CABINET OF THE MINISTER

INTERMINISTERIAL EDICT Nº 2.647,
OF DECEMBER 4, 2014

Regulates the conditions for isolation, ventilation and removal of air and measures of worker protection in relation to exposure to smoke in premises established in Art. 3 of Decree nº 2.018, of October 1, 1996, as amended by Decree nº 8.262, of May 31, 2014.

THE MINISTER OF STATE FOR HEALTH AND THE ACTING MINISTER FOR LABOR AND EMPLOYMENT, in the exercise of the authority conferred upon them by art. 87 item II of the Constitution, and

In light of what is set forth in Art. 200 of Decree-Law nº 5.452, of May 1, 1943, which approves the Consolidation of Labor Laws (CLT - Consolidação das Leis do Trabalho);

In light of Law nº 8.080, of September 19, 1990, instituting the Single Health Care System (SUS – Sistema Único de Saúde);

In light of what is set forth in Law nº 9.294, of July 15, 1996, concerning restrictions on the use and advertising of smoking products, alcoholic beverages, medications, therapies and agricultural pesticides, pursuant to the terms of § 4 of Art. 220 of the Federal Constitution;

In light of Decree nº 2.018, of October 1, 1996, which regulates Law nº 9.294, July 15, 1996, concerning restrictions on the use and advertising of smoking products, alcoholic beverages, medications, therapies and agricultural pesticides, pursuant to the terms of § 4 of Art. 220 of the Constitution;

In light of Decree nº 5.658, January 2, 2006, which promulgates the Framework Convention on Tobacco Control, adopted by the member countries of the World Health Organization on May 21, 2003, and signed by Brazil on June 16, of 2003; and

In light of Decree nº 8.262, of June 2, 2014, which amends Decree nº 2.018, of October 1, 1996, establishing exceptions to the prohibition of the use of smoking products, whether or not they are derived from tobacco, in closed premises of common use, in Art. 3, § 2, sub-paragraphs I to V, as well as determining in § 3 of Art. 3 that in the places indicated in § 2 conditions are to be adopted for the isolation, ventilation and removal of air, as well as measures of worker protection in relation to exposure to smoke, pursuant to the terms of supplementary provisions published by the Ministries of Health and of Labor and Employment, hereby resolve:

Art. 1 This Interministerial Edict regulates the conditions for the isolation, ventilation and removal of air, as well as measures of worker protection in relation to exposure to smoke in the premises indicated in Art. 3 of Decree nº 2.018, of October 1, 1996, as amended by Decree nº 8.262, of May 31, 2014.

Art. 2 For the purposes of this Edict, the following definitions shall apply:

I – exclusive area for the use of smoking products, whether or not they are derived from tobacco: the area intended exclusively for the use and tasting of smoking products, whether or not they are derived from tobacco, isolated from other areas of the establishment, pursuant to the technical terms of this Edict, and which are located in one of the following establishments:

a) establishments specifically intended for the sale of smoking products, whether or not they are derived from tobacco, as long as this status is clearly announced at the entrance to the establishment;

b) studios and premises for the filming or recording of audiovisual productions, when necessary to the production of work;

c) premises intended for research and development on smoking products, whether or not they are derived from tobacco; and

d) health care institutions that have patients authorized to smoke by their attending physician;

II – exhaust system of ventilation: a process employed to obtain in spaces a dilution of pollutants generated on the
Art. 1 It is prohibited to sell, distribute or provide food products and smoking products, whether or not they are derived from tobacco.

Art. 2 Inside the exclusive areas for the use of smoking products, whether or not they are derived from tobacco, the sale, distribution or provision of food products and smoking products, whether or not they are derived from tobacco, is prohibited.

Art. 3 The exclusive area for the use of smoking products, whether or not they are derived from tobacco, must have an exhaust ventilation system to reduce the accumulation of emissions of the product indoors, and to prevent their leaking out into other spaces as a measure of prevention and health protection.

Art. 4 Inside the exclusive areas for the use of smoking products, whether or not they are derived from tobacco, the use of smoking products, whether or not they are derived from tobacco, can only be performed when the premises are not in operation.

Art. 5 It is forbidden for workers to regularly spend time in the interior of the exclusive areas for the use of smoking products, whether or not they are derived from tobacco.

§ 1 When it is necessary for workers to traverse the area in the performance of their activities inside exclusive areas for the use of smoking products, whether or not they are derived from tobacco, the necessary sufficient measures must be taken to minimize or control the risks resulting from exposure to smoking products, whether or not they are derived from tobacco.

§ 2 Maintenance services of the facilities and equipment in the exclusive areas for the use of smoking products, whether or not they are derived from tobacco, can only be performed when the premises are not in operation.

