

MOST IMMEDIATE
BY SPEED POST

F. No. P.16019/04/2024-TC
Government of India
Ministry of Health & Family Welfare
(Tobacco Control Section)

स्पीड पोस्ट द्वारा
BY SPEED POST

Nirman Bhawan - 110011
Dated: 22nd January 2025



Advisory on the Online Sale of Tobacco Products and E-Cigarettes.

Whereas, this advisory is issued in continuation of advisory issued on 28.08.2018 by the Ministry of Health and Family Welfare to all States and UTs to ensure that any Electronic Nicotine Delivery Systems (ENDS) including e-Cigarettes, Heat-Not-Burn devices, Vape, e-Sheesha, e-Nicotine Flavoured Hookah, and the like devices that enable nicotine delivery are not sold (**including online sale**), manufactured, distributed, traded, imported and advertised in their jurisdictions, except for the purpose and in the manner and to the extent, as may be approved under the Drugs and Cosmetics Act, 1940 and Rules made thereunder.

2. And whereas, Ministry of Health and Family Welfare previously issued instructions to all the States and UTs for the rigorous enforcement of COTPA, 2003 and PECA, 2019 vide D.O. letters from Secretary, Health (July 2020-July 2023), Secretary, Health (February 2024-September 2024), Director General of Health Services and Additional Secretary, Ministry of Health and Family Welfare.

3. And whereas, the Government of India has enacted the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act (COTPA), 2003 with emphasis on protecting the masses, especially children and young people from tobacco addiction and aiming to improve public health in general as enshrined in Article 47 of the Constitution of India. As per sections 5, 6 and 7 of COTPA, 2003, no person shall promote the use or consumption of cigarettes or any other tobacco product; no person shall sell or offer for sale or permit sale of cigarettes or any other tobacco products to any person who is under eighteen years of age and within 100 yards of any educational institution; and no person shall carry on trade or commerce in cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products sold, supplied or distributed has the specified health warning.

4. And whereas, the section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015, whoever gives, or causes to be given, to any child under 18 years of age tobacco products, shall be punished with rigorous imprisonment.

5. And whereas, the Government of India has enacted The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019 in the interest of public health and to protect the people from harms of nicotine. Section 4 of PECA, 2019 inter alia prohibits production, manufacturing, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes.

6. And whereas, in view of the above statutory provisions, it has to be ensured that tobacco and electronic cigarette industries do not sell their products illicitly through e-commerce sites/apps and in the close vicinity of educational institutions; thereby increasing the accessibility of these products to youth.

cont.... -2/

-2-

7. As such, in accordance with the previously issued advisories, all States and Union Territories are advised, in large public health interest to take appropriate action against the online seller of the tobacco products and e-cigarettes. This action should be taken under Section 5 read with Section 22, Section 6 read with Section 24, and Section 7 read with Section 20 of the COTPA 2003, Section 77 of the Juvenile Justice Act 2015, and Section 4 read with Section 7 of PECA 2019, targeting sales through e-commerce sites, mobile apps or other internet-based platforms.

Poonam
22/01/2025
(Dr. Poonam Meena)

Deputy Secretary to the Government of India

Copy for information and necessary action to: Principal Secretary (Health) of all States/UTs.

Copy to:

1. The Registrar General, High Court of Delhi, Sher Shah Road, New Delhi-110503.
2. The Registrar, High Court of Punjab and Haryana, Sector-1 Chandigarh.
3. Shri Kirtiman Singh, Central Government Standing Counsel, A-90, Sector-92, Noida.
4. Shri Dheeraj Jain, Senior Panel Counsel, High Court of Punjab and Haryana, Bela Niwas, Kothi No.2224, Sector 15-C, Chandigarh.

alc