

Regulation of electronic nicotine delivery systems (SEAN), similar systems without nicotine (SSSN) and electronic devices that use heated tobacco and similar technologies

No. 10066

THE LEGISLATIVE ASSEMBLY

OF THE REPUBLIC OF COSTA RICA

DECREES:

REGULATION OF ELECTRONIC SYSTEMS

ADMINISTRATION OF NICOTINE (SEAN), SYSTEMS

SIMILAR NON-NICOTINE (SSSN) AND DEVICES

ELECTRONICS THAT USE TOBACCO

HEATING AND TECHNOLOGIES

SIMILAR

ARTICLE 1- Object of the law. The purpose of this law is to regulate the Electronic Nicotine Administration Systems (SEAN) and Similar Systems without Nicotine (SSSN), as well as electronic devices that use heated tobacco and similar technologies, and create a tax with a specific destination on the importation or national manufacturing of the SEAN/SSSN, as well as on electronic devices that use heated tobacco and similar technologies, their accessories and other complementary goods, including the liquid for their use, in favor of the Costa Rican Social Security Fund (CCSS).

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ARTICLE 2- Definitions. For the purposes of this law, the following definitions are established:

a) Electronic Nicotine Administration Systems (SEAN): electronic devices or equipment to heat a liquid formula, with nicotine, which generates an aerosol or vapor that can be inhaled.

b) Similar Systems without Nicotine (SSSN): electronic devices or equipment to heat a liquid formula, without nicotine, which generates an aerosol or vapor that can be inhaled.

c) Vaping liquid: liquid solution or similar contained in a capsule or container, previously filled and closed or refillable, with or without nicotine, to be heated and converted into vapor by the SEAN/SSSN.

d) Vape accessories: assortment for electronic cigarettes such as batteries, converter (charger), USB adapter, mouthpieces and replaceable or rechargeable cartridges impregnated with chemical preparation with nicotine, or without impregnating, but presented with the container that contains the preparation with nicotine. .

e) Vaping: for the purposes of this law, it is the action of producing steam, coming from the gasification of the vaping liquid by the action of the heat generated by the Electronic Nicotine Administration Systems (SEAN) and by the Similar Systems without Nicotine (SSSN), inhale it and/or exhale it.

f) Electronic Devices Using Heated Tobacco and Similar Technologies: Heated Tobacco Products (HTPs) are tobacco products that produce an emission containing nicotine and other chemicals, which are then inhaled by users. They release nicotine contained in tobacco and contain non-smoking additives. They may or may not be flavored. PTCs mimic conventional cigarette smoking, and some use cigarettes specifically designed to contain tobacco that is heated.

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ARTICLE 3- Sites prohibited for the use of Electronic Nicotine Administration Systems (SEAN), Similar Systems without Nicotine (SSSN) and electronic devices that use heated tobacco and similar technologies. The use of Electronic Nicotine Administration Systems (SEAN) and Similar Non-Nicotine Systems (SSSN), as well as electronic devices that use heated tobacco and similar technologies, is prohibited in the following places:

- a) Health and hospital centers or establishments.

- b) Work centers, understood as the place used by one or more workers who are employees, employees or volunteers during work. All related or annexed places and vehicles used by workers in the performance of their work are included. Exceptions are houses intended exclusively for the family room and open spaces that are 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 public administrations and public law entities.

- d) Public and private educational and training centers.

- e) Centers for social care, except open spaces delimited by the General Directorate of Social Adaptation in penitentiary centers. The same prohibition will apply to the Temporary Detention Centers for Foreigners of the General Directorate of Immigration and Immigration.

- f) Shopping centers, casinos, night clubs, discos, bars and restaurants and hotels.

- g) Sports facilities and places where shows and recreational activities of any kind take place. All the areas involved in the activities of massive concentrations of people, fairs, shifts and the like, and parks in general are included.

- h) Elevators and elevators.

- i) Telephone booths and ATM enclosures and other small spaces for public use. Small-sized public space is understood to be one that does not occupy an area greater than five square meters (5m²).

- j) Fuel supply service stations and the like.

- k) Vehicles or means of paid transportation for people, ambulances and cable cars.

- l) Means of railway and maritime transport and aircraft with origin and destination in national territory.

- m) Cultural centers, cinemas, theaters, reading rooms, exhibitions, libraries, conference rooms, auditoriums and museums.

