

# Swedish Code of Statutes



## Act amending the Tobacco Act (1993:581)

issued on 17 June 2010.

**SFS 2010:682**

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By decision<sup>1</sup> of parliament, it is hereby prescribed in respect of the Tobacco Act (1993:581)<sup>2</sup>,

*firstly*, that Articles 12 c, 19, 19 a, 21, 23 and 25–27 and the headings immediately before Articles 12 c and 27 shall read as follows, and

*secondly*, that six new sections shall be introduced into the Act, namely, Articles 12 d, 19 c, 20 a, 23 a, 23 b and 27 a, having the following wording.

### Notification and self-regulation

**Article 12 c**<sup>3</sup> A business operator may not provide tobacco products for sale to consumers without first having submitted notification of such sale to the municipality where the sale will take place.

The business operator will exercise special control (self-regulation) over the sale and assure the existence of an internal control programme appropriate for the operation.

The business operator shall attach the self-regulation programme and any other information required for municipal oversight to the notification referred to in the first paragraph. If the said information changes, the changes must be reported to the municipality without delay.

**Article 12 d** A business operator who provides tobacco products for sale to consumers must provide the staff of the operation with the information and support necessary to enable the said staff to comply with this Act and its associated Regulations.

**Article 19**<sup>4</sup> The central enforcement of this Act and its associated Regulations is exercised by

1. the Work Environment Authority, as regards
  - a) premises and other areas referred to in Article 2 that are open only to employees, and
  - b) rooms and other areas to which Article 8 shall be applied.
2. the National Institute of Public Health, as regards
  - a) environments referred to in Article 2 that are not open only to employees,
  - b) premises referred to in Article 4,
  - c) warnings, etc., under Articles 9, 10 and 11,
  - d) trade, etc., in accordance with Articles 12–12 d,

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<sup>1</sup> Government Bill 2009/10: 207, Report 2009/10: SoU 25, Parliamentary Communication 2009/10:344.

<sup>2</sup> Act reprinted 2005:369.

<sup>3</sup> Latest version 2005:369.

<sup>4</sup> Latest version 2008:495.

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- e) product verification, etc., in accordance with Articles 16–18, and
  - f) information on marketing costs in accordance with Article 18 b, and
3. the Consumer Ombudsman, as regards marketing in accordance with Article 9 a or Articles 14–14 b.

The Consumer Ombudsman's oversight shall be governed by the provisions of the Marketing Act (2008:486).

**Article 19 a**<sup>5</sup> The immediate enforcement of this Act and its associated Regulations is carried out by

1. the Work Environment Authority, as regards premises and other areas for which the Authority has been charged with the central oversight,
2. the municipality, as regards
  - a) the environments and premises for which the National Institute of Public Health has been charged with the central oversight,
  - b) the provisions on warnings, etc., in Articles 9 and 11 on-points of sale, and
  - c) the rules on advertising, etc., in Articles 14 and 14 a as regards marketing activities on or adjacent to points of sale, and
3. the municipality and the police authority, as regards the provisions on trade, etc., in Articles 12–12 d.

The county administrative board exercises regulatory oversight in the county under paragraph 2. The county administrative board shall

1. monitor the municipalities' activities and assist the municipalities by providing information and advice, and
2. promote cooperation between various regulatory authorities, and between regulatory authorities and other parties.

**Article 19 c** A municipality may enter into agreements with another municipality such that the municipality's regulatory duties under this Act shall be assumed wholly or in part by the other municipality. The municipality may however not transfer the authority to try cases in accordance with Article 20 or 20 a.

**Article 20 a** In the event of serious or repeated contravention of the provisions of this Act, the municipality may prohibit a business operator who supplies tobacco products for sale to consumers from continuing to conduct such sale or, should the ban be considered an excessively intrusive measure, issue a warning. A prohibition under the first paragraph is issued for a term not exceeding six months.

Decisions under the first paragraph shall take effect immediately, unless otherwise specified in the decision.

**Article 21**<sup>6</sup> A supervisory authority may decide that a tobacco product must be disposed of if it is offered for sale or obviously intended to be offered for sale in contravention of this Act or its associated Regulations.

If a product has been seized, the owner may, under the oversight of the regulatory authority, make such corrections as may be necessary for the product to be allowed to be sold. The merchandise shall be returned if it is shown to be unlikely that it will be sold in contravention of this Act or its associated Regulations. Otherwise, the regulatory authority may have it destroyed.

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<sup>5</sup> Latest version 2005:369.

<sup>6</sup> Latest version 1996:941.

A decision under the first paragraph shall take effect immediately, unless otherwise specified in the decision.

**Article 23**<sup>7</sup> In order to perform its functions under this Act, a regulatory authority is entitled to have access to areas, premises and other spaces affected by this Act or its associated Regulations, and may carry out investigations and take samples there. No compensation will be paid samples taken.

The Government or the authority designated by the Government may issue regulations concerning the obligation to reimburse a supervisory authority for the cost of taking and testing samples.

**Article 23 a** The municipality and the police authority shall notify each other of circumstances relevant to the oversight.

A municipality that has made a decision in a case under this Act shall send a copy of the said decision to the National Institute of Public Health as well as to the county administrative board and the police authority involved in the decision.

**Article 23 b** The police authority shall, upon request by another regulatory authority, provide such assistance as may be for the application of Articles 21 and 23. A request in accordance with the first paragraph may only be made if

1. due to special circumstances if may be feared that the measure cannot be performed without recourse being made to the special police powers in accordance with Article 10 of the Police Act (1984:387), or
2. other exceptional reasons exist.

**Article 25**<sup>8</sup> A decision made by a municipality under this Act may be appealed to a general administrative court.

A decision announced by the National Institute of Public Health under Article 20, first paragraph, or Article 21, or by the Work Environment Authority, may be appealed to a general administrative court.

A review dispensation is required for an appeal to the Administrative Court of Appeals.

**Article 26**<sup>9</sup> Decisions on regulations under Article 9 that an authority has announced on the basis of an authorization may be appealed to the Government by manufacturers of tobacco products and importers of tobacco products intended for sale to consumers in the country.

### **Liability etc.**

**Article 27**<sup>10</sup> Anyone who wilfully contravenes Article 11 or sells tobacco products in contravention of prohibitions issued under Article 20 will be sentenced for the illegal sale of tobacco to a fine or imprisonment not exceeding six months.

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<sup>7</sup> Latest version 1996:941.

<sup>8</sup> Latest version 2005:369.

<sup>9</sup> Latest version 1996:941. The change implies that the first paragraph is repealed.

<sup>10</sup> Latest version 2005:369.

Unofficial Translation

The same applies to a person who intentionally or negligently contravenes Article 12, first or second paragraph, or Article 12 c, first paragraph. If the act is regarded as minor, it is not punishable.

**Article 27 a** Anyone who has contravened a conditional fine order or a temporary injunction should not be penalised under this Act for acts covered by the order or the injunction.

1. This Act comes into force on 1 August 2010.
2. Any notification of the sale of tobacco products under Article 12 c made before the coming into force of the Act has continued validity.

On behalf of the Government

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