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# 中华人民共和国烟草专卖法（2015修订）

# Law of the People's Republic of China on Tobacco Monopoly (Revision 2015)

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（1991年6月29日第七届全国人民代表大会常务委员会第二十次会议通过；1991年6月29日中华人民共和国主席令第四十六号公布；自1992年1月1日起施行；根据2009年8月27日第十一届全国人民代表大会常务委员会第十次会议《关于修改部分法律的决定》第一次修正；根据2013年12月28日中华人民共和国第十二届全国人民代表大会常务委员会第六次会议《全国人民代表大会常务委员会关于修改〈中华人民共和国海洋环境保护法〉等七部法律的决定》第二次修正；根据2015年4月24日中华人民共和国第十二届全国人民代表大会常务委员会第十四次会议《全国人民代表大会常务委员会关于修改等五部法律的决定》第三次修订，中华人民共和国主度令第26号公布，自公布之日起施行。）

(Adopted at the 20th Meeting of the Standing Committee of the Seventh National People's Congress on June 29, 1991 and issued under the Order of the President of the People's Republic of China No. 46 on June 29, 1991 with effect from January 1, 1992; amended for the first time according to the Decision on Amending Certain Laws passed at the 10th Meeting of the Standing Committee of the 11th National People's Congress on August 27, 2009; amended for the second time according to the Decision of the Standing Committee of the National People's Congress on Amending Seven Laws Including the Marine Environmental Protection Law of the People's Republic of China passed at the 6th Meeting of the Standing Committee of the 12th National People's Congress on December 28, 2013; and amended for the third time according to the Decision of the Standing Committee of the National People's Congress on Amending Five Laws passed at the 14th Meeting of the Standing Committee of the 12th National People's Congress on April 24, 2015 and issued under the Order of the Supreme People's Congress No. 26 with immediate effect.)

第一章 总 则

Chapter 1 General Provisions

第一条   为实行烟草专卖管理，有计划地组织烟草专卖品的生产和经营，提高烟草制品质量，维护消费者利益，保证国家财政收入，制定本法。

Article 1 This Law is enacted with a view to exercising tobacco monopoly administration, organizing the production and management of tobacco monopoly commodities in a planned way, improving the quality of tobacco products, safeguarding consumers' interests and ensuring the national revenue.

第二条   本法所称烟草专卖品是指卷烟、雪茄烟、烟丝、复烤烟叶、烟叶、卷烟纸、滤嘴棒、烟用丝束、烟草专用机械。

Article 2 As used in this Law, "tobacco monopoly commodities" refer to cigarettes, cigars, cut tobacco, redried leaf tobacco, leaf tobacco, cigarette paper, filter rods, cigarette tow and cigarette manufacturing equipment.

卷烟、雪茄烟、烟丝、复烤烟叶统称烟草制品。

Cigarettes, cigars, cut tobacco and redried leaf tobacco are generally referred to as tobacco products.

第三条   国家对烟草专卖品的生产、销售、进出口依法实行专卖管理，并实行烟草专卖许可证制度。

Article 3 The State shall according to law exercise monopoly administration over the production, sale, import and export of tobacco monopoly commodities, and practice a tobacco monopoly license system.

第四条   国务院烟草专卖行政主管部门主管全国烟草专卖工作。省、自治区、直辖市烟草专卖行政主管部门主管本辖区的烟草专卖工作，受国务院烟草专卖行政主管部门和省、自治区、直辖市人民政府的双重领导，以国务院烟草专卖行政主管部门的领导为主。

Article 4 The department of tobacco monopoly administration under the State Council shall be responsible for the nation-wide tobacco monopoly. The departments of tobacco monopoly administration in the provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the tobacco monopoly within the areas under their respective jurisdiction, and shall be under the dual leadership of the department of tobacco monopoly administration under the State Council and the people's governments of the relevant provinces, autonomous regions and municipalities directly under the Central Government, with the leadership of the department of tobacco monopoly administration under the State Council as the main leading authority.

第五条   国家加强对烟草专卖品的科学研究和技术开发，提高烟草制品的质量，降低焦油和其他有害成份的含量。

Article 5 The State shall strengthen the scientific research and technical development of tobacco monopoly commodities, so as to improve the quality of tobacco products and reduce the content of tar and other hazardous ingredients in such products.