Art. 6 The exclusive areas for the use of smoking products, whether or not they are derived from tobacco, must be endowed with the following specific conditions:

I – Physical planning that ensures:

a) a minimum area of 1.2m² per user, and it is not permitted for persons to remain in an area larger than that established in the design;

b) complete closing off of the exclusive area for the use of smoking products, whether or not they are derived from tobacco, without openings leading to the interior of the establishment where it is located, separated from the other areas by walls, and one of these walls must be constructed of materials that allow for a complete view of the space’s interior, with access provided by a single door;

c) construction with appropriate materials for sealing the walls, floors, and ceilings, and seats that can undergo washing and the use of disinfectants, with the lowest possible number of fissures or cracks, even after frequent use and cleaning;

d) provision of ashtrays with a box of sand or other proper receptacles for disposal;

e) provision of fire prevention systems (extinguishers and sprinklers, among others);

f) a door with an automatic closing mechanism to prevent leakage of air from the exclusive area for the use of smoking products, whether or not they are derived from tobacco, into the rest of the establishment where it is located, and into the adjoining establishments, regardless of the type of opening or finishing the door has; and


g) furniture made of non-combustible material, that is easy to clean, and that minimizes the absorption of particles emitted by smoking products, whether or not they are derived from tobacco.

II – Exhaust system for ventilation that ensures:

a) removal to the outside of the air captured that is sufficient to prevent emissions of contaminants into other spaces;

b) the air captured from the exclusive area is completely channeled outdoors, and is not permitted to recirculate in other spaces;

c) a climate-control system that meets the standards of health inspection; and

d) that the exclusive area for the use of smoking products, whether or not they are derived from tobacco, is maintained with a negative pressure gradient in relation to the rest of the establishment where it is located, as well as to the adjacent establishments.

§ 1 The use of smoking products derived from tobacco is forbidden during periods when the exhaust system for ventilation of the exclusive areas for this purpose is not functioning properly;

§ 2 The use of purifiers, air scrubbers or similar systems is only allowed if it is adopted together with the exhaust system for ventilation; and

§ 3 The exhaust system for ventilation must be kept in operation after the emptying out and shutting down of the exclusive area for the use of smoking products, whether or not they are derived from tobacco, and then be automatically turned off by a timed relay switch, so as to remove any residues and odors of smoke that may have been retained and accumulated in the closed space.

Art. 7 The external surface of the entrance door to the exclusive area for the use of smoking products, whether or not they are derived from tobacco, located in establishments intended specifically for the sale of smoking products, whether or not they are derived from tobacco, as long as this condition is clearly announced at the entrance of the establishment, shall be required to contain the following information:

I - information on the use of the place, operating times, maximum capacity for people and prohibition of the sale, distribution and provision of food products and smoking products, whether or not they are derived from tobacco; and

II – a health warning to consumers containing information on the harmful effects resulting from the use of smoking products, whether or not they are derived from tobacco.
Sole paragraph. The health warning indicated in sub-paragraph II of the "heading" must also be posted inside the exclusive area addressed by this article.

Art. 8 The establishments enumerated in sub-paragraph I of Art. 2 shall have a maximum period of 180 (one hundred and eighty) days after the publication of this Edict to adapt to its provisions.

Sole paragraph. For the commencement or recommencement of activities, establishments must fully comply with the provision contained in this Edict.

Art. 9 At healthcare institutions, patients authorized to smoke by their attending physician will only be allowed to use smoking products, whether or not they are derived from tobacco, in the exclusive areas defined in this Edict or, exceptionally, in areas outdoors where no patients or workers circulate.

Art. 10 Places of religious worship where there is use of smoking products, whether or not they are derived from tobacco, must post a notice at the entrance indicating what smoking product is being used.

Sole paragraph. It is forbidden for workers to traverse or remain in the area to perform their work while products are being smoked, whether or not they are derived from tobacco.

Art. 11 State, Municipal and Federal District health enforcement bodies, and the Regional Offices of Labor and Employment shall be responsible for the application and execution of actions within their competency seeking compliance with this Edict.

Art. 12 All normative acts mentioned in this Edict, when superseded or updated by new acts, shall have their reference automatically updated in relation to the original act.

Art. 13 The places enumerated in sub-paragraph I of Art. 2 must observe the other laws in force established by the Ministries of Health and of Labor and Employment, and by the National Agency of Health Oversight (ANVISA - Agência Nacional de Vigilância Sanitária).

Art. 14 Failure to comply with the determinations contained in this Edict constitute a health infraction, and the offender shall be subject to the sanctions set forth in Art. 9 of Law nº 9.294, July 15, 1996, and/or a labor infraction, as set forth in Art. 157, and subject to the punishments indicated in Art. 201, both of the CLT, without impairment to the other penalties stated in the legislation in force.

Sole paragraph. Health infractions shall be investigated through adherence to the process set forth in Art. 12 and following of Law nº 6.437, of August 20, 1977.

Art. 15 What is set forth in this Edict does not preclude the need to observe the health standards published by ANVISA in the exercise of the competencies stated in Law nº 9.782, of January 26, 1999.

Art. 16 This Interministerial Edict enters into force on the date of its publication.

ARTHUR CHIORO
Minister of State for Health

NILTON FRAIBERG MACHADO
Acting Minister of State for Labor and Employment