

PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 02/L-36

TOBACCO LAW

Kosovo Assembly,

Pursuant to the authorities given to the Provisional Institutions of Self-Government in Kosovo by the United Nations Interim Mission in Kosovo (UNMIK) with the Regulation No. 2001/9 dated 15th May 2001 "On Constitutional Framework for Provisional Self-Government in Kosovo;

Pursuant to the Kosovo Health Law;

In order to set legal basis for arrangement, advancement and improvement of health status of Kosovo citizens, through improvement of the financing system of the health care.

Hereby adopts the following:

TOBACCO LAW

I. General Provisions

Article 1

1.1. The purpose of this Law is to support efforts of the society to ease and respond to the big problem of public health, particularly:

- i) to protect the health of the population, especially after the scientific proof of tobacco implications in the increase of the incidences of many life threatening diseases;
- ii) to protect children, youth and others from the factors that enable the consumption of tobacco products and addiction.
- iii) increase the level of public knowledge and awareness regarding the dangerous nature of tobacco consumption, by ensuring effective and informative communication;
- iv) to protect the population, at a possible extent, from the risk of unwilled exposure to the smoke;
- v) to regulate and control tobacco products and its distribution in compliance with the public health objectives.

1.2. This Law shall define measures for limitation and prohibition of tobacco smoking in the public areas, harmful composition of cigarettes, obligatory display of the inscription regarding the dangerous nature from smoking and monitoring of the implementation of this Law.

II. Definitions

Article 2

Terms used in this Law have the following meanings:

Tobacco means the plant from Nicotiniana family of different types, modified or unmodified genetically, with all its components;

Tobacco products means products made only from tobacco (modified or unmodified genetically) or partially from tobacco used for smoking, inhaling or chewing;

Tobacco for oral use means all products made only from tobacco (modified or unmodified genetically) or partially from tobacco for oral use and not for smoking;

Tar means dry remaining from tobacco smoke without nicotine;

Nicotine is a poisonous alkaloid affecting the autonomous nervous system, which is present in tobacco;

The component means any type of substance or element, except any part of the unprocessed natural tobacco plant used for the manufacture of tobacco products and which is present during the final manufacture, even if it is in the changed form, including the paper, filter, colors and glue.

Tobacco smoking within this Law means the consumption of tobacco products, regardless that the smoke of the cigarette exhaled from its burning is consumed actively or passively, having as a consequence the verified damage to the health of the active and passive smoker that is exposed to tobacco smoke;

Negative effects from tobacco smoking are scientific proofs of the harmfulness to health, the diseases that make life of smokers and nonsmokers shorter if they stay in the same closed smoking area;

Preventive measures against smoking are actions dealing with the protection and improvement of the health and increase of the quality of life of the citizens;

Public area means the closed area dedicated for staying of two or more persons and includes the area in which are carried out activities from the field of health, social field, education, sports and recreation, hotels, motels and other similar services, culture and art, waiting areas, meetings areas, public or private working places, all gathering areas, public transport means. Terraces and balconies are not counted as public areas;

ISO- International Organization for Standardization. ISO is a network of national institutions for standardization from 148 countries with the residence in Geneva, Switzerland.

III. Necessary Conditions

Article 3

3.1. It shall be prohibited the manufacture and distribution of cigarettes containing:

1. More than 10 mg tar for one cigarette;
2. More than 1 mg nicotine for one cigarette;
3. More than 10 mg carbon monoxide for one cigarette,

3.2. The manufacture and distribution of cigarettes as specified from the point 1 of the Article 3 shall be mandatory from 1st January 2005.

Article 4

4.1. The Kosovo Government or the Institution authorized by it, based on the scientific data, reserves the right to prohibit use of different components during tobacco manufacture, especially components causing addiction.

4.2. All tobacco products manufactured or imported and presented in the Kosovo market shall be tested.

4.3. Testing for the tar, nicotine and carbon monoxide for one cigarette shall be carried out in the laboratory licensed by the Ministry of Health. The testing results shall be reported to the Ministry of Health according to the time defined by the Ministry.

