

**LAW NO. 1335 JULY 21, 2009**

**“PROVISIONS BY WHICH DAMAGES CAUSED TO MINORS AND THE NON-SMOKING POPULATION ARE PREVENTED AND PUBLIC POLICIES ARE STIPULATED TO PREVENT TOBACCO CONSUMPTION AND THE CESSATION OF THE SMOKER’S DEPENDENCE ON TOBACCO AND ITS DERIVATIVES IN THE COLOMBIAN PEOPLE”.**

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**THE CONGRESS OF COLOMBIA**

**HEREBY DECREES:**

**Article 1. Object.** The object of this law is to contribute towards guaranteeing the health rights of the inhabitants of the land, especially that of minors under the age of 18 years and the non-smoking population, by regulating the consumption, sale, advertising and promotion of cigarettes, tobacco and its derivatives, as well as to create health and education programs intended to contribute to the reduction of its use, cessation of the smoker's dependence on tobacco, and to establish the corresponding penalties for those who breach the provisions of this law.

**CHAPTER I**

**Provisions on the Sale of Tobacco Products to Minors**

**Article 2. Ban on selling tobacco products to minors.** It is forbidden for any individual or legal entity to directly or indirectly sell tobacco products and its derivatives in any of its presentations to minors under the age of eighteen (18) years. In case of question, one must ask each tobacco purchaser to show that he has reached majority age.

**Paragraph 1.** Sellers and vendors of tobacco products and its derivatives must show beneath a clear and outstanding sign on the inside of their premises, establishment or point of sale the ban on the sale of tobacco products to minors.

In no case may this sign make mention of tobacco company brand names, companies or foundations, nor employ logos, symbols or sets of colors that would allow one of them to be identified.

**Paragraph 2.** The competent authorities will carry out inspection, oversight and control procedures at the points of sale, premises or establishments for the purpose of guaranteeing compliance with this provision.

**Paragraph 3.** The use of vending machines or mechanical dispensers is prohibited for tobacco products in places at points of sale where there is free access by minors.

Tobacco products must be guaranteed to be inaccessible from public stands having no type of control.

**Article 3.** For the purposes of safeguarding public health and preventing the access of minors to tobacco and its derivatives, the manufacture and importation of cigarettes in packs or presentations containing fewer than ten (10) *units* is prohibited.

**Paragraph:** Two (2) years after this Law takes effect, the sale of tobacco products and its derivatives is prohibited by the unit.

**Article 4.** The manufacture and marketing of sweets, snacks, toys and other objects in the shape of tobacco products and which may be attractive to minors is forbidden.

## CHAPTER II

### **Provisions to Prevent the Consumption of Tobacco and its Derivatives in Minors and the Non-Smoking Population**

**Article 5. Anti-Smoking Health Policies.** The Ministries of Welfare and National Education shall formulate, apply, periodically update and review comprehensive, multi-sector, national strategies, plans and programs for smoking control in minors and the general population, whether smoking or non-smoking, which correspond to the public health policy that has been stipulated, and then will implement strategies to aim for the cessation of tobacco consumption.

The Ministry of Social Welfare shall design and incorporate into the National Public Health Plan strategies and actions to identify and promote the care and demand for rehabilitation, cessation and cure services for the smoking public who has been sickened by causes associated with smoking.

**Article 6. Participation of Indigenous and Afro-Colombian Communities.** The Ministry of Social Welfare shall promote the participation of the indigenous and Afro-Colombian communities in the preparation, implementation and assessment of programs to control tobacco use in the population, especially minors.

**ARTICLE 7. Training Educational Staff.** The Ministries of Social Welfare and National Education shall formulate and enact the programs, plans and strategies designed to do training on prevailing tobacco control measures for people such as: health professionals, community workers, social assistants, communications professionals, educators and those responsible for training minors, as well as

public servants in general about the adverse consequences of tobacco use and the inhalation of tobacco smoke.

