

Macao Special Administration Region

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Law No. 9/2017

Amendment to Law No. 5/2011 Regime on Prevention and Control of Smoking

This Law is adopted by the Legislative Assembly according to Item 1, Article 71, the Basic Law of Macao Special Administrative Region (SAR).

Article 1

Amendment to Law No. 5/2011

Article 2, 3, 4, 5, 14, 15, 17, 23, 28, 30, 32 and 35 of Law No. 5/2011 are amended as follows:

“Article 2

Definition

For the application of this Law, the following terms are defined as:

1) [.....]

2) [.....]

3) "E-cigarette" is a product that makes it possible to inhale aerosol with or without nicotine through the mouthpiece, or the components of such a product, including cartridge, storage, and the device without cartridge or storage.

4) "Smoking" is inhaling or exhaling e-cigarette aerosol with or without nicotine or tobacco smoke, and in possession of any lit product made of tobacco;

5) [formerly item 3]

6) [formerly item 5]

- 7) [formerly item 6]
- 8) [formerly item 7]
- 9) [formerly item 8]
- 10) [formerly item 9]
- 11) [formerly item 10]
- 12) [formerly item 11]
- 13) [formerly item 12]
- 14) [formerly item 13]
- 15) [formerly item 14]
- 16) [formerly item 15]
- 17) [formerly item 16]
- 18) [formerly item 17]

Article 3

General provisions

The purpose of this Regime is to impose restrictions on tobacco consumption in indoor places that are intended for collective use, regardless of their ownership or right of access, and in other places described in this Law, to protect against exposure to tobacco smoke.

Article 4

Smoking is banned in specific places

[.....]

- 1) [.....]
- 2) [.....]
- 3) [.....]
- 4) [.....]

5) [.....]

6) [.....]

7) [.....]

8) [.....]

9) [.....]

10) [.....]

11) [.....]

12) [.....]

13) [.....]

14) [.....]

15) [.....]

16) [.....]

17) [.....]

18) Terminals and stops of public passenger transport vehicles;

19) Within ten meters of distance to signs where public passenger transport vehicles stop, which shall be delineated by entities in charge;

20) [.....]

21) [.....]

22) [.....]

23) [.....]

24) [.....]

25) [.....]

26) [.....]

27) [.....]

28 [.....]

29) [.....]

30) [.....]

31) [.....]

32) Any other indoor places for collective use that do not belong to the above categories;

33) Any other outdoor areas for collective use where the management entity decides to ban smoking.

Article 5

Exemptions

I. [.....]

1) [.....]

2) [.....]

3) [.....]

4) [.....]

5) [.....]

6) Outdoor areas that are explicitly designated Smoking Areas in prisons;

7) [Abolished]

8) [Abolished]

2. Smoking rooms in item 4 of the last paragraph should meet the minimum requirements established by the Chief of the Office of the Secretariat for Social Affairs and Culture as published in Bulletin of the Macao SAR.

3. Smoking rooms may be set up in places described in item 13 of the last Article. However, the smoking rooms should meet the minimum

requirements established by the Chief of the Office of the Secretariat for Social Affairs and Culture as published in the Bulletin of the Macao SAR.

Article 14

Ban on sale of tobacco products

I. [.....]

1) [.....]

2) At places described in 1) to 3), 6), 9), 10), 13), 22), 24) and 27) of Article 4.

3) [.....]

4) [.....]

5) [.....]

2. [.....]

3. [.....]

4. [.....]

5. [.....]

Article 15

Ban on sale

Sale of e-cigarette and tobacco products intended for mouth or nose use is prohibited.

Article 17

Advertising and promotion

1. Any form of tobacco, tobacco product, and e-cigarette advertising and promotion is prohibited, including advertising produced through services of advertising media or information company that express in obscured, disguised or implied manners. However, scenarios described in paragraph 2 to 7, 9, 10 and 13 are exempted.

2. The above provisions do not apply to tobacco product price marks and price tags that are only displayed in places where tobacco products are sold, as long as such price marks and price tags can not be seen from outside the selling places, especially through display windows.

3. [.....]

4. [.....]

5. [.....]

6. [.....]

7. [.....]

8. It is prohibited to display tobacco products at fixed and mobile Points of Sale, or make tobacco products visible.

9. The above provision does not apply to places that exclusively sell tobacco products, as long as such tobacco products can not be seen from outside such places.

10. The fixed and mobile Points of Sale can provide a list, the format of which is approved by administrative regulations, describing the tobacco products sold at the such Points of Sale.

