

**Law No. 8/X/2022  
from 16 of May**

**Unofficial Translation**

**Preamble**

Article 71 of the Constitution recognizes the right to protection of health and entrusts public authorities to organize and protect public health by the use of preventive measures.

To ensure the effectiveness of that right, many health programs adopt promoting health and preventing disease as their strategic priorities, with the goal of avoiding activities and products that may directly or indirectly have a negative impact on health.

Among these programs, two are particularly relevant: the Strategic Plan for the Fight Against Non-Communicable Diseases, one goal of which is to promote health education and one strategy of which is to prevent and control tobacco use as a risk factor, and the National Health Development Plan (NHDP), which identifies tobacco use as a public health problem and includes the fight against tobacco in their Sub-Program for the Prevention and Control of Priority Diseases that is part of the Health Care Services Program.

Indeed, tobacco use is a major public health problem. Tobacco is associated with a significant reduction in survival rates both for active and second-hand smokers, [and] is linked to the development of many diseases that are not limited to the respiratory system. In addition, it is the leading cause of cancer - not limited to lung cancer - and it is the foremost preventable cause of disease and death in modern society.

Tobacco-induced harm has reached alarming levels worldwide, particularly among adolescents and youth, and represents a serious socioeconomic and public health problem overall, especially in developing countries.

According to the World Health Organization (WHO), tobacco use is the second most common cause of death around the world, affecting about one in every ten adults of both sexes, which represents 7.2 (seven point two) million deaths per year.

The First National Inquiry on the Prevalence of Psychoactive Substance Use by the Cape Verde Population has identified that tobacco is the second most consumed legal substance by the population between fifteen and sixty-four years old, with a lifetime prevalence of 17.4% and an 8.1% prevalence within the last twelve months.

For this reason, the State of Cape Verde has been developing measures for tobacco use control and prevention by enacting its first antismoking act in 1995. Law 119/IV/95, of 13 March, currently in force, introduced measures for deterring and restricting tobacco use in public places and transportation, with the goal of protecting second-hand smokers from tobacco smoke and reducing its harmful impacts on health.

Current law prohibits smoking in collective/public passenger transport services and in rental vehicles or those for tourist-related activities, as well as in domestic flights, and has relegated international regulations and international flights to international regulation [sic]. In addition, said law bans smoking in water transport, except in specific open-air smoking areas, notwithstanding the limitations established by transportation company policies or port authority regulations.

However, the law in effect failed to include restaurants and workplaces as places where smoking is prohibited. It does however allow any such places to voluntarily establish a smoking ban, as long as smoking areas in restaurants are adequately signalized and as long as alternative smoking places are made available at the workplace.

Tobacco advertising was regulated by Decree-Law 46/2007, of 10 December, in which Article 20 thereof expressly bans any form of tobacco advertising, promotion and sponsorship, and the term 'tobacco product' means any product made from or



containing tobacco that is intended to be smoked, inhaled, sucked, or chewed.

In addition, that rule bans any type of advertising that encourages behaviors that can be harmful to consumer health and safety, particularly as a result of insufficient information about the dangers of the product or how especially susceptible it is to cause accidents when used as intended.

Therefore, an update to the current legal status is required due to the need to improve and adapt stemming from new problems arising from health protection measures, as well as a result of the provisions imposed by the WHO Framework Convention on Tobacco Control (FCTC) that was confirmed by Cape Verde via Decision No. 142/VI/2005, of 29 August.

The unanimous adoption of the Convention during the 56<sup>th</sup> World Health Assembly on 21 May 2003, represents a milestone for the promotion of public health and provides new legal dimensions for international health cooperation.

By confirming the Convention, this country became obligated to adopt and implement legislative, executive, and administrative measures with the goal of creating policies to prevent and curb tobacco use, nicotine dependence, and exposure to tobacco smoke, thus allowing the country to not only actively attain national strategies but also cooperate internationally.

In that context and because the country is aware of the changes that have been occurring in tobacco use and in social and economic development, as well as being increasingly mindful of health costs, this statute has been created to embody a broader prevention and protection policy that comprises measures regarding broader protection of non-smokers from involuntary exposure to second-hand tobacco smoke, regulation of tobacco products, regulation of disclosing information about tobacco products, tobacco advertising, promotion, and sponsorship, as well as public education, communication, training, and awareness.

Since it is known that tobacco use is one of the main determinants of health in Cape Verde, preventing and curbing tobacco use are thought to be priority areas of action, as they belong to a broader goal of preventing disease and promoting health by encouraging the adoption of healthy behaviors and lifestyles.

According to the legal picture presented above, the intent of this statute is to:

- Complete ban of tobacco product advertising, promotion, and sponsorship, as well as of any tobacco company trademarks, tradenames, logos, or any other distinctive signs;
- Establish rules conducive to preventing tobacco use, with the goal of contributing towards reducing the risks or negative effects on the health of individuals that are caused by tobacco use;
- Reinforce the prohibition of selling, supplying, and using tobacco by people eighteen years or younger and the prohibition of selling tobacco near establishments, particularly schools, healthcare facilities and sports venues, which will therefore restrict the access of young people to tobacco products, since young people have been shown to be the group that is the most vulnerable to the effects of nicotine and to the possibility of becoming addicted by many international studies;
- Take into account workplaces and other indoor public spaces, which represent a major source of exposure to environmental or second-hand tobacco smoke, a main preventable indoor air pollutant that is currently

considered by the WHO and other international entities as a group 1 carcinogen to humans, for which there is no safe exposure limit;

- Introduce the need to obtain a permit for selling, marketing, and importing tobacco products, which will allow improved oversight of points of sale; and
- Establish the principle of banning smoking in enclosed and semi-enclosed spaces, which will significantly broaden the scope of the bans imposed by the applicable law and is in compliance with FCTC recommendations.

