

LAW ON PROTECTION AGAINST SMOKING

(Consolidated version (1995-2010))

(Official Gazette of Republic of Macedonia, no.: 36/95, 70/2003, 29/2004, 37/2005, 103/2008, 140/2008, 35/2010¹)

Date of adoption: 1995 (later amended and consolidated as of 2010)

Date of entry into force: N/A

Article 1

This law shall regulate the protection against harmful effects of smoking tobacco and other tobacco-based products on the citizens, environmental protection, prohibition of smoking in certain public places and prohibition of cigarette advertising.

Article 2

Public places in terms of this law shall mean:

- facilities where educational activities are being executed and facilities intended for children, pupils and students;
- facilities of the health and social institutions;
- indoor and outdoor premises used for sports events;
- indoor premises used for cultural and entertainment events, gatherings and other public performances;
- outdoor space used, designed and equipped for hospitality services, that contains additional equipment (plastic or nylon barriers and similar items) which closes the space from all the sides thus making it closed space;
- public means of transport of passengers;
- cable railways and ski-lifts;

¹ Article 3 of the Law amending and complementing the Law on Protection Against Smoking (Official Gazette of Republic of Macedonia, no. 35/2010 reads: "Legal Committee of the Parliament of Republic of Macedonia shall be empowered to stipulate the revised final text of the Law on Protection Against Smoking" including all the amendments. The aim is to make the Law easy readable, given the fact that it has been so many times amended. So far , it has not been done.

- facilities where food is produced, prepared, served, sold and consumed and internet cafés;
- premises in state owned competent bodies, institutions and in the competent bodies of self-government used for meetings and gatherings;
- restaurants, cafes, night bars, café bars, cabarets, disco clubs and pubs,
- common premises in a block of flats and common parts in a block of flats (lights, lifts, common boiler rooms etc.) specified by the law;
- Other premises (conference rooms, offices, waiting lounges and corridors etc.)

Article 3

Smoking in public premises stipulated in the Article 2 of this Law shall be prohibited.

Smoking shall be permitted exclusively out of the business premises (terrace, summer terrace and similar space), exclusively if the space is covered from above and open from at least three sides without any barriers (glass, folia, plastic or nylon barriers and similar items) or at open space not covered by tend, umbrellas or similar items, and which is closed on the side (disco club on open space, terrace, summer terrace and similar space).

Article 4

It shall be forbidden to advertise tobacco products and tobacco industry in any form, directly or indirectly, externally or internally, as it fallows:

- on public places and public premises,
- in the daily, weekly and monthly press, as well as in other magazines,
- on radio and TV,
- thought-out film slides and films,
- on panels, billboards and labels,
- on screensavers, sun or rain bans,

- Other forms of advertisements that can be placed on retail spots (trays for change return, various chains and pending and similar items),
- on objects and on/in means of transport (traffic),
- by way of lighting advertisements,
- on and in books, calendars, clothes, and other advertisement materials and gifts,
- promotional activities: lottery games, different promotional activities, any form of direct contact and communication with consumers (internet, SMS, promotions, gifts and similar ways) and
- sponsorship and donations of sports, cultural, entertainment and other public performances and events by enterprises or other legal entities dealing with production and sale of tobacco products

Tobacco products can be exposed on the retail sale points (kiosk, retail shop, restaurant, e.t.s) only in the original package, jointly with the standard information on the price.

It shall be forbidden to indirectly advertise tobacco or tobacco-based products bearing a name of tobacco –based products, when they are not tobacco-based products. Use of logo, letters, signs, symbols, slogans, place of manufacturing of the product that were used in relation to the tobacco products in the past or present, shall mean indirect advertisement .

Every other premise accessible to everybody, with or without entry tickets, shall be treated as a public place, in relation to the Paragraph 1, line 1 of this Article, in addition to the public premises from Article 2 of this Law:

- streets, squares, harbors, beaches, parks
- administrative-business buildings and housing buildings
- sport, recreation, culture and entertainment facilities
- hotels, restaurants and other hospitality facilities and
- Merchant centers, retail shops, kiosks and similar thereto.”

Article 5

It shall be forbidden to sell cigarettes and tobacco to individuals younger than 18 in the retail sale outlets.

