

[seal applied to Royal Commands]

**The
Tobacco Products Control Act of
A.D. 2017**

**Given by H.M. Vajiralongkorn Bodindradebayavarangkun, Rex,
On this, the 2nd day of April, A.D. 2017,
Being the 2nd year of the present reign.**

His Majesty, King Vajiralongkorn Bodindradebayavarangkun, is pleased to proclaim that;

Whereas it is appropriate to amend the laws governing the control of tobacco products and the laws protecting the health of non-smokers;

Therefore, upon the advice and consent of the National Legislature, we are pleased to place our seal upon the following Act:

Article 1. This Act shall be styled "The Tobacco Products Control Act of A.D. 2017".

Article 2. This Act shall become effective ninety days from the day following its publication in the Government Gazette.

Article 3. The following are rescinded:

- (1) The Tobacco Products Control Act of 1992.
- (2) The Non-Smokers' Health Protection Act of 1992.

Article 4. In this Act:

"Tobacco Products" shall mean products derived from the tobacco leaf, or from [other parts of] the plant *nicotiana tabacum*, and shall further include any product containing nicotine as an ingredient for consumption by smoking, sucking, sniffing, chewing, eating, burning, or snuffing into the mouth or nose, or by any other means to achieve the same purpose, but excluding items regulated by the drug laws.

“Trader” shall mean a manufacturer or importer of tobacco products, and shall further include any persons holding a permit to sell tobacco at wholesale under the excise tax laws.

“Interested Party” shall mean a natural or juristic person who acts as an agent for a trader, association, or society of tobacco planters, curers, tobacco leaf traders, or an association or society of tobacco product retailers.

“Tobacco Addiction” shall mean a condition where a person’s body must consume tobacco products regularly, and has fallen into a state of dependency on tobacco products.

“Smoking” shall include any means of producing tobacco smoke or vapor from a tobacco product, or possession [sic] of tobacco products while such smoke or vapor is being produced.

“Smoke-Free Zone” shall mean an area where smoking is prohibited.

“Smoking Area” shall mean an area provided for smoking within a smoke-free zone.

“Packaging” shall mean packs, cartons, or other containers used to package tobacco products.

“Advertising” shall mean any action take for the purpose of having the public see, hear, or learn of information that that is advantageous in marketing.

“Marketing Communications” shall mean any kind of action, whether via advertising, public relations, creation of news, distribution of information, promotion of sales, displays at the point of sale, direct marketing, marketing or sales promotion by specific persons, or marketing via the internet, where the intent is to sell goods or services or to create an image.

“Information” shall mean writing, pictures, motion pictures, projections, sounds, symbols, or any other thing understood by the general public.

“Label” shall mean an image, mark, paper, or any other thing that presents information about a product to appear on the product itself, its packaging, or its containers, or to be intermingled or joined with the product, its packaging, or its containers, and shall further include documentation or handbooks for use of the product.

“Sell” shall mean the distribution, transmission, issue, exchange, or presentation in furtherance of trade.

“Operator” shall mean an owner, manager, or person responsible for operating a public place, workplace, or passenger vehicle that is a smoke-free zone.

“Public Place” shall mean a site that the general public has the right to enter, without regard to whether or not such entry is by invitation or by paying any price of admission.

“Workplace” shall mean a location belonging to the government, a state agency, a state enterprise, a private enterprise, or any other place where persons perform work, as further defined in rules set out by the Minister upon the recommendation of the Board.

“Passenger Vehicle” shall mean a public motor vehicle or other motor vehicle that is used to transport persons.

“Board” shall mean the National Tobacco Products Control Board.

“Official” shall mean a person appointed by a [Cabinet] Minister to perform duties under this Act.

“Minister” shall mean a [Cabinet] Minister who carries out the provisions of this Act.

Article 5. The Minister of Public Health shall carry out the provisions of this Act and shall have power under this Act to appoint officials, to establish Ministerial Regulations setting, reducing, or granting exceptions to fees required under this act, and to issue Ministerial Regulations and Notices required to carry out the provisions of this Act.

Such Ministerial Regulations and Notices shall take effect following their publication in the Government Gazette.

PART 1

The National Tobacco Products Control Board

Article 6. There shall be a Board named “The National Tobacco Products Control Board”, consisting of:

- (1) The Minister of Public Health, as Chairperson.
- (2) The Deputy Minister of Public Health, as Vice-Chairperson.
- (3) Twelve members by duty position, including the Deputy Minister of Finance, the Deputy Minister of Social Development and Human Security, the Deputy Minister of Tourism and Sports, the Deputy Minister of Agriculture and Cooperatives, the Deputy Minister of Commerce, the Deputy Minister of the Interior, the Deputy Minister of Justice, the Deputy Minister of Labor, the Deputy Minister of Education, the Commander of the National Police, the Secretary of the National Office of Health Standards, and the Manager of the Health Promotion and Support Fund.
- (4) Five members having special qualifications, appointed by the Cabinet on the basis of their exceptional knowledge, expertise, and experience in the fields of medicine, public health, law, protection of women’s and children’s rights, or another field of advantage to the control of tobacco products. One person may be appointed from each field.
- (5) Four members having special qualifications, appointed by the Cabinet from persons nominated by private sector non-profit organizations. Three of these members shall be engaged in activities relating to public health, and one in the field of civil liberties.

