

377/2004 Coll.

ACT

Of 26 May 2004

on Protection of Non-Smokers and on amending and supplementing certain other laws

Amendment: 465/2005 Coll., effective as of 1 November 2005

Amendment: 378/2008 Coll., effective as of 1 December 2008

Amendment: 461/2008 Coll., effective as of 1 January 2009

Amendment: 87/2009 Coll., effective as of 1 April 2009

Amendment: 87/2009 Coll., effective as of 1 September 2009

The National Council of the Slovak Republic has adopted this law:

Art. I

Paragraph 1 Subject of Legislation

This act determines:

- a) the conditions for protecting people from developing addiction to nicotine as the addictive and harmful ingredient present in tobacco and tobacco products, from the harmful effects of smoking and other uses of tobacco products, which damage the health of smokers and non-smokers directly exposed to the effects of smoking,
- b) the conditions for protecting people from tobacco-free products intended to be smoked,
- c) the conditions for the sale, manufacture, labelling and market introduction of tobacco products.

Paragraph 2 Basic definitions

- (1) “Nicotine” means nicotinic alkaloids.
- (2) “Tar” means the raw anhydrous and nicotine-free condensate of smoke.
- (3) “Carbon Monoxide” means the colourless odourless gas formed during the imperfect

combustion of organic substances, contained in the vapour phase of cigarette smoke.

(4) For the purposes of this law:

- a) "tobacco products" means products made of tobacco raw material or technologically treated tobacco for the purposes of smoking, chewing, sniffing¹⁾, and sucking, inasmuch as they are, even partly, made of tobacco,
- b) "tobacco for oral use" means all products for oral use, except those intended to be smoked or chewed, made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets, or in a form resembling a food product,
- c) "smoking room" means an enclosed and directly and easily ventilated area designated for smoking,
- d) "smoking area" generally means an unclosed area where smoking is allowed,
- e) "harmful substances" means substances present in tobacco products or in their smoke or tar, which have a harmful effect on the human body,
- f) "market introduction of tobacco products" includes marketing of tobacco products, their sale or offering for consumption, their storage or transport for the purpose of sale,
- g) "ingredient" means any substance or any constituent except for tobacco leaf and other natural or unprocessed tobacco plant parts used in the manufacture or preparation of a tobacco product and still present in the finished product, even if in altered form, including paper, filter, inks and adhesives,
- h) "consumer packet" means any unit packet of a tobacco product intended for consumer sale,
- i) "communal catering facility" means a facility providing services connected with the production, preparation and serving of meals and drinks,
- j) "shop" means a marked, enclosed area, a permanent architectural object intended for the sale of goods to consumers.

Paragraph 3
Provision of Information
on Tobacco Products

(1) The manufacturer, importer or distributor of tobacco products submits to the Ministry of Health of the Slovak Republic (hereinafter "the Ministry") a list of all ingredients, and quantities thereof, used in the manufacture of tobacco products intended for sale in the Slovak Republic, sorted by individual brand name and type of tobacco product.

(2) The list of ingredients under Subsection 1 hereof shall include the reason for the use of individual ingredients used in the manufacture of tobacco products. It shall indicate their functions and categories, and the toxicological data available to the manufacturer or importer regarding these ingredients in burnt or unburnt form, referring in particular to their effects on health and addiction.

(3) For the purposes of informing consumers, the Ministry will ensure the dissemination of the information provided in accordance with Subsections 1 and 2 hereof by means of the local press or the Internet, except for information which constitutes a trade secret^{1a)} of the manufacturer or importer of the tobacco products.

(4) The Ministry shall communicate all data and information arising from the legal act of the European Communities and of the European Union to the European Commission.

Paragraph 4
Warning Labelling

(1) Each consumer packet of a tobacco product, except for a tobacco product not intended to be smoked, shall carry a general warning, an additional warning, and in addition to this, a consumer packet of cigarettes shall carry information regarding the content of harmful substances and batch numbering or an equivalent in the form of the place and time of manufacture.

(2) The general warnings are:

- a) "Smoking kills"/"Smoking can kill",
- b) "Smoking severely harms you and others around you".

