

TOBACCO BUSINESS ACT

Act No. 4065, Dec. 31, 1988

Amended by Act No. 4682, Dec. 31, 1993

Act No. 5453, Dec. 13, 1997

Act No. 5454, Dec. 13, 1997

Act No. 6078, Dec. 31, 1999

Act No. 6460, Apr. 7, 2001

Act No. 6625, Jan. 26, 2002

Act No. 7067, Jan. 20, 2004

Act No. 7421, Mar. 24, 2005

Act No. 7799, Dec. 29, 2005

Act No. 7881, Mar. 24, 2006

Act No. 8365, Apr. 11, 2007

Act No. 8518, Jul. 19, 2007

Act No. 8852, Feb. 29, 2008

Act No. 9822, Dec. 29, 2009

Act No. 9932, Jan. 18, 2010

Act No. 10786, jun. 7, 2011

Act No. 11048, Sep. 15, 2011

Act No. 11461, jun. 1, 2012

Act No. 11690, Mar. 23, 2013

Act No. 12269, Jan. 21, 2014

Article 1 (Purpose)

The purpose of this Act is to ensure the sound development of the tobacco industry and to contribute to the national economy by prescribing matters concerning the production, distribution, etc. of tobacco.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "tobacco" means what is manufactured in a state suitable for smoking, sucking, inhaling steam, chewing or smelling, by using tobacco leaves as all or any part of the raw materials;
2. The term "low ignition propensity cigarettes" means the cigarettes that have the function to extinguish by itself if left alone for a certain time after being lighted, which are certified under Article

11-5 (2).

Article 3 Deleted. <by Act No. 12269, Jan. 21, 2014>

Articles 4 through 10 Deleted. <by Act No. 6460, Apr. 7, 2001>

Article 11 (Tobacco Manufacturing Business License)

(1) A person that intends to operate a tobacco manufacturing business shall obtain a license from the Minister of Strategy and Finance, as prescribed by Presidential Decree. The same shall apply where such person intends to alter any principal matters as prescribed by Presidential Decree from among the licensed ones.

(2) The Minister of Strategy and Finance shall grant a license in cases where any person that intends to obtain a license for a tobacco manufacturing business under paragraph (1) (hereinafter referred to as "tobacco manufacturing business license") satisfies the criteria for equity capital, facilities, technological human resources, research and development of tobacco manufacturing technology, and quality control for the protection of national health, etc. as prescribed by Presidential Decree.

Article 11-2 (Disqualification for Tobacco Manufacturing Business License)

Any of the following persons shall be prohibited from obtaining a tobacco manufacturing business license:

1. A minor, a person under adult guardianship or a person under limited guardianship;
2. A person that has been declared bankruptcy and not yet reinstated;
3. A person for whom one year has not passed since the execution of his/her imprisonment declared by a court by reason of violating this Act was terminated (including cases where such execution is deemed to have been terminated) or exempted;
4. A person that is subject to suspended sentence of imprisonment with prison labor declared by a court by reason of violating this Act;
5. A person for whom two years have not elapsed since the revocation of the tobacco manufacturing business license under Article 11-4;
6. A corporation whose representative falls under any of subparagraphs 1 through 5.

Article 11-3 (Transfer or Takeover, etc. of Tobacco Manufacturing Business)

(1) Where a person who has obtained a tobacco manufacturing business license (hereinafter referred to as "manufacturer") intends to transfer the tobacco manufacturing business or merge with another corporation, he/she shall file a report thereon with the Minister of Strategy and Finance, as prescribed by Ordinance of the Ministry of Strategy and Finance.

(2) Where a report on transfer under paragraph (1) is filed, a person that has taken over the tobacco manufacturing business shall succeed to the manufacturer's status of the transferor of tobacco manufacturing business, and where a report on merger of corporations is filed, a corporation to be incorporated or to survive such merger shall succeed to the manufacturer's status of a corporation to be extinguished by such merger.

(3) Where a manufacturer has died, if an heir intends to continue the tobacco manufacturing business, he/she shall file a report thereon with the Minister of Strategy and Finance within 30 days after the date on

which the decedent has died, as prescribed by Ordinance of the Ministry of Strategy and Finance.

(4) Where an heir has filed a report on succession under paragraph (3), the tobacco manufacturing business license of the decedent shall be deemed the tobacco manufacturing business license of the heir during a period from the date on which the decedent has died to the date of such report.

(5) An heir that has filed a report on succession under paragraph (3) shall succeed to the manufacturer's status of the decedent.

(6) Article 11-2 shall apply mutatis mutandis to a report under paragraphs (1) and (3).

