

Attachment to the official proclamation of Marshal [Speaker] of the Sejm [lower house of the Polish parliament], dated February 20, 2015 (item 298)

## **ACT**

of Nov. 9, 1995

**on**

### **Protection of Public Health against the Effects of Tobacco Use**

In order to prevent addiction to tobacco and its products, and to protect public health from effects of their use, it is decreed as follows:

**Article 1.** State and territorial government institutions are required to instigate activities related to protection of public health against the effects of tobacco use. They may support in matters related the activities of professional medical organizations governing bodies, civic organizations, foundations, work institutions and companies, and work with churches and other organized religion associations.

**Article 2.** Terminology used in the Act:

- 1) Tobacco – cultivated tobacco plants of *Nicotiana* type;
- 2)<sup>1</sup> Tobacco products – any products made of tobacco, like cigarettes, cigars, cigarillos, pipe tobacco, *mahorka* tobacco, and other containing tobacco or its components, excluding medicinal products containing tobacco;
- 3)<sup>1</sup> Smokeless tobacco products – tobacco products for sniffing (snuff), sucking, chewing or other way of introducing tobacco to the body, excluding medicinal products containing tobacco;
- 4) Tobacco accessories – products and devices intended for tobacco use, such as cigarette cases, cigar holders, cigarette tissue paper, cigarette rolling machines, pipes and their cleaning and packing tools, ash trays, cigars cutters, etc. (excluding lighters and matches);
- 5)<sup>2</sup> Tobacco products advertisement – distribution of announcements, images of tobacco brands or symbols related to them, also: names and graphic symbols of tobacco product manufacturers, which are no different than the names and graphic symbols of the tobacco products, and are used to popularize the tobacco product brands; information exchanged between factories and institutions manufacturing, distributing and selling tobacco products, and used for commercial purpose, is not considered marketing;

6)<sup>3</sup> Tobacco products information – information about tobacco product brands and their harmful components content, which does not have message encouraging buying and consuming tobacco products, and is placed only in these products sale locations;

6a)<sup>4</sup> Tobacco tar – raw, anhydrous, nicotine-free smoke condensate;

6b)<sup>4</sup> Nicotine – nicotine alkaloids;

6c)<sup>4</sup> Carbon monoxide (CO) – colorless, odorless gas, product of the partial oxidation of organic substance, appears in gas-phase of cigarette smoke;

6d)<sup>4</sup> Supplements – any substance or component, excluding tobacco leaves or other natural or unprocessed tobacco components, which is used to manufacture tobacco products and is present in the finished product – even in changed form, including paper, filters, coloring and glue;

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<sup>1</sup> As established by Article 1, point 1a, of the Act of April 8, 2010, on changing the Act on Protection of Public Health against the Effects of Tobacco Use and the Act on State Sanitary Inspectorate (Published in the Law Register, issue 81, item 529). This Act is effective since Nov. 15, 2010.

<sup>2</sup> Added by Article 1, point 1c, of the Act of Nov. 5, 1999, on changing the Act on Protection of Public Health against the Effects of Tobacco Use (Law Register, issue 96, item 1107), effective Jan. 3, 2000; as established by Article 1, item 1b, of the Act mentioned in the footnote 1.

<sup>3</sup> Added by Article 1, point 1d, of the Act of Nov. 5, 1999, on changing the Act on Protection of Public Health against the Effects of Tobacco Use (Law Register, issue 96, item 1107), effective Jan. 3, 2000. This became the law on Dec. 4, 2000.

<sup>4</sup> Added by Article 1, point 1, of the Act of Nov. 28, 2003, on changing the Act on Protection of Public Health against the Effects of Tobacco Use (Law Register, issue 229, item 2274), effective Jan. 15, 2004.

7)<sup>5</sup> Promotion of tobacco products – public distribution of tobacco products or tobacco accessories, tasting events, awarding bonuses for tobacco products purchases, offering tobacco products for lower prices than these on a single package of the product, organization of contests related to purchase of tobacco products or accessories, or other forms of encouragement to purchase or use tobacco products – with no exceptions for any means of reaching to a customer;

8)<sup>6</sup> Sponsorship – financial or material consideration for personal or institutional activities related to exhibition of names of products and commercial companies, and their graphic symbols;

9)<sup>7</sup> Smoking room – a space isolated by construction from other places and passageways, properly marked, used exclusively for smoking, equipped with mechanical air conditioning or filtering system working in such a way that smoke will not penetrate other spaces.

