



Republic of the Philippines
PROVINCE OF NUEVA ECIJA
 Provincial Capitol Bldg.
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 Tel. No.: (044) 940-7793

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

EXCERPT FROM THE MINUTES OF THE 27TH REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF NUEVA ECIJA HELD AT THE SP SESSION HALL ON

JULY 11, 2023

PRESENT:

VG EMMANUEL ANTONIO M. UMALI	- Presiding Officer
BM EMMANUEL B. DOMINGO	- Interim Presiding Officer
BM JOSE LUCIUS POCHOLO M. DIZON	- Member
BM ERIC DANIEL F. SALAZAR	- Member
BM RAFAEL ANDREW R. VILLANUEVA	- Member
BM JASON J. ABALOS	- Member
BM FERDINAND V. DYSICO	- Member
BM EDUARDO JOSE B. JOSON, VII	- Member
BM MARY SWEET LIBERTY N. CRUZ	- Member
BM NAPOLEON P. INTERIOR, JR.	- Member
BM TERESITA A. PATIAG	- Member
BM ARIEL L. MATIAS	- Member (President-LnB)

ABSENT:

BM JO-MARIO ANGELO E. MATIAS	- Member
BM BELINDA E. PALILIO	- Member (President-PCL)
BM PAUL JOHN ARKHE C. SERRANO	- Member (President-SK Federation)

ORDINANCE NO. 32-S-2023

AN ORDINANCE TO CURTAIL THE SALE, DISTRIBUTION, MANUFACTURE, AND/OR PRODUCTION OF ILLICIT, COUNTERFEIT, AND/OR NON-COMPLIANT CIGARETTES/TOBACCO PRODUCTS, AND FOR OTHER PURPOSES

*Author: BOARD MEMBER JO-MARIO ANGELO E. MATIAS
 Co-Author: BOARD MEMBER NAPOLEON P. INTERIOR, JR.*

WHEREAS, the Provincial Government of Nueva Ecija adheres to the policy of the national government to curb the proliferation and introduction into commerce of illicit, counterfeit, and/or non-compliant cigarettes/tobacco products, and the commission of other acts that violate intellectual property rights as protected by law;

WHEREAS, the Provincial Government believes that the proliferation of illicit tobacco products, piracy and counterfeiting of intellectual property rights not only cause economic prejudice and demoralization among legitimate businessmen and establishments which offer goods, articles, and services dependent on intellectual property protection, but also discourage foreign investments and undermine the province's strategy for growth and development resulting in unrealized revenues and taxes;

WHEREAS, the state policy to protect intellectual property rights against piracy and counterfeiting, curb illicit tobacco trade, and its efforts to effectively combat the same requires the participation of local government units in investigating and enforcing against illicit traders within their territorial jurisdiction;

NOW THEREFORE, BE IT ENACTED, AS IT IS HEREBY ENACTED, BY THE SANGGUNIANG PANLALAWIGAN, IN SESSION DULY ASSEMBLED THAT:

Section 1. Short Title. This ordinance shall be known and referred to as the **“Anti-Illicit Tobacco Trade Ordinance of the Province of Nueva Ecija”**.

Section 2. Condition in the Business Permits. All business licenses and permits issued by the local government unit having jurisdiction shall carry the express conditions: (1) that the licensee shall not engage in the sale, distribution, manufacture and/or production of illicit, counterfeit, and/or non-compliant cigarettes/tobacco products; and (2) that the licensee shall not allow other persons to commit said acts within its business establishment or premises.

Non-compliant cigarettes and tobacco products are cigarette packs or heated tobacco products that have no genuine internal revenue stamp, or do not have the graphic health warnings required under Republic Act No. 10643, or do not comply with the minimum price as required by relevant laws and regulations.

For this purpose, any stall, table, or equivalent contraptions containing illicit, counterfeit, and/or non-compliant cigarettes/tobacco products within two (2) meters from the door, window, or any opening leading to the licensee’s establishment shall be deemed included in the term “premises”; provided that the said two (2) meter area falls within the property line of the licensee’s business establishment.

Section 3. Suspension and Revocation of Permit and Payment of Fines. Any breach or violation of the conditions set forth in the preceding section shall be a ground for the suspension of the business permit or license for a period of fifteen (15) days for the first violation; thirty (30) days for the second violation; and the revocation thereof for the third and subsequent violations by the concerned LGU.

The province shall *motu proprio* take action for violations of this ordinance, or upon verified complaint filed by persons to the LGU concerned.

In case illicit tobacco products are found within the premises, the erring licensee shall be required to pay an administrative fine of Five Thousand Pesos (Php 5,000.00) to the local government unit concerned.

Section 4. Confiscation of Goods and/or Services. The illicit, counterfeit, and/or non-compliant cigarettes/tobacco products of any person engaged in any business or trade, with or without any license or permit, shall be confiscated and disposed of in accordance with law.

Section 5. Notice of Order to Suspend, Revoke, or Confiscate. In the cases covered under Sections 3 and 4 hereof, the respondent may, within twenty-four (24) hours from the notice of an order to suspend or revoke the business permit or license or to confiscate illicit, counterfeit, and/or non-compliant cigarettes/tobacco products, present and submit to the office of the concerned local chief executive a request for

reconsideration of the said order. The concerned local chief executive shall decide said request within fifteen (15) days from receipt thereof.

The notice of suspension or revocation of the business permit or license shall be issued by the concerned local chief executive after an inspection of the business establishment concerned is conducted. The inspection may be on the occasion of a general inspection regularly conducted, or upon complaint or information that the licensee is engaged in the sale, distribution, manufacture and/or production of illicit, counterfeit, and/or non-compliant cigarettes/tobacco products.