In summary, the purpose of this statute is to ensure more effective protection of public health, align Cape Verde's legislation with the best practices regarding protecting and deterring smokers, as well as protect those who are exposed to environmental or second-hand tobacco smoke and minors, and to fully enforce the FCTC, by introducing, as per their recommendations, rules for tobacco product packaging that will include health warnings, by eliminating flavor additives in tobacco products, and by presenting specific rules about electronic cigarettes, which will, in turn, cause tobacco points of sale to be more effectively regulated.

Finally, it is noteworthy to mention that this statute follows the WHO FCTC implementation guidelines as confirmed by the State of Cape Verde via Decision No. 142/VI/2005, of 29 August.

Therefore,

As mandated by the People, be it enacted by the Cape Verde National Assembly pursuant to Article 175, subparagraph b) of the Constitution:

## CHAPTER I GENERAL PROVISIONS

### Article 1

#### Purpose

This statute establishes standards conducive to the prevention of tobacco use, particularly with regard to:

- a) Protection from exposure to environmental or second-hand tobacco smoke;
- b) The ingredients in tobacco products intended to be imported or marketed;
- c) The packaging and labeling of tobacco products and messages thereon;
- d) The ban on advertising for tobacco, the ban on promoting and sponsoring leisure and cultural activities, as well as the development of social responsibility activities by entities whose main activity is marketing or manufacturing tobacco products;
- e) Measures for reducing demand relating to addiction and quitting, as well as measures to raise awareness and for health education; and
- f) Infringements.

### Article 2

#### Definitions

For the purposes of this Law, the following definitions shall apply:

- a) Additive- The term ‘additive’ means a substance, other than tobacco, that is added to a tobacco product, a unit packet, or to any outside packaging;
- b) Health warning- The term ‘health warning’ means a warning concerning the adverse effects on human health of a product or other undesired consequences of its consumption, including image and text

warnings, combined health warnings, general warnings, and information messages;

- c) Tar- The term 'tar' means the raw anhydrous nicotine-free condensate of smoke;
- d) Characterizing flavor-term 'characterizing flavor' means a clearly noticeable smell or taste other than one of tobacco, resulting from an additive or a combination of additives, including, but not limited to, fruit, spice, herbs, alcohol, candy, menthol or vanilla, which is noticeable before or during the consumption of the tobacco product;
- e) Street vendors- The term 'street vendors' means individual merchants who perform retail transactions in non-permanent structures on public venues or in specially marked areas;
- f) Cigarette- The term 'cigarette' means a roll of tobacco that can be consumed via a combustion process;
- g) Electronic cigarettes- The term 'electronic cigarette' means any product developed for smoking or vaping that is composed of a rechargeable or non-rechargeable device operated by a battery or another form of power and a disposable or refillable, open or closed reservoir for a nicotine-containing or non-nicotine-containing liquid or a device that has been developed for use directly with tobacco products, and any accessories and refills to be used with said electronic cigarettes are also included herein;
- h) Outside packaging- The term 'outside packaging' means any packaging in which tobacco products are placed on the market and which includes a unit packet or an aggregation of unit packets; transparent wrappers are not regarded as outside packaging;
- i) Enclosed space- The term 'enclosed space' means an area that is fully enclosed by a roof and by inner walls, outer walls, or other surfaces;
- j) Public space- The term 'public space' means an area that is accessible to the general public or of public use, regardless of being privately or publicly owned;
- k) Semi-enclosed space- The term 'semi-enclosed space' means an area that is partly enclosed by a roof and by inner walls, outer walls, or other surfaces;
- l) Smoking is the act of ingesting tobacco products or plant-based products for smoking, or using electronic cigarettes, including holding a burning tobacco product for smoking, even when the smoke is not being actively inhaled or exhaled, or inhalation of novel smokeless tobacco products that produce aerosols, vapors, gas, or inhalable particles;
- m) Environmental or second-hand tobacco smoke- The term 'environmental or second-hand tobacco smoke' means the smoke released into the atmosphere that comes from the burning of a tobacco product or the smoke that is exhaled by smokers;
- n) Importer of tobacco products- The term 'importer of tobacco products' means any person who acquires directly from foreign markets the tobacco products intended to be sold in the national territory;
- o) Tobacco industry- The term 'tobacco industry' means manufacturers and distributors of tobacco products;
- p) Ingredient- The term 'ingredient' means tobacco, an additive, or any substance or element present in a finished tobacco product or related product, including paper, filter, ink, capsules, and adhesives;
- q) Workplace- The term 'workplace' means a place where

one or more people perform their paid or unpaid job or work, including any annexes or vehicles used for performing work-related tasks;