The Director of the Department of Disease Control shall be a member and Secretary, and shall appoint two employees of that department, whose duties relate to the control of tobacco products, as Assistant Secretaries.

Selection of members having special qualifications shall comply with rules, procedures, and conditions set out in Ministerial Notices.

Article 7. Members having special qualifications must possess certain characteristics, and must not have certain other forbidden characteristics, as follows:

(A) Required Characteristics:

- (1) Must be Thai citizens.
- (2) Must not be less than forty-five years of age.

(B) Forbidden Characteristics:

- (1) Must not be bankrupt and must have no history of financial delinquency.
- (2) Must not be incompetent or have the appearance of incompetency.
- (3) Must never have been incarcerated on the final order of a court of law, except for imprisonment for negligence, misdemeanors, or libel.
- (4) Must never have been fired, dismissed, or made to resign civil service, a state agency, or a state enterprise for reasons of malfeasance or corruption, or for bad or unlawful conduct.
- (5) Must not hold a political office or be a member or acting member of any office of a political party or political consultancy, or be an official of any political party.
- (6) Must not be a trader or have financial or other interest, direct or indirect, in the tobacco products industry.

Article 8. Persons appointed as members having special qualifications shall serve for a term of four years from the date of appointment. Persons whose terms have expired may be reappointed, but shall serve no more than two consecutive terms.

Upon expiration of a member's term as set out in the first paragraph, if no replacement member having special qualifications has been appointed, the incumbent member shall remain in office until a replacement has been appointed.

In the event that a member having special qualifications leaves office before expiration of the member's term, the Cabinet shall appoint a replacement member having special qualifications. However, if less than ninety days remain in the departing member's term, no immediate replacement shall be appointed, and the Board shall for that time consist of the remaining members only.

Any member having special qualifications who is appointed as a replacement member shall serve for the remainder of the departing member's term.

Article 9. In addition to leaving office at expiration of term, members having special qualifications shall be deemed to vacate the office upon:

- (1) Death.
- (2) Resignation.
- (3) Instruction to resign by the Cabinet due to faulty or corrupt performance of duty, bad conduct, or inadequate performance.
- (4) Lack of required characteristics or manifestation of forbidden characteristics.

Article 10. The Board shall have the following powers and duties:

(1) To propose policy and strategy relating to tobacco product control, health protection for non-smokers, and treatment and health recovery measures for persons addicted to tobacco products. Proposals shall be presented to the Cabinet to be considered for approval.

(2) To establish measures for the control of tobacco products, for health protection for non-smokers, and for the treatment and recovery of persons addicted to tobacco products; and to advise, consult, and coordinate the efforts of the government, government agencies, government enterprises, and private organizations in complying with such measures.

(3) To advise and consult with the Minister, the Bangkok Tobacco Products Control Board, Tobacco Products Control Boards in the provinces, the government at large, government agencies, government enterprises, private organizations, and individual officials engaged in carrying out the provisions of this Act.

(4) To advise and consult [with the Minister] on the issue of Notices for carrying out the provisions of this Act.

(5) To monitor, evaluate, and investigate the performance of the Bangkok Tobacco Products Control Board and Tobacco Products Control Boards in the provinces to ensure compliance with policies and strategies as set out in (1) and with measures as set out in (2), and to establish rules and procedures for reporting results achieved by those entities.

(6) To establish rules, procedures, and conditions for ratings as set out in this Act.

(7) To take any further action that the law may specify as the duties and responsibilities of the Board, or as assigned by the Cabinet or the Minister.

Article 11. In meetings of the Tobacco Products Control Board, attendance by one half the members shall constitute a quorum.

In meetings of the Tobacco Products Control Board, if the Chairperson is absent or unable to preside, the Vice-Chairperson shall preside. If the Vice-Chairperson is absent or unable to preside, the members attending shall select one member to preside over the meeting.

Final decisions taken in a meeting shall be by simple majority. Each member shall have one vote. In the event of a tie, the presiding member shall cast an additional deciding vote.

The Board shall meet at least twice per year.

Article 12. The Board may, at its discretion, appoint sub-committees to consider particular matters or to perform specific tasks.

Meetings of sub-committees shall be conducted as set out in Article 11, *mutatis mutandis*.

Article 13. In the performance of their duties under this Act, the Board and its sub-committees shall have the power to issue written orders summoning any person to appear before the board to testify or to express opinions, or to submit relevant documents or data for consideration.

Article 14. In the performance of their duties under this Act, Board members and sub-committee members shall be deemed government officials under the meaning set out in the Criminal Code.

