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**LBK no. 1021 of 10/21/2008 is applicable**

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Department of the Interior and Health

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## Act to consolidate the law prohibiting advertising etc. about tobacco products <sup>1</sup>

Law no. 492 of June 7, 2001 on the prohibition on advertising etc. about tobacco products is hereby consolidated with the applicable amendments according to § 3 in law no. 536 of June 17, 2008.

### Chapter 1

#### *Scope of application and definitions*

§ 1. The law is applicable to tobacco products, which are defined as:

- 1) Products that may be smoked, inhaled, sucked or chewed regardless of whether such products are wholly or partially manufactured from tobacco.
- 2) Products that are primarily used in connection with tobacco smoking.

§ 2. In this law, advertising is defined as any commercial act with the purpose of promoting the sale of tobacco products. *Section 2.* Advertising is additionally defined as:

- 1) Use of a name, brand, symbol or other defining characteristics that are mainly associated with tobacco products in advertising pertaining to other products and services.
- 2) Marketing of tobacco products using a brand that is publicly known or applied as a brand on other products or services.
- 3) Use of a layout, design or certain color compositions that can be associated with specific tobacco products.
- 4) Use of recognizable tobacco products in advertising for other products and services.

*Section 3.* In this law, sponsoring is defined as any financial contribution to an activity, event etc. aimed at promoting the sale of a tobacco product.

*Section 4.* A point-of-sale (POS) for tobacco products is defined as any location where tobacco products are offered up for sale.

### Chapter 2

#### *Prohibition on advertising etc.*

§ 3. All forms of advertising about tobacco products are prohibited. *Section 2.* The prohibition does not, however, apply to:

- 1) Messages that are exclusively aimed at professionals within the tobacco industry.
- 2) POS signage for tobacco products.
- 3) POS signage with the text »Tobacco«.
- 4) Advertising aimed at the buyer at POS specializing in the sale of pipes, pipe tobacco and cigars. This also applies to storefronts.
- 5) Use of a name that before December 12, 2000 has been used for both tobacco products and other products or services to advertise such other products, in so far as the name is presented in such a way that it is substantially distinguishable from the layout or design etc. of name on the packaging of the tobacco product.
- 6) Use of a name that is publicly associated with tobacco products to advertise other products or services, if the other product or service is only marketed in a limited geographical area.

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*Section 3.* Moreover, the prohibition does not apply to neutral placing of tobacco products near registers or in bars and the like. Tobacco products may only be placed

- 1) on shelves and in cabinets behind or under registers, counters, bars or the like,
- 2) i boxes extended above registers, bars or the like, or
- 3) in special credit card-operated dispensers that are only placed near registers.

*Section 4.* Shelves, cabinets and boxes may not be in sizes and shapes that can be interpreted as advertising.

§ 4. Sponsoring promoting the sale of tobacco products is prohibited.

§ 5. Any form of distribution aimed at promoting the sale of tobacco products is prohibited.

### Chapter 3

#### *Supervisory provisions*

§ 6. The Danish Consumer Ombudsman supervises compliance with the law. The supervision is carried out in accordance with the rules and regulations in the Danish Fair Trading Act.

### Chapter 4

#### *Punitive provisions*

§ 7. Violation of §§ 3, 4 and 5 is punishable by fine.

*Section 2.* Companies etc. (juristic persons) are punishable in accordance with the provisions in Chapter 5 of the Danish Criminal Code Act.

### Chapter 5

#### *Commencement provisions*

§ 8. The law becomes effective on January 1, 2002.

*Section 2.* (Interim provision in law no. 492 of June 7, 2001 is excluded)

§ 9. The law does not apply to the Faroe Islands and Greenland.

Law no. 536 of June 17, 2008 contains the following commencement provision:

#### § 4.

The law becomes effective on September 1, 2008.

*The Danish Ministry of Health, October 21, 2008*

Jakob Axel Nielsen

/ Hanne Nicoline Makhholm

#### **Official notes**

<sup>1)</sup> The law has been notified in draft in accordance with the European Parliament's and the Council of Europe's Directive 98/34/EU (directive on procedure for the provision of information) as amended in Directive 98/48/EU.