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DECREE N° 771

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR,

WHEREAS:

- I.-** The Constitution establishes it as an obligation of the State to guarantee to inhabitants of the Republic the enjoyment of health, which is a public good.
- II.-** The Organization of Public Health through its member States has designed and adopted the Global Framework Convention on Tobacco Control, to address the severe harmful consequences of tobacco consumption in the world population.
- III.-** The consumption of tobacco and its products constitutes a problem with grave consequences on the public health of the world, and in this country, causing numerous preventable diseases.
- IV.-** There is no national legislation regulating the promotion, advertising, sponsorship, commercialization and consumption of tobacco and its products, in order to protect the health of present and future generations from the sanitary, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

THEREFORE,

In the use of its constitutional faculties and at the initiative of the Deputy for the 2003-2006 legislative period, Elvia Violeta Menjívar Escalante and the Deputies Othon Sigfrido Reyes Morales, Zoila Beatriz Quijada Solís, Miguel Elías Ahues Karrá, Reynaldo Antonio López Cardoza, Santiago Flores Alfaro, Guillermo Francisco Mata Bennet, Darío Alejandro Chicas Argueta, Enrique Alberto Luis Valdés Soto, Eduardo Enrique Barrientos Zepeda, César René Florentín Reyes Dheming, Mario Antonio Ponce López, Juan Carlos Mendoza Portillo, Douglas Leonardo Mejía Avilés and José Orlando Arévalo Pineda, with the support of the Deputies Irma Lourdes Palacios Vásquez, Lorena Guadalupe Peña Mendoza, Elizardo González Lovo, Karla Gicela Ábrego, Marta Lorena Araujo, José Álvaro Cornejo Mena, Carlos Cortez Hernández, Nery Arely Díaz de Rivera, Antonio Echeverría Veliz, Emma Julia Fabián, Ricardo Bladimir González, Benito Antonio Lara Fernández, Rosa Alma Cruz de Henríquez, Hortensia Margarita López Quintana, Guillermo Antonio Olivo Méndez, Orestes Fredesman Ortez Andrade, Gaspar Armando Portillo Benítez, Inmar Rolando Reyes, Gilberto Rivera Mejía, Jackeline Noemí Rivera Avalos, Jaime Gilberto Valdez Hernández, Pedrina Rivera Hernández, David Rodríguez Rivera, Sonia Margarita Rodríguez Sigüenza, Ana Silvia Romero Vargas, Karina Ivette Sosa de Lara, Ramón Aristides Valencia Arana; María Margarita Velado Puentes, Daysi Villalobos de Cruz, Omar Arturo Escobar Oviedo, Rafael Antonio Jarquin Larios, César Humberto Solórzano Dueñas, Esdras Samuel Vargas Pérez, Ciro Alexis Zepeda, Edgar Alfonso Montoya Martínez and Rodolfo Antonio Parker Soto.

DECREES the
following:

LAW FOR TOBACCO CONTROL TITLE

I
PRELIMINARY PROVISIONS

CHAPTER I
PURPOSE AND SCOPE OF LAW

Purpose

Art. 1.- The purpose of this law is to establish rules regulating the importation, promotion, advertising, sponsorship, commercialization, and consumption of tobacco and its products, as well as to reduce demand and protect non-smokers, in order to protect the health of the people from the sanitary, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

Competency

Art. 2.- The Ministry of Health, hereinafter "the Ministry," is the competent authority for the implementation of this Law.

The Ministry of Health, may require the support of the National Civil Police, of Municipalities, of the Ministries of: Economy, Treasury, Education, Environment, the Salvadoran Institute of Social Security, and any other institution that it may deem necessary.

Principles

Art. 3.- This Law is to be governed by the following principles:

- a) **INFORMATION:** To guarantee that the public receives sufficient, continuous, up-to-date and truthful information on the harmful health effects, the addictive nature and lethal threat of tobacco consumption and exposure to tobacco smoke.
- b) **PREVENTION:** To bring about the development and implementation of programs geared towards preventing tobacco consumption and exposure to tobacco smoke resulting from the burning and inhalation of tobacco.
- c) **SUBSIDIARITY:** To guarantee financial and technical support mechanisms for the execution of programs for the control of tobacco consumption.
- d) **A MULTISECTORAL APPROACH:** To adopt, on a national scale, comprehensive multi-sectoral measures and responses to reduce the consumption of all tobacco products, in order to prevent the morbidity, mortality and premature disability caused by the consumption of tobacco and exposure to tobacco smoke, pursuant to the principles of public health.

