

Law on Tobacco Control

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OFFICIAL TRANSLATION

REPUBLIC OF LITHUANIA LAW ON TOBACCO CONTROL

20 December 1995 No I-1143
Vilnius

(As amended on 11 May 2006 – No X-605)

CHAPTER I GENERAL PROVISIONS

Article 1. Purpose of the Law

1. This Law shall regulate relations incidental to the growing of tobacco, the manufacture, marketing, storage, transportation, entry, import, advertising, consumption, promotion and sponsorship of the purchase and/or consumption of tobacco products and shall also establish the framework for state control of tobacco in the Republic of Lithuania.

2. Taking account of the fact that individual and public health constitute one of the most important values of society, this Law shall have the objective of reducing the consumption of tobacco products in the Republic of Lithuania, their accessibility (particularly to minors) and harmful effects of their use on human health and the economy.

3. Tobacco products shall be attributed to specific products, the manufacture, marketing, entry, import, advertising and consumption of which (including other tobacco product-related activities), is subject to a special state legal regulation under this and other laws and legal acts.

4. The provisions of this Law shall be in compliance with the EU legal acts listed in the Annex.

Article 2. Definitions

1. “**Tobacco**” shall refer to the genus *Nicotiana* (*Nicotiana tabacum*, *Nicotiana rustica* and other species) of the *Solanaceae* family, whether genetically modified or not, as well as the leaves and other parts of the tobacco plant.

2. “**Tobacco products**” shall mean products for the purposes of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco, whether genetically modified or not.

3. “**Tobacco for oral use**” shall mean all products for oral use, except those intended to be smoked, made wholly or partly of tobacco, whether genetically modified or not.

4. “**Tar**” shall mean the raw anhydrous nicotine-free condensate of smoke.

5. “**Nicotine**” shall mean nicotinic alkaloids.

6. “**Ingredient**” shall mean any substance or any constituent except for tobacco leaf and

other natural or unprocessed tobacco plant parts used in the manufacture or preparation of a tobacco product and still present in the finished product, even if in altered form, including paper, filter, inks and adhesives.

7. **“Advertising of tobacco products”** shall mean any form of commercial communications with the aim or direct or indirect effect of promoting a tobacco product.

8. **“Surreptitious advertising of tobacco products”** shall mean the representation in words or pictures of goods, services, the name, the trademark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the broadcaster to serve advertising and might mislead the public as to its nature. Such representation is considered to be intentional in particular if it is done in return for payment or for similar consideration.

9. **“Social advertising”** shall mean advertising, in any form and by any means, designated to promote social welfare, including a healthy lifestyle, health improvement and prevention of diseases and harmful health habits.

10. **“Promotion of the purchase and/or consumption of tobacco products”** shall mean actions of information and persuasion, including special events, campaigns, discounts, gifts and the like, designated to promote decision-making with respect to the purchase and/or consumption of tobacco products.

11. **“Sponsorship”** shall mean financial or any other form of contribution to any event, activity or individual with the aim of promoting the purchase and/or consumption of tobacco products.

12. **“Import”** shall mean any entry of tobacco and/or tobacco products (for their release for free circulation under a customs procedure) into the Republic of Lithuania from other states, with the exception of the States, which are parties to the Agreement on the European Economic Area (EU Member States and EFTA States) (hereinafter referred to as the EEA States), and also Turkey.

13. **“Entry”** shall mean the bringing in of tobacco and/or tobacco products into the Republic of Lithuania (except for those brought in by natural persons) from EEA States and Turkey.

14. **“Tobacco sales outlet”** shall mean premises in stores, kiosks, pavilions, restaurants, cafes, bars, buffets, and other places (including mobile shops) where tobacco products are offered for sale to consumers (if customers are served outdoors, the location of the cash register is regarded as the tobacco sales outlet) as well as premises where the wholesale of tobacco products is carried on.

15. **“Educational establishments”** shall mean pre-school, general education, college-level and higher education, vocational, and children’s additional education establishments: art, sport, language, technical and other types of schools as well as children’s summer camps.

16. **“Tobacco and tobacco product control”** shall mean a range of measures prescribed in this Law and other legal acts for exercising state control over the consumption, manufacture, entry, import, marketing, advertising, purchase and/or promotion as well as sponsorship of tobacco and its products for the purpose of reducing the consumption of tobacco products and the harmful effects of their use on health and the economy.

Article 3. Principles of State Tobacco Control Policy

The principles of the state tobacco control policy shall be as follows:

- 1) to protect the right of persons to a tobacco smoke-free environment;
- 2) to reduce the accessibility of tobacco products, particularly to minors, through taxation and other measures of state regulation;
- 3) to prohibit the use of state and municipal budget funds for tobacco growing and developing the manufacture, marketing, import and entry of tobacco products;
- 4) to ensure through measures of state legal regulation that a portion of state budget funds received from the manufacture, import and marketing of tobacco products be allocated for designing and implementing health protection and improvement programmes;
- 5) to prohibit the advertising of tobacco products;
- 6) to prohibit the promotion of purchasing and/or consuming tobacco products and to restrict their sponsorship;
- 7) to increase public awareness of the harm inflicted on human health by the consumption of tobacco products, and also of social and economic damage inflicted on the State;
- 8) to encourage smokers to stop smoking and assist them in doing so;

- 9) to exercise the control and monitoring of tobacco products;
- 10) to support social advertising and promote non-smoking through the media;
- 11) to aim at creating a tobacco smoke-free work, leisure and living environment.

