

Decree No. 2018-218 of June 5, 2018
implementing the ban on advertising and promotion
of tobacco and its derived products and sale to minors
and by minors

The President of the Republic, In
consideration of the Constitution,

In consideration of Act No. 01-63 of January 13, 1963
as amended by Act No. 10-83 of January 27, 1983 on
the Code of Criminal Procedure;

In consideration of Act No. 6-94 of June 1, 1994 on
price regulation, commercial standards, and fraud
identification and control;

In consideration of Act No. 7-94 of June 1, 1994
regulating the regime for importation, exportation and
reexportation; In consideration of Act No. 20-2005 of
December 1, 2005 ratifying the Framework
Convention on Tobacco Control in the Congo;

In consideration of Act No. 12-2012 of July 4, 2012 on
tobacco control;

In consideration of Decree No. 2009-402 of October 13,
2009 on the responsibilities of the Minister of Health
and Population; In consideration of Decree No. 2013-
813 of December 30, 2013 on the organization of the
Ministry of Health and Population;

In consideration of Decree No. 2017-371 of August 21,
2017 appointing the Prime Minister, Head of the
Government;

In consideration of Decree No. 2017-373 of August
22, 2017 appointing the members of the Government;

In the Council of Ministers,

Decrees:

SECTION 1: GENERAL PROVISIONS

Article 1: The purpose of this decree is to define the
implementation of measures

banning the advertising, promotion and sponsorship of tobacco and its derived products and banning the sale to minors and by minors.

Article 2: Under this Decree, the ban on advertising, promotion and sponsorship of tobacco and its derived products means a comprehensive ban extending to any form of:

- tobacco advertising and promotion, as well as sponsorship, without exception, whether direct or indirect;
- acts aiming to promote tobacco and its derived products and acts that have or are likely to have a promotional effect;
- promotion of tobacco products and tobacco use;
- commercial communications and commercial recommendations and actions;
- contributions of any kind to any event or activity;
- advertising and promotion of tobacco brand names or companies;
- brand stretching or sharing;
- theatrical representations or game organization;
- traditional media (written press, television and radio);
- information and communication technologies (internet, cellphones, vending machines, etc.);
- cross-border advertising.

Article 3: Under this Decree, the expressions below are defined as follows:

- Advertising and promotion of tobacco and its derived products: any form of psychological action on the public, in particular by commercial communications and recommendations, including door-to-door sales and telemarketing, with the aim or likely effect of directly or indirectly encouraging the consumption or distribution, for free or for profit, of tobacco and its derived products or tobacco use.
- Point of sale of tobacco and its derived products: all premises permanently demarcated by continuous walls or partitions extending from the floor to the ceiling, that customers can only enter through a door, in which the owner of the premises retails tobacco and its derived products.
- Cigar lounge: all premises specifically arranged for the consumption of cigars or pipe tobacco.
- Person: any private individual or legal entity.
- Tobacco products: all tobacco derivatives intended to be smoked, sucked, dipped, chewed, snuffed, sniffed, even if they are only partially composed of tobacco,

products intended to be smoked even if they do not contain tobacco, and any products relating to advertising tobacco and its derived products.

- Sponsorship: any form of contribution in favor of an event, activity or person that may directly or indirectly promote the sale or consumption of tobacco and its derived products, including any form of activities described as social responsibility or charity activities or with other similar descriptions.

SECTION 2: MISCELLANEOUS BANS

Article 4: Advertising and displaying tobacco products and their derivatives at the point of sale is strictly prohibited.

This ban is complete and extends to any display or visibility of tobacco and its derived products or images inside or outside points of sale.

The ban also applies to media outlets, on ferries and planes, and in ports, airports, bus stations and train stations.

Article 5: Retail sales of tobacco must be made in a point of sale in the physical presence of the owner of the point of sale or their employee and the buyer.

However, the sale of tobacco and its derived products to minors is strictly prohibited.

Article 6: The owner of a point of sale of tobacco must keep the tobacco in such a way that the customers cannot have access to it without the assistance of an employee.

