

Special Tobacco Control Law Approved by the National Congress of Honduras, June 9, 2010

DECREE No.92-2010

The National Congress,

WHEREAS: Pursuant to Article 59 of the Constitution of the Republic, the human being is the supreme purpose of society and the State and we all are obliged to respect him,

WHEREAS: Health is considered to be a comprehensive, biological, psychological, social and ecological state and constitutionally is an inalienable human right and the State and individuals are responsible for fostering its promotion and preservation,

WHEREAS: The damaging health effects and addictive psychotropic effects of tobacco consumption have been scientifically proven, all of which obliges a special legal regulation concerning its marketing, advertising, trafficking, custody, and uses.

WHEREAS: The Constitution of the Republic mandates protection of the environment.

WHEREAS: The State recognizes, guarantees and fosters the freedoms of consumption, saving, investment, occupation, initiative, commerce, industry, hiring in business and of any other type stemming from Constitutional principles, so long as such freedoms are not contrary to the social interest or detrimental to the public morality, health and safety,

WHEREAS: On November 10, 2004, the State of Honduras ratified the World Health Organization (WHO) Framework Convention on Tobacco Control through Legislative Decree 192-2004, of January 22, 2005.

WHEREAS: The National Congress holds the Constitutional authority to create, decree, amend, repeal and interpret the laws,

THEREFORE:

It hereby decrees

The following:

SPECIAL TOBACCO CONTROL LAW

TITLE I

GENERAL PROVISIONS

Chapter I. Purpose of the Law

ARTICLE 1. - PURPOSE OF THE LAW. The purpose of this law is to regulate the production, distribution, marketing, importation, consumption, advertising, promotion and sponsorship of

tobacco products, the guidance, education and prevention to warn of health risks and damage, to prevent and dishabituate tobacco consumption, and to determine jurisdictions of the authority for application of its regulations and sanctions.

Chapter II Scope and Objectives

ARTICLE 2. - NATURE OF THE LAW. This law is of a public order and social interest, and its provisions shall be applied throughout the land and other spaces where Honduran sovereignty is exerted. Its provisions are bound to the regulations of the Health Code and must be included in the national health system's policies and actions.

ARTICLE 3. - OBJECTIVES OF THE LAW. The objectives of this law are:

- 1) To ensure the right to health. To protect the people's health against the damaging effects of tobacco.
- 2) To protect the rights of non-smokers who passively inhale the damaging emanations from tobacco smoke.
- 3) To reduce and gradually eradicate tobacco use.
- 4) To sanction the irregular behavior of smokers and other players who fail to observe the provisions of this law
- 5) To promote education, information and other actions of health extension with regard to the stimulating and addictive effects of tobacco consumption.
- 6) To promote treatment in order to disinhibit the consumption and abandonment of tobacco use addiction.
- 7) To undertake scientific cooperation, legal techniques and counseling to reach these objectives.

Chapter III Guiding Principles and Definitions

ARTICLE 4. - BINDING GUIDING PRINCIPLES. Binding guiding principles of this law are:

- 1) Protecting Health as a fundamental, inalienable and non-negotiable right is the responsibility of the State;

- 2) The damaging health effects and addictive psychotropic effects of tobacco consumption have been scientifically proven, as a result of which its consumption must not be encouraged;
- 3) The relativity of individual rights versus higher rights of other persons, harmonious social coexistence and general societal wellbeing;
- 4) Tobacco's economic activity shall be passive, and the advertising stimuli that increase the supply and demand of tobacco products shall be regulated;
- 5) The gradual nature of the application and achievement of objectives.
- 6) Provisions of the Constitution of the Republic, the Health Code, the Police and Social Coexistence Law and the treaties and conventions signed and prevailing on the matter of this Law; and
- 7) The World Health Organization (WHO)'s Framework Convention on Tobacco Control. (WHA56.1, May 21, 2003.)