Article 15. The Department of Disease Control shall function as the administrative office of the Board and its sub-committees, with the following duties and responsibilities:

(1) Prepare and submit to the Board proposed policy and strategy relating to control of tobacco products, health protection for non-smokers, and treatment and recovery for persons addicted to tobacco products, with due consideration of Thailand's international obligations and ties.

(2) Conduct or support studies, analysis, and research relating to control of tobacco products, health protection for non-smokers, and treatment and recovery for persons addicted to tobacco products.

(3) Act as the center for information relating to control of tobacco products, health protection for non-smokers, and treatment and recovery for persons addicted to tobacco products.

(4) Coordinate, support, and cooperate with the Bangkok Tobacco Products Control Board, Tobacco Products Control Boards in the provinces, the government at large, government agencies, government enterprises, educational institutions, international organizations, and private sector organizations whose activities further the purposes of this Act. Work with individual officials engaged in carrying out the provisions of this Act, the policies and strategies set out in Article 10 (1), and the measures set out in Article 10 (2).

(5) To take any further action assigned by the Minister, the Board, or a sub-committee, or that the law may specify as the duties and responsibilities of the Department of Disease Control.

PART 2

The Bangkok Tobacco Products Control Board

Article 16. There shall be a Bangkok Tobacco Products Control Board, consisting of:

(1) The Governor of Bangkok, as Chairperson.

(2) The Deputy [Governor] of Bangkok, as Vice-Chairperson.

(3) Sixteen members by duty position, including the Commander of Municipal Police; either the Director of the Elementary Education District or the Director of the Secondary Education District for Bangkok, as selected by the Director of the Office of Basic Education; one member from the Bangkok Excise Tax Office, as selected by the Director of the Excise Tax Department; the Director of the local (Bangkok) branch of the National Office of Disease Prevention; the Director of the Bangkok Medical Affairs Office; the Director of the Bangkok Education Office; the Director of the Bangkok Office of Social Development; the Director of the Bangkok Office of Culture, Sports, and Tourism; the Director of the Bangkok Sanitation Office; the Director of the Bangkok Hygiene Office; the Director of the Bangkok Public Relations Office; a representative from the Department of Disease Control; a representative from the Board of Higher Education; a representative from the Board of Vocational Education; and a representative from the Board for the Advancement of Private Schools.

(4) Six members having special qualifications are to be appointed by the Governor of Bangkok on the basis of their exceptional knowledge, expertise, and experience in the fields of medicine or public health, law, mass communications or public relations, protection of women's and children's rights, protection of civil liberties, or another field of advantage to the control of tobacco products. One person may be appointed from each field.

One of the Deputy Directors of the Department of Hygiene appointed by the Governor of Bangkok shall serve as member and secretary of the Board. The Governor of Bangkok shall appoint two additional civil servants to serve as assistant secretaries.

Article 17. Qualifications and prohibited characteristics for members having special qualifications shall be as set out in Article 16 (4). The provisions of Article 7 shall apply *mutatis mutandis*. Matters of appointment, term of service, and departure from service shall comply with rules, procedures, and conditions established by the Board.

Article 18. The Bangkok Tobacco Products Control Board shall have the following powers and duties within the confines of Bangkok:

(1) To take action to ensure enforcement of the laws on tobacco control, health protection for non-smokers, and the treatment and recovery of persons addicted to tobacco products.

(2) To carry out policy and strategy as set out in Article 10 (1) and to implement the measures described in Article 10 (2).

(3) To set out procedures for implementation, monitoring, evaluation, and investigation of practices relating to oversight and prevention of access to tobacco by children and adolescents, to reduce and eliminate consumption of tobacco products, and to protect the health of non-smokers, and to report results of such efforts to the Board.

(4) To advise and coordinate the efforts of the government, state agencies, state enterprises, and private organizations relating to control of tobacco products, health protection for non-smokers, and treatment and recovery of persons addicted to tobacco products.

(5) To provide the Board with observations and opinions relating to enforcement of the various laws on control of tobacco products, health protection for non-smokers, and treatment and recovery of persons addicted to tobacco products.

(6) To carry out any further action related to the control of tobacco products, health protection for non-smokers, and treatment and recovery of persons addicted to tobacco products, that may be assigned by the Minister, the Board, or the Governor of Bangkok.

Article 19. The Bangkok Tobacco Products Control Board may, at its discretion, appoint sub-committees to consider particular matters or to perform specific tasks.

Article 20. Meetings and work procedures of the Bangkok Tobacco Products Control Board and its sub-committees shall conform to the provisions of Article 11, Article 13, and Article 14, *mutatis mutandis*.

PART 3

Provincial Tobacco Products Control Boards

Article 21. There shall be Provincial Tobacco Products Control Boards, consisting of:

(1) The Provincial Governor, as Chairperson.

(2) [One of] the Deputy Governors of the Province, appointed by the Provincial Governor, as Vice-Chairperson.

