

REPUBLIC OF COTE D'IVOIRE Union-Discipline-Labor

LAW № 2019-676 OF JULY 23, 2019
CONCERNING TOBACCO CONTROL IN CÔTE D'IVOIRE

THE NATIONAL ASSEMBLY has adopted,

THE PRESIDENT OF THE REPUBLIC promulgates this Law whose content is as follows :

TITLE I: GENERAL PROVISIONS

CHAPTER I: DEFINITIONS

Article 1: For the purposes of this Law, the following definitions shall apply :

- **case**, any container, receptacle or paper packaging inside which several cartons are to be found of a tobacco product for sale or put on display for sale;
- **carton**, any container, receptacle or paper packaging inside which a tobacco product is placed for sale or put on display for sale;
- **electronic cigarette**, an electromechanical or electronic device generating an aerosol that is meant to be inhaled, and that produces a “vapor” or “artificial smoke” that visually resembles the smoke produced by the burning of tobacco;
- **illegal commerce**, any practice or conduct against the law involving the production, shipment, reception, possession, distribution and sale or purchase, including any practice or conduct intended to facilitate such activity;
- **composition**, the constituent elements, arrangement or combination of substances included in the processing and manufacture of tobacco products;
- **packaging**, any package containing tobacco products, of a determined number, intended for consumers;
- **plain packaging**, measures seeking to limit or prohibit the use of logos, colors, brand images or promotional texts in addition to the health warnings, the brand name and that of the product printed in normal characters and in a standardized color;
- **framed cultivation**, non-industrial cultivation but organized and technically or financially supported by the tobacco industry or by those who undertake to promote its interests;
- **industrial cultivation**, any cultivation of tobacco intended for sale which is conducted or promoted by the tobacco industry or on its behalf;

- **labeling**, the combination of all the information concerning the origin, address and name of the manufacturer, statements, indications, instructions on use, product brands, images or signs having to do with the tobacco products and appearing on the tobacco products or on any package, document, insert, label, ring or flange accompanying the tobacco products or having to do with them;
- **exposure to smoke**, the act of being exposed to the smoke that smokers exhale and that comes from a lit cigarette, pipe or cigar;
- **smoking**, the act of holding or using a lit tobacco product, whether or not the smoke is being actively inhaled or exhaled;
- **tobacco industry**, the combination of national and international companies whose economic activity consists of the production, manufacture, wholesale distribution, importation or exportation of tobacco products;
- **public place**, any enclosed or open places that are accessible to the general public, including workplaces, regardless of whether they are publicly or private owned, and conditions for access;
- **enclosed public places**, all places accessible to the public covered by a roof, or surrounded by one or several walls, regardless of the type of materials used for the roof or the walls, or whether a permanent or temporary structure is involved;
- **open public places**: any uncovered, unenclosed places accessible to the public;
- **work places**, public places used by people in the context of paid employment or charitable work;
- **tobacco control**, an entire series of strategies for reducing the supply, the demand and the harmful effects of tobacco, and seeking to improve the health of the public by eliminating or reducing its consumption of tobacco products and the public's exposure to tobacco smoke;
- **markup**, the combination of required information that must appear on all packs and cartons of tobacco products and all external kinds of packaging for such products;
- **health warning**, images accompanied by a text describing the harmful effects of tobacco use and exposure to tobacco smoke;
- **nicotine**, an alkaloid contained in tobacco leaf, responsible for the addiction caused by tobacco among consumers;
- **pack**, any container, receptacle or paper packaging inside which a tobacco product is sold or put on display for sale;
- **sponsorship of tobacco**, any kind of contribution to any event, or activity, or the act of supporting a person having the purpose, effect or likely effect of directly or indirectly promoting a tobacco product or the use of tobacco;
- **pictogram**, any figurative or schematic drawing or any image that represents a symbol;
- **authorized point of sale**, any establishment or store intended exclusively for the sale of tobacco and tobacco products.
- **tobacco products**, products manufactured wholly or partly from tobacco leaf as their primary material, and intended to be smoked, sucked, chewed, sniffed or consumed in any manner whatsoever, such as water pipes, inhalers that may or may not contain nicotine, electronic cigarettes or any other device of its kind that one places in one's mouth to inhale;
- **advertising for tobacco, its products and the promotion of tobacco products**, any kind of communication, recommendation or commercial action having

as its aim or likely effect the direct or indirect promotion of a tobacco product or the use of tobacco;

- **cross-border advertising**, any kind of advertising going out from, or exported from the national territory, or entering or arriving in the national territory;
- **scene involving tobacco**, an incident telling a story in any representative medium, particularly in film or the theater, in which a person appears or acts who is smoking or exhibiting a tobacco product;
- **tobacco**, an herbaceous plant of the Solanaceae family whose leaves are processed and presented in a variety of ways for consumption;
- **toxicity**, the quality, relative degree or specific degree of toxic effects;
- **public transportation**, any means of public transport for people including elevators, to which people have either free or paid access;
- **cross-border**, crossing borders.

