

THPCA amendments passed third reading on June 15 of 2007, promulgated by the President on July 11 of 2007

Chapter 1 General Provisions

Article 1

This Act is enacted in order to prevent smoking hazards and to safeguard the health of the citizens. Matters not provided in this Act shall be governed by other laws and regulations.

Article 2

The special terms referred to in this Act shall be defined as below:

- (1) "Tobacco Products" shall mean paper cigarettes, cut tobacco, cigars, and other tobacco products all or partly made from tobacco leaves or its substitutes for use by inhaling, chewing, holding in mouth, snuffing or other ways.
- (2) "Smoking" shall mean inhaling (eating) or chewing tobacco products or carrying lighted tobacco products.
- (3) "Cigarette container" shall mean packs, cans or any other containers used for the sale of tobacco products to consumers.
- (4) "Tobacco advertisement" shall mean any commercial promotions, advertisements, suggestions or actions targeted at consumers whose direct or indirect goal or effect is to lead to tobacco sales or the promotion of tobacco use.

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(5) “Tobacco sponsorship” shall mean any form of contribution made for any events, activities, or individual that is targeted at consumers and whose direct or indirect goal or effect is to lead to tobacco sales or the promotion of tobacco use.

Article 3

“Government authority in charge (or the competent authorities)” as used in this Act refers to the Department of Health of the Executive Yuan at the central level, the special municipal government at the special municipal level, and the county (city) government at the county (city) level.

Chapter 2

Health and Welfare Levies and Regulations on Tobacco Products

Article 4

Tobacco products shall be subject to Health and Welfare Levies, and the amount of such levies are as follows:

1. paper cigarettes: NT\$ 500 per 1000 sticks.
2. cut tobacco: NT\$ 500 per kilogram.

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3. cigars: NT\$ 500 per kilogram.

4. other tobacco products: NT\$ 500 per kilogram.

The amount of Health and Welfare Levies shall be evaluated every two years by the central competent authority in charge, the Ministry of Finance, and experts in finance, economics, sanitation, and other related areas invited by the central competent authority in charge in accordance with the following elements:

1. The morbidity and death rate of a disease attributable to smoking and the amount of medical expenses paid by national health insurance scheme for such a disease.

2. The volume of cigarette products consumed and smoking rates.

3. The ratio of taxes applicable to tobacco products to the average retail price of tobacco products.

4. National income and price index.

5. Other elements affecting the price of tobacco products and prevention and control of smoking hazards.

The amount set forth in the first paragraph may be increased after approval by the Executive Yuan and submission to the Legislative Yuan for examination and approval if such an increase is considered necessary in accordance with the evaluation result by the Central competent authority in charge and the Ministry of Finance. The maximum increase is 10% of the average retail price of tobacco products, and the increased amount plus other taxes applicable to tobacco products shall not exceed 80% of the average retail price of tobacco products.

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Health and Welfare Levies on Tobacco Products shall be reserved for use toward the National Health Insurance scheme, smoking hazards prevention and control conducted by central and local governments, sanitation and health care affairs, social welfare affairs, cracking down the smuggling and counterfeiting of tobacco products, preventing the evasion of tobacco related taxes, and the guidance of and care for tobacco farmers and laborers in the related industries. The guidelines for the distribution and operation of the above levies shall be enacted by the central competent authority in charge and the Ministry of Finance within three months after the promulgation of this Act and shall be submitted to the Legislative Yuan for examination and approval.

Tobacco Products Health and Welfare Levies shall be collected together with the tobacco and alcohol tax by the competent tax authorities. Matters in relation to the parties obliged to pay the levies, exemptions, returns, impositions, and penalties of the levies shall be governed by the Tobacco and Alcohol Tax Law.

Article 5 Tobacco products shall not be sold through the following ways:

1. automatic vending machines, by mail orders, electronic media or any other channels through which the age of the consumers cannot be identified.
2. Open-access sale shelves by which consumers can obtain tobacco products directly, and by which the age of the consumers cannot be identified.
3. Each sale unit is packed with less than 20 cigarettes and its contents are lighter than 15 grams; cigars exempted.

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Article 6

Tobacco products, brand names, and the wording and labels displayed on the tobacco product containers shall not use descriptive phrases such as light (mild) cigarettes, low tar, or other phrases that may mislead or imply that smoking will not harm or only slightly harm the health. This does not apply to tobacco product brand names used prior to the amendment to this Act.

