

## AMENDMENTS

# Law on Amendments to the Law on restriction of the usage of tobacco products

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### Article 1

In the Law on restriction of usage of tobacco products ("Official Journal Montenegro" No. 52/04) in Article 2, paragraph 1 the words "Republic of Montenegro (hereinafter Montenegro)" shall be replaced by the word "state".

In paragraph 2 the word "Republic" shall be deleted, and the words "the ministry responsible for health affairs," shall be replaced by the words "state authority body responsible for health affairs."

### Article 2

Article 4 shall be replaced by the following:

"Public space is the area intended for communal use, and includes an enclosed space in which:

- 1) is performed teaching and educational activities, health activities, production, control and trade of drugs and medical devices; is provided accommodation, extended stay and diet for children, pupils and students; is accepted, accommodated and taken care of people in state of social welfare as well as elderly people; maintaining cultural, entertaining, sports and other events, performances and competitions, meetings and other gatherings;
- 2) is performed trade services and manufacturing, warehousing and trading in food. Public areas, referred to in paragraph 1 of this Article, shall also include:
- 3) public transport in air road and railway traffic and maritime and inland navigation; airport buildings and closed waiting room in the railway and road traffic, as well as means of a taxi and official transport;
- 4) playgrounds for children;
- 5) hospitality facilities in which services of accommodation, preparing and serving food, drinks and beverages are provided;
- 6) facilities for organizing lottery;
- 7) facilities for accommodation of persons on serving penalty;
- 8) halls, elevators and other common areas of buildings; cabins of aerial tramways lifts and public toilets.

Public space, according to this Law, is an outdoor enclosed courtyard area teaching- educational and health facilities and an outdoor enclosed area in which the public recording and broadcasting of any kind of programs is performed and cultural and entertainment events are maintained. "

### **Article 3**

After Article 6 after item 4 three new items shall be added, worded as follows:

"4a) the ingredient of tobacco product means any substance or its component, except for tobacco leaf and other natural or unprocessed parts of tobacco plant which are used in manufacturing or preparation of tobacco product and are still present in the finished product, even in its modified form, including paper, filter, color and binders;

4b) smoking is the usage of lighted tobacco product;

4c) an enclosed space is an area made of any material which has a roof or ceiling which is immovable or movable, doors, windows and passages that are fully closed permanently or occasionally or space in which less than the half of the surface of the outer walls of that space consists of openings in which are not considered openings for windows and doors. "

### **Article 4**

In Article 7, paragraph 2 shall be deleted.

Former paragraph 3 shall become paragraph 2.

### **Article 5**

In Article 9 the introductory sentence of paragraph 1 shall be replaced by the following:

" Trading of tobacco products is not allowed, except snuff and chewing tobacco, which on the package do not have imprinted combined warning which is consisted of color photography or other illustrations and one of the following warnings, namely:"

Paragraph 2 shall be replaced by the following:

"A warning referred to in paragraph 1 of this Article must cover at least 40% of the best visible surface on one side, or 30% of the other side of individual package of tobacco product."

After paragraph 3, a new paragraph shall be added worded as follows:

"Graphics warnings shall be applied by the Ministry."

### **Article 6**

In Article 12, paragraph 1, item 1 shall be replaced by the following:

"1) in Montenegrin language,"

Paragraph 2 shall be replaced by the following:

"The data referred to in Article 8 paragraph 1 of this Law and warnings from Article 9 paragraph 1 of this Law must be framed with black lines, whose width shall not be less than 3 mm nor more than 4 mm, but it is prohibited to cover the text or visual part of the combined warning. "

In paragraph 3 the word "brand" is replaced by the words "control excise stamp."

After paragraph 4 a new paragraph shall be added worded as follows:

"Each individual package of tobacco product must be signed with a serial number or on any other appropriate way, in terms of determining the location and time of manufacturing."

Former paragraph 5 shall become paragraph 6.

## **Article 7**

In Article 16 after paragraph 3 a new paragraph shall be added worded as follows:

"Data referred to in paragraph 1 of this Article Institute shall submit to the European Commission."

## **Article 8**

In Article 18 after paragraph 2 a new paragraph shall be added worded as follows:

"If the seller in the store referred to in paragraph 1 of this Article, suspects that the is person under 18 years of age, may require of that person to prove its age with appropriate documents, and if refuses, the seller shall not sell a tobacco product to that person."

Former paragraph 3 shall become paragraph 4.

## **Article 9**

In Article 21, paragraph 1 the words "It is prohibited to advertise tobacco products" shall be replaced by words "Manufacturers, importers and sellers of tobacco products are prohibited to advertise tobacco products via Internet,".

After paragraph 3 a new paragraph shall be added worded as follows:

"Manufacturers or importers of tobacco products, in terms of concealed or opened encouragement of usage of tobacco products shall not sponsored radio programs, events or activities, as well as events or activities of an international character."

## **Article 10**

Article 24 shall be replaced by the following:

"Smoking is prohibited in public space or workspace, in accordance with this Law."

