

Vaping and Legal Framework in Malaysia: An Initial Analysis of Regulation, Enforcement, and Comparative Perspectives

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ABSTRACT

The increasing prevalence of e-cigarette smoking among the Malaysian youth has brought with it legal and social health problems. This paper comments on the legal environment that governs vaping in Malaysia, the Control of Smoking Products for Public Health Act 2024 (Act 582) and evaluates how effective it is in the current issue. The research employs a doctrinal approach of research, whereby relevant statutes and other scholarly and secondary materials are examined to analyse the current regulatory framework and its implementation. The findings show that even though Act 582 is a major move in the direction of a more detailed legal system, it fails because of major gaps in enforcement. The absence of regulations in online markets, the non-existence of age restrictions, and inconsistency in jurisdiction undermine the primary functions of the law. A comparative analysis to the prohibitive regulatory model in Singapore is also cited that effective enforcement of the clarity of the legislation should be accompanied by strict enforcement. The paper concludes that the current framework is a step in the right direction. Nevertheless, more systematic reforms are required to enhance enforcement and guard the health of the population and the younger generation, in particular.

Keywords: e-cigarette regulation, Act 582 (Malaysia), enforcement gap, public health law, comparative legal analysis

INTRODUCTION

Vaping in Malaysia has increased significantly over the past few years and this has been a huge shift towards the use of other nicotine products, in lieu of smoking tobacco. Compared to the past, e-cigarettes are perceived as less harmful and easy to quit, which was not the case initially because they were initially promoted as a less harmful smoking cessation product (Hart, J.L. et al., 2018). This trend has been boosted by strategic social media marketing and a wide variety of appealing flavours that have contributed to vaping becoming an increasing concern in terms of public health in teenagers (Ngo et al., 2025).

In response, Malaysia changed the narrow, food-based coverage of the Food Act 1983 to the wider Control of Smoking Products for Public Health Act 2024 (Act 852). The manufacture, sale and marketing of all smoking products, including strong ban on sale to minors, have been regulated under this groundbreaking legislation that is in force as of October 2024. However, the effectiveness of this Act is still dubious, because it is hard to implement considering the popularity of online sales and absence of laws regulating selling of products to children.

The paper examines the evolving legal landscape in Malaysia and evaluates its usefulness in curbing the vaping epidemic. Determining the barriers to enforcement and comparing the change process in Malaysia with the stricter regulatory framework in Singapore, the study will answer questions on the current legislation surrounding the vaping, its effectiveness, and barriers to its implementation. Lastly, the study aims to provide recommendations that would support effective population health measures that would better safeguard people.

LITERATURE REVIEW

This increased popularity of e-cigarette smoking has drawn the interest of researchers and policymakers on a global scale. Despite being popularly promoted as a less harmful alternative to traditional smoking, vaping is a severe health concern in the community, particularly due to the addictive property of nicotine, and it is popular among young people. The consumption of e-cigarettes by young people has become a cause of concern in the World Health Organisation (World Health Organisation, 2024), which is concerned about the long-term health impacts of their use and should be better regulated.

The transformation of the Food Act 1983 into the Control of Smoking Products for Public Health Act 2024 (Act 852) is widely addressed in the literature in the Malaysian context. According to (Mazlan et al., 2023), the country has implemented the first comprehensive regulatory framework to control all the supply chain including wholesalers and distributors. This legislation aims to strike a balance between the economic factors and health priorities of the population, the Right to Health, thus building up on the previous policies to address their shortcomings.

Nonetheless, Mazlan et al. (2023) have directed more criticism towards the exemption of liquid nicotine by the Poisons Act 1952. They described this change as retrograde change which was propelled by economic interests. They also assert that such an omission has introduced a legal gap, which has allowed e-cigarettes to be viewed as normal consumer goods, instead of regulated substances. Following this view, the report by Parlan et al. (2025) indicates that this omission has had macro implications, making it hard to regulate the consumption of tobacco and nicotine in Malaysia.

