

Presidency of the Republic
Office of Civil Affairs
Sub Office for Legal Affairs

DECREE N° 2.018, OF OCTOBER 1, 1996.

Regulates Law n° 9.294, of July 15, 1996,
concerning restrictions on the use of advertising for
smoking products, alcoholic beverages,
medications, therapies and pesticides, pursuant to
Art. 220, § 4º of the Constitution.

THE PRESIDENT OF THE REPUBLIC, in the exercise of the authority vested in him by Article 84, sub-paragraph IV, of the Constitution, and having before him the provisions of Law n° 9.294, of July 15, 1996,

DECREES:

Chapter I

PRELIMINARY PROVISIONS

Art. 1º The use of advertising for smoking products not prohibited by law, whether or not they are tobacco derivatives, for alcoholic beverages, medications and therapies and agricultural pesticides is subject to the restrictions and conditions established in [Law n° 9.294, of July 15, 1996](#), in [Law n° 8.918, of July 14, 1994](#), in [Law n° 6.360, of September 23, 1976](#), and in [Law n° 7.802, of July 11, 1989](#), in their respective Regulations, and in this Decree.

Art. 2º For the purposes of this Decree, the following definitions are adopted:

I – PUBLIC SPACE: a closed space intended for permanent simultaneous use by a number of people, such as houses of spectacles, bars, restaurants and similar establishments. Excluded from this concept are open or open-air spaces, even if they are enclosed or in any way set apart from their surroundings.

II – PUBLIC WORK SPACES: closed areas in any work place intended for simultaneous use by a number of people who perform their work there on a permanent basis;

III – AIRCRAFT AND PUBLIC TRANSPORTATION VEHICLES: aircraft and vehicles so defined in the relevant legislation used for the transportation of passengers, even if they are free of charge.

IV – AREA DULY ISOLATED AND INTENDED EXCLUSIVELY FOR SUCH PURPOSE: the area in the public space that is exclusively intended for smokers, separated from the area intended for non-smokers by any efficient means or recourse that prevents the entry of smoke.

Art. 3º The use of smoking products in public spaces is prohibited, except in areas intended exclusively for their users, duly isolated and with appropriate ventilation.

Sole paragraph. The area intended for the users of smoking products must have suitable arrangements for ventilation, whether natural or artificial, and for the refreshment of the air, in such a way as to prevent the accumulation of smoke in the environment.

Art. 4º In hospitals, clinics, libraries, classrooms, theaters, cinemas and in public federal facilities smoking will only be permitted if there are open-air areas or spaces intended solely for the use of smoking products.

Sole paragraph. In individual offices of public federal facilities the use of smoking products will be permitted at the discretion of the occupant.

Art. 5º In aircraft and public vehicles smoking will only be permitted after the lapse in each journey of one hour of travel, and as long as there is in the aforementioned means of transport a section especially reserved for smokers and duly indicated as such.

Art. 6º Failure to comply with the provisions of this Decree will subject the user of smoking products to a warning, and in the event of a repeat offense, the removal from the premises by the person in charge, without impairment to the sanctions provided for in local legislation.

Chapter II

ADVERTISING AND PACKAGING OF TOBACCO PRODUCTS

Art. 7º Commercial advertising of tobacco products will only be permitted by radio and television broadcasters during the period between 9:00 p.m. and 6:00 a.m.

§ 1º Commercial advertising of the products referred to in this must be adapted to the following principles:

a) not to suggest exaggerated or irresponsible consumption, nor that it leads to wellbeing or health, nor make any association with civic or religious celebrations;

b) not to induce people to consume attributing to the products calmative or stimulating properties that reduce fatigue or tension, or any similar effect;

c) not to associate ideas or images of greater success for people's sex lives, insinuating an increase of virility or femininity in people who are smokers;

d) not to associate the use of the product with the practice of Olympic sports, nor to suggest or induce its consumption in places or situations that are dangerous or illegal;

e) not to use imperatives that are direct inducements to consumption;

f) not to include in the broadcasting of sounds or of sounds and images the participation of children or adolescents, nor to address them.

§ 2º The advertising will contain in the respective media and depending on its characteristics a written and/or spoken warning on the harmful effects of smoking, using the following statements sequentially, either simultaneously or in rotation, and in the latter case, they should change at most every five months, with each one preceded by the phrase, "The Ministry of Health Warns that"

- a) smoking can cause heart disease and stroke;
- b) smoking can cause lung cancer, chronic bronchitis and emphysema;
- c) smoking during pregnancy can harm your baby;
- d) people who smoke are more susceptible to stomach ulcers;
- e) you should avoid smoking in the presence of children;
- f) smoking has a number of harmful effects on your health.

