



LAW OF MONGOLIA

01 July 2005

Government Palace, Ulaanbaatar

TOBACCO CONTROL

(revised version by 2012)

CHAPTER ONE GENERAL PROVISIONS

Article 1. The Purpose Of The Law

1.1 The purpose of this law is to define the legal framework of tobacco control on protection of the population from the negative consequences of tobacco consumption and passive smoking (exposure to tobacco smoke) and to regulate the relations raised in connection with responsibilities of the state, citizens, business entities and organizations.

Article 2. The legislation on Tobacco Control

2.1. The legislation on Tobacco Control shall consist of this Law and other legislative acts enacted in conformity with them.

2.2. If International Treaty, to which Mongolia is a Party, is inconsistent with this Law, then provisions of International Treaty shall prevail.

“2.3. The state, citizen, private entities and organization shall follow the Framework convention on tobacco control, Protocol to eliminate illicit trade in tobacco products, Guidelines for implementation of the convention as same as national legislation.”

Article 3. Definitions of The Law

3.1. The following definitions used in this Law shall be understood in the below mentioned meanings:

“3.1.1. The definition “Tobacco products” means products entirely or partly made of the leaf of tobacco as raw material which are manufactured to be used for smoking, snuffing and chewing,” shall be replaced with “Tobacco products/called “tobacco” in further” means all type of smoky and non-smoky consumer products entirely or partly made of the leaf of tobacco as raw material which are manufactured to be used for smoking, snuffing and chewing,

3.1.2. “cigarette pack, encasement, tobacco packages” means any type of primary, secondary and further level packages boxes, insert reminders of the tobacco products that are used in wholesale and retail trade.”

3.1.3. "to be inhaled by tobacco smoke" means involuntary inhalation of tobacco smoke, exhaled by smokers;

3.1.4. "tobacco industry" means legal entity which provides tobacco manufacturing, distribution and importation of tobacco products;

3.1.5. "tobacco advertising" means any form of communication, with the aim of promotion of tobacco manufacturing, sales and usage;

3.1.6. "tobacco control" means a range of demand, supply and harm reduction policy measures that aim to improve the health of a population by reducing their consumption of tobacco products and exposure to tobacco smoke;

3.1.7. "smoke-free" is defined as an environment where smoking is not allowed and air in which tobacco smoke can not be seen, smelled, sensed and measured;

3.1.8. "indoor space" is defined as a space covered by a roof, or enclosed by all wall, septum or sides and regardless of whether the structure is permanent and temporary;

3.1.9. "brand stretching" is defined when a tobacco brand name, trademark, logo and other distinctive feature is connected with a non-tobacco product or service in such a way that the tobacco product and the non-tobacco product or service are likely to be associated;

3.1.10. "brand sharing" is defined when a brand name, trademark, logo and other distinctive feature on a non-tobacco product or service is connected with a tobacco industry in such a way that the tobacco industry and the non-tobacco product or service are likely to be associated;

3.1.11. "the illicit trade of tobacco products" means any illegal action prohibited by the law which are related to manufacturing, shipping, receiving, owning, distributing and selling, and any activity that aims to promote such actions."

Article 4. State Policy on Tobacco Control

4.1. The State Policy on Tobacco Control shall be intimate part of the State Policy on Public Health and shall be guided by the principles set out below:

4.1.1. prevent the initiation of the minors and reduce the consumption of tobacco products by sustainable financing of tobacco control and health promoting activities through tax increases reaching to the level indicated in the Convention Framework on Tobacco Control;

4.1.2. protect the public health policies from negative influences of tobacco industry withing the legal framework;

4.1.3. support for participation of private and non-governmental organizations without any affiliation with tobacco industry in developing and implementation of policy and programmes on tobacco control;

4.1.4. increase the accessibility of scientific and comprehensive information, education and communication activities on health hazards, economic and environmental consequences of tobacco consumption and passive smoking and affordability of treatment of nicotine addiction;

4.1.5. require the tobacco industry and those “legal entities” working to further its interests to operating and acting in the manner that is accountable and transparent;