The Provincial Government may seek the assistance of the Philippine National Police, National Bureau of investigation, Bureau of Internal Revenue (BIR), Bureau of Customs and/or other law enforcement agencies when conducting the inspection and confiscation.

Section 6. Penalties. The penalty of imprisonment for a period not exceeding one (1) year, or a fine not exceeding Five Thousand Pesos (Php 5,000.00), or both, in the discretion of the court, shall be imposed upon:

- a. Any person who having been issued a business permit or license shall commit a breach of the conditions imposed by Section 2 of this ordinance; or
- b. Any person who without any business permit or license, shall engage in the sale, distribution, manufacture and/or production of illicit, counterfeit, and/or non-compliant cigarettes/tobacco products.

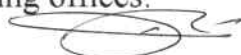
Section 7. No Double Jeopardy. The prosecution or commission of any of the forgoing offenses shall not constitute a bar to the prosecution of offenses under Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines, Republic Act No. 8424 as amended, otherwise known as the National Internal Revenue Code, Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, Republic Act No. 10643, otherwise known as the Graphic Health Warnings Law, and other related laws, provided that the accused shall not be placed in double jeopardy.

Section 8. Juridical Person Liable. Should the offense be committed by a juridical person, the chairperson, president, officer, director, trustee, partner, manager and/or executive officers who committed or caused the commission of such offenses, shall be held liable.

Section 9. Sharing of Proceeds of the Fine. The amount of the fine paid to the concerned local government unit and imposed upon the violator shall be apportioned where the equivalent fifty percent (50%) shall accrue to the apprehending officer or deputized enforcer as an incentive.

The remainder of the proceeds shall form part of the general fund of the local government unit.

Section 10. Creation and Composition of Task Force. An Anti-Illicit Tobacco Task Force (AITTF) is hereby created, which shall be composed of the following persons and/or heads of the following offices:



Honorary Chair	: Provincial Governor
Chairperson	: Provincial Administrator
Co-Chairperson	: As appointed by the Provincial Governor
Vice Co-Chair	: Provincial Legal Officer
Members	: The Provincial Health Officer The Business Processing and Licensing Officer The Building Official The Provincial Tourism Officer The Provincial Information Officer The General Services Officer The Provincial Environment and Natural Resources Officer The Provincial Police Officer The Representative of the Private Sector

All members of the AITTF are hereby directed to name their respective alternate and permanent representative who shall take their place in case of their absence.

Section 11. Duties and Functions of the AITTF. The AITTF shall have the following tasks and responsibilities:

- A. Monitor retailers, wholesalers and distributors involved in selling cigarettes/tobacco products for compliance with the following regulations:
1. Selling counterfeit cigarettes/tobacco products that violate intellectual property rights as reported by trademark owners.
 2. Selling cigarettes/tobacco products for less than the minimum price as required by relevant laws and regulations.
 3. Displaying cigarettes/tobacco products without the Department of Health-mandated Graphic Health Warnings.
 4. Selling non-tax paid cigarettes/tobacco products or cigarettes/tobacco products without the BIR tax stamp.
 5. Selling cigarettes/tobacco products not registered with the BIR.
- B. Report violators of the regulations as enumerated in Section 11(A) above to the local government unit having jurisdiction over the retailers, wholesalers and distributors and to the relevant BIR office.
- C. Recommend the imposition of fines and penalties to the local government unit having jurisdiction.
- D. Undertake an education and awareness campaign among retailers and wholesalers on the regulations issued by the DILG and BIR thru the Provincial Information Office.

Section 13. Role of Local Government Units. The Local Government Units of the Province of Nueva Ecija through their local Sanggunian shall adopt the provisions of this Ordinance and ensure its strict enforcement in their corresponding areas of jurisdiction.

Section 14. Public Billboards; Notices in Barangays. Upon effectivity of this Ordinance, the Engineer's Office shall put up billboards in conspicuous spaces within the province to notify the public of the restrictions and sanctions imposed by the Ordinance.

The Provincial Information Office shall also immediately issue for dissemination at the barangay level notices on obligations of persons under this ordinance.

Section 15. Separability Clause. If any part of this ordinance is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 16. Repealing Clause. All ordinances and resolutions inconsistent herewith are hereby repealed or modified accordingly.

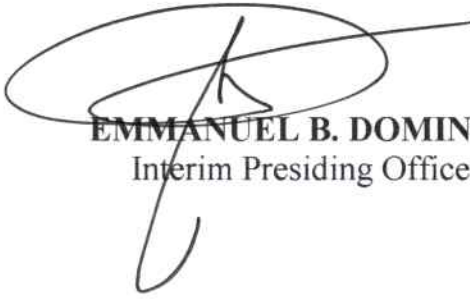
Section 17. Effectivity Clause. This Ordinance shall take effect fifteen (15) days after it has been published in a local newspaper of general circulation.

APPROVED, July 11, 2023.

I ~~HEREBY~~ certify to the correctness of the foregoing Ordinance No. 32-S-2023.


ATTY. NORBERTO D. CORONEL
Secretary to the Sangguniang Panlalawigan

ATTESTED:


EMMANUEL B. DOMINGO
Interim Presiding Officer

APPROVED:


AURELIO M. UMALI

Governor

Date: AUG 01 2023

**Vice Governor Emmanuel Antonio M. Umali assigned Board Member Emmanuel B. Domingo as the Temporary Presiding Officer of the day's session.*