- r) Public area- The term 'public area' means the combination of public property and rights such as city squares, roads, streets, and beaches that are intended to be used by the public at large;
- s) Place open to the public - The term 'place open to the public' means every place of public amusement or entertainment, particularly party venues, dance clubs, nightclubs, game rooms, or gambling rooms;
- t) Retail outlet- The term 'retail outlet' means any outlet where tobacco products are placed on the market including by a natural person;
- u) Novel tobacco product- The term 'novel tobacco product' means a tobacco product that does not fall into any of the following categories: cigarettes, roll-your-own tobacco, pipe tobacco, cigars, cigarillos, chewing tobacco, nasal tobacco, or tobacco for oral use;
- v) Tobacco traders- The term 'tobacco traders' means any retailers, open market sellers, street vendors, merchants, and importers of tobacco products;
- w) Tobacco products- The term 'tobacco products' means products that consist, even partly, of tobacco, whether genetically modified or not, that may or not involve combustion process and are intended to be smoked, sucked, chewed, or inhaled;
- x) Tobacco advertising- The term 'tobacco advertising' means any form of communication performed used in the framework of a commercial, industrial, trade, or liberal activity, which aims directly or indirectly to promote a tobacco product or tobacco use;
- y) Tobacco- The term 'tobacco' means leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco, whether used in the form of a cigarette, cigarillo, or cigars, or loose for use in a pipe or for rolling your own tobacco available in the form of plug tobacco, crumble cake tobacco, tobacco sheets, cube cut tobacco, or in the form of tobacco dust or particulate;
- z) Roll-your-own tobacco- The term 'roll-your-own tobacco' means tobacco which can be used for making cigarettes by consumers or retail outlets;
- aa) Chewing tobacco- The term 'chewing tobacco' means a smokeless tobacco product (exclusively) intended for the purpose of chewing;
- bb) Expanded tobacco- The term 'expanded tobacco' means a tobacco product that has been expanded in volume by quick volatilization of a medium such as dry ice;
- cc) Reconstituted tobacco- The term 'reconstituted tobacco' means a paper-like sheet of tobacco product mostly made of tobacco;
- dd) Pipe tobacco- The term 'pipe tobacco' means tobacco that can be consumed via a combustion process and exclusively intended for use in a pipe;
- ee) Waterpipe tobacco- The term 'waterpipe tobacco' means a tobacco product that can be consumed via a waterpipe, particularly a hookah/shisha;
- ff) Tobacco for oral use- The term 'tobacco for oral use' means all tobacco products for oral use made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms; and
- gg) Public transportation- The term 'public transportation' means transportation provided in motor vehicles

owned by a private or public entity on behalf of a second entity, and for which the first entity is entitled to be paid direct remuneration.

## CHAPTER II

### BAN ON SALE OF TOBACCO PRODUCTS

#### Article 3

##### Selling, displaying and furnishing tobacco products

1- Selling and furnishing tobacco products can only be done by permit-holder retailers, and doing so anywhere else is expressly prohibited.

2- Selling, displaying, and furnishing tobacco products in the following places is prohibited:

- a) Bakeries selling bread or other baked goods;
- b) Street vendors;
- c) Conventions and events;
- d) Drug stores;
- e) Healthcare and teaching facilities;
- f) Sports venues; and
- g) Retailers that sell goods via the internet, regular mail, or telemarketing, even if the responsible person is just a visitor or the company is registered to third parties outside Cape Verde’s borders.

3- Manufacturing, importing, selling, or supplying loose tobacco products, tobacco products outside unit packets, or packets of less than twenty units is prohibited.

4- It is prohibited to offer for sale, furnish, give, sell, and/or make available tobacco products:

- a) To persons younger than 18 years old; and
- b) By persons younger than 18 years old.

5- Persons younger than 18 years old are expressly prohibited from entering and staying inside retailers that have permits to sell or supply tobacco products, except when accompanied by family members who are of age and only for the time strictly necessary to purchase other products.

6- All permit-holder retailers selling tobacco products shall install clearly visible signs informing about the prohibitions referred to in paragraphs 4 and 5, and warns about the health hazards caused by using tobacco.

7- Templates for the signs referred to in paragraph 6 will be defined by an edict issued by the government’s Health Agency.

8- In order to comply with the provisions pursuant to paragraph 4, before making the sale, tobacco product sellers are legally required to ask for government-issued identification every time the buyer’s age is unclear.

9- People younger than 18 years are prohibited from participating in activities that involve tobacco products, such as working with tobacco product-related farm work, harvest, manufacture, transportation, and marketing.

10- The only exception to the prohibition referred to in paragraph 9 is when production of tobacco products is home-based and the presence of minors is unavoidable.

11- Manufacturing, importing, selling, advertising, and furnishing electronic cigarettes is prohibited in the entire national territory.

#### Article 4

##### Permits

1- Issuing wholesaler or retailer permits for importing, selling, and furnishing tobacco products will obey specific legislation regulating that matter.

2- Notwithstanding the provisions in other rules and regulations, in order to obtain the type of permit referred to in paragraph 1, the applicant may complete the applicable electronic form, which can be found at the *Casa do Cidadão* [Citizen House] website.

3- In order to comply with the provisions pursuant to paragraph 2, a template for the permits, the electronic application form, the process, and the applicable fees shall be regulated by an edict issued jointly by the government’s Commerce, Health, and Finance Agencies.

4- Permits cannot be granted to retailers located less than two hundred meters (200 m) from schools, healthcare facilities including pharmacies, areas catering to children, and sports venues.

5- When granting permits, the upper-level agencies in charge of issuing the permits shall always take into account the provisions pursuant to paragraphs 2 and 3 of Article 3.

#### Article 5

##### Automatic vending machines

The sale of tobacco products via automatic vending machines is allowed, as long as the following conditions are met:

- a) Vending machines can only sell tobacco products;
- b) Vending machines shall be located inside a store in such a way that they can always be visible to the person in charge of the store, and cannot be placed in entryways, stairwells, or similar locations or along walkways in malls or large shopping areas.

## CHAPTER III

### BANNING TOBACCO USE IN CERTAIN PLACES

#### Article 6

##### General principle

The intended effect of this chapter is to establish tobacco use bans in enclosed and semi-enclosed public spaces to ensure that workers, tourists, and the population at large are protected from exposure to environmental or second-hand tobacco smoke, which is a main preventable indoor air pollutant.