Article 11-4 (Revocation, etc. of Tobacco Manufacturing Business License)

Where a manufacturer falls under any of the following subparagraphs, the Minister of Strategy and Finance may either revoke the tobacco manufacturing business license or order the suspension of such business by fixing a period of up to one year as prescribed by Ordinance of the Ministry of Strategy and Finance: Provided, That where falling under subparagraphs 1, 3 and 4, the Minister shall revoke such license: <<Enforcement Date: Jan. 22, 2015>>

1. Where he/she has obtained the tobacco manufacturing business license by illegal means;
2. Where he/she becomes unable to satisfy the criteria for a tobacco manufacturing business prescribed in Article 11 (2);
3. Where he/she has any ground for disqualification prescribed in subparagraphs of Article 11-2: Provided, That it shall not apply where the representative of a corporation who falls under such ground for disqualification is replaced with a newly appointed person within six months;
4. Where he/she has manufactured and sold tobacco for which a certificate of fire-prevention performance referred to in Article 11-5 (3) was not submitted; <<Enforcement Date: Jul. 22, 2015>>
5. Where he/she has sold tobacco in violation of Article 12 (3);
6. Where he/she has violated the provisions of Article 25 or 25-2;
7. Other cases where he/she has violated this Act or orders issued under this Act.

Article 11-5 (Manufacture, Import and Certification of Function of Low Ignition Propensity Cigarettes)

(1) Where a manufacturer or import and sale business operator (referring to a person that is registered for a tobacco import and sale business under Article 13 (1); hereinafter the same shall apply) manufactures or imports smoking tobacco, such tobacco shall have the fire-prevention performance prescribed by Presidential Decree. <<Enforcement Date: Jul. 22, 2015>>

(2) Any manufacturer or import and sale business operator shall obtain certification of the fire-prevention performance of low ignition propensity cigarettes by item from the Administrator of the National Emergency Management Agency (hereinafter referred to as "certification of fire-prevention performance") every half year. <<Enforcement Date: Jul. 22, 2015>>

(3) Any manufacturer or import and sale business operator that has obtained certification of fire-prevention performance shall submit the certificate of fire-prevention performance to the Minister of Strategy and Finance. <<Enforcement Date: Jul. 22, 2015>>

(4) Matters necessary for the test items, criteria for performance, charges for the certification of fire-prevention performance, etc. and for an application for the certification of fire-prevention performance, procedures for the issuance of a performance certificate, etc. shall be prescribed by Presidential Decree.

(5) Where it is doubtful that any cigarettes that have not obtained certification of fire-prevention performance are manufactured, or imported and sold, the Administrator of the National Emergency Management Agency may order a person that has manufactured, or imported and sold, the relevant cigarettes to obtain the certification of fire-prevention performance. <<Enforcement Date: Jul. 22, 2015>>

Article 11-6 (Designation of Fire-Prevention Performance Certification Agency)

(1) In order to efficiently perform the affairs related to the certification of fire-prevention performance under Article 11-5, the Administrator of the National Emergency Management Agency may designate an institution for certification of fire-prevention performance.

(2) Matters necessary for facilities required for the designation of an institution for certification of fire-prevention performance under paragraph (1), requirements therefor such as professional human resources, and the procedures and methods, etc. for the designation shall be prescribed by Presidential Decree.

(3) An institution for certification of fire-prevention performance designated under paragraph (1) may issue certificates of fire-prevention performance for cigarettes that meet the certification criteria referred to in Article 11-5 (4).

(4) If an institution for certification of fire-prevention performance designated under paragraph (1) falls under any of the following cases, the Administrator of the National Emergency Management Agency may revoke the designation or suspend its business for up to nine months: Provided, That in cases under paragraph 1 or 3 (limited to cases where there is any intention or gross negligence) or 4, the designation shall be revoked.

1. Where it has been designated by fraud or other wrongful means;
2. Where it falls short of the designation criteria referred to in paragraph (2);
3. Where it issues a certificate of fire-prevention performance referred to in paragraph (3) by falsehood;
4. Where it performs its business during a business suspension period.

(5) Matters necessary for the criteria for administrative dispositions under paragraph (4) shall be prescribed by Presidential Decree.

Article 12 (Sales of Tobacco)

(1) Tobacco manufactured by a manufacturer shall be sold by the relevant manufacturer, and tobacco imported from a foreign country shall be sold by the relevant import and sale business operator to the following persons:

1. Wholesalers (referring to persons registered for wholesale business under Article 13 (1); hereinafter the same shall apply);
2. Retailers (referring to persons designated as retailers under Article 16 (1); hereinafter the same shall apply).

(2) No person other than a retailer shall sell any tobacco to consumers.

(3) No manufacturers, import and sale business operators, wholesalers and retailers shall sell any of the following tobaccos:

1. Tobacco manufactured by a person who has not obtained a tobacco manufacturing business license;
2. Tobacco for which customs duty imposed under Article 14 of the Customs Act has not been paid, which violates a trademark right protected under Article 235 of the same Act or which has been imported without an import declaration under Article 241 of the same Act;
3. Tobacco that has been stolen or robbed;
4. Cigarettes, the certificate of fire-prevention performance of which has not been submitted in violation of Article 11-5 (3). <<Enforcement Date: Jul. 22, 2015>>

(4) No retailer shall sell tobacco to consumers by way of postal sale or electronic transactions (referring to an electronic transaction defined in subparagraph 5 of Article 2 of the Framework Act on Electronic Documents and Transactions; hereinafter the same shall apply).