CHAPTER II: PURPOSE AND SCOPE

Article 2: The present Law is concerned with tobacco control.

It applies to the growing of tobacco, the management of manufacturing, packaging, labeling, commercialization, or importation of tobacco and tobacco products, as well as advertising.

Article 3 : The State shall take all measures concerning analysis of the composition and emissions of tobacco products.

The laws governing them and their oversight are to be defined by regulations.

TITLE II: SPECIFIC PROVISIONS APPLICABLE TO TOBACCO AND TOBACCO PRODUCTS

CHAPTER I: CULTIVATION AND MANUFACTURE OF TOBACCO AND TOBACCO PRODUCTS

Article 4: Any industrial cultivation of tobacco in Côte d'Ivoire is prohibited.

Article 5: Manufacturers and importers of tobacco products shall be required to report annually to the Ministry of Health all information relating to the quality, quantity, composition and emissions of tobacco products.

The competent departments of the Ministry of Health shall engage in periodic and unannounced oversight.

CHAPTER II: PRODUCTION AND COMMERCIALIZATION OF TOBACCO AND TOBACCO PRODUCTS

- Article 6 :** Packs, cartons and all other packaging, whether or plain or otherwise, of tobacco and tobacco products intended for sale on the national market must display the statement “Sale authorized in Côte d’Ivoire,” as well as the health warnings.
- Article 7:** It is prohibited to sell or give away tobacco or tobacco products in pre-school or school institutions, vocational training centers, institutions of higher education, as well as health care institutions, athletic, cultural or government facilities, or in the immediate vicinity of the institutions indicated by **this law**, within a radius of two hundred (200) meters.
- Article 8:** It is prohibited :
to sell or give away tobacco or tobacco products to any minor under the age of 18.
To cause minors under the age of 18 to sell or give away tobacco or tobacco products.
- Article 9:** The sale of individual units of tobacco or tobacco products is prohibited. All sales of tobacco products are to be transacted at a minimum with a pack of 20 cigarettes. The sale of tobacco or tobacco products outside of authorized points of sale is prohibited.
- Article 10 :** The sale of tobacco and tobacco products via the internet, vending machines or any other virtual means is prohibited.
- Article 11:** Health warnings must cover at least 70 % of the main surfaces front and back. The procedures for the implementation of health warnings, packaging and labeling, as well as the conditions for the commercialization of tobacco and tobacco products, are to be set by regulatory enactment.

CHAPTER III: FINANCIAL AND FISCAL MEASURES

- Article 12:** The State shall implement policies, strategies, regulations, programs and any other non-incentivizing fiscal measures with the aim of contributing to tobacco control.
- Article 13.** Tax-free sales are not allowed for tobacco and tobacco products in duty-free zones. Any entry of tobacco and tobacco products is subject to taxation pursuant to the legal texts in force.

TITLE III: COMMUNICATION REGARDING TOBACCO AND TOBACCO PRODUCTS

- Article 14 :** Advertising, including cross-border advertising, promotion, direct or indirect publicity for tobacco and tobacco products, sponsoring, sponsorship and underwriting, in any place, of any kind or character, is prohibited.
Any other communication in favor of tobacco and its products is also prohibited.
- Article 15:** Offering tobacco or tobacco products, or giving them away, or distributing them for promotional purposes or for free is prohibited.
- Article 16:** It is prohibited to offer or distribute for free or in exchange for payment items bearing the name, the brand, or the advertising emblem of a tobacco product or those of a grower, manufacturer, merchant or distributor of tobacco and tobacco products.
This prohibition also applies to any other distinctive sign directly or indirectly associated with tobacco and tobacco products.
- Article 17:** It is prohibited to manufacture, sell, distribute, offer or give away candies, toys or any other material with the shape or the taste of tobacco or a tobacco product.
- Article 18:** The use of images of tobacco or tobacco products for promotional purposes is prohibited, with the exception of those done in a specific and regulated setting of activities for the control of tobacco and tobacco products.

The dissemination of any scene involving tobacco through any medium of communication is prohibited.

TITLE IV: PROTECTION AGAINST EXPOSURE TO TOBACCO SMOKE

- Article 19:** It is prohibited for any person to expose others to tobacco smoke and tobacco products.
It is also prohibited to smoke in public places whether closed or open to the public, or subject to common use, or any place that constitutes a workplace, as well as in public transportation vehicles.
The procedures for the implementation of this article are to be defined by regulatory enactment.
- Article 20:** The consumption of tobacco is prohibited for all pregnant women.

TITLE V: ADMINISTRATIVE AND PENAL PROVISIONS

CHAPTER I: ADMINISTRATIVE SANCTIONS

Article 21: Any infringement of the provisions of **this Law** may give rise to the provisional or definitive closing of the establishment, as well as the suspension or revocation of the operating license.