#### Article 7

##### Ban on smoking in all enclosed and semi-enclosed spaces

1- Using tobacco products and electronic cigarettes is prohibited in all enclosed or semi-enclosed spaces and inside public transportation, especially:

- a) In all places housing government and public administration departments, services, and agencies;
- b) In facilities where healthcare is provided, particularly hospitals, healthcare regions, clinics, health centers, units, and agencies, medical offices, laboratories, pharmacies, and the like;
- c) In places that cater to people under the age of 18, particularly nursery schools, daycare centers and other childcare establishments, homes for children and youth, recreation centers, summer camps, and the like;
- d) In homes and other facilities that care for the elderly, or persons with handicaps or disabilities;
- e) In education institutions, regardless of the age of the students and level of instruction, including, vocational and technical schools;
- f) In museums, cultural centers, archives and libraries, conference rooms, reading rooms, meeting rooms, and exhibition venues;



- g) In movie theaters, theaters, presentation rooms and venues and other locations where artistic presentations and performances are done;
- h) In late-night entertainment establishments, particularly nightclubs, dance clubs, and the like;
- i) In leisure facilities, casinos, bingo rooms, game rooms, and other types of spaces where non-artistic presentations are performed;
- j) In sports venues, stadiums, gymnasiums, and the like;
- k) In fairgrounds and exhibit halls as long as they are closed or semi-enclosed spaces;
- l) In closed or semi-enclosed public retail spaces, amusement arcades, billiard halls, and cyber cafes;
- m) In shared areas inside hotels, residential areas, or other tourist facilities in which lodging services are provided;
- n) In all closed or semi-enclosed restaurants, bars, and other establishments that serve food or drinks, including those that have dance rooms or dance floors;
- o) In cafeterias, dining halls, and bars in public and private entities that are intended exclusively to serve their staff;
- p) In garages and gasoline stations;
- q) In airports and water-transportation terminals;
- r) Inside covered public transportation terminals and stops and inside covered parking lots;
- s) Inside elevators and the like, and in common residential areas;
- t) Inside any enclosed automatic bank teller machines;
- u) In any inpatient and outpatient drug and alcohol addiction rehabilitation and support centers; and
- v) In any other location where smoking is prohibited as determined by local management, the government, or other applicable legislation, particularly with regard to the prevention of occupational risks.

2- Except as provided in subparagraphs *a)*, *b)*, *c)*, *e)*, *j)*, *p)*, *r)*, *s)*, *t)*, *u)*, and *v)* above, separate smoking areas can be created as long as the appropriate signage is posted.

3- Access to the space referred to in paragraph 2 is intended for people 18 years and older only.

4- The provisions referred to in paragraphs 2 and 3 shall be regulated by an edict issued jointly by the government's Health and Infrastructure Agencies.

5- Smoking is prohibited within three meters (3 m) away from enclosed public and private spaces, as well as around the perimeter of semi-enclosed public and private spaces.

6- Smoking is prohibited inside private vehicles when people less than eighteen years of age are being transported.

7- In order to enforce the provisions pursuant to paragraph 6, enforcement agents are required to ask for government-issued identification whenever the age of the passenger is unclear.

8- The provisions pursuant to the paragraphs above apply to using nicotine or nicotine-free electronic cigarettes, waterpipes or hookahs, herbal products for smoking, as well as using novel smokeless tobacco products that produce aerosols, vapors, gas, or inhalable particles.

9- Smoking is prohibited in nature parks.

#### Article 8

#### Open areas

Owners of open areas located inside the buildings, facilities, or locations pursuant to Article 7 are entitled to ban the use of tobacco products in those spaces.

#### Article 9

#### Signage

1- Public or private entities with management responsibilities for the tobacco-free spaces referred to in the articles above shall ensure that signs indicating said prohibition are displayed and said signs shall follow the template defined by an edict issued by the government's Health Agency.

2- The signs referred to in paragraph 1 shall include on the bottom thereof a caption identifying this law and the maximum applicable fine imposed on smokers who violate the non-smoking ban.

#### Article 10

#### Responsibility

1- Compliance with the provisions laid down in Articles 7 through 9 shall be ensured by public or private entities with management responsibilities for the locations referred to in this law.

2- Whenever a violation laid down in Articles 7 through 9 is noted, the entity referred to in paragraph 1 shall inform the smoker(s) that they must refrain from smoking and, in case they do not comply, the entity shall ask the offender to leave the premises otherwise they will call enforcement officials, who shall write the applicable notice of violation.

3- Every user of the places referred to in Article 7 and referred to in paragraph 1 of Article 8 is entitled to demand compliance with the provisions set forth by this law and has permission to make a written complaint and file it in the book of complaints available at that location specifically for that purpose.

### CHAPTER IV

### INGREDIENTS AND EMISSIONS

#### Article 11

#### Maximum emission levels for tar, nicotine, and carbon monoxide

1- The emission levels from cigarettes imported into, placed on the market, or manufactured in Cape Verde shall not be greater than:

- a) (10 mg) Ten milligrams of tar per cigarette;
- b) (1 mg) One milligram of nicotine per cigarette; or
- c) (10 mg) Ten milligrams of carbon monoxide per cigarette.

2- The Government shall be empowered to set, by an edict issued by the government's Health Agency, maximum emission levels for emissions other than the emissions referred to in paragraph 1, as well as for emissions of tobacco products that are not cigarettes.

3- The tar, nicotine and carbon monoxide emissions from cigarettes shall be measured on the basis of ISO standard 4387 for tar, ISO standard 10315 for nicotine, and ISO standard 8454 for carbon monoxide.