Article 13 (Registration of Tobacco Sales Business)

(1) Any person that intends to carry on the business of importing and selling tobacco shall have his/her business registered with the Special Metropolitan City Mayor, Metropolitan City Mayor, the Mayor of a Special Self-Governing City, Do Governor or the Governor of a Special Self-Governing Province (hereinafter referred to as "Mayor/Do Governor") having jurisdiction over a place where his/her head office or principal office is located, and any person that intends to carry on the business of wholesaling tobacco (referring to the business of purchasing tobacco from the manufacturer or import and sale business operator, and selling it to other wholesalers or retailers; hereinafter the same shall apply) shall have his/her business registered with the Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province, the head of a Si/Gun or Gu (referring to an autonomous Gu) (hereinafter referred to as the "head of a Si/Gun/Gu") having jurisdiction over a place where his/her head office or principal office is located. The same shall also apply to any intended alterations of important matters prescribed by Ordinance of the Ministry of Strategy and Finance among the registered matters.

(2) Any person that intends to have his/her business registered as prescribed in paragraph (1) shall meet the requirements prescribed by Presidential Decree.

(3) The Mayor/Do Governor that has performed the duties of registering the business of importing and selling tobacco as prescribed in paragraph (1) shall notify the Minister of Strategy and Finance, the Minister of Security and Public Administration, the Minister of Health and Welfare, the Minister of Environment, the Minister of Gender Equality and Family, the Commissioner of the Korea Customs Service and other Mayors/Do Governors, respectively, of such details within seven days from the date when such registration is made.

Article 14 (Disqualifications for Registration of Tobacco Sale Business)

Any of the following persons shall be prohibited from registering the business of importing and selling tobacco or the business of wholesaling tobacco under Article 13 (1):

1. A minor, a person under adult guardianship or a person under limited guardianship;
2. A person who has been declared bankruptcy and not yet reinstated;
3. A person for whom one year has not passed since the execution of his/her imprisonment declared by a court by reason of violating this Act was terminated (including cases where such execution is deemed to have been terminated) or exempted;
4. A person that is subject to suspended sentence of imprisonment with prison labor declared by a court by reason of violating this Act;
5. A person for whom two years have not elapsed since the revocation of the registration under Article 15 (1);
6. A corporation, the representative of which falls under any of subparagraphs 1 through 5.

Article 15 (Revocation, etc. of Registration of Tobacco Sale Business)

(1) Where any import and sale business operator or any wholesaler falls under any of the following subparagraphs, the Mayor/Do Governor or the head of a Si/Gun/Gu shall, revoke his/her business registration:

1. Where he/she has registered his/her business by wrongful means;
2. Where he/she has imported and sold cigarettes, the certificate of fire-prevention performance of which was not submitted under Article 11-5 (3); <<Enforcement Date: Jul. 22, 2015>>
3. Where he/she falls under any cause for disqualification prescribed in subparagraphs of Article 14;
4. Where a person that has been subjected to a disposition taken to suspend his/her business twice for the recent five years falls again under any subparagraph of paragraph (3);
5. Where he/she performs business during a business suspension period;
6. Where he/she fails to carry on the business for at least one year without filing a report on suspension or discontinuance of business referred to in Article 22-2 (1).

(2) Paragraph (1) shall not apply where the representative of a juristic person is replaced with a newly appointed person within six months from the date on which he/she falls under subparagraph 6 of Article 14, or until the date on which six months elapse from the date on which a successor to the status of the import and sale business operator or a wholesaler falls under any of subparagraphs 1 through 5 of Article 14.

(3) Where any import and sale business operator or any wholesaler falls under any of the following subparagraphs, the Mayor/Do Governor or the head of a Si/Gun/Gu may order him/her to suspend his/her business for a fixed period of up to one year as prescribed by Ordinance of the Ministry of Strategy and Finance: <<Enforcement Date: Jan. 22, 2015>>

1. Where he/she has sold tobacco to any consumer in violation of Article 12 (2);
2. Where he/she has sold tobacco in violation of Article 12 (3);
3. Where an import and sale business operator has failed to report sale prices pursuant to Article 18 (1) or (2);

4. Where he/she has sold tobacco with its packing and contents changed, in violation of Article 20;
5. Where he/she continues to suspend his/her business for at least 6 months without filing a report thereon under Article 22-2 (1);
6. Where he/she has violated Article 25 or 25-2;
7. Other case where he/she has violated this Act or orders given under this Act.

Article 16 (Designation of Retailers)

(1) Any person that intends to operate a tobacco retail business (referring to the business of selling directly to consumers) shall be designated as a tobacco retailer by the head of a Si/Gun/Gu having jurisdiction over his/her principal place of business.

(2) Where a person that intends to be designated as a tobacco retailer under paragraph (1) applies for the designation thereof, the head of the competent Si/Gun/Gu shall make a designation: Provided, That the same shall not apply to any of the following cases:

1. Where the applicant falls under any of the followings:

- (a) A minor, a person under adult guardianship or a person under limited guardianship;
- (b) A person that has been declared bankruptcy and not yet reinstated;
- (c) A person for whom one year has not passed since the execution of his/her imprisonment declared by a court by reason of violating this Act was terminated (including cases where such execution is deemed to have been terminated) or exempted;
- (d) A person that is subject to suspended sentence of imprisonment with prison labor declared by a court by reason of violating this Act;
- (e) A person for whom two years have not elapsed since the revocation of the registration under Article 17 (1);
- (f) A corporation, the representative of which falls under one of items (a) through (e);

2. Where the applicant intends to sell tobacco at a place that is deemed inappropriate by the head of a Si/Gun/Gu to operate the tobacco sales business, including a place where juveniles (referring to juveniles under subparagraph 1 of Article 2 of the Juvenile Protection Act; hereinafter the same shall apply) may gain easy access to tobacco;

3. Where the applicant fails to meet the designation criteria prescribed by Ordinance of the Ministry of Strategy and Finance, such as distance between places of business;

4. Other cases where the applicant violates restrictions prescribed by this Act or other Acts or subordinate statutes.

(3) Procedures for the designation of retailers and other necessary matters for the designation shall be prescribed by Ordinance of the Ministry of Strategy and Finance.