The law that is more recent provides a more comprehensive method because it regulates manufacturing, selling and marketing of nicotine-containing products, including e-cigarettes. Still, other scholars, such as Ronald Eden (2024), point out that the Act 852 approach can only be effective due to its inability to trigger a significant change in the attitude of young people towards vaping. This shows a significant gap between the law in books and the law in practice, considering that vaping continues to be normalised, despite being prohibited by law. Despite the commendable legislative enhancements, enforcement continues to be a plight. The continuity of vaping products through online distribution and the continuity of youth access indicates that the changes in the legislation cannot be sufficient without the strong and effective enforcement.

The primary theme of the literature is how effective legal frameworks are in general to control vaping. Research suggests that a mere existence of laws is not enough, because the effectiveness of laws greatly depends on how they are implemented. Indicatively, (World Health Organisation in 2021) cites that the level of youth vaping will be lower in jurisdictions where laws governing vaping are well developed and enforced. On the other hand, regions with fragmented or ineffective enforcement are not likely to control the prevalence of vaping especially when new products are evolving more rapidly than the regulations provisions can match.

The literature also highlights the enforcement issues. The laws may be challenging to enforce in practice, however, with online sales and marketing growing. Regulatory bodies, according to the articles published in journals (including Tobacco Control), tend to struggle to monitor and regulate the sale of online vaping products that may easily circumvent age restrictions and regulatory frameworks (Gravelly et al., 2014). The existence of such a disjuncture between the law and practice suggests greater difficulties in maintaining regulatory systems in line with technological shifts.

The literature has established the use of e-cigarettes by the youth. Studies have repeatedly demonstrated that youths become lured into vaping due to factors such as flavoured products, social media advertisements, and the perception that vaping is not harmful to health as opposed to traditional smoking. Young people tend to experiment with vaping more easily when it is easily available, and the regulation is not adequately enforced as Hammond et al. (2017) demonstrated. This demonstrates that it is not only necessary to impose legal restrictions but to do so efficiently and to follow up on them.

Comparative studies are inclined to refer to the following cases, Singapore, where the use of e-cigarettes is considered a drug-related issue, and strict regulatory measures are taken. Singapore has outlined bans and severe punishments, which are usually intended to curb vaping by the youth. These comparisons suggest that

despite the new laws that have been implemented in Malaysia to deal with vaping, a review of its regulatory and enforcement policies may be justified.

All of these studies suggest that the legal frameworks are indeed important in the regulation of vaping. To their success, a lot depends on the enforcement, clarity and adapting to new challenges. This highlights the importance of an extensive review of the existing legal policy in Malaysia, especially the effectiveness of enforcement and the existing problems of access by the youth.

RESEARCH METHODOLOGY

In this study, a doctrinal method (library based) is employed to locate the legal framework of e-cigarettes in Malaysia. The paper will focus on analysing the primary legal sources, including the statutes, i.e. Food Act 1983 and the Control of Smoking Products for Public Health Act 2024 (Act 852) and subsidiary legislation and government policy. Scholarly journal articles, legal commentaries, reports and credible sources of information on the Internet are also utilized as secondary sources. These sources are important sources of critical information on the effectiveness of existing laws, particularly in terms of access and enforcement among youths.

The study also uses selected case studies and news reports to illustrate real-life instances of enforcement issues, especially in sales transactions and regulatory loopholes that exist online. This assists in bridging the gap between practice and legal provisions. The comparative approach is also employed through the brief analysis of the regulatory framework of vaping in Singapore. This will allow easy examination of the efficacy of the Malaysian legal system in comparison to a more inflexible jurisdiction. On the whole, this method is appropriate to conduct initial research in law since it provides the opportunity to conduct a systematic study of legal rules, their application, and their effectiveness without the involvement of empirical data.

Findings

Legal Framework

Vaping regulation in Malaysia has been changing with the necessity to counter the high e-cigarette consumption, especially among the young population. Malaysia, a country that used to rely on the Poisons Act 1952 (Act 366), a limited law with few provisions governing nicotine, has now enacted two acts to fill the loopholes in the previous Act.

