

MINISTRY OF HEALTH

REPUBLIC OF TOGO
Labor – Freedom – Country

DECREE No. 2012 – 071 / PR
Concerning regulation of points of sale of tobacco and its derivative products

THE PRESIDENT OF THE REPUBLIC,

In consultation with the Minister of Health;

In light of the Constitution of October 14, 1992;

In light of Law n° 66-22 of December 23, 1966, concerning the Customs Code;

In light of Law n° 99-011 of December 28, 1999, concerning the organization of competition in Togo;

In light of Law n° 2010-017 of December 31, 2010, concerning the production, commercialization, and consumption of cigarettes and other tobacco products;

In light of Decree n° 2012-006 /PR of March 7, 2012, concerning the organization of ministerial departments;

In light of Decree n° 2012-051/PR of July 19, 2012, concerning the nomination of the Prime Minister;

In light of Decree n° 2012-056/PR of July 31, 2012, concerning the composition of the government, as amended by Decree n° 2012-060/PR of August 24, 2012;

The Council of Ministers having been notified, hereby

DECREES:

Article 1: Purpose

This Decree defines the modalities for the application of measures concerning points of sale of tobacco and its derivative products in Togo.

Article 2: Scope of application

The provisions of this Decree are applicable to the sale, display and posting of notices at points of sale, and to the protection of certain vulnerable groups against the harmful effects of tobacco and its derivative products.

Article 3: Definitions

For the application of this Decree, the following definitions shall apply:

- *Point of sale of tobacco*: any fixed location permanently enclosed by partitions or continuous walls extending from floor to ceiling, to which customers cannot have access except through an opening fitted with a door, and in which the operator of these premises engages in the retail sale of tobacco and its derivative products;
- *Vendor of tobacco and its derivative products*: any person, other than a tobacco grower or manufacturer or distributor of tobacco and its derivative products, who possesses or holds an amount of tobacco greater than what he needs for his own consumption;
- *Cigar lounge*: any place specially arranged for the smoking of cigars or pipe tobacco.

Article 4: Prohibition of sale of tobacco to children

1. It is prohibited to sell or to give away for free tobacco and its derivative products to any child.
2. It is prohibited for any child to sell or distribute tobacco and its derivative products.
3. Any person wishing to purchase tobacco and its derivative products, or to be admitted to a cigar lounge shall be obliged to provide proof that he is of age.
4. Proof of age may be provided by the presentation of a national identity card or voter registration card, or any other identity document.
5. In the prosecution of any violation of the fourth sub-paragraph of this article, the defendant shall not incur any penalty if he proves that he acted with diligence to ascertain the age of the person, and that he had reasonable grounds for believing that the latter was of age.

Article 5: Retail sale of tobacco and its derivatives

The retail sale of tobacco must be done at a point of sale for tobacco, in the physical presence of the operator of the point of sale of tobacco, or his employee, and the purchaser.

The operator of a point of sale of tobacco may not sell tobacco to an adult if he knows that the latter is buying it for a minor.

The operator of a point of sale of tobacco must store the tobacco in such a fashion that the customers cannot have access to it without the assistance of an employee.

Article 6: Types of sale that are prohibited

1. The operator of a place or store may not have installed, maintained or left in place a vending machine for the sale of tobacco and its derivative products.
2. It is prohibited to operated a point of sale for tobacco and its derivative products in the following places:
 - places or facilities of a health institution or social service office;
 - places or buildings made available to a school, a vocational training center, an adult education center, a public or private educational institution, or an institute or university;
 - places or facilities of a kindergarten or daycare center;
 - Places where sporting events, cultural, artistic or entertainment activities occur;
 - Establishments authorized to operate as cafés, taverns, bars or restaurants;
 - In places where catering activities are performed.
3. The Minister of Health can, via administrative order, indicate other places where it is prohibited to operate a point of sale for tobacco and its derivative products.
4. The operator of a point of sale of tobacco may not sell cigarettes except in packs containing at least twenty (20) cigarettes.

Article 7: Display of tobacco and its derivative products

The operator of a point of sale of tobacco and its derivative products may not display tobacco or its packaging or an image of its packaging in public view.

Only a text list of products indicating their prices and a health warning in accordance with legal provisions is authorized.

Article 8: Posting of notices

The operator of a point of sale of tobacco must post a notice of the prohibition of sale of tobacco to children, as well as the health warnings in force in accordance with the administrative order of the Minister of Health.

These notices must be installed in public view, or close to each counter or cash register used for the sale of tobacco and its derivative products.

It is prohibited to remove or alter such notices.

Article 9: Signs and billboards indicating points of sale

Retailers must indicate the presence of a tobacco shop by a sign or billboard on the front of their points of sale, with the statement "TOBACCO," in black on a white background, followed by the health warning: "Smoking causes a slow and painful death," in the same font and at least the same size as the word "TOBACCO," all of it centered in the middle of the sign.

Additional signs indicating points of sale for tobacco and its derivative products are prohibited.

Article 10: Follow-up and evaluation

The National program for tobacco control requires periodic follow-up and evaluation of the implementation of measures regulating points of sale of tobacco and its derivative products, in order to accomplish the following:

- To encourage political leaders and the public to support the strengthening and extension of legislative and regulatory provisions;
- To gather information on the results achieved;
- To observe and make known efforts undertaken by the tobacco industry to undermine the implementation of such measures.

Article 11: Penal provisions

Any infraction of these provisions is susceptible to the punishments set forth in Chapter VI and Articles 25, 27, 28, 29 and 30 of Law No. 2010-017 of December 31, 2010.

Article 12: Transitory provisions

Persons subject to the provisions of this Decree shall have a period of nine (9) months counting from its publication to comply with it.

Article 13: Final provisions

The Minister of Health, the Minister of Commerce and the Promotion of the Private Sector, and the Minister of Security and Civil Protection are each charged, within the scope of their respective jurisdictions, to execute this decree, which is to be published in the Official journal of the Republic of Togo.

Done in Lomé, September 12, 2012

[STAMP:] Republic of Togo – The President
The President of the Republic

The Prime Minister

SIGNED

SIGNED
Kwesi Séléagodji AHOOMEY-ZUNU

Faure Essozimna GNASSINGBE

The Minister of Commerce and
Promotion of the Private Sector

The Minister of Health

SIGNED

SIGNED

Bernadette E. LEGZIM-BALOUKI

Professor Kondi Charles AGBA

The Minister of Security and Civil Protection

SIGNED

Colonel Damehame YARK

For amplification
The Secretary General
of the Office of the President of the Republic
[STAMP:] Republic of Togo – Secretary General – Office of the Presidency of the Republic
[illegible signature]

Patrick Daté TEVI BENISSAN