

REPUBLIC OF SENEGAL

One People – One Aim – One Faith
Ministry of Health
and Social Action

**Draft Decree concerning the implementation of
Law n° 2014-14 of March 28, 2014, on the
manufacture, packaging, labeling, sale and use of
tobacco.**

REPORT

The epidemic of tobacco use constitutes a global problem with grave consequences for public health, which requires effective national and international responses, both globally and adapted to local circumstances.

In Senegal, the public authorities, reaffirming the public's right to health, as guaranteed by Article 8 of the Constitution, have adopted Law No. 2014-14 of March 28, 2014, concerning the manufacture, packaging, labeling, sale and use of tobacco, to protect the public against the harmful effects of tobacco on health.

The influence of the tobacco industry in the drafting of public health policies could constitute an impediment to their implementation. Accordingly, it is evidently necessary to prohibit any kind of influence on health policies by the tobacco industry.

For a long time, the composition of tobacco products has been a major concern. Thus the new dynamic of tobacco control should lead towards setting the rules for the composition of these products. This essential measure will make it possible to issue rules of transparency in the manufacture of tobacco products.

The regulation of the prohibition of advertising, promotion, sponsorship and commercialization of tobacco, as well as its products, is also necessary to bring about a considerable reduction in the consumption of such products.

It is also important to set rules for the packaging and labeling of tobacco and its products in order to compel the tobacco industry to provide consumers and the public with health warnings and well thought out messages to raise awareness of the dangers of the consumption of tobacco and its products.

The reduction of tobacco consumption requires, moreover, the preparation of measures of discouragement and protection, particularly for non-smokers. To achieve this objective, it is necessary to restrict access to tobacco products and to protect the public from exposure to tobacco smoke.

Accordingly, pursuant to the terms of Article 18 of Law n° 2014-14 of March 28, 2014, noted above, "it is prohibited to smoke in places that are public or open to shared use, as well as any place that constitutes a work place, along with public transportation vehicles." The implementation of this provision should lead to a determination of the different places subject to the ban on smoking.

This draft Decree consists of eight chapters:

- the introductory chapter is concerned with definitions;
- Chapter I is about the influence of the tobacco industry;
- Chapter II determines the rules for the composition of tobacco products;
- Chapter III regulates the prohibition of advertising, promotion and sponsorship;
- Chapter IV sets the terms for packaging and labeling;
- Chapter V concerns protection against exposure to smoke from tobacco and tobacco products;
- Chapter VI sets the rules concerning the commercialization of tobacco products;
- Chapter VII presents transitory and final provisions.

Such is the outline of this draft Decree.

The Minister of Health and Social Action

[STAMP]

[illegible signature]

REPUBLIC OF SENEGAL

One People – One Aim – One Faith

n°2016-1008

**Decree concerning the implementation of Law n°2014-14
Of March 28, 2014, concerning the manufacture, packaging,
labeling, sale and use of tobacco.**

THE PRESIDENT OF THE REPUBLIC,

IN LIGHT OF the Constitution;

IN LIGHT OF the Framework Convention on Tobacco Control of the World Health Organization of May 21, 2003;

IN LIGHT OF Law n° 66-48 of May 27, 1966, concerning the control of food products and enforcement against fraud;

IN LIGHT OF Law n° 2014-14 of March 28, 2014, concerning the manufacture, packaging, labeling, sale and use of tobacco;

IN LIGHT OF Decree n° 2014-845 of July 6, 2014, concerning the nomination of the Prime Minister;

IN LIGHT OF Decree n° 2014-853 of July 9, 2014, concerning the distribution of government departments and the oversight of public establishments, national companies and companies open to public ownership among the Office of the President, the Prime Minister, and the ministries, as amended;

IN LIGHT OF Decree n° 2014-867 of July 22, 2014, concerning the attributions of the Minister of Health and Social Action;

IN LIGHT OF Decree n° 2015-855 of June 22, 2015, concerning the composition of the government;

Following the opinion of the Supreme Court in its session of January 26, 2016;

Based on the report of the Minister of Health and Social Action,

DECREES:

Introductory Chapter.- Definitions

Article 1.- For the purposes of this Decree, the following definitions shall apply:

- **additive:** any substance that is added to a tobacco product during processing or manufacture, particularly preservatives, aromatic agents, coloring agents, enhancers, moistening agents and processing auxiliaries;

