOTINE PRODUCTS,
AND THEIR DEVICES, AND NOVEL TOBACCO PRODUCTS**

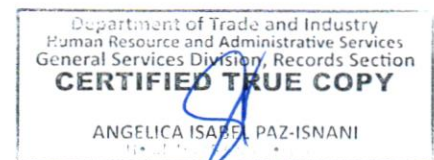
OFFENSES AND ELEMENTS

Section 4. Packaging and Health Warnings.

1. The offender is a manufacturer, importer, distributor, or retailer of Vapor Products (Refills), Heated Tobacco Product (HTP) Consumables, or Novel Tobacco Products.
2. The products of the offender:
 - a. Have Health Warnings that:
 1. Are not highly visible, full-color graphic health warnings printed on fifty percent (50%) of the principal display surfaces of the products, occupying fifty percent (50%) of the front, and fifty percent (50%) of the back panel of the packaging;
 2. Do not follow the content, format, specifications and graphic health warnings designated by the Department of Health (DOH);
 3. Do not have the following textual health warnings:
 - a. For products that contain nicotine:

“This product is harmful and contains nicotine which is a highly addictive substance. It is not recommended for use by nonsmokers.”; and
 - b. For products that do not contain nicotine:

“This product may contain a substance that is harmful. It is not recommended for use by nonsmokers.”; or
 - b. Have Textual Health Warnings that:
 1. Do not appear in clearly legible type and in contrast by typograph, layout and color;
 2. Uses borders, frames or any other design that effectively lessens the size of the textual warning;
 3. Are obscured or covered, in part or in whole; or
 4. May be obliterated, obscured, folded, severed, or become unreadable when the package is opened or closed or when a wrapper on the package is removed; or
 - c. Do not have internal revenue fiscal markings.



Section 5. Tamper-Resistant and Child-Resistant Design.

1. The offender is a manufacturer, importer, distributor, or retailer of Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products.
2. The receptacles of the products are not child-resistant, tamper-resistant, and are not protected against breakage and leakage.

Section 6. Minimum Age Sales and Purchase.

1. The offender is a natural or juridical person.
2. The offender is selling, distributing, or purchasing any Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products to, for, or from a minor.

Section 7. Proof-of-Age Verification.

1. The offender is selling, distributing or purchasing any Vaporized Nicotine and Non-Nicotine Products, their devices, or Novel Tobacco Products;
2. The offender does not verify the age of the buyer before purchase through a valid government ID exhibiting the buyer's photograph and age or date of birth.
3. In cases of delivery, the offender did not ensure that such delivery was directly made to a person who is not a minor.

Section 8. Online Trade.

1. The offender is an online distributor, retailer, seller, or owner/operator of an internet website, e-commerce platform and/or similar media platform that sells, distributes, advertises, and/or facilitates the sale or distribution of Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products.
2. The offender has committed any of the following:
 - a. Measures are not adopted to ensure that minors are denied access to these products;
 - b. The offender's internet websites, e-commerce and/or other similar media platforms do not bear the required signages;



- c. The opening first page of the website, e-commerce platform and/or other similar media platforms do not require an age self-declaration;
- d. The online sale or distribution of Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products by offender is not registered with the Bureau of Internal Revenue (BIR), the DTI, Securities and Exchange Commission (SEC), or the Cooperative Development Authority (CDA);
- e. The Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products sold or distributed and advertised online are not compliant with health warning requirements under Section 4 of RA11900, product standards requirements under Section 19 of RA11900, and other BIR requirements such as tax stamps, floor prices, or other fiscal marks;
- f. Failure to comply with Section 7 of RA11900 on Proof-of-Age Verification.

Section 9. Sales and Promotion within School Perimeters.

1. The offender is a natural or juridical person.
2. The offender sells, promotes, advertises or does product demonstrations of Vaporized Nicotine and Non-Nicotine Products, their devices, or Novel Tobacco Products within one hundred (100) meters from any point of the perimeter of a school, playground or other facility frequented particularly by minors.

For this purpose, one hundred (100) meters shall be measured in actual accessible or walkable distance.

Section 10. Point-of-Sale Signage.

1. The offender offers, sells or distributes Vaporized Nicotine and Non-Nicotine Products, their devices or Novel Tobacco Products through a point-of-sale establishment.
2. The point-of-sale establishment does not have the following signage in a clear and conspicuous manner:

“The sale or distribution of Vaporized Nicotine and Non-Nicotine Products to or by persons below eighteen (18) years of age is illegal. These products are harmful and contain nicotine which is a highly addictive substance. It is not recommended for use by nonsmokers.”; or

“Ang pagbenta at pagbili ng Vaporized Nicotine and Non-Nicotine Products sa at ng mga taong wala pang labingwalong (18) taong gulang ay pinagbabawal.



