

Law No. 1/012 of May 30, 2018 on the Code of the Supply of Health Care and Services

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Article 3.

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Cigarette: a small tube of chopped tobacco wrapped in fine paper;

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Growing tobacco: growing leaves of the plant with the scientific name *Nicotiana tobaccoum*;

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Labeling: package on which indications and warnings concerning this product are stated;

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Tar: An oily, viscous and blackish substance, with a strong and acrid odor, obtained by distilling various vegetable or mineral materials, considered carcinogenic or potentially dangerous;

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Tobacco industry: companies engaged in manufacture and whole sale distribution of tobacco products and importers of such products;

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Tobacco control: a series of strategies to reduce the supply, demand and harmful effects, seeking to improve the health of the population by eliminating or reducing its consumption of tobacco products and exposure of the public to tobacco smoke;

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Nicotine: a toxic product derived chiefly from the tobacco plant used as a psychotropic, particularly with the inhalation of tobacco smoke;

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Illustrative pictogram: A figurative or symbolic standardized drawing intended to give information about a product without referring to its linguistic form;

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Tobacco products: all products intended to be smoked, sniffed, sucked or chewed as long as they are manufactured entirely or partially from leaf tobacco as a raw material;

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Advertising for tobacco: any form of communication used for or on behalf of a manufacturer or distributor of cigarettes or other tobacco products, which aims to encourage consumers to choose one brand of cigarettes instead of another;

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Advertising: any kind of communication, recommendation or commercial action having the purpose, effect or likely effect of promoting a product directly or indirectly;

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Cross-border advertising: any kind of communication, recommendation or commercial action having the purpose, effect or likely effect of promoting a product directly or indirectly outside the national territory;

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Public health: the science and art of promoting the health and physical efficiency of individuals through concerted collective action, seeking to make the environment healthy, fight against diseases of social significance, to teach individuals the rules of personal hygiene, to organize medical and nursing services with a view to early diagnosis and preventive and curative treatment of diseases, as well as implementing social measures of cleanliness to ensure for each member of the community a level of life

compatible with health maintenance, the final purpose being to enable everyone to enjoy their innate right to health and longevity;

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Tobacco: all products intended to be smoked, sniffed, sucked or chewed, as long as they are manufactured entirely or partially from leaf tobacco as a raw material;

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Tobacco addiction: Regular use of tobacco and tobacco products giving rise to poisoning and addiction;

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CHAPTER II: DISEASES AND OTHER BEHAVIORS WITH SOCIAL REPERCUSSIONS

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Article 86: The diseases addressed in this chapter are leprosy, tuberculosis in all of its forms, sexually transmitted infections and HIV/AIDS, mental illnesses, chronic diseases, alcoholism, tobacco addiction and drug addiction.

The Minister of Public Health may determine other ailments and problems that may be subject to special measures.

Article 87: Health authorities appointed by the Minister of Public Health may, at the request of the Ministry of the Public Prosecutor, decide to impose involuntary hospitalization of persons afflicted with mental disorders, alcoholism or drug addiction, and whose free circulation could constitute a danger to them or to others.

Article 88: In emergency cases, involuntary hospitalization can be ordered by the competent territorial authority, on the condition that a medical exam be performed within twenty-four hours following hospitalization with the aim of confirming or refuting the grounds for the administrative decision.

Article 89: In each case, the decision is to be reported by the Ministry of the Public Prosecutor which must gather the statements and receive the

appeals of the interested party and his family against the decision of the health authority or territorial authority.

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Section 6: Tobacco control

Article 102: The purpose of the provisions of this section is as follows:

1. To protect the health of the public against numerous debilitating or mortal diseases due to tobacco;
2. To establish the primacy of public health over activities associated with economic interests with tobacco.
3. To limit the public's access to tobacco and shield it from incitement to use tobacco and the tobacco addiction that can result from this;
4. To raise public awareness regarding the dangers of using tobacco and exposure to tobacco smoke;
5. To protect new and future generations from the devastating health, social, environmental and economic effects caused by tobacco consumption and exposure to tobacco smoke;

1. Growing tobacco, manufacturing tobacco products and the liability of the tobacco industry

Article 103: Industrial or framed crops of tobacco are prohibited in the national territory.

For traditional growing of tobacco practiced by peasants, policies and programs are to be developed by the Government with a view to replacing them by other economically profitable crops.

A regulatory text shall determine the procedures for the execution of the foregoing sub-paragraph.

Article 104: The manufacture of tobacco products for sale is subject to the joint authorization of the Ministers of Commerce and Public Health.

The procedure for the issuance of such authorization is to be determined by a joint order of the Ministers noted in sub-paragraph 1.

Article 105: The tobacco industry is civilly liable for the damages that its activities cause to the public and the environment.

Any influence by the tobacco industry in public health policies involving tobacco control is prohibited, whatever the level of decision-making may be.

Article 106: Any natural or juridical person whose interest is injured by the activities of the tobacco industry can bring action against the latter before the competent tribunals.