CHAPTER II INGREDIENT, QUALITY AND LABELLING REQUIREMENTS FOR TOBACCO PRODUCTS

Article 4. General Ingredient and Quality Requirements for Tobacco Products

1. The ingredient and quality indications on the tobacco products manufactured and/or sold in the Republic of Lithuania shall comply with the requirements set in this Law and other legal acts.

2. From 1 May 2004, the yield of cigarettes marketed or manufactured in the Republic of Lithuania or imported hereto and, from 1 January 2007, the yield of cigarettes exported herefrom shall not be greater than: 10 mg per cigarette for tar, 1 mg per cigarette for nicotine and 10 mg cigarette for carbon monoxide.

3. The Ministry of Health and an institution authorised by the Government of the Republic of Lithuania to supervise compliance with the ingredient and quality requirements for tobacco products shall have the right to request tobacco product manufacturers and importers to carry out additional tests in order to determine the yield of substances, other than those referred in paragraph 2 of this Article, contained in or produced by their tobacco products and to assess the effects of those other substances on health, particularly taking into account their addictiveness. Additional tests shall be carried out on a brand-name-by-brand-name basis, trademark-by-trademark basis and type-by-type basis. Such tests shall be carried out in the testing laboratories approved by the competent authorities of the EEA States or Turkey. The results of the tests referred to in this paragraph shall be submitted on an annual basis to the Ministry of Health in accordance with the procedure set forth by it. The Ministry of Health may provide for a different frequency of disclosure of test results in cases where the product specifications have not varied within a time period set forth by the ministry. However, in the event of any changes in such product specifications, the manufacturers or importers of tobacco products must inform the Ministry of Health thereof.

4. The Government of the Republic of Lithuania or an institution authorised by it, acting in conformity with research-based evidence, shall have the right to prohibit the use of ingredients which have the effect of increasing the addictive properties of tobacco products.

5. The Ministry of Health shall report the results of the tests referred to in paragraph 3 of this Article to the Commission of the European Communities.

Article 5. Documents Certifying Conformity of Tobacco Products

1. The fact that tobacco products conform to the requirements laid down in legal acts, including the requirements for tar, nicotine and carbon monoxide yields of cigarettes, shall be certified by documents of conformity issued by the manufacturing undertaking on the basis of tests carried out by testing laboratories which are approved by the competent authorities of the EEA States or Turkey.

2. An institution authorised by the Government of the Republic of Lithuania shall set forth the procedure and the requirements for submitting documents of conformity referred to in paragraph 1 of this Article.

Article 6. Testing Laboratories and Methods

1. Tests for tar, nicotine and carbon monoxide yields of cigarettes shall be carried out by testing laboratories which are approved by the competent authorities of the EEA States or Turkey.

2. The testing laboratories referred to in paragraph 1 of this Article shall measure the tar, nicotine and carbon monoxide yields of cigarettes on the basis of ISO standards adopted as Lithuanian standards (ISO 4387 for tar, ISO10315 for nicotine, ISO-8454 for carbon monoxide; the accuracy of the tar and nicotine indications on packets shall be verified in accordance with ISO standard 8243).

3. The Ministry of Health shall send the Commission of the European Communities a list of laboratories referred to in paragraph 1 of this Article which have been approved to carry out tests in

the Republic of Lithuania, specifying the criteria used for approval and the methods of monitoring applied, and any related changes.

Article 7. Recognition of Tobacco Products as Not Conforming to Labelling, Ingredient and Quality Requirements

1. An institution authorised by the Government of the Republic of Lithuania shall supervise whether the labelling, ingredient and quality indicators of tobacco products conform to the requirements laid down in legal acts.

2. In the event that testing laboratories, when measuring the samples of tobacco products accepted from authorised state institutions on a commission basis in accordance with the procedure laid down in this Law and other legal acts, determine that these samples do not comply with the requirements laid down in legal acts, it shall be deemed that the entire batch of tobacco products wherefrom such samples have been taken does not comply with these requirements.

Article 8. Labelling Requirements for Tobacco Products Intended for Marketing in the Republic of Lithuania

1. Tobacco products marketed in the Republic of Lithuania shall be labelled in accordance with the procedure laid down in legal acts.

2. Information appearing on packets of tobacco products shall not mislead consumers.

3. The use on tobacco product packaging of such texts as “low-tar”, “light”, “ultra-light”, “mild” as well as any other texts, names, trademarks, pictures and figurative or other signs asserting or creating an impression that a particular tobacco product is less harmful than other tobacco products shall be prohibited. It shall also be prohibited to supply such information at tobacco sales outlets, including showcases used to display tobacco products, and also on information leaflets, folders or circulars provided together with tobacco products or their packets or by any other means of presenting information.

4. To ensure product identification and traceability, the tobacco product shall be marked by batch numbering or equivalent on the unit packet (packaging) enabling the place and time of manufacture to be determined. Where the batch number or equivalent are encoded, which makes it impossible to determine the place and/or time of manufacture of tobacco products, the undertakings manufacturing, importing or bringing in tobacco products to Lithuania must provide controlling institutions with a code key for subsequent decryption.