Vending machines selling tobacco and its derived products may not be installed, maintained or kept.

Article 7: The sale of tobacco and its derived products to minors is strictly prohibited.

Article 8: Owners of points of sale must refrain from displaying tobacco products and its derived products to the public.

Only a list indicating their prices is authorized; said list must not contain any promotional elements or images.

Article 9: The owner of a point of sale of tobacco and its derived products must display the ban on sales to minors and by minors as well as a warning on the harmful effects of tobacco on health.

These signs must be installed in the public view on or near each cash register used when selling tobacco.

Removing or altering these signs is prohibited.

The format and content of these signs are specified by Decree of the Minister of Health.

Article 10: Supplying or distributing tobacco and its derived products, advertising and sponsorship of tobacco and its derived products, and selling and offering to sell on the internet or on any other communication medium are strictly prohibited.

The ban applies to entities that sell tobacco and its derived products, companies that facilitate online payment to suppliers and shipment or delivery services for these products.

Article 11: Materials used during tobacco control campaigns do not constitute advertising of tobacco and its derived products.

Article 12: Any form of disguised advertising or promotion of tobacco and its derived products by brand stretching or brand sharing is prohibited.

Brand stretching means a tobacco brand name, emblem, trademark, logo or trade insignia or any other distinctive feature, including distinctive color combinations, connected with a non-tobacco product or service in such a way that the tobacco product and the non-tobacco product or service are likely to be associated.

Brand sharing means the use of a brand name, emblem, trademark, logo or trade insignia or any other distinctive tobacco sign, including distinctive color combinations, on a non-tobacco product or service, connected with a tobacco product or a tobacco industry company in such a way that the tobacco product or company and the non-tobacco product or service are likely to be associated.

Article 13: Cross-border advertising, promotion and sponsorship of tobacco and its derived products are prohibited.

The entities or individuals importing information, communication mediums or any other means must ensure that these do not serve as a vehicle for information contrary to the provisions of this Article.

Relevant cross-border, communications and information, publishing and printing, and telecommunications services as well as any other structures affected by cross-border advertising, promotion and sponsorship must ensure that these provisions are respected.

SECTION 3: MONITORING AND EVALUATION

Article 14: Measures must be taken by the national tobacco control program to ensure the monitoring and evaluation of the implementation of measures

banning the advertising, promotion and sponsorship of tobacco and its derived products and the sale to minors and by minors, with the aim of:

- encouraging political officials and the public to support the enforcement and extension of legislative and regulatory provisions;
- collecting data, including data on the interference of the tobacco industry, to advocate for appropriate decision-making;

SECTION 4: MISCELLANEOUS AND FINAL PROVISIONS

Article 15: Manufacturers, importers, distributors and sellers of tobacco and its derived products are required to comply with the provisions of this Decree.

Article 16: The Government's regulatory inspection services and the authorities regulating the media, mail, communications and information are authorized to identify and punish violations of the provisions of this Decree, pursuant to Articles 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of Act No. 12-2012 of July 4, 2012 on tobacco control.

Article 17: This Decree shall be recorded and published in the Official Gazette of the Republic of the Congo.

Issued in Brazzaville, on June 5,

2018 By the President of the Republic,

Denis SASSOU-N'GUESSO

The Prime Minister, Head of the Government,

Clément MOUAMBA

The Deputy Prime Minister, Responsible for Civil Service, Government Reform, Labor and Social Security,

Firmin AYESSA

The Minister of Health and Population,

Jacqueline Lydia MIKOLLO

The Minister of Communications and Media, Government Spokesperson,

Thierry MOUNGALA

The Minister of State, Minister of Commerce, Supply and Consumption,

Alphonse Claude NSILOU

The Minister of the Interior and Decentralization,

Raymond Zéphrin MBOULOU

The Minister of Justice and Human Rights and
the Promotion of Indigenous Peoples,

Aimé Ange Wilfrid BININGA