- e) **RESPONSIBILITY:** It is the obligation of the State, as well as of natural and juridical persons, to guarantee through social participation the implementation of, and compliance with, the provisions of this Law.

Scope of this Law

Art. 4.- This Law applies to all natural and juridical persons engaged in the exportation, importation, production, promotion, advertising, sponsorship, commercialization and consumption of tobacco and its products.

Basic Concepts and Definitions

Art. 5.- For the purposes of this Law, the following definitions shall apply:

- a) **ILLEGAL TRADE**
Any practice or conduct prohibited by law relating to the production, shipment, receipt, possession, distribution, sale or purchase of tobacco products, including any practice or conduct intended to facilitate such activity.
- b) **ADVERTISING AND PROMOTION OF TOBACCO**
This refers to any kind of communication, recommendation or commercial action for the purpose of directly or indirectly promoting a tobacco product or the use thereof.
- c) **TOBACCO CONTROL**
This encompasses a variety of strategies and actions geared towards reducing the supply, the demand and the harm resulting from the consumption of tobacco and its products, as well as exposure to tobacco smoke, for the purpose of protecting and improving the health of the population.
- d) **TOBACCO INDUSTRY**
The tobacco industry refers to all manufacturers, wholesale distributors and importers of tobacco products.
- e) **TOBACCO PRODUCTS**
These are all products totally or partially prepared using tobacco leaf as a raw material, and intended to be smoked or chewed.
- f) **SPONSORSHIP OF TOBACCO**
This is any kind of contribution to any act or activity with the purpose or effect of directly or indirectly promoting a tobacco product, or to stimulate the consumption thereof.

g) SECOND-HAND SMOKE

This is what people breathe when they share the same space with smokers, and it is the result of a mixture of: the lateral smoke emitted by the cigarette, the smoke that the smoker breathes out between puffs, and all the toxic substances emitted into the air by the burning of tobacco and its products.

h) PRIMARY PACKAGING

Any receptacle that has direct contact with the product for the specific purpose of protecting it against deterioration, contamination or adulteration, and to facilitate its handling.

i) SECONDARY PACKAGING

Any receptacle that contains two or more primary packages, for the purpose of protecting them and facilitating their commercialization until they reach the end consumer. The secondary package is usually used to group together several primary packages for purchase in one single unit.

j) TERTIARY PACKAGING

Any receptacle used to facilitate the handling and protection of secondary packages against physical damage and external agents during its storage and shipping; these receptacles are used during the distribution of the product and normally do not reach the end consumer.

k) SERVICE OF PUBLIC UTILITY TO THE COMMUNITY

Any activity in place of a fine, that does not interfere with the work or study schedule of the offender, and in some way contributes to his rehabilitation.

TITLE II**REDUCTION OF THE DEMAND FOR TOBACCO****CHAPTER I****PROHIBITIONS OF CONSUMPTION AND PROTECTION OF NON-SMOKERS****Restrictions**

Art. 6.- No person shall smoke tobacco or keep tobacco lit in indoor areas of any public or private place that is covered by this Law.

For the purposes of this Law, smoke-free public or private spaces will be understood to refer to the following:

- a- Public and private places of work.
- b- Health care institutions.
- c- Public and private educational and athletic facilities.
- d- Public and private means of collective and selective passenger transportation.

-
- e- Air, land and maritime terminals.
 - f- Places intended for the recreation of minors.
 - g- Places where inflammable substances are handled.
 - h- PROTECTED NATURAL AREAS. (1)
 - i- Movie theaters, cultural centers and auditoriums.
 - j- Public and private buildings, except for areas of private residence, and
 - k- PUBLIC AND PRIVATE PLACES WITH PUBLIC ACCESS THAT DO NOT HAVE SPACES SPECIFICALLY FOR SMOKING. (1)

Warnings

Art. 7.- Managers or proprietors of the places indicated in the foregoing article, shall post visible signs that clearly indicate that the consumption of tobacco is prohibited. This sign shall have the characteristics established in the regulations of this Law.

Proprietors or managers of the establishments and places mentioned in Art. 6 where tobacco consumption is prohibited are required to restrain anyone who violates what is established in the foregoing sub-paragraph, and may call upon the assistance of the National Civil Police if it should prove necessary.