**Article 8. Educational Programs to Avoid Tobacco Consumption and Seek the Cessation of Smoking.** Minors must receive knowledge and educational institutional assistance under the principles of public health about the noxious effects of smoking, the incidence of illnesses, premature disability and mortality due to tobacco use and the exposure to tobacco smoke for both active and passive smokers. For this the Ministry of Education will set up curriculum plans and educational activities for the prevention and control of smoking in preschool, primary, secondary, middle vocational, university and informal education and for teachers and other educational programs.

**ARTICLE 9. Preventive Educational Program in the Mass Media under National Responsibility.** The National Television Commission will designate free and rotating spaces for the use of public entities and Non-Governmental Organizations aimed at issuing preventive messages against the use of cigarettes, tobacco and its derivatives, during high viewership hours on television on ordinary media and subscription channels. By the same measure, the setting aside of spaces under national responsibility must be done to broadcast the same types of messages by radio stations.

**Article 10. Obligation of the Territorial Entities.** Governors, Mayors and departmental, district and municipal health departments are responsible for the following:

- a) Broadcasting in the area of their jurisdiction the measures established in this law;
- b) Carrying out activities of mobilization and social agreement to guarantee compliance with this law;
- c) Developing marketing campaigns on one hundred percent (100%) smoke-free environments and discouragement about the use of tobacco products;
- d) Developing educational campaigns within the Health Care Providers network on the harmful effects of tobacco consumption and about strategies to discourage or cease its use;

**Paragraph.** All public entities must broadcast this law both on any websites they have enabled and on other broadcast media they may have.

**Article 11. Prevention Campaigns for the Population At Risk of its Consumption:** The National Government shall be responsible for implementing general information and education campaigns for the population about the

harmful effects of tobacco use and the exposure to environmental tobacco smoke and offer advice and develop programs to discourage the smoking habit.

**Paragraph 1.** Health Promotion Companies from the Contributory System and the Subsidized System, Adapted Entities and Responsible Entities from Exception Systems as dealt with in Article 279 of Law 100 of 1993 and Law 647 of 2001, must identify the risk factor in their population, inform that population about the risks to its health from the habit of tobacco use or its derivatives and provide users with services of the Mandatory Health Program that will allow them manage the risk factor.

**Paragraph 2.** Institutional Health Provider and Health Promoting Entities which detect this risk factor shall have the obligation to inform their users about these services.

**Article 12.** Professional Risk Administrators shall be responsible for developing strategies to permanently offer information and education to their affiliates to guarantee one hundred percent (100%) smoke-free work environments.

### **CHAPTER III**

#### **Provisions Regarding Advertising and the Packaging of Tobacco and its Derivatives**

**ARTICLE 13. Packaging and Labeling.** The packaging and labeling of tobacco products or its derivatives may not a) be aimed at minors or be especially attractive to them; b) suggest that smoking contributes to athletic or sporting success, popularity, professional success or sexual success; C) contain false or deceptive advertising appearing in expressions such as cigarettes being “mild”, “light” or “low in tar, nicotine and carbon monoxide”.

**Paragraph 1.** All cigarettes and products from tobacco and its derivatives must clearly and unequivocally express in the image or in the text, as the case may be, and in a rotating and concurrent manner, warning phrases and pictograms whose rotation shall be done at least annually, according to the regulations that the Ministry of Social Welfare shall issue.

These warning phrases and pictograms must appear on the surfaces of one of the two (2) principal faces of the tobacco products marketed in the country and occupy 30% of the area of each face. The text shall be in Spanish in a box with a white background and black border with 14-point Helvetica font lettering in black, which will be placed parallel on the lower portion of the package.

**Paragraph 2.** All boxes and packages of cigarettes used to deliver the product to the end consumer, imported to be sold in Colombia, must include the country of origin and the words "Imported for Colombia" on one of the side faces, written in capital letters and in a size no smaller than 4 points.

The Ministry of Social Welfare shall regulate what is necessary for compliance with this provision within a period of three (3) months from when this law goes into effect.

