

How Effective is the Act Prohibiting E-Cigarettes and Related Products in India

Rakesh Gupta^{1*}, Sonu Goel² and Mahendra Pratap Singh³

¹President and Director of Public Health, Strategic Institute for Public Health Education and Research (SIPHER), Former-Director Health Services and Director of Chemical Examiner Lab, Government of Punjab, Chandigarh, India

²Professor, Department of Community Medicine and School of Public Health, Post Graduate Institute of Medical Education and Research, Chandigarh, India

³Technical Officer, Department of Community Medicine and School of Public Health, Post Graduate Institute of Medical Education and Research, Chandigarh, India

***Corresponding Author:** Rakesh Gupta, President and Director of Public Health, Strategic Institute for Public Health Education and Research (SIPHER), Former-Director Health Services and Director of Chemical Examiner Lab, Government of Punjab, Chandigarh, India.

Received: February 11, 2022; **Published:** March 29, 2022

Abstract

The popularity of alternative smoking products are increasing globally especially among youth. These products are known by various names like Electronic Nicotine delivery systems (ENDS) or electronic cigarettes (e-cigarettes), vapes, pod. Smoke from these products or devices are no way safer as claimed by ENDS manufacturers and proponents. Last decade witnessed phenomenal rise of ENDS in terms of users, manufacturers and promotion activities. Considering harmful effects of ENDS products, forty one countries banned the ENDS products.

Government of India banned ENDS products in the country since September 2019. Laxity in enforcing the ban is clearly visible in whole country. ENDS and related products are easily available at your door step through online sales, social media platforms, WhatsApp etc. Sporadic news of raids, search, and seizures of ENDS products are reported. In this article, we have discussed about the chronology of ENDS ban in India, effectiveness of ban, and way forward.

Keywords: Act Prohibiting E-Cigarettes; Related Products in India

Introduction

Electronic Nicotine delivery systems (ENDS) or electronic cigarettes (e-cigarettes) are devices that heat a liquid to create an aerosol that is inhaled by the user. ENDS and vaping devices are known by various other names such as “electronic cigarettes”, “vapes” or “vape-pens”, “Pod Mods” and many others. Globally, such devices are designed in many shapes and sizes to look attractive to youth. Nicotine, an addictive substance, is one of the constituents of the harmful gaseous concoction of ENDS-generated smoke. JUL a Pen drive-shaped ENDS can have as much nicotine as contained in one pack of cigarettes. These devices have lately emerged as the gateway to smoking and other addictions for youth [1-3].

In United Kingdom (UK), e-cigarette users increased from 1.7% in 2012 to 7.1% in 2019 of the adult population (Wang, *et al.*, 2020). According to USA's recent National Youth Tobacco Survey (NYTS) data, current e-cigarette use among middle and high school students increased between 2017 and 2018, with over 3.6 million kids currently using e-cigarettes in 2018. E-cigarettes use increased among high school and middle school students by 78% and 48% respectively [4]. In Asia, the prevalence of e-cigarette is considerably low in India (0.07%) Taiwan (3%), Malaysia (11.9%) [5].

A study estimated that 30 - 40% of total sales of e-cigarettes conducted online [6] ENDS products emerged in the Indian marketplace around 2012 - 13. As per government mention in parliament, India imported \$191781 worth of e-cigarettes between 2015 - 2016 and 2018-19. As revealed by GATS 2, the prevalence of ENDS use among adults (aged 15 and above) were 0.7% (GATS 2016 - 17). As per evidence, ENDS are marketed and perceived to be safer than cigarettes [7] and are easily available (online portals, tobacco selling shops). These products are promoted as safer alternatives to tobacco products and help those who want to quit tobacco/Nicotine [8,9] Tempting advertisements and flavours like fruit and candy help in making these devices much more appealing and attractive to youngsters [10-13].

There were at least 466 brands producing e-cigarettes in 2014 [6]. Euromonitor International, a market research firm, forecasts the global e-cigarette market sale will grow 17 times by 2030 [14]. The effectiveness of ENDS is directly proportional to its ability to heat the solution to the point where it converts into vapour. To achieve the quick conversion of solution to vapour higher voltage and circuit strength are used to create so called more effective ENDS devices.