TITLE III SALE, PACKAGING AND LABELING

CHAPTER I SALE

Authorization for Sale

Art. 8.- ANY NATURAL OR JURIDICAL PERSON ENGAGING IN THE MANUFACTURE, IMPORTATION, COMMERCIALIZATION OR WHOLESALE DISTRIBUTION OF TOBACCO PRODUCTS MUST HAVE A PERMIT TO DO SO FROM THE MINISTRY OF HEALTH, THROUGH THE REGIONAL BUREAUS OF HEALTH, WHICH SHALL HAVE A DURATION OF ONE YEAR, AND MUST BE RENEWED WITHIN THE FIRST THIRTY DAYS OF EACH YEAR.

ARTISANAL PRODUCERS OF CIGARS ARE TO BE EXCEPTED FROM THE REQUIREMENT ESTABLISHED IN THE FOREGOING SUB-PARAGRAPH (1)

Prohibitions

- Art. 9.-** The sale of tobacco and its products is prohibited:
- a- To minors.

- b- By minors.
- c- INDIVIDUALLY, OR IN PACKAGES OF LESS THAN TEN CIGARETTES. (1)
- d- Cigars individually.
- e- In vending machines.
- f- In places where consumption is not allowed, as established in this Law, except in supermarkets and shops.
- g- To be created in shapes or figures that induce minors to consume them.
- h- To be directly accessible at points of sale.
- i- To persons who do not prove that they are of age when such proof is considered necessary.

The Ministry of Health shall have the responsibility to see to compliance with the prohibitions of commercialization established in the foregoing article.

CHAPTER II PACKAGING AND LABELING

Emissions

Art. 10.- Tobacco products that are sold in the national territory shall have printed on their primary, secondary or tertiary packaging, information on the nicotine, tar and carbon monoxide content of such products on their outer surfaces, in Spanish. Said information must be placed on a lateral surface of the package with a size of not less than ten millimeters.

Health Warning

Art. 11.- All primary and secondary packaging must have printed on it the health warning on the harmful effects of tobacco consumption, which shall occupy fifty percent of the main exposed surfaces of the main package, in the lower part, using unequivocal texts and images, and will be authorized pursuant to the requirements and characteristics defined by the competent authorities in the respective regulations of this Law.

Misleading Statements

Art. 12.- It is prohibited to use on packages and labels of tobacco products descriptive terms or elements, factory or trademarks, figurative or other kinds of signs, that have the direct or indirect effect of creating the false, mistaken or misleading impression that one particular tobacco product is less harmful than others.

**TITLE IV
ADVERTISING, PROMOTION AND SPONSORSHIP**

**CHAPTER I
ADVERTISING**

Prohibition of Advertising

Art. 13.- IT IS PROHIBITED FOR THE PERSONS REGULATED IN ARTICLE 4 OF THIS LAW TO ENGAGE IN ANY KIND OF ADVERTISING FOR TOBACCO AND ITS PRODUCTS, EXCEPT INSIDE POINTS OF SALE. (1)

**CHAPTER II
PROMOTION**

Prohibitions of Promotion

Art. 14.- It is prohibited to promote tobacco and its products through:

- a. The distribution of cigarettes or tobacco products for free.
- b. The distribution of tobacco products through contests or other promotional measures.
- c. The sale or free distribution of promotional items.
- d. The conduct of activities or events that promote consumption.
- e. Lotteries and contests that offer rewards, prizes or other benefits that promote tobacco consumption.
- f. Any other activity undertaken along these lines.

PROMOTION OF TOBACCO AND ITS PRODUCTS SHALL ONLY BE PERMITTED THROUGH PERSONAL DELIVERY AND DIRECT CONTACT, AND AT EVENTS EXCLUSIVELY FOR ADULT SMOKERS. (1)

**CHAPTER III
SPONSORSHIP**

**Promotion of
Consumption**

Art. 15.- It is prohibited to promote tobacco consumption through the sponsorship of:

- a) Cultural activities;

-
- b) Educational activities;
 - c) Political activities;
 - d) Athletic activities;
 - e) Artistic and social events;
 - f) Scientific activities;
 - g) Communal events and employer-sponsored festivities; and
 - h) Any other activity undertaken along these lines.

TITLE V COMMERCE

Product Description

Art. 16.- Labeling of primary, secondary and tertiary packaging of tobacco products sold in this country must clearly indicate in print the following elements: name of the product, name of the manufacturer, place of manufacture and the name of the importer with its respective register of importation, all of the foregoing in Spanish, with the exception of registered trademarks.

