



REPUBLIC OF KENYA

PARLIAMENT



SENATE BILLS

(Bill No. 35 of 2024)

THE TOBACCO CONTROL (AMENDMENT) BILL, 2024

(A Bill published in the Kenya *Gazette* Supplement No. 127 of 1st July, 2024 and passed by the Senate, with amendments, on 3rd March, 2026)

THE TOBACCO CONTROL (AMENDMENT) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Tobacco Control Act to regulate electronic nicotine delivery systems, including electronic cigarettes and related products, and for connected purposes

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Tobacco Control (Amendment) Act, 2024. Short title.

2. The long title of the Tobacco Control Act, in this Act referred to as “the Principal Act”, is amended by deleting the words “Tobacco Control Board” appearing immediately after the words “provide for the” and substituting therefor the words “Tobacco Control Advisory Committee”. Amendment of the long title of Cap. 245A.

3. The Principal Act is amended in section 2 by — Amendment of section 2 of Cap. 245A.
 - (a) deleting the definition of the word “Board”;
 - (b) deleting the definition of the word “cinema”;
 - (c) deleting the definition of the word “ingredients” and substituting therefor the following new definition—

“ingredients” means the substances added to tobacco products during the manufacturing process or arising from agricultural practices, including —

 - (i) tobacco, nicotine and chemicals used in the creation of aerosol or vapour in electronic cigarettes and related products;
 - (ii) components and materials used in the manufacture of those components;
 - (iii) additives and processing aids;
 - (iv) residual substances resulting from agricultural practices, storage and processing; and
 - (v) substances that migrate from the packaging material into the product or are otherwise present in the product;
 - (d) deleting the definition of the word “information advertising”;
 - (e) deleting the definition of the word “manager” and substituting therefor the following new definition —

“manager” means the owner, occupier, lessee, or a person

in-charge or in control of the specified institution, place or premises;

- (f) deleting the definition of the word “specially designated smoking area”;
- (g) deleting the definition of the word “smoking” and substituting therefor the following new definition—

“smoking” means inhaling or exhaling the smoke or vapor of any tobacco product or any other substance delivered through electronic means, and includes the holding of, or control over, any ignited or activated tobacco product, device containing an ignited or activated tobacco product, or electronic delivery system or other substances via vaporising;

- (h) deleting the definition of the word “tobacco product” and substituting therefor the following—

“tobacco product” means any product whether composed in whole or in part of —

- (a) tobacco, including tobacco leaves and any extract thereof;
- (b) nicotine from any source, including synthetic nicotine formulations; or
- (c) nicotine analogues;

intended for use by smoking, inhalation, chewing, sniffing, vaping or sucking or to be consumed by any other means, and includes cigarette papers, tubes, filters, any electronic delivery systems, and the solutions or liquids intended for use in such devices;

- (i) inserting the following new definitions in their proper alphabetical sequence—

“additive” means a substance, other than tobacco, that is added to a tobacco product, unit pack or container pack during manufacturing process or through agricultural practices;

“advertisement” means the promotion of a tobacco product by means of its brand characteristics;

“characterising flavour” means a smell or taste other than one of tobacco which —

- (a) is clearly noticeable before, during or after consumption of the product; and
- (b) results from an additive or a combination of additives, including fruit, spice, herbs, alcohol,

candy, menthol or related flavours;

“Committee” means the Tobacco Control Advisory Committee established under section 5 of this Act;

“electronic cigarette” means a product that —

- (a) can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges); and
- (b) is not a medicinal substance or a medical device as defined in the Pharmacy and Poisons Act;

Cap. 244

“electronic nicotine delivery system” means an electronic device, and any associated accessories, components, or parts, that is designed, manufactured, or capable of being used to —

- (a) aerosolize, vaporize, or otherwise convert a substance into an inhalable form; and
- (b) deliver such aerosol, vapour, or other substance to a person through inhalation,

whether or not the substance contains nicotine, and includes but is not limited to electronic cigarettes, electronic cigars, electronic cigarillos, electronic hookahs, vape pens, vape pods, and similar devices, regardless of their shape, size, or appearance;

