

The Tobacco Act (1993:581)

SFS 1993:581

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REGERINGSKANSLIET

**Ministry of Health  
and Social Affairs, Sweden**



## Preamble of the translation of The Tobacco Act

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The Tobacco Act (1993:581) was adopted in 1993. Since then, several amendments have been made. This translation takes account of amendments to the Tobacco Act up to 1 July, 2005. References to the laws adopting the amendments are given in parentheses and show the reference number of the law in question.

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## Introductory provision

**Section 1** Due to the risks to health and nuisance connected with the consumption of tobacco and exposure to tobacco smoke, provisions are laid down by this Act regarding

- restrictions on smoking in some premises and spaces and in some areas outdoors,
- a smoke-free working environment,
- health warnings and declaration of content on the packaging of tobacco products,
- restrictions on trade and the right to import tobacco products,
- marketing of tobacco products and use of certain trademarks in marketing of other products or services, and
- product control, etc. of tobacco products. (SFS 2005:369).

## Restrictions on smoking in some premises and spaces and in some areas outdoors

**Section 2** Smoking is prohibited

1. in premises intended for child care, school activities or other activities for children or young people and in school playgrounds as well as in the equivalent outdoor areas at preschools and after-school recreation centres,
2. in premises intended for health and medical care,
3. in premises intended for joint use in residential accommodation and at establishments offering special service or care,
4. on means of transport in domestic public transport or in premises and other spaces intended for use by those travelling by such means of transport,
5. in restaurants and other establishments serving food or beverages, except when the service is provided outdoors,
6. in premises other than those referred to in Sections 1 to 5 when a public meeting or public event as referred to in Chapter 2, Sections 1 to 3 of the Public Order Act (1993:1617) is arranged and in premises intended to be used by those taking part in such a meeting or event, and
7. in premises other than those referred to in Sections 1 to 6 if the general public has access to the premises. (SFS 2004:485).

**Section 3** Repealed by (SFS 1994:98).

**Section 4** In hotels and other establishments where temporary accommodation is offered on a commercial basis, smoking is to be prohibited in a certain number of the rooms or the equivalent. Section 2, item 4 shall apply instead as regards sleeping-compartments and other spaces made available for temporary accommodation on means of transport in domestic public transport. (SFS 2004:485).

**Section 5** The provisions of Section 2 do not apply regarding housing and other premises for accommodation which are not temporary. (SFS 1994:98).

**Section 6** Smoking is, notwithstanding the provisions of Section 2, items 2 to 4, 6 and 7, permitted in parts of the premises or other spaces referred to there, if these parts have been specially set aside for smoking. The same applies to premises referred to in Section 2, item 1 and which are available only to members of staff.

Notwithstanding the provision of Section 2, item 5, smoking is permitted in restaurants and in other establishments serving food or beverages in separate rooms that are specially set aside for smoking. Rooms where smoking is permitted may only comprise a small part of the area of such establishment. The rooms shall be located so that visitors do not have to pass through them. Employees shall only need to stay in the rooms temporarily, when people are smoking. Service or other similar activities may not be conducted in the rooms when people are smoking. However, this does not apply to such activities that are directly linked to the function of the rooms. Food or beverages may not be brought into these rooms.

Deviations from Section 2, items 1 to 4, 6 and 7 and Section 4 are permitted if there are special reasons for so doing due to the nature of the space or the area available, its mode of usage or other circumstances. (SFS 2004:485).

**Section 6 a** The Government, or the authority appointed by the Government, may issue regulations on design and ventilation of such rooms referred to in Section 6, second paragraph. (SFS 2004:485).

**Section 7** A person who in his or her capacity of owner or who otherwise disposes over premises, another space or an outdoor area subject to any of the provisions of Section 2 and 4 is responsible to ensure compliance with the provisions.

If any person smokes despite being requested not to smoke where smoking is not permitted, this person may be required to leave. (SFS 1994:98).

## Smoke-free working environment

**Section 8** In cases other than those intended in Sections 2 and 4, the employer is responsible for ensuring that an employee is not against his or her will exposed to tobacco smoke at the workplace or in similar premises where the employee is active. Here the persons referred to in Chapter 1, Section 2, first paragraph and Section 3 of the Work Environment Act (1977:1160) are to be considered as employees. (SFS 1994:98).

