

THE CROATIAN PARLIAMENT

3560

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

ORDER

ON PROMULGATION OF THE RESTRICTION ON THE USE OF TOBACCO PRODUCTS ACT

I hereby promulgate the Restriction on the use of Tobacco Products Act adopted by the Croatian Parliament at its session on 17 October 2008.

Class: 011-01/08-01/135
File No.: 71-05-03/1-08-2
Zagreb, 22 October 2008

The President
of the Republic of Croatia
Stjepan Mesić, signed

ACT

ON RESTRICTION ON THE USE OF TOBACCO PRODUCTS

I. GENERAL PROVISIONS

Article 1

This Act, in order to protect the health of the citizens, establishes measures for reducing and limiting the use of tobacco products, harmful ingredients in cigarettes, and required labels on tobacco product packaging, measures to prevent smoking, and supervision over the implementation of this Act.

Article 2

For the purpose of this Act, the following definitions shall apply:

1. Tobacco products are products containing tobacco, whether genetically modified or not, and serve for smoking, sniffing, sucking on or chewing.
2. Tar is a dry, undiluted nicotine-free condensate of smoke that is created during smoking.
3. Nicotine signifies nicotine alkaloids.
4. Tobacco for oral use means all products for oral use, except those intended for

smoking and chewing, which are in whole or in part produced from tobacco in powder or a specific form, or any combination of those forms, especially those that are packaged in measured units or permeable packaging, or in a form that is similar to that of food.

5. An ingredient is a substance or its component part, except for tobacco leaves or other natural or unprocessed parts of the tobacco plant that are used in the production or preparation of tobacco products and are still present in the final product, even in altered form, including paper, filter, ink and binders.

6. Advertising is any means of commercial communication, including the services of a media company, for the purposes of a media company, for the purposes of directly or indirectly promoting the use of tobacco products and smoking.

7. Sponsorship is every form of contribution from a legal entity or physical person to an event, activity or individual with the goal, effect, or possible effect of direct or indirect promotion of tobacco products or tobacco use.

8. Smoking tobacco products is the use of tobacco or other products (“herbal smokes”) in such a way that the smoke created by their combustion is inhaled.

9. The harmful effects of smoking are the scientifically proven phenomena of harmful health effects and diseases that shorten the life of smokers and non-smokers, if they are in the same enclosed area in which smoking is taking place.

10. Preventive measures against smoking are systematic activities having as a goal the improvement of health and extension and improvement of the quality of life of the people.

11. Premises open to the public are enclosed areas intended for people to be in groups, and includes areas in buildings in which activities are performed in the areas of health care, child welfare, social welfare, child-rearing and education, trade, sports and recreation, hospitality and tourism, culture and art, traffic, including waiting areas, meeting rooms, all rooms for the assembly of people, viewing platforms, means of public transport, elevators, cable-car cabins, public toilets, as well as all open areas intended for the presentation of theatre and film productions, the areas of school grounds, and the grounds of health care institutions, and other areas in which non-smokers could be exposed to tobacco smoke against their will.

12. A smoking area is a fully enclosed area that is physically separated from other enclosed areas and specially equipped to be used for smoking only.

13. Trade in tobacco products is the import and export, warehousing for purposes of sale, and sale.

II PERMITTED AMOUNT OF HARMFUL INGREDIENTS OF CIGARETTES AND REQUIRED MARKINGS ON TOBACCO PRODUCTS

Article 3

It is prohibited to manufacture and trade in cigarettes that contain more than:

- 10 mg of tar per cigarette,
- 1 mg of nicotine per cigarette,
- 10 mg of carbon monoxide per cigarette.

Measurement of tar, nicotine and carbon monoxide is performed on the basis of the following ISO standards:

- for tar, ISO 4387,
- for nicotine, ISO 10315,
- for carbon monoxide, ISO 8454.

The accuracy of the markings on individual cigarette packets is checked for tar and nicotine in accordance with ISO standard 8243.