Textual and graphical warnings regarding the fact that smoking is harmful to the health and information about smoking cessation shall be labeled in the Chinese language on a conspicuous part of the largest side of the front and back of tobacco product containers. The size of the labeling shall not be smaller than 35% of the space of the largest side of the containers.

The guidelines for the content, size, and other guidelines for labeling as set forth in the preceding paragraph shall be enacted by the central competent authorities in charge.

Article 7 The amount of nicotine and tar contained within the tobacco products shall be displayed in the Chinese language on the tobacco containers, tobacco products solely for export excluded.

The nicotine and tar levels prescribed in the preceding paragraph shall not exceed the maximum level. The regulations regarding the actual maximum level thereof, testing methods thereof, methods for labeling the nicotine and tar levels, and other guidelines shall be enacted by the central government authorities in charge.

Article 8

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Manufacturers and importers of tobacco products shall report the following information:

1. the ingredients, additives, and related toxicity information for the tobacco products;
2. the emissions and related toxicity information for the tobacco products.

The central authorities in charge shall regularly announce to the public the information stated in the preceding paragraph and, if necessary, perform random inspections (tests).

The guidelines for the contents, time, procedures, inspections (tests) and other guidelines regarding the reporting information as stated in the preceding paragraphs shall be enacted by the central competent authorities in charge.

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Article 9

Promotion or advertisement of tobacco products shall not be permitted in any of the following ways:

1. using broadcasting, television, movies, videos, electronic signals, the Internet, newspapers, magazines, shop signs, posters, leaflets, notices, announcements, manuals, samples, stickers, displays, or other text, pictures, goods or other electronic records to publicize the tobacco products.
2. using interviews, reports introducing tobacco products, or the name of a third party to publicize the tobacco products.
3. using discounts to sell tobacco products or using other goods as gifts or prizes to sell tobacco products.
4. using tobacco products as gifts or prizes in the sale of other goods or in any activities.
5. packing tobacco products together for sale with any other goods.
6. distributing or peddling tobacco products by ways of single sticks, loose packs or whole packs.
7. using goods with the same or similar brand names or trademarks as the tobacco products to publicize the tobacco products.
8. using tea parties, dining parties, seminars, tastings, concerts, lectures, athletic or public welfare activities, or any other similar ways to publicize the tobacco products.
9. any other ways prohibited and promulgated by the central competent authorities in charge.

Article 10

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The textual and graphical warnings as provided in Paragraph 2 of Article 6, Paragraph 1 of Article 12, and Article 13 shall be placed in a conspicuous spot on the premises where tobacco products are sold. The display of tobacco products or containers shall be limited to only the information necessary to inform consumers of the brand names and prices of the tobacco products.

The guidelines regarding the scope, contents, methods, and other guidelines regarding the labeling and display of tobacco products as provided in the preceding paragraph shall be enacted by the central competent authorities in charge.

Article 11

Tobacco products shall not be supplied free of charge on the premises of a profit-seeking business for the purpose of promoting tobacco products or seeking profits.

Chapter Three

Prohibitions on the Smoking Behavior of Minors, Children, and Pregnant Women

Article 12

Persons under 18 years of age shall not smoke.

Pregnant women shall not smoke.

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Parents, legal guardians, and other de facto care-takers of persons under 18 years of age shall prohibit from smoking those persons under their care who are under 18 years of age.

Article 13

No person shall supply tobacco products to persons under 18 years of age.

No person shall coerce, induce or use other methods to make pregnant women smoke.

Article 14

No person shall manufacture, import or sell candies, desserts, toys or other objects that are in the shape of tobacco products.

