

Concerning Tobacco and Tobacco Products

Law of the Republic of Moldova No. 386-XV from July 19, 2001

The Parliament adopts this organic law.

Chapter I MAIN PROVISIONS

Article 1. Subject of this law

This law established the legal and economic bases of the organization of the activity on the manufacture, the processing and sale of tobacco, the production and sale of tobacco products, regulates the legal relationships between government agencies and economic entities carrying out this activity, independent of the form of property and the legal organizational form.

Article 2. Main concepts

In this law the main concepts have the following meaning:

tobacco industry – area of activity, which includes the production of seeds and the cultivation of tobacco seedlings, cultivation, the postharvest and industrial processing of tobacco, the manufacture of tobacco products and the scientific and technical assurance/software of the industry;

tobacco – the annual technical crop, the product of the cultivation of which are leaves, intended for the receipt of tobacco products;

tobacco producer – physical or legal entity that carries out the cultivation of tobacco, the harvesting of leaves and their drying;

tobacco cultivation the totality of the technological process for the cultivation and planting of tobacco seedlings, care of tobacco plantations and harvesting of leaves;

postharvest processing of tobacco – the totality of technological processes of drying, sorting, packing into uniform piles (bales) of tobacco leaves, the quality of which corresponds to the standards and other acting guidelines;

unfermented leaves of tobacco - leaves of tobacco that have passed through the postharvest processing;

tobacco fermentation – the totality of technological processes, the result of which biochemical and physical changes occur in the tobacco leaves, improving their quality, smoking properties and capacity for prolonged storage;

redrying-processing of tobacco – a special technological process of hydrothermic processing of unfermented tobacco, used in conjunction with other technological operations of industrial processing, as a result of which biochemical and physical changes occur in the tobacco leaves, improving their quality, smoking properties and capacity for prolonged storage;

fermented tobacco – a stable product of fermentation or redrying-processing of tobacco, corresponding to standards and other acting guidelines;

tobacco stripping – the technological process of separating the lamina of the tobacco leaf from the central (main) vein, as a result of which tobacco strips and tobacco veins are obtained;

ingredient – any substance, other than tobacco, water or the reconstituted tobacco leaf, which is made completely from tobacco, added in the process of production into the tobacco or non-tobacco components of tobacco products;

flavoring – a substance added to tobacco to give it a specific taste and aroma;

tar – a dehydrated condensate of tobacco smoke that does not contain nicotine;

nicotine – an alkaloid contained in tobacco leaves and tobacco smoke;

tobacco products – the totality of products obtained from fermented or unfermented tobacco: tobacco strips, chopped tobacco, smoking tobacco, pipe tobacco, chewing tobacco, tobacco snuff and tobacco articles (cigarettes, cigarillos, papirosy, cigars).

Chapter II PRODUCTION AND PROCESSING OF TOBACCO

Article 3. Production of tobacco and tobacco seeds

(1) The production of tobacco includes the cultivation of tobacco and its postharvest processing in accordance with technological requirements approved in the established order.

(2) The production of tobacco is carried out by physical persons and legal entities, independent of the form of property and the legal organizational, which possess agriculturally-designated lands and have at their disposal the necessary technical and technological equipment.

(3) The production and sale of tobacco seeds is carried out on the basis of a license and in accordance with acting legislation.

(4) For the production of tobacco seeds super-elite and elite seeds are used on the basis of a licensing agreement with the owner of the patent for that type of tobacco. Seeds obtained abroad are accompanied by all the necessary documents in accordance with acting legislation.

(5) The quality of the tobacco seeds must correspond to standards and other acting guidelines and is evaluated by agencies authorized for this.

Article 4. Postharvest processing of tobacco

(1) The postharvest processing of tobacco includes the performance of the processes of drying, sorting and packing, as a result of which unfermented tobacco is obtained that corresponds to the standards and other acting guidelines.

(2) Postharvest processing of tobacco is carried out by economic entities that possess the equipment and technological conditions for this.

