

Law 26,687

Complete Final Text (Approved)

<p>CHAPTER i GENERAL PROVISIONS</p> <p>ARTICLE 1. – This law regulates the advertising, promotion and consumption of products prepared with tobacco for the purposes of prevention and public assistance in the face of damages caused by smoking.</p> <p>ARTICLE 2. – The purposes of this law are:</p> <ul style="list-style-type: none">a) Reduce the consumption of products prepared with tobacco;b) Reduce to a minimum people's exposure to the harmful effects of the smoke from products prepared with tobacco;c) Reduce the health, social and environmental damages caused by smoking;d) Prevent the onset of smoking, especially in children and in the teenage population;e) Raise the awareness of present and future generation of the consequences caused by the consumption of products made with tobacco and from the exposure to the smoke from products made with tobacco. <p>ARTICLE 3. – Included in the scope of this law are all products made with tobacco and those that without being so, may be identified with brand names or associated with them, whether from a domestic or imported source.</p> <p>ARTICLE 4.- For purposes of this law the following is understood:</p> <ul style="list-style-type: none">a) Consumption of products made with tobacco: The act of inhaling, exhaling, chewing, sucking or keeping lit a product made with tobacco;b) Products prepared with tobacco: Those prepared that use tobacco totally or in part as raw material and are meant to be smoked, sucked, chewed, breathed in, inhaled or used as snuff;c) Tobacco smoke: The emanation coming from the burning of a product made with tobacco;d) Advertising and promotion of products made with tobacco: Any form of communication, recommendation or commercial action for the purpose, effect or possible effect of directly or indirectly promoting the consumption of products prepared with tobacco;e) Control of products prepared with tobacco: The various strategies for reducing the demand and damages associated with the consumption of products prepared with tobacco in order to improve public health;f) Sponsorship by brands of products prepared with tobacco: Any form of contribution to any action, activity, individual or legal entity, public or private, with the goal or for the purpose of promoting the brand name of a product prepared with tobacco;g) Packaging of products prepared with tobacco: Applies to any wrapper, package, wrapping, box, can or any other device that encloses or contains products prepared with tobacco in their sales format to the end user;h) Enclosed place of public access: Any space aimed at public access, both in the public and private areas, covered by a roof and confined by walls, regardless of whether the structure is permanent or temporary;i) Enclosed workplace: Any area or enclosed sector inside a building or establishment, whether fixed or mobile, in which job activities are performed or carried out;j) Means of public passenger transportation: Any type of vehicle that moves by land, air or water used to transport passengers with commercial ends;k) Clubs for smokers of products prepared with tobacco: Any entity created with the exclusive purpose of offering an area for sampling or consuming products prepared with tobacco;l) Ingredients: Any substance or any component other than the leaves and other natural or unprocessed parts of the tobacco plant that are used in the manufacture or preparation of a product prepared with tobacco and that continues to be

present in the finished product, even though in a modified form, including the paper, filter, inks and adhesives;
m) Direct communication: That which is not visible or accessible to the general public and that is aimed at the public of majority age, identified through the identity document for each of those who have irrefutably accepted the receipt of such information.

CHAPTER II
ADVERTISING, PROMOTION AND SPONSORSHIP

ARTICLE 5. – Hereby banned are the advertising, promotion and sponsorship of products prepared with tobacco, whether directly or indirectly, through any broadcast or communications medium.

ARTICLE 6. – Hereby exempted from the ban established in the above article is advertising or promotion done:

- a) Inside places of sale or dispensing of products prepared with tobacco, pursuant to that determined by the regulations of this law;
- b) In commercial publications aimed exclusively at persons or institutions involved in the business of growing, manufacturing, importing, exporting, distributing, storing and selling products prepared with tobacco;
- c) Through direct communication to those over the age of eighteen (18), provided that their prior consent has been obtained and their age has been verified.

ARTICLE 7. – In all cases advertising or promotion must include one of the following health messages, whose text shall be printed, written in a legible, prominent and proportionate manner inside a rectangle with a white background and black letters, that must occupy twenty percent (20%) of the total surface of the material subject to advertising or promotion:

- a) Smoking causes cancer;
- b) Smoking causes pulmonary emphysema;
- c) Smoking causes addiction;
- d) Smoking causes sexual impotence;
- e) Smoking causes heart and respiratory diseases;
- f) Tobacco smoke is the cause of sickness and death;
- g) Pregnant women who smoke cause irreparable harm to their child;
- h) Smoking causes death by asphyxia;
- i) Smoking takes years off your life;
- j) Smoking can cause leg amputations.