In addition, permanently, said packages must exhibit the printed suggested price of sale to consumers, which should include the value added tax, the tax for the Transfer of Moveable Goods and The Provision of Services, and the Specific Tax, as established in the Law that regulates them, without under any circumstances the value added tax being calculated on the value added tax or any other taxes regulated by the law.

Law enforcement authorities and the Ministry of the Treasury will be responsible for verification of compliance with the provisions established in this article.

Labeling

Art. 17.- The labeling of primary, secondary and tertiary packaging of tobacco products that are sold in this country, must clearly state in print: "Product authorized for sale in El Salvador".

Shipment of Products

Art. 18.- The competent authorities shall adopt measures to document, oversee and track the shipment of tobacco products coming into the national territory in transit to other countries.

Destruction of Confiscated Products

Art. 19.- Any tobacco product that is confiscated on grounds of illegal trade or smuggling will be destroyed or eliminated by the competent authorities, without any liability for the State. The methods to be applied for such destruction shall not be harmful to the environment.

TITLE VI
INFORMATION AND EDUCATION PROGRAMS ON THE EFFECTS OF TOBACCO

CHAPTER I
INFORMATION AND EDUCATION

Government Responsibility

Art. 20.- It is the responsibility of the State through the Ministries of Health and Education to promote and foster the prevention of tobacco consumption through the following activities:

- a) To design and implement information and education programs on the risks to health caused by tobacco consumption and exposure to the second-hand smoke resulting thereby, in coordination with governmental and non-governmental organizations.
- b) To make known the addictive characteristics of tobacco consumption.
- c) To publicize the benefits to health and the environment resulting from quitting tobacco consumption.
- d) To promote the staging of events to disseminate information on the harmful consequences to the health of the population caused by tobacco consumption.
- e) To develop campaigns to publicize the effects and harm caused by tobacco consumption and exposure to the second-hand smoke resulting thereby, in public and private institutions.
- f) To incorporate into school curricula at all levels the subject of preventing tobacco consumption.
- g) To undertake actions to promote the creation of smoke-free environments.
- h) To develop strategies to train personnel in the health care sector who will be responsible for the implementation of information and prevention programs.
- i) To develop strategies to train instructors who will be responsible for the implementation of prevention programs in school curricula.
- j) To undertake research and scientific activities on the effects of tobacco consumption, its implications for health and on the socio-economic circumstances of the population.

CHAPTER II QUITTING TOBACCO

Campaigns to Promote Quitting

Art. 21.- It is the responsibility of the State acting through the Ministry of Health to promote and foster efforts to quit tobacco through:

- a) Programs to foster quitting tobacco consumption and rehabilitation of smokers at establishments of the national health system.
- b) Incorporating tobacco addiction into medical diagnostics as a disease, in the Ministry of Health's system of epidemiological monitoring.

The Ministry of Health can coordinate actions with non-governmental organizations to comply with the provisions of this article.

TITLE VII VIOLATIONS, SANCTIONS AND PROCEEDINGS

CHAPTER I VIOLATIONS AND SANCTIONS

Classification of Violations

Art. 22.- Violations of this Law, are classified as minor, serious and very serious.

Minor Offenses

Art. 23.- Minor offenses are to be sanctioned by a fine of fifty-seven dollars, in addition to confiscation of the product.

Selling cigarettes individually or in packs of less than ten cigarettes is considered a minor violation of this Law.

Serious Offenses

Art. 24.- Serious offenses are to be sanctioned by a fine of one to ten times the monthly minimum salary, in addition to confiscation of the product and a six-month suspension of the permit issued for the sale of tobacco products.

The following are considered serious offenses:

- a) To sell cigarettes or tobacco products at cultural, educational, political, athletic, artistic, social, scientific and community events.
- b) To smoke tobacco or keep tobacco lit in public and private workplaces.

-
- c) To smoke in places where it is not allowed.
 - d) To allow people to smoke who fail to prove that they are of age when it is deemed necessary.
 - e) To use messages that can create false, mistaken or misleading impressions regarding the harmful health effects caused by consumption of tobacco.
 - f) To use messages that relate the smoking habit to being successful.
 - g) To repeat an offense that is at least a minor offense.

