



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Notification Number : 2024/0326/DK (Denmark)

Draft Act amending the Act on Tobacco Products etc. and various other Acts (Part II implementing the prevention plan for children and adolescents - tobacco, nicotine and alcohol)

Date received : 17/06/2024

End of Standstill : 18/09/2024 (18/12/2024) (closed)

Message

Message 001

Communication from the Commission - TRIS/(2024) 1575

Directive (EU) 2015/1535

Notification: 2024/0326/DK

Notification of a draft text from a Member State

Notification – Notification – 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: 20241575.EN

1. MSG 001 IND 2024 0326 DK EN 17-06-2024 DK NOTIF

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4. 2024/0326/DK - S00S - HEALTH, MEDICAL EQUIPMENT

5. Draft Act amending the Act on Tobacco Products etc. and various other Acts (Part II implementing the prevention plan for children and adolescents – tobacco, nicotine and alcohol)

6. The proposed draft Act concerns the following products:

Tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine, and alcoholic beverages.

7.

8. The draft Act contains the following main elements:

1) Prohibition of import, purchase, possession etc.

The draft Act prohibits the import, purchase, supply, receipt, manufacture, processing or possession of tobacco surrogates which have an aroma other than menthol or tobacco or which have an excessive nicotine content. The rules on aromas and nicotine content requirements are introduced by this legislative proposal.

The prohibition does not cover travel luggage of up to 10 units and possession of up to 10 units for personal consumption. Additionally, the prohibition does not apply to the import, purchase, supply, receipt, manufacture, processing or possession for the purpose of marketing in other countries or to consumers in countries other than Denmark. Likewise, the prohibition does not apply to import, purchase, supply, receipt, manufacture, processing or possession for scientific or control purposes. The provision reflects similar prohibitions for electronic cigarettes containing nicotine, adopted in Danish law on 4 June 2024.

2) More powers for the Danish Safety Technology Authority

The draft Act provides a legal basis for the Danish Safety Technology Authority (which is the competent control authority in this area) in future to issue administrative fines and to order the confiscation of illegal tobacco and nicotine products out of court.

The Danish Safety Technology Authority is also authorised to order communication platforms to modify or remove content referring to products that do not comply with rules laid down in or pursuant to the Act on tobacco products, etc., the Act on electronic cigarettes, etc. or the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18.

3) More powers for the Consumer Ombudsman

The draft Act provides a legal basis for the Consumer Ombudsman (which is the competent regulatory authority for the rules on the advertising of tobacco, nicotine and alcohol) to issue administrative penalty notices for infringements of the rules on visible display and presentation laid down in the Act on electronic cigarettes, etc. and the Act on the prohibition of tobacco advertising, etc. and rules laid down in related orders.

Furthermore, the Consumer Ombudsman is authorised to use a covert identity in the context of supervision under Section 11 (2) of the Marketing Act, which concerns that commercial practices aimed at children and adolescents under the age of 18 may not contain any reference to, pictures or references to, inter alia, alcohol.

It should be noted that covert identity means that the Consumer Ombudsman does not come forward or identify itself as a supervisory authority during supervision. The use of covert identity takes place under the responsibility of the authority and must never incite unlawful acts.

4) Proxy sales ban



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The draft Act clarifies the rules for the sale of tobacco and nicotine products and alcoholic beverages in order to unambiguously prohibit proxy sales. A ban on proxy sales means that adult persons are not allowed to buy the products on behalf of others who are below age limits and receive payment for them.

It should be noted that there are currently age limits for the sale of tobacco and nicotine products and alcoholic beverages.

5) Regulation of the sale of alcoholic beverages

The draft Act amends the rules for the sale of alcohol to 16-17 year-olds, so that from now on alcoholic products with an alcoholic strength of more than 6 may not be sold to 16-17 year-olds.

In addition, the draft Act imposes requirements on the location of alcoholic beverages in retail outlets, so that the products are not aimed at children and adolescents.