2. Composition, packaging and labeling

Article 107: Tobacco products of any kind whatsoever, must be in compliance with the standards defined by order of the Minister of Public Health and the public is to be made aware of them.

Article 108: Manufacturers and importers of tobacco are required to report to the competent authorities all information relating to the composition and emissions of tobacco products. The information is to be disclosed to the public.

Article 109: Each product must be tested by a competent facility jointly approved by the Ministers of Public Health, Commerce and Industry prior to any authorization for the importation or distribution on the market. Costs inherent to the tests are to be borne by the importers and manufacturers of tobacco.

The time periods relating to the standards and procedures are to be set by regulatory provision.

Article 110: The average nicotine content as well as the average content of tar and other substances likely to be released by combustion are to be stated on each package in their current forms of use.

An order by the Minister of Public Health shall define the list of substances that must be stated, as well as the conditions in which the presence of the substances and components is determined.

Article 111: It is prohibited to package a tobacco product in a manner that is not in compliance with this Law and its measures for implementation.

Packs or cartons and any kind of outer packaging of tobacco products for sale in Burundi must exhibit, in prominent and indelible characters, a health warning covering at least 50% of the main surfaces on the front and back sides in one of the languages used in Burundi. The warning should be presented in the form of an illustrative drawing or pictogram.

The procedures for health warnings and messages are to be determined by order of the Minister of Public Health.

However, for products manufactured locally, the health warning is required in Kirundi, in addition to the international languages recognized in matters of commerce.

Article 112: Any packaging and any labeling of tobacco products that contributes to their promotion by any means likely to give an erroneous impression with regard to the characteristics, effects on health, risks or emissions of the product, including descriptive terms, trademarks, figurative or other signs that directly or indirectly give the impression that a tobacco product is less harmful than another, is prohibited.

Article 113: Presentation and labeling must not under any circumstances use terms likely to give erroneous impressions such as low in tar content, light, ultra-light or mild, in one of the languages used in Burundi.

3. Advertising, sponsorship and promotion

Article 114: It is prohibited for any manufacturer, importer, supplier, distributor or vendor of cigarettes and other tobacco products to engage in any kind of advertising, including cross-border advertising and direct or indirect promotion, in any form whatsoever in favor of tobacco and tobacco products.

Article 115: Publicity or advertising in favor of an item or product other than tobacco or tobacco products should not, through its language or its graphics, its mode or presentation or in any other way, constitute indirect or hidden publicity or advertising in favor of tobacco or its derivative products.

Article 116: It is prohibited to offer, hand out or distribute, for free or otherwise, articles displaying the name of a producer, manufacturer or

merchant of tobacco or its derivative product, if the articles are of common use or consumption.

Article 117: The offer, handing out, and distribution for free of tobacco or its derivative products are prohibited.

Article 118: Any operation of sponsorship is prohibited if it has the purpose or effect of promoting or directly or indirectly advertising tobacco or one of its derivative products.

Article 119: It is prohibited for manufactures, importer or retail vendors:

1. to manufacture, distribute free of charge and sell candies, toys or any other article that has the shape of a tobacco product, or calls one to mind;

2. to provide a tobacco product for free, or in exchange for the purchase of a product or service, or the provision of a service;

3. to provide as a secondary element of such an item an element of the brand of a tobacco product for free or in exchange for the purchase of a product or provision of a service;

4. to offer or give, directly or indirectly, a premium, a discount or the right to participate in a drawing, a lottery or a contest in exchange for the purchase of a tobacco product, particularly as a gift to the buyer or a third party.

Article 120: The state may not grant any subsidy, or take or order any measure of inducement, privilege or advantage in favor of the growing, processing, promotion of tobacco or tobacco consumption, or in favor of the tobacco industry.

Article 121: Any kind of advertising of tobacco or its derivative products for promotional articles is prohibited. The same applies to packages and any other container.

Article 122: It is prohibited to offer samples of tobacco or its derivative products to persons under the age of 18 and to non-smokers.

4. Access to tobacco products

Article 123: The sale and consumption of tobacco and its derivative products to any person under the age of 18, and to pregnant women, is prohibited.

A notice of prohibition of the sale of tobacco products and its derivative products to persons under the age of eighteen (18) and to pregnant women must be prominently posted at all points of sale for tobacco.

The characteristics of the signage are to be defined by order of the Minister of Public Health.

In cases of uncertainty regarding the age of the buyer, the latter must prove by all appropriate means that he has attained the legal age. It is up to the vendor to show proof that he took all necessary precautions in order to not sell tobacco and tobacco products to a person who has not attained the age of eighteen (18).

Article 124: The sale of tobacco products by automatic vending machines or by any other means allowing direct access to tobacco products, is prohibited.

Sale over the internet or by any other means that does not make possible verification of the age or condition of the buyer is also prohibited.

Article 125: It is prohibited to place points of sale for tobacco and its derivative products inside pre-school, school or university institutions, as well as in health care institutions, athletic facilities, or public, semi-public and private office buildings.

Article 126: Points of sale for tobacco and its derivative products, as well as the characteristics of premises intended to receive them, are to be defined by a joint order by a joint order of the Ministers of Public Health and Commerce.