国家和社会加强吸烟危害健康的宣传教育，禁止或者限制在公共交通工具和公共场所吸烟，劝阻青少年吸烟，禁止中小学生吸烟。

The State and society shall intensify the publicity of, and education in, the fact that smoking is hazardous to health, forbid or restrict smoking on public traffic vehicles and in public places, discourage teen -agers and youngsters from smoking, and forbid primary school pupils and middle school students from smoking.

第六条   国家在民族自治地方实行烟草专卖管理，应当依照本法和民族区域自治法的有关规定，照顾民族自治地方的利益，对民族自治地方的烟叶种植和烟草制品生产给予照顾。

Article 6 The State shall exercise administration of tobacco monopoly in national autonomous areas, and shall, according to the relevant provisions of this Law and the Law on Regional National Autonomy, take the interests of national autonomous areas into account and give preferential treatment to the plantation of leaf tobacco and the production of tobacco products in such areas.

第二章 烟叶的种植、收购和调拨

Chapter 2 Plantation, Purchase and Allocation of Leaf Tobacco

第七条   本法所称烟叶是指生产烟草制品所需的烤烟和名晾晒烟，名晾晒烟的名录由国务院烟草专卖行政主管部门规定。

Article 7 For the purpose of this Law, the term "leaf tobacco" means flue-cured tobacco and selected air-and sun-cured tobacco needed for the production of tobacco products. The catalogue of selected air-and sun-cured tobacco items shall be determined by the department of tobacco monopoly administration under the State Council.

未列入名晾晒烟名录的其他晾晒烟可以在集市贸易市场出售。

Other air-and sun-cured tobacco items which are not included in the above-mentioned catalogue may be sold at trade markets.

第八条   烟草种植应当因地制宜地培育和推广优良品种。优良品种由当地烟草公司组织供应。

Article 8 In growing tobacco, good varieties of tobacco shall be cultivated and popularized in line with the local conditions. Good strains are supplied by local tobacco companies.

第九条   烟叶收购计划由县级以上地方人民政府计划部门根据国务院计划部门下达的计划下达，其他单位和个人不得变更。

Article 9 Leaf tobacco purchasing plans shall be assigned by the planning departments of the local people's governments at or above the county level on the basis of the plans assigned by the planning department under the State Council. No other organizations or individuals shall make any modifications thereto.

烟草公司或者其委托单位应当与烟叶种植者签订烟叶收购合同。烟叶收购合同应当约定烟叶种植面积、烟叶收购价格。

Tobacco companies or their authorized agencies shall conclude leaf tobacco purchasing contracts with tobacco growers. Any leaf tobacco purchasing contract shall specify the agreed area for leaf tobacco plantation and the purchase price of leaf tobacco.

第十条   烟叶由烟草公司或者其委托单位按照国家规定的收购标准统一收购，其他单位和个人不得收购。

Article 10 A unified purchase of leaf tobacco shall be effected by tobacco companies or their authorized agencies in accordance with the standards set by the State. No other organizations or individuals may effect any leaf tobacco purchase.

烟草公司及其委托单位对烟叶种植者按照烟叶收购合同约定的种植面积生产的烟叶，应当按照合同约定的收购价格全部收购，不得压级压价，并妥善处理收购烟叶发生的纠纷。

Tobacco companies or their authorized agencies shall, after setting price on a grading basis and according to the purchase price specified in the contract, purchase all the leaf tobacco grown by leaf tobacco growers within the plantation areas specified in the contract. The grades and prices thereof shall not be forced down, and disputes arising from leaf tobacco purchase shall be dealt with properly.

第十一条   省、自治区、直辖市之间的烟叶、复烤烟叶的调拨计划由国务院计划部门下达，省、自治区、直辖市辖区内的烟叶、复烤烟叶的调拨计划由省、自治区、直辖市计划部门下达，其他单位和个人不得变更。

Article 11 The plans for allocating leaf tobacco and redried leaf tobacco among the provinces, autonomous regions and municipalities directly under the Central Government shall be assigned by the planning department under the State Council; the plans for allocating leaf tobacco and redried leaf tobacco within areas under the jurisdiction of each province, autonomous region or municipality directly under the Central Government shall be assigned by the planning department of the relevant province, autonomous region or municipality directly under the Central Government. No other organizations or individuals may make any modifications thereto.