ARTICLE 5. - DEFINITIONS. - For purposes of this Law, the following shall be understood:

- 1) **WARNING.** Any information or announcement of a technical and scientific nature or of a legal nature showing risks, causes and consequences from the use or consumption of the tobacco issued by the manufacturer;
- 2) **ILLEGAL TOBACCO TRADE:** Any practice or behavior not authorized by law related to the production, shipment, acceptance, distribution, purchase, sale, possession, handling or movement of tobacco-derived products;
- 3) **CONAPROCTA:** National Commission on Anti-Tobacco Protection (*Comisión Nacional de Protección Contra el Tabaco*);
- 4) **TOBACCO CONTROL:** Includes the various actions and strategies to verify compliance with this law and the achievement of its objectives;
- 5) **BRAND NAME ELEMENT:** Constitutes the manufacturing brand name, the registered brand name, the brand name logo or symbol, the manufacturer's name and place of manufacture;

- 6) **CONTAINER OR PACKAGE:** Any kind of container, receptacle or wrapping in which a tobacco-derived product is sold or displayed in wholesale and retail stores, including the box or carton containing smaller packs;
- 7) **TO SMOKE:** The act of being in possession or control of a lit tobacco product, regardless of whether the smoke is being actively inhaled or exhaled;
- 8) **SECOND-HAND SMOKE:** Smoke given off from the burning end of a cigarette or other tobacco-derived products, generally in combination with the smoke exhaled by the smoker;
- 9) **IHADFA:** Honduran Institute for the Prevention of Alcoholism, Drug Addiction and Pharmaceutical Dependency (*Instituto Hondureño para la Prevención del Alcoholismo, Drogadicción y Farmacodependencia*);
- 10) **TOBACCO INDUSTRY:** Covers the producers, processors, manufacturers, importers, exporters and wholesale distributors of tobacco-derived products;
- 11) **WORK PLACE:** The site or place where a person provides his services; covers not only paid work but also voluntary work. Includes all connected or annexed places that workers customarily use in performing their jobs, among others: hallways, elevators, stairwells, entryways, adjoining facilities, bathrooms, lounges and attached facilities, such as sheds and bunkhouses. Vehicles used while performing the job are considered to be work places and must be identified specifically as such;
- 12) **PUBLIC GATHERING PLACE:** Any open and/or enclosed place to which the general public has access and/or places of group use, whether freely, by invitation or following payment;
- 13) **WHO:** World Health Organization;
- 14) **TOBACCO SPONSORSHIP:** Understood to be any form of contribution to any action, activity or individual with the goal, effect or possible effect of directly or indirectly promoting a tobacco product or the use of tobacco-derived products;
- 15) **MINORS:** Human beings, both male and female, under twenty-one (21) years of age;
- 16) **TOBACCO-DERIVED PRODUCTS:** Includes products derived from tobacco prepared in whole or in part by using tobacco leaves as raw material and designed to be smoked, sucked, chewed, inhaled or consumed by any other method of administration, including electronic cigarettes;

- 17) **PHARMACEUTICAL PRODUCTS FOR THE DIAGNOSIS AND TREATMENT OF TOBACCO DEPENDENCY:** Substances and active agents used in the production of medications, diagnostic products and products used to administer medications which are intended to treat dependence on tobacco-derived products;
- 18) **TOBACCO ADVERTISING AND PROMOTION:** Any form of communication, recommendation or commercial action for the purpose, effect or possible effect of directly or indirectly promoting tobacco-derived products;
- 19) **MINIMUM SALARY:** The monthly salary periodically calculated and issued by the Office of the Secretary of State at the Departments of Labor and Social Welfare based on the minimum wage table at its top prevailing scale;
- 20) **PUBLIC TRANSPORTATION:** The means of transportation and mobilization, whether motorized or by animal traction, for hire, both urban and inter-urban, on land, air and water, which is used to transport people on the basis of remuneration;
- 21) **ENCLOSED SPACES:** This refers to spaces with floors and a roof that are enclosed on all sides as by walls and windows; and
- 22) **TOBACCO SHOP:** A shop specialized in the sale of tobacco products and articles related to tobacco which account for eight percent (80%) of its total sales.

TITLE II

FRAMEWORK OF DUTIES AND POWERS

Chapter I Jurisdictions for Administration of the Law. Duties and Powers

ARTICLE 6. - SECTOR RESPONSIBILITY. The Office of the Secretary of State at the Department of Health, its auxiliary bodies and premises within the framework of its respective jurisdictions, is responsible for formulating and carrying out policies and strategies that will result in the existence and application of this law. They will have the support and collaboration of other public entities and municipalities.

ARTICLE 7. - PRIMARY ACTIONS. With the participation of civil society, the Honduran Institute for the Prevention of Alcoholism, Drug Addiction and Drug Dependency (IHADFA) shall have

primary responsibility for formulating, coordinating, executing and assessing public policies related to the prevention and control of tobacco consumption and advisory services on its cessation.