Chapter Four

Places Where Smoking is Restricted

Article 15

Smoking is completely prohibited in the following places:

1. Schools under the level of senior high school and other places in which the main purpose is to provide education or a venue for activities to children and teenagers;
2. the indoor places of colleges or universities, libraries, museums, art galleries, and other institutions for cultural or social education;

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3. the places of medical treatment centers, nursing institutions, other medical institutions, and social welfare organizations, with the exception of the indoor smoking rooms of welfare organizations for the elderly with independent ventilation systems and that are completely separated from the non-smoking areas (rooms), or the outdoor places of said social welfare organizations for the elderly;
4. the indoor places of governmental agencies and state-owned enterprises;
5. Mass transportation vehicles, taxicabs, tour buses, the MRT system, stations, and traveler waiting areas;
6. places where flammable or explosive articles are manufactured, stored, or sold;
7. business places of financial institutions, post offices, and telecommunication enterprises;
8. places providing indoor physical training, sports, or body fitness;
9. Inside classrooms, reading rooms, laboratories, performance halls and auditoriums, exhibition halls, conference halls (rooms) and elevators;
10. the indoor places of opera houses, movie theaters, audiovisual singing businesses, information leisure businesses, and other public leisure entertainment places;
11. the indoor places of hotels, shopping malls, dining and drinking establishments, and other places for public consumption, except for those places with indoor smoking rooms that have independent ventilation systems and that are completely separated from the non-smoking areas (rooms), semi-open-air restaurants and places that provide drinks, cigar bars, and pubs and audiovisual singing businesses that open business after nine o'clock in the evening and are restricted to those 18 years of age or older;
12. indoor workplaces shared by more than three persons;
13. other indoor places for public use and places or transportation vehicles designated by the competent authorities at each level.

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Conspicuous non-smoking signs shall be placed at all entrances of the places prescribed in the preceding paragraph. No smoking paraphernalia shall be supplied or displayed therein.

Guidelines for related measures of space, equipment and establishment of the indoor smoking rooms prescribed in the preceding Subparagraph 3 of Paragraph 1 and the proviso of the preceding Subparagraph 11 of Paragraph 1 shall be enacted by the central competent authority in charge.

Article 16

Smoking is not allowed in the following places except in designated smoking areas; if no smoking area has been designated, smoking shall be completely prohibited therein:

1. the outdoor places of colleges or universities, libraries, museums, art galleries and other institutions for cultural or social education;
2. the outdoor stadiums, swimming pools, or other outdoor public leisure entertainment places;
3. the outdoor places of welfare organization for the elderly;
4. other places and transportation vehicles designated by the competent authorities in charge at each level.

Conspicuous non-smoking signs or signs permitting smoking in designated areas only shall be placed at all entrances and other appropriate spots in the places prescribed in the preceding paragraph. No smoking paraphernalia shall be supplied or displayed therein except in the designated

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smoking areas.

The establishment of smoking areas shall meet the following requirements:

1. There shall be conspicuous signs designating the smoking areas.
2. The smoking areas shall not be bigger than one half of the outdoor areas of the place and shall not be located at places where most people must pass through.

Article 17

In addition to the places prescribed in Paragraph 1 of Article 15 and Paragraph 1 of the preceding article, smoking shall be prohibited in the non-smoking places designated by the owner, responsible person or manager thereof.

Smoking shall be prohibited within the indoor places where pregnant women or children under 3 years of age are in attendance.

Article 18

The responsible persons and employees of the smoking-prohibited places of Articles 15 or 16 shall be responsible for preventing people from smoking in the non-smoking places or keeping people under 18 years of age from entering the designated smoking areas.

Bystanders may prevent people from smoking in places where smoking is prohibited.

Article 19

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The competent authorities in charge at the special municipality level and the county (city) level shall regularly dispatch representatives to inspect matters regarding the establishment and management of the places and designated smoking areas under Articles 15 and 16.

Chapter Five

Education and Publicity about Smoking Hazards

Article 20

Schools and the government authorities shall proactively conduct smoking hazard prevention and control education and publicity.

Article 21

Medical treatment institutions, psychotherapeutic care institutions, and public welfare associations may provide smoking cessation services.

The guidelines for the subsidy of or award for those services prescribed in the preceding paragraph shall be enacted by the competent authorities in charge at all levels.

Article 22

Smoking shall not be specifically glamorized in television shows, theatrical performances, audiovisual singing media, and professional sports events, etc.

Chapter Six Penalties

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Article 23

A person violating the provisions of Article 5 or Paragraph 1 of Article 10 of this Act shall be subject to a fine of no less than NT\$10,000 but no more than NT\$50,000, and may be consecutively penalized for each violation.

Article 24

A manufacturer or importer of tobacco products that are in violation of Paragraph 1 or 2 of Article 6 or Paragraph 1 of Article 7 shall be subject to a fine of no less than NT\$1,000,000 but no more than NT\$5,000,000, and the violating products shall be recalled within a prescribed period, after which the person failing to recall violating products shall be consecutively penalized for each violation, and violating products shall be confiscated and destroyed.