Article 17 (Revocation, etc. of Designation as Retailers)

(1) If any tobacco retailer falls under any of the following cases, the head of a Si/Gun/Gu shall revoke the designation of his/her retail business:

1. Where he/she has been designated as a tobacco retailer by wrongful means;
2. Where he/she falls under any cause for disqualification prescribed in Article 16 (2): Provided, That the same shall not apply where a representative of a corporation falling under such cause is replaced with a newly appointed person within six months;
3. Where a person that has been subjected to a disposition of business suspension twice during the recent five years falls again under any subparagraph of paragraph (2);
4. Where he/she continues his/her business during a business suspension period;;
5. Where he/she has failed to engage in business for at least 60 days without making any report on discontinuance or suspension of business;
6. Where he/she has failed to purchase tobacco from a manufacturer, an import and sale business operator, or a wholesaler for at least 90 days without any justifiable ground;
7. Where he/she becomes unable to meet the designation criteria prescribed by Ordinance of the Ministry of Strategy and Finance by falling under Article 16 (2) after having been designated as a retailer 3; Provided, That cases where the reasons for a failure to meet the designation criteria are not imputable to the relevant retailer shall be excluded herefrom.

(2) Where any tobacco retailer falls under any of the following subparagraphs, the head of a Si/Gun/Gu may order him/her to suspend his/her business for a fixed period of up to one year:

1. Where he/she has sold tobacco in violation of Article 12 (3);
2. Where he/she has sold tobacco in violation of Article 18 (5);
3. Where he/she has sold tobacco with its packing or contents changed, in violation of Article 20;
4. Where he/she has failed to implement any corrective order or measure such as the removal of advertisements under Article 25 (3);
5. Where he/she has failed to sell tobacco continuously without any justifiable ground during a period prescribed by Ordinance of the Ministry of Strategy and Finance;
6. Where he/she has failed to purchase tobacco from a manufacturer, an import and sale business operator, or a wholesaler for at least 60 days without any justifiable ground;
7. Where he/she has sold tobacco to juveniles;
8. Other cases where he/she has violated this Act or any order issued under this Act.

(3) Matters necessary for the standards and procedures, etc. for the disposition of business suspension under paragraph (2) shall be prescribed by Ordinance of the Ministry of Strategy and Finance.

Article 18 (Selling Price of Tobacco)

(1) A manufacturer or an import and sale business operator shall determine a selling price of tobacco that has been manufactured or imported by himself/herself as prescribed by Presidential Decree, and file a report thereon with persons classified as follows. The same shall also apply to the modification of the reported selling price:

1. A manufacturer: The Minister of Strategy and Finance;

2. An import and sale business operator: Mayor/Do Governor.

(2) Where the same person conducts the business of manufacturing tobacco and that of importing and selling tobacco altogether, he/she may file a report on the selling price of tobacco with the Minister of Strategy and Finance, notwithstanding the provisions of paragraph (1). The same shall also apply to the modification of the reported selling price.

(3) The Mayor/Do Governor, in receipt of a report on the selling price under paragraph (1), shall notify the Minister of Strategy and Finance of details of thereof within seven days from the date of receiving such report.

(4) When a manufacturer or an import and sale business operator has determined the selling price under paragraph (1) and filed a report thereon, he/she shall publicly notify such price, as prescribed by Ordinance of the Ministry of Strategy and Finance.

(5) Retailers shall sell tobacco at the selling price as publicly notified under paragraph (4).

Article 19 (Tobacco for Special Use)

(1) A manufacturer may manufacture and sell the tobacco for special use as prescribed by Presidential Decree.

(2) No tobacco for special use referred to in paragraph (1) shall be sold for any purpose other than its intended use.

Article 20 (Prohibition against Use of Other Tobacco Packing Papers)

No person shall sell tobacco with its packing and contents changed.

Articles 21 and 22 Deleted. <by Act No. 6460, Apr. 7, 2001>

Article 22-2 (Suspension or Discontinuance of Tobacco Sale Business, etc.)

(1) Where any import and sale business operator, wholesaler or retailer intends to suspend or discontinue his/her business for a period longer than what is prescribed by Ordinance of the Ministry of Strategy and Finance, the import and sale business operator shall file a report thereon with persons classified as follows:

1. An import and sale business operator: Mayor/Do Governor;

2. A wholesaler or retailer: The head of a Si/Gun/Gu.

(2) The period of business suspension, procedures for making a report, and other necessary matters for reporting on a suspension or discontinuance of business in filing a report under paragraph (1) shall be prescribed by Ordinance of the Ministry of Strategy and Finance.