烟叶、复烤烟叶的调拨必须签订合同。

A contract must be concluded for any allocation of leaf tobacco or redried leaf tobacco.

第三章 烟草制品的生产

Chapter 3 Production of Tobacco Products

第十二条   开办烟草制品生产企业，必须经国务院烟草专卖行政主管部门批准，取得烟草专卖生产企业许可证，并经工商行政管理部门核准登记；其分立、合并、撤销，必须经国务院烟草专卖行政主管部门批准，并向工商行政管理部门办理变更、注销登记手续。未取得烟草专卖生产企业许可证的，工商行政管理部门不得核准登记。

Article 12 The establishment of an enterprise producing tobacco products shall be subject to the approval of the department of tobacco monopoly administration under the State Council and the acquisition of a license for the tobacco monopoly production enterprise, and then to the registration upon its examination and approval by the administrative department for industry and commerce; the split-up, merger or dissolution of an enterprise producing tobacco products shall be subject to the approval of the department of tobacco monopoly administration under the State Council and go through formalities for the change and cancellation of the registration with the administrative department for industry and commerce. The administrative department for industry and commerce shall not approve and register an enterprise that has not obtained a license for the tobacco monopoly production enterprise.

第十三条   烟草制品生产企业为扩大生产能力进行基本建设或者技术改造，必须经国务院烟草专卖行政主管部门批准。

Article 13 Capital construction or technological innovation to be conducted by an enterprise producing tobacco products for expanding production capacity shall be subject to the approval by the department of tobacco monopoly administration under the State Council.

第十四条   省、自治区、直辖市的卷烟、雪茄烟年度总产量计划由国务院计划部门下达。烟草制品生产企业的卷烟、雪茄烟年度总产量计划，由省级烟草专卖行政主管部门根据国务院计划部门下达的计划，结合市场销售情况下达，地方人民政府不得向烟草制品生产企业下达超产任务。烟草制品生产企业根据市场销售情况，需要超过年度总产量计划生产卷烟、雪茄烟，必须经国务院烟草专卖行政主管部门批准。

Article 14 The total annual production plans for cigarettes and cigars of the provinces, autonomous regions and municipalities directly under the Central Government shall be assigned by the planning department under the State Council. The total annual production plans for cigarettes and cigars of an enterprise producing tobacco products shall be assigned by the department of tobacco monopoly administration at the provincial level on the basis of the plans assigned by the planning department under the State Council and in light of the marketing conditions. If the needs of an enterprise producing tobacco products, based on market sales, exceed its planned annual gross output to produce cigarettes and cigars, it shall be subject to approval by the department of tobacco monopoly administration under the State Council.

全国烟草总公司根据国务院计划部门下达的年度总产量计划向省级烟草公司下达分等级、分种类的卷烟产量指标。省级烟草公司根据全国烟草总公司下达的分等级、分种类的卷烟产量指标，结合市场销售情况，向烟草制品生产企业下达分等级、分种类的卷烟产量指标。烟草制品生产企业可以根据市场销售情况，在该企业的年度总产量计划的范围内，对分等级、分种类的卷烟产量指标适当调整。

If an enterprise producing tobacco products, in keeping with marketing conditions, finds it necessary to manufacture cigarettes and cigars exceeding the total annual production plans, it must obtain the approval of the department of tobacco monopoly administration under the State Council. The national tobacco company shall, on the basis of the cigarette output targets with grading and classification specifications set by the national tobacco company and in light of the marketing conditions, set cigarette output targets with grading and classification specifications for the enterprises producing tobacco products. An enterprise producing tobacco products may, in keeping with marketing conditions, make appropriate adjustments to the cigarette output targets with grading and classification specifications, within the scope of the total annual production plans of the enterprise.

第四章 烟草制品的销售和运输

Chapter IV Sale and Transportation of Tobacco Products

第十五条   经营烟草制品批发业务的企业，必须经国务院烟草专卖行政主管部门或者省级烟草专卖行政主管部门批准，取得烟草专卖批发企业许可证，并经工商行政管理部门核准登记。

Article 15 Any enterprise which is to engage in the wholesale trade of tobacco products shall be subject to the approval of the department of tobacco monopoly administration under the State Council or the department of tobacco monopoly administration at the provincial level, and the acquisition of a license for the tobacco monopoly wholesale enterprise, and then to the approval and registration by the administrative department for industry and commerce.

