

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-THIRD SESSION

NBI CA. PLC. 2019 / (035)

2nd April, 2019

PAPER LAID

Pursuant to Standing Order 191 (6) I beg to lay the following Paper on the Table of the Assembly, today Tuesday 2nd April, 2019.

THE REPORT OF THE SECTORAL COMMITTEE ON HALTH SERVICES ON ITS
CONSIDERATION OF THE NAIROBI CITY COUNTY TOBACCO CONTROL BILL, 2018.
(Chairperson, Sectoral Committee on Health Services)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

Paper laid on
2/4/19 @
2.30pm.

Sm Clerk JSS
2/4/19

The Clerk
Nairobi City County Assembly
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY
TOBACCO CONTROL BILL, 2018

NOTICE is given that the Chairperson of the Sectoral Committee on Health intends to move the following amendments to the Nairobi City County Tobacco Control Bill, 2018 at the Committee Stage—

Title.

THAT the Title of the Bill be amended by deleting the numerical 2018 and substituting therefor the numerical 2019.

The Long title

THAT the long title of the Bill be amended by deleting the Long Title in its entirety and substituting therefor the following: -

“AN ACT of Nairobi City County Assembly to provide measures additional to those in the national legislation for the control of the sale, labelling, advertising and promotion of tobacco products; to provide for the control of pollution and the conservation of the environment within the precincts of Nairobi City County pursuant to the Part 2 of the Fourth Schedule to the Constitution and for connected purposes.”

The Short Title

THAT the Short Title of the Bill be amended by deleting the numerical 2018 and substituting therefor the numerical 2019.

Clause 2

THAT Clause 2 of the Bill be amended:

- (i) By inserting the following new definitions in their proper alphabetical sequence:-
 - (a) “brand element” includes a brand name, manufacturer’s name, trade mark, trade name, logo, graphic arrangement, design, colour, motto or slogan that is reasonably associated with, or that evokes a product, a service or a brand of product or service;
 - (b) “manufacture” means the processing of a tobacco product and includes the packaging, labelling, distribution or importation of tobacco products.
 - (c) ‘manufacturer’ includes any entity that is involved in the manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer.
 - (d) “minor” a person under the age of eighteen (18) years
 - (e) promotion” means a representation, including an advertisement, whether direct or indirect, including any communication of information about a product or service and its price and distribution, that is likely to influence and shape attitudes, beliefs and behavior about the product or service, or that is intended to or has the effect of inducing consumers to use tobacco products, underestimate the dangers of tobacco consumption, or create recognition of or goodwill for the tobacco manufacturer;
 - (f) In the definition of the word “tobacco products” by inserting the words, “and other nicotine delivery systems” immediately after the word “filters”

Clause 3

THAT Clause 3 of the Bill be amended:

- (i) In paragraph (b) by deleting the expression “persons under the age of eighteen years” appearing immediately after the words “health of” and substituting therefor the word “minors”

Clause 4

THAT Clause 4 of the Bill be amended:

- (i) In sub clause (2) by deleting the word “subsection (1)” and substituting therefor the words “this Act”
- (ii) In sub clause (2) (c) by deleting paragraph (c) in its entirety and substituting therefor the following; -

NEW PARAGRAPH

“Consider and approve applications for the establishment of specially designated smoking areas”

- (iii) In sub clause (2) (g) by deleting the expression “of the Act” and substituting therefor the expression “on the implementation of this Act”

Clause 5

THAT Clause 5 of the Bill be amended:

- (i) In sub clause (2) (b) by deleting sub clause (b) in its entirety and substituting therefor the following; -

“The Director of Health Services who shall be the secretary to the Committee”

- (ii) In sub clause (2) (e) by deleting sub clause (e) in its entirety and substituting therefor the following:

NEW PARAGRAPH

“a representative of the business community to be nominated by the Kenya National Chamber of Commerce & Industry”

- (iii) In sub clause (2) (f) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (iv) In sub clause (2) (g) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (v) In sub clause (2) (h) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”

- (vi) In sub clause (2) (i) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (vii) In sub clause (4) by deleting the words “and final” and substituting therefor the word “further”

Clause 6

THAT Clause 6 of the Bill be amended:

NEW PARAGRAPH

- (i) In paragraph (d) by inserting a new paragraph immediately after paragraph (d) as follows:-

“recommending to the county executive member and participating in the formulation of the regulations to be made under section 58;

Clause 7

THAT Clause 7 of the Bill be amended by deleting Clause 7 in its entirety.

Clause 8

THAT Clause 8 of the Bill be amended by deleting Clause 8 in its entirety.

Clause 9

THAT Clause 9 of the Bill be amended by deleting Clause 9 in its entirety.

Clause 10

THAT Clause 10 of the Bill be amended by deleting Clause 10 in its entirety.

Clause 11

THAT Clause 11 of the Bill be amended by deleting Clause 11 in its entirety.

Clause 12

THAT Clause 12 of the Bill be amended by deleting Clause 12 in its entirety.

Clause 13

THAT Clause 13 of the Bill be amended by deleting Clause 13 in its entirety.

Clause 14

THAT Clause 14 of the Bill be amended by deleting Clause 14 in its entirety.

Clause 15

THAT Clause 15 of the Bill be amended by deleting Clause 15 in its entirety.

Clause 16

THAT Clause 16 of the Bill be amended by deleting Clause 16 in its entirety.

Clause 17

THAT Clause 17 of the Bill be amended by deleting Clause 17 in its entirety.

