



WHO

REPUBLIC OF LIBERIA
MINISTRY OF HEALTH & SOCIAL WELFARE

Regulation MOHSW/R -001/2011

Regulation Prohibiting the Use of Tobacco Products
in Public Places and the Sale of Tobacco Products
to Minors

“The Tobacco Regulations”

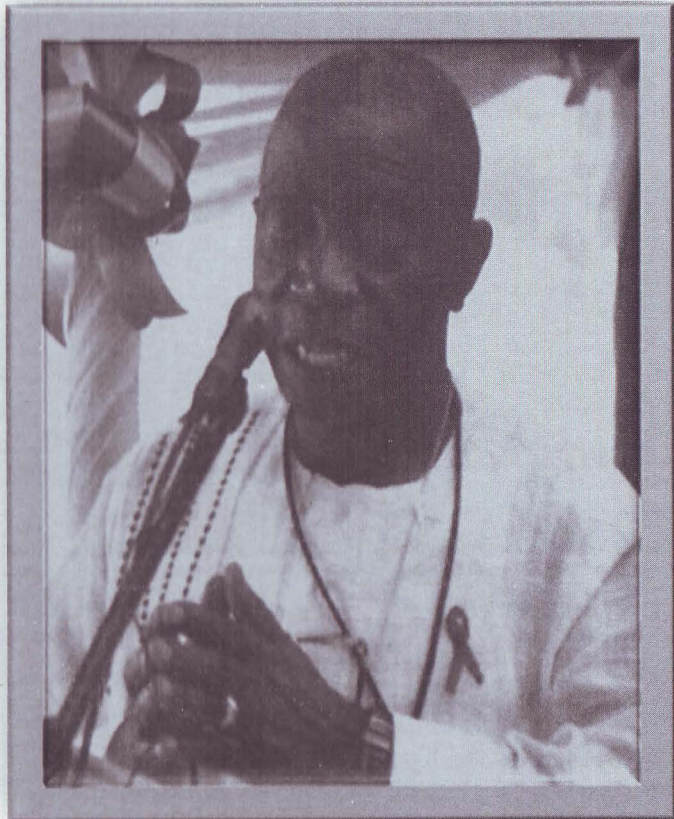
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Her Excellency, Madam Ellen Johnson Sirleaf
President, Republic of Liberia
Distinguished Honorary President
Women's Health Commission



Ambassador Joseph N. Boakai
Vice President, Republic of Liberia



Hon. Walter T. Gwenigale, MD
Minister, Ministry of Health & Social Welfare

REPUBLIC OF LIBERIA
MINISTRY OF HEALTH & SOCIAL WELFARE

**Regulation Prohibiting the Use of Tobacco Products in Public
Places**

And the Sale of Tobacco Products to Minors
Hereinafter referred to as “The Tobacco Regulations”

Section 1

Purpose

The purpose of the Regulation is to further reduce the demand for tobacco and tobacco products in the Republic of Liberia in accordance with the World Health Organization (WHO) framework Convention on Tobacco Control.

Section 2

Authority

The following Regulation is being promulgated by the Minister of the Ministry of Health & social Welfare, pursuant to the following authorities:

- a. Title 12- The Executive Law of 1972 Chapter 30, Section 2(a) and Section 2(e), which makes it the duty of the Minister of Health & Social Welfare to prevent the introduction and spread of communicable, infectious, and preventable diseases within the Republic, as well as to prevent and abate conditions hazardous to the public health;
- a. Title 12- The Executive Law- of 1972 Chapter 10, section 5(1) which empowers the Ministry of Health & Social Welfare to promulgate, Publish and retain regulations in the areas for which it is responsible; and,
- a. The Articles of “AN ACT TO PROHIBIT THE USE OF TOBACCO AND TOBACCO PRODUCTS IN PUBLIC PLACES AND THE SALE AND USE OF TOBACCO AND TOBACCO PRODUCTS BY PERSONS UNDER THE AGE OF 18 YEARS,” as passed by both Houses of the Legislature and approved into law by Her Excellency President Ellen Johnson Sirleaf on September 11, 2008. and printed into Handbill by the Ministry of Foreign Affairs on September 23, 2008;

Section 3 Definitions

As used in this Regulation, the following terms have the following meanings, unless that context clearly requires otherwise:

- a. “Act” means the Act entitled “ AN ACT TO PROHIBIT THE USE OF TOBACCO AND TOBACCO PRODUCTS IN PUBLIC PLACES AND THE SALE AND USE OF TOBACCO AND TOBACCO PRODUCTS BY PERSONS UNDER THE AGE OF 18 YEARS,” as passed by both Houses of the Legislature and approved into law by Her Excellency President Ellen Johnson Sirleaf on September 11, 2008; and printed into Hand bill by the Ministry of Foreign Affair on September 23, 2008.
- b. “**Educational Institutions**” means any facility or institution, whether publicly or privately owned, where educational services are made available or provided to any person, including but not limited to school, school office buildings, libraries, dormitories, auditoriums, cafeterias, laboratories;
- c. “**Medical Services Institutions**” means any facility or institution, whether publicly or privately owned, where health or medical services are made available or provided to any person, whether provided free of charge or for a fee, including but not limited to hospitals, health centers, clinics, health posts, teaching institutions, morgues, laboratories, pharmacies, mobile health units, health tents, nursing homes and other places where health or medical services are rendered free of charge or for a fee;
- d. “**Minor**” means any person under the age of 18 years;
- e. “**Offending Person**” means any person who uses a tobacco Product in a Public Place or on Public Transportation in violation of this Regulation.

- f. “**Person**” means any individual, association, partnership, corporation or other business entity unless the context clearly indicates otherwise.
- g. “**Public Place**” means any place, fixed or mobile, including any work place, to which members of the general public or segments of the general public ordinarily have access by express or implied invitation, and including any public means of transport. An enclosed public place is a partially or fully enclosed space or structure that is separated from outdoors;
- h. “**Public Transportation**” means any form or mode of transport, whether publicly or privately owned, that carries passengers for hire or reward or gratis, including but not limited to buses, trucks, taxi cabs, private chartered vehicles, motorcycles, airplanes, ships, trains, boats, canoes;
- i. “**Regulations**” means these regulations and any amendments hereto;
- j. “**Smoking**” means inhaling or exhaling the smoke of any Tobacco Product and includes the holding of, or control over, any ignited or heated Tobacco Product or device containing an ignited or heated tobacco product producing emissions by any means;
- k. “**Tobacco Product**” means any substance that contains tobacco leaf, including but not limited to cigarettes, cigars, pipe, tobacco, snuff, chewing tobacco and dipping tobacco;
- l. “**Use**” or “**using**” of any Tobacco Product means and includes smoking, inhalation, chewing, sniffing, and sucking;

Section 4 Scope of Application

- a. This Regulation shall apply to all counties of the Republic of Liberia.

Section 5

Prohibition on the Use of Tobacco Products in Public Places and on Public Transportation

- a. No individual shall use any Tobacco Product in any Public Place or means of Public Transportation, except as specifically permitted under Section 6 of this Regulation.
- b. To be clear, the Public Places subject to the prohibition on the use of Tobacco Products include, but is not necessarily limited to the following:
 - i. all public offices, buildings, private offices and buildings intended for public use;
 - ii. all Medical Services Institutions;
 - iii. all factories for manufacturing, assembling and storage facilities;
 - iv. all commercial wholesale and retail outlets;
 - v. all security detention and correction institutions and facilities and private facilities intended for public use;
 - vi. all public movie halls, theatres, video clubs and other recreational facilities and private facilities intended for public use;
 - vii. all public sporting facilities and recreational centers and private facilities and centers intended for public use;

- viii. all restaurants, food preparation centers and other entertainment facilities that provide service to the public;
- ix. all hotels, motels, lodges and other public commercial dwelling facilities;
- x. all public residential homes and facilities, and all private residential homes in which the public does business;
- xi. all gatherings in enclosed and semi-enclosed places opened to the public regardless of the purpose; and,
- xii. all waiting rooms, alleys, hallways, transit centers, air and sea ports terminals, train stations and bus stop terminals.

- c. The prohibition on Using Tobacco Products in means of Public Transportation applies to all forms of public and commercial vehicles, and related facilities, which may include, but is not necessarily limited to the following:
 - i. all means of Public Transportation for people, goods and services;
 - ii. all types of private transport intended for public use;
 - iii. commercial and work vehicles used by more than one person; and,
 - iv all vehicle showrooms, garages or other workshops used for routine service, maintenance and repairs.

Section 6

Exceptions

- a. The prohibition on using Tobacco Products as set forth in section 5 of this Regulation, shall not apply to the following places:
- (i) a private home where no public business is transacted;
 - (ii) personal vehicles, when used for private purposes, when no Minor is in the vehicle;
 - (iii) outdoors in predominantly or substantially open areas;
 - (iv) specially designated areas or rooms in Public Places, provided that such areas or rooms meet the following additional requirements:
 - specially designated and marked in English as smoking rooms or smoking areas," as applicable;
 - In the aggregate, constitute not more than 5% of the total rooms or 5% of the total floor space of the total facility or area;
 - are properly ventilated; and,
 - not contiguous to a designated "no smoking" room.
- b. Nothing in this Section 6 shall require an owner, occupier or employer to designate separate rooms or areas for smoking or use of Tobacco Products.

Section 7

Obligation to ensure compliance

- a. The owners, operators and persons vested with control over the Public Places and Public Transportation shall be in violation of this Regulation, if they permit, encourage and/or condone, whether by action or omission, the use of Tobacco Products in violation of this regulation.