“institution of basic education and training” has the meaning assigned to it under the Basic Education Act;

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“nicotine pouch” means a prefilled packet containing powdered nicotine or nicotine analogues; *

“tobacco smoke” means—

- (a) smoke, fumes, gases, or particulate matter produced by the burning, heating, or combustion of tobacco or any tobacco product; and
- (b) aerosol, vapour, or emissions produced by the use of an electronic delivery system,

and includes any combination thereof, whether visible or invisible, that is released into the air and capable of being inhaled by persons in the vicinity;

“unit pack” means the smallest individual packaging in which a tobacco product or related product is, or is intended to be, presented for retail sale.

4. Section 4 of the principal Act is amended—

Amendment of section 4 of Cap. 245A.

- (a) by deleting the word “Board” appearing immediately after the words “recommendation of the” and substituting therefor the word “Committee” in the introductory phrase;
- (b) by deleting the word “Board” appearing immediately after the words “provide to the” and substituting therefor the word “Committee” in paragraph (d); and
- (c) by inserting the following new paragraph immediately after paragraph (e) —
 - (f) prohibit the manufacture, sale, distribution, or importation of a tobacco product that does not comply with the provisions of this Act.

5. The Principal Act is amended by deleting section 5 and substituting therefor the following new sections—

Amendment of section 5 of Cap. 245A.

Establishment of
the Tobacco
Control Advisory
Committee

5. There is established the Tobacco Control Advisory Committee.

Membership of
the Committee

5A. (1) The Committee shall comprise of –

- (a) a chairperson appointed by the Cabinet Secretary;
- (b) the Principal Secretary responsible for matters relating to public health or a designated representative;
- (c) the Principal Secretary for the National Treasury or a designated representative;
- (d) the Director-General for health or a designated representative;
- (e) the chairperson of the Council of County Governors health committee or a designated representative;
- (f) one person with special expertise on matters relating to tobacco, nominated by the Council of County Governors;
- (g) one person representing the Kenya business community, nominated by the Kenya National Chamber of Commerce and Industry;
- (h) one person nominated by the Kenya Medical

Association;

- (i) one person representing non-governmental organizations involved in matters relating to tobacco control; and
- (j) the chief executive officer of Kenya National Youth Council or a designated representative.

(2) The members of the Committee, other than ex-officio members, shall be appointed by the Cabinet Secretary, by notice in the Gazette.

Disqualification from the position of a member of the committee

5B. (1) A person shall not be appointed as a member of the Committee if that person—

- (a) is an employee, agent, or representative of a person, company, or association engaged in the manufacture, sale, or distribution of tobacco or tobacco products; or
- (b) has any direct or indirect pecuniary interest in the tobacco industry; or
- (c) has contravened the Conflict-of-Interest Act.

(2) A member who fails to disclose his or her affiliation to the tobacco industry or its subsidiary commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a period not exceeding five years or both.

Qualification of a chairperson of the Committee

5C. A person is qualified for appointment as the Chairperson of the Committee, if the person has at least ten years of experience in public health, five of which shall be at a senior management level.

The office tenure of the chairperson and members of the committee

5D. (1) The Chairperson shall hold office for a term of three years and shall be eligible for re-appointment for one further term of five years.

(2) The members of the committee appearing in subsection (1)(f) to (i), shall hold office for a term of three years and are eligible for re-appointment for one further term of three years.

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Powers of the committee to invite a person to the committee

5E. The Committee may invite any person, who is not affiliated to the tobacco industry, to attend a meeting of the Committee for the purpose of assisting or advising the committee on any particular matter, but such person shall have no right to vote at the meeting.

Powers of the committee regulate its own procedures.

5F. (1) Subject to this Act and to any general or special directions in writing by the Cabinet Secretary, the committee shall regulate its own procedures.