It shall also establish smoking cessation programs carried out by available centers of the Office of the Secretary of State at the Department of Public Health or other private and State institutions or at those established by IHADFA under its exclusive premises and responsibility. All interference by commercial interests and others tied to the tobacco industry is totally banned.

ARTICLE 8. – JURISDICTION ON EDUCATIONAL MATTERS. The Office of the Secretary of State and the Council of Higher Education, in coordination with the Office of the Secretary of State at the Department of Health and IHADFA, shall adopt the necessary regulatory and administrative measures for all levels of educational programs to include scientific information and participate in research projects illustrating the serious threat to health posed by the use of tobacco-derived products.

ARTICLE 9. – JURISDICTIONS ON MATTERS OF POPULATION AND CULTURE. The Office of the Secretary of State at the Departments of the Interior and Justice in coordination with the Office of the Secretary of State at the Department of Education and the Office of the Secretary of State at the Departments of Culture, Arts and Sports shall be responsible for adopting measures to promote the participation of ethnic communities in the development of programs aimed at preparing, carrying out and assessing activities to control the use of tobacco-derived products that are socially and culturally appropriate for their needs and perspectives.

ARTICLE 10. - JURISDICTION OVER TAX POLICY. The Executive Branch through the Office of Secretary of State at the Department of Finance shall be responsible for preparing and regulating the appropriate tax and fiscal policies in order to bring the provisions of this law into compliance.

ARTICLE 11. - ENVIRONMENTAL JURISDICTION. The Office of the Secretary of State at the Department of the Environment (SERNA) in coordination with the Office of the Secretary of

State at the Department of Agriculture (SAG), the Office of the Secretary of State at the Industry and Commerce Department (SIC), the Special Prosecutor's Office for the Environment and IHADFA shall be responsible for designing and following up on policies aimed at protecting the environment, cultivating tobacco for domestic use and its industrial, commercial processing and consumption.

ARTICLE 12. - POLICIES ON WOMEN, THE FAMILY AND CHILDREN. The National Institute for Women (INAM) in coordination with the Office of the Secretary of State at the Department and Health and IHADFA shall be responsible for formulating policies to carry out gender-identified programs aimed at prevention and control of the use of tobacco-derived products by women. Similar actions will be carried out by the Honduran Institute on the Family (INHFA – *Instituto Hondureño de la Familia*) regarding rights and benefits for the family and children concerning the scope of this law.

ARTICLE 13. - PROTECTION OF THE ENVIRONMENT. Establishments where smoking is permitted shall take measures to prevent environmental pollution from tobacco smoke, its residues and odors. When the destruction of tobacco-derived products ensues, proper measures will be adopted, using appropriate methods aimed at protecting the environment.

TITLE III

GENERAL AND SPECIAL REGULATIONS

Chapter I Business

ARTICLE 14. - TOBACCO SALES. BAN ON VENDING MACHINES AND SELF-SERVICE DISPLAYS. All retail sales of tobacco products shall be made at authorized establishments and points of sale and be serviced by a person over the age of twenty-one (21). The use of automatic vending machines and/or self-service dispensers for tobacco-derived products is banned throughout the country. Sale over the internet, deliveries by mail or messenger or any other indirect delivery method are not permitted.

ARTICLE 15. - ARTICLES AND TOYS THAT LOOK LIKE TOBACCO PRODUCTS. The manufacture, importation, sale and free distribution of snack candies, toys or other similar objects having the appearance of tobacco-derived products which may be attractive to minors under 21 years of age are forbidden.

ARTICLE 16. - BAN ON SALES OR GIFTING TO MINORS. The sale and/or gifting of tobacco-derived products to persons under twenty-one (21) years of age is prohibited.

The following measures shall be adopted for observance of such a ban:

- 1) All sellers of tobacco-derived products shall display a sign with the following message that announces in a clear, visible, legible and prominent manner the ban on the sale of tobacco products to minors with the following message: **NO TOBACCO PRODUCTS SOLD TO PERSONS UNDER TWENTY-ONE 21 YEARS OF AGE.** The sign will at least fill the space corresponding to the measurements of a notice-sized sheet (21.59 cm x 35.56 cm), placed in a visible site and with no distracters that would prevent or impair its viewing;
- 2) In case of uncertainty, request the purchaser's identity card or passport; and
- 3) No seller may have tobacco-derived products in a place directly accessible to the end consumer.