## Warning texts, etc.

**Section 9** Packaging of a tobacco product intended to be made available to consumers commercially within the country is, to the extent and in the way laid down by the Government, to be furnished with

1. messages and illustrations informing of the health risks connected with the use of tobacco and of treatment of nicotine dependence (health warnings),
2. declarations informing of the harmful substances which the tobacco product contains or gives rise to (declaration of content),
3. information to ensure the identification of the place and time for manufacture of the tobacco product.

The Government may empower an authority to issue regulations under the first paragraph. (SFS 2002:586).

**Section 9 a** Messages, names, trademarks and figurative or other signs creating the impression that a particular tobacco product is less harmful than others may not be used on tobacco product packaging. (SFS 2005:369).

**Section 10** The manufacturer or importer is responsible for packaging of a tobacco product being furnished with health warnings and a declaration of contents.

**Section 11** A tobacco product may not be supplied to consumers commercially within the country if it lacks a health warning or declaration of content or if the health warning or the declaration is manifestly incorrect.

## Trade, etc.

### Age limit

**Section 12** Tobacco products may not be sold or distributed commercially in another way to persons under the age of 18. A person who distributes tobacco products shall ensure that the recipient has attained the said age.

If there are special reasons to assume that a tobacco product is intended to be distributed to a person who has not attained the age of 18, the product may not be distributed.

There shall be a clear and prominent indicator with information about the prohibition on selling or distributing such products to persons under the age of 18 at each point of sale of tobacco products. (SFS 2005:369).

**Section 12 a** Tobacco products that are sold to consumers shall be provided in such a way that it is possible to verify the age of the recipient. This also applies when the sale is conducted through vending machines, via mail-order or the like. (SFS 2005:369).

### Individual sales

**Section 12 b** Tobacco products that are sold to consumers may not be provided in the form of individual cigarettes or in packets of less than 19 cigarettes. (SFS 2005:369).

### Notification and self-inspection

**Section 12 c** A business operator who provides tobacco products for sale to consumers shall give notification of sales to the municipality in which the sales are conducted. This notification shall be given no later than by when the sales have started.

The business operator shall exercise special supervision (self-inspection) over the sale and assume responsibility for the operation having an appropriate self-inspection programme. (SFS 2005:369).

### Import

**Section 13** A tobacco product may only be imported to the country by persons who have attained the age of 18.

## Marketing

### Advertising and other marketing

**Section 14** A business operator who markets tobacco products to consumers may not make use of commercial advertisements in

1. periodicals nor in any similar publications to which the Freedom of the Press Act applies,
2. radio broadcasting or television programmes or satellite television broadcasting subject to the Radio and Television Act (1996:844), or
3. other transmissions or technical recordings to which the Fundamental Law on Freedom of Expression applies.

Other marketing of tobacco products to consumers than as referred to in the first paragraph is also prohibited. However, this does not apply

1. in printed material to which the Freedom of the Press Act applies or in transmissions or technical recordings to which the Fundamental Law on Freedom of Expression applies,
2. marketing that only comprises providing tobacco products for sale, or
3. commercial communications inside the points of sale that are not invasive, seeking or encourage the consumption of tobacco.

Commercial communications as referred to in second paragraph, item 3 shall to the extent possible be placed so that they are not visible from outside of the point of sale. (SFS 2005:369).



## Trademarks

**Section 14 a** A business operator who either markets a product other than a tobacco product or a service to consumers may not use a trademark that is completely or partly used for a tobacco product or that in accordance with the applicable provisions on trademarks is registered or has been established by long usage for such product, if the marketing is effected in commercial advertisements in

1. periodicals or in any similar publications to which the Freedom of the Press Act applies,
2. radio broadcasting or television programmes or satellite television broadcasting subject to the Radio and Television Act (1996:844), or
3. other transmissions or technical recordings to which the Fundamental Law on Freedom of Expression applies.