Very Serious Offenses

Art. 25.- Very serious offenses are to be sanctioned by a fine of ten to thirty times the minimum urban monthly salary, in addition to the definitive cancellation of the authorization for the sale of tobacco products.

The following are considered very serious offenses in violation of this Law:

- a) To sell cigarettes or tobacco products to minors, or to use minors for the sale or promotion of such products.
- b) To fail to comply with what is established in Articles 10, 11, 12, 13, 14, 15 and 16 of this Law.
- c) To repeat an offense that is at least a serious offense.

Sale without Authorization

Art. 26.- THE SALE, MANUFACTURE, IMPORTATION, COMMERCIALIZATION AND DISTRIBUTION OF TOBACCO PRODUCTS, WITHOUT THE AUTORIZATION OF THE MINISTRY OF HEALTH, PURSUANT TO THE TERMS ESTABLISHED BY THIS LAW, IS TO BE SANCTIONED WITH A FINE OF ONE TO TEN TIMES THE MINIMUM SALARY, AND THE CONFISCATION OF THE TOBACCO PRODUCTS.

WHAT IS ESTABLISHED IN THE FOREGOING SUB-PARAGRAPH, COMPELS THE AUTHORITIES, WITH THE AID OF THE NATIONAL CIVIL POLICE, TO CONFISCATE AND DESTROY THE PRODUCTS IMMEDIATELY. (1)

Calculation of Fines

Art. 27.- Fines are to be calculated based on the minimum monthly salary established for the trade and services sector, and the amount of such fines shall be paid into the General Fund of the Nation.

Commutation of Sanctions

Art. 28.- Natural persons, who have been sanctioned pursuant to Art. 23 of this Law may ask to have the sanction converted to community service.

CHAPTER III COMPETENCY

Determination of Competency

Art. 29.- THE MINISTRY OF HEALTH, ACTING THROUGH HEALTH CARE UNITS, SHALL HAVE THE COMPETENCY TO INITIATE THE SANCTIONS PROCESS SET FORTH IN THIS LAW, WHICH, ONCE INITIATED, SHOULD BE REFERRED TO THE REGIONAL BUREAU OF HEALTH IN QUESTION, BASED ON THE GEOGRAPHIC AREA OF INFLUENCE; WITH THE REGIONAL DIRECTOR OF HEALTH BEING COMPETENT TO PROCESS AND SETTLE THE ADMINISTRATIVE PROCEEDINGS THAT ARE TO BE PURSUED FOR THE PURPOSE OF IMPOSING ANY OF THE SANCTIONS PRESCRIBED BY THIS LAW.

THE DEPUTY MINISTER OF HEALTH SERVICES SHALL HAVE COMPETENCY TO HEAR AND DECIDE UPON APPEALS FOR REVIEW AS REGULATED IN THIS LAW. (1)

Competency Based on Territory

Art. 30.- DIRECTORS OF HEALTH UNITS SHALL HAVE LEGAL COMPETENCY TO INITIATE ANY ADMINISTRATIVE PROCEEDINGS THAT MAY BE CONVENED IN THE GEOGRAPHIC DISTRICT WHERE THEY HAVE THEIR RESPECTIVE HEADQUARTERS, IN ORDER FOR THE COMPETENT AUTHORITY TO BE ABLE TO IMPOSE ANY OF THE SANCTIONS SET FORTH IN THIS LAW.

COMPETENCY IS TO BE DETERMINED BY THE PLACE, THE DOMICILE OF THE PERSON OR THE PLACE IN WHICH THE COMPANY, ESTABLISHMENT, SITE OR PLACE OF WORK IS LOCATED WHERE THE OFFENSE SUBJECT TO SANCTION HAS BEEN COMMITTED. (1)

CHAPTER IV PROCEEDINGS

Initiating Proceedings

Art. 31.- Administrative proceedings to sanction any contravention of this Law, can be initiated *ex officio*, at the request of a party or by complaint.

Any competent official who personally, or by any other means, may become aware of a violation of this Law, must immediately order the initiation of the respective proceeding.

If the official or authority who becomes aware of a violation is not competent, he must give notice thereof, and convey the information at his disposal to one who has legal competency to oversee the proceeding.

Complaints

Art. 32.- Any person who witnesses or has knowledge of a violation of what is set forth in this Law shall file a complaint with the competent official of the Ministry of Health.