Royal College of Physicians mentioned that nicotine proportion in tobacco products is artificially enhanced to both development and maintenance of addiction by tobacco companies. Nicotine can cause foetal neuroteratogenicity, accidental ingestion of liquid nicotine solution of ENDS devices can be fatal for kids.

E-cigarettes contain nicotine, a highly addictive chemical compound. Nicotine is also responsible for the addiction of conventional cigarettes and other tobacco products. As there is no consensus about reporting the amount of nicotine in e-cigarettes, so manufacturer report it qualitative manner like zero, low, medium high [15]. Different types of nicotine salts are used in e-cigarettes which may create higher nicotine dependency [16]. ENDS are in no way safe due to presence of nicotine, flavours, usually dissolved into Propylene Glycol or/and Glycerine. The e-cigarettes are designed to deliver nicotine to smoker similar to traditional cigarettes. So it is in no way safer, as claimed by ENDS manufacturers. WHO considers ENDS as harmful, not harm reduction products as projected by ENDS manufacturer and low grade scientific researches. WHO recommends heated tobacco products (HTPs) should be treated and regulated as tobacco products [17]. In October 2019, The World Health Organization (WHO) warned governments, as well as the public, not to trust the tobacco industry's latest health claims regarding e-cigarettes.

Regulating ENDS

Although ENDS are banned in nearly 41 countries globally [18], the use of ENDS has been rising among youth in several countries. E-cigarettes users rise 7 million in 2011 to 41 million in 2018 worldwide [14]. Six countries in WHO South-East Asia Region ban ENDS (DPR Korea, India, Nepal, Sri Lanka, Thailand and Timor-Leste), while Maldives regulates ENDS as tobacco products. Some countries regulate ENDS as tobacco or nicotine products.

Chronology of events leading to the banning of ENDS in India

India is among the few countries which regulate ENDS and related products through comprehensive bans on ENDS or E-cigarettes. High Court of Punjab and Haryana constituted a Permanent Task Force for monitoring the abuse of Nicotine in the year 2012. Punjab was the first state to prohibit the sale of E-Cigarettes in the year 2013 under the Drugs and Cosmetics Act followed by 14 other states and one Union Territory who proceeded with banning ENDS at the sub-national level.

Before 2019, E-Cigarettes were not permitted to use for Tobacco/Nicotine cessation and for recreational purposes. These products though were available for offline/online sale in India without even age verification. Citing health harms, Indian Council of Medical Research (ICMR), recommended to the Government of India, through its whitepaper that ENDS shall be completely prohibited in India to protect public health [7].

ICMR through white paper highlighted e-cigarette as carcinogenic, ability to cause immunological toxicity, abnormalities in respiratory, cardiovascular and neurological system. E-cigarettes also have adverse effects on pregnancy and prenatal development.

The government of India promulgated an ordinance on 18th September 2019-The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) the ordinance, 2019, that inter-alia prohibiting production, manufacture, import, export, transport, sale, distribution, storage and advertisement of Electronic-Cigarettes. In the next parliament session, the draft bill got approval from law makers and it became an Act on 5th December 2019, prohibiting electronic cigarettes (production, manufacture, import, export, transport, sale, distribution, storage and advertisement) [19].

Important provision of the law

1. Production, manufacturing, import, export, transport, sale and distribution or advertisement (including online platform) of e-cigarettes shall become a cognisable offence in India.
2. Imprisonment of up to one year or fine up to INR 1 lakh or both for the first time offenders and imprisonment of up to three years and fine up to Rs 5 lakh for repeat offenders.
3. Storage of e-cigarettes will be punished with an imprisonment up to 6 months or fine up to Rs 50,000 or both.
4. The law also required to declare and deposit the existing stocks of e-cigarettes to the nearest police station on their own before the ordinance comes into effect.

Is ban effective?

In spite of the fact that now ENDS are rightly and timely prohibited in India for almost 18 months, the enforcement of the law is a challenge and the products are available for sale through social media such as WhatsApp and online sales. In May 2020, a publication said that "Eight months since, despite the ban, people are able to buy e-cigarettes from any pan shop. If not, they can always go on the internet and buy them" [20]. No Police case has been registered against the illegal sale [20].