- n) Areas or establishments where food is produced, transformed, prepared, tasted or sold, such as restaurants, bars and cafeterias.

ñ) Leisure or entertainment centers for minors.

o) Ports and airports.

p) Bus and taxi stops, as well as any other means of paid transportation for people that are duly authorized by the Public Transportation Council of the Ministry of Public Works and Transportation (MOPT).

q) Sports facilities for common use and places for common use where recreational activities are carried out, in properties subject to the condominium property regime.

People who do not use SEAN/SSSN devices, or electronic devices that use heated tobacco and similar technologies, will have the right to demand from the owner, legal representative, manager, administrator or person in charge of any title of the respective premises or establishment that they request whoever uses it to stop their behavior.

The hierarchs and the people responsible for the public and private places and spaces classified as "sites prohibited for the use of Electronic Nicotine Administration Systems (SEAN), Similar Systems without Nicotine (SSSN) and electronic devices that use heated tobacco and similar technologies They must place, in a visible place, the notice about said prohibition. For such purposes, said warning will be placed on the same label where the smoking ban is stated.

The sale of Electronic Nicotine Administration Systems (SEAN), Similar Systems without Nicotine (SSSN) and electronic devices that use heated tobacco and similar technologies, their accessories and other complementary goods, including the liquid for their use, to minors is prohibited. old; For such purposes, the warning about this prohibition must be placed on a visible sign in the respective establishment.

The provisions regulated in this article shall be regulated by the Executive Power.

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ARTICLE 4- Specific tax. A specific destination tax is created on the sale of Electronic Nicotine Administration Systems (SEAN) and Similar Systems without Nicotine (SSSN), 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, of national production, as well as on the importation of these goods.

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

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ARTICLE 5- Moment in which the generating event occurs. The triggering event for the tax occurs:

a) In the local sale, at the time of the sale at the factory level, on the date of issuance of the invoice or the delivery of the product, the act that occurs first.

b) On importation, at the time of acceptance of the customs declaration.

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ARTICLE 6- Taxpayers. They will be taxpayers of this tax:

a) In local sales, the manufacturer of Electronic Nicotine Administration Systems (SEAN), Similar Systems without Nicotine (SSSN), electronic devices that use heated tobacco and similar technologies, as well as their accessories and other complementary goods, including the liquid for its use.

b) In the importation or internment of the finished product, the natural or legal person in whose name said product is imported or interned.

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ARTICLE 7- Tax base. The tax base on which the tax rate will be applied will be:

a) In the local sale, the manufacturer's sale price of the goods taxed with this tax.

b) On importation, the CIF value of each Electronic Nicotine Administration System (SEAN), Similar System without Nicotine (SSSN), electronic devices that use heated tobacco and similar technologies, as well as each liquid, with or without nicotine, and every accessory imported.

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ARTICLE 8- Tax rate. The rate on sales or import operations of Electronic Nicotine Administration Systems (SEAN), Similar Systems without Nicotine (SSSN), electronic devices that use heated tobacco and similar technologies, their accessories and their liquids for use, will be of twenty percent (20%) on the tax base.

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ARTICLE 9- Settlement and payment of the tax. This tax will be settled and paid as follows:

a) In national production, during the first fifteen calendar days of each month, except if the day on which this period expires is not a business day, in which case it will be understood as extended until the next business day.

b) The manufacturer will submit the declaration for all sales made in the previous month, duly supported by the receipts authorized by the Tax Administration; To do this, you will use the affidavit 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 admissions, at the time prior to the clearance of the product, carried out by customs. Products will not be authorized to be removed from storage if the interested parties have not paid the tax by the means defined by the Tax Administration.

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ARTICLE 10- Application of the tax. This tax will not affect the determination of other taxes, such as the tax base of the value added tax, which weigh on the Electronic Nicotine Administration Systems (SEAN), Similar Systems without Nicotine (SSSN), the electronic devices that they use heated tobacco and similar technologies, its accessories and other complementary goods, including the liquid for its use.

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ARTICLE 11- Administration of the tax. The administration of this tax will correspond to the General Directorate of Taxation. In tax matters, regarding sanctions and fines, the provisions of Law 4755, Code of Tax Norms and Procedures, of May 3, 1971, are applicable to this tax.