## **Article 11**

Article 25 shall be replaced by the following:

"In public space or workspace smoking is permitted only in the room which the owner or beneficiary designated only for smoking and on which the sign is displayed indicating that in that room smoking is permitted.

In public space referred to in Article 4, Paragraph 2, Item 3 of this Law, smoking is permitted in the rooms and suites for guests accommodation, which is designated by employer and displays a sign indicating that in these rooms and suites, smoking is permitted.

Premises referred to in paragraph 1 of this Article may not be indicated in the workspace in which are performed the affairs of state authority, state authority bodies, local governments and other legal persons which exercise public authority; space in is performed health care, teaching-educational activities, social welfare, cultural activities, sports and recreation, manufacturing and trading of drugs, commercial services, manufacturing, transport and storage of food, recording and public broadcasting of programs, as well as the area where meetings and public gatherings are held.

Notwithstanding paragraph 3 of this Article, a health facility in which mentally ill persons are placed and the facility for the accommodation of elderly persons may designate a smoking area.”

## **Article 12**

Article 26 shall be replaced by the following:

"The room referred to in Article 25 paragraph 1 of this Law shall be equipped with devices for ventilation, ashtrays and prescribed fire prevention equipment.

Premises referred to in paragraph 1 of this Article must be isolated in a way that smoke circulation is not possible in the rest of the space, the surface of areas shall not be less than 10 m<sup>2</sup>, nor occupy more than 20% of the public space or workspace and should not be intended as the passage in other areas.

In the room which the employer designated as a room where smoking is permitted cannot be performed the business activities of the employer, or consume food and drink. The provisions of this Article shall not apply to a room for smoking referred to in Article 25, paragraph 4 of this Law. "

## **Article 13**

Article 27 shall be deleted.

## **Article 14**

In Article 28 after the word "public", these words are added: "and work".

## **Article 15**

Article 29 shall be replaced by the following:

"Control of smoking prohibitions in public space and workspace regulated by this Law, as well as taking measures and activities for the space arranging referred to in Article 25 and 26 of this Law shall perform a person who manages the work and performs activities.

The person referred to in paragraph 1 of this Article shall designate in written form one or more employees to control the smoking ban during the whole process.

An employee who violates the smoking ban, in accordance with this Law, commits a breach of work discipline and against him the person referred to paragraph 1 of this Article is obliged to initiate the procedure for determining disciplinary responsibility, in accordance with the Law and employment contract. "

## **Article 16**

Article 31 shall be replaced by the following:

Supervision over the implementation of this Law is performed by the state administration responsible for the area to which the measures of restriction and prohibition of usage of tobacco products are referred to, by inspection, in accordance with the law.

Inspection activities referred to in paragraph 1 of this Article shall perform:

1) sanitary inspector in relation to the content of tar, nicotine and carbon monoxide, a ban on the sale of products referred to in Article 20 of this law, the obligation to display signs on smoking prohibition and the ban on smoking in public space and workspace, except in facilities in which health activities, production, control and trade of medicines and medical devices are provided in public space in Article 4, Paragraph 2, Item 3 of this Law;

2) health inspector in relation to the ban on advertising and sponsorship of tobacco products, smoking prohibition of tobacco products while appearing in the media, prohibition of publishing in press of photographs or illustrations of people who smoke, the obligation to display signs of smoking prohibition and the ban on smoking in facilities in which health activities, production, control and trade of medicines and medical devices are provided;

3) signet inspector in relation to the obligation to display mixed warnings on the packaging of tobacco products on the hazards of smoking, data on content of tar, nicotine and carbon monoxide, as well as in relation to the prohibition in Article 17, 18 and 19 of this Law;

4) tourism inspector in relation to the obligation to display smoking signs on smoking prohibition in public space referred to in Article 4, Paragraph 2, Item 3 of this Law. In the process of inspection, inspectors referred to in paragraph 2 of this Article shall exercise supervision over the designation of the premises where smoking is allowed.

Authorities referred to in paragraph 1 of this Article shall submit the annual reports on the performed inspections and taken measures to the Ministry by the end of January for the previous year, and more often if necessary. "

## **Article 17**

Article 32 shall be replaced by the following:

"A fine of € 500 to € 20,000 shall be imposed on a legal person if:

1) does manufacture or distributes cigarettes that contain more than 10 mg tar, 1 mg of nicotine and 10 mg carbon monoxide per cigarette (Article 7 paragraph 1);

2) does distribute cigarettes that are not labeled with information regarding the amount of tar, nicotine and carbon monoxide contents (Article 8, paragraph 1);

3) does perform distribution contrary to Article 9 of this Law;

4) does sell snuff and chewing tobacco, which on the most visible surface of the package do not have a warning: "This product may be harmful to your health and cause addiction" (Article 10, paragraph 1);

5) does manufacture or distributes tobacco products in packages contrary to Article 11 of this Law;