(2) Subject to subsection (1), the Committee may amend its own procedures for the better carrying out of its functions

Committee expenses

5G. The expenses of the Committee shall be defrayed out of monies appropriated by the National Assembly for that purpose.

Remuneration of the Committee members

5H. The Chairperson and members of the Committee shall be paid by the Cabinet Secretary responsible for matters relating to Health, such allowances as shall be advised by the Salaries and Remuneration Commission.

Secretariat

5I. The secretariat of the Committee shall be provided by the unit responsible for tobacco control at the Ministry responsible for Health.

6. The Principal Act is amended in section 6 by—

Amendment of section 6 of Cap. 245A.

- (a) deleting the word “Board” appearing immediately after the words “Functions of the” and substituting therefor the word “Committee” in the section heading; and
- (b) deleting the word “Board” appearing immediately after the words “functions of the” and substituting therefor the word “Committee” in the introductory phrase.

7. Section 7 of the principal Act is amended —

Amendment of section 7 of Cap. 245A.

- (a) in subsection (2) by deleting paragraph (f) and substituting therefor the following new paragraph —
 - (f) a solatium compensatory contribution payable by any licensed tobacco product manufacturers or importers in the

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country as may be determined by the Committee; and

(b) in subsection (4) by inserting the following new paragraph immediately after paragraph (a)—

(aa) treatment of chronic illnesses caused by the use of tobacco products.

8. Section 8 of the principal Act is amended in subsection (3) by inserting the following new paragraph immediately after paragraph (d) –

Amendment of section 8 of Cap.245A.

(da) publish an annual report on the research activities and programmes undertaken, including the research findings and impact of the programmes.

9. Section 9 of the principal Act is amended in subsection (5) by deleting the words “local authority” and substituting therefor the words “county government”.

Amendment of section 9 of Cap. 245A.

10. The Principal Act is amended by deleting section 12 and substituting therefor the following new section —

Amendment of section 12 of Cap. 245A.

Tax and Price
Policies

12. The Cabinet Secretary for the time being in charge of finance shall—

- (a) implement tax measures on unprocessed tobacco and tobacco products to contribute to the objectives of this Act;
- (b) conduct periodic review and adjustment of tax rates to ensure they reflect current public health objectives and inflation;
- (c) apply adjustment for inflation for tobacco products that have specific tax rates;
- (d) prohibit sale of or importation of tax-free tobacco and tobacco products;
- (e) allocate a portion of tobacco and tobacco products tax revenues for the prevention and control of non-communicable diseases;
- (f) implement measures to prevent illicit trade in tobacco and tobacco products; and
- (g) exclude manufacture, repackaging, processing or importation of tobacco and tobacco products from duty-free zones.

11. Section 14 of the Principal Act be amended in subsection (2) by inserting the word “product” immediately after the word “tobacco”.

Amendment of section 14 of Cap. 245A.

12. The principal Act is amended by inserting the following new sections immediately after section 14 —

Insertion of new sections in Cap. 245A.

Requirements for electronic nicotine delivery systems.

14A. (1) A person shall not manufacture or place on the market for sale, distribution or use an electronic nicotine delivery system or refill container unless —

- (a) the nicotine-containing liquid is contained in a dedicated refill container not exceeding a volume of ten millilitres, in an electronic cigarette or in single use cartridge and that the cartridges or tank does not exceed a volume of two millilitres;
- (b) the nicotine-containing liquid does not contain nicotine exceeding twenty milligrams per millilitre;
- (c) the nicotine-containing liquid does not contain additives specified under section 14F;
- (d) the nicotine-containing liquid is manufactured using pure ingredients as the Cabinet Secretary may prescribe;
- (e) substances contained in the nicotine-containing liquid, other than the ingredients specified, are present in trace levels and are technically unavoidable during manufacture;
- (f) except for nicotine, only ingredients that do not pose a risk to human health in heated or unheated form are used in the nicotine-containing liquid;
- (g) the system delivers the nicotine doses at consistent levels under normal conditions of use; and
- (h) the system and refill container is child and tamper-proof, is protected against breakage and leakage and has a mechanism that ensures refilling without leakage.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

Requirements for nicotine pouches.

