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**An Bille Sláinte Poiblí (Toitíní Leictreonacha agus Luibhthoitíní), 2019**  
**Public Health (Electronic Cigarettes and Herbal Cigarettes) Bill 2019**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE SLÁINTE POIBLÍ (TOITÍNÍ LEICTREONACHA AGUS  
LUIBHTHOITÍNÍ), 2019  
PUBLIC HEALTH (ELECTRONIC CIGARETTES AND HERBAL CIGARETTES)  
BILL 2019**

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*Mar a tionscnaíodh*

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## ACTS REFERRED TO

Intoxicating Liquor Act 1988 (No. 16)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict.) c. 93

Public Health (Standardised Packaging of Tobacco) Act 2015 (No. 4)

Public Health (Tobacco) Act 2002 (No. 6)



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**AN BILLE SLÁINTE POIBLÍ (TOITÍNÍ LEICTREONACHA AGUS  
LUIBHTHOITÍNÍ), 2019  
PUBLIC HEALTH (ELECTRONIC CIGARETTES AND HERBAL CIGARETTES)  
BILL 2019**

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# Bill

5

*entitled*

An Act to prohibit the sale or supply of electronic cigarettes or herbal cigarettes to persons under 18 years of age and for that purpose to provide for offences, proceedings and authorised officers and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

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## Definitions

1. In this Act—

“Directive of 2014” means Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014<sup>1</sup>;

“electronic cigarette” has the same meaning as in Article 2(16) of Directive of 2014;

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“Executive” means the Health Service Executive;

“herbal cigarette” has the same meaning as “herbal product for smoking” has in Article 2(15) of the Directive of 2014;

“refill container” has the same meaning as in Article 2(17) of Directive of 2014.

## **Prohibition on sale of electronic cigarettes or herbal cigarettes to persons under 18 years of age etc.**

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2. (1) It is an offence for a person to sell an electronic cigarette, refill container or herbal cigarette by retail, or supply such a cigarette, to, or invite an offer to purchase such a cigarette by, a person who has not attained the age of 18 years.

(2) In proceedings for an offence under *subsection (1)* it shall be a defence for the person against whom such proceedings are brought to prove that—

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(a) he or she made all reasonable efforts to satisfy himself or herself that the person to whom the alleged offence relates had at the time of the alleged commission of the offence attained the age of 18 years, or

(b) the person specified in *paragraph (a)* produced to the first-mentioned person an age card, for the time being in force, relating to the person so specified.

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<sup>1</sup> OJ No. L 127 of 29.4.2014, p. 1

- (3) In proceedings for an offence under *subsection (1)* the court may have regard to a person's physical appearance or attributes for the purpose of determining whether that person is under the age of 18 years or was, at the time of the alleged commission of the offence to which the proceedings relate, under the age of 18 years.
- (4) In this section “age card” has the same meaning as it has in Part IV of the Intoxicating Liquor Act 1988. 5

## Offences

3. (1) A person who commits an offence under *section 1* is liable on a summary conviction to a class B fine, or to imprisonment for a term not exceeding 3 months, or to both.
- (2) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of such body corporate or a person who was purporting to act in any such capacity, that officer or person shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 10 15
- (3) On conviction for an offence under this Act the court may, in addition to any other penalty, order any electronic cigarette, refill container, herbal cigarette or any apparatus, equipment or thing to which the offence relates to be forfeited.

## Proceedings

4. (1) Summary proceedings for an offence under this Act may be brought and prosecuted by the Executive. 20
- (2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted not later than 12 months from the date on which the Executive, forms the opinion that there exists sufficient evidence to justify instituting proceedings for the offence concerned, but in no case shall such proceedings be brought after 5 years from the date of the alleged commission of the offence. 25

## Authorised officers

5. (1) In this section—  
“Act of 2002” means the Public Health (Tobacco) Act 2002; 30  
“Regulations of 2016” means the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 (S.I. No. 271 of 2016).
- (2) Section 48 (amended by section 23 of the Public Health (Standardised Packaging of Tobacco) Act 2015) of the Act of 2002 as applied to electronic cigarettes, refill containers and herbal cigarettes by Regulation 38 of the Regulations of 2016 shall also apply for the purposes of any investigation by an authorised officer in respect of any offence or alleged offence to which this Act relates as if the reference in the said Regulation 38 to the Regulations of 2016 included a reference to this Act. 35
- (3) Where the Executive is satisfied that an authorised officer to whom *subsection (2)* relates has discharged his or her duties in relation to the enforcement of the provisions 40

of this Act in a *bona fide* manner, the Executive shall indemnify the authorised officer against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.

**Short title and commencement**

6. (1) This Act may be cited as the Public Health (Electronic Cigarettes and Herbal Cigarettes) Act 2019. 5
- (2) This Act comes into operation on the day immediately following the date of its passing.

An Bille Sláinte Poiblí (Toitíní  
Leictreonacha agus Luibhthoitíní), 2019

# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do thoirmeasc toitíní leictreonacha nó luibhthoitíní a dhíol le daoine faoi bhun 18 mbliana d'aois, nó a sholáthar dóibh, agus, chun na críche sin, do dhéanamh socrú maidir le cionta, imeachtaí agus oifigigh údaraithe agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*An Teachta Ailín Ó Fearghail a thug isteach,  
6 Samhain, 2019*

Public Health (Electronic Cigarettes and  
Herbal Cigarettes) Bill 2019

# BILL

*(as initiated)*

*entitled*

An Act to prohibit the sale or supply of electronic cigarettes or herbal cigarettes to persons under 18 years of age and for that purpose to provide for offences, proceedings and authorised officers and to provide for related matters.

*Introduced by Deputy Alan Farrell,  
6th November, 2019*

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