4.1.6. it is prohibited to give rewards, tax discounts and other fringe benefits to the tobacco industry;

4.1.7. treat tobacco industry equally regardless of form of ownership in the implementation of Tobacco Control Law;

4.1.8. tobacco industry and those working to further its interests shall not be involved directly or indirectly in drafting, endorsing and implementing tobacco control legislation or policy;

4.1.9. all branches of government and the public shall be provided with information about strategies and tactics used by the tobacco industry including setting and implementation of the government’s public health related policies and need to be protected from vested interests of the tobacco industry and its advertisement, promotion and sponsorship activities.

“4.1.10. When defining and executing the state policy regarding tobacco control, in accordance with Article 10 of the Mongolian Constitution the concept of Framework convention on tobacco control and as per same law Article 16, the citizens’ rights to healthy and safe environment and to be protected against environmental pollution and ecological imbalance, the right to the protection of health shall be considered as the primary basis. The State shall not approve any policy, program, legislation violating these legislative acts.”

“4.1.11. Prohibiting the funding from the state and local budgets to establish a smoking point, prohibit government institutions to create a cigarette smoking point.”

“4.1.12. The state shall support and fund periodically a scientific based propaganda and advertisement regarding non-communicable disease, cigarette adverse effect, cigarette smoke negative impact, about positive outcomes from refusal from cigarettes and other subjects.”

“4.1.13. The State shall support and fund medical measures and services to cure tobacco dependence, smoking rejection initiatives and shall support policy to produce or import medicines without imposition of any tax.”

“4.1.14. Any condition and regulation to release a cigarettes from the excise tax shall be rejected and free zones, duty free shops and other places shall be subject to excise tax for cigarettes.”

Article 5. Basic duties of the state, citizen and legal entity on tobacco control

5.1. State organization shall have the following duties on tobacco control:

5.1.1. the State Central Administrative Body in charge of health matters, with respect

to tobacco control, shall expand cooperation of government and non-governmental organizations, support initiatives and participation of non-governmental organizations, and provide overall management and coordination;

5.1.2. the State organizations at all levels and local self-governance authorities, to implement Framework Convention on Tobacco Control within the scope of policy on health promotion and protection, with respect to issues on tobacco control, shall work independently within their own competency or in cooperation with other institutions;

5.1.3. any personnel working for setting and implementing public health policy and public education activities shall to forbid to partner and to give reward, with legal entities or individuals working for tobacco industry or for the industry's interests;

5.1.4. dismiss any offer proposed by the tobacco industry when there is conflict of interest in implementing the Tobacco Control Law;

5.1.5. government official working in the post of setting and implementing the Tobacco Control Law shall not partner with other workers in resolving issues related to vested interests and thereby reject such offers;

“5.1.6. to introduce a system that detects, intercepts and controls any type of illicit trade of tobacco products, which meets the requirements of the Framework Convention on Tobacco Control.

5.1.7. Considering request from the private entity, and based on opinion of public citizens' session and NGOs, the citizens' representatives session shall decide the location of permitted points to be built in outdoor public areas apart from prohibited places stated in Article 9 of this law.”

“5.1.8. to appoint respective employee responsible to oversee at the institutional level implementation of the Law on tobacco control, by adding duties into his/her obligations, to define and execute certain requirements into institutional internal regulation.”

5.2. Citizens and legal entity shall have the following tobacco control related duties:

5.2.1. provide all kinds of support to implement tobacco control measures and to assist individuals to quit smoking, and organize regular activities to prevent from tobacco smoke;

5.2.2. ensure dissemination of scientifically proven information about health hazards, life threatening risks and consequences of smoking including passive smoking;

5.2.3. decline any kind of contributions including donations, aids and sponsorships from the tobacco industry.

5.2.4. permission sign for tobacco smoke must be placed in distance of 15 meters from entrance and the related cost shall be paid by the organization itself” at the permitted points

/ This clause was added on January 29, 2015 /

5.2.5. No more than one permitted point should be built within a building with no less than 300 sqm area which referred to article 9.1.5, 9.1.6 in this law.