(3) Thirteen members by duty position, including the Provincial Prosecutor; the Provincial Deputy Governor; the Provincial Police Commander; one of the Directors of the Elementary Education District for the province, as selected by the Secretary of the Provincial Office of Basic Education; the Director of the Secondary Education District for the province; the Director of the Office of Disease Prevention and Control for the Province; either [apparent omission: the Director of] Social Development and Human Security for the Province, the Provincial Director of Public Relations, or the Director of the Provincial Excise Tax Office, as selected by the Provincial Governor; the Director of the National Health Security Branch Office for the Province; and three persons from other local government administrative offices within the province as selected by the Provincial Governor.

(4) Six members having special qualifications are to be appointed by the Provincial Governor on the basis of their exceptional knowledge, expertise, and experience in the fields of medicine or public health, law, mass communications or public relations, protection of women's and children's rights, protection of civil liberties, or another field of advantage to the control of tobacco products. One person may be appointed from each field.

The member who is a public health physician shall serve as member and secretary of the Board. The Provincial Governor shall appoint two additional civil servants to serve as assistant secretaries.

Article 22. Qualifications and prohibited characteristics for members having special qualifications shall be as set out in Article 16 (4). The provisions of Article 7 shall apply *mutatis mutandis*. Matters of appointment, term of service, and departure from service shall comply with rules, procedures, and conditions established by the Board.

Article 23. The Provincial Tobacco Products Control Boards shall have the following powers and duties within the confines of their respective provinces:

(1) To take action to ensure enforcement of the laws on tobacco control, health protection for non-smokers, and the treatment and recovery of persons addicted to tobacco products.

(2) To carry out policy and strategy as set out in Article 10 (1) and to implement the measures described in Article 10 (2).

(3) To set out procedures for implementation, monitoring, evaluation, and investigation on practices relating to oversight and prevention of access to tobacco by children and adolescents, to reduce and eliminate consumption of tobacco products, and to protect the health of non-smokers.

(4) To advise, consult on, and coordinate the efforts of the government, state agencies, state enterprises, and private organizations relating to control of tobacco products, health protection for non-smokers, and treatment and recovery of persons addicted to tobacco products.

(5) To provide the Board with observations and opinions relating to enforcement of the various laws on control of tobacco products, health protection for non-smokers, and treatment and recovery of persons addicted to tobacco products.

(6) To carry out any further action related to the control of tobacco products, health protection for non-smokers, and treatment and recovery of persons addicted to tobacco products that may be assigned by the Minister, the Board, or the Provincial Governor.

Article 24. The Provincial Tobacco Products Control Boards may, at their discretion, appoint sub-committees to consider particular matters or to perform specific tasks.

Article 25. Meetings and work procedures of the Provincial Tobacco Products Control Boards and their sub-committees shall conform to the provisions of Article 11, Article 13, and Article 14, mutatis mutandis.

PART 4

Control of Tobacco Products

Article 26. No person shall sell or provide tobacco products to any other person who is less than twenty years of age.

In the event that there is doubt about the age of the purchaser or receiver of tobacco products, the seller or provider shall require the purchaser or receiver to present a citizen identification card or other evidence of the purchaser or receiver's age, as may apply.

No person shall use, hire, solicit, or consent for any person under the age of twenty-eight years to sell or provide tobacco products.

Article 27. In the case of retail sales of tobacco, the retail seller must not:

- (1) Sell tobacco products via a vending machine.
- (2) Sell tobacco products via electronic communications or a computer network.
- (3) Sell tobacco products outside the location identified in the seller's permit.
- (4) Sell tobacco products by distributing, adding, giving, or exchanging tobacco products for merchandise, services, or other benefits, as may apply.
- (5) Sell tobacco products using the appearance of an on-site, cut-rate sales promotion.
- (6) Sell [other] merchandise or services by distributing, adding, or giving tobacco products, or in exchange for tobacco products, as may apply.
- (7) Hawk or peddle tobacco products.
- (8) Give or offer admission to a contest or performance, access to other services, participation in games of chance or raffle, or any other benefit for the purchaser of tobacco products, or to persons who present packaging materials or other items relating to tobacco products in exchange for tobacco products.
- (9) Display the price of tobacco products in a manner to attract buyers on the premises where such products are sold.

Article 28. No person shall distribute tobacco products as samples of the product, so that the product should achieve wider distribution, or to persuade the public to use the product.

Article 29. No person shall sell tobacco products in the following types of establishments:

- (1) A Buddhist temple or other site where religious ceremonies are held.
- (2) A health care establishment as defined in the laws governing health care establishments, or a drug store as defined in the laws governing drugs.
- (3) An educational institution as defined in the National Education Act.
- (4) A public park, a zoological park, or an amusement park.
- (5) Any other place designated by the Minister upon the advice of the Board.

Upon the advice of the Board, the Minister may specify a distance from the establishments described in the first paragraph, within which the sale of tobacco products is forbidden. In such a case, the designated area shall be marked clearly.

