

REPUBLIC OF CHAD

Unity – Labor – Progress

OFFICE OF THE PRESIDENT OF THE REPUBLIC

Law No. _____ 010 /PR/2010

On Tobacco Control

In light of the Constitution;

The National Assembly has deliberated upon and adopted at its session of May 27, 2010, and

The President of the Republic promulgates this law, whose content is as follows:

Chapter I.

Purpose

Article 1. The purpose of the present Law is as follows:

- To regulate the consumption of cigarettes and other tobacco products, as well as all other matters appertaining thereunto;
- To determine the extent of the prohibition of smoking in public places, or places that accommodate the public, in order to protect the people of Chad, in particular young people, against the harmful effects of the use of tobacco;
- To raise public awareness on the dangers of tobacco use and exposure to tobacco smoke.

Chapter II.

DEFINITIONS

Article 2. For the purposes of this Law, the following definitions shall apply:

- **Smoking:** The act of holding or using a lit tobacco product, whether or not its smoke is actively inhaled or exhaled.
- **Illegal trade:** Any practice or behavior prohibited by law involving the production, distribution, shipment, display, receiving,

or possession of tobacco, including any practice or behavior intended to facilitate such activity.

- **Distribution:** sale, giving away for free or any other kind of donation, including sampling of tobacco products.
- **Public place:** any enclosed public place, whether covered or not, to which the public has free access, either subject to invitation or payment of admission, including government or private offices, factories, closed worksites, garages, cultural establishments, stores, restaurants, bars, hotels, snack bars, inns, cinemas, video clubs, movie clubs, night clubs, casinos, stadiums, cabarets, gaming rooms, penitentiaries, fortune tellers, athletic facilities, medical or scientific research centers, elementary, secondary, technical, professional and higher and scientific educational institutions, health care institutions, hospitals, airports, or any other facility providing accommodation for minors;
- **Interior workplace:** Any places used by persons during their work, including hallways, entrances, cafeterias, bathrooms, lounges and other areas commonly used by workers in the course of their employment, even if no work is performed in such areas. Such places encompass closed vehicles used during work, including taxis, ambulances and delivery vehicles;
- **Tobacco control:** a whole series of strategies to reduce the supply, demand and the harmful effects of tobacco, seeking to improve the health of the public by eliminating or reducing its consumption of tobacco products and the exposure of the latter to tobacco smoke;
- **Minor:** any human being under eighteen years of age, unless the age of majority is attained sooner as a result of national legislation applicable to such person;
- **Promotion-advertising:** any form of communication, recommendation of action or commercial contribution having as its aim, effect, or likely effect to encourage, directly or indirectly, the use of tobacco or of a tobacco product;
- **Underwriting – Sponsorship:** Any kind of contribution to any event, activity or a natural person or corporate entity, having as its aim, effect or likely effect to promote, directly or indirectly, a tobacco product or the use of tobacco;
- **Public transport:** any means of motorized transportation for people, including elevators, to which they have access, whether free of charge or through payment;
- **Distribution network:** Any point of sale authorized by regulatory provision, and one of whose principal activities is the sale of tobacco;

- **Tobacco and tobacco product:** Tobacco in cut leaves, whether processed or not, regardless of the form of its presentation, and intended to be smoked, sniffed, chewed or sucked, as well as the accessories intended to facilitate such use;
- **Ingredient:** Any substance or any component other than the leaves and other natural parts of the tobacco plant, used in the manufacture or preparation of a tobacco product, and still present in the finished product, even in a modified form.

Chapter III.

PROHIBITION OF THE USE OF TOBACCO

Article 3. The consumption of tobacco is prohibited to all pregnant women and all minors.

Article 4. Smoking is prohibited in all public places, indoor workplaces and public transport as defined in Article 2, above.

Article 5. Smoking is also prohibited in the following circumstances:

- in private vehicles with a pregnant woman or a minor inside it;
- in out-buildings, courtyards, terraces and other contiguous places, even if not enclosed, that can by their proximity pass smoke into the interior;
- in tents, hangars, marquees and other similar structures, whether permanent or temporary, that accommodate the public.

Article 6. The opening and operation of public salons intended for the consumption of tobacco in any form are hereby prohibited.