ARTICLE 17. - EXCLUSIVE SALE IN PACKAGES OF 10 UNITS. The sale of loose cigarettes and packages containing fewer than 10 cigarette units is prohibited. The sale of tobacco and its associated products is not allowed in stores of health and educational establishments, libraries, museums and cultural and sporting establishments.

ARTICLE 18. - PRODUCT SPECIFICATION AND STATEMENT. Any tobacco-derived product entering the country must specify the statement and information on the geographic area where it is authorized to be sold, the preparation date and the expiration date in a way that is highlighted and protected from adulteration.

Chapter II Appearance, Warnings and Packaging

ARTICLE 19. - WARNINGS. Every six months IHADFA is required to propose and review the images or pictograms and texts through the Technical Division and the Department of Advertising Production for the scientifically validated messages of the health warning that the manufacturer will be responsible for printing concerning the damages caused by using tobacco-derived products, specifying their contents, their components and their harmful emissions, as well as the provisions of the above article and Article 29 of this law.

ARTICLE 20. - FALSE OR MISLEADING INFORMATION. It is forbidden to print false, erroneous, deceptive, incomplete or concealed information on the packages and containers of tobacco-derived products that may lead to error regarding its characteristics, risks or damaging health effects, regarding contents of the components and emissions, or to use terms, descriptive elements, manufacturer or commercial trademarks, figurative symbols or symbols of another type having the direct or indirect effect of creating the false expectation that a particular tobacco product is less harmful than another, or the printing of such phrases as: "low tar content", "light", "ultra light", "smooth".

ARTICLE 21. - SPACES FOR THE PRINTING OF WARNINGS. Manufacturing companies and agencies, importers or distributors of cigarettes and other tobacco-derived products to be sold in Honduras are obliged to print messages on eighty percent (80%) of both principal faces of the container which are combined with images or pictograms to be rotated and modified annually. – Contents of the components, such as nicotine, tar and carbon monoxide, must be printed on one of the side portions with a size of 6.3 centimeters by 9 millimeters in bold, condensed Helvetica font. Health warnings shall be written in the Spanish language and printed clearly, visibly and legibly on both principal faces of the container, must be rotated and modified annually and shall fill at least 25% of the area devoted to the message.

ARTICLE 22. - MEASUREMENT STANDARDS. In order to establish guidelines and the corresponding analyses to measure the contents of tobacco-derived products' components and emissions, measurement standards and methods of the International Organization for

Standardization (ISO) or other certifications issued by qualified organizations are hereby admitted and adopted.

Chapter III Advertising

ARTICLE 23. - BUSINESS IDENTIFICATION AND ADVERTISING BAN. Business identification on tobacco product packages shall refer solely to the manufacturer, distributor, brand name, company logo or brand logo, type of product, its contents and warnings in text, graphics, and pictograms that mention or allude to the damaging effects of active or passive tobacco consumption or other descriptions shown by this law.

No elements of business identification shall be used which are associated, combined or superimposed with images of healthy persons, texts or any other means of transmission or rational or subconscious perception that may lead to the use of tobacco or that allude to personal or environmental states of wellbeing.

All types of advertising by radio, TV, written media, or billboards for tobacco and its products, and sponsored advertising to minors are prohibited.

ARTICLE 24. - SIGNING OF AGREEMENTS. The State of Honduras, through the Office of the Secretary of State at the Department of Foreign Relations, shall promote the signing of agreements with international States and bodies with the goal of eradicating the illegal trade, advertising, promotion and cross-border sponsorships of tobacco products.

ARTICLE 25. - WITHDRAWAL OF NON-ALLOWED ADVERTISING. The tobacco industry must withdraw or suspend any type of advertising, sponsorships, promotions or commercial identification that does not meet the requirements shown in this law within a period not greater than ninety (90) calendar days once this law takes effect. IHADFA shall oversee, regulate and manage cross-border advertising.

The National Telecommunications Commission (CONATEL – *Comisión Nacional de Telecomunicaciones*) shall see to compliance in the mass media and the municipal governments shall do so with respect to advertising placed within municipal boundaries.

Chapter IV

Consumption

ARTICLE 26. - NON-SMOKING SPACES. The consumption of tobacco-derived products is banned in the following establishments or public and private places.

