

JOURNAL OFFICIEL DE LA RÉPUBLIQUE DE DJIBOUTI

Law n°175/AN/07/5ème L concerning organization for the protection of health against tobacco consumption

THE NATIONAL ASSEMBLY HAS ADOPTED, AND
THE PRESIDENT OF THE REPUBLIC PROMULGATES
THIS LAW, WHOSE CONTENT IS AS FOLLOWS:

IN LIGHT OF the Constitution of September 15, 1992;
IN LIGHT OF Law n°48/AN/99/4ème L of July 03, 1999, concerning the Guidance of Health policy;
IN LIGHT OF Law n°63/AN/99/4ème L of December 23, 1999, concerning hospital reform;
IN LIGHT OF Decree n°97-0039/PR/SP of April 03, 1997, concerning the publication and updating of the list of essential medications;
IN LIGHT OF Decree n°2005-0067/PRE of May 21, 2005, concerning the nomination of the Prime Minister;
IN LIGHT OF Decree n°2005-0069/PRE of May 22, 2005, concerning the nomination of members of the Government;
IN LIGHT OF the Document "Proposed reforms of the health system," examined and approved by the Council of Ministers at its 71st session on June 06, 1996;
IN LIGHT OF the Document "National pharmaceutical policy," examined and approved by the Council of Ministers at its 2nd session on February 09, 1999;
IN LIGHT OF Law n°18/AN/01/4ème L of January 21, 2001, regarding the attributions and organization of the Ministry of Health;
IN LIGHT OF Law n°106/AN/05/5ème L of July 31, 2005, concerning ratification of the WHO's Framework Convention on Tobacco Control.

Article 1: In the framework of the reforms instituted by Law n°48/AN/99/4ème L of July 03, 1999, concerning the guidance of health policy, this law determines the new Framework Law organizing the multi-sectorial campaign against tobacco use of the Ministry of Health, contributing to the protection of public health.

GENERAL PROVISIONS

CHAPTER I: DEFINITION

Article 2: FOR THE PURPOSES OF THIS LAW THE FOLLOWING DEFINITIONS SHALL APPLY:
'Accessory': an object used for the consumption of a tobacco product, such as a pipe, a cigar or cigarette holder, a cigarette cutter, a water pipe, a hookah, matches, lighters and other things related to the tobacco habit.

'Illegal trade' is understood to refer to any practice or conduct forbidden by the law, involving the production, shipping, receiving, possession, distribution, sale or purchase, including any practice or conduct intended to facilitate such activity.

'Tobacco advertising and promotion' is understood to refer to any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.

Unofficial Translation

‘Tobacco control’ is understood to refer to an entire series of strategies to reduce supply, demand and harmful effects, seeking to improve the health of the public by eliminating or reducing its consumption of tobacco products, as well as its exposure to tobacco smoke.

The ‘tobacco industry’ is understood to refer to companies engaging in the manufacture and wholesale distribution of tobacco products, as well as importers of such products.

‘Tobacco products’ is understood to refer to products entirely or partly made of the leaf of tobacco as raw material which are manufactured for smoking, sucking, chewing, or snuffing.

‘Tobacco sponsorship’ is understood to refer to any form of contribution to any event, activity, or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.

CHAPTER II: PURPOSES AND GUIDING PRINCIPLES

Article 3: This framework defines the purposes and general principles of tobacco control.

The purpose of this Framework Law is to protect present and future generations from the devastating health, social, environmental and economic effects of tobacco consumption and exposure to tobacco smoke, by offering a framework for the implementation of measures for tobacco control by various public, semi-public, private and community sectors, at the local, regional and national levels, with the aim of steadily and significantly reducing the prevalence of the tobacco habit and exposure to tobacco smoke.

Article 4: A national multi-sectorial committee is hereby created, charged with preparing regulatory texts and overseeing the standards established by this Law. Its composition and terms of reference are to be determined by administrative order.

Article 5: To accomplish the purpose of this Framework Law and implement its provisions, the guiding principles are set forth below:

Synergies must be developed to inform each Djiboutian of the consequences for health, of the addictive nature and the deadly risk of tobacco consumption and exposure to tobacco smoke, and legislative, executive, administrative or other measures must be envisioned at different governmental levels, as appropriate, to protect all individuals from exposure to tobacco smoke.

A strong joint effort must be effective for drafting and supporting at the regional and national levels comprehensive measures engaging various sectors, as well as coordinated actions, bearing in mind the following:

The need to take measures to protect all individuals from exposure to tobacco smoke;

The need to take measures to prevent individuals from starting smoking, to promote and support quitting and to bring about a reduction in the consumption of tobacco products in all their forms;

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The need to implement measures to take into account gender-specific risks when drafting tobacco control strategies.

International cooperation, and in particular the transfer of technology, knowledge and the provision of related competencies to establish and implement effective tobacco control programs.

Measures and comprehensive multi-sectorial responses to reduce the consumption of all tobacco products at regional and national levels, are essential, pursuant to the principles of public health, in order to prevent the incidence of diseases, disabilities and premature death caused by tobacco consumption and exposure to tobacco smoke.

The participation of civil society is essential to accomplish the purposes of this Law.

Article 6:

1. The campaign for tobacco control and against exposure to tobacco smoke is the responsibility of the State and duly constituted juridical persons and groups, as well as all citizens.
2. The government is to draft, implement, update and periodically examine strategies, plans and comprehensive multi-sectorial programs for tobacco control, pursuant to the provisions of this Framework Law.
3. To this end, the Ministry of Health, in collaboration with the different actors in the campaign for tobacco control, shall undertake the following:
 - a) set up a national body for coordination composed of sectorial focal points and civil society engaged in tobacco control;
 - b) draft the appropriate policies to prevent and reduce tobacco consumption, nicotine addiction and exposure to tobacco smoke;
 - c) the different sectors are to cooperate with a view towards formulating proposed measures, procedures and guidelines for the implementation of this Law;
 - d) see to the application of legislative, executive, administrative and/or other measures adopted.
4. In defining and applying sectorial public health policies in connection with tobacco control, the different sectors shall see to it that these policies are not influenced by commercial or other interests of the tobacco industry, in accordance with national legislation.
5. The Coordinating body shall cooperate, should the need arise, with intergovernmental, international and regional organizations, as well as other competent bodies in order to accomplish the objectives of this Law.
6. The Coordinating body, within the limits of the means and resources at its disposal, shall cooperate to secure the financial resources necessary for the effective implementation of this Framework Law through the channel of bilateral and multilateral financing mechanisms.

CHAPTER III: REGULATION OF THE COMPOSITION AND PACKAGING OF TOBACCO PRODUCTS

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Article 7: Directives for the regulation of tests and analysis of the composition and emissions of tobacco products are to be periodically updated by regulatory provision, in consultation with the competent international bodies.

At the behest of the Minister of Health, an administrative order shall determine the maximum content levels authorized for each ingredient, such as nicotine, tar and carbon monoxide from tobacco, as well as the list of substances employed for the combustion of tobacco products.

Articles 8: Manufacturers and importers of tobacco products must communicate information to government authorities regarding the composition and emissions of tobacco products.

Information on the toxic ingredients of tobacco products and the emissions that they are likely to produce are to be communicated to the public.

Article 9: Three months after the promulgation of this Law, manufacturers shall be required to display on the label of each pack, carton or other forms of packaging, the name of the brand with the statement: "Authorized for sale in the Republic of Djibouti," the date of manufacture, the lot number, the chemical composition in tar, nicotine and carbon monoxide content, or any other substances that may be required by the competent authorities via regulatory provision.

Article 10: Manufacturers shall see to it that packaging and labeling of tobacco products do not in any way contribute to the promotion of a tobacco product by means that are fallacious, tendentious, misleading, or likely to give a false impression regarding the characteristics, effects on health, risks or emissions of the product, including descriptive terms, commercial brands, figurative or other signs giving the direct or indirect false impression that a particular tobacco product is less harmful than others, for example through the use of terms such as "low in tar content," "light" or "ultra-light," etc.

Article 11: In the three months following the promulgation of this Law, pursuant to guidelines set by administrative order of the President of the Republic as proposed by the Minister of Health, manufacturers must see to the following things:

Each pack or carton of tobacco products and all forms of packaging and external labeling of such products shall also display health warnings describing the harmful effects of tobacco consumption, and may include other appropriate messages. These warnings and messages:

- * Are to be determined annually by administrative order of the Ministry of Health;
- * Are to be used on an alternating basis, in accordance with a calendar set by the Ministry of Health;
- * Are to be in clear, visible, legible, large characters;
- * Are to cover 50 % of the principal surfaces;
- * May be presented in the form of drawings or pictograms, or include drawings or pictograms.

Article 12: Each pack and carton of tobacco products and all forms of packaging and external labeling of these products, in addition to the warnings noted above,

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are to exhibit the information on the ingredients and emissions belonging to tobacco products as defined by administrative order.

Article 13: The warnings and other textual information indicated in Article 9 hereof are to appear on each pack and carton of tobacco products and on all forms of packaging and external labeling of such products in the national languages, following the defined messages.

Article 14: Each packaging unit of tobacco or tobacco products must be in compliance with the prescriptions of this Law.

CHAPTER V: ENGAGING IN THE TRADE OF TOBACCO PRODUCTS

Article 15: Any importation or exportation of tobacco, tobacco products or derivatives and accessories is contingent upon the issuance of an import or export permit by the appropriate departments, except in amounts that do not exceed levels for strictly personal needs.

Article 16: Engaging in the trade, distribution or wholesale dealing in tobacco and tobacco products or derivatives and accessories is only allowed for persons or establishments that have been duly authorized and subject to the oversight of the departments authorized for such purpose.

Article 17: Four months after the promulgation of this Law, engaging in the retail trade for cigarettes, tobacco, tobacco products, derivatives and accessories shall be contingent upon the issuance of a license.

Article 18: Four months after the promulgation this Law, it shall be required to affix a stamp on each pack or carton of tobacco products, or any forms of packaging of such products.

Article 19: The growing of tobacco, the processing or manufacture of tobacco products in the national territory, as well as the illegal trade in tobacco, tobacco products and derivatives, or their counterfeiting, are hereby prohibited.

Article 20: The regular oversight of customs warehouses and distribution networks for duty-free tobacco products shall be regulated by administrative order.

Article 21: National legislation regarding the campaign for tobacco control and against the illegal trade in tobacco is to be reinforced by new measures to be ordered by regulatory provision.

The confiscation and destruction of illegal tobacco, tobacco products or derivatives and accessories shall be carried out at the expense of the offender.

Article 22: It is prohibited to provide tobacco products or allow them to be provided through a vending machine.

Article 23: The sale of tobacco, tobacco products and derivatives and accessories to minors under the age of 16 is prohibited.

Article 24: Merchants are required to place in their establishments posters displaying a message specifying the prohibition of the sale of tobacco products to minors under the age of 16. Verification of the age of purchasers prior to any sale of tobacco products is mandatory.

CHAPTER VI: ADVERTISING FOR TOBACCO, PROMOTION AND SPONSORSHIP

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Article 25: In order to reduce the consumption of tobacco products, which is the cause of a cohort of health problems, disability and death, a global ban on any advertising for tobacco and on any promotion or any sponsorship of tobacco is hereby instituted.

Article 26: Any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product, an accessory or tobacco use either directly or indirectly, is considered to be “tobacco advertising and promotion.”

Article 27: All use of incentives that directly or indirectly encourage the purchase or consumption of tobacco products by the public are prohibited. This prohibition covers the supply, delivery and distribution of tobacco, tobacco products and accessories, as well as any free or promotional distribution thereof.

Article 28: A global ban on advertising, promotion and sponsorship on the radio, television, in the print press and, as applicable, in other media such as the Internet, is hereby instituted as of the sixth month following the promulgation of this Law.

Article 29: It is prohibited for growers, manufacturers and merchants of tobacco, tobacco products or derivatives and accessories to sponsor events or local, regional or national activities, or participants in such events or activities.

Article 30: The Republic of Djibouti, in its capacity as a country that is Party to the WHO Framework Convention for Tobacco Control shall cooperate in the refinement of technologies and other means necessary to facilitate the elimination of cross-border advertising.

CHAPTER VII: FINANCIAL AND FISCAL MEASURES SEEKING TO REDUCE THE TOBACCO HABIT

Article 31: Financial and fiscal measures are an effective and important means for reducing tobacco consumption for various categories of the population, in particular for young people. Fiscal policies, as appropriate, and pricing policies for tobacco products contribute towards health objectives seeking to reduce tobacco consumption.

Fiscal and financial policy concerning tobacco products is to be determined annually by the Law of Finance.

Article 32: The price policy for tobacco products, derivatives and accessories shall be set annually by regulatory provision.

