

SUMMARY OF REQUIREMENTS OF NEW TOBACCO LEGISLATION

CONTRAVENTION	LEGISLATION CONTRAVENED	FINES
No person may smoke any tobacco product in any indoor, enclosed or partially enclosed areas such as covered patios, verandas, balconies, walkways parking areas, etc. which is open to the public, and includes a workplace and a public conveyance:	Act 23 of 2007, Section 2 (1) (a)	Owner of a restaurant, pub, bar and employer in respect of a workplace: maximum of R50 000.00 Individual smoker R500.00
The owner of or person in control of a public place or employer in respect of a workplace, shall display the prescribed signs and shall make the prescribed public announcements in order to inform any person who enters or who is in or on such place or area of any prohibition on smoking.	Act 23 of 2007, Section 2 (4)	Owner of a restaurant, pub, bar and employer in respect of a workplace: maximum of R50 000.00
No person may smoke in any motor vehicle car when a child under the age of 12 years is present in that vehicle.	Act 23 of 2007, Section 2 (1) (a)	Maximum of R500.00
No person may smoke any tobacco product in a private dwelling if that private dwelling is used for any commercial childcare activity, or for schooling or tutoring.	Act 23 of 2007, Section 2 (1) (c)	Maximum of R500.00
The owner of or person in control of a public place, a motor vehicle or an outdoor public place prohibited for smoking by the Minister of Health, or an employer in respect of a workplace, shall ensure that no person smokes in that place or area.	Act 23 of 2007, Section 2 (2)	Owner of a restaurant, pub, bar and workplace: maximum of R50 000.00

<p>The Minister may prohibit the smoking of any tobacco product in any prescribed outdoor public place, or such portion of an outdoor public place as may be prescribed, where persons are likely to congregate within close proximity of one another or where smoking may pose a fire or other hazard.</p>	<p>Act 23 of 2007, Section 2 (3)</p>	
<p>An employer must ensure that-</p> <ul style="list-style-type: none"> (a) employees may object to smoking in the workplace in contravention of this Act without retaliation of any kind; (b) employees who do not want to be exposed to tobacco smoke in the workplace are not so exposed; (c) it is not a condition of employment, expressly or implied, that any employee is required to work in any portion of the workplace where smoking is permitted; and (d) employees are not required to sign any indemnity for working in any portion of the workplace where smoking is permitted. 	<p>Act 23 of 2007, Section 2 (5)</p>	<p>Fine not exceeding R100 000.00</p>
<p>The owner of or person in control of a public place or an outdoor public place prohibited for smoking by the Minister of Health, or an employer in respect of a workplace shall ensure that no person under the age of 18 years is present in any portion of the workplace where smoking is permitted or in the area within a public place in or on which smoking is permitted.</p>	<p>Act 23 of 2007, Section 2 (6)</p>	
<p>No person shall manufacture a tobacco product unless it complies with such</p>	<p>Act 23 of 2007, Section 3A (1)</p>	<p>Maximum of R1 000 000.00</p>

standards as may be prescribed.		
Every manufacturer of a tobacco product shall provide such information about the product and its emissions to the Minister and the public as may be prescribed, in the prescribed manner and within the prescribed time.	Act 23 of 2007, Section 3 (2)	
No person shall export a tobacco product from the Republic unless the tobacco product meets the product and testing standards of the country of final destination. If no such standards exist in the country of final destination, the provisions of this section apply.	Act 23 of 2007, Section 3 (a), (b)	
No person shall advertise or promote, or cause any other person to advertise or promote, a tobacco product through any direct or indirect means, including through sponsorship of any organisation, event, service, physical establishment, programme, project, bursary, scholarship or any other method. The tobacco industry can no longer hold 'parties' or use 'viral' marketing to target young people.	Act 63 of 2008, Section 3 (1) (a)	Fine not exceeding R1 000 000.00

<p>A commercial communication between a tobacco manufacturer or importer and its trade partners, business partners, employees and share holders, must contain no other information except for factual information about the tobacco product, its characteristics, its availability or price, pictures of the tobacco products, the component parts and their packaging.</p>	<p>Act 63 of 2008, Section 3 (1) (b)</p>	
<p>No manufacturer, importer, distributor or retailer of tobacco products shall-</p> <p>(a) organise or promote any organised activity that is to take place in whole or in part in the Republic;</p> <p>(b) make any financial contribution to any organised activity that is to take place, or is taking place, or has taken place in whole or in part in the Republic;</p> <p>(c) make any financial contribution to any person in respect of-</p> <p>(i) the organisation or promotion of any organised activity in the Republic by that person;</p> <p>(ii) the participation, by that person, in any organised activity that is to take place, or is taking place in whole or in part, in the Republic.</p>	<p>Act 63 of 2008, Section 3 (2) (a)</p>	<p>Fine not exceeding R1 000 000.00</p>
<p>A manufacturer or importer of a tobacco product may make a charitable financial contribution or sponsorship, provided that such contribution or sponsorship is not for the purpose of advertisement.</p>	<p>Act 63 of 2008, Section 3 (3)</p>	<p>Fine not exceeding R1 000 000.00</p>