14B. (1) A person shall not manufacture or place on the market nicotine pouches unless —

- (a) the pouches are child and tamper-proof and can be used without spilling their contents;
- (b) the pouches deliver nicotine doses at consistent levels; and
- (c) the nicotine content of each pouch does not exceed

twenty milligrams.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or both.

Approval of tobacco products.

14C. (1) A person shall not manufacture or import tobacco products unless such person has applied for, and obtained the approval of the Cabinet Secretary in accordance with this section.

(2) Subsection (1) shall apply to the manufacture or import of a tobacco product —

- (a) whose approval under subsection (1) had been previously obtained; and
- (b) is subsequently substantially modified.

(3) A request for approval under this section shall be made at least six months before the date on which the manufacturer intends to first supply a product or modified product.

(4) Where the manufacturer first supplied a product before the commencement of this Act and intends to continue to supply that product on or after commencement of the Act, the manufacturer shall make the request for approval within three months of commencement of this Act.

Information to be contained in the request for approval.

14D. (1) An application for approval under section 14C (1) shall be in the prescribed form and contain the following information—

- (a) the name and contact details of—
 - (i) the person who manufactures the product,
 - (ii) the importer of the product, if applicable; and
 - (iii) if neither is based in Kenya, a responsible person in Kenya;
- (b) the ingredients contained in, and emissions resulting from the use of, the product by brand and variant name, including quantities;
- (c) toxicological data regarding the product's ingredients, including in heated form, and emissions, referring in particular to their effects on the health of consumers when inhaled and taking into account, amongst other things, any addictive effect; information on the nicotine dose and uptake when consumed under normal conditions;
- (d) a description of the components of the product including, where applicable, the opening and refill mechanism of the electronic cigarette or refill

container;

- (e) a description of the production process and a declaration that the production process ensures conformity with the requirements of this Act;
- (f) a declaration that the manufacturer bears full responsibility for the quality and safety of the product when supplied and used under normal conditions; and
- (g) such other information as may be prescribed by the Cabinet Secretary.

(2) Where the Cabinet Secretary considers that the information submitted under this section is incomplete, the Cabinet Secretary may request the manufacturer to provide such further information as may be necessary for the determination of the application.

(3) Section 14C (1) shall not apply in respect of a product if another entity has already obtained approval from the Cabinet Secretary in respect of that product.

Submission and testing of samples

14E. (1) A manufacturer shall submit samples of the product for which approval is being sought together with the request for approval.

(2) The Cabinet Secretary shall cause the samples submitted to be tested by the Kenya Bureau of Standards—

- (a) for conformity with the requirements under the Act; and
- (b) to confirm the accuracy of the information submitted in the request for approval.

Decision on request for approval.

14F. (1) The Cabinet Secretary shall communicate, in writing, the decision made within ninety days of a request for approval of a product being made.

(2) Where the Cabinet Secretary declines to approve a product for which approval has been sought, the manufacturer shall —

- (a) immediately take the corrective action necessary to bring the product into conformity with the Act if the product is an existing product;
- (b) withdraw the product from the market; and
- (c) recall the product.

Dealing unapproved products.

in **14G.** (1) A person shall not manufacture, sell, distribute, store, import or in any way deal with a tobacco product that is not approved by the Cabinet Secretary.

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million Kenyan shillings or five percent of the

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person's gross turnover, whichever is higher, or to imprisonment for a term not exceeding two years, or to both.

Banning of products **14H.** The Cabinet Secretary may ban any product which does not conform to the requirements of this Act from being manufactured or sold.

List of products. **14I.** The Cabinet Secretary shall publish a list of —
(a) products that have been approved or banned from sale;
(b) the name of the authorised manufacturer or importer of the product;
(c) the date the product was approved or banned; and
(d) the duration and validity date of the approval.