Manufacturers and importers of cigarettes are required to submit, at the latest by March 31 of the current year, for the previous year, to the ministry in charge of health (hereinafter: the ministry) a list by kind and type of all ingredients that are used in the manufacturing of cigarettes.

Once a year, the ministry shall inform the public about the information referred to in paragraph 4 of this article, while respecting the obligation to protect information that represents a trade secret.

The ordinance regarding the content of the data referred to in paragraph 4 of this article, as well as the means of informing the public referred to in paragraph 5 of this article, will be issued by the minister in charge of health (hereinafter: the minister).

Article 4

The manufacture and sale of cigarettes that do not have information on the quantity of tar, nicotine and carbon monoxide per cigarette printed on the surface area of the side of the original packaging is prohibited.

The information referred to in paragraph 1 of this article must cover at least 10 % of the side of the original cigarette packaging.

Article 5

Every individual packet of cigarette products being sold, except for tobacco for oral use and other tobacco products that are not used for smoking must have one of the following warnings printed on it in the Croatian language in the Latin script:

- “Smoking kills.”
- “Smoking causes serious harm to you and those around you.”

The warning referred to in paragraph 1 of this article must be printed on the front of the individual packet of tobacco products and must cover at least 30 % of the outer surface of the individual packet.

The warnings referred to in paragraph 1 of this article must be rotated regularly, so that each of those warnings is printed on equal numbers of manufactured or sold tobacco products in the current year.

Every individual packet of tobacco products being sold, except for tobacco for oral use and other tobacco products that are not used for smoking, must, besides the warning referred to in paragraph 1 of this article, have one of the following warnings printed on it in the Croatian language and using the Latin script:

- “Smokers die younger.”
- “Smoking causes clogging of the arteries and causes heart attacks and stroke.”
- “Smoking causes fatal lung cancer.”
- “Smoking while pregnant harms your child.”
- “Protect children from breathing your cigarette smoke.”

“Your doctor or pharmacist can help you quit smoking.”
“Smoking is extremely addictive, so don’t start.”
“Stopping smoking lowers the risk of fatal heart or lung diseases.”
“Smoking can cause a slow and painful death.”
“Seek help to stop smoking (consult your doctor/pharmacist).”
“Smoking can slow the circulation and cause impotence.”
“Smoking causes aging of the skin.”
“Smoking can damage sperm and decrease fertility.”
“Smoke contains benzene, nitrosamine, formaldehyde and carbon cyanides.”

The warnings referred to in paragraph 4 of this article must cover at least 40 % of the surface area of the back of the individual tobacco product packet.

The warnings referred to in paragraph 4 of this article must be rotated regularly, so that each of those warnings is printed on equal numbers of manufactured or sold tobacco products in the current year.

The warnings referred to in paragraphs 1 and 4 of this article may not be printed on the additional transparent wrapper of individual tobacco product packets used for retail sale.

Article 6

The retail sale of tobacco products for chewing and sucking on is prohibited unless they carry the following warning: “Use of this product is harmful to your health and is addictive.”

The warnings referred to in paragraph 1 of this article must be printed on the most visible part of the individual packaging, except on the additional transparent wrapper used for retail sale, and must cover at least 30 % of the outer surface of the individual packet.

Article 7

Concerning individual packets of tobacco products except for cigarettes, and whose most visible surface exceeds 75 cm², the warnings referred to in article 5, paragraphs 1 and 4 of this Act must cover a surface area of at least 22.5 cm² on each side of the individual packet.

Article 8

The information referred to in article 3, paragraph 1 of this Act, as well as the warnings referred to in article 5, paragraphs 1, 4 and 6, paragraph 1 of this Act must, on individual packets of tobacco products, be:

- printed in bold black letters using the Helvetica font on a white background, while the size of the letters must take up the largest possible part of the surface provided for the information and warnings,
- printed in lower case block letters, except the first letter and where orthographically necessary,
- printed in the central part of the surface designated for the information and warnings, parallel with the upper edge of the packet,
- framed by a black border at least 3 mm wide and at most 4 mm wide, in such a way that

it does not cover the text of the information or warning, except for warnings on tobacco products referred to in article 6, paragraph 1 of this Act,

- printed in the Croatian language and using the Latin script,
- printed in such a way that they cannot be removed or erased, are not hidden, unclear, or disrupted by other written or graphic material or by opening the packet.