**Article 3.** Protection of public health against effects of tobacco use is realized through implementation of health, economic and social policy, which includes:

- 1) Legal right of nonsmokers to live in smoke-free environment;
- 2) Support for health through promotion of life style free of smoking addiction and tobacco products use;
- 2a)<sup>8</sup> Educational and informational activities;
- 3) Creating economical and legal conditions, which encourage limiting of tobacco use;
- 4) Advising about harmfulness of tobacco smoking and harmful substances content in tobacco products on the packaging of tobacco products, and in the information about tobacco products<sup>9</sup>;
- 5) Lowering permissible levels of the harmful substances content in tobacco products;
- 6) Treatment and rehabilitation of persons addicted to tobacco.

**Article 4. 1.** Council of Ministers determines program for health, economic and social policy for the purpose of reducing tobacco products use.

2. Each year by April 30, the Council of Ministers submits a report on implementation of this program to the *Sejm*.

3.<sup>10</sup> The program described in sec.1 is financed by the state government in the amount of 0.5 % of the excise tax imposed on the tobacco products.

**Article 5.1.**<sup>11</sup> It is forbidden to smoke, with the exception described in Article 5a:

- 1)<sup>12</sup> On the premises of healthcare establishments, and other, where healthcare services are provided;
  - 2) On the premises of the education system organizational units, which are described in the education system regulations, and on the social assistance program units described in social assistance regulations;
  - 3) On the higher education institutions premises;
  - 4) On the premises of work places other than these described in point 1 and 2;
  - 5) On the premises of the public cultural and recreational establishments;
  - 6) On the premises of the food and entertainment establishments;
  - 7) In passenger public transportation means, and establishments servicing travelers;
  - 8) On public transportation stops;
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<sup>5</sup> Added by Article 1, point 1e, of the Act described in footnote 3; as established by the Article 1, item 1c. of the Act described in the footnote 1.

<sup>6</sup> Added by Article 1, point 1f, of the Act described in the footnote 3.

<sup>7</sup> Added by Article 1, point 1d, of the Act described in the footnote 1.

<sup>8</sup> Added by Article 1, point 2a, of the Act described in the footnote 3.

<sup>9</sup> With change introduced by Article 1, item 2b, of the Act described in the footnote 3; effective Dec.4, 2000.

<sup>10</sup> Added by Article 1, point 3, of the Act described in the footnote 3, effective Jan. 1, 2000.

<sup>11</sup> Established by Article 1, point 2a, of the Act described in the footnote 1.

<sup>12</sup> Established by Article 145, point 1 of the Act of April 15, 2011 on health care services (Law Register issue 112, item 654), effective July 1, 2011.

- 9) On the premises of sport establishments;
- 10) On public playgrounds for children;
- 11) On other premises designated for public use.

1a.<sup>13</sup> An owner or administrator of the premises or means of transportation, where smoking is prohibited, shall place in visible places proper verbal and graphic markings informing about the smoking ban on the premises or on means of transportation; it is further called “information about the smoking ban.”

2. (Repealed)<sup>14</sup>

3. (Repealed)<sup>14</sup>

4. The Commune (*gmina*) Council can establish on its territory, by the way of Resolution, free of smoke public places other than these described in sec. 1.

**Article 5a.**<sup>15</sup> 1. An owner or administrator can exclude from the ban described in Article 5 individual rooms in facilities serving residential purposes.

2. National Defense Minister, the proper minister responsible for internal affairs, and the Justice Minister shall determine, by the way of decrees, detailed conditions for tobacco use on properties and personnel transportation means they are responsible for. They have to recognize the need to keep places of work, study and service as smoke-free zones, and to protect nonsmokers from tobacco smoke.

3. An owner or administrator can establish smoking room in:

- 1) Assisted living and nursing homes;
- 2) Hotels;
- 3) Establishments serving travelers;
- 4) On higher education institution premises;
- 5) In work places;
- 6) On the premises of the food and entertainment establishments.