Use of additives and characterising flavours **14J.** (1) A person shall not manufacture, sell, distribute, or import a tobacco product that contains —

- (a) vitamins or other additives that create the impression that a tobacco product has a health benefit or presents reduced health risks;
- (b) caffeine or other additives and stimulant compounds that are associated with energy and vitality;
- (c) additives which have colouring effects on emissions;
- (d) in the case of tobacco products for smoking, additives that facilitate inhalation or nicotine uptake.
- (e) additives which increase the toxicity or addictiveness of the product; or
- (f) additives which result in a characterising flavour.

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both.

13. Section 15 of the principal Act is amended by deleting subsection (5) and substituting therefor the following new subsections —

Amendment of section 15 of Cap. 245A.

- (5) No person shall manufacture or sell —
- (a) objects including sweets, snacks, toys, cartoon characters, popular youth motifs, or other similar objects that would reasonably appeal to persons under the age of eighteen years in designs that resemble tobacco products; or
 - (b) any tobacco product in designs that imitate sweets, snacks, toys, cartoon characters, popular youth

motifs, or other similar objects that would reasonably appeal to persons under the age of eighteen years.

(5A) A person shall not sell a tobacco product within a radius of one hundred meters from any place primarily serving persons under the age of eighteen years.

14. Section 16 of the Principal Act is amended in—

Amendment of section
16 of Cap. 245A.

(a) subsection (2) by—

- (i) deleting the expression “12" by 8"” appearing in paragraph (a) and substituting therefor the expression “20" by 12"”;
- (ii) deleting the words “black on a white background or white on a black background” appearing in paragraph (b) and substituting therefor the words “red on a white background”;

(b) subsection (3) by deleting the words “fifty thousand shillings, or to imprisonment for a term not exceeding six months” and substituting therefor the words “five hundred thousand shillings, or to imprisonment for a term not exceeding one year.”

15. The principal Act is amended by inserting the following new section immediately after section 17—

Insertion of new
section in Cap.
245A.

Hawking and mobile
vending.

17A. (1) A person shall not sell tobacco products through hawking, from vehicles or through mobile vending.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

16. The principal Act is amended by inserting the following new section immediately after section 19 —

Insertion of new
section in Cap 245A

Online sales of
tobacco products

19A. (1) A person shall not sell or offer for sale tobacco products including nicotine pouches and electronic nicotine delivery systems through an online platform or any form of e-commerce.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall, upon conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

17. The principal Act is amended by inserting the following new section immediately after section 20—

Insertion of new section
in Cap. 245A.

Licensing
premises
counties.

of
by 20A. (1) A person intending to manufacture, distribute, store, sell or in any other way deal in tobacco products shall obtain a

licence from the respective county executive committee member.

(2) A person shall not deal in tobacco products anywhere other than at a fixed location that is designated in the licence.

(3) Each licence shall be prominently displayed in a publicly visible location at the licensed tobacco product retail location.

(4) A person licensed under this section shall only deal in products that conform to the requirements of this Act.

(5) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

18. Section 21 of the Principal Act is amended by—

Amendment of section
21 of Cap. 245A.

(a) deleting subsection (2) and substituting therefor the following new subsections —

(2) Every package containing a tobacco product shall—

- (a) bear a health warning in English and Kiswahili covering seventy-five percent of the principal display areas on the front and back of the package;
- (b) have the warning printed in black text on a white background in a manner that contrasts with any other material on the package; and
- (c) bear a statement of the harmful constituents of the tobacco product in a conspicuous and prominent format on the right-hand side of the package.

(2A) A person shall not—

- (a) dispense with or modify the requirements specified in subsection (2); or
- (b) manufacture, sell, distribute, or import a tobacco product unless it complies with plain packaging requirements prescribed by the Cabinet Secretary.

