

ISRAEL

RESTRICTION ON ADVERTISING AND MARKETING OF TOBACCO PRODUCTS LAW, 1983*

Definitions [amended 2001, 2004, 2008]

1. In this Law —
 - 'Penal Law' means the Penal Law, 1977
 - 'tobacco products' means tobacco in any form intended for smoking, snuffing, chewing or sucking and includes cigarettes, cigars, cigarillos, pipe tobacco and narghile tobacco;
 - 'product used for smoking tobacco' – a product used for smoking tobacco, in any form, including a narghila, pipe, or paper to roll cigarettes;
 - 'brand name' means a trademark, symbol, special wording, graphic design, slogan or any other distinctive marks;
 - 'advertising' means advertising by word of mouth, in writing, in print or electronic means, directed at or accessible by the public, including indirect advertising;
 - 'indirect advertising' means advertising not of a tobacco product, but whose purpose is, *inter alia*, to promote the marketing of a particular tobacco product;
 - 'marketing' means the sale, supply or import of tobacco products but does not include:
 - (1) export;
 - (2) import by persons entitled to exemption from the payment of customs duty under any enactment in force relating to customs;
 - (3) sale in duty-free shops;
 - 'advertising a trade name' means advertising a trade name of tobacco products or any particular kind or kinds of cigarettes, cigars, cigarillos or pipe tobacco, including indirect advertising.

Prohibition of Advertising in Praise of Smoking

2. There shall be no advertising in praise of smoking as such.

Prohibition of Advertising by Certain Means [amended 2001]

3. No person shall advertise tobacco products or a trade name, including by means of a drawing, image, sound, picture, movement or any other means in any of the following contexts:
 - (1) radio broadcasts in Israel;
 - (2) television broadcasts in Israel;
 - (3) public film screenings or any public performance, festival or event;
 - (4) newspapers, or any other printed matter, intended mainly for children and young people under the age of eighteen years;
 - (4a) a section or supplement of a newspaper devoted mainly to sport, entertainment or leisure;

- (5) public inland transport.
- (6) a video or sound cassette, or compact disc, intended for sale, rental or public exhibition;
- (7) a game or software within the meaning of the Computers Act, 1995.

Restriction of Advertising Signs

- 4. (a) No person shall advertise tobacco products or a trade name through fixed or mobile outdoor signs, or in premises open to the public, except through permitted signs.
- (b) No person shall advertise tobacco products or a trade name through a permitted sign unless the warning set out in section 9 appears thereon on in Hebrew, in a box, in letters clearly legible from a distance which in the circumstances of the case is reasonable.
- (c) Any advertising through a permitted sign shall only include the following particulars or part thereof: the name, trademark and trade name of the tobacco product, the name and trademark of the manufacturer, a representation of the package in which the tobacco product is sold, and an indication of the place of sale.
- (d) In this section, “permitted sign” means a sign lawfully displayed upon the outside of, or within, any business premises or on a vehicle of a manufacturer, importer, agent, marketer, distributor or seller of tobacco products or upon the outside of, or within, a place of sale thereof.

Advertising Restrictions [amended 2001]

- 5. (a) No person shall advertise a tobacco product or a tobacco product trade name by means of the name or image of any persons, or any part of their body, or of animals, including cartoon images or animated figures.
- (b) The provisions of this section shall not apply to use of the name or image of a person or animal that is a registered trademark within the meaning of the Trademarks Ordinance (New Version), 1972, provided that the tobacco product was marketed in Israel before the Restriction on Advertising of Tobacco Products for Smoking Law (Second Amendment), 2001 (hereafter — the Second Amendment) came into force, using the said name or image, and that the said name or image is used in the same form as in the registered trademark.

Restrictions on Number of Newspaper Advertisements

- 6. No persons shall publish more than one advertisement of a particular trade name in one issue of a newspaper or other printed matter.

