

FE.-
REPUBLIC OF BENIN
PRESIDENCY OF THE REPUBLIC

LAW No. 2006-12 OF AUGUST 7, 2006

Concerning regulation of the production, commercialization and consumption of cigarettes and other tobacco products in the Republic of Benin

THE NATIONAL ASSEMBLY has deliberated upon and adopted at its session of June 23, 2006,

Pursuant to the Decision by the Constitutional Court of the conformity with the Constitution of DCC 06-084 of August 3, 2006, and

THE PRESIDENT OF THE REPUBLIC is promulgating this law whose contents are as follows:

TITLE ONE

PRELIMINARY PROVISIONS

Article 1. Definitions

For the purposes of this law, the following terms are to be defined as follows:

Young person: any person under the age of 18;

Adult: Any person 18 or older.

- Tobacco products: products manufactured entirely or partially from tobacco leaf as its primary material, and intended to be smoked, sucked, chewed or sniffed;
- Other tobacco products: all products containing tobacco, notably cigars, pipe tobacco, rolling papers, pre-manufactured tubes of tobacco, tobacco powder, tobacco sauce and tobacco leaf, whether dried or not;
- Single cigarette – an individual cigarette;
- Celebrity: any person who, for any reason whatsoever, has achieved wide recognition in a given geographic community;
- Promotional event: an event or activity organized by or on behalf of a manufacturer of tobacco products, the purpose of which is to promote a cigarette brand;
- Advertising: any kind of communication used by or on behalf of a manufacturer, importer, supplier, distributor or vendor of cigarettes or other tobacco products, that seeks to encourage the consumers to choose a brand of cigarette;

- Sponsoring: any public or private contribution made to a third party in relation to an event, a team or an activity whose purpose is to promote cigarettes and other tobacco products;
- Illegal trade in cigarettes and other tobacco products: any practice or conduct prohibited by law involving the production, shipping, receipt, possession, distribution, sale or purchase thereof, including any practice or conduct intended to facilitate such activity.

Article 2: Purpose

This law is intended to regulate in the Republic of Benin the production, importation, distribution, sale, advertising, promotion and consumption of cigarettes and other tobacco products, as well as all matters appertaining thereunto, with a view towards protecting the public against the harmful effects associated with tobacco use.

TITLE II
RULES FOR PACKAGING, ADVERTISING AND PROMOTION OF
CIGARETTES AND OTHER TOBACCO PRODUCTS

CHAPTER I
RULES FOR PACKAGES, SALE AND DISTRIBUTION

Article 3: On the minimum number of products in packs

It is prohibited to sell or distribute cigarettes to consumers in packs containing less than ten (10) cigarettes.

It is also prohibited to sell or distribute cigarettes lightly packed into cases containing less than ten (10) grams.

Article 4: Sale of individual cigarettes

The sale of individual cigarettes is prohibited in the Republic of Benin.

Article 5: On marking of cigarettes and other tobacco products

When they are intended for sale within the customs territory of Benin, after payment of duties and taxes, cigarettes and other tobacco products must be contained in packages, boxes, cases or packs bearing either on themselves or on their label the statement "For Sale in Benin."

This statement is to be printed under the commercial brand, in indelible and very prominent characters, at a height that may not be less than three millimeters.

Cigarettes and other tobacco products may not under any circumstances bear the marking indicated in sub-paragraph 1 above when they are intended:

Unofficial Translation

- For sale subject to duties for re-export;
- For the provisioning of ships and aircraft serving international lines;

Article 6: Inscription of a health warning on packages.

Units of packaging for cigarettes and other tobacco products, particularly packs made available to the public, must display the following health warning on their main surfaces: "Tobacco is seriously harmful to your health."

This statement is to be printed in indelible and perfectly legible characters, on an area that should cover 50% or more of the main surfaces of the package, but not less than 30%.

Article 7: On indicating nicotine and tar content of products on packages

Anyone who manufactures, imports, supplies or distributes cigarettes and other tobacco products must ensure that packages, cases or packs provided for public consumption display a statement of the nicotine and tar content of the products, pursuant to the terms set forth in Article 6.

CHAPTER II

ADVERTISING FOR CIGARETTES AND OTHER TOBACCO PRODUCTS

Article 8: It is prohibited for any manufacturer, importer, supplier, distributor or vendor of cigarettes and other tobacco products to create advertising by representing a young person or a celebrity.

Article 9: Health warning in advertising.

9.1 Any advertising article or any advertising issued by any manufacturer, importer, supplier, distributor or vendor of cigarettes and other tobacco products must display the health warning indicated in Article 6, except for advertising on the sale of material and promotional articles that cover an area less than or equal to 250 cm².

9.2 Health warnings that are to appear on advertising for tobacco products must be printed in indelible and perfectly legible characters, in a space that may not be less than 10% of the total surface of the advertisement.

Article 10: Publication

It is prohibited to publish an advertisement for cigarettes and other tobacco products in a national publication.

Article 11: Prohibition of advertising on billboards

No advertising concerning cigarettes and other tobacco products may appear on a billboard.

Article 12: Prohibition of advertising on radio and television.