- 1) Spaces intended for the functioning of offices in the public and private sector, such as buildings, shopping centers, parking lots, offices and any other work place;
- 2) Centers designed for entertainment, sports and culture;
- 3) Public and private educational centers;
- 4) Medical care centers, pharmacies and any other health care center;
- 5) Means of public and private transportation, including their terminals;
- 6) Fuel service stations and their consumer stores;
- 7) At all grocery stores, business establishments, banking, financial and cooperative agencies;
- 8) At any other establishment or facility where people gather or pass through. Excluded from this prohibition are cigar factories, where smoking is allowed in special rooms built for this purpose; and
- 9) In any public or private space at fewer than 2 meters from where people gather or pass through.

The smoking ban warning in these establishments shall be shown on visible signs and in visible places. Bosses, owners or their representatives, administrators or those in charge of all the establishments and sites described in the above sections will be responsible for complying with this provision.

Excepted from these prohibitions are those spaces where the tasting of tobacco takes place.

ARTICLE 27. - SCOPE OF THE SMOKING BAN. The smoking ban applies equally to every individual, regardless of investiture or hierarchical status, academic rank, economic, political or social condition, race, religion, sex or culture, who for any reason or consideration must remain at the facilities stated in the first paragraph of the above article.

ARTICLE 28. - OTHER BANS ON MINORS. Minors may not be employed or be used to sell tobacco-derived products, nor may they enter sites where smoking is allowed.

Chapter V

Prevention, Health Promotion and Quitting Smoking

ARTICLE 29. - PROTECTION OF NON-SMOKERS. Warnings about tobacco use will highlight the nature and impact of the damages and responsibilities entailed by the act of exposing persons to risks who passively inhale tobacco smoke, absorb its odors or have contact with its residues.

ARTICLE 30. - PREVENTION POLICY. IHADFA in coordination with public entities and civil society shall design and put plans and programs on the promotion of health, the prevention of tobacco use and the creation of a ***non-smoking culture*** into action. Health promotion actions will emphasize the need to protect maternal and childhood health against the damages from tobacco.

ARTICLE 31. - TREATMENT PROGRAMS. The Department of State's Health Department in conjunction with IHADFA will incorporate diagnostic, treatment and advisory services into its programs on quitting and tobacco use cessation and establish programs in health care centers for quitting smoking, providing accessibility to treatment, including drug products. Through the Treatment Division and with the support of the Division of Private Collaborative Bodies, IHADFA shall regulate, coordinate and oversee the execution of these programs.

ARTICLE 32. - ELECTRONIC INFORMATION SYSTEM. IHADFA shall operate an electronic information system on the internet or by other similar means to release notes, warnings, contacts or recommendations with regard to the objectives of this law. It will do the same for any scientific or legal information related to the objectives of this law.

Chapter VI

Participation of Society

ARTICLE 33. - SOCIETAL PARTICIPATION. Civil Society is empowered to propose programs and training and awareness programs to IHADFA on controlling the use of tobacco-derived products aimed at professionals in the areas of health, promotion and social work, communication,

teaching and the officials and subordinate staff from the three branches of the State. It may also develop a broad comprehensive and effective program for public education and awareness that includes communication campaigns.

ARTICLE 34. - CORPORATE AUDITING. Civil society, supported by the National Commission on Anti-Tobacco Protection (CONAPROCTA) and IHADFA, is responsible for making up a national auditing commission to carry out annual corporate audits in order to follow up, monitor and verify obedience of this law.

Chapter VII

Economic Reconversion and Fiscal Measures

ARTICLE 35. - TRANSITION FOR TOBACCO CULTIVATION. In the event that this law's taking effect should affect the livelihoods of tobacco industry growers or workers, the Office of the Secretary of State at the Departments of Agriculture and Livestock (SAG) or the Secretary of State at the Departments of Industry and Commerce shall implement employment programs and/or alternative cultivation programs.

ARTICLE 36. - BAN IN FREE TRADE ZONES. The sale, distribution and marketing of tax-free tobacco-derived products are banned throughout the country, including in zones under special tax regimes.

ARTICLE 37. - ILLEGAL TRADE AND SMUGGLING. IMPORT QUOTAS. The Secretary of State for the Department of Finance shall establish a plan with measures for oversight and control of smuggling and other types of illegal trade in smuggled products.