Article 33: The proceeds accruing from the various revenues from tobacco products are to be allocated towards multi-sectorial tobacco control activities.

CHAPTER VIII: EDUCATION, COMMUNICATION AND RAISING PUBLIC AWARENESS

Article 34: Each sector, whether public, semi-public or private, is obliged to promote and strengthen the awareness of its target public regarding issues having to do with tobacco control, making use of all available communication tools, as appropriate.

Article 35: Effective and comprehensive programs for education and raising public awareness of health, including the addictive characteristics of tobacco consumption and exposure to tobacco smoke, must be developed for each target public.

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Article 36: Programs for training or awareness and effective and appropriate consciousness raising concerning tobacco control addressed to persons such as health agents, community agents, social workers, media professionals, educators, deciders, administrators and other persons involved are to be designed and executed.

Article 37: Public and private agencies and non-governmental organizations that do not have ties to the tobacco industry shall be invited to participate in the drafting and implementation of programs and inter-sectorial strategies for tobacco control.

CHAPTER IX: PROTECTION FROM EXPOSURE TO TOBACCO SMOKE

Article 38: It is prohibited to smoke in places assigned for common use, notably indoor work places, public transportation, indoor public places and, as appropriate, other public places such as school and university establishments, hospital establishments, athletic facilities, courtrooms, as well as group transportation.

It is also prohibited to smoke in bars and restaurants where it will be possible, if necessary, to arrange specific spaces for smokers, unless it is impossible to do so.

The consumption of tobacco in a hookah is subject to the same prohibition.

CHAPTER X: LIABILITY

Article 39: Manufacturers, importers and merchants of tobacco, tobacco products or tobacco derivatives are liable for damages caused by their products to public health or to private individuals.

CHAPTER XI: OVERSIGHT

Article 40: Wholesale establishments, stores, boutiques, sidewalk stalls and all places intended for the importation and sale of tobacco, tobacco products and derivatives and accessories, as well as places for the traditional manual manufacture of chewing tobacco are subject to government oversight.

Article 41: For oversight of the implementation of this law, the Minister of Health shall designate an inter-sectorial committee with terms of reference to perform the duties of oversight or analysis enabling them to visit any premises where tobacco products are manually and traditionally manufactured, stored, packaged or sold.

Article 42: Proprietors or managers of places visited, as well as anyone who happens to be there, are obliged to assist officials engaged in oversight or inspectors to accomplish their missions, and to provide them with any information that they may require.

Article 43: It is prohibited to impede the activities of officials engaged in oversight or inspectors, or to make false or misleading statements to them.

CHAPTER XII: SANCTIONS

Article 44: The cessation of advertising, promotion and sponsorship is executory, and not subject to appeal.

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Article 45: In the event of seizure of illegal tobacco products, the public prosecutor shall ask the judge to order the confiscation of the goods illicitly provided for consumption, and for their destruction at the expense of the offender.

Article 46: The competent administrative authorities, upon ascertaining the occurrence of a violation of the provisions of this law, may take all measures geared towards suppressing the efficacy of the criminal actions.

Article 47: Associations whose statutory purpose concerns tobacco control that have been regularly established for at least five years upon the date of facts in question, may exercise the rights accorded to civil parties to file suit over the violations set forth in this Law.

Article 48: Any person who commits a violation of the provisions of this Law shall be punished by (6) months of imprisonment and a fine of 3 million Djibouti Francs.

In cases of repeat offenses, the sentence and fine may be doubled, and the court shall prohibit the offender for five years from engaging in the importation, transit, trade or any other commercial activity involving tobacco, tobacco products or derivatives and accessories.

Juridical person are fully or partly jointly liable for the payment of the fines and court costs assessed to their directors or employees.

CHAPTER XIII: FINAL PROVISIONS

Article 49: As of the promulgation of this Law, all manufacturers, merchants, and all establishments for importation, exportation, transit, sale and distribution shall have 6 months to apply for permits relating to engaging in the business of tobacco, tobacco derivative products and accessories.

Beyond this period, offenders shall be liable to the sanctions set forth in this Law.

Article 50: This Law is to be registered and published in the *Journal Officiel de la République de Djibouti* [Official Journal of the Republic of Djibouti] upon its promulgation.

Done in Djibouti, on April 22, 2007.

President of the Republic,
Head of the Government
ISMAÏL OMAR GUELLEH