Article 7. The list of establishments listed above will be updated whenever the need arises, by a decree of the Council of Ministers.

Article 8. The operator of a place or store, the director of an establishment or any other manager addressed by this Law must not, in any way, authorize or tolerate the use of tobacco in his establishment, under penalty of prosecution.

Chapter V.[sic]

Article 9. It is prohibited to sell or offer free of charge to minors tobacco products in general or specialized stores, or in any public places.

Minors are not allowed to sell tobacco products.

Article 10. It is prohibited to sell tobacco within a radius of 300 (three hundred) meters of educational and vocational institutions, whether public or private, and health institutions.

Article 11. It is prohibited to install points of sale of tobacco within educational institutions and health care institutions, athletic facilities, or public, semi-public or private office buildings.

Article 12. Points of sale for tobacco products and the characteristics of places intended to accommodate them are defined by a joint administrative order of the Ministries of Public Health and of Commerce.

Such points of sale must be indicated by signs stating in a distinctly visible manner the hazards of tobacco consumption.

The form and content of the sign are determined by a joint administrative order of the Ministries of Public Health and of Commerce.

Article 13. Packs and cartons and all kinds of outer packaging of tobacco products manufactured, imported and sold must bear a health warning covering at least 50% of the surface front and back. Such warnings may be presented in the form of drawings or pictograms.

An administrative order of the Minister of Public Health shall determine the packaging and labeling of tobacco products.

Chapter VI.

PROMOTION, ADVERTISING AND SPONSORSHIP

Article 14. The following is also prohibited:

- to manufacture, distribute free of charge or sell candies, toys or any other object having the shape of a tobacco product, or calling one to mind;
- to provide a tobacco product free of charge or in exchange for the purchase of a product or service, or the provision of a service;
- to provide an accessory on which there appears an element of the brand of a tobacco product free of charge, or in exchange for the purchase of a product or the provision of a service;
- for the manufacturer, importer, or retailer to offer or give away, directly or indirectly, in exchange for the purchase of a tobacco product, particularly through a gift to the purchaser or a third party, a premium, a discount, or the right to participate in a drawing, a lottery or a contest.

Article 15. Any kind of advertising or publicity, whether direct or indirect, is prohibited, including at points of sale.

Article 16. It is prohibited to disseminate in the national press, both audiovisual and print, any publicity or advertising, whether direct or indirect, for tobacco, tobacco products or their ingredients. This prohibition also extends to billboards, walls, banners, flyers, broadsides, illuminated signs, and captions and images on vehicles.

Article 17. Any operation for underwriting or sponsorship is prohibited if its purpose or effect is the promotion or publicity of a tobacco product, whether direct or indirect.

Chapter VII

PENAL PROVISIONS

Section 1. –

Omission of the required health statements

Article 18. Anyone who fails to include on cigarette packs the health warnings indicated in Article 13 will be punished by a sentence of fifteen (15) days to one (1) year in prison, and a fine of 500,000 to 5,000,000 francs CFA, or one of these punishments only.

Article 19. In addition to the penal sanctions set forth above, products seized that do not have the health warning as indicated in Article 13 above will be destroyed, in accordance with the procedures and laws in force.

Article 20. In the event that a violation of this law is committed by a corporate entity, the representative thereof, or any other person who has authorized or acquiesced in the offense, shall be considered a co-author of the violation, and will be susceptible to the punishment provided for the infraction in question, regardless of whether or not the juridical person has taken disciplinary action.

Article 21. Each day in the course of which an infraction is committed or continues to occur shall be considered a separate infraction.

Article 22. The jurisdiction in question may in all cases order the posting of the judgment stating the conviction for infractions to the law on tobacco in places that it shall determine, or its insertion in whole or excerpted in one or several newspapers, all at the expense of the convicted offender.

Article 23. In cases of repeat offenses, the punishments provided for under this law shall be doubled.

Article 24. The court concerned with the prosecution of an infraction to this law may, if it ascertains that the offender has derived financial advantage from the commission of the offense, impose upon the offender, over and above the maximum

punishment, a supplementary fine in the amount it deems equivalent to such advantage.

