

HEALTH

Health Ministry of Panama
REPUBLIC OF PANAMA
MINISTRY OF HEALTH

GENERAL DIRECTORATE OF PUBLIC HEALTH

RESOLUTION No. 0953 of the 15th of May **2018**.

Whereas pursuant to Article 109 of the Political Constitution of the Republic of Panama, it is an essential function of the State to ensure the health of the population of the Republic. The individual, as part of the community, shall be entitled to the promotion, protection, preservation, recovery, and rehabilitation of his/her health, and shall have the obligation to preserve it; health being understood as complete physical, mental, and social well-being;

Whereas the State is responsible for protecting a human right and public good, such as the health of the population; therefore, it is its responsibility to protect it from any direct and indirect effects of products that promote nicotine addiction, a substance contained in tobacco;

Whereas Panamanian legislation establishes the precautionary principle for public health, which is based on the obligation of the State to protect the Panamanian population, and the residents in the national territory, from exposure to potential risks to their health and life;

Whereas pursuant to Law 66 of November 10, 1947, which approves the Sanitary Code of the Republic of Panama, it is within the competence of the General Directorate of Public Health, the directive, executive, and regulatory national public health functions of inspection and control;

Whereas further, the aforementioned legal excerpt states that it is the responsibility of the Ministry of Health to settle any issue not provided for by the Sanitary Code when it is directly related to public health and the inherent risks posed by the consumption of tobacco products or mixed products, and which are in some way associated with the early onset of the consumption of such products;

Whereas pursuant to the Decree of the Cabinet No 1, of January 15, 1969; whereby the Ministry of Health is established to perform the functions and duties of health promotion, protection, repair, and rehabilitation, which by constitutional mandate are the responsibility of the State, and as the executive body, it is in charge of establishing and conducting the Government's health policy in the country;

Resolution No. 0953 of the 15th of May of 2018. Which prohibits the commercialization and use of heated tobacco products in all places where the use of tobacco products is already prohibited.

Whereas pursuant to the Law No 40, of July 7, 2004, whereby the WHO Framework Convention for Tobacco Control is approved, it is essential to protect present and future generations against the devastating health, social, environmental, and economic consequences of tobacco consumption, and tobacco smoke exposure;

Whereas further, the aforementioned legal excerpt states, in Article 5.2b, that each Party must adopt and apply legislative, executive, administrative, and/or other effective measures, and cooperate with other Parties in the development of appropriate policies, to prevent and reduce the consumption of tobacco, nicotine addiction, and tobacco smoke exposure;

Whereas each Party shall adopt and apply, at the appropriate governmental level, legislative, executive, administrative or other effective measures to prohibit the sale of tobacco products to minors; in addition, the manufacture and sale of sweets, snacks, toys, and other objects that have the form of tobacco products, and that may be attractive to minors must be prohibited;

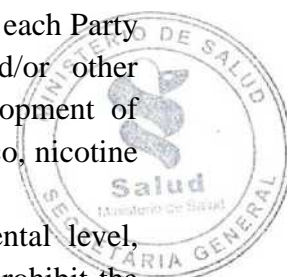
Whereas pursuant to the aforementioned mandate, Law No 13 of January 24, 2008, also prohibits the manufacture, import and sale of sweets, snacks, toys, and other objects that are shaped and designed to resemble tobacco products and that may be attractive to minors;

Whereas the aforementioned legal norm, in article 14, also prohibits any form of advertising, promotion and sponsorship of tobacco products, even if it is through indirect or subliminal means, aimed at minors and/or adults; likewise, any form of advertising, promotion, and cross-border sponsorship of tobacco, and tobacco products, that penetrate the national territory is totally prohibited;

Whereas pursuant to the Executive Decree No 611 of June 3, 2010, which amends Executive Decree No 230 of May 6, 2008, the display of tobacco products in dispensers, shelves and any other racks located at points of sale is totally prohibited. This prohibition includes any sponsorship, promotion, and advertising messages placed inside the packaging of all tobacco products, and those which are sent to consumers via mail, internet and any other form of communication available in the national and international market;

Whereas pursuant to the World Health Organization (WHO), heated tobacco products are tobacco products that produce aerosols containing nicotine and other chemicals, which are inhaled by users, through the mouth. They contain the highly addictive substance nicotine (contained in the tobacco), which makes HTPs addictive;

Whereas the alkaloid called nicotine present in all tobacco products, including heated



