

REPUBLIC OF PANAMA
MINISTRY OF HEALTH

EXECUTIVE DECREE N° 1838

December 5, 2014

That prohibits the use of electronic nicotine delivery systems, electronic cigarettes, vaporizers or other similar devices, with or without nicotine.

THE PRESIDENT OF THE REPUBLIC

in the exercise of his constitutional and legal powers,

TAKING INTO CONSIDERATION:

That, article 109 of the Political Constitution of the Republic of Panama establishes it is an essential function of the State to watch over the health of the population of the Republic. The individual, as part of the community, has the right to the promotion, protection, conservation, restitution and rehabilitation of health and the obligation to preserve it, understood as complete physical, mental and social well-being;

That, it is incumbent upon the State to protect a human right and public good such as the health of the population. Therefore, it is its responsibility to protect it from any direct or indirect effects of products that promote nicotine addiction;

That, Cabinet Decree No. 1 of January 15, 1969, creates the Ministry of Health, for the implementation of actions of promotion, protection, repair, and rehabilitation of health that by constitutional mandate, are the responsibility of the State. As an executive function body, the Ministry of Health will be responsible for determining and conducting the State's health policy;

That, Law No. 40 of July 7, 2004, ratifying the World Health Organization (WHO) Framework Convention on Tobacco Control, indicates, among other important points, that cigarettes and some other products containing tobacco are designed in a very sophisticated manner; in order to create and maintain dependence. That, many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic, and carcinogenic; and that tobacco dependence appears as a separate disorder in the major

international classifications of diseases;

That, the aforementioned legal excerpt, in its article 19.3, establishes the prohibition of the manufacture, import, and sale of sweets, snacks, toys and other objects that have the same shape and design as tobacco products and that may be attractive to minors. According to Resolution No. 660 of August 11, 2009, warns that the Ministry of Health, as the competent authority, declares the commercialization of ELECTRONIC AND SIMILAR CIGARETTES in the Panamanian market to be inappropriate, because they are damaging and harmful to the health of the Panamanian population;

That, States parties are deeply concerned by the significant increase in the number of smokers and users of tobacco in other forms; among children and adolescents worldwide, and particularly by the fact that smoking is beginning at an increasingly younger age;

That, strong political commitment is required to establish and support at the national, regional and international levels; comprehensive multisectoral measures and coordinated responses to prevent the initiation, promotion, and support for cessation and reduction of consumption of tobacco products in any form;

That, Law No. 13 of January 24, 2008, which adopts measures for the control of tobacco and its harmful effects on health; establishes that States, with the participation of civil society, shall develop appropriate policies to prevent, control and reduce tobacco consumption, addiction to nicotine and exposure to tobacco smoke, and that it shall adopt the necessary measures to implement such public health policies effectively;

That, some U.S. toxicology centers detected a sharp increase in accidents caused by electronic cigarettes, mainly involving children who handled the liquid containing nicotine inhaled by consumers of e-cigarettes;

That, according to the Center for Disease Control of the United States, the so-called electronic cigarettes contain a liquid that by its content of nicotine can be dangerous, and that the use of these products increases and with it the poisoning by this cause will continue affecting the health of its consumers, particularly the young ones;

That, in our country has proliferated the indiscriminate use of electronic cigarettes with or without nicotine, as well as other nicotine delivery devices, which are made of stainless steel, with a camera that in most models circulating in the world, have a liquid nicotine in different concentrations and are powered by a rechargeable battery, being that they can contain cartridges, with up to 24 milligrams of nicotine;

That the above products are being commercialized worldwide under a variety of trade names and descriptions, the most common of which are electronic cigarettes and e-cigs;

That the Food and Drug Administration (FDA) of the United States of America says that electronic cigarettes contain ingredients that are toxic to humans, that cause cancer, such as nitrosamines and other chemicals such as diethylene glycol, used as antifreeze for cars;