(3) The general warnings under Subsection 2 hereof shall be rotated regularly; the warnings shall be printed on the front part of the consumer packet of a tobacco product, and on any extra external packaging, with the exception of additional transparent wrappers, used in the retail sale of the tobacco product.

(4) The additional warnings are:

- a) "Smokers die younger",
- b) "Smoking clogs the arteries and causes heart diseases",
- c) "Smoking causes lung cancer",
- d) "Smoking when pregnant harms your baby",
- e) "Protect children: don't let them breathe your smoke",
- f) "Your doctor or your pharmacist can help you stop smoking",
- g) "Smoking is highly addictive, don't start",
- h) "Stopping smoking reduces the risk of fatal heart and lung diseases",
- i) "Smoking can cause a slow and painful death",
- j) "Get help if you want to stop smoking: consult your doctor",
- k) "Smoking may reduce the blood flow and causes impotence",
- l) "Smoking causes ageing of the skin",
- m) "Smoking can damage the sperm and reduce fertility",
- n) "Smoke contains benzene, nitrosamines, formaldehyde and hydrogen cyanide".

(5) The additional warnings under Subsection 4 hereof shall be rotated, shall be printed on the rear side of the consumer packet of the tobacco product, and on any extra external packaging, with the exception of additional transparent wrappers, used in the retail sale of the tobacco product.

(6) Each consumer package of a tobacco product not intended to be smoked shall carry the following warning: "This tobacco product can damage your health and is addictive". This warning shall be printed on the most visible surface of the consumer packet and on any extra external packaging, with the exception of additional transparent wrappers, used in the retail sale of the product.

(7) The general warnings pursuant to Subsection 2 hereof and the warnings pursuant to Subsection 6 hereof shall cover not less than 30% of the front side of the packet of the tobacco product. The additional warnings pursuant to Subsection 4 hereof shall cover not less than 40% of the rear side of the packet of the tobacco product; in the case of packets intended for products other than cigarettes, the most visible surface of which exceeds 75 cm², the general and additional warnings shall cover an area of at least 22.5 cm² on each

surface.

(8) The warning labelling under Subsection 1 hereof shall be:

- a) in the official language,
- b) printed in black Helvetica bold type on a white background; the point size of the font shall occupy the greatest possible proportion of the area set aside for the warning labelling and the greatest possible proportion of the area set aside for information on the content of harmful substances,
- c) printed in lower-case type, except for the first letter and where required by grammar rules,
- d) centred in the area in which the text is required to be printed, parallel to the top edge of the packet,
- e) surrounded by a black border not less than 3 mm and not more than 4 mm in width which in no way interferes with the text of the warning or information on the content of harmful substances, with the exception of the products mentioned in Subsection 6 hereof; borders are included in the area required for texts.

(9) The warning labelling under Subsection 1 hereof shall not be printed on tax stamps. The texts shall be irremovably printed, indelible and shall in no way be hidden, obscured or interrupted by another text, picture or by opening of the consumer packet. In the case of tobacco products other than cigarettes, the warning labelling may be affixed by means of stickers, provided that such stickers are irremovable.

(10) False texts, names, trademarks and figurative or others signs suggesting that a particular tobacco product is less harmful than other products shall be banned from use on the consumer packets of tobacco products; this does not affect the obligation to provide information on the content of harmful substances under Subsection 6 of Paragraph 5 hereof. It is prohibited to use equivalent expressions in other languages.

Paragraph 5 Harmful Substances

(1) The tar yield shall not exceed 10 mg per 1 cigarette (hereinafter “mg/cig.”).

(2) The nicotine yield shall not exceed 1 mg/cig.

(3) The carbon monoxide yield shall not exceed 10 mg/cig.

(4) The tar, nicotine, carbon monoxide yields of cigarettes and the accuracy of the tar and nicotine indications on consumer packets of cigarettes are measured and verified in accordance with international standards (ISO). The confidence interval for carbon monoxide, until a revision of the appropriate technical standard has been adopted, is at the level of +/- 25%. However, the lowest attainable value of the given confidence interval is +/- 1.5 mg/cig.

