

BARBADOS

I assent

C. STRAUGHN HUSBANDS

Governor-General

30th December, 2009.

2009 – 30

An Act to amend the Health Services Act.

(31st December, 2009.) Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Health Services (Amendment) Act*, Short title.
2009.
2. Section 2 of the *Health Services Act* is amended by inserting in the appropriate alphabetical order the following definition: Amendment
of section 2
of Cap. 44.

““tobacco products” means products entirely or partly made
from tobacco leaves which are manufactured to be used
for smoking, sucking, chewing or snuffing;”.

Amendment
of section 9
of Cap. 44.

3. Section 9 of the *Health Services Act* is amended in subsection (1) by inserting immediately after the words "Public Health Inspector" the following:

" , Environmental Health Officer".

Amendment
of section 10
of Cap. 44.

4. Section 10 of the *Health Services Act* is amended in subsection (1) by

(a) deleting the full stop at the end of paragraph (z) and substituting a semi-colon; and

(b) inserting immediately after paragraph (z), the following new paragraph:

"(aa) for the protection of persons, particularly minors from the consumption of tobacco products and exposure to tobacco smoke;"

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Supplement to Official Gazette No. 81 dated 31st December, 2009

HEALTH SERVICES (AMENDMENT) ACT, 2009 – 30

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 2 of Cap. 44.
3. Amendment of section 9 of Cap. 44.
4. Amendment of section 10 of Cap. 44.

S.I. 2010 No. 13

Health Services Act
Cap. 44

**HEALTH SERVICES (PROTECTION OF MINORS
FROM TOBACCO PRODUCTS)
REGULATIONS, 2010**

Arrangement of Regulations

Regulation

1. Citation.
2. Definitions.
3. Prohibition of the use of tobacco products by minors.
4. Prohibition of the sale of tobacco products to minors.
5. Prohibition of the employment of minors in the sale of tobacco products.
6. Imitation tobacco products.
7. Prohibition of self-service displays of tobacco products.
8. Automatic sales machines.
9. Prohibition of the advertisement of tobacco products featuring minors.
10. Signs.
11. Inspectors.
12. Offences.

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Health Services Act
Cap. 44

HEALTH SERVICES (PROTECTION OF MINORS
FROM TOBACCO PRODUCTS)
REGULATIONS, 2010

The Minister in exercise of the powers conferred on him by section 10(1)(aa) of the *Health Services Act*, makes the following Regulations:

1. These Regulations may be cited as the *Health Services (Protection of Minors from Tobacco Products) Regulations, 2010*. Citation.

2. In these Regulations, Definitions.

“automatic sales machine” means a machine or device from which products can be obtained by an operation which involves the activation by insertion of money, or tokens;

“imitation tobacco products” means any of the products referred to in regulation 6;

“minor” means a person under age of 18 years; and

“self-service merchandising” means the open display of tobacco products to which the public has access without the intervention of the person selling the tobacco products or his employee.

3. (1) No minor shall use or sell tobacco products.

(2) A minor who uses or sells tobacco products is guilty of an offence.

Prohibition of the use of tobacco products by minors.

(3) Where a minor is charged with an offence under this Regulation and a court is satisfied of the minor's guilt, the court may

- (a) reprimand and discharge the minor;
- (b) order the parent or guardian of the minor to
 - (i) pay a fine;
 - (ii) send the minor to a court approved counsellor; or
- (c) deal with the minor in any other manner in which he may be legally dealt with by the court.

(4) For the purposes of this regulation "court" means the magistrate's court.

Prohibition
of the sale
of tobacco
products to
minors.

4. (1) No person shall sell tobacco products to a minor.
- (2) A person who directly or indirectly
- (a) sells any tobacco products to a minor;
 - (b) buys or acquires a tobacco product for the purpose of giving it, whether or not for consideration, to a minor; or
 - (c) gives or furnishes any tobacco product to a minor

is guilty of an offence.