4.4. The Kosovo Government reserves the right to request from the manufacturers or importers of tobacco to carry out additional tests in order to see the presence and concentration of other substances that are not included in point 4.3 of Article 4.

4.5. Testing for substances included in point 3 of Article 4 shall be carried out according to the standards defined by the Ministry of Health through implementation of ISO standards. The following standards shall be used: ISO standard 4387 for tar, 10315 for nicotine and 8454 for carbon monoxide. The accuracy of the tar and nicotine presence in the package shall be verified through ISO standard 8243.

4.6. Testing and testing results shall be performed and reported in a period defined by the Ministry of Health.

4.7. Each change of the chemical composition of tobacco products by any manufacturer or importer shall be submitted to the Ministry of Health by the manufacturer or importer of tobacco products.

4.8. If the licensed laboratory proves that the composition of samples taken from a batch of tobacco products does not comply with the values foreseen by the Law, then the entire batch of tobacco products shall be removed from the market.

4.9. The Institution authorized by the Kosovo Government shall monitor the compliance with this Law of the signs and composition of tobacco products manufactured or imported and sold in the Kosovo market.

Article 5

5.1. Tobacco products being sold in the Kosovo market shall contain signs in compliance with the procedures foreseen by legal acts,

5.2. Any type of individual package of tobacco products manufactured or imported and distributed to the Kosovo market shall contain the following information:

- a. The amount of nicotine;
- b. The amount of tar;
- c. The amount of carbon monoxide;
- d. The serial number or its equivalent;
- e. The name and address of the manufacturer or importer;
- f. The number of units in individual packages of tobacco products;
- g. The name and address of the packager, in cases when the manufacturer did not carry out the packaging

5.3. Any type of package and any type of information presented for tobacco products shall not give the wrong impression regarding the characteristics of tobacco and its effects in the humans' health, including also information that one type of tobacco products is less harmful than other types. Therefore, it is prohibited to use terms "light", "ultra-light", "mild", "low tar" and similar terms and information in any type of tobacco package.

Article 6

6.1. Any type of package and marketing material of tobacco products shall contain information on negative effects in humans' health from tobacco consumption.

6.2. Each package of tobacco product shall contain the following warnings:

- a) General warning:
 - I. "Smoking kills" or
 - II. "Smoking seriously harms you and others around you";
- b) Additional warnings such as:
 - I. "Tobacco seriously damages your health"
 - II. "Smoking causes cancer"
 - III. "Smoking by pregnant women damages the growth of the baby"
 - IV. "Smoking causes heart and brain damage"
 - V. "Smoking shortens your life"
 - VI. "Protect children: don't make them breathe your smoke".

6.3. General and additional warnings shall be presented in such a way that during rotation of the package, the warnings shall be presented regularly.

6.4. The general warning shall be printed in a noticeable area of the package unit and in all types of packages, except in the transparent wrappers.

6.5. The additional warning shall be printed in another most noticeable area of the package unit and in all types of packages, except in the totally transparent wrappers.

6.6. The general warning shall cover at least 30 % of the external area of the individual package. Whereas, when the additional warning is added, the percentage of the external areas shall be at least 50 %.

6.7. The text of warnings and the amount of nicotine, tar and carbon monoxide shall be:

- i. printed in black bold Helvetian font with white background. The size of the font shall be such so the text will cover the biggest part of the area foreseen for warnings;
- ii. in small letters except the first letter and respecting the rules of spelling;
- iii. placed in a central manner, parallel to the upper edge of the package;
- iv. the text shall be surrounded with a line up to 3 to 4 mm in width that does not interfere with the text of warnings or other information;
- v. the text shall be in official languages.

6.8. The printing of the text of warnings shall not be allowed in the tax banner of the package.

6.9. The printed text shall be indelible and that cannot be removed without damaging the text, and shall not in any way be hidden with other printings in the package unit or removed or damaged during the opening of the package.

6.10. The package shall be marked with a serial number or another appropriate method that enables easier determination of the place and date of manufacture.

