

[EMBLEM]

SÃO TOMÉ E PRÍNCIPE

DIÁRIO DA REPÚBLICA

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NATIONAL ASSEMBLY

Law No. 3/2014

Tobacco Control Law

Preamble

Studies by the World Health Organization (WHO) indicate that smoking in public places poses a hazard to the health of some 700 million minors, and each year kills some 200,000 passive smokers in their workplaces, causing an average of 10,000 deaths per day.

The World Health Organization (WHO) has released a series of recommendations on the use of tobacco and its repercussions on health, notable among them that of ascribing to governments the responsibility to adopt measures for control of the use of tobacco, particularly in the domain of research, education and information, with the certainty that preventing tobacco use will not be efficacious without prolonged and joint action that encompasses those three kinds of measures.

São Tomé e Príncipe cannot refrain from engaging in such measures for tobacco control, considering that it has ratified the Framework Convention on Tobacco Control of the WHO.

Decree-Law No. 42661 of November 20, 1959, contains the first legal provisions in São Tomé e Príncipe that call for the prohibition of smoking inside enclosed places where shows are presented.

Accordingly, in the follow-up to this Law, it is sought to protect non-smokers and restrict the use of tobacco, helping in this way to bring about the disappearance or reduction of the risks or negative effects that this practice entails for the health of individuals.

On the other hand, with respect to a matter that directly affects various domains, notably the environment, health and safety of the consumer, public health, transportation, education and recreational activities, it seems, on the other hand, pursuant to what is recommended by the WHO, timely to create an inter-ministerial agency – the Council for the Prevention of Tobacco Use (CPT) – to facilitate integrated action.

Accordingly, pursuant to the terms of sub-paragraph b) of Article 97 of the Constitution, the National Assembly decrees the following:

CHAPTER I

General Provisions

Article 1

Purpose

The purpose of this law is to protect non-smokers and limit the use of tobacco, thus helping to bring about the disappearance or reduction of risks or negative effects that such practice entails for the health of individuals.

Article 2

Concepts

1. For the purposes of this Law and other legislation on the prevention of tobacco use, tobacco is considered to be the leaf, or part of the leaves and stems of the plants *Nicotiana tabacum L.* and *Nicotiana rustica L.*, whether sold in the form of a cigarette, cigarillo or cigar, whether in flakes for a pipe or for handmade cigarettes, in the form of a tube, bar, sheet, cube or plate, or reduced to powder or grains.
2. 'Tobacco products' is understood to refer to all products that are intended to be smoked, sniffed, sucked or chewed, as long as they are made of tobacco, even if only partially so.
3. 'Tobacco use' is understood to refer to:
 - a. The act of smoking, sniffing, sucking or chewing a product based on tobacco;
 - b. The act of sniffing tobacco called "snuff";
 - c. 'Condensate' refers to the condensate of anhydrous smoke without nicotine.
4. The term 'nicotine' refers to nicotinic alkaloids.
5. An enclosed space refers to a space enclosed by walls, partitions or surfaces endowed with a covering.

CHAPTER II

Limitations on tobacco consumption

Article 3

General principle

What is set forth in this Chapter seeks to establish limitations on tobacco consumption in enclosed places intended for common use so as to ensure protection against involuntary exposure to tobacco smoke.

Article 4

Prohibition of smoking

Smoking is prohibited in the following places:

- a) Facilities where health care is provided, notably hospitals, clinics, health care centers, infirmaries

- rest homes, medical consulting offices, including the respective waiting rooms, ambulances, emergency rooms, pharmacies and other similar places;
- b) Educational institutions, including class rooms, study halls, reading and meeting rooms, libraries, gymnasia and dining areas;
 - c) Facilities intended for minors under the age of 16, particularly daycare centers, leisure centers and other similar units;
 - d) Facilities for spectacles and other similar enclosed places;
 - e) Enclosed athletic facilities;
 - f) Places of public service, elevators, museums and libraries;
 - g) Cars, taxis or other vehicles assigned to public service, in all their access points, establishments and contiguous facilities.
 - h) Correctional institutions, rehabilitation facilities and detention centers;
 - i) Churches and places of worship;

2. In the aforementioned places the use of tobacco may be permitted in areas expressly designated for smokers, which must not include areas that provide common access for people who are ill, under the age of 16, athletes, pregnant or nursing women.