Ministry of Health and Family Welfare sent communications to all States in December 2019 to reiterate enforcement of the Act Prohibiting ENDS. MoHFW also urged Ministry of Electronics and Information Technology vide in May 2020 to look into the complaints of online advertisement and sale of E-Cigarettes and similar devices.

The Cigarettes and Other Tobacco Products Act (COTPA), 2003 controls the tobacco and its various aspects. However, e-cigarettes don't fall under the purview of COTPA as they don't contain tobacco.

In a study published in January 2020, "Vape: Measuring E-Cigarette Influence on Instagram With Deep Learning and Text Analysis" it was concluded that a manual review of the posts and text analysis of the corresponding captions on Instagram indicated that nearly all of the posts we collected by tracking #ejuice and #eliquid promoted or endorsed vaping [21].

In a study performed in July 2020 on E-cigarette retailer storefront availability following a nationwide prohibition of e-cigarettes in India: A multicentric compliance assessment found that out of 199 retailer storefronts visited, 37 (18.6%) sold ENDS/ENNDS and, therefore, did not comply with the Ordinance/Act. The majority of the non-compliant retailers were tobacco retailers (n = 35; 94.6%), sold e-cigarettes (n = 22; 59.5%), and e-cigarette accessories (n = 24; 64.9%). Most of the non-compliant retailers, nearly 90% (n = 33) were aware of the Ordinance/Act. In August 2020, The Lancet published an article on "The e-cigarettes ban in India: an important public health decision" Despite the ban, Indian authorities are struggling to regulate the use of e-cigarettes, in particular, due to the black market. This

is threatening the country's efforts to control tobacco. The 2019 ban was a right, timely, and important public health decision, but preventing the use of e-cigarettes, especially in adolescents, still remains a challenge and more needs to be done [22].

A news article on September 19th, 2019 says that it is a welcome move. "E-cigarettes are nothing but a novel way to inhale toxic aerosols in the guise of smoking safely. The step taken by the government is the beginning of an initiative to eradicate addiction to unsafe products which go unscrutinised due to absence of effective norms" [23]. Enforcing the country wide ban on e-cigarettes is not a cumbersome process unlike tobacco which has large number of cultivators, consumers, retailers and influential stakeholder including policy maker in governmental offices.

Association of Vapers India lobbied against the ban and wrote a letter written to all Members of Parliament to revoke the ban on ENDS on May 30th, 2021 [24].

Enforcing the prohibition of e-cigarettes in India

On September 23rd, 2019 a Pan shop owner was arrested for selling e-cigarettes, hookah in Hyderabad [25]. In February 2020, Aviation Security Regulator Bans E-Cigarettes In Airports And Aircraft [26]. On June 1st, 2020, the teams in Jaipur Rajasthan seized e-cigarettes from a shop in Gaurav Tower and nearby places. The e-cigarettes seized from two trades are worth about Rs 10 lakh, sources said [27]. Eighteen persons were arrested on 8th July 2020 in Noida for the online sale of E-Cigarettes [28].

In news published on November 25th, 2020, E-Cigarette Manufacturer Juul Worked Closely to Challenge India's Ban. Even while the vape company Juul is facing controversy in the US about teenage addiction, the company is pushing ahead into new markets, especially in developing countries like India [29].

Current status of the sale of ENDS, JUUL, and other vapes products

A total of 466 E-cigarette brands with their own websites and 7,764 unique flavors were identified online in the year 2014 [6] which grown to 500 brands to 8000 flavours by 2017 [30]. Almost after 18 months of the ban, ENDS, JUUL, and other similar products are still available on online marketplaces such as smokehouseindia.com (Smokehouse) and messaging Apps like WhatsApp.

A complaint has been sent by Strategic Institute for Public Health Education and Research (SIPHER), Chandigarh, India, a NGO working for health and well-being of people, to the Director Bureau of Investigations in July 2020 to act upon the sale of E-Cigarettes and also to the Health Ministry and Department of Home Affairs in June 2021 to enforce the ban on the sale of e-cigarettes, especially online sales.