Article 5. Rights and obligations during the cultivate and postharvest processing of tobacco

(1) Economic entities, who carry out the cultivation and postharvest processing of tobacco, have the right:

- a) to cultivate tobacco and perform its postharvest processing with the use of its own or leased lands and equipment;
- b) to sell the seeds, seedlings of tobacco, tobacco leaves, unfermented and fermented tobacco at contractual prices;
- c) to apply to agencies that are authorized to perform an expert evaluation;
- d) to use governmental assistance and support.

(2) Economic entities, who carry out the cultivation and postharvest processing of tobacco, are obligated:

- a) to use on those types of seeds that are approved in the Republic of Moldova;
- b) to maintain and improve the fertility of the soil;
- c) to adopt low impact technology;
- d) to observe industrial safety rules and safety engineering;
- e) to ensure the correspondence of the quality of the seeds, seedlings of tobacco, of unfermented and fermented tobacco to the standards and other acting guidelines;
- f) to use certified equipment for the postharvest processing of tobacco;
- g) to use pesticides and other substances for the protection of plants that are permitted for use in the Republic of Moldova;
- h) not to use minor persons and pregnant women for labor in the cultivation,

harvesting and postharvest processing of tobacco.

Chapter III

INDUSTRIAL PROCESSING OF TOBACCO. PRODUCTION OF TOBACCO PRODUCTS

Article 6. Industrial processing of tobacco

(1) The industrial processing of tobacco includes:

- a) the industrial processing of unfermented tobacco;
- b) the industrial processing of fermented tobacco.

(2) The industrial processing of unfermented tobacco consists of performance of the processes of procuring tobacco, formation of uniform batches, conditioning, loosening of leaves, cleaning, mixing, fermentation or stripping and redrying, packing, tempering, general sorting and storage of products in accordance with the standards and other acting guidelines.

(3) The industrial processing of fermented tobacco consists of the performance, partially or in a complex, of processes and operations for preparation of the fermented and/or stripped tobacco for chopping, chopping of tobacco and preparation of mixes in accordance with the technological standards.

(4) The industrial processing of unfermented and fermented tobacco is carried out by economic entities that have specialists in this area, the necessary technological equipment, measuring instruments, apparatuses for quality control of the products and a license.

Article 7. Production of tobacco products

(1) The production of tobacco products is the complex of technological processes and operations, which include the industrial processing of fermented tobacco and/or the production and packaging of tobacco products in accordance with the standards and other acting guidelines.

(2) Tobacco production is carried out by economic entities that have the complex of technological processes, the specialized lines for the preparation and chopping of tobacco mixes, and a license.

Article 8. Rights and obligations during industrial processing of tobacco and the production of tobacco products

(1) Economic entities that perform industrial processing of tobacco and the production of tobacco products have the right:

- a) to carry out, partially or in a complex, the industrial processing of tobacco and the production of tobacco products;

- b) to have a single license in the case of carrying out in a complex the industrial processing of fermented tobacco and the production of tobacco products;
- c) to independently establish an assortment, trade marks, volumes of production, the prices and markets for the sale of tobacco products.

(2) Economic subjects that perform industrial processing of tobacco and the production of tobacco products are obligated:

- a) to use equipment in accordance with the standards and other acting guidelines;
- b) to observe the regulations for the industrial processing of tobacco, the production of tobacco products, its packing, labeling and storage as established by the acting regulatory acts in the Republic of Moldova, and as necessary - by the requirements of the importer countries;
- c) to have the permission of the Ministry of Health for the use of ingredients (sweeteners, flavorings, additives and others) and other necessary materials (filters, paint, paper and others);
- d) to use with the manufacture of tobacco mixes and assortment and quantity as stipulated by a formula approved in the established manner;
- e) to produce on the basis of license agreements, concluded in accordance with acting legislation, the licensed products;
- f) to not use minor persons and pregnant woman as labor in the industrial processing of tobacco and the production of tobacco products.

(3) Economic entities, which have the right to produce tobacco products, are obligated to manufacture the tobacco mix directly at domestic enterprises and to use tobacco raw materials in a volume as regulated by the formula of the tobacco mix in accordance with technological standards.

