

DOF: 16/12/2022

DECREE amending, adding, and repealing various provisions of the Regulation of the General Law for Tobacco Control.

In the margin is a stamp bearing the National Coat of Arms, which reads: the United Mexican States. - Presidency of the Republic.

ANDRÉS MANUEL LÓPEZ OBRADOR, President of the United Mexican States, in the exercise of the authority conferred on me by article 89, section I of the Political Constitution of the United Mexican States, and based on articles 39 of the Organic Law of the Federal Public Administration; 3rd, sections XII, XX and XXII; 17 bis, section VI, and 194 of the General Health Law, and 1, 2, 3, 4, 5, 6, 12, 23, 26, 27, 28, 29, 35, 44, 45, 46, 48 and others related to the General Law for the Control of Tobacco, I have considered it appropriate to issue the following

DECREE AMENDING, ADDING, AND REPEALING VARIOUS PROVISIONS OF THE REGULATION OF THE GENERAL LAW FOR TOBACCO CONTROL

SINGLE ARTICLE. Articles 1; 2, sections II, IV, VII, XIII, XIV, XV and XVII; 4; 5, section VI; 31; 33, first paragraph and section II; 40; 50, first paragraph; 51, first paragraph and sections I, II and IV; 52, sections I and II; 53, first paragraph; 54, second paragraph; 55; 56, first paragraph; 57; 58; 59; 60; 65; 66, sections I and VI; 67; 69; 70; 72, sections I and II; 73, section II; 76, first paragraph and sections II and III, and second paragraph thereof; 77; and 79, section I; as well as the denomination of Title Three are **AMENDED**; Articles 2, sections IV Bis, VI Ter, XVIII and XIX; 33, first paragraph, section II Bis; 50 Bis; 51, section I Bis; 65 Bis and 65 Ter are **ADDED**; and Articles 2, Sections V and XII; 33, first paragraph, Section III, and second paragraph; 41; 42; 43; 44; 44; 45; 46; 47; 48; 61; 62; 63; and 76, Section IV, of the Regulations of the General Law for Tobacco Control are **REPEALED** to read as follows:

Article 1.- The purpose of these Regulations is to establish the control, promotion, and sanitary surveillance of tobacco products and tobacco product's elaboration, manufacture, importation, and prohibitions in all forms of advertising, promotion, and sponsorship of the same; it also has as its object the regulation for the protection against exposure to tobacco smoke and its emissions. These Regulations are of mandatory application throughout the national territory and their provisions are of public order and social interest.

Article 2. ...

I. ...

II. PHYSICAL AREA WITH PUBLIC ACCESS means any space covered by a roof or having at least two walls, regardless of the material used for its construction and whether the structure is permanent or temporary;

III. ...

IV. OPEN AIR SPACE means that space that has no roof; nor it is limited by any wall or fence, regardless of the material used for its construction and whether the structure is permanent or temporary.

IV Bis. ENCLOSED SPACE means any public or private space that is totally or partially roofed between one or more walls, regardless of the material used for its construction and whether the structure is permanent or temporary, accessible to the general public or of common use;

V. Repealed.

VI. ...

VI Bis. DIRECT DISPLAY means the placement of tobacco products on shelves, counters, displays, among others, inside establishments and points of sale, which allow the consumer to directly observe such products and, if applicable, to take them directly, in order to promote and encourage the purchase for consumption, which is considered a commercial activity of advertising and promotion, in terms of article 6, section XXII, of the Law;

VI Ter. INDIRECT DISPLAY means the placement or storage of tobacco products in closed containers or boxes located above or below the counter, in closed cabinets or drawers that allow the consumer to indirectly observe such products, in order to promote and encourage the purchase for consumption, which is considered a commercial activity of advertising and promotion, in terms of Article 6, Section XXII of the Law;

VII. SMOKING means the act of inhaling and exhaling smoke from a tobacco product and includes the fact of being in possession or control of a burning or heating tobacco product, including nicotine products that generate emissions;

VIII to XI. ...