/ This clause was added on January 29, 2015 /

“5.2.6. to appoint respective employee responsible to oversee at the legal entity level implementation of the Law on tobacco control, by adding duties into his/her obligations, to define and execute certain requirements into institutional internal regulation.”

5.3. The legal entity producing tobacco shall be responsible for the following provisions on tobacco control:

5.3.1. The name, address, business activities, and other related information of the tobacco industry and its share holders owning more than 20 percent shall be made available and transparent to the public at their web sites; 4

5.3.2. Any standards set by the authorized organization regarding tobacco boxes, pack and packages shall be fulfilled within one year from the day of endorsement.

CHAPTER TWO

THE REGULATION OF TOBACCO MANUFACTURING, TRADE, CONSUMPTION AND ADVERTISING

Article 6. Requirements for tobacco import, export, manufacturing and trade

Article 6. Requirements for tobacco import, export, manufacturing, trade and use

/ The headline of this article was amended on January 29, 2015 /

6.1. The State Administrative Body in charge of inspection shall issue certificate on sanitary condition for tobacco manufacturing, import, export, trade and toxic ingredient of tobacco by each brand of tobacco.

6.2. State Administrative Body in charge of customs will determine the quantity of tobacco products permitted for import for personal use.

6.3. of the standard of maximum content, nicotine and other toxic substances permitted in a tobacco manufacturing, trade, import and export on the territory of Mongolia shall be approved by the National Council on Standardization in consultation with the State Central Administrative Body in charge of health matters.

/ This clause was amended on January 29, 2015 /

6.4. The tobacco products shall carry health warnings, picture, text and messages which shall meet the following requirements:

6.4.1. the picture and text health warning shall cover at least 50% of both front and back sides of front cover of a pipe tobacco or tobacco packages equal to that;

6.4.2. shall be large, visible and clearly written text, describe by pictures or pictograms on health risks caused by tobacco products.

“6.4.3 sigars and cigarillas shall have written health warnings.”

6.5. The health warning, Picture and text and warning sign sample shall be approved by the State

Central Administrative Body in charge of health matters. Six variants of health warning design will be produced during one period and the designs shall be renewed once in every three years

/ This article was added on January 29, 2015 /

6.6. The health warning and other required notes shall be written in Mongolian.

6.7. The following items shall be prohibited in tobacco import, export, manufacturing and trade in the territory of Mongolia:

6.7. The following items shall be prohibited in tobacco import, export, manufacturing, trade and use in the territory of Mongolia:

/ This article was amended on January 29, 2015 /

6.7.1. in case of amount of tar, nicotine and other toxic chemical contents and package's expiration date is not indicated, expired;

6.7.2. less than 20 pieces of cigarettes are to be packed in a cigarette pack while no more than 200 grams of pipe tobacco in a one package;

6.7.3. tobacco packs without health warnings, specified in Article 6.4 of this Law or with warnings, which do not meet the requirement; 5

6.7.4. a sanitary certificate is not issued as indicated in Article 6.1 of this Law;

6.7.5. manufactured in other country with label "Made in Mongolia";

6.7.6. unit packet, package and any outside packaging of tobacco products with terms that a particular tobacco product is less harmful than others or using identical logo, color, branding image and its combination;

6.7.7. the sale of tobacco to and by persons under the age of twenty one;

6.7.8. the sale of cigarettes individually, and sale to exchange with livestock, animals and products of hand-wrapped tobacco and tobacco out of packages from the packed pipe tobacco or tobacco equivalent to that;

6.7.9. the introduction of tobacco vending machines;

6.7.10. the organization of promotional sales in any form and lotteries in order to increase tobacco sales;

6.7.11. the sale of tobacco products without excise tax tag and the name of producing country, manufacturer, importer and the date of manufacturing, without notes of permission to sale in Mongolia, on the packets, cartons and packages of tobacco products;

6.7.12. a sale of tobacco products in prohibited places;

6.7.13. a sale of tobacco through internet;

6.7.14. a sale of tobacco within 500 meters from secondary schools and student dormitories, kindergarten, children's recovery centers;

6.7.15. sale of tobacco in bars and entertainment places.

