



27 July 2023

(23-5139)

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Committee on Technical Barriers to Trade

Original: English

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

1. Notifying Member: <u>LITHUANIA</u> If applicable, name of local government involved (Article 3.2 and 7.2):
2. Agency responsible: Ministry of Health of the Republic of Lithuania Vilniaus str. 33, LT-01506 Vilnius, Lithuania, tel. +370 5 2661402, e-mail: ministerija@sam.lt , http://sam.lrv.lt/ Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above: National WTO TBT Enquiry point: Lithuanian Standards Board, Algirdo str. 31, 03219 Vilnius, Lithuania tel.: +370 5 279 1152; e-mail: enquiry@lsd.lt
3. Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], 3.2 [], 7.2 [], other:
4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES; PRODUCTS, WHETHER OR NOT CONTAINING NICOTINE, INTENDED FOR INHALATION WITHOUT COMBUSTION; OTHER NICOTINE CONTAINING PRODUCTS INTENDED FOR THE INTAKE OF NICOTINE INTO THE HUMAN BODY (HS code(s): 24); Tobacco, tobacco products and related equipment (ICS code(s): 65.160)
5. Title, number of pages and language(s) of the notified document: Draft Law on control of tobacco, tobacco products and related products of the Republic of Lithuania on amendment of Articles 2, 92, 95 and 30 No. XIVP-2590(3), (hereinafter – Draft Law); (2 page(s), in Lithuanian)
6. Description of content: The Draft Law was prepared in order to fill the gaps in the existing regulation when in the presence of the ban introduced from 07/01/2022 (on placing on the Lithuanian market electronic cigarettes and electronic cigarette refills with a liquid adapted for filling electronic cigarettes, if this liquid contains flavoring substances, except for the smell and (or) taste of tobacco), electronic cigarettes, electronic cigarette refills with a certain smell and (or) taste, other than tobacco, are still supplied to the Lithuanian market. The suggested amendments of the Law will allow smoother application of the provisions of the Law and smoother examination of cases for violation of the provisions of this Law, in order to reduce attractiveness and consumption of e-cigarettes and electronic cigarette refills (especially to young people). Considering the fact that it is not appropriate to indicate that the product contains nicotine on a product that does not contain nicotine, and in order to avoid misleading of users of electronic cigarettes and their refills, in draft Law it is suggested not to apply the requirement established in the

Law for a warning about possible harm to health to electronic cigarettes and electronic cigarette refills that do not contain nicotine.

- 7. Objective and rationale, including the nature of urgent problems where applicable:** In order to reduce attractiveness and rapidly growing consumption (especially among young people) [1] of electronic cigarettes, it is necessary to take appropriate measures. The first step, which has already been taken in Lithuania with the ban introduced on 07/01/2022 on placing on the Lithuanian market electronic cigarettes and electronic cigarette refills with a liquid adapted for filling electronic cigarettes, if this liquid contains flavoring substances other than of the smell and/or taste of tobacco. But the existing regulation is not sufficient and provides opportunities for business entities to circumvent the bans by supplying the market with electronic cigarettes that have properties of a certain smell and/or taste, other than tobacco.