TITLE IV

SCOPE OF THE LAW

Chapter I Violations and Sanctions

ARTICLE 38. – SANCTIONS ON SMOKERS. Smokers who fail to obey the provisions of this law, other laws or legal orders or warnings, resist authority or commit repeat offenses with regard

to the places where tobacco use is not allowed or other restrictions, shall be sanctioned by the police authority with a warning, removal from the site, seizure of the products they are consuming, preventive detention and payment of a fine as shown in Article 46 of this law before being freed and other forms of sanctions determined in this law and the Police and Social Coexistence Law. The above notwithstanding, violators will be subject to claims and legal actions by those who believe themselves to be harmed by their irresponsible actions.

ARTICLE 39. - SANCTION FOR EMPLOYING MINORS UNDER THE AGE OF TWENTY-ONE (21).

Companies or businesses that are involved with the sale and distribution of tobacco-derived products shall endeavor not to hire persons who are under age for performing such activities. Persons who induce, use and/or employ minors under the age of twenty-one (21) for the sale and distribution of tobacco-derived products are liable and shall be sanctioned pursuant to the provision of Article 124 of the Constitution of the Republic, Article 16, subparagraph (4) of the Childhood and Adolescence Code, Provisions of the Labor Code on labor for minors and other applicable provisions.

ARTICLE 40.- SANCTIONS FOR NOT POSTING WARNINGS. The Office of the Secretary of State at the Departments of the Interior and Justice shall sanction the breach of the provisions in Article 19 of this law with one hundred (100) minimum monthly salaries and the seizure and destruction of said objects containing the above-mentioned advertising.

ARTICLE 41.- SANCTION FOR NON-WITHDRAWAL OF ADVERTISING. The Office of the Secretary of State at the Departments of the Interior and Justice shall sanction non-compliance with the provisions of Article 25 of this law with one hundred (100) minimum monthly salaries and the seizure and destruction of said advertising.

ARTICLE 42. - SANCTION FOR ALLOWING THE ENTRY OF MINORS. The Office of the Secretary of State at the Departments of the Interior and Justice shall sanction non-compliance with the provisions of Article 28 with a fine of three and one-half (3-1/2) minimum monthly salaries.

ARTICLE 43. - SANCTION FOR REFUSING INFORMATION. Elements of the tobacco industry that refuse to provide the periodic information established in Article 19 of this law or that provide false information to those doing the supervision shall be sanctioned as follows:

- 1) The first time with a fine of twenty (20) minimum monthly salaries and seizure and destruction of the product;
- 2) The second time with thirty (30) minimum monthly salaries, seizure and destruction of the product and temporary closure for at least thirty (30) days and suspension of the operating permit, in the case of importers;
- 3) Recurring offenses shall be sanctioned with fifty (50) minimum monthly salaries, seizure of the product and definitive closure of the business and definitive cancellation of the operating permit.

ARTICLE 44. - SANCTION FOR SMOKING IN PLACES WHERE IT IS PROHIBITED. Municipalities shall sanction people who use tobacco-derived products in places forbidden by law with a fine equivalent to one daily minimum salary, pursuant to the provisions of Article 26 of this law.

ARTICLE 45. - SANCTIONS FOR ALLOWING SMOKING IN PLACES WHERE IT IS PROHIBITED. Municipalities shall sanction the owners or proprietors of the public and private places and establishments named in Article 26 of this law with a fine of two (2) minimum monthly salaries. In the event of recurrence, the operating permit shall be revoked.

ARTICLE 46. - SANCTION FOR PRODUCING OR MARKETING PROHIBITED ARTICLES. Failure to comply with the provisions of Article 15 of this law shall give rise to a fine of ten (10) monthly minimum salaries, seizure and destruction of said products and closure of the operations for thirty (30) days. This sanction will be applied by the Office of the Secretary of State at the Industry and Commerce Department through the General Consumer Protection Office, according to its jurisdiction.

ARTICLE 47. - SANCTION FOR SMOKING ON MEANS OF TRANSPORTATION. The General Office of Transportation shall sanction the owners of any type of transportation where smoking is

allowed or where smoking takes place in such units with a fine of one (1) minimum daily salary for each violation.

ARTICLE 48. - SANCTION FOR ALLOWING SMOKING AT GAS STATIONS. Municipalities shall sanction the owners or proprietors of gasoline service stations who allow the use of tobacco-derived products therein with a fine of three and one-half (3-1/2) minimum monthly salaries.