(5) The tests verifying the accuracy of the information indicated in accordance with Subsection 4 hereof are carried out by approved testing laboratories.2) The Ministry sends the list of approved testing laboratories together with the criteria specified and used for approval of the laboratories to the European Commission.

(6) Information on the content of harmful substances under Subsections 1 to 3 hereof shall be indicated on one side of the consumer packet of cigarettes, so that at least 10% of the surface of the side of the consumer packet of cigarettes on which the information is printed is covered.

(7) Information on the content of harmful substances under Subsection 6 hereof is indicated in the following way:

- a) "Nicotine: x mg/cig., where x is a number with one decimal place",
- b) "Tar: x mg/cig., where x is a whole number",
- c) "CO: x mg/cig., where x is a whole number".

Paragraph 6
Sale of Tobacco Products and
Tobacco-Free Products Intended to be Smoked

(1) The sale of tobacco products and tobacco-free products intended to be smoked is prohibited:

- a) in groceries, except for shops which have a separate room or rack designated for the sale of tobacco products,
- b) in shops selling goods for children,
- c) in preschool facilities and children's playgrounds, in primary schools, secondary schools and school facilities, in universities, in dormitories,
- d) in medical facilities and social service facilities including stands, snack bars and other sale rooms located on the premises of these facilities,
- e) in the form of door-to-door sales and mail-order sales,
- f) in a consumer packet of cigarettes containing a different number of pieces than nineteen or twenty.

(2) It is prohibited to sell tobacco products and tobacco-free products intended to be smoked to persons below the age of 18.

(3) Anyone selling tobacco products or tobacco-free products intended to be smoked is obliged to refuse their sale to a person below the age of 18.

(4) It is prohibited to place tobacco for oral use on the market.

(5) It is prohibited to sell tobacco products by means of an automatic machine.

(6) It is prohibited to sell food products or toys resembling the shape and appearance of tobacco products or tobacco articles.

Paragraph 7
Ban on Smoking

(1) Smoking is prohibited:

- a) in public airports, 2a) in railway vehicles used for inland public transport, on trams, trolleybuses, on cable ways and special railways, within the area of railway stations and stops, on buses used as a means of inland public transport, in waiting rooms and shelters of the stops of regular inland public transport, on covered platforms and enclosed public passenger areas connected with this kind of transport, on open platforms within four

- metres of the defined area of the platforms,
- b) on the premises of medical facilities, with the exception of smoking rooms or smoking areas designated for smoking in psychiatric departments,
 - c) in primary schools, secondary schools and school facilities, in preschool facilities and within the area of children's playgrounds,
 - d) in universities and dormitories,
 - e) in social service facilities, with the exception of smoking rooms designated for smoking by employees,
 - f) in cultural facilities and in enclosed sports facilities,
 - g) in office buildings, in enclosed public areas in all kinds of shops, in theatres, cinemas, in exhibition halls, museums and galleries,
 - h) in communal catering facilities, with the exception of facilities which have a non-smoking area structurally separated from the smoking area, covering at least 50% of the facility. The non-smoking area shall not be located at the entrance to the facility,
 - i) in facilities providing human body care, 2b)
 - j) in areas where juveniles are in custody or where juveniles serve a custodial sentence.

(2) Ban on smoking in workplaces is regulated by a special directive.3)

(3) The municipality can restrict or ban smoking in other public places by a generally binding regulation.

Paragraph 8 **Duties of Natural Persons-Entrepreneurs and Legal Entities**

(1) Natural persons-entrepreneurs and legal entities are obliged:

- a) to create conditions for securing the protection of non-smokers from the harmful effect of tobacco smoke and smoke of tobacco-free products intended to be smoked,
- b) to secure observance of the bans and restrictions pursuant to this law.

(2) Everyone selling tobacco products or tobacco-free products intended to be smoked is obliged to warn the public of the ban under Subsection 2 of Paragraph 6 hereof by a notice posted in a visible place.

(3) Natural persons-entrepreneurs and legal entities running facilities in which smoking is banned are obliged to warn the public of the ban on smoking by means of a safety and health sign^{3a)}, which shall be posted in a visible place.