XII. Repealed.

XIII. HEALTH MESSAGES refers to any text or graphic representation that prevents or warns about the presence of a specific component, emission, ingredient or about the damage to health that may be caused by the use or consumption of the tobacco product, as well as exposure to tobacco smoke and emissions, which may include warning legends, graphics, photographs, figures, statements related to diseases, symptoms, syndromes, anatomical data, physiological phenomena or statistical data;

XIV. SUBLIMINAL MESSAGES are those incorporated into any communication that influences the receiver, without there being a conscious perception of such messages;

XV. PERSONNEL EXPOSED AT WORK refers to those working persons who in the exercise and by reason of their occupation are exposed to tobacco smoke and emissions;

XVI. ...

XVII. ADVERTISING refers to the message directed to the general public, with the direct or indirect purpose of informing about the existence or characteristics of a tobacco product, about its manufacturer or its activities, through any means of communication or diffusion;

XVIII. POINT OF SALE refers to any place that allows managing marketing and sales actions of tobacco products for consumption;

XIX. CORPORATE SOCIAL RESPONSIBILITY refers to the public corporate action or activity of the tobacco industry through financial, social, or other contributions, intended directly or indirectly to promote, advertise, enhance or market the corporate brand, product, and its consumption, public relations or related public image, which is considered as a form of advertising and promotion of tobacco products. These contributions may include any support or donations in agricultural, educational, political, social, financial, community, environmental, health, welfare, emergency and disaster reconstruction, community development or any other related activity.

Article 4.- The agencies and entities of the Federal Public Administration, as well as the owners, administrators or persons responsible for a 100 percent smoke-free and emission-free space, shall cooperate in the enforcement of the Law, these Regulations and other health provisions, and when they detect irregularities that in their opinion are violations to such provisions, they shall inform the competent health authorities, so that they, within the scope of their competence, may apply the corresponding sanctions.

Article 5.- ...

I. to V. ...

VI. Establish the characteristics that 100 percent smoke-free and emission-free spaces should have, as well as smoking-only areas located in outdoor spaces, and

VII. ...

Article 31.- The health messages and pictograms shall be printed directly on the packages of tobacco products and on all external packaging and labeling of those products, in such a way that they always remain available and visible, including during their use or consumption under normal conditions.

The visibility of health messages, pictograms, and external labeling of tobacco products shall not be affected, obscured, altered, damaged, obstructed, or diminished during the normal opening of the tobacco product package for use or consumption under normal conditions. During the handing over of tobacco products to the final consumer, it is forbidden to cover, distort or obstruct in any way the visibility of the health messages and pictograms on the packaging and external labeling of such products, using stickers, envelopes, boxes, pouches or any other device or means.

The obligation to include health messages and pictograms on the external packaging and labeling applies to any tobacco product whose consumption is with or without combustion.

Article 33.- The points of sale of cigars shall comply with the following requirements:

I. ...

II. The external packaging and labeling used in its commercialization until handing over to the final consumer shall have the corresponding sanitary messages and pictograms, and shall be equally visible and available, and

II Bis. The direct or indirect display of tobacco products manufactured in accordance with article 2, sections VI Bis and VI Ter, of these Regulations is prohibited.

The points of sale referred to in this article must comply with the provisions of article 50Bis of this Regulation and other applicable legal provisions.

III. Repealed.

Repealed.

Article 40.- It is prohibited to carry out any form of advertising, promotion and sponsorship of tobacco products, either directly or indirectly, through any means of communication and dissemination, in terms of article 23 of the Law, therefore, the following actions, among others, are included:

- I.** Promote tobacco products, brands or manufacturers of these, to sell it or encourage its consumption, through printed media, such as magazines, newspapers, brochures, leaflets, flyers, bulletins, letters, billboards, posters, signs;
- II.** Make personal communications to promote tobacco products, brands, or manufacturers thereof, either by correspondence through the postal service or by electronic mail;
- III.** Promote tobacco products, brands or manufacturers, to sell or encourage tobacco products consumption, through sound, visual and audiovisual communication, including radio, cinema, television, theater, live shows, cinematographic films, DVDs, CDs, both terrestrial and satellite;
- IV.** Promote tobacco products, brands or manufacturers thereof, in order to sell or encourage their consumption through social networks;
- V.** Carrying out marketing activities on technological platforms or applications of digital services when these activities are rendered in digital format through the Internet or any other network, mainly automated, and may or may not require minimal human intervention, provided that a fee is charged for the aforementioned services, in which marketing with different users through text messaging is also permitted, as it is considered a form of promotion and advertising of tobacco products, encouraging the consumption and sale of such products;
- VI.** Promote tobacco products, brands or manufacturers of tobacco products, to sell or encourage their consumption through streaming services;
- VII.** Internet advertising or announcements that direct promotional messages to recipients through electronic mail, marketing in search engines, visualization of advertising formats in electronic pages formally known as web banner, as well as mobile advertising;
- VIII.** The insertion of paid advertisements to publicize the characteristics of a given tobacco product or trademark in any means of communication or diffusion;
- IX.** The direct or indirect exhibition of tobacco products in terms of sections VI Bis and VI Ter of Article 2 of these Regulations;
- X.** The promotion or advertising of tobacco, brands, or manufacturers thereof in individual or collective vehicles;
- XI.** The use of logos, trademarks, or brand elements of tobacco products, in products other than tobacco, including the distinctive appearance, graphic arrangement, design, slogan, symbol, tagline, sales message, color, or combination of recognizable colors or other product identification elements used for or representing any tobacco product brand;
- XII.** The direct or indirect display of tobacco products in terms of sections VI Bis and VI Ter of Article 2 of these Regulations in spaces of collective attendance, public and private educational institutions, as well as the mere placement of tobacco products or elements of the brand that identify them in those spaces to directly or indirectly promote their sale, consumption, and supply;
- XIII.** The placement and use of the elements of the brand that identifies tobacco products on the bodywork or monocoque of the vehicles used in sports competitions carried out in national territory, as well as on uniforms, caps, helmets, and equipment of the persons that make up the sports organization or team during their stay in the country;
- XIV.** The placement of trademarks, logos, or brand elements of tobacco products in games, video games, computer games, online games, as well as in discs and data storage devices;

XV. Actions or activities of corporate social responsibility made public through any means of communication, as well as the participation, association, or acceptance of these activities by public institutions or public servants;

XVI. The direct indoor and outdoor placement in commercial or recreational premises, clubs, and bars of the brand elements of tobacco products, and in the use or supply of such elements on tables, chairs, awnings, canvases, or umbrellas in the aforementioned places;

XVII. The promotion of tobacco products, brands or manufacturers thereof, through lotteries, raffles, contests or collectibles, loyalty or reward programs, discounts, and other events where chance is involved;

XVIII. Establish in the external design of cigarettes, cigars, and other tobacco products some graphic element that may give a visual attraction to their appearance;

XIX. The elaboration, sale, and delivery of food, candies, toys, and other objects that resemble a tobacco product and that may be attractive to promote its sale or encourage its consumption among minors;

XX. The use of cartoon-type drawings in advertising or packaging of tobacco products, and

XXI. Others established by the Secretariat, according to the Law, these Regulations, and other applicable provisions.

Article 41.- Repealed.

Article 42.- Repealed.

Article 43.- Repealed.

Article 44.- Repealed.

Article 45.- Repealed.

Article 46.- Repealed.

Article 47.- Repealed.

Article 48.- Repealed.

Article 50.- The points of sale of tobacco products shall include the following information inside and in a visible manner:

I. to V. ...

Article 50 Bis. In the points of sale and other places where tobacco products are marketed, sold, distributed, supplied, or dispensed, the direct or indirect display of those products is prohibited in terms of Article 2, Sections VI Bis and VI Ter, of these Regulations, which is in accordance with Article 23 of the Law.