CHAPTER II: PENAL SANCTIONS

Article 22 : Anyone who contravenes the provisions concerning the growing or manufacture of tobacco shall face a punishment of one to five years imprisonment or a fine of 10,000,000 to 100,000,000 Francs CFA. The jurisdiction in question shall order the confiscation and destruction of the products grown or manufactured illegally.

Article 23 : Anyone who violates the prohibition of the sale of individual units of tobacco and tobacco products shall face a punishment of a fine of 1,000,000 to 5,000,000 Francs CFA. In case of repeat offenses, the offender may be subject to cancellation of his license or a prohibition on practicing within the territory of Côte d'Ivoire. The jurisdiction in question shall order, moreover, the confiscation and destruction of products sold illegally.

Article 24: Anyone who contravenes the provisions concerning health warnings, packaging and the labeling of tobacco and tobacco products shall face punishment of imprisonment of six months to two years and a fine of 5,000,000 to 50,000,000 francs CFA, or only one of these two punishments. The jurisdiction in question shall impose, moreover, a ban on engaging in any similar activity throughout the national territory, and order the seizure and destruction of the prohibited products.

Article 25: Anyone who is found guilty of engaging in advertising for tobacco or sponsors, causes to sponsor or underwrites any activity of any kind whatsoever by the tobacco industry or its branches, shall face a punishment of imprisonment of one to three years and a fine of 10 000,000 to 100 000,000 francs CFA, or only one of these two punishments. The jurisdiction in question shall order, moreover, the confiscation and destruction of the items and the advertising supports.

Article 26: Anyone who, for purposes of promotion or advertising in any of its forms, uses images of tobacco and tobacco products, offers, delivers or distributes tobacco or tobacco products or the like, shall face a punishment of imprisonment for one to three years and a fine of 5,000,000 to 50,000,000 francs CFA.

The jurisdiction in question shall order, moreover, the prohibition of the dissemination of the aforesaid images throughout the entire extent of the national territory and the temporary or definitive closing of the establishment in the event of repeat offenses.

Article 27: Anyone who manufactures or sells candies or toys or any other item or material that has the shape or taste of tobacco or a tobacco product shall face a punishment of imprisonment of one to three years and a fine of 5,000,000 to 50,000,000 francs CFA, or only one of these two punishments.
The jurisdiction in question shall order, moreover, the confiscation and destruction of the prohibited toys, items, materials or candies.

Article 28: Anyone who sells or causes to be sold wholesale or retail tobacco or tobacco products to a minor shall face punishment of imprisonment of one to five years and a fine of 10,000,000 to 100,000,000 francs CFA, or only one of these two punishments.

The jurisdiction in question shall order, moreover, the confiscation and destruction of the products sold or on sale.

Article 29: When the infraction is committed in the context of the activities of a juridical person, criminal liability devolves upon any natural person, whether an officer or not, who through their duties is responsible for the management, oversight or control of such activity.
The manufacturer, distributor or any other person involved in the occurrence of damages caused by the consumption of tobacco products is liable for their part in the offenses.

Article 30: Victims of any violation of the provisions of **this Law** may file a civil lawsuit notwithstanding criminal prosecution.

Article 31: Duly established civil associations whose statutory purpose concerns tobacco control may exercise the right granted to civil parties.

Article 32: Juridical persons other than the State on whose behalf or to whose benefit an infraction indicated by **this law** has been committed by one of its bodies or representatives, are to be punished by a fine of an amount equal to five times those incurred by natural persons, without impairment to the conviction of the latter as perpetrator or accomplice of the same acts.

Juridical persons other than the State can, moreover, be sentenced to one or several of the following punishments:

- dissolution, when they have been created for the purpose of committing the offenses.
- provisional or definitive closing for a period of six months to one year of the company's establishments or one of its establishments that was used to commit the offenses;
- confiscation of the property that was used or was intended to be used in the commission of the infraction, or that is the product thereof;

- the posting of the decision handed down, or the dissemination thereof by the print press or by any vehicle of audiovisual communication at the expense of the juridical person.

In all cases of convictions under **this Law**, jurisdictions shall order confiscation on behalf of the Public Treasury of products resulting from the infraction of all property, advantages or revenues deriving from such products, and impose, in addition to the maximum sentence allowed, a fine equal to the amount of such advantages.

TITLE VI: TRANSITORY AND FINAL PROVISIONS

Article 33: Persons engaging in industrial or framed tobacco cultivation shall have a period of three years to enter into compliance with the provisions of **this Law**.

Article 34: The provisions concerning health warnings, packaging, labeling and illegal commerce, contained in **this law** shall be applicable six months counting from the entry into force of **this Law**.

Done in Abidjan, on July 23, 2019



Alassane OUATTARA