That it has been shown that nicotine, the substance responsible for addiction, is directly involved in the development of lung cancer, through the stimulation of non-neuronal *nAChRs* receptors. It has also been shown that nicotine, as well as other additives and emissions from tobacco products, promote the proliferation of tumor cells helping the spread of a plural number of malignant tumors, including those most prevalent in Panama;

That, besides, there is not enough evidence to conclude that electronic cigarettes and other nicotine delivery devices are an effective aid to quitting smoking, or that they are safe and harmless for human consumption;

That, the use of electronic cigarettes and other similar electronic devices, whether or not they contain nicotine, affect the implementation of the World Health Organization (WHO) Framework Convention on Tobacco Control, since they perpetuate the act of smoking by suggesting that it is an accepted social behavior;

That, according to the Report of the Secretariat of the World Health Organization (WHO) Framework Convention on Tobacco Control, FCTC/COP/5/13 of June 18, 2012, electronic nicotine delivery systems are designed to deliver nicotine directly to the respiratory system, providing inhalable doses of nicotine by releasing a vaporized mixture of nicotine and propylene glycol, making its direct delivery to the lungs dangerous, irrespective of the effects of nicotine and penetration into lung tissue through scientific studies;

That, in light of scientific knowledge, the existing evidence is insufficient for these systems to be used to help quit smoking or to conclude around whether they are capable themselves of creating or spreading addiction;

That, although its commercialization is prohibited in Panama since 2009, these products have been introduced to the country once they are acquired abroad, where their commercialization is not prohibited, or they are acquired online;

That, none of the studies cited by the Secretariat of the World Health Organization (WHO) Framework Convention on Tobacco Control (WHO FCTC) contain statements concerning

the quality, safety and efficacy of Electronic Nicotine Delivery Systems and/or similar products that do not contain nicotine;

That, neither the safety nor the magnitude of nicotine uptake have been demonstrated and that the products were commercialized as a smoking cessation aid, even without sufficient scientific data to justify this use;

That, since 2009, the World Health Organization (WHO) indicated that the sale, dissemination, and use of these devices may undermine one of the key objectives of the World Health Organization (WHO) Framework Convention on Tobacco Control and facilitate and perpetuate nicotine addiction, conclusions that are still valid;

That, on the basis of the foregoing,

DECREES:

Article 1. The use of electronic nicotine delivery systems, electronic cigarettes, vaporizers, and other similar devices, with or without nicotine, is prohibited in the following places, where the consumption of tobacco products is prohibited, and which are covered by article 5 of Law No. 13 of January 24, 2008, namely:

1. National, provincial, regional, and local public and private offices.
2. Means of public transport in general and land, sea, and air transport terminals.
3. Enclosed places of public access where people attend.
4. Public and private environments, open and closed, intended for sports activities.
5. Common areas of public and private buildings for commercial and domestic use.
6. Closed work environments.
7. Educational and health institutions, public and private.

The managers or those in charge of the establishments, public or private, shall be responsible for ensuring that the general public and its employees comply with the provisions of this Decree and, if necessary, may call upon the assistance of the National Police.

Article 2. For this Executive Decree, the prohibition contained in numeral 1 of the

preceding article shall be understood as follows:

1. Public offices comprise the administrative entities of the central government, local governments, autonomous and semi-autonomous institutions; diplomatic missions, consulates and/or embassies of the Panamanian State.

They may be located in rented, leased, or owned facilities of the Panamanian State. When these offices are located in facilities that are patrimony of the Panamanian State, they include areas to their parking lots, interior gardens, and any other open space within the institutional perimeter.