- **aromatic agent:** an additive that confers, modifies or improves a flavor or scent, by itself or in conjunction with other ingredients;
- **characteristic aromatic agent:** a taste or scent, other than that of the tobacco, coming from an additive or a combination of natural or artificial additives, particularly those derived from fruits, spices, aromatic plants, alcohol, sweetening elements, menthol, chocolate or vanilla, and which is identifiable prior to or during the consumption of the tobacco product;
- **case:** a receptacle, container or paper package containing several cartons, in which a tobacco product is sold, or displayed for sale;
- **carton:** a receptacle, container or paper package containing several packs, in which a tobacco product is sold or displayed for sale;
- **component:** a part of the tobacco product, whether or not it is sold separately from the product itself, such as paper, filters, wrapping paper, or the tube and packet portion of a tobacco product, as the case may be;
- **tobacco shop:** a specialized commercial establishment authorized to sell tobacco and the tobacco products that are allowed to be sold in Senegal;
- **emission:** any substances or combination of substances produced by the burning of a tobacco product;
- **lateral surface:** the surface of the pack, carton or case contiguous to the main surface;
- **principal surface:** the largest surface of the pack, carton or case that is directly visible and most exposed;
- **influence of the tobacco industry:** the assortment of tactics and strategies used directly or indirectly by the tobacco industry to interfere in health policies, undermine tobacco control efforts and to oppose measures that go against its financial interests;
- **ingredient:** tobacco, its components and materials used to manufacture components, additives and residues found in the tobacco products after stocking and processing;
- **pack:** a receptacle, container or paper wrapping in which a tobacco product is sold or presented for retail sale.

Chapter 1.- The influence of the tobacco industry

Article 2.- The Ministry of Health, together with the competent administrative structures, shall see to the respect of the principle of non-influence by the tobacco industry in national health policies.

In this regard, he is particularly charged with:

- defining any useful measures likely to prevent and impede the influence of the tobacco industry on national health policies;
- drawing up an action plan to combat the influence of the tobacco industry on national health policies;
- ensuring follow-up and evaluation of the implementation of this action plan.

Article 3.- Any person employed by the tobacco industry or entity that undertakes to promote its interests, may not be part of a governing body, committee or public consulting group that drafts or implements tobacco control measures or a public health policy.

Chapter II.- Rules for the composition of tobacco products

Article 4.- No one may import, distribute or sell in Senegal any tobacco product containing:

- any characteristic aromatic agent, whether or not it is indicated on the packaging of the product;
- any aromatic agent in a component or technical feature that makes it possible to modify the scent or flavor of a tobacco product or the intensity of its smoke;
- any additive with properties associated with, or likely to be associated with, a beneficial effect on health, such as vitamins, extracts of fruits and vegetables and essential fatty acids;
- any ingredient used to create the impression that the product has beneficial health effects to which minors are particularly sensitive;
- any ingredient associated with energy and vitality, notably stimulant components such as caffeine and taurine.

Chapter III. – Advertising, promotion and sponsorship

Article 5.- The following things are prohibited:

- any national or cross-boundary activities involving advertising and direct or indirect promotion, through any medium whatsoever, for tobacco, its products and derivatives, and the companies that manufacture, commercialize and distribute them;
- any partnerships, agreement protocols, agreements without executory force or that are non-binding; voluntary arrangements or good-conduct codes with the State, with the aim of promoting things such as tobacco, tobacco products and derivatives thereof, with companies that manufacture, commercialize and distribute them;

- any offers of assistance coming directly or indirectly from the tobacco industry on behalf of the State to draft or finance tobacco control legislation, policies or programs;
- any formation of partnerships or participation in activities for the purpose of directly or indirectly promoting a positive image of the tobacco industry, its products and derivatives;
- any organization, participation, or promotion of initiatives on the part of the tobacco industry addressed to young people for educational or other purposes;
- any financial or other contributions with the aim or likely effect of directly or indirectly promoting the image of the tobacco industry and its products and derivatives,

Chapter IV.- Packaging and labeling

Article 6.- Any kind of packaging of tobacco and tobacco products must display in a clear and legible fashion the statement "For sale in Senegal."

Article 7.- Messages and health warnings must not in any way be obscured, veiled or separated by other statements or images, or by the opening of the pack or carton.

Article 8.- On each one of the principal surfaces of the pack, carton, case or other kind of external packaging an image is to be printed in color, and with a related written message.

These images, as well as the written messages, are to be developed and defined by the Ministry of Health, and made available to manufacturers, producers and importers.

Any other health warning is strictly forbidden.

Article 9.- Health warnings, their number, as well as the procedures for their application and renewal on packages are to be set by an administrative order of the Minister of Health:

These must be renewed every twenty-four (24) months by an administrative order of the Minister of Health.

