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Order on a ban on advertising and visible location and display etc. of electronic cigarettes and refill containers with and without nicotine

Pursuant to § 18a(4) in the Act on a ban on electronic cigarettes, etc. cf. Act No 426 of 18 May 2016 on electronic cigarettes etc., as amended by § 2 in Act No 1558 of 18 December 2018 and § 3 in Act No xx of xx 2020, the following is laid down:

*Chapter 1*

*Definitions*

**§ 1.** The following definitions apply for the purposes of this Order:

1) Electronic cigarette: A product that can be used for consumption of nicotine-containing vapour via a mouth piece, or components of such a product, including a cartridge, a refillable tank and an arrangement without cartridge or refillable tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a refillable tank, or rechargeable with single-use cartridges.

2) Refill container with nicotine: A receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette with nicotine.

3) Refill container without nicotine: A receptacle that contains a liquid not containing nicotine, which can be used to refill an electronic cigarette without nicotine.

*Chapter 2*

*Advertising*

**§ 2.** All forms of advertising for electronic cigarettes and refill containers with and without nicotine are prohibited, cf. § 16(1) of the Act on electronic cigarettes, etc.

*Paragraph 2.* The ban on advertising in paragraph 1 includes a ban on:

1) The use of a name, brand, symbol or other symbol mainly familiar from electronic cigarettes and refill containers, in advertising for other products and services;

2) Marketing electronic cigarettes and refill containers with the help of a name, brand, symbol or other feature which is known or in use as the brand for other goods and services.

3) Marketing of electronic cigarettes and refill containers with the help of names, brands, symbols, figures or the like that are mainly directed at children and young people under 18 years of age.

4) Use of layout, design or particular colour combinations associated with particular electronic cigarettes and refill containers with and without nicotine.

5) Use of recognisable electronic cigarettes and refill containers in advertising for other products and services.

*Paragraph 3.* However, the ban in paragraph 1 does not apply to the following:

1) notifications exclusively directed at professionals in the sector,

2) use of a name which before 7 June 2016 was used both for electronic cigarettes and refill containers and other goods or services, to advertise these other products, so long as the name appears in a form which is clearly distinct from how the name appears on the electronic cigarette and refill container.

3) Use of a name known from tobacco products in advertising for other goods and services, if the other goods or services are only placed on the market in a limited geographical area.

*Chapter 3*

*Ban on visual placement and display*

**§ 3.** Visible placement and display of electronic cigarettes and refill containers with and without nicotine at sales outlets, including on the internet, are prohibited.

*Paragraph 2.* Products intended to be used in conjunction with the products covered by paragraph 1 are also included in the ban under paragraph 1.

*Paragraph 3.* The ban in paragraph 2 includes, but is not limited to, chargers, empty refill containers, packaging, batteries or flavourings. The ban in paragraph 2 does not include products that have a more general intended use, unless they are specifically designed or marketed with reference to electronic cigarettes and refill containers with and without nicotine.

*Paragraph 4.* In compliance with the ban in paragraphs 1 and 2, it is forbidden to:

1. directly or indirectly advertise or announce that electronic cigarettes and refill containers with and without nicotine are sold at the sales outlet,
2. use illustrations, images, colours, logos, symbols or other means to give the consumer the impression that a reference is being made to products or product categories covered by paragraphs 1 and 2 or give the impression that such products are beneficial to health, less damaging than other products, act as an aid to stopping smoking or have other beneficial effects or advantages or
3. give such products prominence by colour, lighting or the like by comparison with the rest of the sales outlet.

*Chapter 4*

*Neutral information on products and prices*

**§ 4.** Sales outlets can give a purchaser neutral information on which electronic cigarettes and refill containers with and without nicotine are sold at the sales outlet and the price of the products.

*Paragraph 2.* Information permitted under paragraph 1 includes:

1. product brand and product name,
2. number, weight and volume and
3. price.

*Paragraph 3.* The information included in paragraph 2 shall be displayed on a neutral list. The information on the list shall be displayed in black text on a white A4 sheet which may not have illustrations, pictures, bold print, colours, logos, symbols or other text, except as provided for in paragraph 4. No information on the list may be given greater prominence and the information shall:

1. appear in alphabetical order based on product name,
2. appear in the sequence: Product brand, product name, number, weight and volume and price,
3. be shown in Helvetica font size up to 14 point and
4. be left-adjusted.

*Paragraph 4.* The neutral list in accordance with paragraph 3 shall contain information on the age limit for the sale of electronic cigarettes and refill containers with and without nicotine, cf. § 15(1) in the Act on electronic cigarettes etc. prepared by the Danish Health Authority.

*Paragraph 5.* Each product on the neutral list under paragraph 3 can be assigned a number.

*Paragraph 6.* The neutral list under paragraph 3 can be divided into one or more of the following categories: ‘E-cigarette’, ‘Refill containers with e-liquid’, ‘Combined packs’ and ‘Others’. A product shall be listed under the category to which it belongs.

*Paragraph 7.* In physical sales outlets, the neutral list under paragraph 3 may be shown on request by a purchaser or displayed at a manned sales till.