Article 30. No person shall advertise or convey any marketing message for tobacco products.

Article 31. No person shall display as an advertisement the name or symbol of a tobacco product, the name or symbol of a tobacco product manufacturer, or any mark or other thing to cause the public to understand that such name or symbol is the name of a tobacco product or of a tobacco product manufacturer or importer. This prohibition applies in the following instances or circumstances:

- (1) Upon or within printed matter, tapes or other video media, motion pictures, radio broadcasts, television broadcasts, electronic media, computer networks, or advertising signs.
- (2) In an entertainment hall or a motion picture theater, or within a performance, entertainment, competition, contest, a provided service, or as part of any other similar location or activity.
- (3) In any other medium or location used to advertise or provide marketing communication, as designated by the Minister upon the advice of the Board.

Article 32. No person shall display the name or symbols of a tobacco product or the name or symbols of a tobacco product manufacturer or importer upon any product other than a tobacco product. No person shall use all or part of the name or symbol of a tobacco product, whether intact, in combination, or in modified form as part of another product, for the purpose of advertising a tobacco product or a tobacco product manufacturer or importer.

No person shall import for sale, advertise, or sell any of the products described in the first paragraph.

Article 33. No person shall sell or advertise any product that takes the name or symbol of a tobacco product as the name or symbol of the product sold or advertised. No person shall advertise a product using

the name or symbol of a tobacco product enhanced or modified to be a part of the name of that product, so that the product might be understood as advertising for the tobacco product.

Article 34. No person shall produce, sell, or import into the Kingdom for sale or general distribution, advertisement, or marketing communication any of the following items:

(1) Products having an appearance suggesting that they are modeled after tobacco products.

(2) Consumer products used in a way that simulates smoking, and that contain chemicals that are hazardous to health as identified in Ministerial Notices, upon the advice of the Board.

(3) Packaging, as described in (1) and (2).

Article 35. No operator or other interested party shall aid or support any person, group of persons, state agency, or private organization in one or another of the following forms:

(1) Any action that builds up the image of a tobacco product, a manufacturer, or an importer of tobacco products.

(2) Any action that interferes with or might interfere with tobacco control policy.

(3) Advertising for a tobacco product, or the manufacturer or importer of a tobacco product.

(4) Promotion of tobacco consumption.

The provisions of the first paragraph shall not apply to actions between operators, interested parties, and persons involved in the manufacture and sale of tobacco product, nor to charitable donations or humanitarian acts during a time of serious public danger.

No person shall publicize any activity or news for public relations purposes, as set out in the first and second paragraphs.

Article 36. No person who sells tobacco products at retail shall display or allow others to display tobacco products on the retail establishment premises.

Display of tobacco product names and prices, and displays identifying the establishment as a tobacco product retailer shall conform to rules, procedures, and conditions set out by the Minister upon the advice of the Board.

Tobacco product retailers shall display information on programs to reduce and stop consumption of tobacco products prepared by the Ministry of Public Health under rules, procedures, and conditions set out by the Ministry upon the advice of the Board.

Article 37. Tobacco products for sale in the Kingdom must contain the ingredients and must produce substances upon burning of those ingredients as set out in Ministerial Regulations.

Manufacturers or importers of the tobacco products described in the first paragraph have the duty to list the ingredients of tobacco products and the substances produced upon burning those ingredients, and to send samples of those tobacco products for testing and publication of test results to inform the public. Rules, procedures, and conditions for this process shall be set out in Ministerial Regulations.

In the event that a tobacco product as described in the second paragraph contains the stated ingredients, and produces the substances upon burning that are described in the first paragraph, the Ministry of Public Health shall issue a certificate of compliance, verifying the presence of those ingredients and the production of the stated substances upon burning. Issue of the certificate, the period of its validity, and renewal of the certificate shall comply with rules, procedures, and conditions set out in Ministerial Regulations.

In the event that a tobacco product as described in the second paragraph does not contain the stated ingredients, and does not produce the substances upon burning that are described in the first paragraph, the Ministry of Public Health shall order cessation of sale of the product, forbid importation of the product, and order destruction of such quantities of the product that have been manufactured or imported. The Ministry shall also make public notice of these actions.

Any costs arising from inspection of the ingredients of a tobacco product and the substances produced by that substance upon burning, as described in the second paragraph, as well as any costs arising from product destruction and publication of notices, shall be borne by the manufacturer or importer. Payment of such costs shall comply with rules, procedures, and conditions set out in Ministerial Regulations.

In the interest of protect public health and safety, the Ministerial Regulations described in the first paragraph shall require the Minister to promulgate rules for technical methodology and any subsequent changes with appropriate dispatch.