2. Vehicles for government use that are state-owned vehicles.

ARTICLE 3. The prohibition on the use of electronic nicotine delivery systems, electronic cigarettes, vaporizers or other similar devices, with or without nicotine, extends to closed places, of public access where there are people, listed in Article 8 of Executive Decree No. 230 of May 6, 2008, namely:

1. Cinemas, theaters, and museums.
2. Convention centers and auditoriums.
3. Restaurants, coffee shops, food outlets, and the like.
4. Bars, wineries, canteens, and the like.
5. Brothels and the like,
6. Sites of occasion.
7. Clubs, gardens, awnings, and other dance centers.
8. Hotels, guesthouses, and temporary accommodation sites.
9. Casinos, bingo halls, cockpits, and other centers where gambling is practiced.
10. Shopping centers and stores.
11. Supermarkets, shops, kiosks, grocery stores, and others.
12. Video games center, virtual games, and the like.
13. Internet café.
14. Beauty salons, hairdressers, and the like.
15. Massage and aesthetic center.
16. Churches, chapels, and other prayer centers.
17. Premises destined for the celebration of events such as concerts, parties, and others.
18. Circuses and other places where cultural or recreational activities take place.

ARTICLE 4. The prohibition on the use of electronic nicotine delivery system, electronic cigarettes, vaporizers, and other similar devices, with or without nicotine, extends to public and private environments, open and closed, intended for sports activities, facilities or playing fields where sports activities are practiced outdoors or not and which are listed in Article 9 of Executive Decree No. 230 of May 6, 2008, namely;

1. Gyms
2. Stadiums
3. Swimming pools
4. Bowling
5. Billiard halls
6. Equestrian activity
7. Rodeos
8. Tennis, racquetball, basketball, volleyball courts
9. Golf courses
10. Soccer and baseball fields
11. Autodromes
12. Shooting ranges
13. Sports areas in the parks

ARTICLE 5. The prohibition on the use of electronic nicotine delivery system, electronic cigarettes, vaporizers or other similar devices, with or without nicotine, extends to the common areas of public and private buildings for commercial and domestic use, to spaces for the circulation of residents or visitors, and which are listed in Article 10 of Executive Decree No. 230 of May 6, 2008, namely:

1. The common areas of public and private buildings for commercial and domestic use.
2. The gallery, lobbies, staircases, corridors and entry, exit and communication routes;
3. Basements, roofs, garages or general parking areas, patios and gardens;
4. Premises for the accommodation of employees in charge of the building;
5. The premises and facilities of central services such as electricity, light, gas, hot and cold water, refrigeration, cisterns, tanks, and water pumps, tanks and the like;

6. Elevators, waste incinerators, and mailboxes;
7. All existing areas and facilities for the common benefit, including recreational and sports areas, swimming pools, saunas, bathrooms, and spaces for the safety of facilities.

ARTICLE 6. The following actions constitute violations of the provisions of this Executive Decree:

1. To allow the commercialization in the national territory of the electronic nicotine delivery system, electronic cigarettes, vaporizers and other similar devices that contain or do not contain nicotine.
2. To use electronic nicotine delivery systems, electronic cigarettes, vaporizers, and other similar devices containing or not nicotine in places where there is a total ban on their use.
3. Failure to inform at the entrance to establishments of a ban on the use of electronic nicotine delivery system, electronic cigarettes, vaporizers and other similar devices containing or not nicotine, where a total ban exists.

ARTICLE 7. Violations of this Executive Decree may be reported to the competent authorities by any person and shall be sanctioned by the Ministry of Health, in accordance with the provisions of the Health Code.

ARTICLE 8. This Executive Decree shall become effective upon its promulgation.

LEGAL GROUND: Political Constitution of the Republic of Panama, Law No. 66 of 1947, which approves the Health Code, Law No. 40, of November 16, 2006 "That amends and adds articles to Law No. 66 of 1947, which approves the Health Code, and dictates another provision."

TO BE PUBLISHED AND ENFORCED.

Given in Panama City, on the 5th day of December of the year two thousand fourteen (2014).

JUAN CARLO VARELA RODRÍGUEZ
President of the Republic

FRANCISCO JAVIER TERRIENTES
Health Minister