**Transitory paragraph:** A period of one year from when this law takes effect is granted in order to apply the contents of this article.

**ARTICLE 14. Contents of the Media Aimed at the General Public.** No individual or legal entity, factual or legal, may promote tobacco products on radio, television, in the cinema, written media such as bulletins, newspapers, magazines or any mass media document, theater productions or other live functions, live or recorded musical functions, commercial video or films, compact disks, digital video disks or similar media.

**Paragraph:** Cable operators, satellite operators and community television operators who are duly authorized by the National Television Commission through a license shall not be permitted to issue commercials or advertising in Colombia for tobacco produced abroad.

The penalties shall be the same as those set forth in this law.

**ARTICLE 15. Advertising on Billboards and Similar.** No individual or legal entity may put up billboards, placards, murals, posters, public notices or the like that are mobile or fixed related to the promotion of tobacco and its derivatives.

## CHAPTER IV

### **Provisions to Ban the Actions of Promotion and Sponsorship of Tobacco and its Derivatives**

**ARTICLE 16. Promotion.** All forms of the promotion of tobacco products and its derivatives is banned.

**ARTICLE 17. Ban on Sponsorship.** The sponsorship of sporting and cultural events by companies which are producers, importers or marketers of tobacco products on behalf of their corporations, foundations or any of their brands is prohibited when this sponsorship involves the direct or indirect promotion of the consumption of tobacco products and its derivatives.

## CHAPTER V

### **Provisions to Guarantee the Rights of Non-Smoking Persons from Tobacco Use**

**ARTICLE 18. Rights of Non-Smoking Persons.** Among others, the following constitute the rights of non-smoking persons:

1. To breathe pure air free from tobacco smoke and its derivatives.
2. To protest when cigarettes, tobacco and its derivatives are lit in places where their use is banned by this law and to demand that the proprietor, legal representative, manager, administrator or responsible person of any title concerning the business or establishment, warn the author or authors of such behavior to immediately stop their use.
3. To appear before the competent authority in defense of their rights as non-smokers and to demand their protection.
4. To demand mass advertising on the damaging and deadly effects caused by tobacco and exposure to tobacco smoke.
5. To report the failure to comply with the provisions of this law to the competent authority.

**ARTICLE 19. Ban on the Consumption of Tobacco and its Derivatives.** The consumption of tobacco products shall be banned in the places shown in this article.

In areas which are enclosed work places and/or public places, such as: bars, restaurants, business centers, stores, fairs, festivals, parks, stadiums, cafeterias, dance halls, cybercafés, hotels, fairs [*sic*], pubs, casinos, common areas and waiting areas where mass events take place, among others.

- a) Health entities.
- b) Institutions of formal and informal education at all levels.
- c) Museums and libraries.
- d) Establishments serving minors.
- e) Means of transportation for public, official, school, mixed and private service.
- f) Public and private entities aimed at any type of industrial, commercial or service activity, including its customer service areas and waiting rooms.
- g) Areas where the consumption of tobacco products may create a high risk of combustion due to the presence of flammable materials, such as gasoline stations, storage sites for combustibles or explosive materials and the like.
- h) Sporting and cultural spaces.

**Paragraph.** The health authorities shall oversee compliance with this article in coordination with the police and other control authorities.

**ARTICLE 20. Obligations:** Proprietors, employers and administrators of the places to which Article 19 refers have the following obligations:

- a) Ensure compliance with the bans established in this law with the goal of protecting people from exposure to environmental tobacco smoke;
- b) Putting up public warnings in a visible place with messages alluding to smoke-free environments, pursuant to the regulations issued by the Ministry of Social Welfare.
- c) Adopt reasonable, specific measures to dissuade people from smoking in the place, such as asking the person not to smoke, interrupting services, asking him to leave the premises or contacting the competent authority.

**ARTICLE 21. Definitions:** For the purposes of this law, the following definitions shall be adopted:

**Enclosed area:** Any space covered by a roof and confined by walls, regardless of the material used for the roof, walls or partitions and whether the structure is permanent or temporary.

