



17 July 2020

(20-4920)

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Committee on Technical Barriers to Trade

Original: English

## NOTIFICATION

### Revision

The following notification is being circulated in accordance with Article 10.6.

<p><b>1. Notifying Member:</b> <u>GERMANY</u> <b>If applicable, name of local government involved (Articles 3.2 and 7.2):</b></p>
<p><b>2. Agency responsible:</b> Federal Ministry of Food and Agriculture Unit 223 Wilhelmstraße 54, 10117 Berlin, Germany 0049 (0)30 18529 – 0 0049 (0)18529 4262 <a href="mailto:poststelle@bmel.bund.de">poststelle@bmel.bund.de</a> <a href="http://www.bmel.bund.de">http://www.bmel.bund.de</a> <b>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:</b></p>
<p><b>3. Notified under Article 2.9.2 [X], 2.10.1 [ ], 5.6.2 [ ], 5.7.1 [ ], other:</b></p>
<p><b>4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):</b> Tobacco and manufactured tobacco substitutes 0424-2012E</p>
<p><b>5. Title, number of pages and language(s) of the notified document:</b> Draft Act amending the Tobacco Products Act - <i>Entwurf eines Zweiten Gesetzes zur Änderung des Tabakerzeugnisgesetzes</i> (20 page(s), in German)</p>
<p><b>6. Description of content:</b> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC obligates Member States to adopt legislation by 20 May 2016 that is necessary in order to transpose Directive 2014/40/EU. Directive 2014/40/EU shall be transposed by the Tobacco Products Act in combination with the Tobacco Products Ordinance into German law. In addition to the stipulations under the directive, nicotine-free electronic cigarettes and refill containers are also to be regulated by equating them with products which contain nicotine if this is necessary in order to protect consumers from adverse health effects. In doing so, provisions on ingredients, labelling, reporting, safety and advertising will be applied to nicotine-free electronic cigarettes and refill containers.  Furthermore, provision is to be made for additional bans on advertising in relation to tobacco products, electronic cigarettes and refill containers. The provisions encompass a ban on outdoor advertising, a ban on selling and displaying free of charge as well as restrictions on advertising in cinemas.</p>

<p><b>7. Objective and rationale, including the nature of urgent problems where applicable:</b> The German Institute for Risk Assessment (BfR) and the German Cancer Research Institute come to the conclusion that regardless of their content of nicotine, nicotine-free electronic cigarettes and refill containers contain substances that are harmful to human health. The attendant health risks posed by these products follow from inhaling an aerosol which, regardless of the nicotine, contains substances that are harmful to health. Both the aforementioned institute and centre state that carbonyl compounds, including formaldehyde, acrolein and acetaldehyde, originate when consuming both electronic cigarettes containing nicotine and those which are nicotine-free. Carbonyl compounds and acetaldehyde are suspected of causing cancer. The Federal Government estimates that bans on outdoor advertising and the continuing restriction on advertising in cinemas, as well as a ban on provision free of charge, combined with the advertising bans which are already in force, are an effective way of bringing about a further reduction in the smoking rate. ; Protection of human health or safety</p>
<p><b>8. Relevant documents:</b> <a href="https://dip21.bundestag.de/dip21/btd/19/194/1919495.pdf">https://dip21.bundestag.de/dip21/btd/19/194/1919495.pdf</a></p>
<p><b>9. Proposed date of adoption:</b> October 2020 <b>Proposed date of entry into force:</b> January 2021</p>
<p><b>10. Final date for comments:</b> 60 days from notification</p>
<p><b>11. Texts available from: National enquiry point [ ] or address, telephone or fax numbers and email and website addresses, if available, of other body:</b></p> <p>Federal Ministry of Food and Agriculture Unit 223 Wilhelmstraße 54 10117 Berlin, Germany +49 (0)30 18529-0 +49 (0)18529-4262 E-Mail: <a href="mailto:223@bmel.bund.de">223@bmel.bund.de</a> <a href="https://dip21.bundestag.de/dip21/btd/19/194/1919495.pdf">https://dip21.bundestag.de/dip21/btd/19/194/1919495.pdf</a></p>