4. An owner or administrator of the food and entertainment establishment, with at least two rooms intended for food consumption, can exclude from the ban described in Article

5 a closed room with proper ventilation system, which will ensure that tobacco smoke would not penetrate other rooms.

**Article 6. 1.**<sup>16</sup> It is forbidden to sell tobacco products to persons under 18 year of age. In tobacco sales establishments a visible and readable information with text: “No sales of tobacco products to persons under 18 year of age (Article 6, sec. 1 of the Act of Nov. 9, 1995, on Protection of Public Health against the Effects of Tobacco Use)” must be placed.

1a.<sup>17</sup> If there is doubt about age of a person buying tobacco product, the seller can ask for a document confirming consumer’s age.

2.<sup>18</sup> It is forbidden to sell tobacco products on premises of establishments rendering healthcare services, as they are described in regulations related to these services, also on school and educational institutions premises, and sport and recreation establishments.

3. It is forbidden to sell tobacco products in vending machines.

4. It is forbidden to sell cigarettes in packages of less than 20, or loose without packaging.

5.<sup>19</sup> Retail sale of tobacco products in self-serve system is forbidden, except in duty-free stores.

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<sup>13</sup> Added by Article 1, point 4b, of the Act mentioned in the footnote 3; established by Article 1, point 2b of the Act mentioned in the footnote 1.

<sup>14</sup> By Article 1, point 2c, of the Act mentioned in the footnote 1.

<sup>15</sup> Added by Article 1, point 3, of the Act mentioned in the footnote 1.

<sup>16</sup> Established by Article 1, point 4a, of the Act mentioned in the footnote 1.

<sup>17</sup> Added by Article 1, point 2, of the Act mentioned in the footnote 4.

<sup>18</sup> Established by Article 145, point 2, of the Act mentioned in the footnote 12.

<sup>19</sup> Added by Article 1, point 4b, of the Act mentioned in the footnote 1.

**Article 7.**<sup>20</sup> 1. It is forbidden to manufacture and to sell smokeless tobacco products, except for snuff.

2. (Repealed)<sup>21</sup>

**Article 7a.**<sup>22</sup> When manufacturing tobacco products it is forbidden to use any additives that increase risk of addiction to nicotine.

**Article 7b.**<sup>22</sup> It is forbidden to put on tobacco products packaging inscriptions, names, trademarks, or symbols and other signs suggesting that this product is less harmful than others.

**Article 8.**<sup>23</sup> It is forbidden to advertise or promote tobacco products, tobacco accessories or imitations of tobacco products and accessories, and symbols related to tobacco use, especially:

1)<sup>24</sup> On TV, radio, in movie theaters, healthcare establishments, schools, educational establishments, publications for children and youngsters, on the premises of sport and recreation establishments, and other public places;

2)<sup>25</sup> In press other than described in point 1;

3)<sup>26</sup> On posters, large format included;

4)<sup>27</sup> In information technology resources.

2.<sup>25</sup> It is forbidden for the tobacco companies to sponsor sport, cultural, educational, health, social, and political activities.

3.<sup>28</sup> It is forbidden for sale establishments to display objects imitating tobacco products packaging.

**Article 8a.**<sup>29</sup> 1. A manufacturer or importer of tobacco products is required no later than Dec. 31 of any given year to submit list of all supplements and their amounts, which are used for manufacturing of these products in this year, by brands and types. The first list of supplements used in the year 2004 has to be submitted by Dec. 31, 2004.

2. To the list described in sec. 1 a manufacturer or importer has to attach a statement with justifications for use of each of the supplements in a particular tobacco product, and describing their purposes and categories.

3. To the list mentioned in sec. 1 a manufacturer or importer has to attach any toxicology data in his possession, concerning used supplements, in smoked or non smoked

form, depending on the situation, specifically describing effects on health, including these concerning addiction.

4. The list described in sec. 1 has to be prepared in declining order according to mass of each supplement present in the product.

