

**DEPARTMENT ADMINISTRATIVE ORDER NO. \_\_\_\_\_**

Series of 2025

Subject : **REQUIRING EFFECTIVE MEASURES TO PREVENT INDIVIDUALS BELOW EIGHTEEN (18) YEARS OF AGE FROM THE ONLINE ACCESS OR PURCHASE OF VAPORIZED NICOTINE AND NON-NICOTINE PRODUCTS, THEIR DEVICES, AND NOVEL TOBACCO PRODUCTS**

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**WHEREAS**, Section 15, Article II of the 1987 Constitution provides that the State shall protect and promote the right to health of the people and instill health consciousness among them;

**WHEREAS**, Section 3(2), Article XV of the 1987 Constitution provides that the State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development;

**WHEREAS**, Section 9, Article XVI of the 1987 Constitution provides that the State shall protect consumers from trade malpractices and from substandard or hazardous products;

**WHEREAS**, Section 3(dd) of Republic Act No. 11900 (RA11900), or the Vaporized Nicotine and Non-Nicotine Products Regulation Act, provides that Vaporized Nicotine or Non-Nicotine Products shall refer to both Heated Tobacco Products (HTP) and Vapor Products;

**WHEREAS**, Section 7 of RA11900 provides that it shall be ensured that no individual below eighteen (18) years of age is allowed to purchase Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products;

**WHEREAS**, Section 8 of RA11900 mandates that measures shall be adopted to ensure that persons below eighteen (18) years of age are denied access to the sale or distribution of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products through internet websites or via e-commerce and/or similar media platforms;

**WHEREAS**, Section 8 of RA11900 further mandates that the sale or distribution of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products 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 and advertised online shall be compliant with the health warning requirements indicated under RA11900, as well as other requirements of the Bureau of Internal Revenue (BIR) including tax stamps, minimum or floor price, or other fiscal marks;

**WHEREAS**, Section 12(h) of RA11900 provides that online advertisements on e-commerce platforms of Vaporized Nicotine and Non-Nicotine products, their Devices, and Novel Tobacco Products shall only be visible after the appropriate age verification measures are applied;

**WHEREAS**, Section 23 of RA11900 provides that new and emerging innovative tools and technologies shall be designed, promulgated, and utilized to ensure that only registered Vaporized Nicotine and Non-Nicotine Products or Novel Tobacco Products are made available in the market;

**WHEREAS**, Rule V, Section 2 of DTI Department Administrative Order No. 22-16 (DAO22-16) (2022), or the Implementing Rules and Regulations (IRR) of RA11900, provides that retailers shall ensure that no individual below eighteen (18) years of age is allowed to purchase Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products;

**WHEREAS**, DTI Department Administrative Order No. 24-03 (DAO24-03) (2024) suspended the online sale of Vapor Products, Vapor Product Devices, and Vapor Product Systems so that persons below eighteen (18) years of age are denied access to the sale or distribution of said products through internet websites or via e-commerce and/or similar media platforms;

**WHEREAS**, DAO24-03 (2024) did not suspend the online sale of HTPs, their Devices, and Novel Tobacco Products;

**WHEREAS**, DAO24-03 (2024) does not specify the standard to ensure denial of access to persons below eighteen (18) years of age to the sale or distribution of Vapor Products, Vapor Product Devices, and Vapor Product Systems, nor does it identify the DTI office to which compliance with the said standard shall be submitted;

**WHEREAS**, the DTI E-Commerce Bureau (ECB), the DTI Fair Trade Enforcement Bureau (FTEB), and the Consumer Protection Divisions (CPD) of the DTI Regional and Provincial Offices serve as the DTI's regulatory and implementing arms in enforcing compliance with the different trade and industry laws, including RA11900;

**WHEREAS**, in the course of monitoring online sales, distribution, and advertisements of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products pursuant to Section 21 of RA11900, the ECB, the FTEB, and the DTI Regional and Provincial Offices have not encountered or come across any age verification system that ensures denial of access to individuals below eighteen (18) years of age to the sale or distribution of RA11900 covered products through websites or via e-commerce and/or similar media platforms;