In addition, the draft Act prohibits the sale of alcoholic beverages to young people under the age of 18 between 22.00 and 08.00 in the retail sector in night-life zones. Night-life zones are designated by the Danish police and may be identified where there is a dense concentration of night clubs, bars, cafés or similar in the area concerned and where it is deemed appropriate to detect offences during the evening and night hours.

6) Regulation of tobacco surrogates

The draft Act provides for increased regulation of tobacco surrogates, such as nicotine bags. A ban is introduced on the placing on the market of tobacco surrogates with a flavour and flavourings intended for use in flavoured tobacco surrogates, with the exception of a tobacco or menthol flavour. The provision reflects similar regulation for flavourings in electronic cigarettes. In addition, the legislative proposal regulates additives in tobacco surrogates, where the requirements will be similar to those applicable to tobacco products today.

In addition, the Minister for the Interior and Health is authorised to lay down rules on the limit values of maximum nicotine content in tobacco surrogates.

It should be noted that the requirements will, as far as possible, be based on the existing market. The detailed requirements shall be laid down in Orders.

7) Standardisation, etc.

The legislative proposal introduces standardisation requirements as well as product requirements for a number of tobacco and nicotine products. Requirements are introduced to standardise the packaging of tobacco surrogates and the packaging of technical equipment used with heated tobacco products.

In addition, the Danish Health Authority is authorised to lay down more detailed rules on ingredients/numbers in relation to unit packets of chewing tobacco and tobacco surrogates. Furthermore, the Danish Health Authority is empowered to lay down detailed rules on requirements for the appearance of cigarettes and roll-your-own tobacco and requirements for the appearance of tobacco surrogates, which will initially apply to the appearance of the nicotine bag itself.

It should be noted that the requirements will, as far as possible, build on the existing market and requirements for the standardisation of packaging. The detailed requirements shall be laid down in Orders.

8) Greater fines and the possibility of depriving the right to sell tobacco and nicotine products

The draft Act provides for an increase in the level of fines for illegal sales of tobacco, nicotine and alcohol. The starting point for the fines is DKK 50 000.

In addition, the draft Act extends the rules in relation to when the right to market tobacco and nicotine products can be withdrawn. At present, the right to sell tobacco and nicotine products can only be withdrawn in the event of sale to minors. In future, the draft Act will also allow the withdrawal in the event of sale of illegal tobacco and nicotine products.



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The withdrawal of the right of sale will take place in the event of a third infringement and will initially apply for one year.

9) An increase in smoke- and vapour free environments

The draft Act harmonises the rules on smoking and the use of electronic cigarettes so that the requirements for smoking and the use of electronic cigarettes are treated as equivalent. The draft Act further clarifies that the use of heated tobacco products is covered by the requirements for smoking.

In addition, the draft Act requires outdoor stadia to establish zones where smoking or the use of heated tobacco products and electronic cigarettes is prohibited. In addition, the draft Act provides a legal basis for municipalities that allow requirements for outdoor playgrounds where smoking or the use of heated tobacco products and electronic cigarettes is prohibited.

9. The draft Act is an implementation of the agreement of 14 November 2023 on a prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people, concluded between the government (the Social Democratic Party, the Liberal Party of Denmark and the Moderates), the Socialist People's Party, the Denmark Democrats, the Conservative People's Party and The Alternative.

The agreement contains 30 initiatives, and together they are intended to contribute to reducing the consumption of tobacco, nicotine and alcohol by children and young people and to support more inclusive communities.

This bill implements the last parts of the Prevention Agreement, which is implemented with a total of three legislative proposals. The initiatives implemented in this legislative proposal are intended to limit the consumption of tobacco, nicotine and alcohol by children and adolescents.

Reference is also made to the proposed draft Act, which describes the relationship to EU law.

10. References in the basic text: No basic text(s) are available

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

European Commission

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