Article 25. In addition to any punishment provided for by this law, and bearing in mind the nature of the offense, the court may impose upon the offender all or part of the following penalties:

- suspension of any action or activity that could give rise to the continuation of the infraction or repeat offense;
- suspension of the sale of tobacco products, for a minimum period of one year, in the event of a repeat offense;
- the requirement of a security deposit or the posting of a sum of money in guarantee of compliance with the sentence handed down;
- indemnification, in whole or in part, to the State for expenses incurred in the measures taken for the case resulting from the activities leading to conviction;
- to allocate a sum of money to support such research on tobacco products as it may deem appropriate, upon consultation with experts.

Article 26. The distribution of the proceeds from fines imposed in the application of this law is to be determined by regulatory provision, among the following:

- Public and private institutions engaged in tobacco control;
- The public treasury (to the account of the National Commission for Tobacco Control (CNLT));
- The local Community;
- The agents of the health police.

Article 27. A decree issued by the Council of Ministers has created the corps of agents of the health police.

Section 2. –

Violation of the ban on advertising

Article 28. Anyone who infringes the prohibition of tobacco advertising is liable to imprisonment for twenty (20) days to six (6) months, and a fine of 50,000 to 5,000,000 francs CFA, or one of these punishments only.

Article 29. The provisions of Article 24 above are also applicable to anyone who has done the following things:

- given or sold tobacco to a minor, or to someone acting as intermediary, or in a place where such sale is prohibited;

- prominently displayed cigarettes in unauthorized places with the intention of enticing clients;
- associated or facilitated the association of names, logos and other identifiers of tobacco with activities for which such association is prohibited;
- neglected or refused to post the required notices.

Article 30. The provisions of Articles 15 to 21 above are applicable in cases of violation of the ban on advertising.

Section 3. –

Violation of the ban on smoking

Article 31. Offenders who have infringed the ban on smoking as set forth in this Law shall be punished by a fine of 500 to 20,000 francs, inclusive, and are liable, furthermore, to imprisonment for up to fifteen (15) days at most.

Article 32. If a person makes available to smokers a place for smoking in spite of the prohibition, the offender will be subject to the same punishments.

Article 33. Without impairment to criminal convictions, the persons prosecuted for a violation of this law can be subject to administrative proceedings, in accordance with the laws and regulations in force.

Article 34. Such a proceeding must not, in any instance, have the effect of subjecting the offender to a new punishment over and above that already pronounced by judicial authorities.

Article 35. The Office of the Prosecutor of the Republic may directly prosecute infractions of this law.

However, anyone with an interest may take action directly in court.

Article 36. Any civil society association recognized for at least one year, and whose institutional purpose is concerned with tobacco control, or with promoting public health, is entitled to file civil actions

Article 37. Anyone whose behavior obviously encourages minors to smoke or to violate the prohibition thereof will be punished with imprisonment from one (1) to fifteen (15) days, and a fine of 500 to 30,000 francs CFA.

Article 38. Those responsible for the facilities where the following acts are committed shall be subject to the same punishments:

- to make a place for smoking available to smokers;
- To knowingly act in any way whatsoever to favor the violation of this prohibition;
- To neglect or refuse to post the required notices.

The fine will be doubled, with closure of the establishment for a particular length of time in the event of repeat offenses, and in accordance with the laws in force.

Article 39. Supplementary punishments entailing the prohibition of exercising a profession will be applicable if a person who has committed an offense performs the action as part of his employment.

Article 40. Operators, manufacturers, importers or distributors of tobacco who have violated the obligations incumbent upon them as a result of this law, particularly with regard to required statements, the prior authorizations, and ministerial oversight pursuant to Article 16 of this law will be punished with the punishments set forth above.

CHAPTER VII [*sic*].

TRANSITORY AND FINAL PROVISIONS

Article 41. While awaiting the promulgation of regulatory texts for the implementation of this Law, Decree No. 143/PR/MF/94 of June 10, 1994, instituting a temporary surtax on various imported products, and inter-ministerial administrative order No. 023/MFCIA/MF/2000 of December 26, 2000 concerning required health statements remain in force.

Article 42. Establishments and juridical persons addressed by this law must, within a period not to exceed one year counting from its publication, comply with its provisions.

Article 43. This Law is to be registered and published in the *Journal Officiel de la République*, and executed as a law of the State.

N'Djaména, June 10, 2010

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