**Second-hand tobacco smoke or environmental tobacco smoke:** Smoke coming from the burning end of a cigarette or other tobacco products, generally in combination with the smoke exhaled by the smoker.

**Smoke:** The act of being in a position of control of a burning tobacco product, regardless of whether the smoke is being actively inhaled or exhaled.

**Work place:** All places used by people during their employment or job, including all connected or annexed places, and vehicles which workers use in the performance of their work. This definition covers those place that are a residence for some people and a place of work for others.

**Public places:** All places accessible by the general public or places of group use, regardless of who the owner is or who has the right of access to them.

**Public transport:** Any vehicle used to transport the public, generally with commercial ends or to obtain remuneration. Includes taxis.

## **CHAPTER VI Supply of Information**

**Article 22. Supply of Information to the Government.** Cigarette manufacturers and importers must annually file a report whenever the Ministry of Social Welfare requests it and in the form it regulates, on the following:

- a. Ingredients added to tobacco.
- b. Levels of smoke components that correspond to tar, nicotine and monoxide.

Since it is an industrial secret, all this information will be treated confidentially and with absolute secrecy. This article is in effect for one year after its publication date.

## **CHAPTER VII System of Penalties**

**ARTICLE 23. Restorative actions.** Any person who feels himself affected by the failure to comply with the provisions contained in this law may appeal to the competent authority so that the necessary corrections may be adopted and the penalties here set forth applied, in addition to those established in the prevailing statutes on the matter.

**ARTICLE 24. Penalties for smoking in banned sites or places.** Breach of the provisions of Article 17 of this statute will give rise to a verbal warning and a pedagogical penalty that will require attendance at a day of training on the harmful effects of cigarettes.

Together with the Ministry of Social Welfare, the National Police will set the elements and resources needed for application of the penalties established in this Article.

**ARTICLE 25. Penalties for not placing the required specifications on the packaging and labeling of tobacco products.** Any person breaching the provision of Articles 13 and others related to the use of this law's health warnings will be subject to the following penalty: a fine of from two hundred fifty (250) to three hundred (300) prevailing monthly legal minimum salaries. This penalty will be between three hundred fifty (350) and four hundred (400) prevailing monthly legal minimum salaries if it is a repeat offender.

**ARTICLE 26. Penalties for breaching the measures related to the advertising and promotion of tobacco and its derivatives.** Any person who breaches the provisions contained in Chapters III and IV of this law will be subject to the following penalty:

In the case of retail and wholesale merchants, a fine of from two (2) to three (3) prevailing monthly legal minimum salaries. This fine will be from four (4) to (5) prevailing monthly legal minimum salaries if it is a repeat offender.

In the remaining cases, a fine of from two hundred fifty (250) to three hundred (300) prevailing monthly legal minimum salaries. This fine will be from three hundred fifty (350) to four hundred (400) prevailing monthly legal minimum salaries if it is a repeat offender.

**ARTICLE 27. Destruction of tobacco products that are seized or declared to be abandoned.** Tobacco products which are the subject of seizure or have been declared abandoned by the competent authority will be reported and destroyed according to the legal and administrative provisions regulating the matter.

The individual or legal entity, factual or legal, who carries out smuggling of cigarettes, tobacco or its derivatives, will become subject to the penalties set forth in the Criminal Code, as well as others shown by law.

The National Government will create an elite group for the smuggling of cigarettes, tobacco and its derivatives which will use resources from the National Customs Tax Office to function and will report quarterly on the results of its management, according to the objectives outlined earlier.

**ARTICLE 28. Procedure on penalties and breaches.** The police authorities will perform random inspection procedures, oversight and control of points of sale, with the purpose of guaranteeing compliance with this provision. Breach of the provisions of Article 2 will give rise to the same penalties set forth in the National Police Code, the Minors Statute and prevailing laws that regulate penalties on this topic.