5. When labelling their products, the manufacturers of tobacco products shall, in addition to other information prescribed by the legal acts, place health warnings in the state language of the Republic of Lithuania describing the harmful effects of tobacco use on each unit packet (packaging) of tobacco products and on any outside packaging used for the retail sale of tobacco products; when labelling cigarettes, tobacco product manufacturers shall print the tar, nicotine and carbon monoxide yields of cigarettes.

6. The content of health warnings describing the harmful effects of tobacco use, the surface area and positioning of such warnings and indications of tar, nicotine and carbon monoxide yields on packets as well as the rules for placing the said warnings, indications and other references when labelling tobacco products marketed in the Republic of Lithuania shall be approved by an institution authorised by the Government of the Republic of Lithuania.

Article 9. Reports of Tobacco Product Manufacturers and/or Importers on the Ingredients of Tobacco Products Manufactured for Marketing in the Republic of Lithuania

1. Tobacco product manufacturers and/or importers shall annually submit, in accordance with the procedure established by the Government of the Republic of Lithuania, a written report to an institution authorised by the Government about the ingredients used in the manufacture of tobacco products intended for marketing in the Republic of Lithuania.

2. The report shall contain information about the ingredients present in tobacco products by brand name, trademark and type, the quantity, category and function of such ingredients, the reasons for including them in tobacco products, the toxicological data available and the testing methods, and the effects of such ingredients on human health, including any addictive effects.

3. The information received pursuant to the requirements of this Article shall be communicated to the Commission of the European Communities.

CHAPTER III STATE LEGAL REGULATION OF ECONOMIC ACTIVITIES RELATED TO TOBACCO AND TOBACCO PRODUCTS

SECTION ONE LICENSING OF TYPES OF ACTIVITY

Article 10. Licensing of Types of Activity and Types of Licence

1. The growing of tobacco, the manufacture, wholesale and retail sale of tobacco products shall be allowed in the Republic of Lithuania only after a licence issued in accordance with the prescribed procedure has been obtained.

2. A licence for tobacco growing shall not be required where tobacco is grown for personal use by natural persons on a plot of land covering an area of up to 100 square meters.

3. The rules for licensing the activities specified in paragraph 1 of this Article shall be approved by the Government of the Republic of Lithuania.

Article 11. Issue of Licences

1. Licences to engage in activities specified in paragraph 1 of Article 10 of this Law may be issued to undertakings registered in the Republic of Lithuania in accordance with the procedure prescribed by law and to branches of foreign legal persons entitled to engage in economic and commercial activity under the laws of foreign states (hereinafter referred to as “undertakings”); licences to engage in tobacco growing shall also be issued to farmers who have registered farms in the Republic of Lithuania (hereinafter referred to as “farmers”).

2. Licences to engage in the activities specified in paragraph 1 of Article 10 shall not be issued to those undertakings whose founders or heads of administration were the founders, heads of administration or other employees of an undertaking whose licence was revoked pursuant to paragraph 5 of Article 26 of this Law (where they acted on behalf or in the interests of the undertaking). In the event that a licence is revoked pursuant to paragraphs 3 or 6 of Article 26 of this Law, no licence shall be issued for a period of five years from the day on which the licence was revoked.

3. Licences to engage in the growing of tobacco, the manufacture and wholesale of tobacco products shall be issued by the State Tobacco and Alcohol Control Service under the Government of Republic of Lithuania (hereinafter referred to as the “State Tobacco and Alcohol Control Service”), acting in compliance with the rules of licensing approved by the Government.

4. Licences to engage in the retail sale of tobacco products shall be issued by an executive institution of the municipality in the territory whereof the undertaking will pursue such activity.

5. A licence shall be issued for an indefinite period of time. Licences to engage in a seasonal retail sale of tobacco products at resorts and other leisure and tourist areas designated as such by municipal councils shall be issued for the duration of a holiday season as determined by the municipal council.

6. The actual procedure for issuing licences to engage in the retail sale of tobacco products shall be established by municipal councils in compliance with the rules of licensing approved by the Government of the Republic of Lithuania.

7. The State Tobacco and Alcohol Control Service shall exercise control over the issue of licences to undertakings at municipalities.

Article 12. Specific Features of the Right of Licence Holders to Engage in Licensed Activity

1. It shall be prohibited for undertakings and farmers possessing licences to authorise or transfer under contract the right to engage in the activity specified in the licence to other persons.

2. A licence to engage in the manufacture of tobacco products shall also grant the right to undertakings to engage in the wholesale of products manufactured by them.

3. Undertakings possessing a licence to engage in the retail sale of tobacco products shall be permitted to purchase tobacco products in the Republic of Lithuania only from undertakings possessing a licence to engage in the manufacture or wholesale of tobacco products; this provision shall not prohibit undertakings possessing a licence to engage in the retail sale of tobacco products from importing or bringing in tobacco products from other states for the activity specified in the licence.

4. Undertakings possessing a licence to engage in the wholesale of tobacco products shall be permitted to purchase tobacco products in the Republic of Lithuania only from undertakings possessing a licence to engage in the manufacture or wholesale of tobacco products; this provision shall not prohibit undertakings possessing a licence to engage in the wholesale of tobacco products from importing or bringing in tobacco products from other states for the activity specified in the licence.

5. Undertakings possessing a licence to engage in the manufacture or wholesale of tobacco products shall be permitted to sell tobacco products in the Republic of Lithuania only to undertakings possessing a licence to engage in the wholesale or retail sale of tobacco products as well as to legal persons of other states.