The marketing of tobacco products must be done through a textual and written list of these products with their prices, without logos, seals, or brands. That marketing list must comply with

the requirements and characteristics established by the Secretariat in general provisions issued for such purpose and must be published in the Official Gazette of the Federation.

TITLE THREE

Protection against Exposure to Tobacco Smoke and Emissions

Article 51. Regarding protection against exposure to tobacco smoke and emissions, these Regulations have the following purposes:

I. To protect the general population against exposure to tobacco smoke and emissions in any physical area with access to the public, in closed spaces, in all workplaces, in public transportation, in spaces of collective attendance, or in public and private schools of all educational levels;

I Bis. Establish the guidelines to be observed by the owners, managers, or persons in charge of 100% smoke and emission-free spaces, as well as establish areas exclusively for smoking, which shall always be located in open-air spaces;

II. Protect personnel exposed to tobacco smoke and emissions in workplaces;

III. ...

IV. Promote the development of actions aiming to reduce tobacco consumption and exposure to tobacco smoke and emissions in the population, as well as the morbidity and mortality caused by such consumption and exposure, and

V. ...

Article 52. ...

I. The education and information of the population on the serious health consequences of smoking, consuming or having any tobacco or nicotine product lit, the exposure to tobacco smoke and emissions, the orientation and counseling to avoid initiating tobacco consumption, and the information to abstain from smoking, consuming or having this type of products lit in public places;

II. The dissemination of information to the population on the benefits of quitting smoking, consuming or having any tobacco or nicotine product lit, and the promotion of its withdrawal, and

III. ...

Article 53.- In order to ensure the right to the protection of people's health, in accordance with the Law and other applicable legal provisions, when a person is smoking, consuming, or has lit any tobacco or nicotine product in that place, it shall be the obligation of the person who owns, manages, or is responsible for a space 100 percent tobacco-smoke and emissions-free to request, in the first instance, that the person immediately stops smoking and extinguishes their cigarette or any other tobacco or nicotine product that the person has lit; if he/she does not comply with the indication, require him/her to leave the 100 percent smoke and emission-free space and move to the smoking-only area located in an open-air space; if he/she resists, deny him/her the service and, if necessary, seek the assistance of the corresponding authority.

...

Article 54.- ...

The public servant who holds a position of hierarchical superior shall require any person who is smoking, consuming, or has any tobacco or nicotine product lit, to refrain from doing so in the office or facility assigned to his/her service and to immediately extinguish his/her cigarette or any tobacco or nicotine product that he/she has lit. If that person continues to smoke or has lit these products, the public servant must ask him/her to move to an open-air space and if he/she refuses, the public servant must ask him/her to leave the premises if that person is a private individual; if he/she refuses to leave the premises, the public servant must request the assistance of the corresponding authority.

...
...

Article 55.- At all entrances to 100 percent smoke-free and emission-free spaces, it shall be mandatory for the owners, holders, managers, or responsible persons to visibly place at the entrance to such entrances a sign indicating the following: "It is forbidden to smoke, consume or have lit any tobacco or nicotine product".

At the entrances and inside the 100 percent smoke-free and emission-free spaces, there must be signage and signs indicating to workers, users, and visitors that it is a 100 percent smoke-free and emission-free space, as well as signs containing warning legends about non-compliance and the telephone number where complaints and denunciations can be filed.

Article 56.- The owners, holders, or persons responsible for transportation vehicles shall post, in the interior and access to such vehicles, signs, logos, or visible emblems indicating the prohibition of smoking, consuming, or having any tobacco or nicotine product lit, as well as the telephone number to file complaints or denunciations for non-compliance with the provisions on tobacco control. In case any passenger refuses to comply with the prohibition, the passenger shall be urged to immediately extinguish his/her cigarette or any tobacco or nicotine product he/she is consuming; in case of resistance, the passenger shall be invited to leave the vehicle, and if the refusal persists, the corresponding authority shall be notified.

...
...