3. It is, however, permitted to prohibit smoking:

- a) In restaurants and bars that, by decision of management, are reserved for non-smokers, as indicated pursuant to Article 6;
- b) In work places, to the extent that the requirement in defense of non-smokers makes the prohibition of smoking viable only as a result of the existence of alternative available spaces.

Article 5

Prohibition of smoking on means of transportation

- 1. It is prohibited to smoke in vehicles assigned to the collective public transportation of passengers.
- 2. On boats embarked upon journeys lasting longer than one hour it is only permitted to smoke in open areas, without impairment to the restrictions contained in regulations issued by transportation companies or port authorities.
- 3. Until the publication of specific rules, smokers using air and maritime transportation shall continue to be subject to the existing restrictions.

Article 6

Signs

- 1. The prohibition or conditional allowance of smoking inside the places mentioned in Article 4 and 5 must be communicated with notices by the respective owners or managers, who are to post signs with a red background, as per Template A presented in ANNEX I of this Law, with the letters, including the caption and the cross in white, and with minimum dimensions of 160 mm x 55 mm.

2. The areas where smoking is permitted are to be identified by posting signs with a blue background, and with the remaining characteristics as indicated in the preceding item, as per Template B presented in ANNEX I.
3. The signs mentioned in the foregoing items must display in the lower part of the template an identifying caption of the legal provision that regulates the prevention of tobacco use.

Article 7
Liability

1. Compliance with what is set forth in Articles 4 to 6 must be enforced by the public or private institutions in charge of the places mentioned in this Law.
2. Whenever violations of what is set forth in Articles 4 to 6 are ascertained, the institutions mentioned in the foregoing item must order the smokers to abstain from smoking and, should they fail to do so, call the administrative or police authorities, which shall draw up the respective notice of violation.
3. All users of the places mentioned in No. 1 have the right to demand compliance with what is set forth in Articles 4 to 6, and may submit a detailed written complaint, for example, by using for such purpose the book of complaints available at the establishment in question.

CHAPTER III

Advertising for tobacco

Article 8
Communication through advertising channels

1. All forms of advertising for tobacco through national advertising channels, or those with headquarters in São Tomé e Príncipe are prohibited.
2. For the purposes of this Law, advertising is understood to refer to all communication that seeks to draw the public's attention to a particular good or service of a commercial nature with the purpose of promoting its acquisition.
3. What is set forth in No. 1 is not applicable to the commercial information concerning statements of price, the brand and

origin shown on displays at establishments that sell tobacco, or an object of consumption directly related to its use.

Article 9

Advertising for objects of consumption

In advertising activities, it is prohibited to include names, brands or emblems of a tobacco-based product on objects of consumption that are not directly related to the use of tobacco.

CHAPTER IV

Labeling of cigarette packs

Article 10

Labeling and warnings

1. All packages of tobacco products to be sold in the national territory must have printed on them, or affixed to them, warnings concerning their harmfulness.
2. Packages of cigarettes must also exhibit a statement of the nicotine content and condensate or tar content for each cigarette.
3. The following things constitute offenses punishable under the terms of this law:
 - a. The absence of any of the warnings or statements that must appear on labels;
 - b. Failure to comply with the rules in force concerning the positioning and manner of printing warnings and other statements, as indicated in items No. 1 and 2 of this Article;
 - c. The commercialization of cigarettes with tar or nicotine content higher than that permitted by the international instruments governing this matter.
4. Obligations with respect to the labeling of tobacco products are binding upon the manufacturer or importer, depending on whether the product is manufactured in São Tomé e Príncipe or outside the country.
5. All packaging units for tobacco products must exhibit one of the warnings presented in ANNEX II of this Law.

Article 11

Statistical study

The Administration of Health Care shall undertake annual statistical monitoring of the results of the implementation of this Law, in order to enable the Council for the Prevention of Tobacco Use (CPT) to draw up proposals for the amendments suggested by the evolution of tobacco consumption.