§ 3º Packages, except those intended for export, billboards, panels and sheets, newspapers and magazines that engage in publicity or advertising of the products referred to in this article shall have the warning noted in the foregoing paragraph.

§ 4º On packages the warning statements noted in § 2º of this article are to be used sequentially, simultaneously or in rotation, and in the latter case they should change at most every five months, being inserted in a way that is legible and prominently displayed on one of the sides of the package, case or package that is customarily sold directly to consumers.

§ 5º In the billboards, panels and sheets, newspapers and magazines the warning statements noted in § 2º of this article are to be used sequentially, simultaneously or in rotation, and in the latter case they should change at most every five months, and should be legibly and prominently written.

Chapter III

ADVERTISING AND LABELING OF BEVERAGES

Art. 8º Commercial advertising of potable beverages with an alcoholic content greater than thirteen degrees Gay Lussac will only be permitted on radio and television broadcasts between the hours of 9:00 p.m. and 6:00 a.m.

§ 1º The advertising addressed by this article may not associate the product with Olympic sports or competition, with the healthy performance of any activity, with the driving of vehicles or with images or ideas of people having greater success or sexuality.

§ 2º Citations and characterizations of product sponsorship indicated in the heading of this article, in stadiums, places for competitions and similar venues, as well as events outside the normal or routine scheduled programming of radio and television broadcasters can be made at any time, as long as they are identified only with the brand or slogan of the product, without recommending their consumption.

Art. 9º Labels on packages of alcoholic beverages addressed in the foregoing article must contain, along with the mandatory statements required by Laws nº 7.678, of November 8, 1988, and 8.918, of July 14, 1994 and their regulations, the expression: "Avoid Excessive Consumption of Alcohol."

Chapter IV

ADVERTISING FOR MEDICATIONS AND THERAPIES

Art. 10. Advertising for medications and therapies of any type or kind can be done in specialized publications aimed directly and specifically at health professionals and institutions.

Art. 11. Advertising for medications, drugs or any other product subject to the regime of Law nº 6.360, of September 23, 1976, whose sale depends on a prescription issued by a physician or dental surgeon can only be addressed to those professionals through specific publications.

Art. 12. Anodyne medications sold over the counter, and so classified by the competent agency of the Ministry of Health, can be advertised in the mass media, as long as they are authorized by the Ministry, and observe the following conditions:

I – Registration of the product, when this is required, with the competent body of health oversight;

II – The text, presentation, image or projections must not give rise to false interpretations, errors or confusion regarding the composition of the product, its purposes, method of use or origin, or ascribe to it therapeutic properties that have not been demonstrated at the time of the registration mentioned in the foregoing item;

III – Contraindications, indications, precautions and warnings concerning the use of the product must be stated;

IV – It must comply with any additional generic requirements that may be determined by the Ministry of Health;

V – It must contain any warnings regarding its abuse, as indicated by the classifying authority.

§ 1º The dispensation of the requirement for prior authorization pursuant to the terms of this article does not preclude monitoring by the competent agencies of health oversight of the Ministry of Health, the States and the Federal District.

§ 2º In cases of infractions, if non-compliance with the provisions set forth in items, I, II and III of this article is established, independently of applicable criminal enforcement, the company shall become subject to the regime of prior authorization provided for in Article 58 of Law nº 6.360, of September 23, 1976, regarding the text of future advertising.

§ 3º The provisions set forth in this article apply to all means of disclosure, communication, or publicity, such as billboards, whether illuminated or not, posters, references in radio programs, television or cinema, and other media.

Art. 13. The advertising for medications referred to in this Chapter can not contain affirmations that are not susceptible to scientific proof, nor can they make use of testimonials by professionals who are not legally qualified to issue them.

Art. 14. Phytotherapeutic products of Brazilian medicinal flora that fall under the provisions set forth in Article 12 must present scientific proof of their therapeutic effects within a period of five years from the publication of Law nº 9.294, of 1996, in the default of which their advertising shall be automatically prohibited.

Art. 15. All advertising for medications must contain a warning that if symptoms persist, a doctor should be consulted.

Art. 16. In advertising to the public for dietary products, it is not allowed to include or mention statements or expressions, even subjective ones, of any therapeutic action or treatment of metabolic disturbances, and violators will be subject to such penalties as may be applicable.

Chapter V

COMMERCIAL ADVERTISING FOR PESTICIDES

Art. 17. Advertising for pesticides that contain products with toxic effects, whether immediate or subsequent, on human beings, must be restricted to radio or TV programs and publications aimed at farmers and livestock managers, providing complete explanations for their application, precautions regarding their employment, consumption or use, pursuant to whatever may be required by the competent agency of the Ministry of Agriculture and Provisions, without impairment to the standards established by the Ministry of Health or another agency of the Single Health System (SUS).