The definition of the characterising flavour (added smell or taste), stated in the Law, currently is applied only to tobacco products, but is not applied to electronic cigarettes and electronic cigarette refills, the popularity of which is increasing rapidly, especially among young people [1]. Currently, the Law prohibits the placing on the market of electronic cigarettes and electronic cigarette refills with a liquid adapted for filling electronic cigarettes, if this liquid contains flavoring substances, except for the smell and/or taste of tobacco. There is no legally approved list of either permitted or prohibited tobacco flavoring substances, what enables economic operators to argue the fact that tobacco tastes are different and to interpret the concept of "tobacco taste and smell" differently, thus supplying the market with electronic cigarettes and electronic cigarette refills with certain non-tobacco smell and/or taste characteristics. Therefore, the Draft Law proposes to supplement the concept of the characterising flavour (added smell or taste) so that it also applies to electronic cigarettes and their refills. It is proposed to establish that it is prohibited to place into Lithuania market electronic cigarettes and their refills with an added smell or taste, except for the smell and/or taste of tobacco (the same regulation provision as in case of tobacco products). It is likely that this will prevent different treatment of the provisions of the Law. The Draft Law proposes to indicate specific permitted chemical substances that give electronic cigarettes, electronic cigarette refills the taste and smell of tobacco in secondary legal acts and to indicate the CAS numbers of these substances. This would limit economic operators from circumventing the prohibitions of the Law and would limit the possibility of supplying the Lithuanian market with electronic cigarettes and electronic cigarette refills with certain non-tobacco smell and/or taste and thus contribute to reduction of the attractiveness and use of electronic cigarettes (especially for young people for whom flavored vaping products are particularly attractive), which becomes especially relevant in the context of worrying increase of use of electronic cigarette (especially among young people) in Lithuania [1].

On 05/01/2022, amendments to the Law entered into force, by which electronic cigarettes and electronic cigarette refills, which do not contain nicotine, also entered the scope of the Law regulation. After the amendments to the Law entered into force on 05/01/2022, single packs of electronic cigarettes and electronic cigarette refills or any external packaging must contain a warning about possible health damage "This product contains nicotine, which is an extremely addictive substance. It is not recommended for non-smokers." It is not appropriate to indicate that the product contains nicotine on a product that does not contain nicotine, and it also misleads the users of electronic cigarettes and their refills. Therefore, it is proposed not to apply the requirement regarding a above mentioned warning about possible health damage to electronic cigarettes and their refills that do not contain nicotine.

Draft Law suggests to extend the period of examination of cases on violation of the Law and economic sanctions from two to six months, as this will allow to avoid situations when cases of violation of the Law are prepared after the deadline for appealing documents establishing market restriction measures. As the Draft Law proposes establishing the possibility of hearing cases regarding the violation of the Law by written procedure, at the request of the party to the hearing process, this will reduce the administrative burden of the state institutions examining cases for violation of the provisions of the Law and increase the operational efficiency of the process of the pending cases.

<p>[1] https://ntakd.lrv.lt/uploads/ntakd/documents/files/2022%20metinis%20(galutinis).pdf (Drugs, tobacco and alcohol control department „Psychoactive substances: trends and changes 2022", p. 119, picture 4.1.8 (according to the European School Survey Project on Alcohol and Other Drugs (ESPAD), the use of electronic cigarettes among 15-16 years old youth in Lithuania is one of the largest in the Europe (in Lithuania last month prevalence is – 31%, while average of ESPAD countries – 14%), picture 4.1.7 (with the increasing time trend of such consumption) and table 4.1.2 to the national General population representative survey 2021 (the highest prevalence of e-cigarettes is among people of 15-34 years old age group, life time prevalence is 41,9%, last month prevalence - 16%).; Protection of human health or safety</p>
<p>8. Relevant documents:</p> <p>Draft Law:</p> <p>https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/ee3bc7b00aa911eeb489c7d891071d0a?positionInSearchResults=1&searchModelUUID=ef9b665c-ccb6-4f34-8df1-4bb02db456c1</p> <p>Draft Law (comparative version):</p> <p>https://e-seimas.lrs.lt/portal/legalAct/lt/TAK/3ec96c520aaa11eeb489c7d891071d0a?positionInSearchResults=3&searchModelUUID=ef9b665c-ccb6-4f34-8df1-4bb02db456c1</p>
<p>9. Proposed date of adoption: To be determined</p> <p>Proposed date of entry into force: To be determined</p>
<p>10. Final date for comments: 60 days from notification</p>
<p>11. Texts available from: National enquiry point [] or address, telephone and fax numbers and email and website addresses, if available, of other body:</p> <p>National WTO TBT Enquiry point: Lithuanian Standards Board, Algirdo str. 31, 03219 Vilnius, Lithuania tel.: +370 5 279 1152; enquiry@lsd.lt</p>