In all cases a pictogram warning of the damage caused by the smoking habit shall be included that shall be established for each message by the authority enforcing this law.

ARTICLE 8. – Manufacturers and merchants of products prepared with tobacco are hereby prohibited from the brand name promotion and sponsorship of any type of activity or public event and through any broadcast medium.

ARTICLE 9. – The Federal Audiovisual Communications Authority is hereby entrusted with oversight and verification of compliance with the provisions of this chapter by the providers of audiovisual and radio broadcasting services, pursuant to the provision of Article 81, Subsection j) of Law No. 26,522, by setting forth the enforcement of sanctions which may apply in the event of breach, pursuant to the provision of Title VI of this norm, notwithstanding those which may apply through the enforcement of this law.

CHAPTER III

PACKAGING OF PRODUCTS PREPARED WITH TOBACCO

ARTICLE 10. – Packages and wrappers of products prepared with tobacco shall bear an image and a health message insert that describes the harmful effects of the consumption of products prepared with tobacco, according to the list in Article 7 hereby, which shall be updated by the enforcement authority with a frequency of no more than two (2) years nor less than one (1) year.

ARTICLE 11. – Each health message and its corresponding image shall be posted on each package and individual wrapper for public sale for products prepared with tobacco.

The health message shall be written in ONE (1) black rectangle on a white background with black letters and shall occupy the lower FIFTY PERCENT (50%) of ONE (1) of the principal exposed surfaces. The image shall occupy the lower FIFTY PERCENT (50%) of the other principal surface.

Industrial companies for products prepared with tobacco shall launch their units on the market by guaranteeing the homogenous and simultaneous distribution of the different health images and messages in the variety stipulated by the enforcement authority for each period.

ARTICLE 12. – Packages and wrappers of products prepared with tobacco must also include on one (1) of its sides information about the free smoking cessation service provided by the Ministry of Health.

ARTICLE 13. – Packages and wrappers of products prepared with tobacco may not use expressions such as “Light”, “Smooth”, “Milds”, “Low in Nicotine and Tar Content”, or similar terms, nor descriptive elements, manufacturer's or business brand names, figurative symbols or phrases, which may have the direct or indirect effect of creating the false, erroneous or deceptive impression that a particular product prepared with tobacco is less harmful than another or that may lead to error with respect to its characteristics, effects on health, risks or emissions.

ARTICLE 14. – Hereby banned is the placement or distribution of materials or outside wrappers with the purpose of impeding, reducing, obstructing or diluting the view of the messages, images or information required by this law.

CHAPTER IV

COMPOSITION OF PRODUCTS PREPARED WITH TOBACCO

ARTICLE 15. – The composition of products prepared with tobacco that are cigarettes or small cigars designed for sale on the domestic market must fit the standards prescribed by this law. For such purposes the products named must emit at the most:

- a) ELEVEN MILLIGRAMS (11 mg) of tar per cigarette or small cigar beginning the first year this law is in effect, and TEN MILLIGRAMS (10 mg) of tar per cigarette or small cigar beginning the second year it is in effect;
- b) ONE AND ONE TENTH MILLIGRAMS ((1.1 mg) of nicotine per cigarette or small cigar beginning the first year this law is in effect, and ONE MILLIGRAM (1 mg) of nicotine per cigarette beginning the second year it is in effect;
- c) ELEVEN MILLIGRAMS (11 mg) of carbon monoxide per cigarette or small cigar beginning the first year this law is in effect, and TEN MILLIGRAMS (10 mg) of carbon monoxide per cigarette or small cigar beginning the second year it is in effect.

Tar, nicotine and carbon monoxide contents of cigarettes and small cigars shall be measured according to ISO standard 4387, ISO standard 10315 and ISO standard 8454, respectively, or those issued in the future. Measurement of water shall be made according to ISO standard 10362-1, or whatever may be issued in the future.

Unofficial Translation

The exactness of measurements related to tar, nicotine and carbon monoxide shall be verified according to ISO standard 8243 or those which may be issued in the future.

Laboratories doing the measurements must be accredited under ISO standard 17,025, or those which may be issued in the future, for each of the analyses included in the above-named standards.