第十六条   经营烟草制品零售业务的企业或者个人，由县级人民政府工商行政管理部门根据上一级烟草专卖行政主管部门的委托，审查批准发给烟草专卖零售许可证。已经设立县级烟草专卖行政主管部门的地方，也可以由县级烟草专卖行政主管部门审查批准发给烟草专卖零售许可证。

Article 16 Any enterprise or individual that is to engage in the retail trade of tobacco products shall be subject to the examination and approval of, before the issuance of a license for tobacco monopoly retail trade by, the administrative department for industry and commerce under the people's government at the county level on the commission of the department of tobacco monopoly administration at the next higher level. In areas where departments of tobacco monopoly administration at the county level have been set up, such departments may, after their examination and approval, also issue tobacco monopoly retail licenses.

第十七条   国家制定卷烟、雪茄烟的焦油含量级标准。卷烟、雪茄烟应当在包装上标明焦油含量级和“吸烟有害健康”。

Article 17 The State shall lay down the tar content grading standards for cigarettes and cigars. The packages of cigarettes and cigars shall indicate the grade of tar content and that "smoking is hazardous to your health".

第十八条   禁止在广播电台、电视台、报刊播放、刊登烟草制品广告。

Article 18 Advertising for tobacco products shall be banned on broadcasting stations, television stations, or in newspapers or periodicals.

第十九条   卷烟、雪茄烟和有包装的烟丝必须申请商标注册，未经核准注册的，不得生产、销售。

Article 19 Applications must be made for the registration of trade marks of cigarettes, cigars and packed cut tobacco, which shall not be manufactured and marketed before the trade mark is registered upon approval.

禁止生产、销售假冒他人注册商标的烟草制品。

The production and sale of tobacco products with counterfeit trade marks shall be forbidden.

第二十条   烟草制品商标标识必须由省级工商行政管理部门指定的企业印制；非指定的企业不得印制烟草制品商标标识。

Article 20 Trademark labels for tobacco products must be printed by enterprises designated by the administrative department for industry and commerce at the provincial level. Non-designated enterprises may not print Trademark labels for tobacco products.

第二十一条   托运或者自运烟草专卖品必须持有烟草专卖行政主管部门或者烟草专卖行政主管部门授权的机构签发的准运证；无准运证的，承运人不得承运。

Article 21 Whoever consigns the transportation of tobacco monopoly commodities to others or undertakes the transportation thereof by himself must hold a transportation permit signed and issued by the department of tobacco monopoly administration or its authorized agency; consignees may not undertake the transportation for any consignor who does not hold a transportation permit.

第二十二条   邮寄、异地携带烟叶、烟草制品的，不得超过国务院有关主管部门规定的限量。

Article 22 Whoever sends by post or brings from another place leaf tobacco or tobacco products shall not exceed the quantity limits prescribed by the competent department under the State Council.

第二十三条   个人进入中国境内携带烟草制品的，不得超过国务院有关主管部门规定的限量。

Article 23 Any individual who enters the territory of China shall not carry tobacco products more than the quantity limits prescribed by the competent department under the State Council.

第五章 卷烟纸、滤嘴棒、烟用丝束、烟草专用机械的生产和销售

Chapter 5 Production and Sale of Cigarette Paper, Filter Rod, Cigarette Tow and Cigarette Manufacturing Equipment

第二十四条   生产卷烟纸、滤嘴棒、烟用丝束、烟草专用机械的企业，必须报国务院烟草专卖行政主管部门批准，取得烟草专卖生产企业许可证。

Article 24 Any enterprise which is to engage in the production of cigarette paper, filter rods, cigarette tow or cigarette manufacturing equipment must apply to the department of tobacco monopoly administration under the State Council for approval and obtain a license for the tobacco monopoly production enterprise.

本法所称烟草专用机械是指烟草专用机械的整机。

The term "cigarette manufacturing equipment" as mentioned in this Law refers to the whole machine for cigarette manufacturing equipment.

