



## EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs  
Single Market Enforcement  
Notification of Regulatory Barriers

Notification Number : 2023/0467/LT (Lithuania)

# **Draft Law No XIVP-2590(3) amending Articles 2, 92, 95 and 30 of Law No I-1143 on the control of tobacco, tobacco products and related products of the Republic of Lithuania (hereinafter referred to as the draft law)**

Date received : 27/07/2023

End of Standstill : 30/10/2023 (closed)

## **Message**

Message 001

Communication from the Commission - TRIS/(2023) 2253

Directive (EU) 2015/1535

Notification: 2023/0467/LT

Notification of a draft text from a Member State

Notification - Notificación - Notifizierung - Нотификация - Oznámení - Notifikation - Γνωστοποίηση - Notificación - Teavitamine - Ilmoitus - Obavijest - Bejelentés - Notifica - Pranešimas - Paziņojums - Notifika - Kennisgeving - Zawiadomienie - Notificação - Notificare - Oznámenie - Obvestilo - Anmälan - Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késéset - Non fa decorrere la mora - Atidējimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħ il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20232253.EN

1. MSG 001 IND 2023 0467 LT EN 27-07-2023 LT NOTIF

2. Lithuania

3A. Lietuvos standartizacijos departamentas, Algirdo g. 31, LT-03219 Vilnius, Tel. +370 (5) 270 9358, El. p. [lstboard@lsd.lt](mailto:lstboard@lsd.lt)

3B. Lietuvos Respublikos sveikatos apsaugos ministerija, Vilniaus g. 33, LT-01506 Vilnius, Tel. +370 (5) 266 1400, El. p. [ministerija@sam.lt](mailto:ministerija@sam.lt)

4. 2023/0467/LT - X00M - GOODS AND MISCELLANEOUS PRODUCTS

5. Draft Law No XIVP-2590(3) amending Articles 2, 92, 95 and 30 of Law No I-1143 on the control of tobacco, tobacco products and related products of the Republic of Lithuania (hereinafter referred to as the draft law)



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### 6. Electronic cigarettes and refill containers with liquid adapted for filling electronic cigarettes

7.

8. In order to limit the attractiveness and consumption of e-cigarettes, which are growing in popularity (particularly among young people) [1], appropriate measures are necessary. The first step already taken in Lithuania is the ban imposed on 1 July 2022 on placing on the market electronic cigarettes and e-cigarette refill containers with liquid adapted for filling electronic cigarettes, if this liquid contains flavours other than the smell and/or taste of tobacco, but the current regulation is not sufficient and allows business operators to circumvent the prohibitions by placing on the market electronic cigarettes with the characteristics of a certain smell and/or taste other than tobacco. The law establishes a definition of the added smell and/or taste of a tobacco product, which applies only to tobacco products, but does not apply to electronic cigarettes and their refill containers, the popularity of which has recently been increasing dramatically [1]. Currently, the Law prohibits the placing on the market of electronic cigarettes and e-cigarette refill containers with liquid adapted for filling electronic cigarettes, if this liquid contains flavours other than the smell and/or taste of tobacco. There is no list of authorised or prohibited tobacco flavouring substances approved by the law, which allows economic operators to argue that tobacco flavours are different and to interpret the term 'tobacco taste and smell' differently, thus placing on the market electronic cigarettes and their refill containers with certain non-tobacco smell and/or taste properties. The draft law therefore proposes to extend the concept of 'added taste or smell' to e-cigarettes. It is proposed to prohibit the placing on the market of electronic cigarettes and their refill containers with an added smell or taste other than the smell and/or taste of tobacco. It is likely that this will reduce the attractiveness of e-cigarettes and their refill containers, and prevent different treatment of the provisions of the Law. The draft law proposes to specify in sub-statutory legal acts the specific authorised chemicals that give the flavour of tobacco to electronic cigarettes and their refill containers and to indicate the CAS numbers of these substances. This would limit the possibility for economic operators to circumvent the prohibitions of the Law and to place on the market e-cigarettes and their refill containers with certain non-tobacco smell and/or taste properties. Amendments to the Law entered into force on 1 May 2022, whereby electronic cigarettes and their refill containers, which do not contain nicotine, also fell within the scope of the object of the Law and must bear a health warning on the unit packets of electronic cigarettes and their refill containers or any outside packaging "This product contains nicotine, which is a highly addictive substance. It is not recommended for non-smokers." Thus, it is inappropriate to indicate on a nicotine-free product that the product contains nicotine, and it is also misleading for consumers of e-cigarettes. Therefore, for the sake of clarity, it is proposed to exempt electronic cigarettes and their nicotine-free refill containers from the health warning requirement. In order to reduce the administrative burden of state institutions dealing with cases for violation of the provisions of the Law and to increase the speed of the proceedings in pending cases, the draft law proposes certain amendments to the procedures for the handling of cases concerning infringement of the Law. [1]

[https://ntakd.lrv.lt/uploads/ntakd/documents/files/2022%20metinis%20\(galutinis\).pdf](https://ntakd.lrv.lt/uploads/ntakd/documents/files/2022%20metinis%20(galutinis).pdf) (Drugs, tobacco and alcohol control department „Psychoactive substances: trends and changes 2022“, p. 119, picture 4.1.8 (according to the European School Survey Project on Alcohol and Other Drugs (ESPAD), the use of electronic cigarettes among 15-16 years old youth in Lithuania is one of the largest in the Europe (in Lithuania last month prevalence is - 31%, while average of ESPAD countries - 14%), picture 4.1.7 (with the increasing time trend of such consumption) and table 4.1.2 to the national General population representative survey 2021 (the highest prevalence of e-cigarettes is among people of 15-34 years old age group, life time prevalence is 41,9%, last month prevalence - 16%).

9. The draft law was drafted in order to fill the gaps in the existing regulation, when, in the presence of a ban imposed on 1 July 2022 on the placing on the market of electronic cigarettes and their refill containers containing liquids adapted for filling electronic cigarettes, if this liquid contains flavours other than the smell and/or taste of tobacco, electronic cigarettes and their refill containers with certain non-tobacco flavour properties are still placed on the market, to reduce the attractiveness of electronic cigarettes and their refill containers for young people, also in order to guarantee a smoother application of the provisions of the Law and a smoother examination of cases for infringement of the provisions of this Law. Given that it is not appropriate to indicate the presence of nicotine on a nicotine-free product and that this is misleading for consumers of e-cigarettes and their refill containers, it is proposed to exempt electronic cigarettes and nicotine-free refill containers from the health warning requirement laid down in the Law.



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10. References to the main texts: No basic text(s) available

11. No

12.

13. No

14. No

15. No

16.

TBT aspects:

The draft has significant impact on international trade

SPS aspects: No

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European Commission

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