Clause 18

THAT Clause 18 of the Bill be amended by deleting Clause 18 in its entirety.

Clause 19

THAT Clause 19 of the Bill be amended:

- (i) In sub clause (1) by deleting the expression “person under the age of eighteen years” appearing immediately after the expression “to a” and substituting therefor the word “minor”
- (ii) In sub clause (2) by inserting the word “exceeding” immediately before the word “fifty”
- (iii) In sub clause (4) (c) by deleting the word “Minister” and substituting therefor the word “county executive member”

Clause 20

THAT Clause 20 of the Bill be amended:

- (i) In sub clause (1) by deleting the expression “person under the age of eighteen years” appearing immediately after the word “permit” and substituting therefor the word “minor”
- (ii) In sub clause (2) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

Clause 21

THAT Clause 21 of the Bill be amended

- (i) In sub clause (2) by inserting the expression “or to both such fine and imprisonment” immediately after the word “month”

Clause 22

THAT Clause 22 of the Bill be amended

- i. In sub clause (2) by deleting the expression “three months” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

Clause 23

THAT Clause 23 of the Bill be amended

- (i) In sub clause (1) paragraph (a) by deleting paragraph (a) in its entirety.
- (ii) In sub clause (2) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

Clause 24

THAT Clause 24 of the Bill be amended

- i. In sub clause (4) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”
- ii. In sub clause (1) (b) by deleting the word “Second” and substituting therefor the word “First”

Clause 25

THAT Clause 25 of the Bill be amended by deleting clause 25 in its entirety.

Clause 26

THAT Clause 26 of the Bill be amended

- (a) In sub clause (1) by deleting the expression “colour or a combination of colours,” appearing immediately after the word “premises”
- (b) In sub clause (3) by deleting the words “colours or” appearing immediately after the word “promotion”

Clause 27

THAT Clause 27 of the Bill be amended

- (a) In sub clause (3) by deleting the expression “person under the age of eighteen years” appearing immediately after the word “guardianship” and substituting therefor the word “minor”
- (b) In sub clause (4) by deleting the word “children” appearing after the word “where and substituting therefor the word “minors”

Clause 28

THAT Clause 28 of the Bill be amended

- (a) In sub clause (2) by inserting the expression “, except in designated smoking areas” immediately before the word “smoke”
- (b) In sub clause (3) by deleting sub clause (3) in its entirety.
- (c) In sub clause (4) by deleting sub section (4) in its entirety.
- (d) In sub clause (7) by deleting the expression “subsection (6)” and substituting therefor the expression “this Section” and inserting the expression “, or to both such fine and imprisonment” immediately after the word “months”

Clause 29

THAT Clause 29 of the Bill be amended

- (a) By deleting the expression “subsection 2” and substituting therefor the expression “the foregoing provisions of this Part,” and by deleting the expression “sub section (2) (d), (f), (g) (p) and (q)” and substituting therefor the expression “Section 28 (2) (a), (d), (f), (g), (o), (p) (q) and (r).”

(b) By inserting a new sub clause immediately after sub clause (1) as follows: -

NEW SUB CLAUSE

“29 (1) A A premise owner who wishes to provide a specially designated smoking area within the premises shall make an application in the prescribed form to the Committee and pay the requisite application fees”

Clause 30

THAT Clause 30 of the Bill be amended

- (i) In sub clause (3) by inserting the expression “or to both such fine and imprisonment” immediately after the word “months”

Clause 41

THAT Clause 41 of the Bill be amended by deleting clause 41 in its entirety.

Clause 42

THAT Clause 42 of the Bill be amended by deleting clause 42 in its entirety.

Clause 43

THAT Clause 43 of the Bill be amended by deleting clause 43 in its entirety.

Clause 44

THAT Clause 44 of the Bill be amended by deleting clause 44 in its entirety.

Clause 46

THAT Clause 46 of the Bill be amended

- (a) In sub clause (2) by deleting the numerical “26(2)” appearing immediately after the word “section” and substituting therefore the numerical “45(2)”

Clause 47

THAT Clause 47 of the Bill be amended: -

- (a) In sub clause (1) by deleting the expression “pursuant to section 27” appearing immediately after the word “place”.

Clause 51

THAT Clause 51 of the Bill be amended: -

- (a) By deleting the numerical “31” appearing after the word “section” and substituting therefor the numerical “50”

Clause 55

THAT Clause 55 of the Bill be amended: -

- (i) In sub clause (4) by deleting the word “thirty” and substituting therefore the word “sixty”

Clause 57

THAT Clause 57 of the Bill be amended: -

- (a) By deleting the numerical “37” appearing immediately after the word “section” and substituting therefor the numerical “55(4)”

Clause 58

THAT Clause 58 of the Bill be amended: -

- (a) In sub clause 2 (a) by inserting the expression, “for a specially designated smoking zone” immediately after the word “licence”
- (b) By inserting a new clause immediately after Clause 58 as follows: -

NEW CLAUSE

Transitional

“58 A” Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act, was—

- (a) a wholesaler, distributor or retailer of any tobacco product; or
- (b) the owner or manager of any premises contemplated under Part V of this Act, shall, within sixty (60) days of such commencement, comply with the requirements of this Act.

FIRST SCHEDULE

THAT the First Schedule be amended by deleting the First Schedule in its entirety



.....
Hon. Peter Muriithi Warutere

Chairperson, Sectoral Committee on Health

This 2nd day April 2019