6. A licence to engage in the growing of tobacco shall also grant the right to undertakings and farmers to engage in the wholesale of tobacco grown by them.

7. Undertakings and farmers possessing a licence to engage in the growing of tobacco shall be permitted to sell tobacco in the Republic of Lithuania only to undertakings possessing a licence to engage in the manufacture of tobacco products and to legal persons of other states.

SECTION TWO OTHER CHARACTERISTICS OF REGULATION

Article 13. Restrictions on the Assortment of Tobacco Products

It shall be prohibited to sell tobacco for oral use as well as sniffing tobacco in the Republic of Lithuania.

Article 14. Requirements for the Sale, Storage and Transportation of Tobacco Products

1. Legal persons and branches of foreign legal persons registered in the Republic of Lithuania in accordance with the procedure prescribed by law, where such undertakings have the right to engage in commercial and economic activity under the laws of foreign states, (hereinafter referred to as “branches of foreign legal persons”) shall be prohibited to sell and store tobacco products in the Republic of Lithuania without a licence to engage in the manufacture, wholesale or retail sale of tobacco products, except for the cases specified in paragraph 2 of this Article. A copy of the relevant licence shall be kept at all tobacco sales outlets and/or places of tobacco storage.

2. The requirement laid down in paragraph 1 of this Article to have a licence for the manufacture, wholesale or retail sale of tobacco products or a copy thereof shall not apply where tobacco products are stored and transported by persons providing transportation services and legal persons registered in a foreign state or branches of such foreign legal persons, possessing legally valid documents certifying the purchase of tobacco products or the relevant transportation documents, which carry tobacco products in transit or deliver them to their branches, representative offices or other divisions.

3. Legal persons and branches of foreign legal persons shall be prohibited to sell, store and transport tobacco products in the Republic of Lithuania, and also to import tobacco products to the Republic of Lithuania:

1) without legally valid documents certifying the purchase and transportation of tobacco products; Legally valid documents certifying the purchase or transportation of tobacco products shall be kept at all tobacco sales outlets and/or places of tobacco storage. When transporting tobacco products, it is required to have transportation documents or legally valid documents certifying the purchase thereof;

2) if such products are counterfeit;

3) if such products are contraband;

4) without special labels – tax stamps – corresponding to the model approved by the

Government of the Republic of Lithuania, except where such tax stamps are not mandatory under the Law on Excise Duty and other legal acts of the Republic of Lithuania;

5) if the tar, nicotine or carbon monoxide yields of cigarettes exceed the levels laid down in paragraph 2 of Article 4 of this Law;

6) if the labelling of tobacco products fails to meet the requirements laid down in this Law and other legal acts;

7) without documents certifying the conformity of tobacco products in accordance with the procedure established by an institution authorised by the Government of the Republic of Lithuania;

4. The procedure of storage and transportation of tobacco products applied to natural persons shall be established by the Government of the Republic of Lithuania or an institution authorised by it.

5. In addition, it shall be prohibited to sell in the Republic of Lithuania:

1) cigarettes, cigarillos and long cigarettes;

2) cigarettes, if less than 20 are contained in a packet;

3) tobacco products to persons under 18 years of age. In case of doubt that a person is under 18 years of age, tobacco sellers shall request a document certifying the age of the buyer. Where such a person fails to present a document certifying his age, tobacco sellers must refuse to sell him tobacco products.

6. It shall be prohibited to purchase or otherwise transfer tobacco products to persons under 18 years of age.

Article 15. Restrictions on the Marketing of Tobacco Products and Tobacco Sales Outlets

It shall be prohibited to sell tobacco products in the Republic of Lithuania in the following manner:

1) through automatic vending machines;

2) through communication tools;

3) at retail undertakings where the goods intended for children comprise 50 and more percent of the total turnover of retail goods;

4) at pharmacies, health care, educational and cultural establishments, Internet cafes (Internet clubs, etc.);

5) to persons under 18 years of age.

Article 16. Restrictions on the Sale of Goods to Be Used for Smoking Tobacco Products or Preparing to Smoke Tobacco Products

It shall be prohibited in the Republic of Lithuania to sell goods to be used for smoking tobacco products (or preparing to smoke tobacco products), i.e. pipes, cigarette holders, mouthpieces for pipes, scrapers for pipes, cigarette holders, home cigarette rolling machines, any type of cigarette (smoking) paper (cut or uncut, glued into tips, with or without filters) to persons under 18 years of age.

SECTION THREE

ADVERTISING OF TOBACCO PRODUCTS, PROMOTING THE PURCHASE AND/OR CONSUMPTION OF TOBACCO PRODUCTS, SPONSORSHIP AND REDUCTION OF TOBACCO CONSUMPTION

Article 17. Prohibition of Advertising

1. Advertising of tobacco products, except for the cases specified in paragraph 2 of this Article, and also surreptitious advertising of tobacco products shall be prohibited in the Republic of Lithuania.