(2B) The Cabinet Secretary shall not dispense with or modify any requirement under subsection (2) in favour of any tobacco product or a person dealing with tobacco products.

(b) deleting the words “specified in the schedule” appearing immediately after the words “warning labels” and substituting therefor the words “prescribed by the Cabinet Secretary under section 53 through regulations” in subsection (3);

- (c) deleting the words “five hundred thousand shillings” appearing immediately after the words “fine not exceeding” and substituting therefor the words “one million shillings” in subsection (6).

19. The Principal Act is amended by inserting the following new sections immediately after section 21—

Insertion of new section in Cap. 245A.

Registration of dealers

21A. (1) A person shall not undertake an activity relating to the manufacture, importation, sale, or distribution of a tobacco product unless the person is registered by the Ministry responsible for health.

(2) The Cabinet Secretary may prescribe the conditions and the manner for the registration under this section.

(3) Any registration fee levied under this section shall be payable into the Fund.

(4) A person who contravenes this section commits an offence and is liable on conviction, to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding three years, or to both.

Prohibition of single use plastics

21B. (1) A person shall not manufacture, sell, distribute, or import a tobacco product, its packaging, or a disposable electronic delivery system that uses single-use plastics.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years, or to both.

20. Section 25 of the principal Act is amended—

Amendment of section 25 of Cap.245A.

(a) in subsection (2) by inserting the words “any online or digital platform, including social media sites, video-sharing platforms, or other digital content platforms” immediately after the words “of electronic print”; and

(b) in subsection (3) by inserting the words “or advertisement through influencers, brand ambassadors, or similar entities” immediately after the words “lifestyle advertising”.

21. Section 26 of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (c)—

Amendment of section 26 of Cap.245A.

(ca) offer or provide free samples of electronic nicotine delivery systems, nicotine pouches or related components, as a promotional strategy.

22. Section 33 of the Principal Act is amended by—

Amendment of section 33 of Cap. 245A.

(a) deleting subsection (2) and substituting therefor the following

new subsection (2) —

(2) Without prejudice to the generality of subsection (1)—

(a) smoking is permanently prohibited in the following areas —

- (i) institutions of basic education and training;
- (ii) places of worship;
- (iii) hospitals, clinics and other health institutions;
- (iv) children's homes, child care facilities, children playgrounds;
- (v) residential houses and such other premises where children are cared for;
- (vi) public service vehicles, passenger vehicles, school buses and vans, commercial passenger aircrafts, commuter boats, ferries; and
- (vii) police cells; and

(b) smoking is prohibited in the following areas except in designated smoking areas —

- (i) offices and workplaces, including corridors, lounges, eating areas, reception areas, lifts, escalators, foyers, stairwells, toilets, laundries, amenity areas of such places;
- (ii) court buildings;
- (iii) factories;
- (iv) cinema halls, theatres, video houses, such other halls or places of performance, disco halls or any other entertainment facilities at any time during which it is open to the public;
- (v) restaurants, hotels, bars or other eating place;
- (vi) prisons;
- (vii) police stations;
- (viii) aircrafts, passenger ships, or any other public conveyance;
- (ix) education facilities other than institutions of basic education and training;
- (x) railway stations, airports, air fields, ports, and other public transport terminals;
- (xi) markets, shopping malls and retail and wholesale establishments;

- (xii) stadia, sports and recreational facilities; and
- (xiii) public buildings;

(b) deleting the word “Board” appearing immediately after the words “conditions as the” and substituting therefor the word “Committee” in subsection (4).

23. The principal Act is amended by inserting the following new section immediately after section 34 —

Insertion of new section in Cap. 245A.

34A. (1) In addition to the general health warnings applicable to all tobacco products under this Act, a person who offers for sale a nicotine pouch or an electronic nicotine delivery system including e-cigarettes and related products shall display the following warnings in their premise —

- (a) a clear warning that the sale and use of the products by persons under the age of eighteen is prohibited;
- (b) a clear warning about the specific health risks associated with the use of the products, including potential risks associated with additives or other unique e-liquid constituents;
- (c) a statement indicating that the products contain nicotine and highlighting the dangers of nicotine addiction and potential for overdose, especially with high-concentration e-liquids; and
- (d) a specific warning that the use of the products is not a safe alternative to traditional tobacco products and still poses health risks.