Chapter IV

SALE OF TOBACCO AND TOBACCO PRODUCTS

Article 9. Sale of tobacco

(1) The sale of tobacco and tobacco products on the domestic market both by domestic producers and by importers is carried out at contractual prices with equal conditions of taxation.

(2) The sale of unfermented tobacco on domestic and foreign markets is carried out on the basis of a license and is subject to taxation in accordance with acting legislation.

(3) The export and import of fermented tobacco, the import of ingredients and other materials, necessary for the production of tobacco products, is carried out on the basis of a license for the sale, the industrial processing of tobacco or the production of tobacco products.

Article 10. Import, export and wholesale trade of tobacco products

(1) The wholesale trade of tobacco products on domestic and foreign markets is carried out on the basis of a license.

(2) The import of tobacco products is carried out by economic entities that have a license and wholesale warehouses, which are equipped with a computer calculation system and ensure storage conditions in accordance with the standards and other acting guidelines.

(3) In the licenses for the import and wholesale trade of tobacco products the actual type (brand) of product is indicated. To obtain a license the economic entity is obligated to present permission for the import and sale of each brand from the owner of the trade mark or from the licensed producer of this brand. The economic entity is obligated by the requirement of the Main State Tax Inspectorate under the Ministry of Finance to inform it of volumes of sold products and about economic entities that have acquired these products.

(4) The import of tobacco products is carried out only after their producers have applied their producer's excise stamp directly to the package. If the tobacco product is furnished in cellophane (propylene), the excise stamp is attached under it. The excise stamp is attached in such a manner as to ensure that it is not broken when the package is opened.

(5) Imported tobacco products must correspond to acting regulatory acts of the Republic of Moldova and be accompanied by a certificate of compliance and a hygienic certificate.

Article 11. Retail trade in tobacco products

(1) The retail trade in tobacco products is conducted on the domestic market:
a) only with the presence of a license for the retail trade in tobacco products, a copy of the certificate of compliance, an excise stamp protected from forgery on each package and documents confirming the origin of the goods;
b) only with persons older than 18.

(2) The regulations for trade and other conditions of retail trade in tobacco products are established by public control agencies in accordance with this law and other regulatory acts.

(3) It is prohibited to sell tobacco products:
a) through the mobile retail outlet network (with motor vehicles, trailers, carts, etc.), door-to-door, with any improvised chutes and counters (on streets, roads, in courtyards, in buildings, etc.) and also at commercial points with an area of less than 4 sq. m.;
b) on the territory of school, pre-school and medical institutions, at sports halls

- and buildings, at stadiums;
- c) with the absence of the corresponding documentation from the producer or importer that confirms the origin of the item and its quality;
 - d) without the application of excise stamps as established by the legislation of the Republic of Moldova;
 - e) without indication on the package of information on the content of nicotine and tar;
 - f) without a warning on the danger of smoking for health;
 - g) with a content of nicotine and tar above the maximum permissible standards;
 - h) past the expiration date;
 - i) with damaged packaging;
 - j) from open packs, with the exception of cigars;
 - k) falsified or produced with a violation of the standards and other acting regulations;
 - l) to persons who have not reached the age of 18.

Article 12. Advertisement of tobacco products

Advertisement of tobacco products is prohibited on television and radio, and also outdoor advertising of tobacco products, with the exception of advertising at places of business.

Chapter V PROTECTION OF CONSUMER RIGHTS

Article 13. Right to information on the quality of tobacco products

(1) Consumers have the right to receive reliable information on the content of harmful substances in tobacco products.

(2) Economic entities that produce tobacco products are obligated to provide the Ministry of Health annually with information on the content of nicotine and tar and about ingredients added to tobacco in the production process for each trade mark.

(3) Each tobacco product package must contain in the official language:

- a) information on the content of nicotine and tar, which is determined on the basis of the requirements of standard ISO 10315 for nicotine and standard ISO 4387 for tar;
- b) the warning "Smoking is harmful to your health." This inscription must be clearly printed on a contrasting background; opening of the package must not violate the integrity of the inscription; its location must not be covered by the excise stamp or other details of the packaging;
- c) the prohibition: "Sale to minors is prohibited."