Malaysia had a tobacco product regulation law in the form of a Food Act of 1983 before commencing a more specific law that governs e-cigarettes. This Act, however, only included one section, that being Section 36. This provision will involve the prevention of sponsorship or advertising of tobacco products, prevention of smoking tobacco products in places of publicity and the prohibition of the selling, possessing and use of tobacco products by individuals under the age of eighteen years. It also entailed regulations and procedures on the handling of tobacco products. These rules were, however, based on the regulations of the Minister, and not on particular, detailed provisions. It was therefore not a complete regulatory Act but an enabling Act which granted power to the Minister and was not detailed enough to address the complicated contemporary use of nicotine.

Malaysia then immediately followed suit by adopting some key legislations that established the legal guidelines on cigarettes and e-cigarettes. The Control of Smoking Products for Public Health Act 2024 (Act 852) was one of the major modifications in the legal frameworks of Malaysia as it provided a more rational regulation of the smoking products by providing more definite definitions, a broader scope and the rules which consistently govern the manufacturing, importing, distribution, selling and the consumption of nicotine products.

The Enforcement issues in Malaysia

Despite the introduction of the Control of Smoking Products for Public Health Act 2024 (Act 852), there are still a number of practical problems with the implementation of the vaping laws in Malaysia. The legal

framework is far-ranging, yet its application is mostly conditioned by the forces that play the role of its systematic and effective enforcement.

Among the key challenges are the weakness and inconsistency of the enforcement mechanisms. Since regulatory bodies are mandated to control and monitor the sale and distribution of the vaping products, they tend to experience resource limitations and coordination issues. This contributes to unequal application in different locations and hence undermining the effectiveness of the law. The second grave issue is the easy availability of vaping products through online shops. With the emergence of e-commerce and social media, sellers find it easier to sell and promote vaping items without tough regulatory control. Studies have shown that online sales can go around the existing legal restrictions, including age verification, and are particularly difficult to implement online (Gravelly et al., 2020). Cases have been reported where vape products have continued to take place on online marketplaces even after regulations aimed at controlling these markets have been established.

This problem is closely connected with the problem of accessibility among minors which is also the major issue. Although the Act prohibits the sale of vaping products to individuals under a certain age, at the retail level, this may be inconsistently enforced; at retail, the seller might overlook the duty of age verification, but online sellers rarely have effective mechanisms in place. Hammond et al. (2017) note that one of the factors contributing to the likelihood of youths using vaping products is lax age restrictions. This opens a loophole between the law and the reality thus threatening the protective nature of the law.

In addition, gaps of regulation and ambiguity exist, contributing to the enforcement difficulties. The move to replace the Food Act 1983 with the Act is a step in the right direction, although there are still issues of duplication of responsibilities and new market practices. To be more precise, new vaping devices and advertising strategies tend to evolve quicker than the laws, and it is challenging to regulate the situation properly.

These implementation concerns impact directly the effectiveness of vaping regulations in Malaysia. The legal framework of the Act provides a good basis, but the success is only determined by its effective and steady implementation. The survival of online sales, the still accessibility by the youthful segment, and the uneven implementation all point to the possibility that the law may not be delivering the desired effect in its practice, yet it was well-crafted.

DISCUSSIONS

This research suggests that Malaysia has come a long way in creating a legal framework to control vaping and especially with the adoption of the Control of Smoking Products for Public Health Act 2024 (Act 852). The Act has a better structure compared to the previous use of the Food Act 1983 because it covers important issues like the sale, promotion, and the use of vaping products. This shows a definite legislative attempt to address the increasing alarm about vaping, particularly among the youths.

But even with the more formal legal system in place, the usefulness of these laws has a low level of application. One of the problems is the disconnect between the law and its practice. Although the Act brings in limitations in order to safeguard the minors and control the market operations, there are still problems in implementation that are compromising the goals of the Act. As it was found in previous sections, the high number of vaping products available due to online stores and the lack of consistency in the enforcement of age verification systems undermine the effectiveness of the law greatly.

Enforcement is a special problem in the evaluation of legal effectiveness. The fact that uncontrolled selling and access by the youths continue to persist is an indication that, though the law is all inclusive on paper, it has not been fully implemented in practice. This is indicative of a wider issue in regulatory frameworks in which the success of laws is not only based on their design but also the capability of enforcement tools. In this regard, the Malaysian model seems to struggle to adjust to new challenges especially in the online market.