A vendor selling tobacco products that are in violation of Paragraph 1 or 2 of Article 6 or Paragraph 1 of Article 7 shall be subject to a fine of no less than NT\$10,000 but no more than NT\$50,000.

Article 25

A person violating Paragraph 1 of Article 8 shall be subject to a fine of no less than NT\$100,000 but no more than NT\$500,000, and the requisite information shall be reported within a prescribed period, after which the person failing to report the requisite information shall be consecutively penalized for each violation.

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The circumvention, obstruction or refusal of the random inspections (tests) performed by the central competent authorities as prescribed in Paragraph 2 of Article 8 shall be subject to a fine of no less than NT\$100,000 but no more than NT\$500,000.

Article 26

A manufacturer or importer of tobacco products violating any of the provisions in Article 9 shall be subject to a fine of no less than NT\$5,000,000 but no more than NT\$25,000,000, and shall be consecutively penalized for each violation.

An advertising or media enterprise that produces tobacco advertisements or distributes or publishes tobacco advertisements violating any of the provisions in Article 9 shall be subject to a fine of no less than NT\$200,000 but no more than NT\$1,000,000, and shall be so penalized for each violation.

Except as otherwise provided in the preceding two paragraphs, a person violating any of the provisions in Article 9 shall be subject to a fine of no less than NT\$100,000 but no more than NT\$500,000, and shall be consecutively penalized for each violation.

Article 27

A person violating Article 11 of this Act shall be subject to a fine of no less than NT\$2,000 but no more than NT\$10,000.

Article 28

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A person violating Paragraph 1 of Article 12 of this Act shall attend smoking cessation classes. If the violating person is under 18 years of age and unmarried, his or her parents or legal guardians shall compel him or her to attend such classes.

A person absent from the smoking cessation classes as prescribed in the notice without appropriate justification shall be subject to a fine of no less than NT\$2,000 but no more than NT\$10,000 and shall be so penalized for each violation. If the violating person is under 18 years of age and unmarried, his or her parents or legal guardians shall be subject to this fine.

The guidelines for the implementation of the smoking cessation classes prescribed in the first paragraph shall be enacted by the central government authority in charge.

Article 29

A person violating Article 13 shall be subject to a fine of no less than NT\$10,000 but no more than NT\$50,000.

Article 30

A manufacturer or importer violating Article 14 shall be subject to a fine of no less than NT\$10,000 but no more than NT\$50,000, and the violating products shall be recalled within a prescribed period, after which the person failing to recall violating products shall be consecutively penalized for each violation.

A vendor violating Article 14 shall be subject to a fine of no less than NT\$1,000 but no more than NT\$3,000.

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Article 31

A person violating Paragraph 1 of Article 15 or Paragraph 1 of Article 16 shall be subject to a fine of no less than NT\$2,000 but no more than NT\$10,000.

A person violating Paragraph 2 of Article 15 or Paragraph 2 or 3 of Article 16 shall be subject to a fine of no less than NT\$10,000 but no more than NT\$50,000, and the violation shall be rectified within a prescribed period, after which the person failing to rectify such violation may be consecutively penalized for each violation.

Article 32

The competent authority may publicly announce the identities and illegal behaviors of any persons in violation of this Act and punished under any of the Articles beginning from Article 23 to the preceding article.

Article 33

The punishment provided in this Act, except that provided in Article 25, shall be imposed by the competent municipal or county (city) authority in charge. The punishment provided in Article 25 shall be imposed by the central competent authority in charge.

Chapter Seven

Supplemental Provisions

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Article 34

Health and Welfare Levies as imposed under Article 4 and allocated for smoking hazards prevention and control conducted by the central and local governments and sanitation and health care affairs, shall be funded by the central competent authorities to conduct matters related to smoking hazards prevention and control and sanitation and health care affairs.

The guidelines for revenues and expenditures, administration and use of the above funds shall be enacted by the Executive Yuan.

Article 35

The law shall become effective six (6) months after the date of its promulgation.

The amended provisions of this Act passed on June 15, 2007 shall become effective eighteen (18) months after the date of promulgation, except that the effective date of the amended Article 4 shall be determined by the Executive Yuan.