<p>No person shall package or label a tobacco product in any way that is false, misleading, deceptive or likely to create any erroneous, deceptive or misleading impression about its characteristics, properties, health effects, toxicity, composition, merit, safety, hazards or emissions, including any term, descriptor, trade mark, figurative or other sign that directly or indirectly creates the impression that a particular tobacco product is less harmful than another tobacco product.</p>	<p>Act 63 of 2008, Section 3 (6)</p>	<p>Fine not exceeding R1 000 000.00</p>
<p>No person shall manufacture for sale in the Republic, import for subsequent sale or sell a tobacco product-</p> <p>(a) unless the tobacco product is packaged in the prescribed manner; and</p> <p>(b) in a package or containing a label that contains false or misleading information or that is calculated to deceive the user of such product..</p>	<p>Act 63 of 2008, Section 3 (7)</p>	<p>Fine not exceeding R1 000 000.00</p>
<p>A wholesaler shall display a tobacco product at his or her place of business in the prescribed manner.</p>	<p>Act 63 of 2008, Section 3 (8)</p>	<p>Fine not exceeding R100 000.00</p>
<p>A retailer shall display-</p> <p>(a) a notice in the prescribed manner in his or her place of business that contains the prescribed information regarding any tobacco product available at his or her place of business; and</p> <p>(b) a tobacco product at his or her place of business in the prescribed</p>	<p>Act 63 of 2008, Section 3 (9)</p>	<p>Fine not exceeding R100 000.00</p>

manner and in such a way that no person shall be able to handle the tobacco product before paying for it.		
No person shall sell or offer to sell tobacco products at retail, unless the prescribed notices are displayed.	Act 63 of 2008, Section 3(10)	Fine not exceeding R100 000.00
No person shall manufacture or import a tobacco product unless it complies with such standards as may be prescribed.	Act 63 of 2008, Section 3A (1))	
Every manufacturer and importer of a tobacco product shall provide such information about the product and its emissions to the Minister and the public as may be prescribed, in the prescribed manner and within the prescribed time."	Act 63 of 2008, Section 3A (2)	
No person shall sell or supply any tobacco product to any person under the age of 18 years.	Act 63 of 2008, Section 4 (1)	Fine not exceeding R100 000.00
The owner or person in charge of any business shall ensure that no person under the age of 18 years in his or her employ or under his or her control, as the case may be. shall sell or offer to sell any tobacco product on the business premises.	Act 63 of 2008, Section 4 (2)	Fine not exceeding R100 000.00
No person may sell or supply any confectionary or toy that resembles or is intended to represent any tobacco product.	Act 63 of 2008, Section 4 (3)	Fine not exceeding R100 000.00
No person shall sell or offer to sell tobacco products in- (a) any health establishment	Act 63 of 2008, Section 4 (4)	Fine not exceeding R100 000.00

<p>contemplated in section 1 of the National Health Act, 2003 (Act No. 61 of 2003), including any pharmacy; and (b) any place where a person under the age of 18 years receives education or training.</p>		
<p>No person shall sell, offer to sell, supply, distribute or buy any tobacco product through the postal services, the internet or any other electronic media.</p>	<p>Act 63 of 2008, Section 4 (5) (a)</p>	<p>Fine not exceeding R100 000.00</p>
<p>No manufacturer, distributor, importer or retailer of a tobacco product, or any person or agent acting on behalf of a manufacturer, distributor, importer or retailer, shall for free, or at a reduced price, other than a normal trade discount- (a) distribute any tobacco product; or (b) supply any tobacco product to any person for subsequent distribution.</p>	<p>Act 63 of 2008, Section 4A (1)</p>	<p>Fine not exceeding R1 000 000.00</p>
<p>No person shall offer any gift, cash rebate or right to participate in or attend any contest, lottery or game, or any sporting, cultural, social or recreational event, to any person in consideration of the purchase of a tobacco product, or the furnishing of evidence of such a purchase, or the confirmation of use of a tobacco product."</p>	<p>Act 63 of 2008, Section 4A (2)</p>	<p>Fine not exceeding R1 000 000.00</p>

<p>No person shall place a vending machine containing tobacco products in any indoor or outdoor location, other than in the specified public place which has been declared by the Minister under section 2(1)(b).</p>	<p>Act 63 of 2008, Section 5 (1)</p>	<p>Fine not exceeding R100 000.00</p>
<p>A person who offers a tobacco product for sale by way of a vending machine shall-</p> <p>(a) not use such vending machine for the sale of anything other than a tobacco product; and</p> <p>(b) display a notice in the prescribed manner on the vending machine that contains the prescribed information regarding any tobacco product available for sale in that vending machine.</p>	<p>Act 63 of 2008, Section 5 (1A)</p>	<p>Fine not exceeding R100 000.00</p>
<p>It shall be the responsibility of any person during such time as he or she is responsible for or has control of the premises in which any vending machine is kept to ensure that no person under the age of 18 years makes use of any such machine.</p>	<p>Act 63 of 2008, Section 5 (2)</p>	<p>Fine not exceeding R100 000.00</p>

NOT ALL OF THE ABOVE TRANSGRESSIONS ARE POLICED AND ENFORCED BY CITY HEALTH DIRECTORATE, BUT ALSO THE CITY'S LAW ENFORCEMENT SECTION AS WELL AS THE SAPS.

Further changes in the law will come into effect later this year, because the Ministry of Health is still finalizing regulations. These include: -

- The use of picture-based health warnings on tobacco packaging. This will provide customers with truthful and vivid information about the harms of tobacco use in a way they can understand.
- Pollution from tobacco smoke will be further reduced by restricting smoking in certain outdoor areas. Smoking will be moved away from entrances to buildings and smoking will be restricted in sports stadia, railway platforms, bus stops, al fresco dining areas, etc. So smoking at football, cricket, rugby and other sports stadiums will be regulated.
- The introduction of cigarettes which self-extinguish, thereby reducing the risk of fires. Cigarettes cause about 5% of all fires in South Africa.
- The terms 'low-tar', 'light' and 'mild' will be prohibited. Such labels suggest that 'light' cigarettes are less harmful than regular cigarettes, when they are not. Smokers who switch from 'regular' to 'light' cigarettes do not reduce their intake of tar or nicotine, or the risk of disease.
- Regulate the chemicals that can be added to tobacco products and require tobacco manufacturers to disclose the harmful additives used in the manufacturing process.