Article 5a

It is forbidden to sell tobacco based products as separate pieces (cigarette) sale via automats, places for self-service, as well as sale by order.

Article 6

A cigarette manufacturer shall be obliged to print on the packing a warning that smoking is hazardous to human health.

Warning messages shall be defined by the Minister of Health within 60 days from the day when this law comes into force.

INSPECTION SUPERVISION

Article 7

“Inspection supervision of the enforcement of the provisions of this Law shall be performed by the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate and the State Labour Inspectorate.

The State Market Inspectorate shall perform inspection supervision in facilities in which food is produced, prepared, served, sold or consumed, in Internet cafés and facilities selling goods other than food and of implementation of the provision from Article 4 of this Law..

The State Sanitary and Health Inspectorate shall perform inspection supervision in public and private health institutes, social institutes, in facilities in

which educational-nursing activity is conducted (kindergartens), facilities and means of transport in international public transport.

The State Educational Inspectorate shall perform inspection transport in the facilities in which elementary education, secondary education, or higher education is performed, as well as scientific institutions, pupil and student dormitories, public and private educational and nursing institutes and playhouses.

The State Labour Inspectorate shall perform inspection transport in state administrative bodies, institutions and institutes within the local self-government units in which meetings and sessions are held, other public premises (halls, offices, business premises, waiting rooms, hallways, etc.), facilities and means of transport in the domestic public transport, cable-cars and ski lifts, closed and open premises in which sports events, cultural and entertainment manifestations, gatherings and other public events are held.

Article 7 a

Legal entities and individuals who manufacture and sell tobacco and tobacco based products are obliged per written request of the inspection bodies to provide information on the contents of the product, in accordance with the legislation.

Article 8

The competent inspector, for the executing measures in accordance with this law, shall issue decisions.

Against the decision of paragraph 1 of this article a letter of complaint may be lodged to the Minister of the competent Ministry within eight days from the day when the decision was issued.

An appeal against the decision of the inspector does not postpone the execution of the decision.

MISDEMEANOR PROVISIONS

Article 9

A fine in an amount of EUR 2,000 to 4,500 in counter-value in Denar shall be issued for a misdemeanour to a legal person if it acts contrary to Articles 3, 4, 5, 5-a, 6 and 7 of this Law.

Regarding the misdemeanour referred to in paragraph 1 of this Article, a fine in the amount of EUR 500 to 1,000 in counter-value in Denar shall be issued to the responsible person within the legal person

Article 10

A fine in the amount of EUR 150 to 300 in counter-value in Denar shall be issued for a misdemeanour to a natural person if he/she smokes in a room where smoking is prohibited (Article 2).

Regarding the misdemeanour referred to in paragraph 1 of this Article, a fine in the amount of EUR 100 in counter-value in Denar for shall be issue to a natural person on the spot of committing the misdemeanour

Article- 10 a

When the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer detect that misdemeanour stipulated in Article 9 of this Law is committed, they will submit request for initiating misdemeanour procedure before the competent court.

Article 10 b

When the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer detect that misdemeanour is committed, they will issue a written invitation for paying the fine within eight days of submitting the invitation.

If the offender is juvenile, it shall be preceded according to Articles 33, 34, 35 and 52 from the Law on Misdemeanours (Official Gazette of Republic of Macedonia, no. 62/2006).

If the offender of the misdemeanour from Paragraph 1 of this Article does not pay the fine within the period stipulated in Paragraph 1 of this Article, the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer will file a request for misdemeanour procedure with the competent court.

In the case a misdemeanour procedure is initiated, the offender is sentenced a fine three times higher than the stipulated in the provision of the Article stipulated in Paragraph 1 of this Article.

If the offender of the misdemeanour from paragraph 1 of this Article does not pay the fine within the period stipulated in Paragraph 1 of this Article, the communal officer shall be obliged to submit a proposal to the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate to initiate misdemeanour procedure before the competent court.

Article-c

For the misdemeanor from the Article 10 of this Law, the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer are obliged to propose the offender compensation procedure before filing the request for misdemeanour procedure.

When the offender is agreed a compensation procedure to be initiated, the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State

Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer shall make a minutes where the essential elements of the misdemeanour shall be noted, time, place and the manner of committing the misdemeanour, description of activity of the misdemeanour and the persons found on the place.