Article 38. Manufacturers or importers of tobacco products for sale in the Kingdom must ensure that the size, color, symbols, and labeling of packaging materials for tobacco and tobacco products, as well as the appearance of trademarks, symbols, formatting, and statements placed on such packaging materials, comply with rules, procedures, and conditions set out by the Minister, upon the advice of the Board. Compliance must be verified before such articles are moved from the place of manufacture or before importation into the Kingdom, as the case may be.

No person shall sell tobacco products that do not have packaging or trademarks, symbols, formatting, and statements that comply with the first paragraph.

To best protect public health and safety, the Board shall review the requirements set out in the first paragraph at two-year intervals beginning on the effective date of this Act. In case of necessity, the Board may adopt a shorter interval.

Article 39. No person shall manufacture or import into the Kingdom cigarettes in packs or other containers of less than 20 cigarettes each.

No person shall divide the contents of a cigarette pack for separate sale.

The sale of other types of tobacco products shall comply with rules, procedures, and conditions set out by the Minister, upon the advice of the Board.

Article 40. Manufacturers and importers of tobacco products for sale in the Kingdom are required to report the quantity of such products manufactured or imported into the Kingdom, amounts spent on marketing, revenue, and the activities described in Article 35 to the Board annually. Such reporting shall comply with rules, procedures, and conditions set out by the Minister, upon the advice of the Board.

PART 5

Protecting the Health of Non-Smokers

Article 41. The Minister, upon the advice of the Board, shall have the power to designate types or names of public places, workplaces, and [public] transportation that are wholly or in part smoke-free zones.

The Minister, upon the advice of the Board, may designate smoking areas within the smoke-free zones described in the first paragraph.

Article 42. No person shall smoke within a smoke-free zone, except within a smoking area as described in the second paragraph of Article 41.

Article 43. When the Minister, upon the advice of the Board, has designated a public place, workplace, or [public] vehicle as a smoke-free zone, the operator shall cause that place or vehicle to have the following characteristics:

- (1) Be marked clearly as a smoke-free zone.
- (2) Be free from equipment or conveniences for smokers.
- (3) Possess any other characteristic required by the Minister, upon the advice of the Board.

Article 44. In the event that a smoke-free zone is designated under the second paragraph of Article 41, the operator may specify smoking areas therein. Such smoking areas must:

- (1) Be marked clearly as a smoking area.
- (2) Not be near the entries or exits of the place or vehicle, or in any other location that is open to clear observation.
- (3) Have a clearly designated area, selected with due consideration for appropriate ventilation. The space must not constitute an annoyance to others.

(4) Display smoking reduction and smoking cessation information as specified by the Minister, upon the advice of the Board.

(5) Possess such other conditions and characteristics as the Minister, upon the advice of the Board, may direct.

Article 45. Markings for the smoke-free zones described in Article 43 (1), and for the smoking areas designated by the operator, as described in Article 44 (1), must comply with characteristics and methodology prescribed by the Minister, upon the advice of the Board.

Article 46. Operators shall have the duty to publicize and give warning notices prior to the establishment of smoke-free zones, and to monitor, ensure compliance, or take other necessary action to prevent smoking in those smoke-free zones.

An operator who has complied appropriately with the first paragraph shall bear no liability for violations by persons who smoke in the smoke-free zone.

PART 6

Officials

Article 47. In performance of the duties set out in Part 4, officials [appointed under this Act] shall have the following powers:

(1) Upon probable cause to suspect a violation under Article 4, to enter into and search any public vehicle or establishment during the hours from sunrise to sunset, or during normal business hours of the establishment.

(2) To take such quantities of tobacco products as may be required for testing.

(3) To seize or impound all or part of any tobacco products or other items related directly or indirectly to the manufacture, importation, sale, or other action that may be in violation of Part 4 for use as evidence in prosecuting the case.

(4) To summon any person for questioning, to issue letters of inquiry, or to require submission of documents, information, or any other materials for consideration by officials or for use as evidence.

(5) To make still photographs, moving pictures, or audio recordings, and to collect any other materials for use as evidence.

Article 48. In performance of the duties set out in Part 5, officials [appointed under this Act] shall have the following powers:

(1) To enter into a public place or workplace during the hours from sunrise to sunset, or during the normal hours of operation of the place, to conduct inspections as set out in Part 5.

(2) Upon probable cause to suspect a violation, to signal to stop or to enter into any public vehicle to conduct inspections as set out in Part 5.

(3) To issue letters of inquiry or to summon any person for questioning or instruction, to submit documents, information, or any other materials for consideration by officials or for use as evidence.

(4) Upon probable cause or upon actual occurrence of a violation of Part 5, to demand, examine, and record information from citizen identification cards or any other documentation having the bearer's name, address, and photograph.

(5) To make still photographs, moving pictures, or audio recordings, and to collect any other materials for use as evidence.

(6) To issue written demands for payment of fines assessed under the provisions of Part 5, following rules, procedures, and conditions set out by the Minister, upon the advice of the Board.