Complaints can be written or verbal and, to the extent possible, they should contain:

- a) A detailed account of the offense, indicating the place, the date and the manner in which it was committed;
- b) The name of the natural person or the title of the juridical person to whom the offense subject to complaint is attributed.
- c) As appropriate, the identity of the persons affected, of those who witnessed it, and the place if these particulars can be cited.
- d) Any other circumstances that may serve to prove the acts reported.
- e) The identity and signature of the complainant, or of the party filing the complaint at his request, if the former does not know how to do it, or is unable to do so, and the place and date of the complaint.

Verbal complaints are to be taken down in a statement, which shall include the information indicated in the foregoing sub-paragraph. The complainant shall sign the statement, and if he does not know how to or is unable to do so, he shall leave the fingerprint of his thumb or any other finger.

Rights to a Hearing and to a Defense

Art. 33.- UPON INITIATION OF THE PROCEEDING, THE DIRECTOR OF THE RESPECTIVE HEALTH UNIT SHALL FORWARD NOTICE THEREOF TO THE REGIONAL DIRECTOR OF HEALTH, WITHIN TWO DAYS FOLLOWING THE RECEIPT OF THE COMPLAINT, OR THE TAKING DOWN OF THE STATEMENT, AND PROCEED TO CONVENE A HEARING FOR THE ALLEGED OFFENDER, AND SHALL ORDER HIM TO BE SUMMONED WITHIN THREE BUSINESS DAYS, COUNTING FROM THE DAY AFTER THE SUMMONS, TO APPEAR AT THE OFFICE AND PRESENT HIS DEFENSE. (1)

Summonses

Art. 34.- Citations or summonses to an alleged offender or to his legal representative are to be issued accompanied by a notice containing a complete copy of the ruling that orders their issuance, and, as appropriate, of the complaint, record of inspection or report in which the offense that gives rise to it is recorded.

Citations

Art. 35.- Citations to the alleged offender or to his legal representative, are to be delivered to the address of his residence, business, company, establishment, or work place.

If he is not present in person in any of the places indicated, the notice is to be left with his spouse, partner, children, associates, subordinates, employees or with any other person, as long as they are over the age of eighteen, and if they refuse to receive it, such circumstance is to be noted in the record and the notice affixed to the door of the house or premises where he is being sought for such purpose.

Notifications

Art. 36.- For any notifications that are to be issued to the alleged offender or to his legal representative, what is set forth in the foregoing article is to be observed, to the extent that it is applicable.

Contempt

Art. 37.- If the alleged offender, or his legal representative, should fail to appear at the legally appointed time without due cause to put forward in his defense, he will automatically be declared in contempt, and proceedings will continue to their conclusion, however any notifications that may be necessary are to be conveyed to him in any event, including one of the final resolution, even if it dismisses the charge, pursuant to the same practice as in standard proceedings.

Lifting of Contempt

Art. 38.- At any stage in the proceedings, up until the definitive resolution, the alleged offender, or his legal representative, may appear in court and lift the charge of contempt that has been leveled at them, and shall enter into the proceedings at whatever stage it may have reached.

In all cases, in order to lift the charge of contempt, they will be compelled to indicate a place in which subsequent notifications can be served upon them.

Period for Presenting Evidence

Art. 39.- If the alleged offender, or his legal representative, should appear within the legal period and challenge the accusation in presenting his defense, or if they are found in contempt, the proceedings shall be open to the presentation of evidence for a period of eight business days, during which any evidence for acquittal that has been submitted, including any mentioned in the complaint, the record of inspection or in the report that gave rise to the proceeding, is to be presented.

Should the alleged offender, or his legal representative, fail to rebut the charges or plead guilty to the offense within the legal period, the period for the presentation of evidence can be waived.

If for the purpose of arriving at a ruling with greater accuracy it should prove necessary to conduct an inspection, present books or documents, enter certifications, expert testimony or any other arrangement, this is to be ordered immediately, even in the absence of a period for presentation of evidence.

Documentary and testimonial evidence can be presented at any stage of the proceeding prior to the final ruling, even if there is no period for presentation of evidence.

Evidence

Art. 40.- In all administrative proceedings established by this Law, evidence regulated by the Code of Civil and Mercantile Procedure will be admissible, with the proviso that it must be pertinent to the elements that it is intended to prove.