24. The Principal Act is amended in section 35 by deleting subsection (2) and substituting therefor the following new subsection—

Amendment of section 35 of Cap. 245A.

- (2) A designated smoking area shall be—
- (a) a fully enclosed, separate room, isolated from non-smoking areas, with walls, a ceiling, and a self-closing door sealed to prevent air leakage;
 - (b) equipped with an independent ventilation system that—
 - (i) exhausts air directly to the outside without recirculation;
 - (ii) maintains negative air pressure relative to adjacent areas;
 - (iii) is certified by a qualified engineer to prevent smoke or aerosol drift to non-smoking areas;
 - (iv) inaccessible to non-smokers for any purpose during smoking or use of an electronic delivery system;

- (v) cleaned and maintained only when no smoking or use of an electronic delivery system is occurring, with measures to protect workers from residual contaminants;
- (vi) clearly marked with signs in English and Kiswahili indicating it is a designated smoking area and warning of health risks, as prescribed by the Cabinet Secretary.

25. Section 36 of the principal Act is amended —

Amendment of section
36 of Cap. 245A.

- (a) in subsection (1) by deleting the term “Director of Medical Services” appearing immediately after the word “the” and substituting therefor the term “Director-General for health”; and
- (b) in subsection (2) by deleting the term “Director of Medical Services” appearing immediately after the word “the” and substituting therefor the term “Director-General for health”.

26. Section 53 of the principal Act is amended—

Amendment of section
53 of Cap.
245A.

- (a) by deleting the introductory phrase in subsection (1) and substituting therefor the following—

(1) The Cabinet Secretary may, on recommendation of the Committee, and in consultation with the County Governments, make regulations—

- (b) by inserting the following new subsection immediately after subsection (1)—

(1A) Without prejudice to the generality of subsection (1), regulations made under this section may—

- (a) prescribe permissible levels of constituents in e-liquids used in electronic cigarettes and other electronic nicotine delivery systems;
- (b) prescribe standards for the batteries and electrical components used in electronic nicotine delivery systems;
- (c) prescribe the maximum toxicity and emission levels of electronic nicotine delivery systems and other tobacco products;
- (d) provide for testing of tobacco products to verify conformity with the requirements under this Act;
- (e) prescribe the procedure for approval, withdrawal and recall of electronic nicotine delivery systems and other tobacco products; and
- (f) prescribe the permitted additives that may be

incorporated in electronic nicotine delivery systems and other tobacco products; and

(g) prescribe health messages to be displayed on every package containing a tobacco product.

(c) in subsection (2) by inserting the words “the Council of County Governors and” immediately after the words “in consultation with” in the introductory clause.

27. The Principal Act is amended by deleting the schedule.

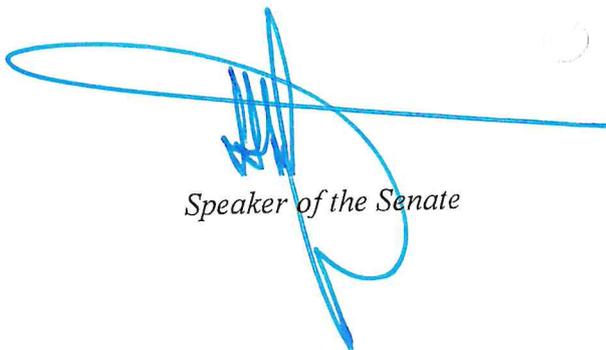
Repeal of the schedule
of Cap. 245A.

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I certify that this printed impression is a true copy of the Bill as passed by the Senate on 3rd March, 2026.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 156 of the Senate Standing Orders.


Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE