

## So the world can breathe

→ the Cnct      → tobacco & society    → tobacco & the law    → tobacco & health    → the hidden face of the tobacco industry

<p><i>Cnct</i> - National Committee Against the Use of Tobacco</p> <p><b>Under the same heading</b></p> <p>&gt;Required notices (other than health-related) on tobacco packages</p> <p>&gt;Fees and taxes applicable to tobacco products</p> <p>&gt;Statute on retailers and resellers of tobacco</p> <p style="text-align: center;"><b>Options</b></p> <p>Send article to a friend</p> <p>Print article</p> <p>Article in PDF format</p>	<p><b><u>You are here: entry &gt;&gt; tobacco &amp; the law &gt;&gt; French law &gt;&gt; statute on retailers and resellers of tobacco</u></b></p> <p><b><u>Statute on retailers and resellers of tobacco</u></b></p> <p>J.O No. 15 dated January 18, 2004, page 1401 text No. 19</p> <p>Decrees, Edicts,</p> <p>Circulars, General Texts</p> <p>Ministry of the Economy, Finance and Industry</p> <p>Budget and Budgetary Reform</p> <p><b>Decree No. 2004-68 dated January 16, 2004 issued drawn from an application of the first paragraph of the General Tax Code with respect to retailers of tobacco and resellers</b>  NOR: BUDD0370018D</p> <p>The Prime Minister,</p> <p>Based on the report of the Minister of Economy, Finance and Industry, of the Minister of Health, the Family and Handicapped Persons, and of the Acting Minister of the Budget and Budgetary Reform,</p> <p>In light of the General Tax Code, particularly its Article 568;</p> <p>In light of the Decree of October 29, 1936, modified by Article 51-1 of the Law of Finance for 1963 (no. 63-156 dated February 1963),</p> <p>Hereby Decrees:</p> <p style="text-align: center;"><b>Article 1</b></p> <p>In Book 1, part 1, section 3 of Annex 3 of the General Tax Code there is created a section 4 entitled "Tobacco," including Articles 244, 10<sup>th</sup> to 244, 24<sup>th</sup>, which read as follows:</p> <p><b>→ Art. 244, 10<sup>th</sup> - 1.</b> Tobacco retailers indicated in the first paragraph of Article 568 personally manage tobacco shops which are classified in three categories: ordinary tobacco shops, special tobacco shops and temporary tobacco shops.</p>
<p><b>SUPPORT THE CAMPAIGN AGAINST THE USE OF TOBACCO</b></p>	
<p><b>Enter one or more words, then execute your search by pressing "Enter"</b></p> <p><b>[Search]</b></p>	

"Tobacco retailers are individuals. With the exception of temporary tobacco shops, they are committed to the administration of customs and duties by a three-year contract. At the end of this period, the contract is automatically renewed for a three-year period. It can be rescinded by the administration of customs and duties if the retailer does not uphold any of the obligations set forth in 4, 5 and b, e, f, g, h, I of 6 of this Article as well as in the aforementioned contract in this paragraph if he is a ward of the court, or if he no longer enjoys civil rights or if he has been deemed unfit to exercise the profession of tobacco retailer by a doctor approved by the departmental administration of health and social affairs.

"In particular, the contract specifies the duties of tobacco retailers such as missions of public service that may be entrusted to them by the Government or local authorities.

"2. There is no age limit imposed for being a tobacco retailer, as long as one has the civil capacity to enter into contracts.

"3. One single individual can only manage a single ordinary tobacco shop.

"4. It is forbidden for tobacco retailers to sell or stock tobacco products in the automatic dispensers installed on the inside or outside of their establishment.

"5. Tobacco retailers cannot sell tobacco except to customers within the premises of the shop.

"It is forbidden for them to sell tobacco by mail or computer network, or to modify the composition or presentation of the tobacco products that they sell.

"6. Only someone who meets the following conditions can be a tobacco retailer:

"a) The party must be of French nationality or coming from a member state of the European Community or another State that is party to an accord involving the European Economic Space;

"b) Must present guarantees of honorable conduct, evaluated in light of Bulletin No. 2 concerning criminal records, and particularly must not be guilty of dishonorable or dishonest acts that have resulted in a criminal conviction, and must not have been the subject of a tax or customs penalty within the three years prior to the date of candidacy for such management;

"c) Be adult and not be in the custody of a guardian or be a ward of the court;

"d) Demonstrate physical capability;

"e) Have a place located within the jurisdiction selected pursuant to a consulting opinion of the institution cited in the first paragraph of 3, III of Article 244, 15<sup>th</sup> by the administration of customs and duties for the establishment of the shop;

"f) Respect the rule for non-engagement in multiple employments, remuneration and retirement pursuant to Article 1 of the Decree of October 29, 1936, modified by Article 51-I of Law No. 63-156 of February 23, 1963, bearing the law of finance for 1963;

"g) To not manage another tobacco shop or be a supplier of an active retailer or a partner of a private company belonging to a business associated with a tobacco shop, except for managers of special and temporary tobacco shops;

"h) Have full and complete ownership of the business associated with the tobacco shop, with the exception of managers of special tobacco shops;

"i) Manage the associated business in adherence to the law, whether it is a sole proprietorship or a private company ;

"j) Have civil rights in the State of which the party is a national;

"k) Be in a regular situation with regard to obligations of national service to the state of which the party is a national.

"Art. 244, 11<sup>th</sup> Ordinary tobacco shops may either be permanent or seasonal establishments.

"I. – 1. Permanent ordinary tobacco shops engage in the retail sale of tobacco products in all places other than those reserved for special or temporary tobacco shops.

"They are open all year long, except during possible periods of closure or holidays of the retailer.

"2. Seasonal ordinary tobacco shops engage in retail selling of tobacco products during periods of the year when the population gathers in tourist areas of the country such as seaside or mountain resorts.

"II. 1. The manager of an ordinary tobacco shop may operate a business associated with the tobacco point of sale according to the conditions set forth in sub-paragraph i of item 6 of Article 244, 10<sup>th</sup>. If the business in question is a private company, all partners must be individuals and the partner assigned to operate the ordinary tobacco shop must be the majority shareholder and have the title of manager.

"2. Managers of an ordinary tobacco shop may be exempted from the conditions set forth in h and i of 6 of Article 244, 10<sup>th</sup> in cases of:

"a) Leased management or management agreement emanating from a commune or group of communes in a rural area or of a particular area in revitalization zones specified by Decree No.96-119 dated February 14, 1996;

"b) Operation of franchise outlets in a rural revitalization zone cited in paragraph a) above.

"3. Prior to the signing of the contract mentioned in the second paragraph of 1, Article 244, 10<sup>th</sup>, the candidate for management of an ordinary tobacco shop must:

a) Undergo an internship of professional training. For this purpose he must present to the appropriate office of the administration of customs and duties an attestation of completion of the internship established by the professional training agency;

"b) Justify to this same office that he can make a personal payment of at least 33% of the purchase price of the business or share of the private company as the case may be, and 25% of the total investment. The investment total consists of the purchase price of the business (or the shares in the partnership), minus expenses, agents' fees (agents' commissions, notary fees), attorneys' fees, associated expenses (taxes, advertising costs), inventory, cash flow, operating capital, labor costs (for renovation, etc.), and, if applicable, the purchase price without expenses of the walls (or shares in a real estate partnership) and acquisition costs associated with the purchase of the walls.

"4. The candidate may be exempted from the obligation to undertake an internship of professional training set forth in paragraph 3 in the following instances:

"a) If the candidate for management has already taken such training and has not ceased to manage a tobacco shop for a period of more than one year;

"b) If the candidate for management has the only tobacco shop in a commune of less than 750 inhabitants and has an annual turnover of less than 15,000 EUROS;

"c) If the candidate for management has the only tobacco shop in a commune of less than 750 inhabitants and fulfills at least two of the following three conditions:

" -- he has performed the duties of acting manager of a tobacco shop for at least twelve years;

" -- he is older than sixty years old;

" -- the annual turnover for the tobacco shop is less than or equal to 45,000 EUROS.

→ **Art. 244, 12<sup>th</sup>** - 1. The manager of a tobacco shop is to operate the shop in premises where the layout is adapted to the sale of tobacco products. In order to do this, the place must have fixtures for displaying the tobacco products, and a counter. This counter, of a minimum size of 50 centimeters, is reserved for the sale of tobacco products and related items.

"The aforesaid counter and display fixture are to be visible from the threshold of the facility; the counter is to be directly accessible from the threshold of the facility

"The related business conducted in the same place as the counter for the sale of tobacco products should not impair the proper functioning of the shop, entail an alteration of the taste of the aforesaid tobacco or be deleterious to their conservation. There should be no separation impeding internal communication between the areas dedicated to sale of tobacco and those dedicated to the activities of the related business.

The shopkeeper shall convey to the regional director of customs and duties the plan for renovation noted in the first paragraph by registered mail with return receipt. If the director has observations to make known to the shopkeeper regarding these plans, he should make them within a period of fifteen days counting from the date of their receipt. In default of this, the respective plans for renovation are to be considered accepted in terms of the requirements set forth in paragraph 1 of this section.

"2. The shopkeeper shall indicate the presence of his shop, in the front of his tobacco sales outlet the word "tobacco shop" and by attaching at least one specific red emblem called a "carrot" and possibly, depending on the configuration of the facilities, of an ancillary sign.

"3. The shopkeeper must always have in the shop a minimum inventory on hand corresponding to three days of average sales.

"4. The shopkeeper may not display objects, images, engravings, photographs, drawings, illustrated magazines or publications that are harmful to public morality or disparaging of the authorities or of foreign governments.

"5. The provisions of paragraphs 1 to 3 do not apply to temporary tobacco shops.

→ **Art. 244, 13<sup>th</sup>** - I. Special tobacco shops are set up in:

"1. The public area assigned to the transportation sector including the railway network, the airport system, highway rest areas not freely accessible to the nearby residents of the aforesaid network, and the network of river and maritime transport;

"2. The public area other than that of the transportation sector, licensed or managed by the administration.

"II. – They may also be established in premises not freely accessible to the public.

→ **Art. 244, 14<sup>th</sup>** Temporary tobacco shops are exclusively intended for retail sale of tobacco products on public occasions occurring within premises not freely accessible to the public. Temporary tobacco shops cannot be created at events of a cultural or sporting character.

→ **Art. 244, 15<sup>th</sup>** I. The assignment of a concession for an ordinary tobacco shop is to be carried out through a bidding process, except in the following instances:

"a) Presentation of a successor, by the manager of an ordinary tobacco shop which is ceasing its activities or, in the case of the implementation of joint actions, by the legal representative of the purchaser of the business related to the shop;

"b) Of changes among spouses or among partners in a private company;

"II. – In case of an appeal regarding the awarding of the bid:

"1. The candidate selected is the one who undertakes to pay annually the highest amount of the payment to which all ordinary tobacco shop managers are subject, pursuant to the first paragraph of Article 568. This undertaking is hereinafter designated the "payment."

"2. The regional director of customs and duties is to make available to the public a registration book containing the specific instructions associated with the bidding process, in particular: the perimeter within which

the future shop is to be established, the minimum amount of the payment, the place and deadline for the submission of bids, and the conditions that must be respected to become a tobacco shop manager.

"In order for all interested parties to be able to find out about the bidding process in particular, notice of the place and date for the deposit of the registration book is to be given to the population of the area indicated in the first paragraph by all appropriate means of notification. The registration book is made available for a maximum period of thirty days.

"3. The minimum amount of the payment cited in the first paragraph of 2 is set by the regional director of customs and duties. It corresponds, on the basis of an estimate of turnover, to the annual amount of revenues expected from the ordinary tobacco shop in question, taking into account the geographic, economic and commercial factors of the place where the bidding is occurring.

"4. Anyone who wishes to participate in the bidding must sign up, specifying full name and complete address, in the registration book deposited at the office of customs and duties closest to the commune where the concession is to be awarded, or in the offices of the town hall of such commune.

"5. In the event that a private company should wish to apply for candidacy, the only one eligible to sign the registration book is the manager of that company or one of the partners of the aforesaid company, duly authorized by the manager to such effect, on the basis of a document produced by the office and having an established date prior to that of the signing of the register. The partner in the partnership who is not the manager who has been authorized to sign the register in place of the manager of the private company cannot be a candidate, only the manager can stand as a candidate in the bidding.

"6. The signatory of the register may not stand aside in favor of his partner, who is not a signatory, or of any other person who would not be the authorized representative, for the assignment of the shop concession.

"7. Changing of candidates is strictly prohibited.

"8. If applicable, the candidates may enter into the register the identity of the substitute whom they wish to present, and specify if he is a partner of the private company or if he is a spouse, companion or joined by an act of civil union. The substitute must also sign the register.

"III. – 1. Each signatory of the register must send his bid, together with a written commitment to send the chosen amount for the annual payment to the administration of customs and duties, in a sealed double envelope by certified mail with return receipt, at the latest within two months counting from the date of the presentation of the register.

"2. The bid is to be set down on paper embossed with a tax stamp, pursuant to articles 899 and 905 to 907 of the General Tax Code, in a closed envelope on which the candidate has written his full name.

"3. On the ten days following the deadline for the submission of bids, once it has been established that the bids made match the entries in the register, the regional director of customs and duties or his representative in the presence of a representative of a professional organization representing tobacco retailers at the national level and an agent from the regional bureau of customs and duties, will proceed to read the bids of each bidder and record them in the minutes of the proceedings.

"Any bid that has not been duly entered in the register will be rejected by the director indicated in the first paragraph, without this rendering the bidding process invalid.

"If the highest bid has been underwritten by more than one candidate offering the same amount, these candidates are invited by mail with return receipt to prepare new bids on stamped paper and to return them under sealed cover to the office within ten days counting from the date of the reception of the mail, by certified mail with return receipt. The same operation described in the first paragraph with the same timetable is to take place once again.

"4. The minutes of the proceedings are to be signed by all participants mentioned in the first paragraph of 3.

"IV. A. The candidate selected in accordance with 1 of II must provide the following information and documents within ten days counting from the date of notification of the result of the opening of the bids:

"1. A copy of his identity card or his passport, or other proof of his status as a national of one of the member States of the European Community or another State party to an agreement with the European Economic Space;

"2. – A medical certificate, drawn up at the expense of the candidate, attesting to his capacity to exercise the profession of tobacco retailer, issued by a general practitioner approved by the departmental administration of health and social affairs.

"3. Record of business activities associated with tobacco retailing.

"4. Profession practiced up to that time;

"5. Written undertaking upon word of honor to respect the rules of non-engagement in multiple employments and remuneration defined by the Decree of October 29, 1936 concerning non-engagement in multiple employments, remuneration and retirement, and by Law No. 63-156 dated February 23, 1963;

"6. For agents holding civil service rank, statements attesting to availability, cessation of activities or application of the particular conditions provided for in Article 7 of the Decree of October 29, 1936;

"7. Written declaration attesting on the word of honor that the candidate is not the manager of another tobacco shop, and undertaking to operate personally the tobacco shop, and that he is not a partner of a private company that owns a business associated with a tobacco shop;

"8. If the spouse is the manager of a tobacco shop, a written declaration attesting on the word of honor that the married couple will not be taking each others' places, and the respective documentation of the ownership of the businesses in question;

"9. A lease, an undertaking to lease, a copy of the deed of ownership or an undertaking to purchase the place where the operation of the tobacco shop is intended to occur;

"10. A copy of the deed of ownership of the business with which the tobacco shop is associated or, failing this, a copy of a sworn statement attesting that the candidate will be the owner of the aforesaid business.

"B. – If the candidate selected does not provide one or several components of the information or documents required pursuant to item A, his candidacy shall be rejected by the regional director of customs and duties. In this case, the candidate who has submitted the second highest bid is invited by registered mail with return receipt to provide the same information and documents within ten days counting from the date of receipt of the aforesaid registered mail from the regional director of customs and duties. This procedure is repeated for as long as it may be necessary.

"C. The candidate selected is to undertake to pay, over the course of the first three years of activity, an annual amount corresponding at least to the amount of the sealed bid submitted.

"If the manager wishes to cease the operation of the tobacco shop whose management has been granted to him before the expiration of the period of three years indicated in the first paragraph, he will pay to the administration of customs and duties a pro-rated indemnity for the number of months pending from the date of cessation of operations to the date of the aforesaid period, except in cases of *force majeure*.

"D. The candidate selected who fulfills the conditions for becoming a tobacco retailer set forth in 6 of Article 244, 10<sup>th</sup> who has provided the information and documents cited in A and who upholds the obligations indicated in 3 of II of Article 244, 11<sup>th</sup> shall sign the contract indicated in the second paragraph of 1 of Article 244, 10<sup>th</sup> with the regional director of customs and duties in question. The aforesaid contract is to be drawn up in two copies. The first is kept for the regional director of customs and duties, the second for the tobacco retailer.

→ **Art. 244, 16<sup>th</sup>** I. As set forth in item a) of I of Article 244, 15<sup>th</sup>, the licensed manager of an ordinary tobacco shop who presents a successor to the regional director of customs and duties must fulfill the following conditions:

"1. Except for the exemptions provided for in III, he shall have managed the tobacco shop for a minimum period of three years counting from the date of assuming such duties, and not have desisted from these obligations during this period;

"2. To be in a condition to settle all tax and customs debts, except in the case of collective proceedings;

"3. To provide the guarantees called for in item b) of 6 of Article 244, 10<sup>th</sup>;

"4. The conditions set forth in 1 to 3 of this section I do not apply when the successor is presented by a liquidator.

"II. – The presentation of the successor to the regional director of customs and duties must be done before the sale of the business associated with the tobacco shop.

"In the event of rescission of the contract by the regional director of customs and duties, the retailer may not be authorized to present a successor.

"III. – He may be exempt from the condition of the minimum period of duration cited in 1 of I, in the following circumstances:

"1. *Force majeure* (mishaps such as earthquakes, floods, fires, etc.);

"2. Death or incapacity of the manager:

"His substitute or, lacking such, his spouse or direct heirs of the first degree of kinship may present a successor or undertake the management of the tobacco shop, either on a provisional basis via the signature of a rider to the contract provided for in the second paragraph of 1 of Article 244, 10<sup>th</sup>, until such time as they present a successor, or on a definitive basis. In the latter case, a new contract is to be signed subject to the upholding of the conditions set forth in 6 of Article 244, 10<sup>th</sup> at 3 of II of Article 244, 11<sup>th</sup> and the submission of the information and documents called for in A of IV of Article 244, 15<sup>th</sup>;

"3. The state of health of the manager:

"In this case, the manager undergoes a medical check-up with a doctor approved by the departmental administration of health and social affairs in order to be declared unfit to practice the trade of a tobacco retailer.

"IV. – Upon reception of letters of the granter and the candidate, the regional director of customs and duties will confirm receipt in writing of their request and send an application for candidacy.

"The candidate must return his completed application within two months, counting from the date of reception, under pain of being dropped from the procedure.

"He is to sign the contract mentioned in the second paragraph of 1 of Article 244, 10<sup>th</sup> with the regional director of customs and duties in question in accordance with the conditions and in keeping with the arrangements set forth in D of IV of Article 244, 15<sup>th</sup>.

→ **Art. 244, 17<sup>th</sup>** As set forth in item b) of I of Article 244, 15<sup>th</sup>, the awarding of the concession for an ordinary tobacco shop through a change of personnel is to be undertaken on the following conditions:

"1. A switching among spouses is possible at any moment during the licensed period, as long as the conduct of the retailer does not call forth any reproach either in professional terms or criminal terms, and as long as the business is the property of a conjugal communion of assets;

"2. During the first three years of the concession, counting from the signing of the contract mentioned in the second paragraph of 1 of Article 244, 10<sup>th</sup>, a switching among partners of a private company is only possible among the partners who were members of the private company when the management contract was signed. The switch cannot be made except after assignment of shares leading to a change of majority shareholder;

"3. A candidate for a concession at the time of a shift among spouses or among partners is to sign the contract indicated in 2 with the regional director of customs and duties in question in accordance with the conditions and in keeping with the arrangements set forth in D of IV of Article 244, 15<sup>th</sup>. He is not, however, obliged to provide the information and documentation indicated in 3, 9 and 10 of A of IV of the same article.

If necessary, the new manager is to undertake to proceed with delivery of the payment up until the time set in the register.

→ **Art. 244, 18<sup>th</sup>** The candidate for the management of an ordinary tobacco shop, whether through a bidding process, the presentation of a successor or of a switch of personnel, cannot assume his duties and be authorized by the administration of customs and duties to provision



his tobacco sales outlet until the signing of the contract indicated in the second paragraph of 1 of Article 244, 10<sup>th</sup>.

"Art. 244, 19<sup>th</sup>. 1. The management of a special tobacco shop is awarded:

"a) In the cases indicated in I of Article 244, 13<sup>th</sup>, to the candidate who is the exclusive holder of a concession contract for the occupation of a place in a public facility, or the manager of a public facility managed by the administration.

"b) In the cases indicated in II of the same article, the candidate who is the exclusive holder of the right to conduct commercial activities in premises not freely accessible to the public.

"2. The candidate for the management of a special tobacco shop selected in keeping with the procedure indicated in 1, cannot assume his duties and be authorized to provision his point of sale of tobacco until the signing of the contract indicated in the second paragraph of 1 of Article 244, 10<sup>th</sup> with the general director of customs and duties. The aforesaid contract is to be drawn up in two copies. The first is kept by the administration of customs and duties, and the second by the tobacco retailer.

"3. A special tobacco shop can be operated by an employee of a private company whose manager is endowed with the status of tobacco retailer.

4. In the event of *force majeure* or exceptional circumstances a special tobacco shop may be closed or removed upon the decision of the general director of customs and duties and subject to the observance of the provisions of Article 244, 13<sup>th</sup>.

→ **Art. 244, 20<sup>th</sup>** The arrangements and conditions for the creation, operation, transfer of tobacco shops as well as the template and content for the contract mentioned in the second paragraph of 1 of Article 244, 10<sup>th</sup> and of the register indicated in 2 of II of Article 244, 15<sup>th</sup> are defined by edict of the ministers in charge of health and the budget.

→ **Art. 244, 21<sup>st</sup> I.** Resellers, mentioned in the first paragraph of Article 568 of this code consist of the following establishments:

"1. An establishment for the on-site consumption of drinks, holder of third or fourth-class license that is actually operating, or a restaurant that is holder of a "restaurant license" properly speaking, in accordance with the code of public health;

"2. A service station established on the highway network, service roads or express roads or high speed roads in urban settings or any service station in the department of Corsica;

"3. A Military establishment, penitentiary or an institution housing a population whose liberty to come and go is restricted, excluding health institutions, and particularly those that are authorized to receive hospitalized persons subject to restraint.

"The legal representative of such establishments is to undertake to respect the obligations involved in the resale of tobacco define in this article and in articles 244, 22<sup>nd</sup> and 244, 23<sup>rd</sup> .

"II. – Except in the instances indicated in III, resellers should provision their facilities with tobacco products exclusively from a permanent ordinary tobacco shop as defined in 1 of I of Article 244, 11<sup>th</sup>, hereinafter referred to as "the closest related tobacco shop, to what is hereinafter referred to as the "reseller establishment."

"The related tobacco shop is determined by the reseller, who calculates the exact distance in meters between the main entrance of his establishment and that of the related tobacco shop based on the shortest route between the two establishments, by any public thoroughfare and including those that are public or private and accessible only to pedestrians. To be included in this reckoning, private streets must be open to the public during the day.

"It is up to the reseller to ensure that the related tobacco shop thus determined is the closest to his establishment. If such is not the case, the reseller is to determine his new related tobacco shop using the same method.

"The reseller will comply with any request of agents of the administration of customs and duties and by any means that such agents may judge suitable to establish that his related tobacco shop is the closest to the establishment where he engages in reselling.