Duty to Include Warning in Advertisement [amended 1995]

- 7. No person shall advertise tobacco products or a trade name in a newspaper or other printed matter unless the last line of the advertisement contains a warning, in a box, with the text set out in

section 9. The warning shall be in the language in which the newspaper or other printed matter is published, in clear letters of a minimum size of twelve points of black print. The framed area containing the warning shall be at least 5% of the area of the advertisement.

Restriction on Use of Tobacco Product Trademark or Brand Name [added 2001, amended 2008]

- 7A. (a) No person shall do indirect advertising in a commercial context.
- (b) Advertising for a non-tobacco product, or for a business or activity, using the trade name or brand-name of a tobacco product, shall be deemed indirect advertising unless proved otherwise.
- (c) The provisions of subsections (a) and (b) shall not apply to a product which is not a tobacco product or to a business or activity, which has an identical or similar name to a trade name or brand name of a tobacco product; nor to advertising for such a product or business or activity, provided the following conditions are met:
- (1) the product or business or activity was marketed or was in existence in Israel on the day the Second Amendment came into force;
 - (2) the said product or business or activity is displayed in the advertisement in an way which is essentially different from the tobacco product's brand name, or the brand name is displayed on the non-tobacco product in an inconspicuous manner.
- (d) A manufacturer or importer shall not use a trade name for a tobacco product that was first marketed after the Second Amendment came into force if the name is identical to or essentially similar to the name of another, non-tobacco, product.
- (e) (1) Sponsorship, or advertising citing sponsorship, shall not be deemed indirect advertising, provided the said sponsorship or advertising is for an event or activity in the field of culture, art or welfare which is not chiefly intended for children or young people under the age of 18.
- (2) The provisions of clause (1) shall not apply to sponsorship or to the advertising of an event or activity, or participant in the event or activity, if one of the following applies:
- (a) the event or activity originates in Israel and it has effects outside of Israel;
 - (b) the sponsorship is broadcast on television or radio.
- (3) Advertising in a newspaper of any printed matter which mentions the sponsorship and which is not indirect advertising according to clause (1) and which is larger than 10 square centimeters shall include a warning according to Article 7.

Prohibition of Placement of Vending Machines [added 2001, amended 2011]

- 7B. (a) No person shall place a vending machine for tobacco products.
- (b) The Minister of Health will make regulations to prohibit the placing of vending machine for tobacco products near schools and other educational facilities. Those regulations don't need the approval of the committee.

Prohibition of Gifts

8. (a) No person shall be market, or distribute, to the consumer a tobacco product having attached to it, or which is accompanied by, a prize, a gift or a right to participate in a prize lottery or competition.
- (b) No person shall be distribute tobacco products to the consumer free of charge.

Prohibition of Sale, Rental or Loaning to Minors [added 2004]

- 8A. (a) No tobacco product or product used for smoking tobacco shall be sold to a minor.
 - (a1) No one shall rent or loan a product used for smoking tobacco to a minor.
 - (b) A business owner or employee may demand to see from any customer asking to be sold a tobacco product or a product used for smoking tobacco a certificate stating the customer's age.
 - (c) The owner of a business where tobacco products or products used to smoke tobacco are sold, rented or loaned shall display prominently in his place of business, in the manner laid down by the Minister of Health, a notice of the provisions of paragraphs (a), (a1) and (b).
 - (d) Non-compliance with paragraph (c) will be considered a violation of the conditions of a license granted under the Business Licensing Law, 1968 and the provisions under that Law shall apply thereto.

Warning [amended 1995 & 2001]

9. (a) No person shall market tobacco products in a package, including pipe tobacco or tobacco for narghilas in a bag, unless there is printed on it a warning in print letters, as follows: "Warning: The Ministry of Health Declares that Smoking Causes Serious Diseases". The warning shall be in Hebrew, in black print, in clearly legible eight point Frank-Ruehl letters. The word "Warning" shall be underlined.
- (b) In the case of tobacco products other than cigarettes, the warning may be printed on or affixed to the front of the wrapping instead of the side thereof.
- (c) The Minister of Health, with the approval of the Knesset Economics Committee, may change the warning, including different warnings which alternate from time to time for the purpose of this section and sections 4 or 7, and may also change the minimum size of the letters in the warning and issue instructions as to the warning's placing, design, and shape, and the way the warnings are alternated; a new warning issued under this section will, for the purposes of section 7, enter into effect 45 days from the date of its official publication, and 8 months from the date of its official publication for the purposes of section 4 and this section.