Article 22-3 (Hearings)

If the Minister of Strategy and Finance, the Administrator of the National Emergency Management Agency, a Mayor/Do Governor, or the head of a Si/Gun/Gu intends to make any of the following dispositions, he/she shall hold a hearing:

1. Revocation of a license for manufacturing tobacco or suspension of business under Article 11-4;

2. Revocation of designation of an institution for certification of fire-prevention performance under Article 11-6 (4);

3. Revocation of the registration of tobacco import and sale business, or of the registration of tobacco wholesale business of tobacco under Article 15 (1);
4. Suspension of an import and sale business or wholesale business under Article 15 (3);
5. Revocation of designation of a retailer under Article 17 (1) or the suspension of business under Article 17 (2).

Article 23 Deleted. <by Act No. 7067, Jan. 20, 2004>

Article 24 (Reports and Confirmation of Related Books, etc.)

(1) The Minister of Strategy and Finance may, when deemed necessary to enforce this Act, have a manufacturer, the Administrator of the National Emergency Management Agency may have the head of an institution for certification of fire-prevention performance, the Mayor/Do Governor may have an import and sale business operator, and the head of a Si/Gun/Gu may have a wholesaler and a retailer, respectively, file a report on his/her business, or may have the officials under his/her command verify or inspect the relevant books, documents, etc.

(2) Any official that conducts verification or inspection under paragraph (2) shall carry a certificate that indicates his/her authority and show it to the relevant persons.

Article 25 (Indication of Warning Words and Restrictions on Advertisement of Tobacco)

(1) Warning words clearly expressing the effect that smoking is harmful to health shall be indicated on the wrapping paper of a tobacco pack and in the advertisement prescribed by Presidential Decree.

(2) The Minister of Strategy and Finance may prohibit or restrict any advertisement of tobacco, as prescribed by Presidential Decree.

(3) Where no words of warning under paragraph (1) are indicated or prohibition against or restricted matters on advertisement under paragraph (2) are violated, the Minister of Strategy and Finance may issue orders to or take measures against a manufacturer to restrict the imports or sales of the relevant tobacco, or to perform what are required for the corrections, such as the removal of advertisement, the Mayor/Do Governor may do so against the import and sale business operator, and the head of a Si/Gun/Gu may do so against the wholesaler and retailer, respectively.

(4) The Minister of Strategy and Finance shall determine the words of warning referred to in paragraph (1) after consulting with the Minister of Health and Welfare and the Minister of Gender Equality and Family.

Article 25-2 (Indication of Tobacco Ingredients)

(1) A manufacturer and an import and sale business operator shall indicate the major ingredients and their contents in the smoke of one cigarette on the wrapping paper of each tobacco pack and in the advertisements prescribed by Presidential Decree.

(2) A manufacturer and an import and sale business operator shall entrust a measurement agency designated by the Minister of Strategy and Finance with a measurement of ingredients of tobacco being sold by item every quarter within one month after beginning of the quarter.

(3) Kinds of ingredients, criteria for measurement, designation of measuring agencies, methods of indication, scope of allowable errors, omission of indication of ingredients, which are to be indicated

under paragraph (1), and other matters necessary for the indication of ingredients shall be prescribed by Presidential Decree.

(4) Article 25 (3) shall apply mutatis mutandis to a case where there exists no indication of ingredients and their contents under paragraph (1) or where the contents of indicated ingredients are in excess of the scope of allowable errors.

Article 25-3 (Participation of Manufacturers, etc. in Public Activities)

(1) The Minister of Strategy and Finance may have a manufacturer directly carry out public activities, such as public health, medical care, protection of environment, etc., and projects, such as the support for tobacco cultivation, within 20 won per 20 cigarettes which he/she sells, as prescribed by Ordinance of the Ministry of Strategy and Finance, or make a contribution to those carrying out such projects.

(2) Any import and sale business operator may directly carry out public activities similar to those referred to in paragraph (1), or make any contribution to those who carry out the relevant activities. In such cases, paragraph (1) shall apply mutatis mutandis.

(3) The Minister of Strategy and Finance shall consult with the heads of related central administrative agencies about fundamental matters concerning the activities conducted by a manufacturer or an import and sale business operator under paragraphs (1) and (2).

(4) A person that intends to run the business directly supporting the agricultural technology development for tobacco cultivators with the contribution from manufacturers under paragraph (1) shall establish a corporation by obtaining approval from the Minister of Strategy and Finance.

(5) The provisions concerning an incorporated foundation referred to in the Civil Act shall apply mutatis mutandis to the establishment and operation of a corporation under paragraph (4) except for those as provided for in this Act.

Article 25-4 (Prohibition against Offering Money or Goods, etc. for Promotion of Tobacco Sales)

Any manufacturers, import and sale business operators and wholesalers shall not conduct any act of offering money or goods to retailers or any similar act prescribed by Presidential Decree, in order to promote their tobacco sales.

Article 25-5 (Restrictions on Use of Words that Lead to Misconceptions about Tobacco)

(1) No manufacturer or import and sale business operator may use, on the packing or advertisements of tobacco, any words, phrases, trademark, shapes or any other indication that are likely to cause any misconceptions about tobacco by treating lightly the effects or risks that tobacco causes to health (hereinafter referred to as "misleading words, etc.").