Ang mga produktong ito ay nakakasama sa kalusugan at mayroong nicotine, isang nakakalulong na kemikal. Hindi ito inirerekomenda na gamitin ng mga hindi naninigarilyo.”

Section 11. Display of Products.

1. The offender sells or distributes Vaporized Nicotine and Non-Nicotine Products, their devices or Novel Tobacco Products.
2. The above-mentioned products are displayed immediately next to products of particular interest to minors.

Products of particular interest to minors are products that appeal to the youth such as the use cartoons, anime, manga, animated characters, youth influencers, personalities and the like, or products that reference fruits, candies, desserts, or cartoon characters.

Section 12. Product Communication Restrictions.

1. The offender is a natural or juridical person.
2. The offender violated the Product Communication Restrictions provided under Section 12 of RA11900.

Section 13. Restrictions on Vaporized Nicotine and Non-Nicotine Product or Novel Tobacco Product Promotional Activities.

1. The offender is a natural or juridical person.
2. The offender violated the Restrictions on Vaporized Nicotine and Non-Nicotine Product or Novel Tobacco Product Promotional Activities provided under Section 13 of RA11900.

Section 14. Restrictions on Sponsorship.

1. The offender is a natural or juridical person.
2. The offender violated the Restrictions on Sponsorship provided under Section 14 of RA11900.



Section 15. Use in Public Place.

1. The offender is a natural person who used a Vaporized or Non-Nicotine Product in any of the following public places:
 - a. Indoor public place except in Designated Vaping Areas (DVAs) or in point-of-sale establishments for purposes of conducting product demonstrations.

For this purpose, an indoor public place is any indoor place accessible to the public, including places accessible by appointment or permission; or

- b. In any of the following public places:
 1. The use is in centers of youth activity such as play schools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for persons under eighteen (18) years old;
 2. Elevators and stairwells;
 3. Locations in which fire hazards are present including gas stations and storage areas for flammable liquids, gas explosives or combustible materials;
 4. Within the buildings and premises of public and private hospitals, medical, dental and optical clinics, health centers, nursing homes, dispensaries and laboratories;
 5. Public conveyances and public facilities including airport and ship terminals and train and bus stations, restaurants and conference halls, except for DVAs;
 6. Food preparation areas;
 7. Churches and other similar places where people congregate for worship; and
 8. Within the building and premises of government offices, except for DVAs.

Section 17. Standards for Designated Vaping Areas.

1. The offender is a natural or juridical person in charge of a building or conveyance.
2. The offender performed any of the following acts:



- a. Allowed a minor inside a DVA or buffer zone;
- b. Did not have a highly visible and prominently displayed "Vaping Area" signage;
- c. Did not have a highly visible and prominently displayed prohibition on entry of minors and pregnant women;
- d. Allowed smoking traditional tobacco in DVAs;
- e. Did not comply with the allowed number of occupancies pursuant to the regulations issued by the DTI;
- f. Allowed or established an indoor DVA to have openings that allow air to escape from the DVA to smoke- or vape-free areas, except for a single door equipped with an automatic door closer;
- g. Allowed or established an indoor DVA with more than one door for access;
- h. Allowed or established an indoor DVA with an access door that does not have an automatic door closer;
- i. Allowed or established a DVA and its ventilation outlets is located within ten (10) meters from entrances, exits, places of congregation, or air intake ducts;
- j. Allowed or established more than one (1) DVA in the building or conveyance;
- k. Allowed or established the DVA ventilation system that is not independent from the rest of the building or conveyance;
- l. Allowed the sale or offer to sell, or service or offer of food and beverages in the DVA and buffer zone.

Exception:

1. The sale or offer to sell, or service or offer of food and beverages is allowed in DVAs inside point-of-sale establishments.

Section 18. Product Standard Requirements.

1. The offender is a manufacturer or importer of Vaporized Nicotine and Non-Nicotine Products, their devices, and Novel Tobacco Products.
2. The aforementioned products of the offender do not comply with the technical standards for safety, consistency, and quality set by the DTI in consultation with the Food and Drug Administration (FDA); or



3. The vapor products of the offender have a nicotine content above sixty-five (65) milligrams per milliliter (65mg/ml).

Section 20. Restriction on the Retail and Sale of Nicotine Shots.

1. The offender is a natural or juridical person.
2. The offender sells, distributes or uses nicotine shots and/or nicotine concentrates.

The elements of the offenses provided herein should be referred to or invoked in the resolution of formal charges concerning RA11900, subject to decisions of the appropriate courts.

Issued this 4th day of September 2024, Makati City.

APPROVED BY



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their Devices, and Novel Tobacco Products