2. Prohibition of advertising shall not apply to:

1) information referred to in paragraph 3 of this Article, which is presented at tobacco sales outlets where tobacco products are sold to the consumer;

2) publications intended exclusively for specialists (professionals) in the tobacco trade, and also publications printed and published in countries other than EEA States, where such publications

are not intended for the EC market;

3) registered names and trademarks of tobacco product manufacturers or sellers (if the brand name, name of the tobacco product manufacturer or trademark constitute an integral part of the registered name of the said undertaking) where such names and trademarks are displayed on buildings wherein the offices or branches of these undertakings are located. Only the registered names of tobacco product manufacturers or sellers may be displayed on the motor vehicles thereof;

4) names (business names) of tobacco product manufacturers or undertakings whose principal activity is the sale of tobacco products, presented in the course of events sponsored by such undertakings and on the lists of sponsors of these events, except where presented in radio and television programmes.

3. Only the following information may be presented on showcases used to display tobacco products at tobacco sales outlets:

*1) the name, address and trademark of the tobacco product manufacturer or seller;

***Note.** The provision of subparagraph 1 of paragraph 3 of Article 17 concerning trademarks shall be **valid until 31 December 2008.**

2) the brand names of the tobacco products sold;

3) the words "We trade in" "We sell";

4) the tar, nicotine and carbon monoxide yields of cigarettes;

5) the indication of prices of tobacco products.

4. Information (warnings) shall also be displayed, in accordance with the procedure established by the Government of the Republic of Lithuania or an institution authorised by it, at tobacco sales outlets, except in premises wherein tobacco products are sold on a wholesale basis, regarding the harmful effects of tobacco use on health and the ban on the sale of tobacco products to persons under 18 years of age.

5. The information referred to in paragraph 3 of this Article may be presented only together with the tobacco products displayed. Such information may not be presented on leaflets, folders or other means of advertisement intended for take-away use; in addition, it shall be prohibited to display any imitations and pictures of tobacco products or packaging thereof at tobacco sales outlets. No visual or graphic information other than specified in paragraphs 3 or 4 of this Article regarding tobacco products may be displayed at tobacco sales outlets.

Article 18. Other Prohibitions related to Tobacco Products

1. It shall be prohibited in the Republic of Lithuania:

1) to apply fixed discounts for the owners of coupons printed in the media or distributed otherwise or to treat such coupons as an alternate means of payment;

2) to distribute free tobacco products and/or new samples thereof to the public;

3) to grant the buyer the right to, immediately or over a specified period of time after a sale and purchase contract is concluded, receive gifts or any other special offers on tobacco products;

4) to influence buyers through persistent offers of tobacco products, indicating the alleged price reductions on price lists, price labels, indoor store windows and other means or measures contrary to good morals and public order;

5) to sell tobacco products in assortment with other goods or any other goods in assortment with the tobacco products marketed;

6) to supply tobacco products as prizes in lotteries, contests, sports competitions and games or together with such prizes;

7) to organise games or competitions and lotteries, promoting the purchase and/or consumption of tobacco products;

8) to manufacture and/or sell toys, food products and other goods whose design imitates tobacco products or packaging;

9) to sell other (non-tobacco) products marked with tobacco product trademarks;

10) to enlist persons under 18 years of age in any activity promoting the purchase and/or consumption of tobacco products.

2. Tobacco product manufacturers and undertakings whose principle activity is the sale of tobacco products shall be prohibited in the Republic of Lithuania to sponsor events designed for

persons under 18 years of age as well as radio and television programmes and also events and activities involving, or taking place in, several countries or otherwise having cross-border effects.

Article 19. Restrictions on the Consumption of Tobacco Products

1. It shall be prohibited to smoke (consume tobacco products) in the Republic of Lithuania:

1) in all educational establishments, health care facilities, Internet cafes (Internet clubs, etc.), and also in premises where sport competitions and other events take place;

2) at indoor workplaces. Special premises (places) may be set aside in undertakings, institutions and organisations where smoking shall be permitted. The requirements for fitting out and operating smoking premises (places) shall be set forth by the Government of the Republic of Lithuania or an institution authorised by it.

3) in common-use residential and other public premises where non-smokers may be forced to breathe tobacco smoke-polluted air;

4) in all types of public transport, except for long-distance trains where individual cars must be designated for smokers and non-smokers and also on aircraft where separate places shall be designated for non-smokers and smokers;

5) in restaurants, coffee shops, bars and other mass caterers, clubs, and discotheques, except for cigar or pipe clubs specially fitted out for this purpose. The procedure and conditions of establishing cigar and pipe clubs shall be set forth by the Government of the Republic of Lithuania or an institution authorised by it.

2. In restaurants, cafes, bars and other premises designated to provide services for people, where smoking is not prohibited, separate premises (places) must be set aside for smokers. Premises where smoking is not prohibited must be fitted out to protect clients (visitors) and staff members from tobacco smoke. The requirements for fitting out and operating such premises (places) shall be set forth by the Government of the Republic of Lithuania or an institution authorised by it.

Paragraph 2 of Article 19 has been repealed.

3. Municipal councils shall have the right to prohibit smoking in public places (parks, squares, etc.) and other public places falling within the scope of their competence.

4. The administrative bodies of a legal person must ensure that its personnel, clients and visitors are not forced to breathe tobacco smoke-polluted air; they must also ensure that non-smoking warnings or signs are displayed in visible locations and special premises (places) be set aside and fitted out for smoking with notices or signs indicating their location.

Article 20. Tobacco Products and Calculation of Minimum Standard of Living

It shall be prohibited to include tobacco products in the food and non-food basket for the purpose of calculating the minimum standard of living.