(2) Misleading words, etc. shall be prescribed by Presidential Decree.

Article 26 (Delegation of Authority)

@Part of the authority of the Minister of Strategy and Finance under this Act may be delegated to the head of a local government, as prescribed by Presidential Decree.

Article 27 (Penal Provisions)

(1) Any of the following persons shall be punished by imprisonment for not more than three years or by a fine not exceeding 30 million won:

1. A person that manufactures tobacco without obtaining a tobacco manufacturing business license in contravention of Article 11;
2. A person that manufactures and sell, or imports and sell, cigarettes without submitting the certificate of fire-prevention performance pursuant to Article 11-5 (3). <<Enforcement Date: Jul. 22, 2015>>

(2) In cases under paragraph (1), any attempted crime shall be punished as well.

(3) In cases under paragraphs (1) and (2), the punishment of imprisonment and fine may be concurrently imposed.

Article 27-2 (Penal Provisions)

(1) Any of the following persons shall be punished by imprisonment for not more than one year or by a fine not exceeding 10 million won:

1. A person that fails to file a report on transfer, takeover, etc. of tobacco manufacturing business in contravention of Article 11-3 (1) or (3);
2. A person that fails to comply with an order issued under Article 11-5 (5) without any justifiable reason;
3. A person that issues a certificate of fire-prevention performance under Article 11-6 (3) by falsehood;
4. A person that manufactures or imports tobacco on which the warning words under Article 25 (1) are not indicated, or words violating such provisions are indicated;
5. A person that places any advertisement on tobacco in contravention of Article 25 (2);
6. A person that manufactures or imports tobacco on which the ingredients and their contents under Article 25-2 (1) are not indicated or the content of each ingredient is falsely indicated;
7. A person that manufactures or imports tobacco on which misleading words, etc. are indicated, in violation of Article 25-2.

(2) Any of the following persons shall be punished by imprisonment for not more than six months or by a fine not exceeding five million won:

1. A person that sells tobacco to a consumer without being designated as a retailer, in contravention of Article 12 (2);
2. A person that operates a tobacco import and sale business or tobacco wholesale business without being registered therefor, in contravention of Article 13 (1).

Article 27-3 (Penal Provisions)

Any of the following persons shall be punished by a fine not exceeding five million won:

1. A retailer who sells tobacco to a consumer by way of postal sale or electronic transactions, in violation of Article 12 (4);
2. A person who fails to comply with an order or to take measures required for correction, such as the removal of advertising materials under Article 25 (3);

3. A person who fails to comply with an order or to take measures required for correction, such as restrictions, etc. on the import or sales of tobacco under Article 25-2 (4);
4. A person who offers money or goods, etc. in contravention of Article 25-4.

Article 28 (Fines for Negligence)

(1) Any of the following persons shall be punished by a fine for negligence not exceeding two million won:

1. A person that has sold tobacco in violation of Article 12 (3);
2. A person that has failed to file a report on the selling price (including a report on alterations) in violation of Article 18 (1) or (2);
3. A person who has sold tobacco for special use for a purpose other than its intended use in violation of Article 19 (2);
4. A person that has sold tobacco with its packing and contents changed, in violation of Article 20;
5. A person that has failed to entrust a measurement of tobacco ingredients under Article 25-2 (2):
Provided, That such cases shall be excluded where deemed to be actually in the status of discontinuation of business.

(2) Any of the following persons shall be punished by a fine for negligence not exceeding one million won:

1. A retailer that has sold tobacco in violation of Article 18 (5);
2. A retailer that has suspended his/her business in excess of a suspension period referred to in Article 22-2 (2).

Article 29 (Imposition and Collection of Fines for Negligence)

The Minister of Strategy and Finance, a Mayor/Do Governor or the head of a Si/Gun/Gu shall impose and collect a fine for negligence under Article 28 according to their respective jurisdictions, as prescribed by Presidential Decree.

Article 30 (Confiscation and Additional Collection)

- (1) Any tobacco leaves and tobacco involved in any crime under Articles 27, 27-2 and 27-3 shall be confiscated.
- (2) If it is impossible to confiscate those items referred to in paragraph (1), the value thereof shall be collected additionally.

Article 31 (Restrictions on Application of Criminal Act)

With respect to those who commit any crime prescribed in this Act, Articles 9, 10 (2), 11, 16, 32 (2), and 38 (1) 2 of the Criminal Act concerning the restriction on aggravation of the concurrence of fines, and Article 53 of the same Act shall not be applied: Provided, That this shall not apply to imprisonment where a criminal is to be punished by imprisonment, or by both imprisonment and a fine.

Article 32 (Joint Penal Provisions)

If a representative of a juristic person, or an agent, employee, or other servant of the juristic person or an individual commits an offence under Article 27, 27-2 or 27-3 in connection with the affairs of the juristic

person or individual, in addition to the punishment of such offender, the juristic person or individual shall be punished by a fine under each relevant Article: Provided, That where such juristic person or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such offence, the same shall not apply.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1989.

Article 2 (Repeal of Other Acts)

The Tobacco Monopoly Act shall hereby be repealed.