*Chapter 5*

*Sale by digital solutions and online*

**§ 5.** The ban on visible placement and display of electronic cigarettes and refill containers with and without nicotine at sales outlets under § 3(1 and 2) also applies to sale using digital solutions, such as retailer home pages, internet shops, company home pages, company pages on social media and apps.

*Paragraph 2.* Sales outlets included in paragraph 1 can give the purchaser neutral information on which electronic cigarettes and refill containers with and without nicotine are sold at the sales outlet and the price of the products.

*Paragraph 3.* Information permitted under paragraph 2 includes:

1. product brand and product name,
2. number, weight and volume and
3. price.

*Paragraph 4.* Information included in paragraph 3 may not be displayed with or accompanied by illustrations, pictures, colours, logos, symbols or other text. This does not however apply to the symbol for ‘Place in basket’. No information may be given prominence, and the information shall be displayed in black with the same font type and size as is generally used in description of products on the home page.

*Paragraph 5.* Information in accordance with paragraph 4 may not the impression that electronic cigarettes and refill containers with and without nicotine are beneficial to health, less damaging than other products or have other beneficial effects or advantages.

*Paragraph 6.* Sales outlets covered by paragraph 1 from which electronic cigarettes and refill containers with and without nicotine are sold or encouraged to be sold may not provide an opportunity for customers or visitors to the page to review, give a rating or the like to products covered by paragraph 1, if the review etc. in any way becomes visible or accessible for the reviewer himself or others not employed by the sales outlet selling the products.

*Chapter 6*

*Physical sales outlets that are specialised in the sale of electronic cigarettes and refill containers with and without nicotine*

**§ 6.** The prohibition against visible placement and display under § 3(1 and 2) does not apply to the sale of electronic cigarettes and refill containers with and without nicotine in physical sales outlets which specialise in the sale of these products.

*Paragraph 2.* A sales outlet under paragraph 1 is considered to be specialised in the sale of electronic cigarettes and refill containers with and without nicotine when the outlet exclusively or mainly sells electronic cigarettes and refill containers with and without nicotine.

*Paragraph 3.* The exemption from the ban on visual location and display under paragraph 1 only applies to electronic cigarettes and refill containers with and without nicotine. If the sales outlet sells other products or tobacco products, tobacco surrogates or herbal smoking products, these are included in the ban under § 3(1 and 2) or § 2(1 and 2) in the Order on a ban on advertising, visual location and display etc. of tobacco products, tobacco surrogates and herbal smoking products.

*Paragraph 4.* If a sales outlet under paragraph 1 sells electronic cigarettes and refill containers with and without nicotine through digital solutions, such as retailer home pages, internet shops, company home pages, company home pages on social media and apps, this is included in § 5.

*Paragraph 5.* It is not permitted for a physical sales outlet under paragraph 1 to advertise electronic cigarettes and refill containers with and without nicotine at the sales outlet, in the shop window or on the shop front, except as provided for in paragraph 6. This includes:

1. directly or indirectly giving prominence to a particular product, company name, prices or other information on electronic cigarettes and refill containers with and without nicotine with the help of special lighting, colours, prominence given to products or names on shelves, prominent shelves or pictures, or
2. by text, illustrations, pictures, colours, logos, symbols or other means to give the purchaser the impression that one or more products are beneficial to health, less damaging than other products, act as an aid to stopping smoking or in other ways have a beneficial effect or advantage.

*Paragraph 6.* The name of a physical sales outlet under paragraph 1 must appear on the shop front in neutral design. The name must not in itself have an advertising effect.

*Paragraph 7.* The exemption from the ban on visual location and display under paragraph 1 does not give the sales outlet the possibility of visibly locating and displaying electronic cigarettes and refill containers with and without nicotine in other places than the sales outlet, or distribute advertising leaflets and free products etc.

Chapter 7

*Self-service machines*

§ 7. Machines that are used by self-service to supply tobacco products, tobacco surrogates or herbal smoking products after sale from a manned till shall be neutrally designed. Information on the machine on brand name, variant name and prices shall be displayed in black Helvetica font up to size 14 point.

*Paragraph 2.* A machine covered by paragraph 1 shall not:

1. have or apply brand or company labels or other characteristics for these products, including a picture of a product,
2. give prominence to information or
3. have or apply illustrations, pictures, colours, logos, symbols or other means that can give the purchaser the impression that a product sold from the specific machine is beneficial to health, less damaging than other products, act as an aid to stopping smoking or have other beneficial effects or advantages.

Chapter 8

*Penalties*

**§ 8.** Unless higher penalties are stipulated under other legislation, penalties will be imposed on those who violate the ban in §§ 2 and 3 or violate the regulations in §§ 4–7.

*Paragraph 2.* Entities, etc. (legal persons) may be rendered criminally liable in accordance with the provisions in Chapter 5 of the Penal Code [Straffeloven].

Chapter 7

*Entry into force*

**§ 8.** This Order will enter into force on 01 April 2021.

*Ministry of Health, [date]*

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/ Mie Saabye