ARTICLE 49. - SANCTION BY MUNICIPALITIES. Municipalities shall sanction those who infringe the ban established in Article 14 of this law. They shall be sanctioned with:

- 1) Ten (10) minimum monthly salaries the first time; and
- 2) Recurring offenses with twenty (20) minimum monthly salaries plus closure of the company for 30 calendar days.

ARTICLE 50. - SANCTION FOR TAX-FREE SALES. The Executive Revenue Office (DEI – *Dirección Ejecutiva de Ingresos*) shall sanction the failure to comply with the ban established in Article 36 of this law with a fine of fifty (50) minimum monthly salaries and seizure and destruction of the product.

ARTICLE 51. - SANCTION FOR DECEPTIVE OR OMITTED WARNINGS. Failure to obey the provisions of Articles 18, 19, 20, 22 and 29 of this law shall be sanctioned with a fine of one hundred (100) minimum monthly salaries. The Office of the Secretary of State at the Industry and Commerce Department through the General Consumer Protection Office will proceed pursuant to its powers for the application of this sanction.

ARTICLE 52. - SANCTIONS FOR ENGAGING IN FORBIDDEN ADVERTISING. Failure to obey the provisions of Article 23 of this law shall be sanctioned with a fine of one hundred (100) minimum monthly salaries and seizure and destruction of said product by the appropriate fiscal authorities.

ARTICLE 53. - SANCTION FOR NOT POSTING NOTICES. Non-compliance with the ban established in Article 26 of this law to put up notices shall be sanctioned with a fine of seventeen (17) monthly minimum salaries and seizure and destruction of the product. This sanction shall be applied by the Executive Revenue Office (DEI) in coordination with the Office of the Secretary of State at the Industry and Commerce Department through the General Consumer Protection Office.

ARTICLE 54. - SANCTION FOR NON-COMPLIANCE WITH SALES RESTRICTIONS. The Office of the Secretary of State at the Industry and Commerce Department through the General Consumer Protection Office shall proceed pursuant to its powers to sanction failure to obey the ban established in Article 16 of this law with a fine of ten (10) minimum monthly salaries plus closure of the business.

ARTICLE 55. – SANCTION FOR RETAIL SALES. The Office of the Secretary of State at the Industry and Commerce Department through the General Consumer Protection Office shall proceed pursuant to its powers to apply this sanction for failure to obey the ban established in Article 17 of this law with a fine of:

- 1) One (1) minimum daily salary and seizure and destruction of the product; and
- 2) Recurring offenses with two (2) minimum daily salaries, seizure and destruction of the product and closure of the business.

ARTICLE 56. - SANCTION FOR USE OF MINORS IN SALES ACTIVITIES.

The Secretary of State for the Offices of Industry and Commerce (SIC) in coordination with the Honduran Institute for Children and the Family (IHNFA – *Instituto Hondureño de la Niñez y la Familia*) shall sanction those who fail to comply with Article 14 of this law with a fine of fifty (50) minimum monthly salaries, and moreover the product will be seized and destroyed.

ARTICLE 57. - SANCTION FOR EMPLOYING MINORS. The Office of the Secretary of State at the Departments of Labor and Social Welfare in coordination with the Attorney General’s Office for

Minors and the Disabled shall sanction failure to comply with Article 28 of this law with a fine of ten (10) minimum monthly salaries, without impairment to any criminal liability it may entail.

ARTICLE 58. - SANCTIONS FOR ILLEGAL TRADE. Sanctions applicable to the illegal trade in tobacco-derived products shall be regulated pursuant to the provisions established in Chapter XIII-A, Article 392-A, of Smuggling and Tax Fraud Crimes and Its Penalties, contained in the prevailing Criminal Code.

ARTICLE 59. - SANCTION FOR NON-COMPLIANCE WITH SALES RESTRICTIONS. The Office of the Secretary of State at the Industry and Commerce Department in coordination with INHFA and the Attorney General's Office for Minors and the Disabled are responsible for applying the corresponding sanctions to those who breach the provisions of Articles 21 of this law and will be penalized with:

- 1) The first time, with a fine of one hundred (100) minimum monthly salaries; and,
- 2) For recurring offenses, they will be sanctioned with two hundred (200) minimum monthly salaries and closure of the business.