The information referred to in article 3, paragraph 1 of this Act and the warnings referred to in article 5, paragraphs 1 and 4 and article 6, paragraph 1 of this Act on tobacco products that are not cigarettes may be affixed as stickers, under the condition that the stickers cannot be removed.

Individual packets of tobacco products must be marked with a serial number or equivalent that contains information on the location and date of manufacture.

The use of the following or similar wording is not permitted on individual packets of tobacco products: “low-tar”, “light”, “ultra-light”, “mild”, personal names, pictures, symbols or other images that might give the consumer the impression of a less harmful product.

III MEASURES FOR REDUCING AND RESTRICTING THE USE OF TOBACCO PRODUCTS

Article 9

The sponsorship of events, activities or individuals that may have the goal, effect or possible effect of directly or indirectly promoting tobacco products or tobacco use is prohibited.

The direct or indirect promotion of tobacco products is prohibited.

The displaying of logos and other images for identifying a tobacco product on objects that are not tobacco products within the meaning of this Act is considered to be indirect promotion of a tobacco product. Offering tobacco products in a public place and in public areas for free is also considered to be indirect promotion.

The advertising of products that are not considered to be tobacco products, but which through their form, name or intended use directly encourage the consumption of tobacco products, is prohibited, as is all other advertising that by its form, name or intended use encourages the consumption of tobacco products.

The publishing of information on the quality and other characteristics of tobacco products in professional books, journals and other professional publications intended for informing the manufacturer or seller of those products is not considered to be advertising within the meaning of this Act.

Article 10

As an exception to article 9 of this Act, the advertising of tobacco products is permitted through placing a trademark on:

- smoking paraphernalia,
- up to a total surface area of 7 m² in and on the business premises of business entities engaged in the activities of manufacturing and wholesale sale,
- up to a total surface area of 7 m² on the internal sides of tobacco product shops.

The advertising of tobacco products referred to in paragraph 1 of this article is allowed in the form of a trademarked image that does not mention or depict a tobacco product, its packaging or use.

Article 11

The sale of tobacco products to persons younger than 18 years of age is prohibited. Persons younger than 18 years of age are prohibited from selling tobacco products. A printed sign about the prohibition on selling tobacco products to persons younger than 18 years of age must be prominently displayed at all sales locations where tobacco products are sold.

The sign referred to in paragraph 3 of this article must be prominently displayed in a visible location, so that it can be read from a distance of 10 meters.

A seller may request persons whom they believe might be under 18 years of age to provide appropriate identification proving that they are of legal age. If the person declines to do so, the seller must not sell them the requested tobacco product.

The sale to minors of “herbal smokes” and other products that might encourage minors to smoke is prohibited.

The sale of tobacco products over the Internet is prohibited.

The sale of tobacco products from automatic vending machines is prohibited.

The sale of individual cigarettes, or other tobacco products outside of their original manufacturer’s packaging, is prohibited.

The sale of tobacco products for oral use is prohibited.

Article 12

The smoking of tobacco products during public appearances and the depiction on television of persons smoking is prohibited.

The prohibition referred to in paragraph 1 of this article does not apply to film programs and artistic works.

The publishing in print for promotional purposes of photographs or drawings of persons smoking is prohibited.

Article 13

Smoking is prohibited in all enclosed premises open to the public.

Enclosed premises open to the public are premises having a roof and more than half of the surface area of the accompanying walls enclosed. Smoking is also prohibited in premises that according to this Act are not enclosed premises open to the public, but are a functional part of the premises in which activities of child-rearing and/or educational and health care activities are performed.