Article 57.- Students and teachers, administrative personnel, parents and members of parents' associations of schools and educational institutions at all levels, whether public or private, may participate individually or collectively in the monitoring of the applicable legal provisions, to comply with the prohibition of consuming or having lit any tobacco or nicotine product that generates emissions inside such schools or institutions, regardless of whether they are physical areas with access to the public, closed or open-air spaces, with the possibility of giving notice to the corresponding authority of the person or persons who fail to comply with these Regulations.

Article 58.- Students and teachers, administrative personnel, parents and members of parents' associations of schools and educational institutions at all levels, whether public or private, may participate individually or collectively in the monitoring of the applicable legal provisions, to comply with the prohibition to sell tobacco products to minors, as well as loose or unit

cigarettes, or any tobacco product, and to report to the corresponding authority the existence of fixed or semi-fixed establishments or street vendors that do not comply with these Regulations.

Article 59.- The owners, managers, and organizers of events in a space 100 percent free of tobacco smoke and emissions, with the support of the employees and workers who work in the event, shall be responsible for implementing, complying with, and enforcing the Law and these Regulations in the spaces they use to carry out the event, as well as for requesting anyone who fails to comply with the applicable legal provisions to leave the site, with the warning that in case of failure to do so, the corresponding administrative authority shall be notified.

Article 60.- Smoking-only areas shall be located only in open-air spaces, in which it is prohibited to provide any service or consumption of food, beverages, or entertainment, among others, as well as to carry out social or recreational activities. These areas shall have the following characteristics:

- I.** They must be physically separated and incommunicable from spaces 100 percent free of tobacco smoke and emissions; they must not be an obligatory passageway for people or be located at the entrances or exits of the premises;
- II.** Be located in a perimeter fence of at least ten meters from entrances, accesses, exits, or any place where people necessarily walk through or gather, as well as from places where air intake ducts are located;
- III.** Outdoor spaces shall not exceed 10 percent of the total area of the building or establishment. If applicable, the measurement of the total space shall take into account exclusively the surface destined for the rendering of the service, not including in any case areas intended for the kitchen, beverage preparation, sound equipment, and its operators, restrooms, or parking lots;
- IV.** Have signage prohibiting entry to minors, which must be visible and adequate. Likewise, use signage that includes graphic health warnings about the effects and damages to health to which people are exposed by solely entering areas exclusively for smoking, and
- V.** Access and presence of minors are prohibited. Likewise, pregnant women should be especially warned of the risks they and their children run when entering smoking-only areas, as well as elderly people and those suffering from cardiovascular and respiratory diseases, cancer, and asthma, among others.

Article 61.- Repealed.

Article 62.- Repealed.

Article 63.- Repealed.

Article 65.- In places intended for the lodging of persons, it is strictly forbidden to smoke, consume, or have any tobacco or nicotine product lit in their rooms and areas with access to the general public or for common use.

Places intended for the lodging of persons may have areas exclusively for smoking in open-air spaces. Such areas shall be subject to the provisions of Article 60 of these Regulations and other applicable legal provisions.

Article 65 Bis.- It is forbidden for any person to consume or have any tobacco or nicotine product lit in collective gathering spaces.

The following are considered spaces of collective gathering, in accordance with the provisions of article 6, section X Bis, of the Law: patios, terraces, balconies, amusement parks, playgrounds or places where children and adolescents stay or gather, urban development parks, sports, beaches, show and entertainment centers, sports courts, stadiums, arenas, malls, markets, hotels, hospitals, health centers, medical clinics, sites or places of religious worship, places of consumption or service of food or beverages, transportation stops, and other spaces established by the Secretariat in accordance with the Law, these Regulations and other applicable legal provisions.

Article 65 Ter.- For the purposes of these Regulations, the public areas of prisons and detention centers shall be considered closed spaces.

Article 66.- ...