Final Ruling

Art. 41.- UPON CONCLUSION OF THE PERIOD FOR PRESENTING EVIDENCE FOR ANY CASES

WHERE IT HAS BEEN CALLED FOR, AND RECEIPT OF SUCH EVIDENCE AS MAY HAVE BEEN PRESENTED, ORDERED OR REQUESTED, THE REGIONAL DIRECTOR OF HEALTH SHALL ISSUE SUCH DEFINITIVE RULING AS MAY APPLY WITHIN A PERIOD OF THREE BUSINESS DAYS, WHICH MUST BE BASED ON THE EVIDENCE SUBMITTED, AND ON SUCH LEGAL PROVISIONS AS MAY BE APPLICABLE.
(1)

Enforceability

Art. 42.- A ruling imposing any of the sanctions established in this Law will be declared firm and enforceable as long as it is not subject to appeal within the period allowed for such purpose, and in the event of an appeal, when the sanction is upheld in the appeal that has been filed.

Notification of a definitive ruling and an order declaring it final is to be issued to the offender pursuant to what is set forth in Art. 36.

For enforcement of the definitive ruling, the assistance of law enforcement may be requested, which shall be obligated to comply.

Period for Settlement of Fines

Art. 43.- Any fines that may be imposed in the application of this Law are to be settled within three business days following the date on which the offender has been notified of the order declaring the ruling through which the fine was imposed to be final and enforceable.

If the deadline established in the foregoing sub-paragraph elapses without the offender's having paid the fine, the rate of interest indicated in Legislative Decree N° 720 of November 24, 1993, published in Diario Oficial N° 1, Volume 322 of January 3, 1994, is to be added to the amount thereof, or failing this, the commercial interest rate legally in force, until it has been fully settled.

Judicial Recovery

Art. 44.- If a fine is not settled within the deadline indicated in the foregoing article, it is to be certified as collectible before the Attorney General of the Republic so that the latter can initiate the respective proceeding.

CHAPTER V APPEALS

Admissible Appeals

Art. 45.- Appeals of Revocation and of Review are allowed against any rulings that may be handed down in administrative proceedings established in this Law.

Appeals of Revocation

Art. 46.- Appeals of Revocation are only valid against the following rulings:

- a) Rulings that revoke a permit or license to engage in any of the activities subject to this Law;

- b) Rulings that revoke one or several modifications of a permit or license already issued, or a deferment thereof;
- c) Rulings that revoke the opening of the period for the submission of evidence when the latter is legally in order, and those that reject the receipt of pertinent evidence.

An Appeal of Revocation must be filed in writing, stating the reasons on which it is based, before the official who handed down the ruling subject to appeal, on the business day immediately following that of the notification in question.

Upon admission of the said appeal, with prior notification of the appellant, the same official shall arrive at a ruling within three business days following the date on which he admitted it, whether overturning, modifying or confirming the ruling subject to appeal.

Notification of the decision in an Appeal of Revocation is to be given to the appellant, who upon receipt of said notification, and within the respective legal period, shall retain his right to file an Appeal of Review if such is valid with respect to the ruling for which he filed the appeal of revocation.

Appeals of Review

Art. 47.- APPEALS OF REVIEW ARE ONLY VALID AGAINST THE FOLLOWING RULINGS:

- a) A RULING THAT DENIES ADMISSION OF AN APPEAL OF REVOCATION.
- b) DEFINITIVE RULINGS THAT IMPOSE ANY OF THE SANCTIONS SET FORTH IN THIS LAW.

AN APPEAL OF REVIEW MUST BE FILED IN WRITING, STATING THE REASONS ON WHICH IT IS BASED, BEFORE THE OFFICIAL WHO HANDED DOWN THE RULING SUBJECT TO APPEAL, WITHIN THREE BUSINESS DAYS FOLLOWING THE NOTIFICATION IN QUESTION.

THE OFFICIAL WHO HANDED DOWN THE CHALLENGED RULING SHALL FORWARD THE CASE FILE TO THE DEPUTY MINISTER OF HEALTH SERVICES WITHIN THE THREE ENSUING BUSINESS DAYS, WHO SHALL DECIDE UPON THE ADMISSIBILITY OF THE APPEAL. (1)

Processing Appeals of Review

Art. 48.- Upon admission of an appeal of review, a hearing will be granted to the appellant in order for him to present the arguments that he considers pertinent, within a period of eight business days.

Resolution of Appeals of Review

Art. 49.- Appeals of Review are to be resolved within a period of three business days following the lapse of the deadline indicated in the foregoing article, based on an assessment of the evidence submitted by

the appellant, either upholding, modifying or vacating the ruling subject to appeal, and, as appropriate, handing down a decision in accordance with the law.

