

LAW No. 457 of 1 November 2004
Relating to advertising and sponsorship for tobacco products

Text enters into force on 31 January 2008

*Text updated using the legislative tracking system LEX EXPERT based on amended normative acts, published in the Official Gazette of România, Part I, by 31 January 2008:
- Government Ordinance No. 6/2008.*

NOTE:

In the updated text, all amounts previously expressed in old Romanian Leu (ROL) have been converted to new Romanian Leu (RON).

The Romanian Parliament adopts this law.

ART. 1

This law sets forth measures concerning advertising and promoting of tobacco products in the press and other printed publications, radio broadcasts, information society services, and sponsorship of tobacco, including free distribution of tobacco products, for the purpose of preventing the consumption of tobacco products.

ART. 2

For purposes of this Law, the terms and phrases below shall have the following meaning:

- a) tobacco products - means products intended for smoking, sniffing, sucking or chewing made entirely or partly of tobacco, whether genetically modified or not;
- b) advertising for tobacco products – any form of commercial communications with the aim or direct or indirect effect of promoting a tobacco product or smoking;
- c) sponsorship for tobacco products – any form of public or private contribution to any event, activity or person with the aim or direct or indirect effect of promoting tobacco products or smoking;
- d) information society services – any services of this type, within the meaning of Art. 1 point 1 of Law No. 365/2002 relating to electronic commerce, as subsequently amended;
- e) professionals in the tobacco products trade – people whose profession or occupation is the trade in tobacco products through buying and selling.

ART. 3

(1) Advertising of tobacco products shall be prohibited:

- a) in print media and in any other publications and printed materials, with the exception of ads expressly provided for by law and in the provisions under para. (2);
- b) aired by public or private radio and television broadcasts;
- c) at entertainment venues, in movie theaters or other type of video projection halls for the public;
- d) on billboards, awnings or any other display structures regardless of the type of material used to produce them, of the site where they are placed or the type of fees owed, with the exception of those installed in departments dedicated exclusively to the sale of tobacco products within commercial establishments;

- e) through information society services;
- f) by using tobacco products brands on products other than tobacco products or for services unrelated to the sale of tobacco products, with the exception of products used for smoking, such as ashtrays, lighters and matchsticks;
- g) through the sale or offering of free food products or toys manufactured with the clear intent of making the product and/or its packaging resemble a type of tobacco product;
- h) by creating, selling or offering free games including PC games, or toys that promote smoking or where a tobacco product brand is used;
- i) by using tobacco products brands or messages that promote smoking written or placed on the outside of any transport, and on the inside or outside of any public transport.

(2) Advertising for tobacco products is permitted only in publications intended exclusively for professionals in the tobacco products trade and in publications that have not been edited or printed in România or in a Member State of the European Union and are primarily not intended for the Romanian or Community market.

(3) Notwithstanding the provisions of para. (1) let. e), advertising of tobacco products through information society services is permitted as set forth under para. (2)..

ART. 4

(1) Sponsorship for tobacco products of events or activities with cross-border effects, or which involve or take place in at least two Member States of the European Union, one of which is România, shall be prohibited.

(2) It shall be prohibited to distribute free tobacco products as part of sponsorship of events set forth in para. (1), with the aim or direct or indirect effect of promoting tobacco products.

(3) It shall be prohibited to distribute free tobacco products to youth under 18 years of age.

(4) Sponsorship for tobacco products of events and activities intended for youth under 18 years of age shall be prohibited.

(5) Sponsorship for the benefit of tobacco products of any events and activities that take place at medical facilities or at medico-pharmaceutical educational facilities shall be prohibited.

ART. 4¹

Advertising of tobacco products by means of radio broadcasts and sponsorship of radio broadcast programs fall under the provisions in Art. 30, respectively Art. 34 para. (2) of the Audiovisual Law No. 504/2002, as amended and subsequently supplemented.

ART. 5

(1) Failure to comply with the provisions of Art. 3 para. (1) and Art. 4 paras. (1), (4) and (5) constitutes a violation and shall be sanctioned with a fine from 10,000 lei to 50,000 lei.

(2) Failure to comply with the provisions of Art. 4 para. (2) and (3) constitutes a violation and shall be sanctioned as follows:

- a) legal entities, with a fine from 5,000 lei to 10,000 lei;
- b) physical persons, with a fine from 500 lei to 1,000 lei.

(3) A second violation of the provision of Art. 4 para. (1) constitutes a violation and shall be sanctioned with a fine as set forth in para. (1) and with temporary suspension of activities by the competent institutions.

ART. 6

(1) Violations are assessed and sanctions are imposed by authorized persons from the Ministry of Health and the National Authority for Consumer Protection in accordance with the legal provisions in force.

(2) The offender may pay half of the fine set forth in Art. 5 on the spot or within 48 hours after the report has been drawn up, or conveyed to him, as the case may be; the ascertaining agent will mention this possibility in his report.

(3) Violations under Art. 5 fall under the provisions of Government Ordinance No. 2/2001 concerning the legal classification of violations approved as amended and supplemented by Law No. 180/2002, as subsequently amended and supplemented.

ART. 7

(1) This Law shall enter into force on 31 December 2006.

(2) Upon entry into force of this Law, Art. 10 let. b) of Law No. 148/2000 on advertising, published in the Official Gazette of România, Part I, No. 359 of 2 August 2000, as subsequently amended and supplemented, shall be repealed.

ART. 8

This Law transposes Directive No. 2003/33/EC on the harmonization of legal regulatory or administrative provisions of Member States on advertising and sponsorship for tobacco products, published in the Official Journal of the European Communities (OJEC) No. L152 of 20 June 2003, and some measures of Recommendation No. 2003/54/ EC on the prevention of smoking and on initiatives to improve tobacco control, published in the Official Journal of the European Community (OJEC) No. L022 of 25 January 2003.