4- The accuracy of the tar, nicotine and carbon monoxide measurements shall be determined in accordance with ISO standard 8243.

#### Article 12

#### Measurements and tests

1- The levels of tar, nicotine, carbon monoxide, and other substances from tobacco products shall be measured and tested by laboratories which are located in the country and abroad,

and those laboratories shall not be owned, controlled, or funded directly or indirectly by the tobacco industry.

2- The laboratories shall be accredited by the applicable health authorities and the list of laboratories, after being approved by an edict issued by the government’s Health Agency, shall be published in the Federal Register and on the Framework Convention on Tobacco Control Implementation Committee (*Comissão de Implementação da Convenção-Quadro para Controlo do Tabaco*, CICQ) website.

3- Tobacco products shall be submitted to yearly testing by the accredited laboratories by their manufacturers or importers, who shall be responsible for paying proportionate fees.

4- The health authority shall save samples of the lots that were submitted for testing for a six (6)-month period, in a sufficient amount to allow for new testing if necessary.

5- Domestic manufacturers or importers shall store samples from that same lot, or use a different sampling criterion for controlling the product used for laboratory testing for at least two (2) years from the date the report was issued, in a sufficient amount to allow for two complete laboratory tests to be done.

#### Article 13

##### Reporting of ingredients and emissions

1- Manufacturers and importers of tobacco products shall submit to the Independent Regulatory Health Agency (*Entidade Reguladora Independente da Saúde*, ERIS), prior to the manufacturing, importing, or placing on the market of those products, the following information by brand name and type:

- a) A list of all ingredients, and quantities thereof, used in the manufacture of the tobacco products, in descending order of the weight of each ingredient included in the tobacco products;
- b) The emission levels referred to in Article 11; and
- c) Where available, information on other emissions and their levels, and in this case, the methods used for measuring emissions shall be informed.

2- Manufacturers and importers of tobacco products shall also inform prior to the manufacturing, importing, or placing on the market of those products if the composition of a product is modified in a way that affects the information provided under this Article.

3- The list of ingredients referred to in subparagraph a) of paragraph 1 shall be accompanied by the relevant toxicological data regarding the ingredients in burnt or unburnt form, as appropriate, referring in particular to their effects on the health of consumers and taking into account, particularly, any additive effects.

4- Manufacturers and importers of tobacco products shall report to the CICQ on a yearly basis by 31 January their sales volumes per brand and type for the prior year, reported in number of cigarettes, cigarillos, or cigars, or in kilograms.

5- The provisions under this Article apply to herbal products for smoking.

#### Article 14

##### Procedure for reporting ingredients and emissions

1- All data and information to be provided pursuant to Article 13 shall be provided in electronic form, to be defined by an edict issued by the government’s Health Agency and said information shall be stored electronically and accessible to the CICQ, ensuring that trade secrets and other confidential information are treated confidentially.

2- Upon entry into force of this law, for tobacco products that have already been placed on the market, the information referred to in paragraph 1 of Article 13 shall be provided within six months of entry into force of this law.

3- For new products to be placed on the market, the information referred to in Article 13, paragraph 1 shall be presented at least ninety days from the date importation or sales are expected to start in the country, and importation or sales without prior ERIS authorization is prohibited.

4- Manufacturers and importers of tobacco products shall be charged proportionate fees for receiving, storing, handling, analyzing, and publishing the information submitted pursuant to this Article, and the applicable fees shall be set by an edict issued jointly by the government’s Finance and Health Agencies.

5- The provisions under this Article apply to herbal products for smoking.

#### Article 15

##### Prohibited ingredients

1- It is prohibited to manufacture, import, and place on the market tobacco products containing synthetic or natural substances in any form, such as, but not limited to, pure substances, extracts, essential oils or balms which have flavoring properties that can confer, intensify, modify, or enhance the taste or smell of the product, including any additives identified as flavoring agents:

- a) Processing aids to enhance flavoring;
- b) Additives with nutritional properties, including amino acids, vitamins, essential fatty acids, and minerals, except those that are proven to be essential for manufacturing tobacco-based products;
- c) Additives that confer color on the product or emissions;
- d) Additives associated with alleged stimulant or reinvigorating properties, including guarana, taurine, caffeine, and glucuronolactone;
- e) Additives that, in the form without combustion, have carcinogenic, mutagenic, or toxic properties;
- f) Pigments or dyes;
- g) Fruits, vegetables, or any products originated from processing fruits and vegetables, except for activated charcoal and starch;
- h) Sweeteners, artificial sweeteners, honey, molasses, or any other substance other than sugar that can confer a sweet odor or flavor;
- i) Spices, aromatic herbs, or any substance that can confer their odor or flavor;
- j) Ameliorants; and
- k) Ammonia and all of its compounds and derivatives.

2- It is prohibited to manufacture, import, and place on the market tobacco products containing flavorings in any of their components such as filters, papers, packages, capsules, or any technical features allowing modification of the smell or taste of the tobacco products, and filters, papers and capsules shall not contain tobacco or nicotine.

3- Tobacco product packaging and labeling must not display every tobacco product ingredient, including tar, nicotine, and carbon monoxide levels found in primary and secondary current smoke.

4- The ERIS has the power to demand that a tobacco product is subjected to testing and measurements for assessing whether it has a characterizing flavor, whether prohibited additives or

flavorings are used, and whether a tobacco product contains additives in quantities that increase to a significant and measurable degree the carcinogenic, mutagenic or toxic properties of the tobacco product concerned;

5- Manufacturers and importers of tobacco products shall pay any proportionate fees and costs arising from the tests and measurements referred to in paragraph 4.