If a business operator uses such a trademark as referred to in the first paragraph in connection with marketing to consumers in some other way than as referred to in the first paragraph, the business operator shall observe the moderation that is called for by the distinctive sign also being associated with the tobacco product.

The provisions of the first and second paragraphs shall not be applied

1. as regards a trademark that only to a limited extent occurs in marketing of tobacco products,
2. as regards a trademark that appears in the form that clearly differs from the appearance of the tobacco product's distinctive sign, or
3. in other cases where it would be unreasonable. (SFS 2005:369).

## Sponsorship

**Section 14 b** Manufacturers, wholesale distributors and importers of tobacco products may not sponsor an event or an activity to which the general public has access or which may be assumed to have a cross-border effect, if the sponsorship may be assumed to promote the sale of tobacco products.

The Radio and Television Act (1996:844) contains provisions concerning prohibitions on sponsorship of programmes in radio and television. (SFS 2005:369).

## Sanctions under the Marketing Act

**Section 15** A marketing measure in violation of Section 9 a, or Sections 14 to 14 b shall when applying Sections 4, 14 and 19 of the Marketing Act (1995:450) be considered as being improper to consumers. A market disruption fee under the provisions of Sections 22 to 28 of the Marketing Act may be incurred for marketing measure in violation of Section 14, first paragraph, item 2 or 3 or Section 14 a, first paragraph, item 2 or 3. (SFS 2005:369).

## Product control, etc.

**Section 16** A manufacturer or importer of a tobacco product shall, to the extent prescribed by the Government, provide information to the National Institute of Public Health regarding the constituents and quantities of such tobacco products and also regarding their health effects. (SFS 2002:586).

**Section 17** If there are special health reasons, the Government may prescribe that certain kinds of tobacco products may not be manufactured in or be imported to Sweden for sale to consumers.

**Section 18** The Government, or an authority appointed by the Government, may issue regulations on limit values for harmful substances which a tobacco product may contain or give rise to, and also regarding the measurement and monitoring of such limits. A product that does not fulfil these provisions may not be manufactured in or sold in Sweden. Nor may such a product be imported to Sweden for sale to consumers. (SFS 2002:586).

**Section 18 a** A product that does not satisfy regulations issued under Section 18 may not be exported to a country outside the European Community. (SFS 2002:586)

**Section 18 b** Manufacturers, wholesale distributors and importers of tobacco products shall provide information to the National Institute of Public Health about their costs of advertising, other marketing and sponsorship of such products.

The Government may issue regulations concerning the scope of the duty to provide information. (SFS 2005:369).

## Supervision

**Section 19** Supervision at the national level of compliance with this Act and regulations issued under the Act shall be exercised by

1. the Work Environment Authority as regards
  - a) premises and other spaces as referred to in Section 2 and which are made available only for staff, and
  - b) premises and spaces to which Section 8 is applicable,
2. the National Institute of Public Health as regards
  - a) environments as referred to in Section 2 and which are not only made available for staff,
  - b) premises as referred to in Section 4,
  - c) health warnings, etc. as referred to in Sections 9, 10 and 11,
  - d) trade as referred to in Sections 12 to 12 b and notification and self-inspection as referred to in Section 12 c,
  - e) product control, etc. as referred to in Sections 16 to 18, and

f) information about costs of marketing as referred to in Section 18 b, and

3. the Consumer Ombudsman as regards marketing as referred to in Section 9 a or Sections 14 to 14 b.

The provisions of the Marketing Act (1995:450) shall apply in connection with the supervision of the Consumer Ombudsman. (SFS 2005:369).

**Section 19 a** The immediate supervision of compliance with this Act and regulations issued under the Act shall be exercised by

1. the Work Environment Authority as regards premises and other spaces for which the Authority exercises supervision at the national level, and

2. the committee(s) appointed by the City Council as regards

a) the environments and premises for which the National Institute of Public Health exercises supervision at the national level,

b) the provisions on trade, etc. contained in Sections 12 to 12 c, and

c) the provisions on marketing, etc. in Sections 14 and 14 a as regards marketing measures at or adjacent to points of sale.

