

LAW No. 10.167 of 27 DECEMBER 2000

Amending the provisions of Law No. 9.294 of 15 July 1996, which imposes restrictions on the use and advertising of smoking products, alcoholic beverages, medicines, therapies and agricultural pesticides.

The PRESIDENT OF THE REPUBLIC informs that the National Congress has decreed, and he hereby sanctions the following law:

Article 1. Law No. 9.294, of 15 July 1996, shall henceforth have effect with the following amendments:

"Art. 2.....

§ 2 Use of the products mentioned at the top of the article, is prohibited in aircraft and other public transport vehicles."(NR)

"Article 3. Commercial advertising for the products referred to in the foregoing article may only be implemented through posters, panels and flyers displayed inside sales outlets. (NR)

§ 1.....

IV - use of the product may not be associated with the practice of sporting activities, Olympic or otherwise, nor suggest or induce consumption thereof in dangerous, abusive, or illegal locations or situations; (NR)

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VI - exclusion of participation by children or adolescents. (NR)

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§ 3 Except in the case of products destined for export, the packaging and advertising material referred to in this article, shall display the warning message mentioned in the foregoing paragraph. (NR)

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§ 5 The warning message referred to in § 2 of this article, written prominently and legibly, shall be used sequentially, either simultaneously or in rotation, in the latter case changing every five months at most." (NR)

"Article 3 - With regard to the products referred to in Article 2 of this Law, the following are prohibited:

I - sale by mail;

II - distribution of any type of sample or free offer;

III - advertising through electronic media, including the Internet;

IV - undertaking of promotional visits or free distribution in educational establishments or public places;

V - sponsorship of cultural or sporting events;

VI - fixed or mobile advertising in a stadium, track, stage or similar location;

VII - indirect contracted advertising, also known as *merchandising*, in programmes produced in Brazil, at any time following the publication of this Law;

VIII - marketing of the products in education and health establishments.

Sole paragraph. The provisions of paragraphs V and VI of this article shall enter into force on 1 January 2003, in the case of international sporting and cultural events, provided the sponsor is identified only with the brand name of the product or manufacturer, without any recommendation as to consumption."

"Article 3-B The marketing of smoking products will only be permitted if their packaging displays the identification with the National Health Surveillance Agency, as per the regulation."

"Article 9 In the event of violation of this Law, without prejudice to any other penalties envisaged in current legislation, especially in the Consumer Protection Code and Telecommunications Legislation, offenders shall be liable to the following sanctions: (NR)

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V - a fine of between R\$5,000.00 (five thousand reais) and R\$100,000.00 (ten thousand reais), depending on the economic capacity of the offender; (NR)

VI - suspension of radio and television broadcasting programmes, lasting 10 minutes for every minute or fraction thereof of the duration of the advertising broadcast in contravention of this Law, observing the same time periods.

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§ 3 For the purposes of this Law, the term "offender" means any natural or legal person who, directly or indirectly, is responsible for the dissemination of the advertisement in question or the respective vehicle of communication. (NR)

§ 4 The Municipal Health Authority shall be responsible for applying the sanctions envisaged in this article, pursuant to Article 12 of Law No. 6.437, of 20 August 1977, notwithstanding the exclusive or concurrent jurisdiction of the following bodies:

I - the health surveillance body of the Ministry of Health, including in relation to sanctions applicable to advertising agencies, responsible for nationwide advertising;

II - the civil aviation regulatory agency of the Ministry of Defence, in relation to violations that occur inside aircraft;

III - the radio and television broadcasters inspection agency of the Ministry of Communications;

IV – the transport regulatory agency of the Ministry of Transport, in relation to violations occurring inside road, rail and waterborne passenger transport vehicles.

Article 4. This Law shall enter into force on the date of its publication.

Brasilia, 27 December 2000; 179th year of Independence and 112th year of the Republic.