Smoking areas are not allowed in premises in which health care activities or activities of child-rearing and/or education are performed.

The provisions of paragraph 1 of this article notwithstanding, smoking is allowed:

– in specially designated areas for accommodating guests who are smokers, in accordance with the regulations regarding hospitality activities, regarding which a sign

about smoking being allowed must be prominently displayed on these premises,
– in specially designated areas for smokers in psychiatric hospitals and in specially designated areas for smokers of other providers of health care services to the mentally ill, regarding which a sign about smoking being allowed must be prominently displayed these areas, and
– in smoking areas.

Article 14

The smoking area must meet the following conditions:

- the area must be arranged in such a way that air contaminated by tobacco smoke cannot flow into another area,
- the area is not intended for transit into other areas and cannot take up more than 20 % of total surface area of the public premises,
- the area must be intended exclusively for smoking,
- Neither food nor drink may be consumed in the area.

Article 15

The smoking area must be an enclosed area, together with the entire surface area of all accompanying walls and ceilings, with sliding doors that must be able to close independently. The closed windows and doors are considered to be a part of the wall. Above or along the door to the smoking area, there must be located a sign stating “Smoking area”, along with an indication of the number of people that the area can accommodate at one time.

In front of the entrance to the smoking area and in the smoking area, there must be a facility to ensure that, in case of a fault in the ventilation system, a sign stating “Smoking prohibited due to a fault in the ventilation system” is automatically displayed.

Article 16

The smoking area must be equipped with a ventilation system that is an integral part of the smoking area and which is physically separated from the rest of the ventilation system of the enclosed premises open to the public in which the smoking area is located. Air contaminated by tobacco smoke must not be able to enter other enclosed areas of the enclosed premises open to the public.

The ventilation system of the smoking area must operate automatically and ensure that there is no effusion of smoke into other areas of the enclosed public premises.

Article 17

The ventilation system of the smoking area must maintain in the smoking area itself, with the doors closed, an under-pressure of 5 Pa in relation to the enclosed area from which the smoking area is entered.

The smoking area must be equipped with a device for measuring and displaying information on the under-pressure.

Article 18

The ventilation system in the smoking area must ensure a flow of air from the open area or enclosed area in which smoking is prohibited.

The air exchanger system must be filtered so that the smallest ensured amount of additional air is 30 litres per person per second, based on an occupancy rate of the area of 0.7 persons/m².

Article 19

The air from the smoking area must not be recycled, but rather must be vented into an open area via the ventilation system.

Article 20

Design, installation and maintenance of the ventilation system of the smoking area must be carried out in accordance with special technical regulations that establish critical requirements for ventilation systems.

Article 21

Implementation of the smoking prohibition must be performed by the owner or user of the premises in which smoking is prohibited.

IV PREVENTIVE MEASURES AGAINST SMOKING

Article 22

Institutions that perform activities concerned with child-rearing and education are required to promote, among all ages of children and youth and in all regular educational activities, the fact that the use of tobacco products is harmful to health.

The program referred to in paragraph 1 of this article for promoting among all ages of children and youth the fact that use of tobacco products is harmful to health will be issued by the minister in charge of education with the agreement of the minister.

Article 23

In order to achieve societal care for the protection of the health of the people from the harmful effects of tobacco smoking and tobacco products, the minister founds and appoints the National Commission to Combat Smoking (hereinafter: the Commission).

The Commission has 9 members, specifically:

- 3 health care workers who through their work participate in health education,
- 2 prominent experts in the fight against smoking,
- 1 representative of the public media,
- 1 representative from the area of child-rearing and education,
- 1 representative of the ministry,

– 1 representative from the ministry in charge of education.