(4) A notice shall be located in a visible place in areas where smoking is prohibited pursuant to Paragraph 7 hereof, containing information on what place and which control organs, obliged to perform the control of compliance with this law pursuant to Paragraph 9 hereof, can be notified of a breach of this law.

Paragraph 9 **Control**

(1) The control of compliance with this law shall be performed by the following control organs:

- a) Slovak Trade Inspection,
- b) State Veterinary and Food Administration of the Slovak Republic,

- c) state organs of administration in the section of public health (hereinafter “public health organs”), 4)
- d) the municipality,
- e) railway, bus and other regular public transport operators,
- f) Railway police.

(2) Discovered breaches of Paragraphs 4 and 6 hereof shall be immediately reported by the control organs mentioned in Subsection 1 b) to f) hereof to the Slovak Trade Inspection.

(3) Discovered breaches of Paragraphs 4 to 7 hereof are reported by the control organs mentioned in Subsection 1 a), b), d) to f) hereof to the Public Health Authority of the Slovak Republic.

(4) The control of compliance with this law in workplaces can be performed by work inspection organs and health protection organs,⁴⁾ which are, besides the employers, authorized to do so.

Paragraph 10 **Administrative Torts**

(1) Slovak Trade Inspection will impose a fine ranging from Euro 331 to Euro 6,638 on a natural person-entrepreneur or a legal entity selling consumer packets of tobacco products not labelled with the warnings under Paragraph 4 hereof in retail sale.

(2) Slovak Trade Inspection will impose a fine ranging from Euro 331 to Euro 6,638 on a natural person-entrepreneur or a legal entity not respecting the ban or restriction on the sale of tobacco products and tobacco-free products intended to be smoked under Paragraph 6 hereof.

(3) State Veterinary and Food Administration of the Slovak Republic will impose a fine ranging from Euro 3,319 to Euro 331,939 if the action under Subsections 1 and 2 has been committed by a manufacturer, importer or distributor of tobacco products and tobacco-free products intended to be smoked, in wholesale trade targeted at the market introduction of these tobacco products.

(4) State Veterinary and Food Administration of the Slovak Republic will impose a fine ranging from Euro 3,319 to Euro 331,939 if the action under Subsection 2 has been committed by a manufacturer or importer of tobacco products and tobacco-free products intended to be smoked in retail sale targeted at the market introduction of these tobacco products and tobacco-free products intended to be smoked.

(5) State Veterinary and Food Administration of the Slovak Republic will impose a fine ranging from Euro 3,319 to Euro 331,939 if the producer of tobacco products in wholesale trade breaches the provisions relating exceeding the content of harmful substances under Paragraph 5 hereof.

(6) Slovak Trade Inspection will impose a fine ranging from Euro 331 to Euro 3,319 on a natural person-entrepreneur or a legal entity failing to secure observance of the restrictions under Subsections 2 to 4 of Paragraph 8 hereof.

(7) Public health organs will impose a fine ranging from Euro 331 to Euro 3,319 on a natural person-entrepreneur or a legal entity failing to secure observance of the bans under Subsection 1 b) to i) of Paragraph 7 hereof.

(8) Fines pursuant to this law may be imposed within two years of the day when the control organ discovered the breach of duties, but not later than five years from the day when the duty was breached.

(9) When imposing fines, the control organs take into consideration the seriousness of the breach of duties, the duration and the incurred or imminent harmful effects on health.

(10) Proceeds from the fines imposed by the Slovak Trade Inspection, the public health organs and the State Veterinary and Food Administration of the Slovak Republic represent revenue of the state budget.

(11) Unless otherwise stipulated by this law, the imposing of fines is regulated by the general regulations on administrative proceedings.⁵⁾

Paragraph 11 Offences

(1) An offence is committed by a person who
a) breaches the ban on smoking under Subsection 1 a) of Paragraph 7 hereof,
b) breaches the ban on smoking under Subsection 1 b) to i) of Paragraph 7 hereof,
c) enables a person below the age of 18 to use tobacco products or tobacco-free products intended to be smoked,
d) breaches the ban on smoking under Subsection 1 j) of Paragraph 7 hereof.