#### Article 16

##### Permitted ingredients

Using the following additives in tobacco products is permitted:

- a) Sugar to replace the sugar content originally present in the tobacco leaf that is lost during the curing process;
- b) Adhesives;
- c) Binding agents;
- d) Burning agents;
- e) Processing aids other than flavoring agents;
- f) Pigments or dyes used to bleach paper or filter, to produce the imitation cork tipping paper, and print logos and brand names;
- g) Glycerol and propylene glycol; and
- h) Potassium sorbate.

#### CHAPTER V

##### HEALTH WARNINGS AND PACKAGING

#### Article 17

##### General provisions

1- Each unit packet of a tobacco product and any outside packaging shall carry the health warnings as well as images showing the hazards brought on to health by consuming tobacco products and they shall not be covered or abbreviated.

2- Health warnings and applicable images shall cover at least 50% of the total area of the top outer surface of the front panel and 100% of the outer surface of the rear and side panels of any primary and/or secondary tobacco packaging.

3- Health warnings on a unit packet and any outside packaging shall be irremovably printed in color, indelible and fully visible, and shall not be partially or totally hidden or covered by special stamps, price marks, security features, or other items, in a manner that always ensures the graphical integrity and visibility of the text, photographs and cessation information.

4- On unit packets of tobacco products other than cigarettes and roll-your-own tobacco in pouches, the health warnings may be affixed by means of stickers, provided that such stickers are irremovable.

5- Each unit packet and any outside packaging shall be marked with the respective lot or equivalent number to identify the place and date of manufacture.

6- The provisions under this Article apply, with the applicable adaptations, to herbal products for smoking.

7- The templates for health warnings and their frequency shall be approved by an edict issued by the government's Health Agency.

8- The obligations laid down in the paragraphs above are imposed on the tobacco manufacturer or importer if the product is manufactured in Cape Verde or abroad, respectively.

#### Article 18

##### Banned messages on tobacco product packaging

Tobacco product packaging is expressly prohibited from:

- a) Using text, colors or pictures, names, designs, and figurative or other signs that suggest that a certain

product is less harmful than others, including the trademark, such as the words 'light', 'ultra-light', 'mild', 'low-tar', 'slim' or their corresponding translations, as well as any graphic design associated with tobacco or with the intent of associating itself with any such descriptions;

- b) Using the images of the herbal products for smoking;
- c) Using text that may induce excessive or reckless use, that suggests benefits in terms of well-being or health, or links the product to patriotic or religious celebrations;
- d) Using text that creates the impression that tobacco products have calming or stimulating properties, decrease fatigue or stress, or any similar effect;
- e) Using messages, images, text, or ideas that suggest a correlation between masculinity and sexual performance and the product;
- f) Using messages that promote practicing sports, whether or not Olympic in nature, or that suggest or lead to using tobacco in dangerous, abusive, or illegal locations or scenarios; and
- g) Using images that depict children or adolescents; or
- h) Any other message that either directly or indirectly encourages use.

#### CHAPTER VI

##### ADVERTISING, PROMOTION, AND SPONSORSHIP

#### Article 19

##### Ban on advertising and promotion

1- All forms of direct or indirect advertising and promotion, including secret, concealed, or subliminal advertising of tobacco companies and their brand names, logos, or any other identification signs, of tobacco products and herbal products for smoking are prohibited, regardless of marketing support or information society or services.

2- Establishments that have permits to sell and furnish tobacco products are expressly prohibited from displaying or advertising brand names, trademarks, emblems, logos, or any other unique or identifiable signs of tobacco products and herbal products for smoking.

3- Media communications and advertising regarding any event, particularly any sporting, cultural, recreational, or other activities, are prohibited from displaying or mentioning, either directly or indirectly, the brand names, trademarks, emblems, logos, or any other unique or identifiable signs of herbal products for smoking.

4- Displaying or advertising brand names, trademarks, emblems, logos, or any other unique or identifiable signs of the tobacco company or their product or of herbal products for smoking at the locations in which the events that were exemplified in the paragraph above are taking place is prohibited.

5- Free distribution or promotional sale of tobacco products and herbal products for smoking or any consumer goods, whose intended effect is to either directly or indirectly promote tobacco products or their use is prohibited.

6- Any advertising transmitted by audiovisual media, including cinema, open-access or subscription-based television, shows, movies, and the like produced in this Country or abroad whose intended effect is to either directly or indirectly promote tobacco products shall include at the beginning of the film a warning that has been approved by an edict issued by the government's Health Agency.

7- Manufacturing, importing, selling, advertising, or





distributing food or products targeted toward children and adolescents that resemble in any way the shape of a tobacco product or their packaging and display the unique signs of those products is prohibited in the entire national territory.

8- Tobacco companies and their affiliate companies are prohibited from joining or associating their tradenames with any logos, trademarks, or goods that are not their products or brands.

#### Article 20

##### Ban on sponsorship

1- Every form of sponsorship or contribution, either direct or indirect, to any events, sporting, cultural, or recreational activities, or radio or television shows by public or private individuals or companies whose exclusive or main activity is manufacturing, importing, distributing, marketing, or selling tobacco products is prohibited.

2- Sponsoring either directly or indirectly any social responsibility activity by public or private individuals or companies whose exclusive or main activity is manufacturing, importing, distributing, marketing, or selling tobacco products is prohibited.