**WHEREAS**, Republic Act No. 11967 (RA11967), or the Internet Transactions Act of 2023, provides that the DTI Secretary, after investigation or verification, may issue an *ex parte* Takedown Order directing the removal of a listing or offer on a webpage, platform or application, regardless of the intended nature of the transaction, when the sale or lease of goods or services is prohibited or regulated under existing laws, *Provided*, that the prohibited nature of the goods and services is apparent from the photo or description in the post; or when the transaction or activity online, within the jurisdiction of the DTI, purports to sell or lease of goods or services that otherwise threaten public or personal safety;

**WHEREAS**, Executive Order No. 913 (1983), or Strengthening the Rule-Making and Adjudicatory Powers of the Minister (now Secretary) of Trade and Industry in order to Further Protect Consumers, provides that emergency rules as determined by the Secretary shall take effect on a date fixed by the Secretary;

**WHEREAS**, it is essential to regulate the sale and marketing of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products, and establish more rigorous guidelines that prohibit access to such products for individuals below eighteen (18) years of age, safeguarding their health and well-being;

**NOW THEREFORE**, foregoing premises considered, this Order is hereby issued for the guidance of all concerned:

**Section 1. Scope.** This Order applies to all entities engaged in the online sale, distribution, or promotion of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products.

**Section 2. Effective Measures.** Internet websites, e-commerce and/or other similar media platforms shall be allowed to engage in the online sale, distribution, and advertising of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products; *Provided*, that they shall implement effective measures to ensure the denial of access to individuals below eighteen (18) years of age.

A measure denying access to individuals below eighteen (18) years of age, or an age-gating measure, shall be considered effective if the individual below eighteen (18) years of age cannot access and/or purchase from an internet website, e-commerce and/or other similar media platform that sells, distributes, or advertises Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products, at any given time, and without any assistance from another who is eighteen (18) years of age or older.

An effective measure may consist of, but not limited to, the following:

- a. Confirmation or re-encoding of some of the data stated in the consumer's or viewer's government-issued identification document or card submitted at the Registration process provided herein;
- b. Encoding of a One-Time Password (OTP) or Personal Identification Number (PIN) sent by the internet website or e-commerce and/or similar media platform to the consumer or viewer;
- c. Use of facial recognition technology or biometrics;
- d. Use of artificial intelligence (AI), programs or algorithms to detect underage attempts to access, or purchase the covered products;
- e. Use of artificial intelligence (AI), or image recognition programs or technologies to prevent deceptive posts of non-compliant images; or
- f. Use of geofencing technology to restrict access to the covered products in locations frequented by individuals below eighteen (18) years of age.

**Section 3. Registration.** Consumers of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products, shall be required to register with the internet website, e-commerce and/or other similar media platforms prior to their access to the web/mobile site/application, advertisements or other forms of consumer communications of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products.

The minimum requirements of registration shall be the following:

- a. Submission of a photograph of the consumer or viewer holding a valid government-issued identification document or card exhibiting the consumer's or viewer's photograph and age or date of birth;
- b. Submission of a forward-facing photograph of the consumer or viewer holding the same valid government-issued identification document or card;
- c. The date of birth or age of the consumer or viewer must be clearly discernible from the valid government issued identification document or card;
- d. A declaration by the consumer or viewer that no person below eighteen (18) years of age will be allowed to view from the consumer's or viewer's account any advertisement or any consumer communication or any offer for sale of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products; and
- e. A declaration by the consumer or viewer that no person below eighteen (18) years of age will be allowed or assisted in purchasing using the consumer's or viewer's account any vaporized nicotine and non-nicotine product, their devices, and novel tobacco product.

**Section 4. Stringent Measures.** Nothing in this Order shall prevent internet websites or e-commerce and/or similar media platforms from requiring more stringent measures to ensure that individuals below eighteen (18) years of age are denied access, or sale to, Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products; *Provided*, that internet websites or e-commerce and/or similar media platforms shall ensure the security and privacy of consumer's personal data pursuant to Republic Act No. 10173 (RA10173), or the Data Privacy Act of 2012, or such applicable laws, rules, and regulations.