ARTICLE 60. - PROCEDURES FOR THE DESTRUCTION OF SEIZURES. The Office of the Secretary of State at the Public Health Department and the Office of the Secretary of State at the Industry and Commerce Department through the General Consumer Protection Office in coordination with the Executive Revenue Office (DEI), IHADFA, Municipal City Halls and the Judicial Branch shall proceed pursuant to their powers to seize and destroy all tobacco-derived products that are in circulation without the provisions established in this law.

ARTICLE 61. - DISPOSITION OF THE FINES. The totals collected through fines shall be deposited into the General Treasury of the Republic or into the Municipal Treasuries in those cases where the law so mandates.

Every annual Income and Expenditures Budget shall make an allocation to IHADFA in a total amount comparable to the fines collected by the General Treasury of the Republic during the preceding year with the goal of targeting and giving priority to centers for prevention,

education, research, treatment and/or cessation, recovery and rehabilitation programs for victims of the use of tobacco-derived products.

ARTICLE 62.- TIME PERIOD FOR PAYMENT OF FINES. Monetary sanctions established in this law must be paid within no more than thirty (30) days of their application, without impairment to any administrative or criminal actions to which such omissions of payment may give rise.

Chapter II

Oversight of Health and Order

ARTICLE 63. - INSPECTIONS. The Office of the Secretary of State at the Department of Health in coordination with IHADFA with support from the WHO is responsible for carrying out periodic inspections to verify the contents of tobacco-derived product components and emissions, as well as demanding that the tobacco industry report this information accurately and in writing every six months to the IHADFA Executive Council. This will be released nationally.

The National Police are responsible for overseeing compliance with the order and the social harmony resulting from the application of this law.

Chapter VIII

Legal Liability

ARTICLE 64. – RESPONSIBILITIES. Persons who through their actions infringe the provisions of this law or cause damages to third parties through negligence, actions or omission or have not generated the notices and proper warnings mandated by law are liable for administrative, civil or criminal liability, depending on the case.

ARTICLE 65. – REPORTS AND ACTIONS AGAINST SMOKERS WHO EXPOSE NON-SMOKERS TO RISK. Family members or individuals may report and file claims with the police authorities on smokers who expose them to the inhalation of tobacco smoke in private places in family residences.

ARTICLE 66.- LEGAL ACTIONS. Anyone shall have the right to legal action or to file a subsequent claim against the tobacco industry with respect to the damages caused by same against the public health in general or against a person in particular as a result of the active or passive use of tobacco-derived products when this industry has given false or incomplete information or has omitted or hidden information regarding the effects and consequences of tobacco consumption.

ARTICLE 67.- REPORTS. Any individual or legal entity is empowered to make a report to the nearest authority, such as: Municipal City Halls, Fire Departments, the Police, Armed Forces, Office of the Secretary of State at the Department of Environment and the Special Prosecutor's Office for the Environment or to the Public Prosecutor regarding any person who tosses a lit cigar or cigarette butt capable of causing attempted arson or a forest fire.

Chapter IV

Resources and Procedures

ARTICLE 68. – ADMINISTRATIVE PROCEDURE. All interventions and actions from this law shall be made according to the resources and procedure set forth in the Law of Administrative Procedure and other procedural frameworks, as appropriate.

CHAPTER V

FINAL AND TRANSITORY PROVISIONS

ARTICLE 69.- REGULATION. Regulation of this law must be approved and sanctioned through Executive Agreement with ratification by the Office of the Secretary of State at the Department of Health within a maximum period of six (6) months from when this law goes into effect, keeping in mind what has been proposed in this regard by the IHADFA Executive Council.

ARTICLE 70.- BUDGETARY ALLOCATIONS. In order to establish, strengthen and finance a national coordinating mechanism for the operation of this law, following a ruling by the Office of the Secretary of State at the Finance Office, the National Congress shall allocate to the Honduran Institute for the Prevention of Alcoholism, Drug Addiction and Drug Dependency

Unofficial Translation

(IHADFA) an additional annual budgetary item of no less than ten million Lempiras (L. 10,000,000,000.00), which shall be increased in subsequent tax accounting periods, in accordance with the needs for its application.

ARTICLE 71. - TERM. This law will take effect six (6) months after its publication in the Official Daily, "The Gazette".

Issued in Tegucigalpa, Central District Municipality, at the Sessions Hall of the National Congress on Tenth day of June, Two Thousand Ten.

JUAN ORLANDO HERNANDEZ ALVARADO

President

RIGOBERTO CHANG CASTILLO

Secretary

GLADYS AURORA LOPEZ

Secretary