

N° 10066

**THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA PROVIDES:
REGULATION OF ELECTRONIC NICOTINE DELIVERY SYSTEMS (ENDS), ELECTRONIC NON-
NICOTINE DELIVERY SYSTEMS (ENNDS), AND ELECTRONIC DEVICES THAT USE HEATED
TOBACCO AND SIMILAR TECHNOLOGIES**

ARTICLE 1- Purpose of the law

This Law aims to regulate Electronic Nicotine Delivery Systems (ENDS) and Electronic Non-Nicotine Delivery Systems (ENNDS), as well as electronic devices that use heated tobacco and similar technologies, and to create a tax levied specifically on the importation or national manufacture of ENDS/ENNDS, as well as on electronic devices that use heated tobacco and similar technologies, their accessories and other complementary goods, including liquid for their use, which shall be in favor of the Costa Rican Social Security Fund (CCSS for its acronym in Spanish).

ARTICLE 2- Definitions

For the purposes of this law, the following definitions are established:

- a) Electronic Nicotine Delivery Systems (ENDS): electronic devices or equipment for heating a liquid formula, containing nicotine, which generates an aerosol or vapor that may be inhaled.
- b) Electronic Non-Nicotine Delivery Systems (ENNDS): electronic devices or equipment for heating the liquid formulation, without nicotine, which generates an aerosol or vapor that can be inhaled.
- c) Vape liquid: liquid solution or similar enclosed in a capsule or container, pre-filled and closed or refillable, with or without nicotine, to be heated or converted into vapor by the ENDS/ENNDS.
- d) Vaping accessories: electronic cigarette accessories such as batteries, converter (charger), USB adapter, mouthpieces, and replaceable or refillable cartridges impregnated with nicotine-containing chemical, or not impregnated, but presented with the container enclosing the nicotine preparation.
- e) Vaping: for the purposes of this law, it is the action of producing vapor, coming from the gasification of the vaping liquid by the action of the heat generated by the Electronic Nicotine Delivery Systems (ENDS) and by the Electronic Non-Nicotine Delivery Systems (ENNDS), to inhale it and/or exhale it.
- f) Electronic devices that use heated and alike technologies: heated tobacco products (HTPs) are tobacco products that produce an emission containing nicotine and other chemicals, which are then inhaled by the users. They release nicotine contained in tobacco and contain tobacco additives. They can be flavored or unflavored. HTPs allow mimicking the habit of smoking conventional cigarettes, and some of them use cigarettes specifically designed to contain heated tobacco.

ARTICLE 3- Prohibited places for the use of Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), and electronic devices that use heated tobacco and similar technologies.

The use of Electronic Nicotine Delivery Systems (ENDS) and Electronic Non-Nicotine Delivery Systems (ENNDS), as well as electronic devices using heated tobacco and similar technologies, is prohibited in the following places:

- a) Health and hospital centers or facilities.
- b) Work centers, which are defined as the place used by one or more workers who are employees or volunteers during work. All related or annexed places and vehicles used by workers in the execution of their work are included. Exceptions are houses used exclusively for family housing and open spaces located within the property at a distance of not less than five meters (5 m) from the productive work unit or its annexed and related places.
- c) Centers and dependencies of governments and public law entities.
- d) Public and private educational and training centers.
- e) Social care centers, except for open spaces delimited by the General Directorate for Social Adaptation in penitentiary centers. The same prohibition shall apply to the Temporary Detention Centers for Foreigners of the General Directorate of Migration and Foreigners.
- f) Shopping malls, casinos, nightclubs, discotheques, bars and restaurants, and hotels.
- g) Sports facilities and places where shows and recreational activities of any kind are held. Included are all areas involved in activities of massive concentrations of people, fairs, bazaars and the like, and parks in general.
- h) Lifts and elevators.
- i) Telephone booths and enclosures for automatic teller machines and other small public use spaces. A small public use space is understood to be that which does not occupy an area of more than five square meters (5m²).
- j) Fueling service stations and similar.
- k) Vehicles or means of paid transportation of persons, ambulances, and cable cars.
- l) Railway and maritime means of transportation, as well as aircrafts, that have the national territory as origin or destination.
- m) Cultural centers, cinemas, theaters, reading rooms, exhibition halls, libraries, conference rooms, auditoriums, and museums.
- n) Areas or establishments where food is made, transformed, prepared, tasted, or sold, such as restaurants, bars, and cafeterias.
- ñ) Leisure or recreation centers for minors.
- o) Ports or airports.
- p) Bus and cab stops, as well as any other means of paid transportation of persons that are duly authorized by the Public Transportation Council of the Ministry of Public Works and Transportation (MOPT for its acronym in Spanish).
- q) Sports facilities for common use and places for common use where recreational activities are developed, in properties subject to the condominium property regime.