(2) Offences mentioned in Subsection 1 a), b) and d) hereof can be punished by a fine amounting up to Euro 331.

(3) The offence mentioned in Subsection 1 c) hereof can be punished by a fine amounting up to Euro 497.

(4) Offences under Subsection 1 a) hereof are handled by the municipalities; they can also be handled by the municipal police, the Railway police or the Police Corps of the Slovak Republic by means of an action on the spot.

(5) Offences under Subsection 1 b) and c) hereof are handled by the public health organs;⁴⁾ they can also be handled by the organs mentioned in Subsection 1 a), b), d) and f) of Paragraph 9 hereof by means of an action on the spot.

(6) Offences under Subsection 1 d) hereof are handled by organs appointed in a special regulation.^{5a)}

(7) Offences and handling of offences are governed by general offences regulations.⁶⁾

(8) Proceeds from the fines imposed for offences represent revenue of the state budget, except for the revenue from fines for offences imposed by the municipality, which represents municipal revenue.

Paragraph 12
Transitory Provisions

(1) Tobacco products which do not comply with the requirements pursuant to Paragraph 4 hereof, and cigarettes which do not comply with the requirements pursuant to Paragraphs 4 and 5 hereof, may be manufactured and imported to the area of the Slovak Republic until 31 October 2004 at the latest; their nicotine yield shall not exceed 1.2 mg/cig. and their tar yield shall not exceed 12 mg/cig.

(2) Market introduction of cigarettes under Subsection 1 hereof shall end by 31 May 2005 at the latest.

(3) Market introduction of tobacco products under Subsection 1 hereof, with the exception of cigarettes, shall end by 31 May 2005 at the latest.

(4) The manufacturers and importers of tobacco products will submit their reports in compliance with Paragraph 3 hereof to the Ministry for the first time by 1 December 2004 at the latest.

(5) Consumer packets of cigarettes containing a different number of pieces than nineteen or twenty, with the exception of consumer packets of cigarettes containing ten pieces, may be manufactured or imported to the area of the Slovak Republic until 31 January 2009 at the latest.

(6) Consumer packets of cigarettes containing a different number of pieces than nineteen or twenty, with the exception of consumer packets of cigarettes containing ten pieces, may be sold until 30 September 2009 at the latest.

(7) Consumer packets of cigarettes containing ten pieces may be manufactured or imported to the area of the Slovak Republic until 31 January 2010 at the latest.

(8) Consumer packets of cigarettes containing ten pieces may be sold until 31 July 2010 at the latest.

(9) Slovak Trade Inspection will impose a fine ranging from SKK 10,000 to SKK 200,000 on a natural person-entrepreneur or a legal entity manufacturing or importing consumer packets of cigarettes containing a different number of pieces than nineteen or twenty to the area of the Slovak Republic after 31 January 2009, with the exception of consumer packets of cigarettes containing ten pieces.

(10) Slovak Trade Inspection will impose a fine ranging from SKK 10,000 to SKK 200,000 on a natural person-entrepreneur or a legal entity selling consumer packets of cigarettes containing a different number of pieces than nineteen or twenty after 30 September 2009, with the exception of consumer packets of cigarettes containing ten pieces.

(11) Slovak Trade Inspection will impose a fine ranging from SKK 10,000 to SKK 200,000 on a natural person-entrepreneur or a legal entity manufacturing or importing consumer packets of cigarettes containing ten pieces to the area of the Slovak Republic after 31 January 2010.

(12) Slovak Trade Inspection will impose a fine ranging from SKK 10,000 to SKK 200,000 on a natural person-entrepreneur or a legal entity selling consumer packets of cigarettes containing ten pieces after 31 July 2010.

Paragraph 13
Final Provisions

This law assumes the legal act of the European Communities and the European Union attached as an Annex.

Paragraph 14
Repealing Provisions

Act No. 67/1997 Coll. on the Protection of Non-Smokers, as amended by Act No. 147/2001 Coll., Act No. 553/2001 Coll., Act No. 23/2002 Coll. and Act No. 128/2002 Coll., is hereby repealed.