The County Administrative Board shall exercise supervision within the county as provided in the first paragraph, item 2. The County Administrative Board shall

1. monitor the activities of the municipalities and assist the municipalities with information and advice, and

2. promote collaboration between the various supervisory authorities and between supervisory authorities and others. (SFS 2005:369).

**Section 19 b** A municipality may impose a charge for its supervision on a party who conducts a business operation with tobacco products that are subject to a notification obligation. (SFS 2005:369).

**Section 20** The National Institute of Public Health may issue orders and prohibitions required to ensure compliance with the provisions of Sections 9, 10, 11 and Sections 16 to 18 or regulations issued under these sections.

A supervisory authority as referred to in Section 19 a may in its supervisory work issue the orders or prohibitions necessary to ensure compliance with the Act or regulations issued under the Act.

The supervisory authority may impose a default fine in a decision on an order or prohibition. This fine may not be converted. (SFS 2005:369).

**Section 21** A supervisory authority may decide that a tobacco product is to be taken charge of if it is offered for sale or is clearly intended to be offered for sale in violation of the Act or regulations issued under the Act. If required, the Enforcement Service Authority shall render assistance when the product is to be taken charge of.

If a product has been taken charge of, the owner may, under the control of the supervisory authority, undertake the rectifications needed to enable the product to be sold. The product shall be returned if it can be shown to be probable that it will not be sold in violation of the Act or regulations

issued under the Act. Otherwise, the product may be destroyed by the supervisory authority.

A decision made under the first paragraph will take effect immediately unless otherwise provided by the decision.

**Section 22** A supervisory authority is entitled on request to receive information, documents, samples of products, and the like required for the authority to be able to exercise supervision under this Act.

**Section 23** In order to fulfil its responsibilities under this Act, a supervisory authority is entitled to gain access to areas, premises and other spaces, which are affected by the Act or by regulations issued under the Act, and may carry out investigations and take samples there. No compensation shall be paid for samples taken. The Enforcement Service Authority shall render the requisite assistance for supervision.

The Government, or the authority appointed by the Government, may issue regulations as regards the obligation to compensate the costs of taking and investigating samples incurred by a supervisory authority.

**Section 24** Any person who has been involved in a matter under this Act may not without authorisation reveal or in any way make use of what he or she has learnt concerning trade secrets or commercial conditions.

The provisions of the Secrecy Act (1980:100) are applicable to official activities.

## Appeals

**Section 25** A decision made by a committee as referred to in Section 19 a under this Act or regulations issued under the Act can be appealed against to the County Administrative Board. A decision of the County Administrative Board can be appealed against to a general administrative court.

Decisions made by the National Institute of Public Health under Section 20, first paragraph or Section 21 or made by the Work Environment Authority can be appealed against to a general administrative court.

Leave to appeal is required for appeals to the Administrative Court of Appeal. (SFS 2005:369).

**Section 26** No appeal may be made against a decision on regulations under Section 18 or 23, second paragraph made by an authority on the basis of a delegation of power.

Manufacturers of tobacco products and importers of tobacco products intended for sale to consumers in this country may appeal to the Government against regulations as referred to in Section 9 that have been issued by an authority under delegated powers. (SFS 1996:941).

## Criminal liability

**Section 27** A person who intentionally violates Section 11 or a person who intentionally or through carelessness breaches Section 12, first or second paragraph, shall be sentenced for unlawful tobacco sales to a fine or to imprisonment for at most six months.

Criminal liability shall not be imposed if the act is considered to be petty.

Criminal liability shall not be imposed under this Act on a person who has violated a default fine order or a default fine prohibition for an act that is subject to the order or prohibition. (SFS 2005:369).

**Section 28** The Law on Penalties for Smuggling (2000:1225) contains provisions on liability for unlawful import and unlawful export of tobacco products. (SFS 2002:586).

## Transitional provisions

### *1996:941*

This Act enters into force on 1 January 1997, but shall not be applied, as regards Section 25, fourth paragraph, in those cases where the first decision in the matter was made prior to that date.

### *2005:369*

1. This Act enters into force, as regards Section 12 b on the date determined by the Government, and otherwise on 1 July 2005.

2. Equipment for outdoor advertising at points of sale that is in use at the time the Act enters into force may be used until the end of 2005.







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