Unofficial Translation

No advertising concerning cigarettes and other tobacco products may be broadcast on radio or television.

Article 13: Other media

Advertising for cigarettes and other tobacco products is prohibited in the following media or advertising formats:

- The Internet, audio or video cassette or compact disk;
- Films, cinemas and theaters;

If the access to the medium or advertising format in question is not reserved for an exclusively adult audience.

CHAPTER III

RULES FOR PROMOTIONAL ACTIVITIES AND EVENTS

Article 14: Promotional offers

For promotional activities involving cigarettes and other tobacco products, only the participation of adults is allowed.

Article 15: Promotional articles

No advertising for cigarettes and other tobacco products can be undertaken on:

- Articles sold chiefly to young people or primarily used by them;
- Plastic bags.

Article 16: Distribution of samples

It is prohibited to offer samples of cigarettes and other tobacco products to young people or to persons who are not smokers.

CHAPTER IV

RULES FOR SPONSORING

Article 17: Sponsored events

No sponsoring on behalf of a brand of cigarette or tobacco product can be undertaken:

- Involving an event or an activity unless all of the participants at such event or activity are adults;
- Involving a team or an individual, unless all the members of such team or the individuals in question are adults.

Article 18: Sponsoring

No one is allowed to carry or have in his possession advertising articles marked with the logo or the name of a brand of cigarette or tobacco product during sponsored activities or events, unless he is an adult.

TITLE III
PROVISIONS CONCERNING THE CONSUMPTION OF CIGARETTES
AND OTHER TOBACCO PRODUCTS

CHAPTER I
PROHIBITION OF SMOKING IN SPACES SUBJECT TO SHARED USE

Article 19: Spaces subject to shared use

It is prohibited to smoke in the following spaces subject to shared use:

- Educational institutions;
- Hospital institutions;
- Venues for public spectacles, cinemas, movie theaters and concerts;
- Venues for athletic events;
- Libraries
- Elevators;
- Public and private offices;
- Public surface transportation.

Smoking prohibitions are to be prominently displayed on signs.

Article 20: Spaces subject to common use

Except for hotels and restaurants where an area may be reserved for smokers, it is prohibited to smoke in the following spaces subject to common use: boats, motor launches, canoes, trains, bus stations, river boat terminals, ocean terminals, railroad terminals and airport terminals.

The owner of such spaces or any person in charge of their management or of the means of transport indicated in sub-paragraph 1 shall be required to comply with these provisions.

CHAPTER II
PROVISIONS CONCERNING PROTECTION OF YOUNG PEOPLE

Article 21: Posted statement

Unofficial Translation

Anyone selling cigarettes and other tobacco products must post in a prominent and clearly legible manner, directly at the point of sale or in the immediate vicinity, a statement specifying that the sale of cigarettes and other tobacco products to young people is prohibited.

Article 22: Prohibition

- It is prohibited to sell or give away for free to any young person cigarettes and other tobacco products.
- It is prohibited to promote the products mentioned in the foregoing sub-paragraph among young people.
- It is prohibited to make a young person participate in an advertisement or any other kind of promotion of cigarettes and other tobacco products.
- It is prohibited for any young person to sell or distribute cigarettes or other tobacco products.

TITLE IV SANCTIONS

Article 23: Sanctions associated with the protection of young people

Any person who sells, offers for sale or authorizes the sale of cigarettes and other tobacco products to a young person is susceptible to a fine of one hundred thousand (100,000) to one million (1,000,000) francs CFA.

Article 24: Sanctions associated with packaging

Any person who produces, imports, supplies or distributes cigarettes and other tobacco products without ensuring that the packages, boxes, cases or packs provided for public consumption display the health warning indicated in Article 6 of this law, is susceptible to a fine of one hundred thousand (100,000) to one million (1,000,000) francs CFA, and to imprisonment of ten (10) days at most, or to only one of these punishments.

These punishments apply for every package that is not in compliance, and are cumulative for the totality of the lot subject to criminal penalty.

Article 25: Sanctions associated with the prohibition of smoking.

Any person who fails to comply with the prohibition of smoking in places subject to shared use indicated in Article 19 of this law is susceptible to a fine of fifty thousand (50,000) to five hundred thousand (500,000) francs CFA, and to imprisonment of ten (10) days at most, or to only one of these punishments.

Article 26: Other sanctions

Any person who contravenes one of the provisions of this law other than those indicated in Articles 23 to 25 hereof, is liable to a fine of five hundred thousand (500,000) to five million (5,000,000) francs CFA.

TITLE V
FINAL PROVISIONS

Article 27: Any earlier provisions at variance with this law are hereby rescinded.

Article 28: This law is to be executed as a Law of the State.

Done in Cotonou, on August 7, 2006

By the President of the Republic
Head of State, Head of the Government,

[illegible signature]

Dr. Boni YAYI

The Minister of Health
[illegible signature]
Flore GANBGO

The Minister of Industry and Commerce
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Moudjaidou Issoufou SOUMANOU

Acting Minister for Communication
And New Technologies for the
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The Minister of Public Safety
and Local Communities
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The Minister of Justice, in Charge
Of Relations with Institutions,
Government Spokesman
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Me Abraham ZINZINDOHOUE

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