Article 49. Officials of any position or rank may be granted the powers set out in Article 47 and Article 48, either in whole or in part. The nature of actions that may be taken and the qualifications required for each duty position shall be determined by the Minister. Prior to carrying out each kind of action, written authorization must be prepared and kept on the official's person for display to any other persons concerned.

Article 50. All parties involved shall cooperate with and extend every appropriate convenience to officials in the performance of duties under Article 47 and Article 48.

Article 51. Officials performing duties under this Act shall display their identification documents to all parties involved.

Identification documents for officials shall conform to specifications set out by the Minister.

Article 52. Officials performing duties under this Act shall be considered government officials under the Criminal Code.

PART 7

Punitive Provisions

Article 53. Any person who violates the first paragraph or the third paragraph of Article 26; or Article 27 (1), (2), or (3), shall be subject to imprisonment for not more than three months or a fine of not more than thirty thousand baht, or both.

Article 54. Any person who violates Article 27 (4), (5), (6), (8), or (9); or Article 29 shall be subject to a fine of not more than forty thousand baht.

Article 55. Any person who violates Article 27 (7) shall be subject to a fine of not more than twenty thousand baht.

Article 56. Any person who violates Article 30 or Article 31 shall be subject to imprisonment for not more than six months or a fine of not more than fifty thousand baht, or both.

If a violation under Article 30 or Article 31 is committed by a manufacturer, importer, or exporter of tobacco products, or by an advertising agency or a marketing communications agent, the violator shall

be subject to imprisonment for not more than one year or a fine of not more than one half the expenditure for the advertisement or marketing communication, but in no case less than one million, five hundred thousand baht, or both imprisonment and a fine.

In addition to the penalties assessed under the first and second paragraphs, violators shall be subject to an additional fine of not more than fifty thousand baht per day for the duration of the violation, or until the day that compliance is achieved.

Article 57. Any person who violates the first paragraph of Article 32 shall be subject to a fine of not more than one hundred thousand baht. Any person who violates the second paragraph of Article 32 shall be subject to a fine of not more than fifty thousand baht.

Article 58. Any person who violates Article 33 shall be subject to a fine of not more than two hundred thousand baht.

Article 59. Any person who manufactures or imports tobacco products for sale or general distribution, advertising purposes, or marketing communications as set out in Article 34 (1), (2), or (3) shall be subject to a fine of not more than one hundred thousand baht.

Any person who sells [tobacco] products as set out in Article 34 (1), (2), or (3) shall be subject to a fine of not more than fifty thousand baht.

Article 60. Any operator who violates the first paragraph of Article 35 shall be subject to imprisonment for not more than one year or a fine of not more than one half of the expenditure for the forbidden activity, but not less than one million, five hundred thousand baht, or both.

If a violation under the first paragraph of Article 35 is committed by an employee or other person hired to perform such a violation, that person shall be subject to the penalties set out in the first paragraph.

If a violation under the first paragraph of Article 35 is committed by an interested party, that person shall be subject to imprisonment for not more than one year or a fine of not more than five hundred thousand baht, or both.

Any person who violates the third paragraph of Article 35 shall be subject to a fine of not more than five hundred thousand baht.

Article 61. A retailer of tobacco products who violates the first paragraph of Article 36 shall be subject to a fine of not more than forty thousand baht.

A retailer of tobacco products who violates the second or third paragraph of Article 36 shall be subject to a fine of not more than five thousand baht.

Article 62. If a violator of Article 26, Article 28, Article 29, Article 32, Article 33, or the first paragraph of Article 36 is a manufacturer or importer of tobacco products, that person shall be subject to penalties three times greater than otherwise specified for those violations.

Article 63. Any manufacturer or importer of tobacco products who fails to report or who submits an incomplete report required under the second paragraph of Article 37 shall be subject to imprisonment for not more than six months or a fine of not more than two hundred thousand baht, or both.

Any manufacturer or importer of tobacco products who violates an order forbidding sale or importation of tobacco products or an order to destroy such products as set out in the fourth paragraph of Article 37, shall be subject to imprisonment for not more than one year or a fine of not more than five hundred thousand baht, or both.

In the event that the violator who ignores an order forbidding sale or importation of tobacco products or an order to destroy such products as set out in the fourth paragraph of Article 37, is not a manufacturer or importer, that person shall be subject to a fine of not more than forty thousand baht.

Article 64. Any person who fails to comply with the provisions of the first paragraph of Article 38 shall be subject to a fine of not more than twenty thousand baht. Any person who fails to comply with the second paragraph of Article 38 shall be subject to a fine of not more than forty thousand baht.

Article 65. Any person who violates the first paragraph of Article 39 shall be subject to a fine of not more than three hundred thousand baht.

Any person who violates the second paragraph of Article 39 or who fails to comply with the third paragraph of Article 39 shall be subject to a fine of not more than forty thousand baht.

Article 66. Any manufacturer or importer of tobacco products who fails to submit information or who submits incomplete information as required under Article 40 shall be subject to imprisonment for not more than six months or a fine of not less than one hundred thousand baht, or both.