6.8. Citizen and legal entity in engaging in trading of tobacco and tobacco products shall be responsible for the following provisions:

6.8.1. require to present personal identification (ID) or equivalent document to affirm the age of a purchaser;

6.8.2. in case of violation of the article 6.8.1 of this Law, citizen or legal entity shall not sale the tobacco and tobacco products.

6.9. The Government shall assume the code of conduct over tobacco manufacturing, imports, trade and services.

6.11. It is banned to plant and grow tobacco seeds in the territory of Mongolia.

6.12 It is prohibited to import and export tobacco products through border points other than Sukhbaatar, Zamyn-Uud, Buynt-Ukhaa, Altanbulag and Ulaanbaatar city frontier customs.”

Article 7. Licensing

“7.1. The State Government shall issue the licenses for manufacturing and importing of tobacco products based on the proposal of the State Central Administrative Bodies in charge of health and in charge of trade and industry. The licenses for manufacturing of tobacco products shall be issued on the basis of selection. The regulation for the selection procedures shall be approved by the State Government.

7.2. The licensing for manufacturing of tobacco products and growing of tobacco plants shall be issued for a period of two years and extended for the same period.

7.3. The licensing to sell the tobacco products based on conclusion of state ministry in charge of health shall be issued by the Soum and District Governors.

7.3. The licensing to sell the tobacco products shall be issued by the Soum and District Governors and by Governor of free zone in free zones.

/ This article was amended on February 18, 2015 /

7.4. Other relations raised in connection with licensing of tobacco manufacturing, trade and growing of tobacco plants shall be regulated by the Law on Licensing of Business Activities.

“7.5. Failure to meet requirements of the Framework convention on tobacco control, its’ Protocol, Guidelines for implementation shall be basis for rejection, suspension, non-extension, revocation of the license.”

Article 8. Ban on advertising, promotion and sponsorship of tobacco products

8.1. Tobacco advertising are banned in the following forms:

8.1.1. advertising of tobacco by means of press, media, social media, video clips and teaser movies, fashion show, entertainment, advertising signs, advertisement, sport events, competition, cell phone, and other advanced technologies, billboard, street advertising signs, poster, passenger ticket, and other direct physical forms involving cultural artists and sport celebrities, sportsman and famous public figures by using tobacco, rolling paper, pipe, facilities for rolling cigarettes, and other related materials, name of the tobacco manufacturer, logo, tobacco products, brand-name, trade-mark and its related colors, combination of colors, wording, design, pictures, images, smells and audios of tobacco products and manufacturers;

8.1.2. teach and encourage children to tobacco smoking;

8.1.3. naming of legal entity by the trade name of the tobacco industry and tobacco products;

8.1.4. sponsorship of health, education, cultural, sports and other social events and any donations, contributions or grants by the tobacco industry;

8.1.5. the use of trade-mark, trade-name and logos of the tobacco industry and tobacco products on goods, clothes and consumer items and services;

8.1.6. manufacturing of candies, toys, and other non-tobacco

products imitating tobacco products, distributing them as a free gifts, free samples and advertising tobacco via any forms of lotteries, competitions, contests, sales, promotions, discounts and sponsorships;

8.1.7. all other forms except tobacco name, price and in and direct physical forms in any sales points of tobacco;

8.1.8. include an additional image, message and other information on the outside or inside of tobacco box and packages to attract consumers attention except national standards;

8.1.9. activities of the tobacco industry on “Brand stretching” and “Brand sharing”;

8.1.10. advertise tobacco directly or indirectly by means of 7

financial and material donation by the tobacco industry themselves or through other organization and legal entity;

8.1.11. placing tobacco brand image, logo in nearby of entertainment areas and service organizations;

8.1.12. all kinds of advertisements that could give wrong, misleading information or perception about tobacco.