Article 3 (Amendment, etc. of Other Acts)

(1) and (2) Omitted.

(3) Any citation of the Tobacco Monopoly Act in other Acts and subordinate statutes at the time when this Act enters into force shall be considered to have cited this Act, and that of the provisions of the Tobacco Monopoly Act shall be considered to have cited the provisions of this Act if they are the corresponding provisions in this Act.

Article 4 (General Transitional Measures)

(1) What was enforceable under the previous Tobacco Monopoly Act at the time when this Act enters into force shall be considered to be in force, pursuant to the corresponding provisions of this Act.

(2) Any disposition or other acts taken by the Minister of Finance and Economy under the previous Tobacco Monopoly Act before the enforcement of this Act, shall be considered as that or those taken pursuant to the corresponding provisions of this Act.

(3) Any public notice or other acts taken by the Korea Monopoly Corporation, or any application filed with or other acts taken by the said Corporation, under the previous Tobacco Monopoly Act before the enforcement of this Act, shall be considered as that or those taken by or for the Corporation pursuant to the corresponding provisions of this Act.

Article 5 (Transitional Measures concerning Cultivation of Tobacco Plant and Purchase of Leaf Tobacco)

Notwithstanding the provisions of Chapter 2 of this Act, the provisions of the previous Tobacco Monopoly Act shall apply to the first cultivation of tobacco plants and the first purchase of leaf tobacco for raw materials of manufactured tobacco after this Act enters into force.

Article 6 (Transitional Measures concerning Designation of Manufactured Tobacco Retailer)

Any person who is designated as a manufactured tobacco retailer by the Korea Monopoly Corporation under the previous Tobacco Monopoly Act, before the enforcement of this Act, shall be considered to have been designated by the Minister of Finance and Economy under this Act.

Article 7 (Transitional Measures concerning Operation of Corporation)

Operations of the Corporation as prescribed by this Act shall be carried out by the Korea Monopoly Corporation under the Korea Monopoly Corporation Act until the Korea Tobacco and Ginseng Corporation Act is enacted and enforced.

Article 8 (Transitional Measures concerning Application of Penal Provisions)

Application of the penal provisions to any act committed before this Act enters into force, shall be subject to the provisions of the previous Tobacco Monopoly Act.

ADDENDA <Act No. 4682, Dec. 31, 1993>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1994.

(2) (Transitional Measures concerning Application of Penal Provisions) The application of the penal provisions to any act committed before this Act enters into force, shall be governed by the previous provisions.

ADDENDA <Act No. 5453, Dec. 13, 1997>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

Article 2 Omitted.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <Act No. 6078, Dec. 31, 1999>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Transitional Measures concerning Disqualifications) Any person that has his/her import and sale business of manufactured tobacco or his/her wholesale business of manufactured tobacco registered, or his/her retail business of manufactured tobacco designated under the previous provisions as at the time when this Act enters into force, where he falls under disqualifications as described in the amended provisions of Article 14 or 16 (2) due to unavoidable reasons that occurred prior to the enforcement of this Act, shall be dealt with according to the previous provisions notwithstanding the amended provisions.

(3) (Transitional Measures concerning Registration of Sale Business of Manufactured Tobacco) Any person that has his/her wholesale business of manufactured tobacco registered under the previous provisions as at the time this Act enters into force, shall be deemed to register his/her business in accordance with the amended provisions of Article 13 (1).

(4) (Transitional Measures concerning Designation of Retail Business of Manufactured Tobacco) Any person that has his/her retail business of manufactured tobacco designated under the previous provisions as at the time this Act enters into force shall be deemed to have his/her business designated in accordance with the amended provisions of Article 16 (1).

ADDENDA <Act No. 6460, Apr. 7, 2001>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2001.

Article 2 (Transitional Measures Following Abolition of Systems of Tobacco Cultivation and Leaf Tobacco Purchase)

The Korea Tobacco and Ginseng Corporation (hereinafter referred to as the "Corporation") under subparagraph 1 of Article 2 of the Act on the Improvement of Managerial Structure and Privatization of Public Enterprises, which has run tobacco manufacturing business under the previous provisions at the time of enforcement of this Act, may conclude a contract with the tobacco cultivators on the tobacco cultivation, purchase of leaf tobacco as for raw materials of tobacco, and support of tobacco cultivators, and perform it.

Article 3 (Transitional Measures concerning Existing Manufacturers)

The Corporation which has run the tobacco manufacturing business under the previous provisions at the time of enforcement of this Act shall be considered to have obtained a license for tobacco manufacturing under the amended provisions of Article 11.

Article 4 Omitted.

ADDENDA <Act No. 6625, Jan. 26, 2002>

(1) (Enforcement Date) This Act shall enter into force on January 1, 2003.

(2) (Application Example) This Act shall apply from the portion of carrying out from the manufacturing place or bonded area or of advertisement for the first time since the enforcement of this Act.

(3) Omitted.

ADDENDA <Act No. 7067, Jan. 20, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2004.

Article 2 (Applicability concerning Prohibition against Tobacco Sale by Means of Mail and Digital Transactions)

The amended provisions of Article 12 (3) and subparagraph 1-2 of Article 27-3 shall apply from the portion of selling tobacco after this Act enters into force.

