

Act amending the Act on tobacco products, etc., the Act on electronic cigarettes, etc. and the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18¹

(Implementation of parts of the prevention plan targeting children and adolescents – tobacco, nicotine and alcohol)

We FREDERIK THE TENTH, by God's Grace King of Denmark, hereby decree:

The Danish Parliament (Folketinget) has decided and We with Our agreement assert the following Act:

Section 1

The Act on tobacco products, etc., cf. Consolidation Act No 1489 of 18 June 2021, as amended through Section 2 of Act No 2071 of 21 December 2020, Section 2 of Act No 99 of 25 January 2022, Section 1 of Act No 738 of 13 June 2023 and Section 8 of Act No 333 of 9 April 2024, shall be amended as follows:

1. In Section 2, No 17, the following shall be inserted after 'a tobacco product': ', a tobacco surrogate'.
2. In Section 2, Nos 18–21, the following shall be inserted after 'tobacco products': ', tobacco surrogates'.
3. In Section 2, the following shall be inserted as No 32:
'32) Age verification system: An IT system that unambiguously confirms electronically that the consumer's age falls within the age limit.'
4. *The heading of Chapter 7 shall be worded as follows:*
'Chapter 7
Distance sales'.
5. In Section 24(1), the phrase 'tobacco products registered under Section 23(1) must operate an age verification system' shall be replaced by: 'tobacco products, tobacco surrogates and herbal products for smoking must operate, in the case of distance sales, an age verification system which verifies, at the time of sale, that the customer is at least 18 years of age'.
6. After Section 35, the following shall be inserted before the heading before Section 36:
Section 35a. (1) The Danish Safety Technology Authority may seize tobacco products, tobacco surrogates and herbal products for smoking and equipment used together with these, if the Authority has reason to believe that they are contrary to rules subject to penalties in this Act, rules subject to penalties laid down pursuant to this Act or rules subject to penalties in regulations relating to the scope of this Act, and there is reason to believe that the product may serve as evidence or should be confiscated.
(2) Products that come into the Danish Safety Technology Authority's possession as a result of seizures, cf. (1), must be recorded and labelled as soon as possible. The Danish Safety Technology Authority shall issue acknowledgement of receipt.
(3) Seizures carried out pursuant to (1) shall be carried out in accordance with Chapter 74 of the Administration of Justice Act on seizures.
Section 35b. (1) The Customs and Tax Administration may detain tobacco products, tobacco surrogates and herbal products for smoking and equipment used together with these, which are left in the keeping of

¹ This Act has been notified as a draft in accordance with Directive 2015/1535 (EU) of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).

manufacturers, importers or retailers, etc., with a view to transferring the products to the Danish Safety Technology Authority, if the Administration has reason to believe that they are contrary to rules subject to penalties in this Act, rules subject to penalties laid down pursuant to this Act or rules subject to penalties in regulations relating to the scope of this Act.

(2) The Customs and Tax Administration may detain tobacco products, tobacco surrogates and herbal products for smoking and equipment used together with these, which are being transported into the Danish customs territory from other parts of the EU customs territory or from a country outside the EU, with a view to transferring the products to the Danish Safety Technology Authority, if the Administration has reason to believe that they are contrary to rules subject to penalties in this Act, rules subject to penalties laid down pursuant to this Act or rules subject to penalties in regulations relating to the scope of this Act.

(3) The Danish Safety Technology Authority may, for the purpose of securing customs duties and taxes, detain tobacco products, tobacco surrogates and herbal products for smoking and equipment used together with these, which are left in the keeping of manufacturers, importers or retailers, etc., with a view to transferring the products to the Customs and Tax Administration.'

Section 2

The Act on electronic cigarettes, etc., cf. Consolidated Act No 1876 of 20 September 2021, as amended by Section 3 of Act No 2071 of 21 December 2020, Section 1 of Act No 99 of 25 January 2022 and Section 2 of Act No 738 of 13 June 2023, shall be amended as follows:

1. In Section 2, No 6, the following shall be inserted after 'refill container with': ' and without'.

2. In Section 2, Nos 7–9, the following shall be inserted after 'refill container with': ' and without'.

3. In Section 2, the following shall be inserted as No 12:

'12) Age verification system: An IT system that unambiguously confirms electronically that the consumer's age falls within the age limit.'