The complaint was also registered with the Secretary, Ministry of Electronics and Information Technology to act upon the online advertisement and sale of E-Cigarettes in June 2021. Unfortunately, no feedback regarding the action taken has been received as on 11th July 2021.

Conclusion and Future Recommendations

At present, the law enforcement personnel and agencies are not sensitive enough for enforcing the provisions of the Acts. Law enforcement agencies require sensitization about the various provision of the ENDS ban Act.

The Government needs to do capacity building and sensitization of all stakeholders most importantly, the police force, especially the officials dealing with cyber-crime and other enforcement officials so that the law banning the ENDS is enforced effectively.

Bibliography

1. Wills TA., *et al.* "E-cigarette use is differentially related to smoking onset among lower risk adolescents". *Tobacco Control* 26.5 (2017): 534-539.
2. Stanton CA., *et al.* "Longitudinal e-cigarette and cigarette use among US youth in the PATH Study (2013–2015)". *Journal of National Cancer Institute* 111.10 (2019): 1088-1096.
3. Khouja JN., *et al.* "Is e-cigarette use in non-smoking young adults associated with later smoking? A systematic review and meta-analysis". *Tobacco Control* 30 (2021): 8-15.
4. FDA (2018).
5. Chen J., *et al.* "School-level electronic cigarette use prevalence and student-level tobacco use intention and behaviours". *Science Reports* 9 (2019): 1690.
6. Zhu SH., *et al.* "Four hundred and sixty brands of e-cigarettes and counting: implications for product regulation". *Tobacco control* 23.3 (2014): iii3-iii9.
7. Indian Council of Medical Research (ICMR) "White Paper on Electronic Nicotine Delivery System". *Indian Journal of Medical Research* 149 (2019): 574-583.
8. Polosa R., *et al.* "A fresh look at tobacco harm reduction: the case for the electronic cigarette". *Harm Reduction Journal* 10.1 (2013): 1-11.
9. Adriaens K., *et al.* "Electronic cigarettes in standard smoking cessation treatment by tobacco counselors in Flanders: E-cigarette users show similar if not higher quit rates as those using commonly recommended smoking cessation aids". *Harm Reduction Journal* 18.1 (2021): 1-12.
10. Ford A., *et al.* "Adolescents' responses to the promotion and flavoring of e-cigarettes". *International Journal of Public Health* 61.2 (2016): 215-224.
11. Pepper JK., *et al.* "Adolescents' interest in trying flavoured e-cigarettes". *Tobacco Control* 25.2 (2016): ii62-ii66.
12. Sears CG., *et al.* "Clean, cheap, convenient: promotion of electronic cigarettes on YouTube". *Tobacco Prevention and Cessation* 3 (2017): 10.
13. Stanford University (2020).
14. Euromonitor (2012).
15. Eaton DL., *et al.* "Committee on the Review of the Health Effects of Electronic Nicotine Delivery Systems. Public Health Consequences of E-Cigarettes. National Academies of Sciences, Engineering, and Medicine; Health and Medicine Division; Board on Population Health and Public Health Practice; Washington (DC)". National Academies Press (2018): 90.
16. Harvanko AM., *et al.* "Characterization of nicotine salts in 23 electronic cigarette refill liquids". *Nicotine and Tobacco Research* 22.7 (2020): 1239-1243.
17. FCTC (2016).
18. GGTC (Global Center for Good Governance in Tobacco Control) (2020).

19. The Gazette of India (2019).
20. Business Insider (2020).
21. Vassey J., *et al.* “# Vape: measuring e-cigarette influence on Instagram with deep learning and text analysis”. *Frontiers in Communication* 4 (2020): 75.
22. Chakma JK, “The e-cigarettes ban in India: an important public health decision”. *The Lancet Public Health* 5.8 (2020): e426.
23. India Today (2019).
24. Association of Vapers India (2021).
25. Deccan chronical (2019).
26. Jharkhand State News (2019).
27. Pink City Post (2019).
28. India TV (2019).
29. The Wire (2019).
30. Indian Express (2017).

Volume 5 Issue 4 April 2022

©All rights reserved by Rakesh Gupta., *et al.*