Art. 18. The mention of possible harmful effects to health and the environment shall be made with the same statements, sounds and images, and in the same proportion and scale as the product being advertised.

Art. 19. Commercial advertising for agrotoxic substances and the like that can be sold via prescription, must make express mention of this requirement.

Art. 20. Commercial advertising for agrotoxic substances, ingredients and the like in any medium of communication must contain a clear warning concerning the risks of the product to the health of people, animals and the environment, and shall adhere to the following terms:

I – It shall stimulate buyers and users to read the label carefully and, if applicable, the booklet, or to ask someone to read it to them if they do not know how to read;

II – It shall not contain:

a) Visual representations of practices that are potentially hazardous, such as handling or application without protective equipment, use in proximity to food or in the presence of children;

b) Statements or images that may induce the user into error regarding the nature, composition, safety or effectiveness of the product, and adaptations for its use;

c) False or misleading comparisons with other products;

d) Indications that contradict the required information on the label;

e) Statements of properties regarding its harmlessness such as, “safe,” “non-poisonous,” “non-toxic,” with or without a supplementary phrase such as “when used in accordance with instructions;”

f) Statements that the product is recommended by any agency of the Government.

III – It shall contain clear instructions for the user to consult a qualified professional and to follow correctly the instructions given;

IV – It shall emphasize the importance of integrated pest management;

V – It shall confine itself in the background landscape to images of the crops or environments for which the product is intended.

Sole paragraph. The offering of promotional gifts must be in accordance with the provisions of this article insofar as they may be applicable, and it is forbidden to offer additional quantities of the product as part of a sales promotion.

Art. 21. Advertising must always in any medium of communication call attention to the proper disposal of empty containers and residues or leftover portions of products.

Chapter VI

VIOLATIONS AND PENALTIES

Art. 22. Violations committed in the dissemination of advertising for the products referred to by Law nº 9.294, of 1996, shall subject offenders, without impairment to the penalties provided for in the legislation in force, particularly the Code for Consumer Protection, to the following sanctions:

I – A warning;

II – Suspension in the medium in which the advertising is presented of any other advertising for a product by the same advertiser, for a period of up to thirty days;

III – An obligation to distribute a correction or clarification to compensate for advertising that is distorted or in bad faith;

IV – Seizure of the product;

V – A fine from R\$ 1,410.00 (one thousand four hundred and ten reals) to R\$ 7,250.00 (seven thousand two hundred and fifty reals), applied in double, triple, and so on successively for repeat offenses.

§ 1º The sanctions set forth in this article may be applied in a graded fashion and, with repeat offenses, cumulatively, depending on the specific circumstances of the offender.

§ 2º At all events, the piece of advertising shall remain definitively prohibited as long as the elements of the offense persist.

§ 3º For the purposes of this Article, those responsible for the product, for the piece of advertising and for the medium of communication used are considered offenders depending on the degree of their responsibility.

Art. 23. The violations and penalties provided for in the foregoing Article shall be enforced and applied in accordance with the provisions of Decree nº 861, of July 9, 1993.

Chapter VII

FINAL PROVISIONS

Art. 24. It is forbidden to use athletic attire relating to Olympic sports for the presentation of advertising of the products addressed in Law nº 9.294, of 1996.

Art. 25. The producers and sellers of alcoholic beverages addressed in Article 8º, shall have a period of 120 days, counting from the publication of this Decree, to comply with what is set forth in Article 9º.

Art. 26. [Article 10 of Decree 70.951, of August 9, 1972](#), that "governs the free distribution of prizes, in lotteries, promotional gifts or contests as a form of advertising and establishes rules for the protection of public savings shall take effect amended by the following sole paragraph:

Sole paragraph. For purposes of this Decree, potable beverages with an alcoholic content greater than thirteen degrees Gay Lussac are considered alcoholic beverages.

Art. 27. The provisions of this Decree do not exclude the supplementary jurisdiction of the States and Municipalities with respect to [Law nº 9.294, of 1996](#).

Art. 28. The Ministries for the competent areas shall be authorized to issue supplementary acts bearing on the material governed by this Decree.

Art . 29. This Decree enters into force on the date of its publication.

Art. 30. Articles 117 to 119 of Decree nº 79.094, of January 5, 1977, and Articles 42 to 44 of [Decree nº 98.816, of January 11, 1990](#), are hereby rescinded.

Brasília, October 1, 1996; 175th year of Independence and 108th year of the Republic.

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