SECTION FOUR

MONITORING OF TOBACCO PRODUCTS, TOBACCO CONTROL PROGRAMMES, INFORMATION TO THE PUBLIC AND EXCHANGE OF INFORMATION

Article 21. Monitoring of Tobacco Use, Its Harmful Effects on Health and the Economy

The monitoring of the consumption of tobacco products and their harmful effects on health and the economy shall be exercised in the Republic of Lithuania in accordance with the procedure established by the Government.

Article 22. Information to the Public about Tobacco Products and Harmful Effects of Tobacco Use on Health

1. Schools with formal education shall include in the general education content issues concerning the harmful effects of tobacco use on health, a health-friendly environment that prevents the harmful effects of the consumption of tobacco products, and a healthy lifestyle.

2. The Ministry of Health, after having obtained information from an institution authorised by the Government of the Republic of Lithuania whereto reports are submitted under Article 9 of this Law about the ingredients used in the manufacture of tobacco products intended for marketing in the Republic of Lithuania as well as information about the results of the tests referred to in paragraph 3

of Article 4 of this Law, shall ensure that such information and the list of ingredients for each tobacco product, indicating tar, nicotine and carbon monoxide yields, is made public and disseminated, by any appropriate means, with a view to informing the consumers. The information specified in this paragraph shall be disseminated without prejudice to the protection of any information on specific tobacco product formulae which constitutes a trade secret.

Article 23. Exchange of Information with EU Institutions

Competent institutions authorised by the Government of the Republic of Lithuania to maintain contacts with the European Union shall provide all the information required for the purpose of cooperating with EU institutions and fulfilling the commitments of the Republic of Lithuania under this Law or at the request of the Commission of the European Communities.

Article 24. Tobacco Control Programmes

1. The Government of the Republic of Lithuania shall draw up, approve and implement the state tobacco control programme. The state tobacco control programme shall be financed from the state budget.

2. For the purpose of this Law, municipalities shall draw up and implement municipal tobacco control programmes. Such programmes shall be financed from municipal budgets.

CHAPTER IV

LIABILITY FOR VIOLATIONS OF THE LAW ON TOBACCO CONTROL

Article 25. Administrative Liability for Violating the Law on Tobacco Control and Confiscation and Destruction of Tobacco Products

1. Natural persons shall be held liable for violating this Law in accordance with the procedure laid down in the Code for Administrative Offences of the Republic of Lithuania.

2. Where the tobacco products marketed, stored and transported in the Republic of Lithuania fail to meet the requirements set forth in this Law and other legal acts, they shall be confiscated in compliance with the Code of Administrative Offences of the Republic of Lithuania or the Criminal Code of the Republic of Lithuania.

3. Confiscated tobacco products shall be destroyed in accordance with the procedure established by the Government of Lithuania.

Article 26. Economic Sanctions

1. Those tobacco product manufacturers and/or importers who fail to submit in accordance with the prescribed procedure a report about the ingredients used in the manufacture of tobacco products intended for marketing in the Republic of Lithuania, as required under paragraph 1 of Article 9 of this Law, shall be subject to a fine between one thousand and three thousand litas.

2. Those legal persons, branches of legal persons and farmers who grow tobacco, manufacture, store and sell tobacco products in violation of the requirements of paragraph 1 of Article 10 or paragraph 1 of Article 14 of this Law (without a licence issued in accordance with the prescribed procedure) shall be subject to a fine between ten thousand and thirty thousand litas.

3. Those legal persons, branches of foreign legal persons and farmers who violate the prohibition set forth in paragraph 1 of Article 12 of this Law to authorise other persons or transfer under contract the right to pursue the activities specified in the licences held, and also who violate the requirements set in paragraphs 3, 4, 5 or 7 of Article 12 of this Law for purchasing tobacco products and selling tobacco products or tobacco shall be subject to a fine between three thousand and five thousand litas. For a repeated violation of these prohibitions and requirements, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons and farmers shall be subject to a fine between five thousand and ten thousand litas and their licence shall be revoked.

4. Those legal persons and branches of foreign legal persons who violate the prohibition set in Article 13 of this Law to sell tobacco for oral use and also for sniffing shall be subject to a fine between five thousand and ten thousand litas.

5. Legal persons and branches of foreign legal persons that sell, store or transport tobacco

products in violation of the prohibitions set forth in subparagraphs 1, 2, 3 or 4 of paragraph 3 of Article 14 of this Law, where such violation does not impose criminal liability, shall be subject to a fine between ten thousand and thirty thousand and their licence shall be revoked.

6. Legal persons and branches of foreign legal persons who sell, store or transport tobacco products in violation of the prohibition set in subparagraph 5 of paragraph 3 of Article 14 of this Law shall be subject to a fine between five thousand and ten thousand litas. For a repeated violation of this prohibition, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between ten thousand and twenty thousand litas and their licence shall be revoked.

7. Legal persons and branches of foreign legal persons that sell, store or transport tobacco products in violation of the prohibitions set in subparagraph 6 or 7 of paragraph 3 of Article 14 and subparagraphs 1, 2 or 3 of paragraph 5 of this Law shall be subject to a fine between three thousand and five thousand litas. For a repeated violation of the prohibitions set forth in subparagraph 6 or 7 of paragraph 3 of Article 14 and subparagraphs 1 or 2 of paragraph 5 of this Law, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between five thousand and ten thousand litas. For a repeated violation of the prohibition set forth in subparagraph 3 of paragraph 5 of Article 14, committed at the same sales outlet in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between five thousand and ten thousand litas and their licence shall be revoked with respect to the sales outlet wherein the violation has been identified. A new licence shall not be issued for one year following the day on which the licence was revoked.