Points of sale are to have signs posted of panels reminding people of the danger associated with the consumption of tobacco and its derivative products.

The form of the panels and the content of the messages are also to be determined by a joint order of the Ministers noted in the first subparagraph.

5. Prohibition of tobacco product consumption in places used by the public

Article 127: It is prohibited for anyone to smoke in spaces used by the public, or to expose others to tobacco smoke.

Article 128: It is prohibited to smoke in any places that are public, whether closed or open, in any workplaces, in any vehicle of public transportation and in any other place designated by the Minister of Public Health.

6. The National Multi-Sectoral Committee for Tobacco Control

Article 129: The National Multi-Sectoral Committee for Tobacco Control is hereby established.

Article 130: The National Multi-Sectoral Committee for Tobacco Control has the following missions:

1. To coordinate the implementation of the Framework Convention for Tobacco Control of the WHO in Burundi.
2. To implement the country's policy in matters of tobacco control through the national strategic plan;
3. To strengthen actions to inform, educate and communicate about the harmful effects associated with tobacco consumption and on the advantages of quitting tobacco;
4. To draw up and implement programs of training and applied research;
5. To provide support and protection for actors and agencies engaged in tobacco control.

The composition and operating procedures of the National Multi-sectoral Committee for Tobacco Control are to be defined by decree.

The tobacco industry, its agents as well as any entity that undertakes to promote the interests of the tobacco industry are not to be a part of the National Multi-sectoral Committee for Tobacco Control.

7. Financial and fiscal measures

Article 131: The use of tax stamps for tobacco and its derivative products in Burundi and those intended to be sold in Burundi is hereby established.

The nature and operating procedures for these stamps are to be defined by order of the Ministers of Finance and Public Health.

Article 132: In order to help to accomplish health goals seeking to reduce the consumption of tobacco and its derivative products, the tax on consumption, customs duties and excise taxes must be sufficiently prohibitive.

Tobacco and its derivatives may not benefit from exemptions on duties and taxes.

Article 133: A part of the taxes levied must be allocated to tobacco control activities, the promotion of health and care for pathologies associated with tobacco addiction.

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CHAPTER 1: PENAL PROVISIONS

Article 302: Without impairment to administrative sanctions that may be instituted by the competent authorities, offenders who violate the provisions of this Law, whether natural or juridical persons, shall incur sanctions.

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Article 307: Any natural or juridical person who violates what is set forth in Article 103, sub-paragraph I of this Law, is susceptible to a punishment of penal servitude of ten to fifteen years, and a fine of one million to ten million Burundian francs, or to only one of these punishments.

Article 308: Anyone who engages in industrial or framed cultivation by the tobacco industry in violation of the provisions of Article 103 is punishable by penal servitude of three months to one year and a fine of one million to one hundred million Burundian francs, or to only one of these punishments.

The jurisdiction engaged in the matter, moreover, shall order the destruction of the crops in question.

Any interference by the tobacco industry is punishable by a fine of ten to twenty million Burundian francs.

Article 309: Anyone who supplies or distributes tobacco products intended for sale in a package that exhibits a prohibited descriptive term or disseminates informational advertising with the use of prohibited descriptive terms is susceptible to a punishment of penal servitude of six months to three years, and a fine of one million to ten million Burundian francs, or to only one of these punishments.

Article 310: Any smoker who willingly exposes other persons to tobacco smoke, or smokes in public places, is liable to penal servitude of seven days and a fine of ten thousand to fifty thousand Burundian francs.

Article 311: Any proprietor or manager of a public space who does not prominently post the prohibition of smoking and does not set aside spaces for smokers pursuant to Article 128, sub-paragraph 2, is susceptible to a fine of fifty thousand to one hundred and fifty thousand Burundian francs.

Article 312: Any person who engages in advertising, promotion or sponsorship of tobacco products is liable to penal servitude of two to six months and a fine of one hundred thousand to one million Burundian francs, or to only one of these punishments.

Article 313: Any person who, in violation of Articles 122 and 123, incites someone to smoke, sells, puts up for sale or authorizes the sale of tobacco products to a minor, a non-smoker or a pregnant woman, including tobacco products available through automatic vending machines, is susceptible to penal servitude of two to six months and a fine of fifty thousand to five hundred thousand Burundian francs, or to only one of these punishments.

Article 314: Any manufacturer or importer of tobacco products who does not provide government authorities with the required information, or knowingly provides them with false or misleading information, is liable to penal servitude of one to three years, and a fine of one million to ten million Burundian francs.

Article 315: Any person who, in violation of Article 111, sub-paragraph 2, provides or distributes tobacco products intended for sale in a package that does not display the required content information or health warning shall incur penal servitude of one to three years, and a fine of five hundred

thousand to one million Burundian francs, or only one of these punishments.

Article 316: Anyone who locates points of sale for tobacco in violation of Articles 125 and 126 is punishable by penal servitude of three months to one year, or a fine of one hundred thousand to five hundred thousand Burundian francs.

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