Article 3 (Application Examples concerning Revocation of Designation of Retailers)

The amended provisions of Article 17 (1) 6 shall apply from a retailer that has come to fall short of the designation criteria after this Act enters into force.

Article 4 (Transitional Measures concerning Substitute for Tobacco)

(1) What have been manufactured or imported prior to an enforcement of this Act that are equivalent to the substitute for tobacco as referred to in the amended provisions of Article 3 shall be governed by the

previous provisions.

(2) A person that has obtained a license or filed a report etc. thereon, as referred to in other Acts prior to an enforcement of this Act in respect of the manufacturing what are equivalent to the substitute for tobacco as referred to in the amended provisions of Article 3, shall be deemed to have obtained a license for tobacco manufacturing business as referred to in Article 11: Provided, That he/she shall equip himself/herself with the license criteria as referred to in this Act within two years after this Act enters into force.

Article 5 (Transitional Measures concerning Registration etc. of Import and Sale Business of Tobacco)

A person who has made a registration of the import and sale business of tobacco with the Minister of Finance and Economy as referred to in the previous provisions as at the time this Act enters into force, shall be deemed to have made a registration with the Mayor/Do Governor as referred to in the amended provisions of Article 13 (1), and a person that has made a registration of the wholesale business of tobacco with the Mayor/Do Governor shall be deemed to have made a registration of the wholesale business of tobacco with the head of a Si/Gun/Gu as referred to in the amended provisions of Article 13 (1).

Article 6 (Transitional Measures concerning Revocation of Registration of Tobacco Sale Business)

When calculating a period for suspension or discontinuation of business as referred to in the amended provisions of Article 15 (1) 5 for a person who is in the status of suspension or discontinuation of business without filing a report on suspension or discontinuation of business as at the time this Act enters into force, he/she shall be deemed to have suspended or discontinued the business on the enforcement date of this Act.

Article 7 (Transitional Measures concerning Reports on Selling Price of Tobacco)

Selling price of tobacco that has been reported to the Minister of Finance and Economy by an import and sale business operator as referred to in the previous provisions as at the time this Act enters into force, shall be deemed to have been reported to the Mayor/Do Governor as referred to in the amended provisions of Article 18.

ADDENDA <Act No. 7421, Mar. 24, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on the date on which the Presidential Decree governing the organization of the Juvenile Commission enters into force within 3 months after the promulgation of this Act.

Articles 2 through 4 Omitted.

ADDENDA <Act No. 7799, Dec. 29, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 4 Omitted.

ADDENDA <Act No. 7881, Mar. 24, 2006>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Transitional Measures Pertaining to Calculation of Period Wherein Tobacco is not Purchased) The amended provisions of Article 17 (1) 6 and (2) 5 shall not apply to the period wherein tobacco is not purchased at the time of enforcement of this Act.

ADDENDA <Act No. 8365, Apr. 11, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 22 Omitted.

ADDENDA <Act No. 8518, Jul. 19, 2007>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Transitional Measures Concerning Fine for Negligence) The former provisions on fines for negligence shall apply to an act committed before this Act enters into force.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 9822, Dec. 29, 2009>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 9932, Jan. 18, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force two months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 10786, Jun. 7, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 11048, Sep. 15, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 11461, Jun. 1, 2012>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 10 Omitted.

ADDENDA <Act No. 11690, Mar. 23, 2013>

Article 1 (Enforcement Date)

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 12269, Jan. 21, 2014>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of subparagraph 4 of Article 11-4, Articles 11-5 (1), (2), (3) and (5), 12 (3) 4, 15 (1) 2 and 27 (1) 2 shall enter into force one year and six months after the date of its promulgation, and the amended provisions of the main body of the part other than subparagraphs of Article 11-4, Articles 15 (3) and 25-5, and subparagraph 7 of Article 27-2 one year after the date of its promulgation.

Article 2 (Transitional Measures concerning Enforcement Date)

Until the amended provisions of the main body of the part other than subparagraphs of Article 11-4 and Article 15 (3) enter into force under the proviso to Article 1 of the Addenda, the main body of the part other than subparagraphs of the former Articles 11-4 and 15 (3) that correspond thereto shall be applicable.

Article 3 (Application Example)

(1) The amended provisions of subparagraph 4 of Article 11-4, Articles 11-5 (1), (2), (3) and (5), 12 (3) 4, 15 (1) 2 and 27 (1) 2 shall apply from the first portion of carrying out from the manufacturing place or bonded area or of advertisement since the enforcement of this Act.

(2) The amended provisions of Article 25-5 and subparagraph 7 of Article 27-2 shall apply from the first portion taken out of a manufacturing place or bonded area or of advertisement since this Act enters into force.

Article 4 (Transitional Measures concerning Incompetent Persons)

A person under adult guardianship and a person under limited guardianship prescribed in the amended provisions of subparagraph 1 of Article 11-2, subparagraph 1 of Article 14, and Article 16 (2) 1 (a) shall, in accordance with Article 2 of the Addenda to the partially amended Civil Act (Act No. 10429), be deemed to include persons against whom the declaration of incompetency or quasi-incompetency remains effective.