The manner of mitigating the harmful consequences from the misdemeanour shall be stipulated in the minutes.

The State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer can propose the offender mitigating the consequences from the misdemeanour throughout performing useful activities for the community. Resources shall be earmarked to performing promoting activities for protection of the health of the people from harmful effects from smoking.

If the offender of the misdemeanour from Paragraph 1 of this Article, within eight days accepts, but does not perform useful activities for the community, or does not commit funds for performing useful activities for the community the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer shall file a request for misdemeanour procedure before the competent court.

The Minister of Health stipulates the type, amount of resources for useful activities for the community for each misdemeanour separately, as well as the manner of its performance, in agreement with the Minister of Economy, the Minister of Education and Science and the Minister of Labour and Social policy. The amount of resources intended for useful activities for the community cannot be higher than the stipulated fine for the misdemeanour, and the value for an hour useful activities for the community shall be not less than 100,00 Denars, and 250,00 Denars maximum, depending on the type and complexity of the useful activity for the community.

The State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate, uniformed police officer and communal officer shall be obliged to keep record for the compensation procedures initiated and for their outcome.

Article-d

For the misdemeanor stipulated in Article 9 of this Law, the State Market Inspectorate, the State Sanitary and Health Inspectorate, the State Educational Inspectorate, and the State Labour Inspectorate can propose the offender mediation and agreement settlement by which the offender of the misdemeanour should pay the fine, other taxes or to mitigate the consequences from the misdemeanour.

The inspector from Paragraph 1 of this Article makes minutes for the misdemeanour where it is noted the agreement of both sides a procedure for mediation to be initiated, which the offender of the misdemeanour signs as well.

The mediation procedure shall be initiated by filing the minutes from the Paragraph 2 of this Article to the Mediation Committee, which is the obligation of the inspector within three days from the writing and signing of the minutes.

Mediation procedure shall be performed by a Mediation Committee established by the Minister of Economy, the Minister of Health, the Minister of Education and Science and the Minister of Labour and Social policy.

The Mediation Committee is composed of three members, which from one is elected as president. Members of the Committee shall be elected from the civil servants employed in the Ministry of Economy, the Ministry of Health, the Ministry of Education and Science and the Ministry of Labour and Social Policy, one of which is bachelor in law.

President of the Committee shall be obliged to initiate the procedure within 24 hours from submitting of the minutes.

Committee performs on meetings where representatives of the offender of the misdemeanour, The State Market Inspectorate, the State Sanitary and Health

Inspectorate, the State Educational Inspectorate, the State Labour Inspectorate are obliged to be present.

An written agreement shall be signed for the agreement settled in the mediation procedure.

The Agreement shall stipulate the obligations of the offender of the misdemeanour, especially as it follows:

- 1) the amount and the manner of payment of the fine;
- 2) the amount and the manner of payment of other taxes and costs and
- 3) Measures that the offender shall implement to mitigate the consequences from the misdemeanor.

In the cases where an agreement is settled in the mediation procedure, the fine of the offender for the misdemeanor committed can be decreased for at least one half of the maximum stipulated fine.

The Minister of Economy, the Minister of Health, the Minister Education and Science and the Minister of Labour and Social Policy endorses rulebook for the Mediation Committee work.

Mediation Committee shall be obliged to keep record of the initiated procedures for mediation and their outcome.

The Agreement from paragraph 8 of this Article has legal power of executive order.

If the procedure for mediation does not succeed, a request for initiating misdemeanour procedure shall be filed with the competent court for misdemeanours.

Article 10-e

The misdemeanour procedure regarding the misdemeanours provided for in this Law shall be conducted by the competent court.

Prior to the submission of a request for initiation of a misdemeanour procedure regarding the misdemeanours provided for in this Law, the competent ministries in the field of economy, health, education, i.e. labour, shall conduct a settlement procedure pursuant to the Law on Misdemeanours.

FINAL PROVISIONS

Article 11

Provision from Article 2 of this Law shall be applicable from the 1st of December 2008.

Article 12

This Law shall enter into force on the eighth day of its announcement in the Official gazette of Republic of Macedonia