#### Article 21

##### Information campaigns

1- Information campaigns or other promotional initiatives whose direct or indirect intent is to provide information on tobacco use or prevention that are either directly or indirectly promoted or sponsored by companies that market tobacco products, as well as by companies and affiliates thereof that manufacture, import, and distribute tobacco products is prohibited.

2- Individuals and companies that are neither directly nor indirectly related to tobacco products or the companies referred to in paragraph 1 of this Article are exempt from the provisions pursuant to the paragraph above.

#### CHAPTER VII

### TOBACCO PREVENTION, TREATMENT, AND CONTROL

#### Article 22

##### Fiscal and tax revenue policies

1- Fiscal or pricing policies that contribute to achieving health goals whose intent is to decrease tobacco use shall be applied to tobacco products.

2- A template for the tobacco product price list that shall be displayed at points of sale is published by an edict issued jointly by the government’s Health, Finance, and Commerce Agencies.

3- As part of the yearly budget, up to 15% of the yearly revenue from taxes on tobacco products shall be allotted to the implementation of the FCTC as provided for by the government-approved National Multisectoral Strategic Plan for Tobacco Control, which is operated by the CICQ.

#### Article 23

##### Duties of the Ministry of Health

1- The Ministry of Health shall provide regular training to physicians, nurses, and other healthcare professionals working in primary health clinics in order to further their education on tobacco cessation.

2- The applicable health authority shall define yearly milestones and goals concerning tobacco cessation support visits provided by Healthcare Units, in the sense of giving out incentives to reward good practices and any enhancements to clinical response.

3- Healthcare Units shall draw up on a semi-annual basis a report which describes how the coverage of tobacco cessation support visits has been progressing and submit it to the applicable health authority.

#### Article 24

##### Health information and education

1- The government shall offer education and information programs to citizens as well as contribute to the creation of conditions that are favorable to tobacco prevention and control.

2- Healthcare facilities regardless of their legal form, and other entities such as NGOs, religious entities, social communication agencies, and tourist establishments shall promote and support providing health-related information and education to citizens regarding health hazards from using tobacco and the importance of tobacco cessation through campaigns, programs, and initiatives for the population at large or targeting specific groups.

3- Tobacco prevention shall be part of civic education curricula of elementary, middle, high, and vocational schools, as well as be part of the undergraduate and graduate curricula for educators who teach at those levels.

4- Regardless of the grade or level of education of their students, teaching establishments shall also promote and support providing information and education for tobacco prevention and control.

#### Article 25

##### Tobacco cessation visits

Visits to support smokers who want to stop smoking shall be offered at all healthcare centers, mental health hospitals, and substance abuse rehabilitation centers.

#### Article 26

##### Framework Convention Implementation Committee

1- The Interinstitutional Work Group for Implementation of the WHO Framework Convention on Tobacco Control (*Grupo de Trabalho Interinstitucional para a Implementação da Convenção Quadro da OMS para o Controlo do Tabaco*, GT-ICONCTA), which has been created by an edict issued by the government’s Health Agency shall heretofore be known as the Framework Convention Implementation Committee (*Comissão de Implementação da Convenção Quadro para Controlo do Tabaco*, CICQ).

2- In addition to the provisions laid down in this statute and in the edict referred to in paragraph 1, the CICQ shall be responsible for coordinating and facilitating the implementation of the FCTC and for performing the monitoring and assessments pursuant to this statute.

3- The CICQ shall articulate and cooperate with other public or private domestic and foreign entities, particularly regarding the exchange of information concerning tobacco prevention and control.

4- CICQ members shall serve for a three-year renewable term.

5- At the time they are appointed, CICQ shall submit to the Coordinator a declaration that they possess no conflicts of interest against the objectives of the CICQ within the realm of tobacco prevention and control pursuant to the provisions set forth by the WHO.

6- The actions of CICQ members shall be guided by Article 5(3) of the FCTC, whose intent is to prevent interference from the tobacco industry in tobacco control policies.

7- CICQ members shall meet every three months as well as convene any time the Coordinator calls for a special meeting.



8- Technical, administrative, and logistic support for CICQ operations is ensured by the Alcohol and Other Drugs Coordination Committee (*Comissão de Coordenação do Alcool e Outras Drogas*, CCAD).

9- The CICQ shall be regulated by an edict by the government's Health Agency that shall be issued within ninety days following that of publication of this statute.

## CHAPTER VIII

### PENALTIES AND ENFORCEMENT

#### Article 27

##### General provisions

1- An infringement is any action or omission that violates the provisions laid down in this law.

2- The Special Infringement Rules approved by Decree-Law No. 9/95, of 27 October, shall apply to the infringements pursuant to this statute and to anything else that otherwise is not specially regulated herein.

#### Article 28

##### Infringements and applicable penalties

1- Infringement to the provisions adopted pursuant to this statute shall be punishable by the following fines:

- a) Owners of private establishments, companies, partnerships even if irregularly incorporated, or unincorporated entities who violate the provisions set out in Articles 3 and 5 shall be punished by a fine between \$800,000.00 (eight hundred thousand escudos) and \$1,000,000.00 (one million escudos);
- b) Individuals who violate the smoking ban at the locations pursuant to Article 7 shall be punished by a fine between \$3,000.00 (three thousand escudos) and \$5,000.00 (five thousand escudos);
- c) Owners of private establishments, companies, partnerships even if irregularly incorporated, or unincorporated entities, as well as administrative agencies or chief officers of public administration agencies, bureaus, or services who violate the provisions set out in Article 9, shall be punished by a fine between \$100,000.00 (one hundred thousand escudos) and \$800,000.00 (eight hundred thousand escudos);
- d) A manufacturer or importer who violates the provisions set out in paragraph 1 of Article 11, in paragraph 3 of Article 12, in Article 13, and Article 15 shall be punished by a fine between \$1,000,000.00 (one million escudos) and \$2,000,000.00 (two million escudos);
- e) Violations to paragraphs 1 and 2 of Article 15 shall be punished by a fine between \$100,000.00 (one hundred thousand escudos), and the amount shall be reduced to between \$500,000.00 (five hundred thousand escudos), respectively, if the infraction is committed by an individual;
- f) Violations to Articles 17, 18, 19, 20, and 21 shall be punished by a fine between \$1,000,000.00 (one million escudos) and \$2,000,000.00 (two million escudos), and the amount shall be reduced to between \$500,000.00 (five hundred thousand escudos) and \$800,000.00 (eight hundred thousand escudos), respectively, if the infraction is committed by an individual;

