



EUROPEAN COMMISSION

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

Single Market Enforcement

Notification of Regulatory Barriers

Notification Number : 2024/0610/AT (Austria)

## Ordinance specifying prohibited substances in tobacco products and e-cigarette liquids

Date received : 07/11/2024

End of Standstill : 10/02/2025 (08/05/2025)

### Message

Message 001

Communication from the Commission - TRIS/(2024) 3005

Directive (EU) 2015/1535

Notification: 2024/0610/AT

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 - Καμία 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: 20243005.EN

1. MSG 001 IND 2024 0610 AT EN 07-11-2024 AT NOTIF

2. Austria

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Abteilung VI/A/5

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4. 2024/0610/AT - X60M - Tobacco

5. Ordinance specifying prohibited substances in tobacco products and e-cigarette liquids



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### 6. Tobacco products and e-cigarette liquids

7.

8. In transposing Directive 2014/40/EU – and thus mirroring the requirements laid down by the European legislature – Austria has incorporated into national law a ban on certain ingredients in nicotine-containing electronic cigarettes and refill containers (see Section 10a(7) subparagraph 3 in conjunction with Section 8b(2) of the Tobacco and Non-Smokers Protection Act (TNRSG), in nicotine-containing and nicotine-free cigarettes and refill containers (see Section 10b(7) subparagraph 3 in conjunction with Section 8b(2); Section 10b(7) subparagraph 5 TNRSG) and in tobacco products (see Section 8b(2) subparagraph 1 TNRSG) transposed into national law.

In transposing this ban, the Austrian legislature has largely followed the wording of the Directive, and therefore substance categories have been enshrined in the national Austrian Act only in abstract terms – as in Directive 2014/40/EU.

The purpose of the present notification is to ensure that the substance categories included in the list are in any case to be regarded as prohibited ingredients and are therefore unequivocally subject to the statutory ban.

9. In transposing the ban on certain ingredients in tobacco products and in e-cigarette liquids, the national legislature has largely followed the wording of Directive 2014/40/EU, listing prohibited substance categories only in general terms.

For the purposes of providing legal certainty and legal clarity for producers, importers and distributors, the ‘List of prohibited substances in tobacco products and electronic cigarettes’ published for information purposes on the websites of the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (BMSGPK) on 13 July 2023 and the Austrian Agency for Health and Food Safety (AGES) on 14 July 2023, which is based on the decision of 30 May 2023 of the Advisory Board on Ingredients established pursuant to Section 8b(9) TNRSG, is now being notified as an implementing ordinance within the meaning of Article 18(2) of the Federal Constitutional Act (B-VG).

The purpose of the present notification is to ensure that the substance categories included in the list are in any case to be regarded as prohibited ingredients and are therefore unequivocally subject to the statutory ban.

### 10. Reference to the basic texts:

11. Yes

12. The urgency of the legislation arises from the fact that, because the prohibited substance categories are only listed in abstract terms in the national Austrian Act (TNRSG), products are currently on the market containing ingredients that are prohibited by law but not specified in greater detail by name, posing a potential risk to the health of young consumers in particular.

It should be noted that even wholesalers, according to their information statements, cannot exclude the possibility of products being distributed that contain the ingredients included in the list. Clarification of the legal situation is therefore of the utmost and most urgent importance in order to safeguard health protection.

13. No

14. No



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15. No

16.

TBT aspects: No

SPS aspects: No

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European Commission

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