Article 10.- Flyers and commercial inserts are prohibited for all types of packaging for tobacco products.

Article 11.- Manufacturers, producers and importers of tobacco and tobacco products, prior to placement of such products on the market, are to transmit samples of packs, cartons, cases and any other packaging to the Ministry of Health to ascertain their compliance with health warnings, as well as those concerning their positioning on such packages.

Article 12.- In addition to the health warnings on the principal surfaces of packages, information that describes the harmfulness of tobacco products concerning their components and emissions must appear on one of the lateral surfaces.

The list and character of such informational items is to be determined by an administrative order of the Minister of Health.

Article 13.- The costs of placing health warnings on the different kinds of packaging of tobacco and tobacco products, as well as those intended to provide information on components and emissions, are to be borne by manufacturers, producers and importers.

Article 14.- Any kind of packaging containing tobacco and tobacco products held for the purpose of being sold, put up for sale or sold, must permanently display, either in its labeling or by direct printing, the following statements in French:

- the manufacturer's name or company name and address;
- the title of the product;
- the lot number;
- the country of manufacture.

Article 15.- The use of any statement or sign likely to create within the mind of the buyer confusion regarding the nature, volume or weight of the product put up for sale, or regarding its substantive qualities, or its origin, is prohibited under all circumstances and in any way whatsoever, particularly as follows:

- on receptacles and packages;
- on labels, seals, or any other means of sealing the product.

Chapter V.- Protection against exposure to tobacco smoke

Article 16.- It is prohibited to smoke in adjacent buildings and common areas in the places indicated in Article 18 of Law n° 2014-14 of March 28, 2014, concerning the manufacture, packaging, labeling, sale and use of tobacco, particularly in:

- hallways;
- elevators;
- staircases;
- entrance halls;
- cafeterias;

- bathrooms;
- lounges;
- dining rooms;
- external structures such as sheds and hangars.

The same applies to any vehicle comprising a work place.

Article 17.- The owner or any other person in charge of the premises indicated in Article 18 of Law n° 2014-14 of March 28, 2014, noted above, and in Article 16 (adjacent buildings and common areas) of the present Decree, shall see to it that the law and the present Decree are upheld in their establishment.

In particular, they shall have the obligation:

- to place in a prominent and legible fashion, at the entrance, inside the premises and in other appropriate places signs that say, “no smoking” or “smoke-free area.”
- to remove all ashtrays present in the establishment;
- to see to observance of the rules banning smoking;
- to take the measures necessary to discourage the public or staff from smoking.

These measures shall consist of asking that people who frequent such premises abstain from smoking, and of ceasing immediately to provide any facilities for smokers; in the event of refusal or opposition, to ask offenders to leave the premises, or if necessary, to notify the police force, the constabulary or any other competent authority.

Article 18.- It is prohibited for public officials, particularly those engaged in any law enforcement or health care activities, to smoke in their places of work.

Chapter VI.- Sale of tobacco products

Article 19.- Tobacco and tobacco products should only be sold in tobacco shops after they have obtained prior authorization issued by an administrative order from the territorially competent governor of the region.

The terms, procedures and conditions for the issuance and revocation of permits for opening and closing a tobacco shop are to be set by decree.

Article.20.- Tobacco shops must not under any circumstances constitute an advertising or promotional support for tobacco and tobacco products.

The only thing permitted inside tobacco shops is the posting of a list of tobacco products and their prices, without any promotional or advertising character.

The operator of a tobacco shop is required to post regulatory signs prohibiting smoking, and prohibiting sale to minors in a clear, prominent and legible fashion.

Chapter VII.- Transitory and final provisions

Article 21.- Manufacturers, producers and importers of tobacco and tobacco products shall have a period of nine (9) months counting from the entry into force of the present Decree to enter into compliance with it.

However, this period shall be six (6) months for the persons indicated by the provisions of chapter IV concerning packaging and labeling.

Article 22.- The Minister of Health, the Minister of the Armed Forces, the Minister of the Interior, the Minister of Justice, the Minister of Finance, the Minister of the Environment, the Minister of National Education, the Minister of Commerce, the Minister of Tourism and Air Transportation, the Minister of Labor and the Minister of the Civil Service shall proceed, each insofar as it concerns them, to execute the present Decree, which is to be published in the *Journal officiel* ('Official Journal').

Done in Dakar on July 26, 2016

[illegible signature]

**By the President of the Republic
The Prime Minister**

Macky SALL

[illegible signature]

Mahammed Boun Abdallah DIONNE