"On the occasion of the annual closing of the related tobacco shop, the reseller may provision himself exceptionally from a permanent ordinary tobacco shop other than his related tobacco shop; this other permanent ordinary tobacco shop is to be the second closest shop that is open, determined according to the procedures set forth in the second paragraph.

"III. – For cigars, the reseller can provision himself from any tobacco shop. This provision also applies for all tobacco products to the reseller operating in a public facility under concession indicated in I of Article 244, 13<sup>th</sup>. In these two cases, this tobacco shop constitutes the related tobacco shop of the reseller. The provisions set forth in I of Article 244, 22<sup>nd</sup> and Article 244, 23<sup>rd</sup> also apply to this related tobacco shop.

"IV. Resellers are only to sell tobacco products to customers, users or staff of their establishment, by way of a service that is ancillary to the establishment's principal activity.

"Resellers are obliged to offer their customers, users and staff at their establishment tobacco products of at least three manufacturers of their choice. They cannot enter into a contract of exclusivity with a manufacturer or supplier of tobacco products.

"Resellers cannot display tobacco within their establishment in view of their customers, users and staff. They cannot modify the composition or presentation of the tobacco products that they resell.

"V. – It is forbidden for resellers to sell or stock the tobacco products in the cigarette machines installed inside or outside their establishment.

→ **Art. 244, 22<sup>nd</sup> I.** In order to be a reseller, the legal representative mentioned in the second paragraph of I of Article 244, 21<sup>st</sup> is to submit a declaration of commitment to the regional director of customs and duties in the district where the establishment he represents is located.

"The manager of the related tobacco shop must also submit a declaration of commitment to the aforesaid director.

"II. An edict of the ministers in charge of health and the budget are to determine the arrangements and conditions of application for I as well as the content of the declaration of commitment of the legal representative of the resale establishment and that of the declaration of the manager of the related tobacco shop.

"III. – Resellers are to receive a report on the retail sales monopoly for tobacco products.

→ **Art. 244, 23<sup>rd</sup>** The resale of tobacco products by the reseller is to be conducted pursuant to the following arrangements:

"1. The reseller shall be obliged to pay the manager of the related tobacco shop directly and upon delivery of the tobacco at the time of each provisioning;

"2. The reseller cannot receive directly or indirectly for the purchase of the tobacco products from the related tobacco shop or for their sale within his establishment any gratuity, emolument or gift from any person whatsoever;

"3. The reseller or his duly authorized representative must transport the tobacco, under his sole responsibility, between the related tobacco shop and his establishment, under the authorization of a resale license issued for the acquisition of supplies from the related tobacco shop.

"The purchase, issuance and delivery of resale licenses is the sole responsibility of the related tobacco shop. The resale license is issued in the personal name of the reseller. It is individual and non-transferable.

"With respect to cigars, in accordance with III of Article 244, 21<sup>st</sup>, the reseller must hold a second resale license. In this case, the license is exclusively reserved for the provisioning of cigars.

"The resale license is to be presented upon demand to customs agents. It must be kept by the reseller for six years counting from the date of the last operation and be registered in accordance with the provisions of Article L.102 B of the book of tax procedures.

"An edict by the ministers in charge of health and the budget shall determine the content, the presentation, conditions and working arrangements for the resale license.

→ **Art. 244, 24<sup>th</sup>** - Failure by the reseller to observe the provisions set forth in articles 244, 21<sup>st</sup> to 244, 23<sup>rd</sup> shall entail the revocation of the authorization to resell tobacco products."

Article 2.

The Minister of the Economy, Finance and Industry, the Minister of Health, the Family and Handicapped Persons and the acting Minister of the Budget and Budgetary Reform are charged, each in their respective domains, with the execution of this decree, which is to be published in the Official Journal of the French Republic.

Executed in Paris on January 16, 2004.

Jean-Pierre Raffarin

By the Prime Minister:

The Acting Minister of the Budget and Budgetary Reform,  
Alain Lambert

The Minister of the Economy, Finance and Industry  
Francis Mer

The Minister of Health, the Family and Handicapped Persons,  
Jean François Mattei.