**ARTICLE 29. Penalties for the sale of tobacco products to minors.** The individual or legal entity that breaches the provisions of Paragraph 1 of Article 2 will pay as a penalty one (1) prevailing monthly legal minimum salary (SMLMV) and up to (3) prevailing monthly legal minimum salaries in the case of repeat offense. Six (6) months of time from when this Law take effect will be given for compliance with this article.

**ARTICLE 30. Destination of the receipts from the penalties stipulated in this law.** The respective penalty will be imposed by the competent authority on the matter, and its product will be turned over to the Ministry of Social Welfare with sixty percent (60%) of its use for anti-cancer prevention campaigns and forty percent (40%) for preventive education on the prevention of cigarette consumption.

**ARTICLE 31. Penalties for failure to comply with obligations by proprietors, employees, legal representatives and administrators.** Besides the health, preventive, security and control measures for which the health authorities and police are empowered, breach of the bans and obligations dealt with in Articles 19 and 20 of this law by proprietors, employees, legal representatives and administrators will be penalized by the respective Mayor with one or some of the following penalties:

1. Warning.
2. Successive fines from one (1) prevailing monthly legal minimum salary up to a sum equivalent to one hundred (100) prevailing monthly legal minimum salaries.
3. Temporary or definitive suspension of the health license.

For the application of these penalties, the procedure set forth in the Judicial Review Code.

**ARTICLE 32.** The penalty system, competent authorities and procedure may be determined and specified by the National Government within six (6) months following the penalty of this law.

**ARTICLE 33.** For the purposes of applying the penalties set forth in Articles 24, 25, 26, 27, 28 and 29 of this law, the procedure to be followed is that pertaining to Title III of the National Police Code or the provisions which modify, add to or replace it.

## **CHAPTER VIII TIME PERIODS**

**ARTICLE 34. Time period in which to implement the health warning in advertising, on boxes and on packages.** According to the provision of Article 13 and subsequents to this law, companies which are producers, importers, distributors and marketers are conceded a period of one year, beginning with the date this law is issued, to adapt advertising, boxes or package with the health warning and to exhaust inventories.

When this time period is up, the National Customs and Tax Office, DIAN, will do verification at the port pursuant to its jurisdiction, the Office of Superintendent of Industry and Commerce will do verification and control once it is on the national market, the competent authorities will ensure that all products meet the provisions of this article as a requisite for the purposes of merchandise pick up.

## **CHAPTER IX Final Provisions**

**ARTICLE 35. Transitory article:** While the regulations of this law are becoming exigible and applicable in the matter of tobacco control--advertising, smoke-free environments and health warnings—the existing national, district, departmental and municipal regulations remain in force.

**ARTICLE 36. Issuance and effective period of this law.** This law takes effect upon its issuance.

**Paragraph.** A transition period for Articles 14, 15, 16 and 17 of two (2) years from the penalty of this law will be granted.

**PRESIDENT OF THE HONORABLE SENATE OF THE REPUBLIC**

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HERNAN ANDRADE SERRANO

**SECRETARY GENERAL OF THE HONORABLE SENATE OF THE REPUBLIC**

[Illegible signature]

EMILIO RAMON OTERO DAJUD

**PRESIDENT OF THE HONORABLE HOUSE OF REPRESENTATIVES**

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GERMAN VARON COTRINO

**SECRETARY GENERAL OF THE HONORABLE HOUSE OF REPRESENTATIVES**

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JESUS ALFONSO RODRIGUEZ CAMARGO

**LAW NO. 1335**

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**REPUBLIC OF COLOMBIA – NATIONAL GOVERNMENT**

**IT IS ORDERED THAT PUBLICATION AND FULFILLMENT BE PROVIDED**

Issued in Bogotá, D.C. on

**July 21, 2009**

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**MINISTER OF THE INTERIOR AND JUSTICE,**

[Illegible signature]

**FABIO VALENCIA COSSIO**

**MINISTER OF SOCIAL WELFARE,**

[Illegible signature]

**DIEGO PALACIO BETANCOURT**