8.2. All kinds of tobacco advertisement materials shall be prohibited to enter the national border.

8.3. Cross border advertisement, promotion, and sponsorship activities of tobacco is prohibited.

8.4. It shall be prohibited to provide financial, material aids and contributions to social, health, welfare and environmental organizations by the tobacco industry or through another organizations under the name of “Social responsibility”.

“8.5. In every case of any direct and indirect advertisement and display of tobacco product or tobacco use on media, the media entity shall display on the screen “Smoking causes cancer ” in a approved format on its own expense.

Article 9. Smoking restricted areas

9.1. Smoking shall be restricted in the following areas:

9.1.1. all kinds of public transportation vehicles;

9.1.2. entertainment and public service area public parking area;

9.1.3. gasoline stations, factories, manufacturing flammable and explosive substances and machine oil, their storage areas;

9.1.4. public transportation of station, public lounges of hotels,;

9.1.5. public eatery, shops, bar, entertainment places indoor areas, in no less than 50 metres distance from entrance;

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/ This clause was amended on January 29, 2015 /

9.1.6. Indoor areas of companies and business organizations

/ This clause was amended on January 29, 2015 /

9.1.7. airplanes, passenger transportation trains;

9.1.8. kindergardens, all levels of schools, school dormitories,

their out door spaces, entrance of public apartments, elevators, children's playing ground, parks, no less than 50 metres.

9.1.8. Kindergardens, all levels of schools, school dormitories, hospital and nursing homes, their outdoor spaces, entrance of public apartments, elevators, children's playground, parks.

/ This clause was amended on January 29, 2015 /

9.2. Business entities and organizations shall address regulations related to tobacco control measures in their organizational code of conduct and monitor its implementation.

9.3. Business entities and organizations shall place a warning sign informing about prohibition of smoking in entrance areas, waiting lounge, corridors, toilets and other necessary places and it is prohibited to put specifically prepared ashtray.

9.4. Warning sign shall contain name of the organization, telephone numbers, name of an official for receiving the addressed comments, complaints and other information. The design of warning sign shall be endorsed by the state administrative central organization in

CHAPTER THREE.

FINANCING OF TOBACCO CONTROL ACTIVITIES

Article 10. Health Promotion Foundation

10.1. "Health Promotion Foundation" (further the Foundation) shall be established in order to enhance healthy lifestyle and reduce tobacco consumption among population.

10.2. The Foundation shall be comprised by the budget, equal to 10 percent of tobacco excise tax.

10.3. Donation and contribution of the citizen, legal personality, international organization and organization and individual of foreign countries, person destitute of their nationality and other sources not prohibited by the relevant legislation and regulations can be obtained by the Health Promotion Foundation.

10.4. The Foundation's reserves shall be kept at the special Government foundation.

10.5. Based on a decision of the Foundation Board, assets of the Foundation shall be spent for the following purposes:

10.5.1. carry out the programmes and projects on tobacco control and health promotion;

10.5.2. finance the activities on prevention of diseases caused by tobacco consumption and health promotion activities;

10.5.3. carry out the public awareness campaign against tobacco hazards and the monitoring of tobacco control;

10.5.4. improve the supply of medicine, devices and equipment necessary for treatment of tobacco dependence (smoking cessation);

10.5.5. conduct the research on tobacco consumption, its health and economic consequences.

"10.5.5. Public measures, propaganda, advertisements regarding implementation of the Law on Tobacco control, activities of the Committee against tobacco.

10.5.6. Other directions deemed as necessary by the Fund Council."

10.6. The Foundation's charter, composition of the Board and its operational regulations shall be adopted by the Government (Cabinet).

CHAPTER FOUR. MISCELLANEOUS

Article 11. Monitoring the execution of legislation on tobacco control

11.1. The monitoring of the execution of legislation on tobacco control at the state level shall be carried out by the Government, Governors of all levels, State administration agency in charge of professional inspection, police department and other organizations and officials, which have been authorized to this effect, respectively according to their authority; 9

11.2. The administration of business entities, organizations and their affiliates shall monitor the execution of legislation on tobacco control within their framework of authority, stated in the present Law.