8. Legal persons and branches of foreign legal persons that violate the prohibitions set forth in Article 15 in respect of marketing tobacco products and the prohibition set forth in Article 16 in respect of selling goods to be used for smoking tobacco products or preparing to smoke them shall be subject to a fine between three thousand and five thousand litas. For a repeated violation of such prohibitions, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between five thousand and ten thousand litas.

9. Legal persons and branches of foreign legal persons that violate the prohibition set forth in paragraph 1 of Article 17 of this Law in respect of advertising shall be subject to a fine between five thousand and ten thousand litas. For a repeated violation of this prohibition, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between ten thousand and twenty thousand litas.

10. Legal persons and branches of foreign legal persons that provide information in violation of the requirements set in paragraph 4 or 5 of Article 17 of this Law shall be subject to a fine between one thousand and three thousand litas. For a repeated violation of such requirements, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between three thousand and five thousand litas.

11. Legal persons and branches of foreign legal persons that violate the prohibitions set forth in Article 18 of this Law shall be subject to a fine between three thousand and five thousand litas. For a repeated violation of such prohibitions, committed in the course of one year after a fine had been imposed, legal persons and branches of foreign legal persons shall be subject to a fine between eight thousand and ten thousand litas.

12. Legal persons that violate the requirement set in subparagraph 5 of paragraph 1 of Article 19 of this Law shall be subject to a fine between one thousand and five thousand litas.

Note. The economic sanction provided for in paragraph 12 of Article 26 shall be imposed on legal persons as of 1 May 2006.

13. Fines for violating the provisions of this Law shall be imposed by:

1) the State Public Health Supervision Service under the Ministry of Health of the Republic of Lithuania, for violations of paragraph 1 of Article 9;

2) the State Tobacco and Alcohol Control Service, for violations of paragraph 1 of Article 10, paragraphs 1, 3, 4, 5 and 7 of Article 12, Article 13, paragraph 1 of Article 14, subparagraphs 1, 2, 3, 4 and 6 of paragraph 3 of Article 14, paragraph 5 of Article 14, Article 15 and 16, paragraph 1 (except for violations in the media), paragraphs 4 and 5 of Article 17, Article 18, and subparagraph 5

of paragraph 1 of Article 19;

3) the National Consumer Rights Protection Board under the Ministry of Justice of the Republic of Lithuania, for violations in the mass media of subparagraph 5 of paragraph 3 of Article 14 (where the State Non Food Products Inspectorate under the Ministry of Economy of the Republic of Lithuania presents a record of violations) and paragraph 1 of Article 17;

4) the State Non Food Products Inspectorate under the Ministry of Economy of the Republic of Lithuania, for violations of subparagraph 6 and 7 of paragraph 3 of Article 14;

5) the State Tax Inspectorate, for violations of subparagraphs 1 and 4 of paragraph 3 of Article 14;

6) municipal executive institutions, for violations of the requirements set in paragraph 1 of Article 10 and paragraph 1 of Article 14 for retail shops, and also for violations of Articles 15 and 16, paragraph 1 (in external means of advertising), paragraphs 4 and 5 of Article 17, Paragraph 1 of Article 18;

7) heads of police establishments or persons authorised by them, for violations of subparagraphs 1, 2 and 3 of paragraph 3 of Article 14;

8) officers of the Customs Department under the Ministry of Finance of the Republic of Lithuania, for violations of subparagraph 1 and 3 of paragraph 3 of Article 14.

***14.** The institutions specified in paragraph 13 of this Article, when imposing fines for violations of this Law within the scope of their competence, shall determine the specific amount of a fine, taking into account the nature of the violation and the circumstances mitigating or aggravating liability. In the event of mitigating circumstances, the amount of the fine imposed may not exceed the average amount of the economic sanction usually imposed for the committed violation; in the event of aggravating circumstances, the amount of the fine imposed may not be lower than the average amount of the economic sanction usually imposed for the committed violation. In the event of mitigating and aggravating circumstances, a fine shall be imposed, taking into account their quantity and significance. Any reduction or increase in the fine shall be motivated by a decision of the institution which imposes the fine for violations of the requirements set forth in this Law.

15. Mitigating circumstances shall include actions of the legal persons, branches of foreign legal persons or farmers concerned taken at their own initiative to prevent the harmful consequences of the violation as well as their assistance to competent authorities in the investigation of the violation, compensation of losses or elimination of the damage done. Aggravating circumstances shall include actions of the legal persons, branches of foreign legal persons or farmers concerned to impede the investigation procedure, conceal the violation, continue the violation despite the competent authority's instructions to discontinue illegal actions. The institution which imposes the fine may recognise circumstances other than those specified in this paragraph as mitigating or aggravating.

16. Undertakings whose licences have been revoked pursuant to paragraph 3 or 6 of this Article shall not be issued new licences for a period of five years from the day on which their licences were revoked.