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ARTICLE 12- Destination of the tax. The resources collected, by virtue of the tax created in this law, must 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 18 of September 2001, in order to facilitate their management and so that the National Treasury can transfer them, directly and opportunely, on a monthly basis to the Costa Rican Social Security Fund (CCSS), so that this institution uses them exclusively for the purchase of medicines with a high financial impact, which are necessary for the treatment of pathologies related to tobacco, namely: cancer, cardiovascular system,

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

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ARTICLE 13- Supplementary application of the Code of Tax Norms and Procedures. For what is not expressly provided for in this law, what is established in Law 4755, Code of Tax Rules and Procedures, of May 3, 1971, will be applied additionally.

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ARTICLE 14- Control, supervision and sanctions. The Ministry of Health will regulate, control and supervise the effective fulfillment of this law and its regulations.

El Registro Nacional de Infractores creado mediante la Ley 9028, Ley General de Control del Tabaco y sus Efectos Nocivos en la Salud, de 22 de marzo de 2012, tendrá a su cargo también llevar el historial de faltas y sanciones que cometan los infractores de la presente ley.

El Ministerio de Seguridad Pública colaborará, con las autoridades del Ministerio de Salud, en el control, la fiscalización y la ejecución de la presente ley.

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ARTÍCULO 15- Sanciones. De acuerdo con la infracción cometida, se sancionará de la siguiente manera:

a) Con multa del diez por ciento (10%) de un salario base, a las personas físicas que utilicen los Sistemas Electrónicos de Administración de Nicotina (SEAN) y/o Sistemas Similares sin Nicotina (SSSN), y/o dispositivos electrónicos que utilizan tabaco calentado y tecnologías similares en los sitios prohibidos señalados en el artículo 3 de esta ley.

b) Con multa del quince por ciento (15%) de un salario base, a las personas responsables y jefes que incumplan el deber de colocar en los sitios prohibidos, señalados en el numeral 3 de esta ley, los avisos con la frase sobre la prohibición de utilizar los Sistemas Electrónicos de Administración de Nicotina (SEAN) y/o Sistemas Similares sin Nicotina (SSSN) y/o dispositivos electrónicos que utilizan tabaco calentado y tecnologías similares.

c) Con multa del cincuenta por ciento (50%) de un salario base a quien incurra en alguna de las siguientes conductas:

i- A quien ocupe el cargo de administrador, director, curador, fiduciario, apoderado y demás personas físicas con facultades de decisión, en cualquier empresa o institución pública o privada, cuando se compruebe que han permitido el uso de Sistemas Electrónicos de Administración de Nicotina (SEAN) y/o Sistemas Similares sin Nicotina (SSSN) y/o dispositivos electrónicos que utilizan tabaco calentado y tecnologías similares en los sitios prohibidos definidos en esta ley.

ii- A quien venda o suministre Sistemas Electrónicos de Administración de Nicotina (SEAN), Sistemas Similares sin Nicotina (SSSN), dispositivos electrónicos que utilizan tabaco calentado y tecnologías similares, sus accesorios u otros bienes complementarios, incluyendo el líquido para su uso, a personas menores de dieciocho años.

Para efectos de los Sistemas Electrónicos de Administración de Nicotina (SEAN), así como de los dispositivos electrónicos que utilizan tabaco calentado y tecnologías similares, y en lo no regulado expresamente en esta ley, se aplicarán supletoriamente las sanciones indicadas en el capítulo X de la Ley 9028, Ley General de Control del Tabaco y sus Efectos Nocivos en la Salud, de 22 de marzo de 2012.

El salario base que se utilizará para fijar las multas establecidas en esta ley será el dispuesto en la Ley 7337, de 5 de mayo de 1993.

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ARTÍCULO 16- Recaudación y destino de multas. Las multas serán recaudadas por el Ministerio de Salud. Los recursos que se recauden por este rubro deberán destinarse a las labores de control y fiscalización para el cumplimiento efectivo de esta ley y se deberán distribuir regionalmente de manera proporcional al monto de las multas recaudadas por cada región rectora de salud.

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ARTÍCULO 17- Plazo para pago de multas. Las sanciones pecuniarias establecidas en la presente ley deben pagarse en un término máximo de treinta días, a partir de su aplicación.

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ARTÍCULO 18- Reglamentación. El Poder Ejecutivo reglamentará la presente ley en un plazo de tres meses, contado desde la fecha de su promulgación.

It governs from its publication.

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

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Generation date: 05/17/2022 02:41:41 am

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