11.3. The Association for the protection of consumer's rights and other non-governmental organizations may carry out public monitoring of the execution of legislation on tobacco control.

"11.4. Nationwide Committee against tobacco shall be established under supervision of the Prime Minister, with composition state institution, citizen, civil society and non-governmental organizations, Trade and commerce chamber, customers' protection organizations and other relevant stakeholders."

"11.5. Local Committee against tobacco shall be established under governor of capital, province, sub-province, district and sub-district levels, with a similar public composition stated in the sub-article 11.5 of this law."

"11.6. Governors secretariat and public inspectors shall oversee implementation of the Law on tobacco control at the sub-district level."

"11.7. Any citizen has a right to demand not to sell, smoke in prohibited areas, not to trash cigarette boxes and insert reminders out of trashbox. A person connected with cigarette or tobacco seller must follow this demand. In case of failure obeying a demand, a citizen shall inform police officer or governors' secretariat."

"11.8. In case of video recording of tobacco use indoor or prohibited places, an institutional management or governor's secretariat must execute measures for imposing certain punishment to a guilty person."

Article 12. Filing complaints

12.1 Citizens and legal personality can file complaints to the related bodies, officials and courts if they consider to have suffered their rights and legal interests due to violation of laws and regulations on tobacco control.

Article 13. Liability for offenders of legislation

13.1. In case of the violation of the legislation on Tobacco Control, Governors of the soum,

district, bag, horoo and an authorized police officer and state inspector, shall impose the following administrative penalties on the guilty person for the offence, if the offence is not punishable under the Penal Code:

13.1.1. in case of the violation of the article 6.4, 6.6, 6.7.1- 6.7.8, 6.7.10 - 6.7.12, 6.7.14, 6.7.15, 6,8, 8.2 of this Law, tobacco, illegal revenues and adversiment materials shall be confiscated and the offending citizen shall imposed fines of MNT 50.000, official and business entities shall be imposed fines in MNT equivalent to 10-25 times of minimum wage of labour market, legal entities 25-50 times respectively;

13.1.2. in case of the violation of the article 6.7.9 of this Law, tobacco, illegal revenues and tobacco vending machine shall be confiscated and the offending citizen shall be imposed fines of MNT50.000, legal entity fines of MNT300.000-350.000 and official and business entities shall be imposed fines in MNT equivalent to 10-15 times of minimum wage of labour market;

13.1.3. in case of the violation of the article 6.7.13 of this Law, the internet web site shall be closed down not less than one year;

13.1.4. in case of the violation of the article 8.1.1-8.1.3, 8.1.5-8.1.12 of this Law, illegal revenues shall be confiscated and the offending citizen shall be imposed fines of MNT50.000, official and business entities shall be imposed fines in MNT equivalent to 10-25 times of minimum wage of labour market, legal entities 25-50 times respectively;

13.1.5. in case of the violation of the article 8.1.4 of this Law, the offending official and business entities shall be imposed fines in MNT equivalent to 10-25 times of minimum wage of labour market, the legal entities 25-50 times respectively;

13.1.6. in case of the violation of the article 9.1 of this Law, the offending citizen shall be imposed fines of MNT50.000, in case of offender is under 18 years, the parents, caretakers, guardians will be imposed fines of MNT50000; 10

13.1.7. in case of the violation of the article 5.1.17, 9.2 of this Law, the offending business entities shall be imposed fines in MNT equivalent to 10-25 times of minimum wage of labour market and in case of the violation of the article 9.3 of this law, the offending citizen shall be imposed fines in MNT equivalent to 10-25 times of minimum wage of labour market.

13.2. In case of the violation of the article 7.1 of this Law, the offending business entities shall be regulated by the Law.

13.3. In case of the violation of the article 13.1.1-13.1.4 and 13.1.6 of this Law two and more times, the issues related to revocation of licensing of the offending business entities shall be regulated by the Law on Licensing of Business Activities.

Article 14. Entry into force

Entry into force of this Law will start from 1 March of 2013.

Chairman of the State
Great Hural of Mongolia

Ts.Nyamdor