I. Promotion of spaces 100 percent free of tobacco smoke and emissions, and denunciation of establishments where smoking, consuming, or having a tobacco or nicotine product lit;

II. to V. ...

VI. The promotion of compliance with the provisions related to the prohibition of smoking, consuming, or having any tobacco or nicotine product lit in spaces 100 percent free of tobacco smoke and emissions; the sale of tobacco products to minors or loose cigarettes per unit; the packaging and labeling of tobacco products; the prohibition of all forms of advertising, promotion and sponsorship of tobacco products; smuggling and illicit trade of tobacco products, and other irregularities that are identified and reported to the corresponding authority, and

VII. ...

Article 67.- The Secretariat shall promote the active participation of the population and civil society in the application of the Law and these Regulations and, if possible, shall collaborate with it in the development of continuous information campaigns to raise awareness among the population and opinion leaders regarding the risks of tobacco consumption, exposure to tobacco smoke and emissions, as well as the benefits of not initiating its consumption and to cease the use of tobacco products as soon as possible.

Article 69.- The Secretariat shall put into operation a toll-free telephone number, through which denunciations and complaints may be formulated regarding non-compliance with the Law, these Regulations, and other applicable legal provisions. Likewise, guidance shall be provided to persons who request it on the risks involved in the consumption of tobacco or nicotine products and the convenience of quitting smoking.

Article 70.- The Secretariat shall guarantee the confidentiality of the personal data of the complainant, in accordance with the terms of the General Law on Transparency and Access to Public Information and the Federal Law on Transparency and Access to Public Information.

Article 72. ...

- I. The owners, holders, persons in charge, and employees of the premises, establishments, offices, industries, and companies, as well as of public transportation vehicles;
- II. The users of the establishments, offices, industries, and companies and of the public transportation vehicles, who may at all times demand compliance with the provisions of the Law, these Regulations, and other applicable legal provisions;
- III. to IV. ...

Article 73. ...

- I. ...
- II. Verification reports from the health authority, when it is a matter of violations of the provisions of the Law, these Regulations, and other applicable legal provisions, in relation to the prohibition of all forms of advertising, promotion, and sponsorship of tobacco products.

Article 76.- When the sanitary authority detects noncompliance with the provisions of Article 23 of the Law, the provisions set forth in these Regulations, and other applicable legal provisions, it shall prepare a detailed report containing:

- I. ...
- II. Denomination or corporate name or name of the advertiser and of the person in charge of the site where the noncompliance was detected;
- III. If applicable, the name of the publication, promotion, or sponsorship; description of the text or message, and the name of the means of communication or dissemination in which the advertising, promotion, or sponsorship that does not comply with the provisions of Article 23 of the Law, these Regulations and other applicable legal provisions was detected, and
- IV. Repealed.
- V. ...

The inspection report shall invariably include a copy of the publication, promotion, or sponsorship that is the object of the report, or if the conditions do not allow obtaining that copy, it shall include a photograph, video, or description of the prohibited advertising, promotion or sponsorship, wherein, besides the text or advertising message or promotion or sponsorship, the name of the media or dissemination and its date can be observed.

Article 77.- Once the inspection procedure or the report referred to in this Chapter has been completed, the corresponding health authority shall evaluate compliance with the provisions applicable to the tobacco products and sites referred to in these Regulations and shall inform the result of the opinion in writing by means of an official letter addressed to the individual.

Article 79. ...

- I. The suspension of advertising, promotion, and sponsorship, as well as of works or services, shall be total and permanent;

II. to V. ...

TRANSITORY PROVISIONS

FIRST. This Decree shall enter into force thirty calendar days after its publication in the Official Gazette of the Federation.

SECOND. All administrative provisions contrary to this Decree are hereby repealed.

THIRD. All procedures, administrative appeals, and other matters related to the subjects referred to in these Regulations, initiated prior to the entry into force of this Decree, shall be processed and resolved in accordance with the provisions in effect at that time.

FOURTH. The expenses generated by the entry into force of this Decree will be covered by the budget approved by the Chamber of Deputies in the Federal Expenditure Budget for the corresponding fiscal year, and therefore no additional resources will be authorized for such purpose.

Given at the residence of the Federal Executive Power, in Mexico City, on December 14, 2022.-

Andrés Manuel López Obrador.- Signature.- The Secretary of Health, **Jorge Carlos Alcocer Varela.**- Signature.