6.11. The Ministry of Health reserves the right to change or add general and additional warnings.

Article 7

7.1. Manufacturers and importers of tobacco products shall present to the authorized institution the list of all ingredients and their amounts used during the manufacture of tobacco products, at least once within the calendar year.

7.2. The reason for inclusion of these ingredients in tobacco products shall be attached to the list. The function and the category of ingredients shall be emphasized.

7.3. The list shall be also accompanied with toxicological data from the manufacturer or importer regarding ingredients of tobacco products, referring in particular to their effects in the health and their addictiveness.

7.4. Tobacco ingredients in the list shall be ordered according to their weight.

7.5. Any information related to the specific formula of the production representing market secret shall be protected.

7.6. The authorized institution shall make public the information taken from manufacturers and importers of tobacco products by attaching also the list of ingredients for each product including the amount of tar, nicotine and carbon monoxide.

IV. Measures for reducing and limitation of tobacco use

Article 8

8.1. Advertisement and promotion of any form of tobacco products by physical or legal persons shall be prohibited.

8.2. No person can advertise tobacco products in any form on behalf of any other physical or legal person.

8.3. Vendor that was not banned to sell tobacco products shall place these products in the business area of the vendor by observing the laws in force, shall put only information that in that business area shall be sold tobacco products only if this information is accompanied with health information in accordance with this law and other laws. It shall not contain information that promotes or gives other data regarding these tobacco products. The placement of tobacco products in the selling point shall be kept hidden from the general public out of the selling point.

8.4. Sponsoring of any type by enterprises, the main activity of which is to produce or sell tobacco products, shall be prohibited.

8.5. Selling and provision of tobacco products by persons younger than 18 years of age shall be prohibited.

8.6. Selling of tobacco products outside the permitted objects shall be prohibited.

V. Selling of tobacco products

Article 9

9.1. Selling or provision of tobacco products shall be prohibited in:

- a. All types of health institutions and organizations;
- b. schools, colleges and universities and other educational institutions;
- c. all types of sports, recreational and cultural facilities;
- d. places where the restriction is required by the regulations and other laws.

9.2. Selling or provision of tobacco shall be prohibited to be carried out through:

- a. automatic selling machines;
- b. self-service places and methods;
- c. any type of postal and communication services;
- d. other means defined by the regulations or other laws.

9.3. Any distributor or vendor of tobacco products shall have the license to distribute and sell tobacco products.

9.4. The license from point 9.3 of Article 9 shall be issued by the competent body of the Kosovo Government.

9.5. Selling and provision of tobacco products for chewing and inhaling shall be prohibited.

9.6. Selling of tobacco products by persons younger than 18 years of age shall be prohibited.

9.7. In all places where tobacco products are sold, signs for Prohibition to sell tobacco products by persons younger than 18 years of age shall be displayed. The signs from point 9.5 of Article 9 shall be placed in the area where it can be noticed or read from the distance of at least 5m.

9.8. Selling of tobacco products out of the original package of the manufacturer or importer shall be prohibited.

VI. Prohibition of tobacco smoking

Article 10

10.1. Smoking of tobacco shall be prohibited in all public or private institutions where health services are provided.

10.2. Smoking of tobacco shall be prohibited in all public or private educational institutions and in children and youth supervision institutions.

10.3. Smoking of tobacco shall be prohibited in the public area, except in areas set aside for smoking.

10.4. Smoking areas can be made available in public places, except in places determined in point 10.1 and 10.2 of Article 10, but it shall be ensured that these places are not the usual places used by nonsmokers or that are not necessary to be visited during the working hours.

10.5. The smoking area shall not be larger than 30 % of the overall space of the respective area.

10.6. The smoking area shall be established by the responsible physical or legal person of the respective area.

10.7. The smoking area shall be equipped with air-conditioners, ashtrays and fire extinguishers.

10.8. The responsible person of the public area can prohibit smoking of tobacco in the entire area, by displaying an inscription in the entrance of the respective facility and in noticeable places inside the facility.