4. Section 15(3) shall be repealed.

(4) and (5) subsequently become (3) and (4).

5. In Section 15(4), which becomes (3), the following shall be inserted after 'with': 'and without' and 'registered under Section 13(1), shall operate an age verification system, cf. (5)' shall be replaced by: 'must operate, in the case of distance sales, an age verification system which verifies, at the time of sale, that the customer is at least 18 years of age, cf. (4)'.

6. The following shall be inserted after Chapter 7:

'Chapter 7a

Prohibition of import, purchase, possession, etc. of certain electronic cigarettes, etc.

Section 18b. It is not allowed to **import, purchase, supply, receive, manufacture, process or possess** electronic cigarettes and refill containers with nicotine, which are covered by the prohibition in Section 25a(1) or exceed the nicotine content limit in a nicotine-containing liquid as laid down pursuant to Section 7(2).

(2) The prohibition referred to in (1) shall not include the following:

- 1) Luggage containing up to 10 units for personal consumption and possession of up to 10 units for personal consumption.

- 2) Import, purchase, supply, receipt, manufacture, processing or possession with a view to marketing in other countries or marketing to consumers in countries other than Denmark.
- 3) Import, purchase, supply, receipt, manufacture, processing or possession for scientific or control purposes.

7. In Section 19(1), the following shall be inserted after '3-6': '7a'.

8. In Section 19(1), the following shall be inserted as the second sentence:

'The Customs and Tax Administration shall assist with verifying compliance with the rules in Chapter 7a.'

9. In Section 19, the following shall be inserted as (3) and (4):

'(3) The Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of verifying compliance with the requirements laid down in Section 15(1) and (2), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales.

(4) The Danish Safety Technology Authority shall not, during controls in accordance with (3), influence significant circumstances during the control purchase, in particular an increase in the extent or seriousness of the offence.'

10. After Section 22, the following shall be inserted before the heading before Section 23:

Section 22a. (1) The Danish Safety Technology Authority may seize electronic cigarettes with or without nicotine and refill containers with or without nicotine, as well as equipment and flavourings used together with these, if the Authority has reason to believe that they are contrary to rules subject to penalties in this Act, rules subject to penalties laid down pursuant to this Act or rules subject to penalties in regulations relating to the scope of this Act, and there is reason to believe that the product may serve as evidence or should be confiscated.

(2) Products that come into the Danish Safety Technology Authority's possession as a result of seizures, cf. (1), must be recorded and labelled as soon as possible. The Danish Safety Technology Authority shall issue acknowledgement of receipt.

(3) Seizures carried out pursuant to (1) shall be carried out in accordance with Chapter 74 of the Administration of Justice Act on seizures.

Section 22b. (1) The Customs and Tax Administration may detain electronic cigarettes with or without nicotine and refill containers with or without nicotine, as well as equipment and flavourings used together with these, which are left in the keeping of manufacturers, importers or retailers, etc., with a view to transferring the products to the Danish Safety Technology Authority for the purpose of seizing them, if the Administration has reason to believe that they are contrary to rules subject to penalties in this Act, rules subject to penalties laid down pursuant to this Act or rules subject to penalties in regulations relating to the scope of this Act.

(2) The Customs and Tax Administration may detain electronic cigarettes with or without nicotine and refill containers with or without nicotine, as well as equipment and flavourings used together with these, which are being transported into the Danish customs territory from other parts of the EU customs territory or from a country outside the EU, with a view to transferring the products to the Danish Safety Technology Authority, if the Administration has reason to believe that they are contrary to rules subject to penalties in this Act, rules subject to penalties laid down pursuant to this Act or rules subject to penalties in regulations relating to the scope of this Act.

(3) The Danish Safety Technology Authority may, for the purpose of securing customs duties and taxes, detain electronic cigarettes with or without nicotine and refill containers with or without nicotine, as well as equipment and flavourings used together with these, which are left in the keeping of manufacturers,

importers or retailers, etc., with a view to transferring the products to the Customs and Tax Administration.'

11. In Section 30(1), 'Section 15(4)' shall be replaced by: 'Section 15(3)'.
12. In Section 33(1)(1), 'Section 15(1-4)' shall be replaced by: 'Section 15(1-3)'.
13. In Section 33(1)(1), the following shall be inserted after 'Section 18a(1)': 'Section 18b(1)'.
14. In Section 33(2), 'Section 15(5)' shall be replaced by: 'Section 15(4)'.