- a. Accordingly, it shall be the duty of every owner, operator and person vested with control over a Public Place and/or a means of Public Transportation, to take such reasonable steps as may be necessary to ensure compliance with the provisions of this Regulation.
- b. For the purposes of paragraph (b), above, the term "reasonable steps" shall include, but is not necessarily limited to, the following:
- i. posting the Notices in accordance with Section 10 of this regulation;
 - ii. asking an Offending Person to stop smoking or using Tobacco Products;
 - iii. demanding that the Offending Person who continues to smoke or use Tobacco Products leave the premises when this can be done safely
 - iv. refusing to provide service to the Offending Person;
 - v. if the Offending Person is an employee, by taking disciplinary action; and
 - vi. seeking the assistance of law enforcement personnel if the Offending Person refuses to stop smoking or to leave the premises or means of transport.

Section 8

Prohibition against Retaliation

No person or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement to this Regulation or exercises any right conferred by this regulation.

Section 9

Prohibitions on Sale to and Use by Minors

- a. No person shall or cause to be sold, permit, encourage, condone and /or facilitate the purchase of tobacco Products by persons under the age of 18 years.
- b. No person under the age 18 years shall be allowed to purchase or sell tobacco products.

Section 10

Posting and Notice Requirements

- a. Any owner, operator or person vested with control over a Public Place or means of Public Transportation where the use of Tobacco Product is prohibited, is required to continuously and conspicuously display upon such premises or transport, a notice in large letter stating "No Tobacco Product Use Permitted in this Area" or "No Smoking," and otherwise comply with any other notice requirements prescribed by the Minister.
- b. Any owner, operator or person who sells or offers to sell any Tobacco Products shall display a warning sign in a prominent place on the premises and on any vending or coin-operated machine at all times, which shall have a minimum height of three inches and a width of six inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE TOBACCO PRODUCTS (including CIGARETTES) AND, UPON CONVICTION, A FINE OF NOT LESS THAN L\$ 10,000 MAY BE

Section 11

Violations and Penalties

- a. The use of tobacco Products in a Public Place in violation of this Regulation shall be deemed to be a second degree misdemeanor under the Penal Code. Any Offending Person convicted in a court of competent jurisdiction shall be subject to the penalties associated with such misdemeanors.
- b. Any Person in violation of Section 9 of this Regulation pertaining to the sale of Tobacco Products to person under the age of 18 years, shall upon conviction in a court of competent jurisdiction, be fined not less than L\$10,000 and not more than L\$25,000 for each violation.
- c. Any individual convicted of a violation of section 8 or Section 10 of this Regulation may be subject to one or more of the following penalties:
 - i. In the case of a first violation a fine of two hundred dollars (L\$200.00);
 - ii. In the case of a second violation within 24 months of the first violation a fine of seven hundred Liberian dollars (L\$700.00) and,
 - iii. In the case of three or more violations within 24 months of the second or current violation, a fine of one thousand Liberia dollars (L\$1,000.00) for each violation.
- d. Any person convicted of a violation of Section 8 or Section 10 of this Regulation, may be subject to one or more of the following penalties:
 - i. In the case of a first violation a fine of two thousand Liberian dollars (L\$2,000.00)

- ii. In case of a second violation within 24 months of the first violation a fine of three thousand Liberian dollars (L\$3,000.00);
- iii. In case of three or more violations within 24 months of the second or current violation, a fine of ten thousand Liberian dollars (L\$10,000.00) for each violation.

Section 12
Enforcement and Use of Fees

- a. Authority to enforce this Regulation shall be vested in the Ministry of Health & Social Welfare and its designees, as well as the Liberian National Police (LNP)
- b. Any Person affected by this Regulation may register a complaint to initiate an investigation with the Administrative Hearing Committee of the Ministry of Health & social Welfare.
- c. The Minister shall make a formal proposal recommending that any fines or fees collected under this Regulation be used for the enforcement of these Regulations and/or for advocacy programs on the harmful effects of tobacco.

Section 13
Non-preemption

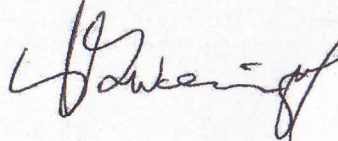
Nothing in this Regulation shall be deemed to preempt the enactment of further Restrictions on the use and sale of Tobacco Products.

Section 14
Severability

If any provision, clause, sentence, paragraph or word of this Regulation or the application thereof to any Person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Regulation which can be given effect without the invalid provisions or application and to this end, the provisions of this Regulation are declared severable.

Section 15
Effective Date

This Regulation shall become effective upon the signature of the President of the republic of Liberia on September 1, 2011.

Signed; 

Walter T. Gwenigale, MD
Minister of Health & Social Welfare