17. The licences held by undertakings shall be revoked in the event that there is an effective conviction, effective court ruling, decision or an effective relevant decision issued by the customs, the tax inspectorate, the police or the State Tobacco and Alcohol Control Service regarding the imposition of a penalty or fine for the contraband of tobacco or tobacco products, the sale, storage or transportation of counterfeit tobacco products, the sale, storage or transportation of tobacco products without legally valid documents certifying the purchase thereof and also for the illegal storage, transportation or sale of tobacco products without special labels – tax stamps – in respect of the said undertakings, heads of their administration or other employees (acting on behalf or in the interests of the undertaking). Such undertakings and also undertakings whose licences have been revoked pursuant to paragraph 5 of this Article shall not be issued new licences.

18. A licence shall be revoked by the institution which within the scope of its competence issues licences for the manufacture of tobacco products as well as for the wholesale or retail of tobacco products.

***Note.** To recognise that **paragraph 14 of Article 26** of the Law on Tobacco Control of the Republic of Lithuania (version of 20 November 2003) **is in conflict with paragraph 1 of Article**

109 of the Lithuanian Constitution as well as with the constitutional principle of the rule of law to the extent that it restricts the powers of the court to impose a smaller pecuniary penalty than the minimum pecuniary penalty provided for in the relevant paragraph of the said Article, taking into account mitigating and other circumstances (due to which the respective pecuniary penalty imposed on the offender would be evidently too large because not proportionate to the committed violation and therefore unjust) and acting in compliance with the criteria of prudence and fairness.

Article 27. Record of Violations and Terms for Case Examination

1. The authorised employees (officers) of the institutions referred to in paragraph 13 of Article 26, after having established violations of the provisions of this Law, shall draw up a record the content of which is in compliance with the Code of Administrative Offences of the Republic of Lithuania.

2. The institutions referred to in paragraph 13 of Article 26 of this Law shall examine a case and impose economic sanctions not later than within a one month from the day on which the violation was established.

Article 28. Participants of Proceedings

1. Where a case is examined by an institution, which imposes economic sanctions for the violations specified in Article 26 of this Law, the participants of the proceedings shall be as follows:

- 1) the person suspected of violating this Law (suspected offender);
- 2) other persons designated by a decision of the institutions specified in paragraph 13 of Article 26 of this Law where their interests are directly related to the case examined;
- 3) representatives of state and municipal institutions at their request;
- 4) experts, specialists and other persons from the institutions specified in paragraph 13 of Article 26 of this Law.

2. Persons indicated in subparagraphs 1 and 2 of paragraph 1 of this Article shall hereinafter be referred to in this Law as parties to the proceedings.

3. Parties to the proceedings may be represented by their authorised representatives.

Article 29. Notification of Case Examination

Parties to the proceedings shall be notified in writing about the established violations of this Law, the place and time of the examination of the case and they shall also be offered to submit their opinion in writing.

Article 30. Examination of a Case

1. The case shall be examined with the parties to the proceedings and other participants of the proceedings in attendance.

2. Where a case is examined, the parties to the proceedings shall have the right to have access to the materials collected, give oral and written explanations, present evidence and state requests.

3. Where the parties to the proceedings are not in attendance, the case may be examined only where information is available to the effect that they have been duly notified about the place and time of the examination of the case and that they have been granted access to the case file and entitled to give explanations.

Article 31. Decisions Adopted Following the Examination of a Case

1. The institutions specified in paragraph 13 of Article 26 of this Law, after having examined the case, shall adopt one of the following decisions:

- 1) to impose the economic sanctions prescribed by this Law;
- 2) in the absence of the grounds specified in this Law, to refuse to impose economic sanctions;
- 3) to dismiss the case where no violation of this Law has been committed;
- 4) to refer a case back for further investigation.

2. After a case is examined, the adopted decision shall contain the following information:

1) the name of the institution which has adopted the decision;

- 2) the date and place of the examination of the case;
- 3) data about the offender;
- 4) circumstances of committing the violation;
- 5) evidence of guilt on which the decision is based;
- 6) the relevant article of this Law stating liability for violations;
- 7) explanations given by the offender and their evaluation;
- 8) the decision adopted;
- 9) the terms and procedure for appealing against the decision.

3. The decisions of the institutions specified in paragraph 13 of Article 26 of this Law shall be sent within two working days after their adoption to the persons in reference to whom they were adopted.

Article 32. Recovery of Fines

1. The fine imposed shall be paid to the state budget not later than within one month from the day of communication of the decision to the offenders of this Law and, in the event that the fine has been imposed by a municipal executive institution, to the respective municipal budget.

2. The unpaid fines shall be recovered by bailiffs where they enforce the decisions of the institutions specified in paragraph 13 of Article 26 of this Law and act in accordance with the procedure laid down in the Code of Civil Procedure of the Republic of Lithuania. A decision may be presented for execution not later than 3 years after adoption.

Article 33. Appeals against Decisions to Impose Economic Sanctions

1. Persons who contest a decision to impose economic sanctions shall have the right to appeal to court against the decision within one month from the date of receipt thereof in accordance with the procedure laid down in the Law on Administrative Proceedings of the Republic of Lithuania.

2. A court appeal shall suspend the enforcement the decision to impose economic sanctions.

Article 34. Disputes over Violations of the Law

Any disputes over violations of this Law shall be settled in accordance with the procedure laid down in the laws of the Republic of Lithuania.

ANNEX to the Republic of
Lithuania Law No IX-1840 of 20
November 2003

The Law on Tobacco Control of the Republic of Lithuania shall be in compliance with the following EU legal acts:

1) Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities (as last amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997);

2) Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products;

3) Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC

ALGIRDAS BRAZAUSKAS

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