

Federal law for protection against secondhand smoke

of October 3, 2008

The Federal Assembly of the Swiss Confederation,

In light of Arts. 110, sub-paragraph 1, letter a, and 118, sub-paragraph 2, letter b, of the Constitution,¹

In light of the report of the Commission of Social Security and Public Health of the National Council of June 2007,²

In light of the opinion of the Federal Council of August 22, 2007,³

Orders:

Art. 1 Scope

1 This law governs protection against secondhand smoke in enclosed spaces accessible to the public or that serve as a workplace for several persons.

2 The following spaces are particularly considered to be spaces accessible to the public:

- a. government buildings;
- b. hospitals and other health care establishments;
- c. daycare centers, shelters, and similar establishments;
- d. correctional institutions;
- e. educational institutions;
- f. museums, theatres and cinemas;
- g. athletic facilities;
- h. hotel and restaurant establishments (including those operated as a non-agricultural accessory activity pursuant to Art. 24b of the Law of June 22, 1979 on land management,⁴ independent of cantonal permit regimes;
- i. public transportation buildings and vehicles;
- j. stores and shopping centers

3 Places for private use are not subject to this law.

RS 818.31

6285

¹ RS 101

² FF 2007 5853

³ FF 2007 5877

⁴ RS 700

Art. 2 Prohibition of smoking

1 It is prohibited to smoke in the spaces specified in Art. 1, sub-paragraphs 1 and 2.

2 The operator or manager of an establishment may authorize smoking in specially fitted out places where no employees work, as long as they are segregated from other spaces, designed as such, and equipped with adequate ventilation. Under exceptional circumstances and subject to their explicit agreement, employees may work in smoking areas in hotel and restaurant establishments. Such an agreement must comprise an integral part of the employment contract.

3 The Federal Council shall issue special provisions concerning the planning of smoking areas and requirements for ventilation. It shall also control the situation in correctional institutions as well as establishments for permanent or long-term lodging.

Art. 3 Smoking establishments

An authorization for a smoking establishment is to be granted upon request to restaurant establishments that meet the following requirements:

- a. they have a surface area available to the public equal to or less than 80 m²;
- b. they have adequate ventilation and are clearly recognizable from the outside as smoking establishments;
- c. they only employ persons whose employment contract stipulates that they agree to work in a smoking establishment.

Art. 4 Cantonal provisions

Cantons may issue stricter provisions for the protection of health.

Art. 5 Penal provisions

1. Anyone who commits any of the following infractions, whether intentionally or through negligence, is subject to a maximum fine of 1000 francs:

- a. violation of the prohibition of smoking as stated in Art. 2, sub-paragraph 1;
- b. setting up of smoking areas that do not meet the requirements set forth in Art. 2, sub-paragraph 2;
- c. operation of a smoking establishment without a permit or as holder of a permit that does not designate it as such.

2 Criminal prosecution is incumbent upon the cantons.

3 The application of Arts. 59 to 62 of the Law of March 13, 1964 concerning employment⁵ does not exclude the application of sub-paragraph 1, unless infractions are involved relating to protection of the health of employees.

⁵ RS 822.11

Art. 6 Implementation

1 The Federal Council shall issue the provisions for implementation.

2 The cantons are charged with the implementation of this law.

Art. 7 Referendum and entry into force

1 This law is subject to a referendum.

2 The Federal Council shall set the date for its entry into force.

The National Council, October 3, 2008

Council of States, October 3, 2008

President: André Bugnon

President: Christoffel Brändli

Secretary: Pierre-Hervé Freléchoz

Secretary: Philippe Schwab

Expiration of period for referendum and entry into force

1 The period for referendum concerning this law expired on January 22, 2009, without having been used.⁶

2 This law enters into force on May 1, 2010.

October 28, 2009

On behalf of the Swiss Federal Council:

The President of the Confederation, Hans-Rudolf Merz

The Chancellor of the Confederation, Corina Casanova

⁶ FF 2008 7483