5. The manufacturer or importer submits the list described in sec. 1 to the minister responsible for public health who then releases it to the public by publishing it in the “Office Journal” of the minister responsible for public health, taking into consideration the need to protect trade secrets of the manufacturer or importer.

**Article 8b.**<sup>29</sup> The minister responsible for public health can demand from the tobacco products manufacturer or importer submission to a certain test in control laboratories in order to determine substances other than these listed in Article 2, points 6a-6c, which are emitted by the tobacco products, and to assess their effects on people’s health, taking into consideration addictive properties of each substance.

2. The tests described in sec.1 are paid by the manufacturer or importer of the tobacco products.

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<sup>20</sup> Established by Article 1, point 6, of the Act mentioned in the footnote 3.

<sup>21</sup> By Article 1, point 3, of the Act mentioned in the footnote 4.

<sup>22</sup> Added by Article 1, point 4, of the Act mentioned in the footnote 4.

<sup>23</sup> Established by Article 1, point 7, of the Act mentioned in the footnote 3.

<sup>24</sup> Established by Article 145, point 3, of the Act mentioned in the footnote 12.

<sup>25</sup> Effective Dec. 4, 2001.

<sup>26</sup> Effective Dec. 4, 2000.

<sup>27</sup> Added by Article 1, point 5, of the Act mentioned in the footnote 4.

<sup>28</sup> Added by Article 1, point 5, of the Act mentioned in the footnote 1.

<sup>29</sup> Added by Article 1, point 6, of the Act mentioned in the footnote 4.



3. Results of the tests described in sec. 1 will be submitted to the minister responsible for public health who then includes them in the information for consumers, taking into consideration the need to protect trade secrets of the manufacturer or importer.

4. Information described in sec. 3 minister responsible for public health will publish immediately in his "Office Journal."

**Article 9.**<sup>30</sup> 1. On every single package of cigarettes introduced for sale on the Polish Republic territory the following information should be placed in a visible, readable and permanent manner:

1) Two warnings about harmful effects of tobacco use, each of different content, one universal, and one additional;

2) Information about content of tar, nicotine, and carbon monoxide in one cigarette.

2. Warnings described in sec. 1, point 1, in Polish, have to take space no less than 30% of one of the biggest surfaces of single packaging, and no less than 40% of the second biggest surfaces of single packaging.

3. Regulation of sec. 1, point 1, and sec. 2, also applies accordingly to other tobacco products, taking into consideration sec. 4 and 5.

4.<sup>31</sup> On packaging of sold in retail smoking tobacco products other than cigarettes, whose most visible, biggest surfaces are more than 75 cm<sup>2</sup>, warnings about harmful effects have to take space no less than 22.5 cm<sup>2</sup> each on each surface.

5. On snuff packaging one warning about harmfulness is placed, of space no less than 30% of the one biggest, most visible surface of packaging.

6. Information described in sec. 1, point 2, in Polish, has to take no less space than 10% of one of the side surfaces of the single package of cigarettes.

7. Warnings described in sec.1, point 1, are placed also on collective packaging used in retail, where their size has to be no less than 30% of one of the biggest surfaces of the packaging, and at least 40% of the second biggest surfaces of the packaging.

8. Information about tobacco products described in Article 2, point 6, has to have visible and readable universal warning about harmfulness of tobacco use, which has to take at least 20% of the information space.

**Article 10.**<sup>32</sup> Minister responsible for public health will determine, by the way of decree, permissible level of tar, nicotine and carbon monoxide in cigarette smoke, also the method for establishing the level of these substances, and a list of control laboratories authorized to do that; also content, graphic form and manner, in which the warnings and information described in Article 9 will be displayed - making distinction between the universal and additional warnings about harmfulness of tobacco use, and acting in accordance with the health policy goals realized by the Act, especially:

- 1) Reducing commonality and intensity of tobacco products use,
- 2) Reducing damage to public health caused by sicknesses related to tobacco use,
- 3) Effective control over tobacco products,

also keeping general standards in this area as they are established by European Union regulations.

**Article 11.**<sup>33</sup> Treatment of tobacco addiction is financed in accordance with regulations governing public health financing.

