

LEGISLATIVE BRANCH

CONGRESS OF THE REPUBLIC

LAW NO. 28705

THE PRESIDENT OF THE CONGRESS
OF THE REPUBLIC

WHEREAS:

THE CONGRESS OF THE REPUBLIC:

Has issued the following Law:

**GENERAL LAW FOR THE PREVENTION
AND CONTROL OF
TOBACCO USE RISKS**

Article 1. – Purpose of the Law

This purpose of this Law is to establish a statutory framework on the measures which allows:

1. The protection of individuals, families and the community against the health, social, environmental and economic consequences of tobacco use and the exposure to tobacco smoke with the goal of continuously and substantially reducing such use and exposure.
2. Tobacco products to be sold responsibly, ensure that their advertising, promotion and sale are aimed only at persons of majority age, and that they are coherent with the principle that tobacco use must be an option only for adults who are informed about the risks of their use.
3. Measures to reduce the illegal supply of tobacco products throughout the land.

Article 2. - Area of Application

The provisions in this Law apply to all individuals or legal entities which use, manufacture, sell, import, distribute or supply tobacco products. Likewise, they apply to persons who offer advertising, promotion or sponsorship services to the tobacco industry.

TITLE II

MEASURES RELATED TO TOBACCO CONTROL

CHAPTER I

PREVENTION AND PROTECTION

Article 3. - Protection Against Tobacco Smoke

Smoking is prohibited in any public or private establishment dedicated to health or education, in public offices and on any means of public transportation.

In work centers, restaurants, cafes, bars and other entertainment centers owners and/or employers shall have the option to allow tobacco use in areas designated for smokers which in every case must be physically separated from the areas where smoking is prohibited and must have mechanisms to prevent the passage of smoke to the rest of the premises and ventilation to the outdoors or air extraction to the exterior.

The municipal authority shall be responsible for seeing that this statute is obeyed.

Article 4. – Requirement for a Notice in Enclosed Spaces

All establishments to which Article 3 of this Law refers must put up signs in a visible location with the following inscription:

**“SMOKING IS BANNED IN
PUBLIC PLACES LIKE THIS, ACCORDING TO
LAW NO. ... “**

**“SMOKING IS DAMAGING TO HEALTH.
SMOKE HURTS NON-SMOKERS, TOO”**

Dimensions and characteristics of the posters shall be determined in the regulations to this Law.

Article 5. – Information and Public Education

The Ministry of Health and the Ministry of Education shall implement within their respective competencies:

1. Educational programs on the risks of getting sick and dying which arise from tobacco use and the exposure to tobacco smoke, including tobacco's addictive properties.
2. Diagnostic and treatment programs for tobacco dependency.
3. Advisory service on quitting tobacco use.

4. Provision of support for parental education on how to keep their children from smoking, the impact of smoke on the rest of the children and how to protect them from exposure to the smoke of others.

CHAPTER II

PACKAGING AND LABELING OF TOBACCO PRODUCTS

Article 6. – Packages, Labels, Signs and Advertising Notices

No messages or images aimed at minors and suggesting that smoking increases success and popularity may be included on packages, labels, signs and advertising notices.

Article 7. Warning Phrases and Images Alluding to Health Damage

Cigarette packs and all tobacco product packages or wrappers in general must bear printing on fifty percent (50%) of one of their principal faces with warning phrases and images on the risks caused by smoking. In the same area they must also bear the permanent printed phrase:

**“SALE PROHIBITED TO
MINORS UNDER 18 YEARS OF AGE”**

Except for cigarettes in all their presentations, remaining tobacco products may bear the phrases shown in the above paragraph printed on labels affixed to their wrappers.

The regulations to this Law shall develop the warning phrases and images to which this Article refers.

Article 8. – Ban on Using Particular Terms

It is prohibited to print the terms "Light", "Ultralight", "Smooth", "Supersmooth", synonyms or other symbols on labels, advertising, trademarks, slogans or any other symbol that may accompany the product.

Article 9. – Additional Information and Information on Nicotine and Tar Contents

Cigarette packs, bags, packages or tobacco product wrappers sold to the end user must contain the expiration date, tar, nicotine and carbon monoxide contents according to the ISO standards, plus the information shown in Article 3 of Law No. 28405, Law on the Labeling of Manufactured Industrial Products, wherever applicable, in an area other than the one used for the warning phrases.

CHAPTER III**MARKETING****Article 10. - Requirement to Affix Signs in Sales Areas**

Any individual or legal entity making direct sales to the user of tobacco products must affix a sign in a visible location at his premises with the following phrase:

**“TOBACCO USE IS
DAMAGING TO HEALTH**

**SALE IS BANNED TO MINORS
UNDER THE AGE OF 18”**

The dimensions and characteristics of the sign shall be determined in the regulations to this Law.