Article 14. Restriction of smoking in public places

Smoking is prohibited:

- a) in any flammable places;
- b) at school, pre-school and medical institutions;
- c) at the premises of cinemas, theaters, circuses, concert halls, museums, libraries, exhibition halls and other public facilities, except specially equipped places.

Article 15. Regulation of the quality of tobacco and tobacco products

(1) The quality of fermented tobacco and tobacco products is confirmed in the established order by a certificate of compliance.

(2) Forbidden are the production, import and sale on the territory of the Republic of Moldova of tobacco products with a content of nicotine, tar and other harmful substances that is higher than the maximum permissible standards.

(3) Tobacco and tobacco products produced, imported or placed into sale with a violation of the requirements of this law are confiscated. Confiscated tobacco products are subject to destruction. The procedure for the destruction of confiscated tobacco products is established by the Government.

Chapter VI

GOVERNMENT CONTROL IN THE TOBACCO INDUSTRY

Article 16. Agencies authorized to exercise governmental control

(1) Government control in the area of the production of tobacco seeds, the cultivate and processing of tobacco, the production of tobacco products and also their sale is exercised by:

- a) The Ministry of Agriculture and the Food Industry via the National Agency on the Development of the Tobacco Industry, which is a specialized agency authorized to exercise oversight and control;
- b) financial and tax control agencies;
- c) other central and local agencies of public authority within the limits of their own competence.

(2) Economic entities that perform the production, processing, sale of tobacco and tobacco products are obligated to provide, by the requirement of the authorized agencies, information and documents, which confirm the legality of their activity.

Article 17. Responsibility for violation of this law

(1) Violation of this law includes:

- a) processing of tobacco, the production of tobacco products and their trade without a license;
- b) the production of tobacco seeds, tobacco and tobacco products, not

corresponding to the standards and other acting regulations;

- c) the production, import of tobacco products and their trade with violation of the requirement of Part (5) of Article 10 and Part (2) of Article 15;
- d) trade in tobacco and tobacco products, their import and export with accompanying and tax documents, certificates of compliance, hygienic certificates and certificates of origin, with falsified or incorrectly composed documents, and also violation of the requirements of Part (2) of Article 3 and Part (1) of Article 15;
- e) trade in tobacco products without excise stamps;
- f) use of uncertified equipment;
- g) non-compliance with the requirements for the processing, packaging, stamping and storage of tobacco and tobacco products;
- h) retail trade in tobacco products in violation of the requirements of Article 11;
- i) non-compliance with the restrictions stipulated by Article 14;
- j) non-provision of documents or their provision with a violation of the requirements of Part (2) of Article 16;
- k) other actions deemed by law as violations.

(2) Sanctions are imposed on the basis of acts presented by the agencies indicated in Part (1) of Article 16.

Article 18. State support of the development of the tobacco industry

(1) The state stimulates and supports the development of the tobacco industry by means of economic levers.

(2) For stimulation of the development of the tobacco industry the Ministry of Finance annually makes deductions in the amount of 10-15% of the sums received by the state budget in the form of excises on tobacco and tobacco products and directs them to a special treasury account of the Ministry of Agriculture and the Food Industry. The actual amount of the deductions is established in the law on the budget for the corresponding year.

(3) The capital for the stimulation of the development of the tobacco industry is administered by the Ministry of Agriculture and the Food Industry in accordance with provisions approved by Parliament.

(4) The working capital for the development of the tobacco industry is used according to the National Agency for the Development of the Tobacco Industry for the financing of scientific research in the industry, selection, seed production and measures for the protection of the health of consumers.

Chapter VII

FINAL PROVISIONS

Article 19

(1) This law comes into force as of the day of its publication, with the exception of Points e) and f) of Part (3) of Article 11 and of Part (3) of Article 13, which come into force as of January 1, 2002, and Article 18, which comes into force simultaneously with the Law on the Budget for 2002.

(2) Within a three-month period the government is to:

Present Parliament with a proposal bringing acting legislation into accordance with this law;

to bring its regulatory acts into accordance with this law;

to ensure revision and cancellation by Ministries and Departments of regulatory acts, which contradict this law.

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