These limitations are further indicated in a comparison with Singapore. The strategy of Singapore with its full prohibition and severe enforcement shows a greater degree of the effectiveness of the regulation. Its legal

stance is clear, and it has been enforced consistently thus minimizing chances of non-compliance and access to vaping products. This is contrary to the regulatory model adopted by Malaysia whereby it allows controlled use as opposed to total ban in which enforcement efficiency is more demanding. This comparison is that offensive enforcement is a key factor in establishing the efficacy of vaping regulations, irrespective of the legal model.

Overall, although the current legal framework in use in Malaysia is a great improvement over the previous regulatory strategies, its efficiency is limited due to continued enforcement problems. The disparity between the legal intent and reality is one of the core concerns, especially when it comes to youth access and online sales. This shows that, not only the presence of comprehensive laws, but also their effectiveness and coherence in implementation determine the success of the vaping regulation in Malaysia.

RECOMMENDATIONS

According to the findings, there are a couple of measures that may be taken to enhance the regulation of vaping in Malaysia. Firstly, the enforcement needs to be stricter and more coordinated between the authorities involved, in such a way that similar monitoring and enforcement can be conducted in different regions.

Second, it is necessary to be more attentive to the control over the sale and sale of online platforms, and more stringent control and surveillance measures should be introduced to avoid illegal distribution and use by the underage population. This is crucial particularly with the increased use of e-commerce in vaping industry.

Thirdly, retail restrictions and age checks should also be reinforced to protect young people even more when it comes to vaping products. This may include imposing stricter measures on non-compliance and inspecting the retail stores more frequently.

Overall, these suggestions suggest that existing legal frameworks need to be complemented by more efficient and effective enforcement tools to achieve the desired objectives of vaping regulation in Malaysia.

Comparative Analysis

In Singapore, there is a total prohibition of e-cigarettes unlike Malaysia. The Tobacco (Control of Advertisements and Sale) Act causes the importation, selling, distribution, possession and even use of vaping products to be illegal. The purpose of this policy is to make sure that the nicotine products are not normalised and that the priority should be made on the health of the population by eliminating this market and not simply regulating it.

The approach needs to be very rigorous and have serious deterrents to work. Governments are also participating in enforcing physical boundaries and on the web to intercept contraband in which those who violate the law are fined and even imprisoned. Since it is concerned not only with the supply chain, but also with the consumer, Singapore reduces the exposure to vaping products by means of unregulated online stores and illegal distribution channels, which is a sharp contrast to the barriers of enforcement faced in Malaysia.

According to the (World Health Organisation in 2021), in most instances, rigid regulatory measures can be effective in reducing the usage of e-cigarettes among the youths (World Health Organisation in 2021). With Malaysia struggling to monitor the activities of retail stores and the presence of online stores, Singapore has stringent, non-compromising laws that seal the gaps in regulations, which is more likely to make the society comply.

In conclusion, in Singapore, not only does the legislative framework suffice, but also constant active enforcement is essential. Although the Malaysian policy has made great strides with the introduction of Act 852, the Singaporean policy could serve as an example of how the tough control could result in the success of the public health objectives. This analogy explains why Malaysia must strengthen its enforcement to make its new laws effective to safeguard people.

CONCLUSION

The paper has examined the legal framework governing vaping in Malaysia, namely the amendment of the Food Act 1983 to the Control of Smoking Products for Public Health Act 2024 (Act 852), and the concerns that exist about the enforcement and its efficacy. The observations indicate that Malaysia has come a long way in ensuring that it has a more comprehensive regulation framework to tackle the increasing vaping problem, especially among the youths.

However, the paper concludes that the legal system in place is not effective enough regardless of the developments. The problem of enforcement, particularly online sales, access by the youth, and uneven implementation of the law, remains a threat to the intended objectives of the law. This analogy to Singapore also highlights the importance of making stringent and consistent implementation of regulations to facilitate regulatory success.

In conclusion, the vaping laws in Malaysia are a step in the right direction, but it cannot be considered effective yet. Strengthening enforcement procedures and enhancing regulatory supervision are important to the greater goal of protecting the health of people. The study recommends its increased imposition particularly in online sales and among the youth accessibility.

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