ARTICLE 16. – Based on standards that are internationally accepted, the Ministry of Health shall establish:

- a) Verification methods for the standards according to what is regulated in the above article;
- b) Information that manufacturers must provide to the enforcement authority and to the public about the ingredients used in products prepared with tobacco, so that industrial and manufacturers' formula secrets remain protected;
- c) The ban on the use of specific ingredients, provided that it is shown to be in accordance with objective scientific criteria and international standards, which increase the total toxicity inherent in the products under analysis.

CHAPTER V SALE AND DISTRIBUTION

ARTICLE 17. – It is prohibited to sell, display, distribute and promote for whatever purpose products prepared with tobacco in the following places:

- a) Teaching establishments of all levels, whether state or private;
- b) Hospital and health care establishments, whether public or private;
- c) Public offices and buildings;
- d) Means of public passenger transportation;
- e) Venues for museums or clubs and halls for public shows, such as cinemas, theaters and stadiums.

ARTICLE 18. – It is forbidden to sell, distribute, promote and give, for whatever purpose, products prepared with tobacco to minors under EIGHTEEN (18) YEARS OF AGE for their consumption or for that of third parties. For these purposes the seller or vendor must verify the age of the purchaser by demanding display of the document that proves it.

ARTICLE 19. – The person responsible for the sale, distribution, promotion and delivery for whatever purpose of products prepared with tobacco shall be obliged to fulfill the provisions established in Articles 17 and 18, according to his activity.

ARTICLE 20. – Inside the places where products prepared with tobacco are dispensed and points of sale, distribution and delivery for whatever purpose, there must be displayed in a visible location ONE (1) sign with the following inscription: "Forbidden to sell, distribution, promote or give for whatever purpose products prepared with tobacco to minors under 18 years of age", and the number of this law.

Unofficial Translation

ARTICLE 21. – It is forbidden to sell, offer, distribute, promote and/or give for whatever purpose products prepared with tobacco:

- a) In open packages;
- b) In closed packages with fewer than 10 (ten) units;
- c) Through vending machines;
- d) Through any means that prevents verifying the age of the recipient.

ARTICLE 22. – It is forbidden to sell, distribute, advertise, promote and give for whatever purpose articles and products for use and current consumption which, even though not products prepared with tobacco, may be identified or associated with them through the use of logos, emblems or brand names of products prepared with tobacco.

CHAPTER VI ENVIRONMENTAL PROTECTION AGAINST THE SMOKE FROM PRODUCTS PREPARED WITH TOBACCO

ARTICLE 23. – Smoking is banned in:

- a) Enclosed workplaces protected by Health and Workplace Safety Law No. 19,587;
- b) Enclosed places of public access;
- c) Teaching institutions of any level, including institutions in which teaching practices are performed in any of their forms;
- d) Establishments for the custody, care and admission of children in day care nurseries and adults in old age homes;
- e) Museums and libraries;
- f) Cultural and sporting spaces, including those where mass events are held;
- g) Means of public passenger transportation;
- h) Transportation station terminals;
- i) Areas where the consumption of products made with tobacco create a high risk of combustion due to the presence of flammable materials, stations where fuels are dispensed, storage sites for same or explosive materials or similar;
- j) Any other enclosed space designed for free or restricted public access, whether paid or free, not included in the preceding sections.

Non-smokers shall be entitled to demand that the owner, legal representative, manager, administrator or person responsible for whatever reason of the respective locale or establishment warn the violator to cease his behavior.

ARTICLE 24. – Exempted from the ban established in the above article are:

Unofficial Translation

- a) Open air patios, terraces, balconies or other areas or spaces designed for free or restricted public access, whether paid or free, so long as it does not deal with health care or teaching establishments, those of the university area excluded;
- b) Private enclosed workplaces without public service and without employees who fulfill duties in that same office;
- c) Clubs for smokers of products prepared with tobacco or tobacco shops with special areas authorized by the competent authority.

ARTICLE 25. – In places governed by the smoking ban, signs must be placed that show this ban. The respective caption must be written legibly and prominently on signs of a size no less than THIRTY (30) centimeters on a side and placed in a visible spot, in black letters over a white background, with the remaining characteristics as established by regulation.

ARTICLE 26. – In order to facilitate the reports for failure to meet the provision of this law, the enforcement authority shall authorize at least ONE (1) free telephone number and ONE (1) email address which must be broadcast through the mass media and displayed visibly in places where products prepared with tobacco are sold and in those where its consumption is banned.

CHAPTER VII ENFORCEMENT AUTHORITY

ARTICLE 27. – The enforcement authority for this in the national interest shall be the Ministry of Health.