Article 11. – Bans on Marketing

They are as follows:

1. The direct or indirect sale of tobacco products inside any public or private establishment dedicated to health or education and public offices is prohibited.
2. The sale of tobacco products to minors under the age of 18 is prohibited.
3. The sale of tobacco products by minors under the age of 18 is prohibited.
4. The sale of unfiltered cigarettes is prohibited.
5. The sale of tobacco product packages containing fewer than five (5) units is prohibited.
6. The free promotional distribution of tobacco products, except when in an objective and verifiable form it may be demonstrated that the recipient is over the age of 18 years, is prohibited.
7. The promotion or distribution of toys in the shape of or alluding to tobacco products that may be attractive to minors is prohibited.

Article 12. – Supply through Vending Machines

The sale of tobacco products in vending machines may be made only in locations where access is permitted only to those over the age of 18.

CHAPTER IV

TOBACCO ADVERTISING, PROMOTION AND SPONSORSHIP

Article 13. – Advertising Notices

Advertising notices for tobacco products must quote the warning phrases to which Article 7 refers and which must occupy fifteen percent (15%) of the advertising space and be varied every six (6) months.

Article 14. – Advertising in Graphic Media

The advertising of tobacco products in graphic media – daily newspapers, magazines or similar – whose target public is over the age of 18 may do tobacco product advertising. In no case may the tobacco product advertising be located on the front cover or back cover of such graphic media.

Article 15. – Ban on Sponsoring Events or Activities

It is forbidden to sponsor any event or activity aimed at minors with the brand name of any tobacco product.

Article 16. – Advertising Restrictions

No tobacco product advertising announcement may:

1. Be aimed at minors.
2. Show a minor.
3. Suggest that most people are smokers.

Article 17. – Bans on Advertising

The direct or indirect advertising of tobacco products shall be prohibited at or in:

1. Means of communication using open signal television, radio or other similar media.
2. Public or private establishments dedicated to health or education and in public offices.
3. Exterior advertising within a surrounding radius of 500 meters from educational centers of any level or nature.
4. Sporting activities of any type.
5. Exhibits, shows and similar where the entry is permitted to minors under 18 years of age.
6. Articles of clothing.

TITLE III

OVERSIGHT AND APPLICATION OF PENALTIES

CHAPTER I

INSTITUTIONS RESPONSIBLE FOR OVERSIGHT AND COMPLIANCE WITH THE LAW

Article 18. – Oversight and Compliance with the Law

Municipalities, the Ministry of Health, INDECOPI and the Permanent National Commission on the Anti-Tobacco Fight shall, within the sphere of their respective competencies, make the necessary inspections to ensure compliance with the provisions of this Law.

Breaches of the provisions on advertising and labeling of tobacco products contained in this Law shall be reported to the Commission on Repression of Unfair Competition and to the INDECOPI Consumer Protection Commission respectively, according to the prevailing body of law.

When dealing with imported products, prior to their nationalization SUNAT shall perform the inspections necessary to verify what is set forth in Chapter II of Title II of this Law and apply the penalties fixed by the regulations.

CHAPTER II

REGULATION OF PENALTIES

Article 19. – Regulation of Penalties by the Executive Branch

The Executive Branch is hereby empowered to issue the regulatory standards that they regulate within a period of ninety (90) calendar days from when this Law goes into effect as well as the administrative penalties to be imposed for the non-observance and/or non-compliance with this Law for the purposes contained therein.

TRANSITORY AND FINAL PROVISIONS

ONE. – Adaptation of Advertising

Tobacco product advertisers shall adapt their advertising to the provisions of this Law within one hundred eighty (180) calendar days from when the corresponding regulations are issued.

TWO. – Vending Machines

The owners of tobacco product vending machines shall adapt to the provisions of this Law within a period of ninety (90) calendar days from when this Law takes effect.

THREE. – Tobacco Product Importations in Process

Importations which upon the date this Law is issued have confirmed purchase orders, are already shipped, are en route or are in the process of being internalized, shall be exempted from the scope of this Law.

FOUR. - Designated Smoking Areas

Premises with areas designated for smokers shall adapt to the provisions of this Law within a period of one hundred eighty (180) days from when this Law goes into effect.

FIVE. – Adaptation of Tobacco Product Packages

Tobacco product producers, importers and distributors must adapt their cigarette packs and in general, any kind of package or wrapper for tobacco products to the provisions set forth in this Law within a period of one hundred eighty (180) days from when this Law goes into effect.

SIX. – Repeal

Laws Nos. 25357, 26739, 26849 and 26957 are hereby repealed, and all legal provisions which may oppose this Law are hereby modified.

It is hereby ordered that this be made known to the President of the Republic for its issuance.

In Lima on the thirteenth day of the month of March, two thousand six.

MARCIAL AYAIPOMA ALVARADO
President, Congress of the Republic

FAUSTO ALVARADO DODERO
First Vice President, Congress of the Republic

TO THE CONSTITUTIONAL PRESIDENT OF THE REPUBLIC

WHEREAS:

In view of the fact that this has not been issued within the Constitutional time period by the President of the Republic in fulfillment of Articles 108 of the Political Constitution and 80 of the Congressional Regulations, I hereby order that it be made known and fulfilled.

In Lima on the first day of the month of April, two thousand six.

MARCIAL AYAIPOMA ALVARADO
President, Congress of the Republic

FAUSTO ALVARADO DODERO
First Vice President, Congress of the Republic

06217