2- Negligence is always punishable pursuant to the provisions at large, with the minimum and maximum limits on the applicable fines being reduced by half.

3- The fines set forth by the general provisions on the regulation of advertisement activities will apply to any infractions concerning advertising regulated by the Social Communication Regulating Authority (*Autoridade Reguladora da Comunicação Social*, ARC).

#### Article 29

##### Criteria for determining penalties

1- In determining the penalties applicable for the offenses laid down in Article 28, the enforcing authority shall take into account the proportionality principle and shall consider, for every case, the following criteria:

- a) The severity of the violation;
- b) The nature of the losses caused;
- c) Prior offense of a similar or related nature by the person/entity who committed the violation;
- d) The volume of the business and how much the action has benefited the offender; and
- e) The extent of the broadcasting.

2- If two or more of the criteria referred to in paragraph 1 are simultaneously met, the enforcing authority can impose the penalty category that is immediately more severe than the one that applies to the offense.

3- If the person/entity who committed the violation is a repeat offender, the fine will be increased by a third or half of the minimum amount based on whether there have been one or more than one prior offenses.

#### Article 30

##### Enforcement and prosecution

1- Notwithstanding the jurisdictions of the administrative authorities, particularly the ARC in connection with advertising matters and the ERIS, enforcement of the provisions pursuant to this statute is incumbent upon the National Police Force, the Municipal Police Force, and the Office of Inspector General of Economic Activities (*Inspecção Geral das Atividades Económicas*, IGAE).

2- It is incumbent upon the appropriate enforcing agency that has cause to believe that a violation of this statute has been committed to prosecute any such violations as well as determine and impose any applicable fines, and the agency shall notify the other entities of any such proceedings as to avoid the offender from being prosecuted twice.

3- Depending on the severity of the violation and on whether the person/entity is a repeat offender, in addition to imposing a fine, the enforcing authority can also have their license suspended or revoked.

4- As additional punishment, any products and goods seized as a result of a violation of this statute are subject to forfeiture by the State, who shall order their immediate destruction.

5- Any fines and additional punishment shall be imposed by the director and/or the chief officer of the enforcing authority that has initiated the legal proceedings.

6- The CICQ, which is the agency in charge of collections, computer processing, reviewing, and addressing any tobacco-related matters shall be notified once a complaint or other charging instrument has been filed.

7- The enforcing authorities have the duty of cooperating with each other.

#### Article 31

##### Provisional measures

1- As part of their function, the enforcing agencies referred to in Article 30 have the power to adopt the following measures or actions:

- a) Order the smoker to stop smoking and to provide their name, address, and their identification document, and assistance from law enforcement agents shall be requested if the offender refuses to stop smoking or provide said information;
- b) Seize any tobacco products, particularly electronic cigarettes, hookahs, or other smoking devices if a violation of Articles 3, 4, 7, 16, and 17 has occurred;
- c) Seize tobacco product vending machines if a violation of Article 5 has occurred;
- d) Seize any marketing materials or consumer goods if a violation of Article 18 has occurred;
- e) Revoke the company’s license to manufacture, import, or market the brands of tobacco products;
- f) Order the establishment to be partially or completely closed for business for a period that shall be no longer than twelve hours.

2- Anyone who disobeys the order referred to in subparagraph a) of paragraph 1 is deemed to have committed a misdemeanor.

3- Public or private entities are required to cooperate, pursuant to this statute, whenever they are asked to do so by enforcing agencies, particularly during joint tobacco control operations.

#### Article 32

##### Disposition of fines

The proceeds from fines applied pursuant to this statute are to be distributed as follows:

- a) 20% to the enforcing agency;
- b) 20% to the State; and
- c) 60% to the CICQ, and intended for use in implementing the FCTC and developing measures for investigating, preventing, treating, and rehabilitating tobacco-related issues.

#### Article 33

##### Non-payment of fines

In case of failure to pay the fines pursuant to this statute by the date established by law, the District Attorney’s Office, as the enforcer of consumer protection laws and defender of the collective interest, has the power to request the enforcing agencies to impose any applicable fines and to close down the establishment that has committed the violation until the applicable fines have been paid in full.

#### CHAPTER IX

##### FINAL AND TRANSITIONAL PROVISIONS

#### Article 34

##### Repeal

Law No. 119/IV/95, of 13 March, which establishes the conditions for deterring and restricting tobacco use, as well as any laws that go against the provisions in this statute are hereby repealed.

#### Article 35

##### Entry into force

This law shall enter into force on the one-hundredth sixtieth day following that of its publication.

Passed on 10 March 2022.

For the National Assembly, The President, *Austelino Tavares Correia*.

Enacted on 9 May 2022.

Let it be published.

The President of the Republic, JOSÉ MARIA PEREIRA NEVES.