Persons who do not use ENDS/ENNDS devices, or electronic devices using heated tobacco and similar technologies, shall have the right to require the owner, legal representative, manager, administrator, or person in charge in any capacity of the respective premises or establishment to request the user to cease his or her conduct.

The heads and persons responsible for public and private places and spaces cataloged as "prohibited places for the use of Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS) and electronic devices using heated tobacco and similar

technologies" shall post, in a visible place, the notice of such prohibition. For that purpose, that warning shall be placed on the same sign where the smoking prohibition is posted.

The sale to minors of Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), and electronic devices that use heated tobacco and similar technologies, their accessories, and other complementary goods, including the liquid for their use, is prohibited; for such purposes, a warning about this prohibition shall be placed on a visible sign in the respective establishment.

The provisions set forth in this article shall be regulated by the Executive Branch.

ARTICLE 4- Specific tax

An earmarked tax is created on the sale of Electronic Nicotine Delivery Systems (ENDS) and Electronic Non-Nicotine Delivery Systems (ENNDS), as well as on electronic devices that use heated tobacco and similar technologies, their accessories, and other complementary goods, including the liquid for its use, all of them of domestic or national production, and on the importation of these goods.

For the purposes of this tax, "sale" shall be understood as any act or contract that implies the transfer of ownership, regardless of the legal nature thereof and the designation given to it by the parties.

ARTICLE 5- Time of occurrence of the taxable event

The taxable event occurs:

- a) On domestic sale, at the time of sale at the factory level, on the date of issuance of the invoice or delivery of the product, whichever act occurs first.
- b) On importation, upon acceptance of the customs declaration.

ARTICLE 6- Taxpayers

The following shall be taxpayers of this tax:

- a) In the domestic sale, the manufacturer of the Electronic Nicotine Delivery Systems (ENDS), the Electronic Non-Nicotine Delivery Systems (ENNDS), the electronic devices that use heated tobacco and similar technologies, as well as their accessories and other complementary goods, including the liquid for their use.
- b) In the importation or entry of the final product, the natural or juridical person on whose behalf such product is imported or entered.

ARTICLE 7- Taxable income

The taxable base on which the tax rate shall be applied shall be:

- a) In the domestic sale, the manufacturer's selling price of the goods levied with this tax.
- b) On importation, the CIF value of each Electronic Nicotine Delivery System (ENDS), Electronic Non-Nicotine Delivery System (ENNDS), electronic devices that use heated tobacco and similar technologies, as well as of each liquid, with or without nicotine, and each accessory imported.

ARTICLE 8- Tax rate

The rate on the sale or import operations of Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), electronic devices that use heated tobacco

and similar technologies, their accessories, and their liquids for use, shall be twenty percent (20%) on the taxable base.

ARTICLE 9- Assessment and payment of the tax

This tax shall be liquidated and paid as follows:

- a) On domestic production, during the first fifteen calendar days of each month, except if the day on which this term expires is not a business day, in which case it shall be understood as extended until the next business day.
- b) The manufacturer shall submit the declaration for all sales made in the previous month, duly supported by the vouchers authorized by the Tax Administration; for this purpose, it shall use the sworn declaration form approved by the General Directorate of Taxation. The presentation of this declaration and the payment of the tax are simultaneous.
- c) In imports or internments, at the moment prior to the unloading of the product, carried out by customs. The unloading of the products will not be authorized if the interested parties have not paid the tax by the means defined by the Tax Administration.

ARTICLE 10- Application of the tax

This tax shall not affect the determination of other taxes, such as the taxable base of the value added tax, levied on Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), electronic devices that use heated tobacco, and similar technologies, their accessories and other complementary goods, including the liquid for their use.

ARTICLE 11- Administration of the tax

The administration of this tax shall be the responsibility of the General Directorate of Taxation. In tax matters, with respect to penalties and fines, the provisions of Law 4755, Code of Tax Rules and Procedures, dated May 3, 1971, shall be applicable to this tax.