11. [formerly paragraph 8]

12. [formerly paragraph 9]

13. [formerly paragraph 10]

14. [formerly paragraph 11]

Article 23

Violations

1. Conduct that violates Article 4, paragraph 2 and 3 of Article 5, Article 6, 8, and 10 to 20 constitutes violations of the administrative law and shall be charged a fine:

1) 1,500 Pataca de Macau (MOP), for smoking in smoke-free places described in Article 4;

2) [Abolished]

3) 4,000 MOP, on owners, legal persons, legal persons established not according to regulations, or associations without legal entity status of private places which violate item 2 to 5 of paragraph 1, Article 14 and paragraph 4, Article 14;

4) 4,000 MOP on those that sell tobacco products that do not meet the labeling and packaging requirements in Article 11 and 12;

5) 4,000 MOP on those that sell e-cigarettes or tobacco products that can be consumed through the mouth or nose;

6) 20,000 MOP, on owners, legal persons, legal persons established not according to regulations, or associations without legal entity status of private places which violate item 1 of paragraph 1, Article 14 and paragraph 5, Article 14;

7) 20,000 to 200,000 MOP on those that violate paragraph 2 and 3 of Article 5, Article 6, item 2 of paragraph 2, Article 14, and Article 15 to 20;

8) 20,000 to 200,000 MOP on public entities that violate Article 6;

9) 20,000 to 200,000 MOP on the tobacco industry that violates Article 8, paragraph 1 and 2 of Article 10, Article 11 to 13, and Article 15;

2. [.....]

Article 28

Supervision

1. [.....]

2. [.....]

3. Supervisors of Health Department may enter entertainment places when carrying duty, but may not directly, or through others, engage in any lottery.

4. Personnel described in paragraph 2 may take the following measures or actions when carrying out duty:

1) Enter smoke-free places described by law according to law;

- 2) Order smoker to stop smoking, demand smoker to provide name, address and exhibit identification document; if the offending smoker refuses to stop smoking or provide such document, ask Public Security Police Force to cooperate;
 - 3) For violations of Article 8, and 11 to 15, may impound the tobacco product or e-cigarette to keep it intact;
 - 4) For violations of Article 16, may impound the tobacco product vending machine to keep it intact;
 - 5) For violations of Article 17, may impound the advertising media to keep it intact;
 - 6) For violations of Article 18, may impound the related consumption item to keep it intact;
 - 7) If the frame or media of tobacco product advertisement is found to be in violation of the law, it will be removed and destroyed.
5. [formerly paragraph 4]
 6. Failure to comply with orders described in item 2 of paragraph 4 constitutes general disobeying.
 7. [formerly paragraph 6]

Article 30

Impound to keep intact

1. Supervisory personnel may impound to keep intact according to item 3 to 6 of paragraph 4, Article 28.
2. [.....]
3. [.....]

Article 32

Willingness to pay fines

- I. [.....]

2. Willingness to pay the fine described in item 5, paragraph 1 of Article 23 does not entitle to obtaining the tobacco product or e-cigarette impounded according to item 3, paragraph 4, Article 28.

3. [.....]

4. [.....]

Article 35

Permitted commercial names

1. From the effective date of this Law, if the name of the tobacco product implies this tobacco product has little harm to health, it can still be sold as long as it carries the special warning agreed by the Chief Executive and published in the Bulletin of the Macao SAR.

2. [.....]"

Article 2

Provisions added to Law No. 5/2011

An Article 5-A is added to the Law No. 5/2011, which reads:

"Article 5-A

Consumption of e-cigarette

Article 4 and 5 shall apply to the consumption of e-cigarette after making appropriate adjustment."

Article 3

Smoking in entertainment places

Smoking rooms in entertainment places should be established within one year of the effective date of this Law, and during this time, existing smoking rooms and smoking areas should be kept.

Article 4

Abolishment

Item 7 and 8 of paragraph 1, Article 5, item 2 of paragraph 1, Article 23 and Article 37 of Law No. 5/2011 shall be abolished.

Article 5

Re-announcement

Within ninety days of the effective date of this Law, the full text of Law No. 5/2011 shall be re-announced as instruction by the Chief Executive, and using replacement, deletion or addition of articles as needed, incorporate amendment to this Law in appropriate places.

Article 6

Effectiveness

This Law shall take effect on January 1, 2018.

Adopted on July 14, 2017.

Ho Iat Seng, President of Legislative Assembly

Signed on July 18, 2017.

Ordered to release.

Cui Sai on, Chief Executive

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