The Commission will perform the following tasks:

- track the incidence of smoking, study and propose measures to reduce the effect of tobacco products on the health of the population.,
- propose implementation activities having as their goal a reduction in the use of tobacco products
- propose smoking cessation programs,
- propose and organize the issuance of suitable publications with the aim of promoting non-smoking as a healthy way of life and smoking cessation,
- cooperation with international bodies that track problems related to reducing smoking,
- prepare reports on the frequency of the smoking habit and the results of permanent preventive actions,
- cooperate with governmental and non-governmental organizations and associations,
- perform other tasks as well in the area of restricting tobacco smoking and tobacco use, and
- submit a report annually to the ministry on the activities of the Commission,

Article 24

Resources will be allocated in the state budget for the implementation of systematic educational, informational and promotional activities having as their aim the reduction and restriction of tobacco product use.

V. SUPERVISION

Article 25

Inspection supervision over the implementation of this Act is performed, each within their own scope of work as prescribed by the law, sanitary inspectors, health inspectors, educational inspections, occupational safety inspectors and business inspectors of the State Inspector's Office.

Article 26

If the inspector establishes that tobacco products are being sold in contravention of the provisions of articles 3 – 12 of this Act, he shall issue a decree prohibiting the legal entity or natural person performing sales activities from selling tobacco products.

The decree referred to in paragraph 1 of this article shall establish the duration of the prohibition on the sale of tobacco products, which cannot be longer than six months.

The provisions of paragraph 1 of this article notwithstanding, when the competent inspector establishes that tobacco products are being sold to persons younger than 18 years of age, he shall, by oral decree entered into the record, until such time as the found faults are eliminated, and for a minimum duration of 30 days, and in accordance with the regulations on trade, prohibit that natural person or legal entity from engaging in trade activities.

VI PENAL PROVISIONS

Article 27

A monetary fine of 30,000.00 to 150,000.00 Kunas shall be levied against a legal entity if it:

1. manufactures or sells cigarettes containing more than 10 mg tar per cigarette (article 3, paragraph 1, sub paragraph 1),
2. manufactures or sells cigarettes containing more than 1 mg nicotine per cigarette (article 3, paragraph 1, subparagraph 2),
3. manufactures or sells cigarettes containing more than 10 mg carbon monoxide per cigarette (article 3, paragraph 1, subparagraph 3),
4. does not submit to the ministry in charge of health the prescribed information within the prescribed time (article 3, paragraph 4),
5. manufactures or sells cigarettes that on the side of their original packaging do not have printed information on the amount of tar, nicotine, or carbon monoxide per cigarette, or the information is incorrect, or the information does not cover at least 10 % of the side surface area of the original cigarette packaging (article 4),
6. manufactures or sells tobacco products without the printed warning referred to in article 5, paragraph 1 of this Act, or if the warning contravenes the provisions of article 5, paragraph 2 of this Act,
7. manufactures or sells tobacco products without the warning referred to in article 5, paragraph 4 of this Act, or if it is printed in contravention of the provisions of article 5, paragraph 5 of this Act, or the warning is not being rotated in accordance with article 5, paragraph 6 of this Act,
8. manufactures or sells tobacco products on which the warning referred to in article 5, paragraphs 1 or 4 of this Act is printed on an additional transparent wrapper of an individual tobacco product packet used in retail sale (article 5, paragraph 7),
9. engages in retail sale of tobacco products for chewing and sucking on that do not carry the warning referred to in article 6, paragraph 1, or that warning is printed in contravention of article 6, paragraph 2 of this Act,
10. sells tobacco products, except cigarettes, on which the warning referred to in article 5, paragraphs 1 and 4 of this Act is printed in contravention of article 7 of this Act,
11. manufactures or sells tobacco products on which the information referred to in article 3, paragraph 1 and the warnings referred to in article 6, paragraph 1 of this Act are printed in contravention of article 8, paragraph 1 of this Act,
12. manufactures or sells tobacco products that are not cigarettes on which the information referred to in article 3, paragraph 1 of this Act as well as the warnings referred to in article 5, paragraphs 1 and 4 and article 6, paragraph 1 of this Act are affixed as removable labels.
13. sells tobacco products without a serial number or equivalent containing information on the location and date of manufacture (article 8, paragraph 3),
14. sells tobacco products through the use of an expression that contravenes article 8, paragraph 4 of this Act,
15. sponsors events, activities or individuals with the aim, effect or possible effect of directly or indirectly promoting tobacco products or tobacco use (article 9, paragraph 1),