Reporting of Expenses for Tobacco Advertising

- 9A. (a) The manufactured or imported of tobacco products shall present to the Minister of Health or whoever he authorizes, every year by the first of June, a report prepared by an accountant on his behalf, according to accepted accounting practices, regarding his expenses in the previous year for advertising, promotion and sponsorship, for the tobacco products which he

manufactures or imports accordingly; the said report shall be delivered in print and by electronic or magnetic means.

- (b) The report specified in subsection (a) shall categorize the expenses for tobacco advertising as follows:
- (1) advertising, except advertising as specified in clauses (2) – (4);
 - (2) sponsorship;
 - (3) sales promotions;
 - (4) direct mailings as defined in Article 17C of the Privacy Protection Law, 1981.
- (c) The Minister of Health shall publish on the Ministry of Health internet site or by other means which he finds appropriate, the total advertising expenditures of all the manufactures and importors of tobacco products as specified in subsection (a), and the total expenditures of all manufactures and importers categorized as follows:
- (1) the total expenditure as specified in subsections (b)(1) and (4) together;
 - (2) the total expenditure as specified in subsection (b)(2);
 - (3) the total expenditure as specified in subsection (b)(3).
- (d) This Article shall apply also to the holder of rights in the brand name of a tobacco product and anyone on his behalf, and on the holder of the right to use a brand name, although not the manufacturer or the imported of tobacco products, who advertise the said brand name.

Status of State

10. For the purposes of this Law, the State shall be treated like any other person.

Penalties [amended 2001, 2004]

11. (a) Whosoever contravenes any provision of this Law, with the exception of Section 8A, shall, in the case of an individual, be liable to a fine under section 61(a)(4) of the Penal Law, and, in the case of a body of persons, to double the fine under the said Article 61(a)(4)**.
- (a1) The seller of a tobacco product, or a person who sells, rents or loans a product used for smoking tobacco, to a minor in contravention of the provisions of Section 8A shall be punishable by a fine as laid down in Section 61(a)(1) of the Penal Law.
- (b) In the case of an offence under section 9, failure to print or affix the warning on or to one production series indicated on each package thereof, or, in the case of imports, on or to one import unit indicated on each package thereof, shall be regarded as one offence.
- (c) The burden of proof shall in the case of a production series be on the manufacturer, and in the case of an import unit, on the importer. For the purposes of this section, a production series is tobacco products manufactured in one working day, and an import unit is tobacco products of the same trade name packed in one crate.

Complaints [added 2001]

- 11A. (a) A public body whose purpose is to protect the environment or public health, which has been approved by the Minister of Health, may, under section 68 of the Criminal Procedure Law (Consolidated Version), 1982, submit a complaint with respect to an offence

under this Law.

- (b) No complaint under subsection (a) shall be submitted other than with the approval of a District Attorney.

Liability of Advertising Agent and Owner of Means of Publication

- 12. In the case of an offence under sections 2 to 7, there shall also be guilty -
 - (1) the person who delivers the advertisement, or the advertisement of a trade name, for publication and thereby causes it to be published;
 - (2) the person who receives the advertisement, or the advertisement of a trade name, for publication and publishes it.

Presumption [amended 2001]

- 13. Where a tobacco product or a trade name has been advertised, then, pending proof to the contrary, the manufacturer or, in the case of an imported product, the importer shall be deemed to have advertised it, or it shall be deemed to have been advertised upon his instructions; however, advertising not originating in Israel shall not be deemed advertising prohibited under the provisions of this Law, if from the manner in which the advertising is done it appears that it was not intended primarily for the Israeli public.

Seizure

- 14. A person empowered in that behalf by the Minister of Health in writing may, if he is satisfied that it is necessary so to do to ensure compliance with the provisions of section 9, enter any place where tobacco products are sold, manufactured or stored and seize tobacco products, the packages or bags of which have no warning on them. Tobacco products seized as aforesaid shall only be returned after the owners have affixed a warning thereto.