Any manufacturer or importer of tobacco products who submits falsified information in response to the requirements of Article 40 shall be subject to imprisonment for not more than one year or a fine of not less than two hundred thousand baht, or both.

Article 67. Any person who violates Article 42 shall be subject to a fine of not more than five thousand baht.

Article 68. Any person who violates Article 43 or Article 44 shall be subject to a fine of not more than fifty thousand baht.

Article 69. Any operator who fails to comply with the provisions of Article 45 shall be subject to a fine of not more than five thousand baht.

Article 70. Any operator who fails to comply with the provisions of the first paragraph of Article 46 shall be subject to a fine of not more than three thousand baht.

Article 71. Any person who obstructs or who fails to provide appropriate assistance to an official in the performance of duty as required by Article 47 and Article 48 shall be subject to imprisonment for not more than one month or a fine of not more than ten thousand baht, or both.

Article 72. Any person who, without sufficient reason, fails to pay a fine ordered by an official as set out in Article 48 (6) within the time allowed in the order shall be subject to a fine of twice the amount of the fine specified in the order.

Article 73. In the event that a violator of the provisions of this Act is a juristic person, if the violation was the result of the order or the actions of a director, a manager, or other responsible person in

the corporate structure, or in the event that such a person neglected to act or to give orders to prevent the violation by the corporate entity, then that person shall be liable to the penalties for each such violation.

Article 74. The Board or a sub-committee or individual designated by the Board shall have the power to assess fines for violations under this Act that are punishable by a fine only. The schedule of such penalties shall be published in the Government Gazette.

[Page 44-45 break falls here in source.]

Once an accused pays the full amount of an assessed fine within the prescribed time, the matter shall be considered a closed case, as set out in the Code of Criminal Procedure.

Specific Provisions

Article 75. During the initial period, the National Tobacco Products Control Board will consist of those members described in Article 6 (1), (2), and (3). The Director of the Department of Disease Control will act as both Chair and Secretary. This arrangement will continue until the appointments described in Article 6 (4) and (5) are made, which is to take no longer than one hundred twenty days from the effective date of this Act. The Director of the Department of Disease Control shall appoint two of the Department's own employees, whose duties already involve tobacco product control, to act as Assistant Secretaries.

Article 76. During the initial period, the Bangkok Tobacco Products Control Board will consist of those members described in Article 16 (1), (2), and (3). The Deputy Director of the Bangkok Department of Public Health appointed by the Governor of Bangkok will act as both Chair and Secretary. This arrangement will continue until the appointments described in Article 16 (4) are made, which is to take no longer than one hundred twenty days from the effective date of this Act. The Governor of Bangkok shall appoint two persons assigned to the Bangkok Department of Public Health to act as Assistant Secretaries.

Article 77. During the initial period, the Provincial Tobacco Products Control Boards will consist of those members described in Article 21 (1), (2), and (3). The physician who is the Provincial Public Health Director will act as both Chair and Secretary. This arrangement will continue until the appointments described in Article 21 (4) are made, which is to take no longer than one hundred twenty days from the effective date of this Act. The Provincial Governor shall appoint two of the Province's own employees to act as Assistant Secretaries.

Article 78. The reports of tobacco product ingredients made under the Tobacco Products Control Act of 1992 prior to the effective date of this Act shall remain valid until the times scheduled for new reports of ingredients and burn products under this Act.

Article 79. The body of Ministerial Regulations and Notices issued under the Tobacco Products Control Act of 1992 and the Non-Smokers' Health Protection Act of 1992 that are in effect on the day prior to the effective date of this Act shall remain in effect until replaced by Ministerial Regulations, rules, or notices issued under this Act, so long as the existing documents do not contradict the provisions of this Act.

The Ministerial Regulations, rules, and notices mandated by this Act shall be promulgated within one year from the effective date of this Act. If this target cannot be met, the Minister shall report the reasons to the Cabinet.

In the name of His Majesty;
Lt. General Prayut Chan-o-cha
Prime Minister

Schedule of Fees

1. Certificate of Tobacco Product Ingredients and
Burn Products. Per Copy: 100,000 Baht
2. Replacement Certificate of Tobacco Product
Ingredients and Burn Products Per Copy: 2,000 Baht

Remarks: The reasons for promulgation of this Act are that the Tobacco Products Control Act of 1992 and the Non-Smoker's Health Protection Act of 1992 have been in effect for so long a time that many of their provisions are no longer relevant to the present situation. As a result, control of tobacco products and protection of public health from the dangers of smoking are not as effective as they should be. In addition, Thailand is party to a number of international agreements related to tobacco control measures advocated by the World Health Organization. It is therefore appropriate to improve both the extant laws to achieve better control of tobacco products and raise the level of public health protection, particularly for children and adolescents, the nation's greatest asset. The laws must become more efficient and better aligned with those international agreements. It is, therefore, necessary to promulgate these laws.