16. directly or indirectly promotes a tobacco product (article 9, paragraph 2),
17. advertises products that are not considered to be tobacco products, but which through their shape, name or intended use directly encourage the consumption of tobacco products, or engages in advertising that by its form, name or intended use directly encourages the consumption of tobacco products (article 9, paragraph 4),
18. advertises tobacco products by using trademarked material in contravention of article 10 of this Act,
19. sells tobacco products to persons younger than 18 years of age (article 11, paragraph 1),
20. uses a person younger than 18 years of age to sell tobacco products (article 11, paragraph 2),
21. at a sales location where tobacco products are sold, does not prominently display a sign regarding the prohibition on sales of tobacco products to persons younger than 18 years of age, or does not display it in a visible place in such a manner that it can be read from a distance of 10 meters. (article 11, paragraphs 3 and 4),
22. sells minors “herbal smokes” or other products used for smoking that could encourage minors to smoke (article 11, paragraph 6),
23. sells tobacco products through the Internet (article 11, paragraph 7),
24. sells tobacco products from automatic vending machines (article 11, paragraph 8),
25. sells individual cigarettes, or other tobacco products, outside of their original manufacturer’s packaging (article 11, paragraph 9),
26. sells tobacco for oral use (article 11, paragraph 10),
27. allows the smoking of tobacco products for promotional purposes during public appearances either live or on television, or publishes in print photographs or drawings of persons smoking (article 12, paragraphs 1 and 3),
28. does not ensure that the prohibition on smoking in premises open to the public is heeded (article 13, paragraphs 1 and 2),
29. the smoking area does not meet the conditions referred to in articles 14 through 20 of this Act.

For a violation referred to in paragraph 1 of this Act, a monetary fine in an amount between 5,000.00 and 15,000.00 Kunas will be levied against both a natural person as well as the responsible person in the legal entity.

Article 28

For a violation, a monetary fine in the amount of 500.00 to 1,000.00 Kunas will be levied against a natural person serving food and/or drink in a hospitality establishment, if a person is found to be smoking in the hospitality establishment.

Article 29

A monetary fine of 1,000.00 Kunas will be levied by the inspector at the site of the violation against a natural person who:

1. offers free tobacco products in a public place in public premises (article 9, paragraph 2),

2. smokes in premises open to the public in which smoking is prohibited (article 13, paragraph 1).

VII TRANSITIONAL AND FINAL PROVISIONS

Article 30

The ordinance on the content of information of the list that manufacturers and importers of tobacco products are required to submit to the ministry, and on the method of informing the public regarding that information, will be issued by the ministry within six months of the date that this Act comes into force.

Article 31

The program for promoting awareness of the harmful effect of tobacco product use on health among all ages of children and youth referred to in article 22, paragraph 2 of this Act will be issued by the minister in charge of education within three months of this Act coming into force.

Article 32

Manufacturers and importers of tobacco products are required to align their operations and business activities with the provisions of this Act within six months of this Act coming into force.

Article 33

Owners and users of enclosed premises open to the public are required to align their operations and business activities with the provisions of this Act within six months of this Act coming into force.

Article 34

On the day this Act comes into force, the Restriction of Tobacco Product Use Act ("Narodne novine" [Official Gazette], nos. 128/99, 14/00 and 55/00) shall cease to be in effect.

Article 35

This Act shall enter into force on the eighth day after publication in "Narodne novine".

Class: 310-29/08-01/01
Zagreb, 17 October 2008

CROATIAN PARLIAMENT
President

of the Croatian Parliament
Luka Bebić, signed