ARTICLE 12- Destination of the tax

The resources collected by virtue of the tax created by this law shall be managed in a specific account in one of the state banks, in accordance with the provisions of Law 8131, Financial Administration of the Republic and Public Budgets, of September 18, 2001, in order to facilitate its management and so that the National Treasury may transfer them directly and timely on a monthly basis to the Costa Rican Social Security Fund (CCSS for its acronym in Spanish) so this institution may use them exclusively for the purchase of medicines of high financial impact, which are necessary for the treatment of pathologies related to tobacco, to wit: cancer, cardiovascular system, pulmonary problems and any other serious pathology detected by the use of the devices regulated in this law.

It is expressly forbidden to use the resources collected, by virtue of this tax, for the construction of buildings, training or any other expense other than that provided for in the preceding paragraph.

ARTICLE 13- Supplementary application of the Code of Tax Rules and Procedures

For matters not expressly provided for in this law, the provisions of Law 4755, Code of Tax Rules and Procedures of May 3, 1971, shall be applied in a supplementary manner.

ARTICLE 14- Control, oversight, and penalties

The Ministry of Health shall regulate, control, and oversee effective compliance with this law and its regulations.

The National Registry of Offenders created by Law 9028, General Law for the Control of Tobacco and its Harmful Effects on Health, of March 22, 2012, shall also be in charge of keeping the record of faults and penalties committed by offenders of this law.

ARTICLE 15- Penalties

According to the infraction committed, it shall be penalized as follows:

a) With a fine of ten percent (10%) of a base salary, to natural persons who use Electronic Nicotine Delivery Systems (ENDS) and/or Electronic Non-Nicotine Delivery Systems (ENNDS), and/or electronic devices that use heated tobacco and similar technologies in the prohibited places indicated in Article 3 of this law.

b) With a fine of fifteen percent (15%) of a base salary, to the responsible persons and managers who fail to comply with the duty to place in the prohibited places, as indicated in numeral 3 of this law, the notices with the phrase about the prohibition of using Electronic Nicotine Delivery Systems (ENDS) and/or Electronic Non-Nicotine Delivery Systems (ENNDS) and/or electronic devices that use heated tobacco and similar technologies.

c) With a fine of fifty percent (50%) of a base salary to whoever incurs in any of the following behaviors:

i- To whoever holds the position of administrator, director, curator, trustee, authorized representative, and other natural persons with decision-making powers, in any company or public or private institution, when it is proven that they have allowed the use of Electronic Nicotine Delivery Systems (ENDS) and/or Electronic Non-Nicotine Delivery Systems (ENNDS) and/or electronic devices that use heated tobacco and similar technologies in the prohibited places defined in this law.

ii- To whoever sells or supplies to persons under eighteen years of age Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), electronic devices that use heated tobacco and similar technologies, their accessories, or other complementary goods, including the liquid for their use.

In what is not expressly regulated in this law regarding the Electronic Nicotine Delivery Systems (ENDS), as well as electronic devices that use heated tobacco and similar technologies, the penalties indicated in Chapter X of Law 9028, General Law on Tobacco Control and its Harmful Effects on Health, of March 22, 2012, shall be applied supplementarily.

The base salary to be used to set the fines established in this law shall be that set forth in Law 7337 of May 5, 1993.

ARTICLE 16- Collection and destination of fines

Fines shall be collected by the Ministry of Health. The resources collected under this item shall be destined for the control and inspection tasks for the effective enforcement of this law and shall be distributed regionally in proportion to the amount of the fines collected by each Health Management Area (*Área Rectora de Salud*).

Unofficial Translation

ARTICLE 17- Deadline for payment of fines

The pecuniary penalties established in the present law must be paid within a maximum term of thirty days, as of their application.

ARTICLE 18- Regulation

The Executive Branch shall regulate this law within three months from the date of its enactment.

This law is effective as of its publication.

LEGISLATIVE ASSEMBLY-Approved on the fourth day of the month of October of the year two thousand twenty-one.

NOTIFY TO THE EXECUTIVE BRANCH

Silvia Hernández Sánchez
President

Aracelly Salas Eduarte
First Secretary

Xiomara Priscilla Rodríguez Hernández
Second Secretary

Given at the Presidency of the Republic, San José, on the fourteenth day of December of the year two thousand twenty-one.

BE IT HEREBY EXECUTED AND PUBLISHED.

CARLOS ALVARADO QUESADA.-The Minister of Health, Dr. Daniel Salas Peraza; the Minister of Finance, Elian Villegas Valverde; the Minister of Economy, Industry, and Commerce, Victoria Eugenia Hernández Mora; the Minister of Labor and Social Security, Silvia Lara Povedano, and the Minister of Public Security, Michael Soto Rojas.-1 time. (L10066 - IN2022616152).