**Article 12.** Anyone, who:

- 1) Manufactures or sells<sup>34</sup> tobacco product, in which content of harmful substances is above the permissible level,
  - 2) Manufactures or sells smokeless tobacco products, excluding snuff<sup>35</sup>,
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<sup>30</sup> As established by Article 1, point 7, of the Act mentioned in the footnote 4.

<sup>31</sup> As established by Article 1, point 6, of the Act mentioned in the footnote 1, effective since May 15, 2012.

<sup>32</sup> As established by Article 1, point 8, of the Act mentioned in the footnote 4.

<sup>33</sup> As established by Article 145, point 4, of the Act mentioned in the footnote 12.

<sup>34</sup> With change introduced by Article 1, point 10a, of the Act mentioned in the footnote 3.

<sup>35</sup> With change introduced by Article 1, point 10b, of the Act mentioned in the footnote 3.

- 3) Sells tobacco products without visible information on their packaging about harmful effects of tobacco use, or about their content of harmful substances,
- 4)<sup>36</sup> Against regulations of Article 8, sec. 1 and 2, advertises, promotes, or sponsors tobacco products,
- 5)<sup>37</sup> Against regulations of Article 8, sec. 3, displays in sales establishment artifacts imitating tobacco products packaging,

is subject to fine up to 200 000 PLN, or jail term, or both of these penalties cumulatively.

**Article 12a.**<sup>39</sup> Anyone, who puts on tobacco products packaging inscriptions, names, trademarks, symbols, and other signs suggesting that this product is less harmful than others, is subject to fine up to 200 000 PLN, or jail term, or both of these penalties cumulatively.

**Article 12b.**<sup>39</sup> Anyone, who in the process of manufacturing tobacco products uses supplements, which would increase nicotine addictive properties of these products, is subject to fine up to 500 000 PLN, or jail term, or both of these penalties cumulatively.

**Article 13.**<sup>40</sup> 1. Anyone, who:

- 1) Against the regulations of Article 6 sells tobacco products, or does not display information about ban on tobacco products sales,
- 2) Against the regulations of Article 5, sec. 1a, as an owner or administrator of property or transportation means does not display information about ban on tobacco smoking,

is subject to fine up to 2000 PLN.

2. Anyone, who smokes tobacco products in places, where in accordance with Article 5 smoking is banned, is subject to fine up to 500 PLN.

3. In cases described in sections 1 and 2 the decision about penalty is made in accordance with the law pertaining to minor offences.

**Article 14.**<sup>41</sup> If offence described in Articles 12, 12a, and 12b, or Article 13, sec. 1, point 1, is committed as an enterprise activity, the law recognizes as a perpetrator the person responsible for introduction of tobacco products into manufacturing, sales, or market organization.

**Article 15.**<sup>41</sup> 1.<sup>42</sup> In case where offence is committed against regulations of Article 12, points 1 – 3, 12a, and 12b, or Article 13, sec. 1, point 1, court can order forfeiture of the

tobacco products, which are the object of the offence, even if the perpetrator of the offence is not the owner of these products.

2. <sup>43</sup> When offence described in Article 12, point 5 is committed, the court can order forfeiture of the artifacts imitating tobacco products packaging, which are the object of the offence, even if the perpetrator of the offence is not the owner of these products.

**Article 16.** (not included)<sup>44</sup>

**Article 17.** The Act becomes effective 3 months from the date of publishing<sup>45</sup>.

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<sup>36</sup> As established by Article 1, point 7a, of the Act mentioned in the footnote 1.

<sup>37</sup> Added by Article 1, point 7b, of the Act mentioned in the footnote 1.

<sup>38</sup> With change introduced by Article 1, point 9, of the Act mentioned in the footnote 4.

<sup>39</sup> Added by Article 1, point 10, of the Act mentioned in the footnote 4.

<sup>40</sup> As established by Article 1, point 8, of the Act mentioned in the footnote 1.

<sup>42</sup> Designation of sec. 1 assigned by Article 1, point 9, of the Act mentioned in the footnote 1.

<sup>43</sup> Added by Article 1, point 9, of the Act mentioned in the footnote 1.

<sup>44</sup> Included in the Proclamation.

<sup>45</sup> The Act was published on January 30, 1996.