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tobacco products, is responsible for producing physical and mental dependency; and that its addictive potential, which is similar to that of cocaine and heroin, can be increased depending on the additives used; and that the lower the age of the person at the time of starting tobacco use, the greater it is such a potential;

Whereas, declaring that heated tobacco products are less harmful to human health or that there is a significant reduction of exposure to harmful components when compared to conventional cigarettes, can generate the misperception that their use is safe; and that, so far, there is no scientific evidence derived from clinical studies that are independent of the tobacco industry to support such an assertion;

Whereas, on the other hand, there is a known record of similar misleading statements by the tobacco industry about light cigarettes and filter cigarettes, whose potential to damage health has been broadly supported by sound scientific evidence;

Whereas it is important to highlight that although the lack of strong scientific evidence, and the existing studies, do not allow to conclude that these products actually belong to the market of conventional cigarettes nor that they constitute a parallel market, it is clear that they contain nicotine, which is the addictive element per se, and that this substance harms young people who consume it at an early age;

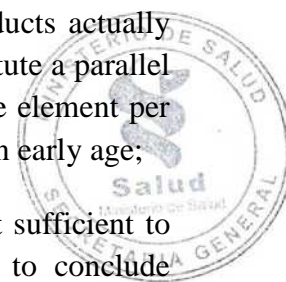
Whereas in the light of scientific knowledge, the existing evidence is not sufficient to consider these products suitable to aid smoking cessation, nor to conclude whether they are useful to control smoking addiction;

Whereas the product called heated tobacco is a hybrid product, which contains elements of different nature, that is, the nicotine of the tobacco found in conventional cigarettes and the electronic means that allow its heating;

Whereas the most recent Global Youth Tobacco Survey (ages 13 to 15) carried out for the fourth time in Panama in 2017, has reflected a decrease in the current prevalence of the consumption of traditional tobacco products, since it fell from 18.3% in 2002 to 7.8% in 2017;

Whereas the survey showed that the current prevalence of cigarette consumption is 3.9%, that of other tobacco products is 2.5% and that of smokeless tobacco is 2.3%; this same survey has certainly shown a decrease in the current prevalence of the consumption of traditional tobacco products;

Whereas there are new products, such as nicotine administration systems, that young people are resorting to as an alternative way of consuming this addictive substance; and that 7.3% of young people between the ages of 13 and 15 who have used these systems at any time, 6.4% continue to do so;



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Whereas neither the safety nor the beneficial properties of heated tobacco have been proved, and there is still not enough scientific evidence to justify its marketing as a healthier substitute for tobacco products;

Whereas the Pan American Health Organization (PAHO) and the World Health Organization (WHO) have stated that heated tobacco products are tobacco products and that there is no evidence to show that they are less harmful than conventional products or that they pose a lower risk for human health;

now, therefore in the light of the foregoing, be it

resolved, that the Ministry of Health and the General Directorate of Public Health:

Article 1. declare inadmissible the commercialization of heated tobacco products in the Republic of Panama, since there is no scientific evidence to support neither their safety nor their beneficial effects on the health of consumers;

Article 2. prohibit the use of heated tobacco products in the Republic of Panama in all the places where the consumption of tobacco products is already prohibited, as set forth in article 5 of Law 13 of January 24, 2008;

Article 3. declare inadmissible the commercialization of any element that may be used as a part, spare part or cartridge of heated tobacco devices and that constitute an intrinsic or accessory part thereof;

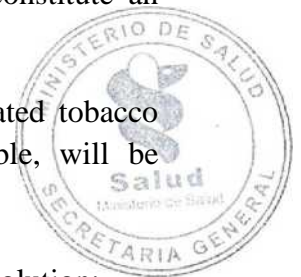
Article 4. give warning that the introduction of more than two (2) heated tobacco products, their components or accessories, even if they are disposable, will be considered commercialization;

Article 5. inform the National Customs Authority of the content of this resolution;

Article 6. make all the Regional Health Directorates aware of the content of this resolution.

Article 7. This Resolution shall enter into effect as from its promulgation.

Legal Grounds: the Political Constitution of the Republic of Panama, Law 66 of November 10, 1947, Cabinet Decree 1 of January 15, 1969, Law 40 of July 7, 2004, Law 13 of January 24, 2008, Executive Decree 611 of June 3, 2010, which modifies Executive Decree 230 of May 6, 2008.



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To be published and enforced,



**Dr. ITZA BARAHONA DE MOSCA
Director General of Public Health**



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Secretaria General
Ministerio de Salud