(3) It is a defence to a charge under paragraph (1) for the person charged under that paragraph to prove that he

- (a) had reasonable grounds to believe and made reasonable inquiries to ascertain that the person to whom the tobacco product was sold, given or furnished was not a minor; or

- (b) had received from the person to whom the tobacco product was sold, given or furnished, evidence that that person was not a minor and it was reasonable for the first person to rely on that evidence.

5. (1) A person who employs a minor to sell or assist in the sale of tobacco products is guilty of an offence.

Prohibition
of the
employment
of minors
to sell
tobacco.

(2) It is a defence to a charge under paragraph (1) for a person charged thereunder to prove that he had

- (a) reasonable grounds to believe and made reasonable inquiries to ascertain that the person was not a minor;
- (b) received from the person he employed evidence that that person was not a minor and it was reasonable for the first person to rely on that evidence.

6. A person who

Imitation
tobacco
products.

- (a) imports;
- (b) manufactures;
- (c) sells;
- (d) displays for sale;
- (e) supplies; or
- (f) distributes

any sweets, snacks, toys or other items or objects that imitate tobacco products is guilty of an offence.

Prohibition
of self-
service
displays of
tobacco
products.

7. A person who offers for sale or displays for sale any tobacco product by means of self-service merchandising is guilty of an offence.

Automatic
sales
machines.

8. (1) No person shall sell tobacco products using an automatic sales machine unless that machine is kept under the supervision of the owner of that machine or his employee.

(2) A person who contravenes paragraph (1) is guilty of an offence.

Prohibition
of adver-
tisement
of tobacco
products
featuring or
targeting
minors.

9. (1) A person who advertises or promotes the use of tobacco products by minors is guilty of an offence.

(2) A person who uses a minor in an advertisement or a promotion of the use of tobacco products is guilty of an offence.

Signs.

10. (1) A person who sells tobacco products shall place, in at least two prominent positions on his premises, conspicuous signs, setting out the information described in paragraph (2).

(2) The signs referred to in paragraph (1) shall

(a) be of the minimum size of 35cm x 30cm;

(b) be displayed in such a manner as to be protected, to the extent possible, from tampering, damage, removal or concealment; and

(c) state as follows:

“THE SALE OF TOBACCO PRODUCTS TO A PERSON WHO IS UNDER THE AGE OF EIGHTEEN YEARS IS PROHIBITED”.

(3) A person who contravenes this regulation is guilty of an offence.

11. (1) For the purpose of ensuring compliance with these Regulations, an inspector, on the presentation of a certificate of identification signed by the Minister, may Inspectors.

- (a) at any reasonable time and without warrant or notice,
 - (i) enter and inspect the premises referred to in regulation 10 and make such examinations as the inspector considers necessary or advisable;
 - (ii) take samples of tobacco products or imitation tobacco products that are found on those premises;
- (b) make enquiries of any person who is or was on the premises;
- (c) seize a tobacco product or an imitation tobacco product in the possession of a person if the inspector suspects on reasonable grounds that the person is a minor;
- (d) compel a person whom he suspects on reasonable grounds of being a minor and who is in possession of tobacco products or imitation tobacco products to produce evidence of his age; and
- (e) exercise such other powers as may be necessary or incidental to the carrying out of his powers pursuant to these Regulations.

(2) An inspector, for the purposes of conducting an inspection referred to in paragraph (1), may be assisted by any person who, in the opinion of the inspector, has special knowledge or expertise of any relevant matter.

(3) Where an inspector has reason to believe that a person is committing or has committed an offence under these Regulations, the inspector

- (a) may, where the offence is being committed, direct the person to cease the contravention;

- (b) may require the person to furnish his name and address; and
- (c) shall report the commission of the offence and the details in respect thereof to a member of the Police Force.

Offences.

12. Notwithstanding regulation 3, a person who is guilty of an offence under these Regulations is liable on summary conviction to a fine of \$5 000 or imprisonment for a term of 12 months or to both and in the case of a continuing offence to a further fine of \$200 for each day or part thereof during which the offence continues after conviction is first obtained.

Made by the Minister this 13th day of January, 2010.

D. INNISS

Minister responsible for Health.