CHAPTER V

Regime of sanctions

Article 12
Offenses

1. The infractions indicated in Articles 4, 5, 6, 8, 9 and 10, as amended by this Law, constitute offenses, which are to be punished with the following fines:
 - a. From 5 to 10 minimum salaries for Public Servants in relation to violations of Articles 4 to 6;
 - b. From 10 to 20 minimum salaries for Public Servants in relation to violations of Articles 8 to 10;
2. If the offense is committed by an [organization] that is a member or representative of an [institution] [cut text] society, even if it is irregularly established, or an association without juridical personality, in the exercise of its functions and on behalf of the represented party, the latter shall incur the respective fine, without impairment to the individual liability of the perpetrator of the offense in terms of the civil law.
3. The penalties applicable to institutions and comparable entities, in terms of the foregoing paragraph, may be increased to twice the maximum penalty stated for the respective offense in cases of deliberate offenses.
4. When the violation involves a kind of hidden or disguised advertising, the punishment is that stated in the general rules for advertising activity.
5. Failure to post the signs and information in Articles 6 and 10, or the incorrect placement [or] formulation thereof, shall incur as accessory sanctions the seizure of the items or the suspension of subsidies or benefits of any kind allocated by the Governing Authority, which are to be cumulatively applied if the infraction and the perpetrator exhibit the characteristics that permit such application.

Article 13
Enforcement and procedural implementation

1. Without impairment to the competencies assigned by Article 7 to the administrative and police authorities, the enforcement of what is set forth in this Law is incumbent upon the Bureau for the Regulation and Control of Economic Activities.
2. The task of presiding over the proceedings for offenses is incumbent upon the Bureau for the Regulation and Control of Economic Activities, to which the proceedings drawn up by other agencies are to be sent.
3. The imposition of fines and accessory sanctions must be communicated to the Administration of Health Care.

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[cut text] [pro-] grams and initiatives intended for the general public or for specific groups, particularly children and young people, pregnant women, parents, women of child-bearing age, invalids, teachers and other workers.

3. The theme of prevention and tobacco control must be addressed in the context of education for the citizenry at the level of elementary and secondary education, and in the curricula of professional training, as well as undergraduate and graduate instruction for teachers of these levels of education.
4. The theme of prevention and treatment of tobacco use and addiction must be part of the curricula of undergraduate and graduate instruction for health professionals, especially doctors, dentists, pharmacists and nurses, as privileged agents for health education and promotion.

Article 20

Consultations on quitting tobacco

1. Specialized consultancies should be created to support smokers who intend to quit smoking, provided for officials and users at all health centers that are part of the National Health Service and public hospital services, in particular departments of cardiology, pneumology, psychiatry, in departments of oncology, departments of obstetrics, psychiatric hospitals and centers for treatment of alcoholics and drug addicts.
2. As long as the dimension of services and the population treated does not justify the creation of a specialized consultancy, protocols must be established with other specialized consultancies so as to ensure adequate access for smokers who need this kind of support to quit smoking.

Article 21

Duty of collaboration

The Administration of Health Care shall foster compliance with what is set forth in this Law, with the collaboration of public and private services and agencies, as well as organized civil society with responsibility in this area.

CHAPTER VII

Final and transitory Provisions

Article 22

Transitory provisions

One year after the publication of this Law, no tobacco can be produced, imported or commercialized without fulfilling the requirements set forth in paragraphs No. 1 and 2 of Article 10.

Article 23

Payment of charges

Expenses resulting from the execution of this Law are to be paid by budgetary allocations of the Ministry of Health.

Article 24

Uncertainties and omissions

It is incumbent upon the Government to regulate by Decree any uncertainties or omissions resulting from the implementation of this Law, in accordance with the principles of the Framework Convention on Tobacco Control of the WHO.

Article 25

Revocation

The penalties instituted in Article 16 of Law No. 3/2012 of January 27, regarding failure to observe rules for the prohibition of tobacco are hereby revoked.

Article 26

Entry into force

This Law shall enter into force 30 days after the date of its publication.

National Assembly, in São Tomé, on June 30, 2014. The President of the National Assembly, *Alcino Martinho de Barros Pinto*.

Promulgated on July 17, 2014

Let this be published

The President of the Republic, *Manuel do Espirito Santo Pinto da Costa*.