6) does manufactures or distributes tobacco products in packages that do not contain the information prescribed in Article 12 of this Law;

7) does manufacture or distributes tobacco products with printed signs that smoking of a particular type or class is less harmful than any other, that filters or other ingredients of tobacco products make these products less harmful than products that do not have the ingredients, and other labels of similar content ( Article 13);

8) does sell tobacco products to persons under 18 years of age (Article 17, paragraph 1);

9) does sell tobacco products in educational institutions, health institutions at a distance less than 150 m of these institutions (Article 19, paragraph 1, item 1);

10) does sell tobacco products in pharmacies and specialized shops for medicinal devices (Article 19 paragraph 1 item 2);

11) does sell tobacco products in sports and recreational facilities (Article 19 paragraph 1 item 3);

12) does sell tobacco products from vending machines (Article 19 paragraph 1 item 4);

13) does sell tobacco products by giving direct or indirect benefits to consumers or any third party, such as gifts, premiums, rebates or the right to participate in the contest, lottery or competition (Article 19 paragraph 1 item 5);

14) does sell tobacco products that contain signs, words or phrases which indicate that this type is less harmful than others (Article 19 paragraph 1 item 6);

15) does sell tobacco products to customers in a way that allows self-service (Article 19, paragraph 1, item 7);

16) does sell tobacco for oral use (Article 19, paragraph 2);

17) does sell sweets, toys and other products for children that are in the form of any type of tobacco products (Article 20 paragraph 1 item 1);

18) does sell a product that is not a tobacco product, but has a tobacco product manufacturer's name or the name of any type of tobacco product or distinguishing signs, logos and similar signs, which refer to a tobacco product (Article 20 paragraph 1 item 2);

19) does perform advertising, sponsorship of radio programs and promoting tobacco products contrary to Article 21 of this Law;

20) does permit smoking of tobacco products while appearing in the media (Article 23, paragraph 1);

21) does publish in press photographs or illustrations of persons who smoke (Article 23, paragraph 2);

22) does permit smoking tobacco in a public space and workspace contrary to Article 23 of this Law;

23) owner or the user of space in the area designated for smoking does not display a sign that in that area smoking is permitted (Article 25 paragraph 1);

24) employer in rooms and suites where smoking is allowed does not display a sign that in these rooms and suites, smoking is permitted (Article 25 paragraph 2);

25) owners or users of the area in which smoking is banned in a visible place do not display a sign on smoking prohibition (Article 28).

For the violation referred to in paragraph 1 of this Article, shall be fined the responsible person of the legal person, responsible person in the administrative bodies, state administration and local self-government in the amount of € 30 to € 2,000.

For the violation referred to in paragraph 1 of this Article, shall be fined the entrepreneur in the amount of € 150 to € 6,000.

For violations referred to in paragraph 1 items 23, 24 and 25 of this Article shall be imposed a fine on the spot in the amount to € 2,000 for the legal person.

For violations referred to in paragraph 1 items 23, 24 and 25 of this Article shall be imposed a fine on the spot in the amount to € 400 for entrepreneur. "

## **Article 18**

Article 34 shall be deleted.

## **Article 19**

Article 35 shall be replaced by the following:

"Natural person shall be fined in the amount of € 30 to € 1,000, if:

- 1) does smoke in a public space and workspace (Article 24);
- 2) does smoke in public space or workspace which the owner or beneficiary is not only designated for smoking (Article 25, paragraph 1);
- 3) does smoke in the rooms and suites for guests accommodation, which employer does not specify and display the sign that in these rooms and suites, smoking is permitted (Article 25 paragraph 2).

For the violation referred to in paragraph 1 of this Article shall be imposed a fine on the spot in the amount of € 200 for a natural person. "

## **Article 20**

Article 36 shall be deleted.

## **Article 21**

After Article 37 a new Article shall be added, worded as follows:

### **"Article 37a**

Manufacturers and importers of tobacco products are obliged to point out and adjust warnings in accordance with Article. 9 and 12 of this Law, not later than 12 months from the date of adopting regulations referred to in Article 9 paragraph 4 of this Law.

Tobacco products that do not have displayed warnings on the packages referred to in paragraph 1 of this Article shall be distributed up to 31/12/2012. "

## **Article 22**

After Article 38 a new Article shall be added, worded as follows:

### **"Article 38a**

The owner or beneficiary of the public space or workspace who designated smoking area shall be obliged to equip and adjust to the conditions referred to in Article 26 of this Law, within one month from the date of enactment of this Law. "

## **Article 23**

After Article 39 two new Articles shall be added, worded as follows:

### **"Article 39a**

The regulation referred to in Article 9 paragraph 4 of this Law shall be adopted within three months from the date of enactment of this Law.

### **Article 39b**

The provision of Article 16, paragraph 4 of this Law will begin to apply the accession of Montenegro to the European Union. "

### **Article 24**

This Law shall enter into force eight days after its publication in "Official Journal of Montenegro".