Implementation and Regulations [amended 2001]

- 15. The Minister of Health is charged with the implementation of this Law and may, with the approval of the Knesset Economics Committee, make regulations as to any matter relating to its implementation.

Commencement and Transitional Provisions***

- 16. (a) Section 7 shall come into force three months from the date of publication of the Law. The other provisions of the Law shall come into force six months from the date of its publication.
- (b) The advertising of tobacco products or of a trade name by any person before the date of publication of this Law shall not be regarded as an offence under this Law if such person proves that it ceased to be under his control or authority before the said date or that he cannot or is not entitled to terminate or remove it.
- (c) The requirement of including a warning as provided in section 4 shall not apply to signs permitted by section 4 which are electrically lit if they were installed before the 16th of Tevet, 5743 (1st January, 1983). In the case of signs not electrically lit, the requirement of including a warning shall apply upon the expiration of one year from the date of publication of this Law.
- (d) Section 7 (b) shall come into force on January 1th 2014.

(e) the 1st three months from the date of publication f

* Unofficial translation. Updated as amended August 12, 2004. Originally passed by the Knesset on the 3rd of Shevat, 5743 (17th January, 1983) and published in *Laws of the State of Israel* No. 1074 of the 11th Shevat, 5743 (25th January 1983). p. 38; the Bill and Explanatory Note were published in *Bills* No. 1451 of 5740, p. 194; amendment 1995 passed by the Knesset on the 28th of Sivan, 5755 (27th June 1995) and published in *Laws of the State of Israel* No. 1530 of the 8th of Tammuz, 5755 (6th July 1995) p.342; the Bill and Explanatory Note were published in *Bills* No. 2387 of 5755, p. 412; amendment 2001 passed by the Knesset on the 2nd of Nisan 5761 (26th March 2001) and published in *Laws of the State of Israel* No. 1785 of the 11th of Nisan 5761 (4th April 2001); the Bill and Explanatory Note were published in *Bills* No. 2769 of 5752, p. 180; amendment 2004 passed by the Knesset on 25th Av, 5764 (12th August, 2004), published in *Laws of the State of Israel* No. 1957, p.535 ; the bill and explanatory note were published in Knesset Bills 42, on 12th Iyyar, 5764 (3rd May, 2004), p.87; and in Government Bills 101, on 19th Iyyar, 5764 (10th May, 2004), p. 433.

** As of 2002, the fine under section 61(a)(1) of the Penal Law, 1977 is 19,300 NIS (approximately 4,300 US\$) and the fine under section 61(a)(4) is 202,000 NIS (approximately 45,000 US\$).

***Relates to the provisions of the initial law. The provisions of the 2001 amendments came into force as follows:

- (a) except for the provisions specified in subsections (b) through (d) - 90 days from the date of its publication [April 4, 2001] (hereinafter – the date of commencement).
- (b) the advertising restrictions as provided in section 5 of the principal law as amended in section 3 of this law, in newspapers and other printed matter – 90 days after the date of commencement.
- (c) the warning as determined in section 9(a) of the principal law, as amended in section 5(1) of this law -
 - (1) As to tobacco products in packages or bags – 6 months from the date of commencement, provided that during the 3 months from the end of the aforesaid 6 months , it shall be permissible to use the warning applicable on the eve of the commencement of this law;
 - (2) As to permitted signs, as defined in section 4 of the principal law, which were in place before the date of commencement – 2 years from the date of commencement.
- (d) restrictions on the use of a trade name or brand name, as specified in section 7A of the principal law, as provided in section 4 of this law – 6 months from the date of commencement.

The provisions of the 2004 amendments will come into force as follows:

- (a) Sections 8A and 11 as amended shall come into force on November 12, 2004.
- (b) The definition of “tobacco products” as amended, for the purposes of Section 9 of the original Law, on December 1, 2004.
- (c) Other 2004 amendments - on August 12, 2004.