

Republic of Turkey
MINISTRY OF HEALTH
General Directorate for Basic Health Services



File: B.10.0.TSH.0.27.01/

Subject: Implementation of Law No. 4207

TO THE GOVERNORSHIP OF

Re: a) Our Letter No. 47360 of 12.07.2010;
b) Our Letter No. 47363 of 12.07.2010.

As you know, Clause 2 of Article 5 “Provisions on Penalties” of Law No. 4207 “On Prevention and Control of Tobacco Products Hazards” states the following: “Any managers who do not implement the regulations or take measures specified in Clauses 1, 3, 4, and 5 of Article 5, except paragraph (a), shall be initially warned in writing by authorized agencies issuing operation licenses. Such warning notifications shall be served upon relevant managers. Those who fail to implement the regulations within a specified period of time after receiving such a notice shall be administratively fined in the amount ranging from 500 Turkish Lira to 5,000 Turkish Lira by a municipal council, if within the municipal borders, or by a district civilian authority, if outside of the municipal borders.” The authority awarded to the municipalities by Law No. 4207 is defined as “non-discretionary” and not as discretionary power. Under this Law, municipal councils and municipal administrations shall prescribe appropriate penalties based on the reports provided by civil institutions and provincial tobacco control committees.

In this regard, in order to enforce any activities carried out by provincial administrations for the purpose of implementation of this Law, any reports executed by inspection teams assigned by civil authorities, being subject to additional inspection, shall be firstly evaluated and decided upon by the Municipal Council; the provisions prescribing “following through” with such activities were outlined in Letter of the Ministry of Internal Affairs No. 10604 dated 04.08.2009 sent to Municipal Administrations.

However, based on the field inspections results and the obtained data, some reports related to the businesses violating the provisions of the Law, after having been sent to Municipal Councils for review and decision on appropriate punitive sanctions, either remain undecided in Municipal Offices or only lead to the issuance of warnings for such businesses without imposing necessary disciplinary penalties.

Article 5, Clause 15 of Law No. 4207 contains the following provision: “Any officials and other public servants who do not fulfill their obligations prescribed by this Law shall be penalized on a case basis, save for any liability under the penal law.” In this context, any members of municipal councils, officials, or other public servants who fail to follow through with imposing disciplinary measures, as required by the reports executed by the inspection teams, shall be prosecuted on judicial, administrative, and disciplinary levels pursuant to Law No. 4483 “On Trying Civil Servants and Other Public Officials,” State Servants Law No. 657, Municipal Law No. 5393, and Turkish Criminal Code No. 5237; the Municipal Administration Office of your Province should be accordingly informed of the matter and proceed with necessary follow-up measures.

Dr. Nihat Tosun
Undersecretary
of the Ministry of Health

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