Section 3

The Act on the prohibition of the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No 583 of 26 March 2021, as amended by Section 3 of Act No 738 of 13 June 2023, shall be amended as follows:

1. Section 2a(2) shall be repealed.
(3-9) subsequently become (2-8).
2. In Section 2a(4), which becomes (3), the phrase 'must require the customer online, before the sale is made, to state unequivocally that he or she is at least 16 years of age' shall be replaced by: 'must, in the case of distance sales. operate an age verification system which verifies, at the time of sale, that the customer is at least 16 years of age'.
3. In Section 2a(6), which becomes (5), the phrase 'must require the customer online, before the sale is made, to state unequivocally that he or she is at least 18 years of age' shall be replaced by: 'must, in the case of distance sales. operate an age verification system which verifies, at the time of sale, that the customer is at least 18 years of age'.
4. In Section 2a(7), which becomes (6), '(3)-(6)' shall be replaced by: '(2)-(5) and Section 2'.
5. In Section 2a(8), which becomes (7), '(1) and (2)' shall be replaced by: '(1) and Section 1'.
6. In Section 2a(9), which becomes (8), 'cf. (7)' shall be replaced by: 'cf. (6)'.
7. In Section 2b(1) and (2), and Section 5(1), first and second sentences, 'Section 2a(9)' shall be replaced by: 'Section 2a(8)'.
8. In Section 2b(3), the phrase 'require the communication of all information from retailers and buyers of alcohol, tobacco products, tobacco surrogates and herbal products for smoking' shall be replaced by: 'require any person to be supplied with all information'.
9. In Section 2b, the following shall be inserted as (4) and (5):
(4) The Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of verifying compliance with the requirements laid down in Section 1(1), Section 2 and Section 2a(1), (2) and (4), as well as in rules issued pursuant to Section 2a(8), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales.

(5) The Danish Safety Technology Authority shall not, during controls in accordance with (4), influence significant circumstances during the control purchase, in particular an increase in the extent or seriousness of the offence.'

10. In Section 5 (1), first sentence, 'online' is replaced by: 'in the case of distance sales'.

Section 4

Act No 2071 of 21 December 2020 amending the Act on the prohibition of tobacco advertising etc., the Act on tobacco products etc., the Act on electronic cigarettes etc. and various other acts (Implementation of the national action plan against smoking among children and adolescents), as amended by Section 5 of Act No 738 of 13 June 2023, shall be amended as follows:

1. Section 2, Nos 13 and 14 shall be repealed.

2. Section 7(7) shall be worded as follows:

"(7) It is the Minister for the Interior and Health who determines the time of entry into force of Section 2, No 6 and 21 of the Act.

Section 5

Act No 738 of 13 June 2023 amending the Act on tobacco products, etc. and various other acts (Implementation of parts of the Delegated Directive on heated tobacco products, etc.) shall be amended as follows:

1. Section 2, No 5, shall be repealed.

2. In Section 6(1), the words 'and 3' shall be deleted.

3. Section 6(3) shall be repealed.

(4) and (5) subsequently become (3) and (4).

Section 6

(1) The Act enters into force on 1 July 2024, without prejudice to (2).

(2) Section 1, Nos 3–5, Section 2, Nos 3–5, 11, 12 and 14, Section 3, Nos 1–8 and 10, Section 4 and Section 5 shall enter into force on 1 October 2024.

(3) Rules issued pursuant to Section 15(5) of the Act on electronic cigarettes, etc., cf. Consolidation Act No 1876 of 20 September 2021, as amended by Section 2 of Act No 738 of 13 June 2023, shall remain in force until they are repealed or replaced by rules issued pursuant to Section 15(4) of the Act on electronic cigarettes, etc., cf. Section 2, No 4 of this Act.

(4) Rules issued pursuant to Section 2a(9) of the Act on the prohibition of the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No 583 of 26 March 2021, as amended by Section 3 of Act No 738 of 13 June 2023, shall remain in force until they are repealed or replaced by rules issued pursuant to Section 2a(8) of the Act on the prohibition of the sale of tobacco and alcohol to persons under 18 years of age, cf. Section 3, No 1 of this Act.

By Our Royal Hand and Seal

FREDERIK R.

/ Sophie Løhde