

LAW Nº 10.167, OF DECEMBER 27, 2000

Alters the provisions of Law n.º 9.294, of July 15, 1996, which provides for restrictions on the use and advertising of smoking products, alcoholic beverages, medicines, therapeutic remedies and pesticides

I, PRESIDENT OF THE REPUBLIC, hereby make known that the National Congress and I sanction the following Law:

Art. 1º A Law n.º 9.294, of July 15, 1996, hereby takes effect with the following alterations:

“Art.2º.....

§ 2º It is forbidden to use the products mentioned in the heading on aircraft and other vehicles of public transportation.”(NR)

“Art. 3º Commercial advertising of the products referred to in the preceding article can only be carried out with posters, placards and bills, inside the places where they are sold. (NR)

§1º.....

IV – not associate the use of the product with the practice of sporting activities, whether Olympic or not, nor suggest or induce their consumption in places or situations that are dangerous, abusive or illegal;(NR)

.....

VI – not include the participation of children or adolescents.(NR)

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§ 3º Packaging, unless intended for export, and the advertising material referred to in this article shall have the warning mentioned in the preceding paragraph. (NR)

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§ 5º The warning to which § 2 of this article refers, written legibly and prominently, shall be sequentially used in a simultaneous or rotating mode, in the latter case varying every five months, at most.” (NR)

“Art. 3º-A With regard to the products referred to in Art. 2º of this Law, the following things are prohibited:

I – sale by mail;

II – the distribution of any type of sample or giveaway;

III – advertising by electronic media, including the internet;

IV – the conduct of promotional visits or free distribution in an educational institution or public place;

V – sponsoring of cultural or sporting activities;

VI – Fixed or mobile advertising in a stadium, a race track, stage or similar place ;

VII – indirectly contracted advertising, also called *merchandising*, in programs produced in Brazil after the publication of this law, at any time;

VIII – sale in educational or healthcare institutions .

Sole Paragraph. The provisions in sections V and VI of this article shall take effect on January 1, 2003, in the case of international sporting and cultural events, as long as the sponsor is identified only with the brand of the product or manufacturer, without a recommendation of consumption.”

“Art. 3º-B Sale will only be permitted of smoking products that display on their packaging the identification of the National Agency of Sanitary Inspection, pursuant to regulation.”

“Art. 9º Without impairment to other penalties provided for in the legislation in force, especially those in the Code of Consumer Protection and in Telecommunications Legislation, offenders who violate this Law shall be subject to the following sanctions: (NR)

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V – a fine ranging from R\$ 5,000.00 (five thousand reals) to R\$ 100,000,00 (one hundred thousand reals), applied on the basis of the financial capacity of the offender; (NR)

VI – suspension of the programming by the broadcaster of radio or television, for a period of ten minutes for each minute or fraction thereof of the duration of advertisements broadcast in violation of this Law, observing the same schedule.

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§ 3º For the purposes of this Law, any and all persons, natural or juridical, who are directly or indirectly responsible for the dissemination of advertising or for the respective transmission of communication shall be considered an offender.

§ 4º It is incumbent upon the municipal health authorities to apply the sanctions provided for in this article, pursuant to Art. 12 of Law n.º 6.437, of August 20, 1977, except in cases of the exclusive or concurrent competence of:

I – the agency of sanitary oversight of the Ministry of Health, including the sanctions applicable to advertising agencies responsible for advertising in the national domain;

II – the agency for the regulation of civil aviation of the Ministry of Defense, in relation to infractions occurring on board aircraft;

III – the agency of the Ministry of Communications, responsible for the oversight of radio and television broadcasting;

IV – the agency for the regulation of transportation of the Ministry of Transportation, concerning infractions occurring inside passenger bus, rail and water-borne transport.

Art. 4º This Law shall enter into force on the date of its publication.

Brasilia, December 27, 2000; 179th year of Independence and 112th of the Republic.