10.9. The responsible person of the public area should display signs for smoking or smoking prohibition in the area where it can be noticed and read from the distance of 5m.

10.10. In public areas and private or public working places where smoking is prohibited, ashtrays shall not be placed.

10.11. The Government reserves the right to request other additional conditions for areas where smoking is not prohibited.

VII. Preventive measures against tobacco smoking

Article 11

11.1. All institutions dealing with education of children and youth shall be obliged to undertake activities that promote awareness of the young population regarding damages on health caused by smoking.

11.2. In realization of care to protect the health of citizens from negative effects caused by smoking, the Kosovo Government shall establish a professional committee for tobacco control.

11.3. The Committee shall consist of 11 to 15 members including: representatives from the Ministry of Education, the Ministry of Economy and Finance, the Ministry of Environment and Spatial Planning, the Ministry of Health, the Ministry of Youth and Sports, doctors, representatives from media and civil society.

VIII. Monitoring

Article 12

12.1. The monitoring of implementation of this Law shall be carried out by the Central and Municipal Inspectors, in their fields: Sanitary Inspectors, Health Inspectors, Labor Inspectors, Trade Inspectors and Education Inspectors. The duties, rights and responsibilities of inspectors shall be defined by specific laws for inspection of respective fields.

12.2. Sanitary Inspectors shall monitor implementation of Articles: 3,4,5,6,7,8,9,10 and 11 of this Law.

12.3. Health Inspectors shall monitor implementation of Article 9 of this Law.

12.4. Trade Inspectors shall monitor implementation of Article 9 of this Law.

12.5. Labor Inspectors shall monitor implementation of Article 9 and 10 of this Law.

12.6. Education Inspectors shall monitor implementation of Article 10 and 11 of this Law.

12.7. In order to monitor point 6 of Article 9, the authorized body of the Kosovo Government may assign persons younger than 18 years of age for inspection.

12.8. Each person assigned for inspection younger than 18 years of age shall be obliged to act under supervision of an inspector older than 18 years of age.

IX. Punitive Provisions

Article 13

13.1. In cases where the responsible inspector establishes that tobacco is being sold against provisions of this Law, the Inspector shall prohibit by the decision physical or legal person from selling tobacco.

13.2. An amount between 5.000–10.000 Euro shall be fined to the legal person who:

- i. produces or imports tobacco against Article 3, 4, 5, 6 and 7 of this Law;
- ii. advertises or promotes tobacco products against Article 8 of this Law;
- iii. sponsors against Article 8 of this Law;
- iv. sells or offers tobacco products against Article 9 of this Law;
- v. allows smoking in public areas against Article 10 of this Law.

13.3. Physical persons smoking in working places against Article 10 shall be fined with a reduction of 5 % of their net monthly salary.

13.4. An amount between 3.000–5.000 Euro shall be fined to the legal persons if:

- i) the inscription for prohibition of selling tobacco by persons younger than 18 years of age is not displayed in a noticeable place;
- ii) the inscription as foreseen in Article 10 of this Law is not displayed in a noticeable place;
- iii) the sign for smoking prohibition is not displayed in the health, educational and supervision institutions in compliance with Article 10 of this Law.

13.5. The authorized Inspector shall fine the citizen at the scene in amount of 20 Euros if:

- i. the citizen smokes in the health, educational and supervision institutions against Article 10 of this Law;
- ii. the citizen is caught smoking in a public place, in an area that is prohibited for smoking, against Article 10 of this Law.

X. Transitional and Final Provisions

Article 14

14.1. Manufacturers and importers of tobacco products shall be obliged to display signs in the package of tobacco products defined by this Law in a period of 6 months after this Law comes into force.

14.2. Institutions and organizations of all types shall be obliged to display signs for smoking prohibition and determine smoking areas, if it is determined to have such areas, in a period of 4 months after this Law comes into force.

Article 15

The present law shall enter into force 30 days after adoption by the Assembly of Kosova and its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-36
3 October 2005

President of the Assembly

Academic Nexhat Daci