Provinces and the Autonomous City of Buenos Aires shall act as local enforcement authorities, exerting control and oversight over the fulfillment of this law and its regulatory norms. For that purpose the bodies shall determine that they shall fulfill such duties, and the provincial governments may delegate their authority to the municipal governments.

The enforcement authority shall exercise its duty notwithstanding the competency of other bodies in their specific areas. For such purpose the Ministry of Health shall act with the support of the Ministries of Education, Economy and Public Finance, Production, Federal Planning, Public Investment and Services and the Office of Communications Media.

CHAPTER VIII EDUCATION FOR PREVENTION

ARTICLE 28.- The enforcement authority must formulate tobacco use prevention and cessation programs for products prepared with tobacco, designed to be implemented in educational establishments, health centers, the workplace, sporting entities and all other types of community organizations that express their willingness to participate in anti-smoking actions.

ARTICLE 29. – The enforcement authority, in cooperation with the Ministry of Education, shall promote the implementation of information campaigns in educational establishments about the risks involved with the consumption of products prepared with tobacco.

ARTICLE 30.- Health-related professional careers must include study and research on the pathologies linked to tobacco use, their prevention and treatment in their curricular content.

ARTICLE 31. – The Ministry of Health, in coordination with the Ministry of Education, shall promote the information and education of new generations in order to prevent and avoid the onset of the consumption of products prepared with

tobacco.

Special emphasis shall also be placed on the danger that smoking involves for both pregnant women and nursing mothers and for the health of their child.

CHAPTER IX
SANCTIONS

ARTICLE 32. – Violations of the provisions of this law shall be subject to the following sanctions, which shall be applied regardless of whatever civil or criminal responsibility may apply:

- a) A fine in legal tender equivalent to the value to the end user of between TWO HUNDRED FIFTY (250) and ONE THOUSAND (1,000) packages of TWENTY (20) cigarettes of the highest price sold in the country, in the event of non-compliance when the regulations of Chapters V and VI are breached. In the event of reoccurrence of this fine, it may rise to a value of TWO THOUSAND FIVE HUNDRED (2,500) packages with the same characteristics.
- b) Fine in pesos equivalent to the sales value to the end user of ten thousand (10,000) to one hundred thousand (100,000) packages of twenty cigarettes of the highest price sold in the country, in the event of breach of the provisions in Chapters II, II and IV. In the event of reoccurrence, the fine may rise to a value equivalent to one million (1,000,000) packages of the aforementioned;
- c) Seizure and destruction of the materials and products prepared or sold that are found in violation of the provisions established by this law;
- d) Closure of the locale, institution or any other establishment where the guidelines of this law are violated.

ARTICLE 33. - Violations of the provisions of this law shall be judged and carried out by local jurisdictions.

The total of the fines received by each jurisdiction shall be designated towards the financing of the expenses required to fulfill this law.

The sanctions established in the preceding article may accrue and be ranked according to their severity or repetition.

ARTICLE 34. – The sanctions established by this law shall be applied, after disciplinary action that guarantees the right to defense, through health or business authorities, whether national or local, where applicable, notwithstanding the competency of other bodies on the matter.

ARTICLE 35. – The Ministry of Health shall create a national registry of the violators of this law and keep it up to date, coordinating its actions with the other jurisdictions involved in fulfilling this law.

CHAPTER X
FINAL PROVISIONS

Unofficial Translation

ARTICLE 36. – The expense required to fulfill this law shall be financed with the resources coming from:

- a) That produced by established fines;
- b) The sums assigned for those purposes in the National Administrative Budget;
- c) Donations and legacies made with that specific aim.

ARTICLE 37. – This law shall take effect beginning the day after its publication, with the exception of the provisions in Articles 10, 11, 12 and 13, which shall do so ONE (1) year later.

ARTICLE 38. – The instrumentation of Articles 5, 6, 7 and 8 shall go into effect beginning ONE HUNDRED EIGHTY (180) days from the publication of this law.

ARTICLE 39 – The provinces and the Autonomous City of Buenos Aires are hereby invited to approve for the area of their exclusive competency, norms of a similar nature as those provided by this for the national area.

ARTICLE 40. – The Executive Branch shall regulate this law within ONE HUNDRED EIGHTY (180) days from publication.

ARTICLE 41. –Law No. 23,344 and its amendment No. 24.044 are hereby repealed.

ARTICLE 42. – Let it be sent to the Executive Branch.”

Very truly yours.