



File: B.10.0.TSH.0.27.01/

Subject: Implementation of Law No. 4207

TO THE GOVERNORSHIP OF

Re: Our Letter No. 27556 of 09.17.2009

Article 2 of Law No. 4207 "On Prevention and Control of Tobacco Products Hazards" lists outdoor (open) and indoor (enclosed) areas where no tobacco consumption is allowed.

In terms of the implementation of the Law, Prime Ministry Circular No. 2009/13 defined which areas would be regarded indoor or outdoor.

The said Circular stated, "Any areas having a fixed or portable ceiling or roof (including tent, sunshade, etc.), excluding doors, windows, and entry ways, as well as any areas with all side surfaces temporarily or permanently closed off completely, and, similarly, those which have a ceiling or roof, with more than 50% of their side surfaces closed off, shall be considered 'indoor areas'."

The abovementioned Letter stated that, as the result of the evaluation of indoor areas, the following would be deemed as outdoor areas: any businesses where the ceiling or side surfaces can be opened and closed automatically or manually, provided that more than 50% of the side surfaces are kept open, even if the ceiling is closed, or provided that the ceiling is completely open, even if the side surfaces are completely closed.

However, the inspections carried out in connection with the implementation of Law No. 4207 have shown that some businesses attempt to make their areas (which were built or arranged as enclosed areas) seem as outdoor areas by periodically using certain opening mechanisms for their side surfaces or ceilings during daytime hours. In this context, based on the available scientific evidence, the National Tobacco Control Committee experts have concluded that opening certain sections during daytime hours in places which are essentially enclosed is not sufficient in terms of the protection from hazardous effects of tobacco products. Moreover, based on Decisions of the Council of the European Union No. 209/C and 296/2 dated November 30, 2009, the said Law needs to be reevaluated in terms of the appropriateness and sufficiency of the field implementations thereof aimed at "protection of people and future generations from the hazards of tobacco products."

Republic of Turkey
MINISTRY OF HEALTH
General Directorate for Basic Health Services



File: B.10.0.TSH.0.27.01/

Subject: Implementation of Law No. 4207

Therefore, in compliance with Law No. 4207 and Prime Ministry Circular No. 2009/13, any businesses where ceilings or side surfaces, or both ceilings and side surfaces can be opened via certain opening mechanisms shall be regarded **“enclosed areas,”** even if the ceiling or side surfaces are periodically kept open through such opening mechanism; any tobacco or tobacco products consumption in such places shall be deemed a violation of the said Law. For this reason, no tobacco or tobacco products consumption shall be allowed in such areas, and immediate legal measures shall be taken against any violators of the said Law.

Therefore, please be informed of the following:

1. Any province level activities and inspections related to the implementation of the provisions of Law No. 4207 shall be followed through with in any facilities where tobacco use is banned, specifically in places providing entertainment services such as restaurants, cafes, cafeterias, and beer houses;
2. Any inspections to be carried out shall be planned in terms of a 24-hour schedule, the number of such inspections shall be increased, and any violations shall be prevented in collaboration with other authorized agencies;
3. Any public officials and members of municipal councils who have failed to fulfill their duties imposed by the Law shall be investigated under Law No. 4483 “On Trying Civil Servants and Other Public Officials,” with notifying any relevant authorities, or, if necessary, the Public Prosecutor's Office, regarding the circumstances of such investigation;
4. Any relevant administrative offices, governor's offices, or the Ministry of Internal Affairs shall be accordingly informed of such administrative and disciplinary measures taken against any authorized agencies as required by the provisions set forth in State Servants Law No. 657, Municipal Law No. 5393, and Turkish Criminal Code No. 5237.

Dr. Nihat Tosun
Undersecretary
of the Ministry of Health

DISTRIBUTION:

81 Province Governorships

.../.../2010	Off. Chief	: S. POLAT
.../.../2010	Depart. Head	: H. İLTER
.../.../2010	Gen. Dir. Assist.	: H. IRMAK
.../.../2010	Gen. Dir.	: S. ÇOM
.../.../2010	Dep. Undersec.	: Y. ERKOÇ

Coordination:

.../.../2010	Prov. Undersec.	: C. GÜNEŞ
--------------	-----------------	------------

Republic of Turkey
MINISTRY OF HEALTH
General Directorate for Basic Health Services



File: B.10.0.TSH.0.27.01/

Subject: Implementation of Law No. 4207

.../.../2010 Provn. Prov. Undersec. : A. KESKİN

.../.../2010 Dep. Undersec. : Y. EKMEKÇİ