

F. No. P.16012/25/2019-TC  
Government of India  
Ministry of Health & Family Welfare  
(Tobacco Control Division)


**Subject:** Placing the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Bill, 2019 in public domain-**reg**

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The Government of India promulgated an Ordinance namely "Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Ordinance, 2019" on 18<sup>th</sup> September, 2019.

The Department of Health and Family Welfare proposes to introduce the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Bill, 2019 in the forthcoming session of Parliament. The said Bill is placed in public domain ([www.mohfw.gov.in](http://www.mohfw.gov.in)), as part of pre-legislative consultations, with a view to elicit the comments/views of public. The comments should be specific and focused on the provisions of the Bill.

The comments/views may be forwarded to Under Secretary (Tobacco Control), Department of Health and Family Welfare, Room No- 414 'D', Nirman Bhawan, New Delhi-110011 or e-mailed at [ntcp.mohfw@gmail.com](mailto:ntcp.mohfw@gmail.com) on or before 8<sup>th</sup> November, 2019.

  
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	<b>THE PROHIBITION OF ELECTRONIC CIGARETTES (PRODUCTION, MANUFACTURE, IMPORT, EXPORT, TRANSPORT, SALE, DISTRIBUTION, STORAGE AND ADVERTISEMENT) BILL, 2019</b>	
	<i>A Bill to prohibit the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes in the interest of public health to protect the people from harm and for matters connected therewith or incidental thereto;</i>	
	WHEREAS India is a signatory to the World Health Organisation Framework Convention on Tobacco Control adopted in Geneva, Switzerland on 21 <sup>st</sup> day of May, 2003 which came into force on the 27 <sup>th</sup> day of February, 2005;	
	AND WHEREAS, the Conference of Parties established under article 23 of the said Convention took a decision on the 18 <sup>th</sup> day of October, 2014 to invite the Parties to the Convention to consider prohibiting or regulating the electronic cigarettes or the Electronic Nicotine Delivery Systems and the Electronic non-Nicotine Delivery Systems, including as tobacco products, medicinal products, consumer products or other categories, as appropriate, taking into account a high level of protection for human health;	
	AND WHEREAS the Conference of Parties took a decision to urge the Parties to the Convention to consider banning or restricting advertising, promotion and sponsorship of the said Delivery Systems;	
	AND WHEREAS since these devices are injurious to health and proliferation of these products has negative impact on public health, it is expedient to prohibit the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes as enjoined by article 47 of the Constitution of India;	
	AND WHEREAS article 51 of the Constitution of India requires the State to endeavour to foster respect for international law and treaty obligations in the dealings of organised people with one another;	
	Be enacted by the Parliament in the Sixty Ninth Year of the Republic of India as follows;	

	1. (1) This Act may be called the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019.	Short title and commencement.
	(2) It shall come into force at once.	
	2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the electronic cigarettes industry.	Declaration as to expediency of control by Union.
	3. In this Act, unless the context otherwise requires,—	Definitions.
	(a) “advertisement” means any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media, internet or website or social media and includes through any notice, circular, label, wrapper, invoice or other documents or device;	
	(b) “authorised officer” means—	
	(i) any Police officer not below the rank of Sub-Inspector of Police or ;	
	(ii) any other officer, not below the rank of Sub-Inspector of Police, authorised by the Central Government or the State Government by notification;	
	(c) “distribution” includes distribution by way of samples, whether free or otherwise and the expression “distribute” shall be construed accordingly;	
23 of 1940.	(d) “electronic cigarette” means an electronic device that heats a substance, with or without nicotine and flavours, to create an aerosol for inhalation and includes all forms of Electronic Nicotine Delivery Systems, Heat Not Burn Products, e- <i>Hookah</i> and the like devices, by whatever name called and whatever shape, size or form it may have, but does not include any product licensed under the Drugs and Cosmetics Act, 1940.	
	<i>Explanation.</i> — For the purposes of this clause, the expression “substance” includes any natural or artificial substance or other matter, whether it is in a solid state or in liquid form or in the	

	form of gas or vapour;	
	(e) “export” with its grammatical variations and cognate expressions, means taking out of India to a place outside India;	
	(f) “import” with its grammatical variations and cognate expressions, means bringing into India from a place outside India;	
	(g) “manufacture” means a process for making or assembling electronic cigarettes and any part thereof, which includes any sub-process, incidental or ancillary to the manufacture of electronic cigarettes and any part thereof;	
	(h) “notification” means a notification published in the Official Gazette;	
	(i) “person” includes–	
	(i) any individual or group of individuals; (ii) a firm (whether registered or not); (iii) a Hindu Undivided Family; (iv) a trust; (v) a limited liability partnership; (vi) a co-operative society; (vii) any corporation or company or body of individuals; and (viii) every artificial juridical person not falling within any of the preceding sub-clauses;	
	(j) “place” includes any house, room, enclosure, space, conveyance or the area in like nature;	
	(k) “production” with its grammatical variations and cognate expressions, includes the making or assembling of electronic cigarettes and any part thereof;	
	(l) “sale” with its grammatical variations and cognate expressions, means any transfer of property in goods (including online sale) by one person to another, whether for cash or on credit, or by way of exchange, and whether wholesale or retail, and includes an agreement for sale, and offer for sale and	