**Section 5. Applications and Clearances.** The DTI Office for the Special Mandate on Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products (OSMV) shall receive applications, and issue and release the Certificate of Registration in relation to this Order.

The DTI OSMV shall ascertain whether the age-gating measures stated on the application are effective taking into consideration the standard of an effective measure provided under Section 2 of this Order, industry conditions, and the applicable laws, rules, and regulations, including but not limited to product standards.

The DTI OSMV shall issue a Certificate of Registration upon full satisfaction that the proposed age-gating measure is effective such that an individual below eighteen (18) years of age will not be able to access an internet website, e-commerce and/or other similar media platform that sells, distributes, or advertises Vaporized Nicotine and Non-

Nicotine Products, their Devices, and Novel Tobacco Products, at any given time, and without any assistance from another who is eighteen (18) years of age or older. In case of denial of the application, the DTI OSMV shall state the reason therefor.

In view of the highly technical nature of the application, the DTI OSMV shall process all applications pursuant to Section 9 of Republic Act No. 11032 (RA11032), or Ease of Doing Business and Efficient Government Service Delivery Act of 2018.

**Section 6. Allowed Products.** The sale, distribution, or advertisement of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products 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 DTI, SEC, or the Cooperative Development Authority (CDA); *Provided*, that the products being sold and advertised online shall be compliant with the health warnings and such other mandatory product standard requirements required by RA11900 and related issuances, as well as other BIR requirements including tax stamps, minimum or floor prices, or other fiscal marks.

**Section 7. Regular Reporting.** The DTI OSMV, ECB, FTEB, and the DTI Regional and Provincial Offices shall regularly conduct monitoring, inspection, and verifications of internet websites, e-commerce and/or other similar media platforms engaged in the sale, distribution, or advertisement of Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products to determine if the required measures ensuring denial of access to individuals below the age of eighteen (18) years are in place, and if these measures are effective.

Data and information gathered by the ECB, FTEB, and the DTI Regional and Provincial Offices shall be submitted monthly to the DTI OSMV within ten (10) working days from the close of each month. The reports shall be immediately consolidated by the DTI OSMV, and shall be submitted to the DTI Secretary forthwith.

**Section 8. Authority to Issue Takedown Order.** The DTI OSMV, to the exclusion of all the DTI attached agencies, bureaus, and/or offices, is hereby authorized to issue a Takedown Order for violations of RA11900 and this Order pursuant to Section 23 in relation to Section 8 of RA11900, and Section 14 of the IRR of RA11900 in relation to Section 15 of RA11967.

The Takedown Order shall be directed against non-compliant entities and internet websites, e-commerce and/or other similar media platforms engaged in selling, distributing, or advertising Vaporized Nicotine and Non-Nicotine Products, their Devices, and Novel Tobacco Products. Copies of the Takedown Order shall likewise be served on entities whose cooperation would be necessary and required for its enforcement such as, but not limited to, the duly registered internet service provider involved, related payment gateways, and other government agencies.

Pursuant to Section 15 of RA11967, the violating entity shall be given an opportunity to be heard, within forty-eight (48) hours to disprove and/or contest, in writing, the issuance of the Takedown Order. Within forty-eight (48) hours from the written submission of the violating entity, the DTI OSMV shall issue a Decision stating whether to lift the Takedown Order or to extend the same for a maximum period of thirty calendar (30) days from the issuance of the Takedown Order unless otherwise extended or made permanent by a judicial order or decision.

**Section 9. Penalties.** The applicable penalties provided under RA11900 and/or RA11967 shall be imposable.

**Section 10. Repealing Clause.** All inconsistent provisions of DAO 22-06 (2022), as supplemented, DAO24-03 (2024), and all other Orders, issuances or parts thereof that are inconsistent with this Order are repealed, or amended accordingly.

**Section 11. Separability.** Should any provision of this Order, or any part thereof be declared invalid, the other provisions shall remain in force and effect, so far as they are separable from invalid ones.

**Section 12. Effectivity.** This Order shall take effect immediately after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Issued this \_\_\_\_\_ in Makati City, Philippines.