The appellant shall be notified of what the ruling on the Appeal of Review within the three ensuing business days, and he shall have no further appeal open to him in administrative venues.

After having notified the appellant of the decision, the Director of the Basic Comprehensive Health System shall return the case file to the Director of the Health Unit that issued the ruling subject to appeal, certifying the decision that has been handed down upon review, with the respective notification thereof, in order for the latter to enforce compliance in accordance with what is established in this Law.

TITLE VIII FINAL AND TRANSITORY PROVISIONS, AND ENTRY INTO FORCE

Compliance with this Law

Art. 50.- In order to enter into compliance with what is set forth in this Law, natural or juridical persons engaging in the production, importation or wholesale commercialization of tobacco products shall have a period of nine months, counting from fulfillment of the obligation established by the Ministry of Health in Article 52 thereof.

Adjustment of Contracts

Art. 51.- Any advertising contracts that natural or juridical persons engaging in the activities described in the foregoing article may have entered into involving advertising are to be reviewed so they can be adjusted to the requirements of this Law, within a period not greater than sixty days.

Period for Establishing Characteristics

Art. 52.- The Ministry of Health shall have a period of sixty days counting from the entry into force of this Law, to deliver the electronic files, duly authorized, as defined in Art. 11.

Special character of this Law

Art. 53.- The provisions of this Law are of a special character, and in consequence, they shall prevail over any others that may enter into conflict with them.

Rule Making

Art. 54.- The President of the Republic, pursuant to item 14 of Art. 168 of the Constitution, shall have a period of 180 days counting from its entry into force, to issue the Regulations for this Law, however the lack of the latter shall not impede its implementation.

Entry into Force

Art. 55.- This Decree shall enter into force eight days after its publication in the *Diario Oficial*.

ISSUED IN THE BLUE ROOM OF THE LEGISLATIVE PALACE: San Salvador, on the twenty-third day of June in the year two thousand eleven.

OTHON SIGFRIDO REYES MORALES,
PRESIDENT.

CIRO CRUZ ZEPEDA PEÑA,
FIRST VICE PRESIDENT.

GUILLERMO ANTONIO GALLEGOS NAVARRETE,
SECOND VICE PRESIDENT.

JOSÉ FRANCISCO MERINO LÓPEZ,
THIRD VICE PRESIDENT.

ALBERTO ARMANDO ROMERO RODRÍGUEZ,
FOURTH VICE PRESIDENT.

FRANCISCO ROBERTO LORENZANA DURAN,
FIFTH VICE PRESIDENT.

LORENA GUADALUPE PEÑA MENDOZA,
FIRST SECRETARY.

CESAR HUMBERTO GARCÍA AGUILERA,
SECOND SECRETARY.

ELIZARDO GONZÁLEZ LOVO,
THIRD SECRETARY.

ROBERTO JOSÉ d'AUBUISSON MUNGUÍA,
FOURTH SECRETARY.

FIFTH SECRETARY.

IRMA LOURDES PALACIOS VÁSQUEZ,
SIXTH SECRETARY.

MARIO ALBERTO TENORIO GUERRERO,
SEVENTH SECRETARY.

Pursuant to what is set forth in Art. 97, sub-paragraph 3 of the Internal Regimen of this Body of the State, it is recorded that this Decree was sent back with a veto by the President of the Republic, on July 18 of the present year, which was reconsidered and ratified by this Legislative Assembly in Plenary Session on this date, pursuant to the manner established in sub-paragraph 3 of Article 137 of the Constitution.

San Salvador, on the twenty-first day of the month of July in the year two thousand eleven.

Roberto José d'Aubuisson Munguía Executive
Secretary

PRESIDENTIAL HOUSE: San Salvador, on the twenty-eighth day of the month of July in the year two
thousand eleven. LET THIS BE PUBLISHED,
Carlos Mauricio Funes Cartagena,
President of the Republic.

D. O. N° 143
Volume N° 392
Date: July 29, 2011.

SV/adar
31-08-2011

AMENDMENTS:

- (1) D. L. No. 914, 17 OF NOVEMBER 2011;
D. O. No. 235, T. 393, 15 OF DECEMBER 2011.

JCH 04/01/12
María Isabel Rodríguez Sutter, Widow
Minister of Health.