第二十五条   生产卷烟纸、滤嘴棒、烟用丝束、烟草专用机械的企业，应当按照国务院烟草专卖行政主管部门的计划以及与烟草制品生产企业签订的订货合同组织生产。

Article 25 Any enterprise engaged in the production of cigarette paper, filter rods, cigarette tow or cigarette manufacturing equipment shall organize production in accordance with the plans assigned by the department of tobacco monopoly administration under the State Council and the order contracts concluded with the enterprises producing tobacco products.

第二十六条   生产卷烟纸、滤嘴棒、烟用丝束、烟草专用机械的企业，只可将产品销售给烟草公司和持有烟草专卖生产企业许可证的烟草制品生产企业。

Article 26 Any enterprise engaged in the production of cigarette paper, filter rods, cigarette tow or cigarette manufacturing equipment may sell its products only to tobacco companies or enterprises producing tobacco products with the license for tobacco monopoly production enterprises.

第六章 进出口贸易和对外经济技术合作

Chapter 6 Import and Export Trade and Foreign Economic and Technological Cooperation

第二十七条   国务院烟草专卖行政主管部门根据国务院规定，管理烟草行业的进出口贸易和对外经济技术合作。

Article 27 The department of tobacco monopoly administration under the State Council shall, in accordance with the relevant regulations of the State Council, exercise control over tobacco industry's import and export trade and its foreign economic and technological co-operation.

第七章 法律责任

Chapter 7 Legal Liabilities

第二十八条   违反本法规定擅自收购烟叶的，由烟草专卖行政主管部门处以罚款，并按照查获地省级烟草专卖行政主管部门出具的上年度烟叶平均收购价格的百分之七十收购违法收购的烟叶；数量巨大的，没收违法收购的烟叶和违法所得。

Article 28 Whoever, in violation of this Law, purchases leaf tobacco without authorization shall be fined by the department of tobacco monopoly administration, and the leaf tobacco illegally purchased shall be repurchased by the said department at 70% of the average purchase price for the previous year issued by the department of tobacco monopoly administration at the provincial level in the place where the leaf tobacco is seized; if the illegal purchase involves large quantities, the leaf tobacco purchased and the illegal income derived therefrom shall be confiscated.

第二十九条   无准运证或者超过准运证规定的数量托运或者自运烟草专卖品的，由烟草专卖行政主管部门处以罚款，可以按照查获地省级烟草专卖行政主管部门出具的上年度烟叶平均收购价格的百分之七十收购违法运输的烟叶，按照市场批发价格的百分之七十收购违法运输的除烟叶外的其他烟草专卖品；情节严重的，没收违法运输的烟草专卖品和违法所得。

Article 29 Whoever transports or consigns to others the transportation of tobacco monopoly commodities without a transportation permit, or in excess of the quantity specified in the transportation permit, shall be fined by the department of tobacco monopoly administration, and the leaf tobacco thus involved may be purchased at 70% of the average purchase price for the previous year issued by the department of tobacco monopoly administration at the provincial level in the place where the leaf tobacco is seized or other tobacco monopoly commodities thus involved may be purchased at 70% of the market purchase price; if the circumstances are serious, the tobacco monopoly commodities illegally transported and the illegal income derived therefrom shall be confiscated.

承运人明知是烟草专卖品而为无准运证的单位、个人运输的，由烟草专卖行政主管部门没收违法所得，并处罚款。

A consignee who, knowing that the goods to be transported are tobacco monopoly commodities, undertakes the transportation thereof for units or individuals that do not hold transportation permits, shall be confiscated of the illegal income derived therefrom by the department of tobacco monopoly administration, with the concurrent punishment of a fine.

超过国家规定的限量异地携带烟叶、烟草制品，数量较大的，依照第一款的规定处理。

Whoever brings from another place leaf tobacco or tobacco products far in excess of the quantity limits prescribed by the State shall be dealt with in accordance with the provisions of the first paragraph of this Article.

第三十条   无烟草专卖生产企业许可证生产烟草制品的，由烟草专卖行政主管部门责令关闭，没收违法所得，并处罚款。

Article 30 Where an enterprise that does not hold a license for the tobacco monopoly production enterprise produces tobacco products, the department of tobacco monopoly administration shall order it to close down, confiscate the illegal income derived therefrom and concurrently impose a fine.

无烟草专卖生产企业许可证生产卷烟纸、滤嘴棒、烟用丝束或者烟草专用机械的，由烟草专卖行政主管部门责令停止生产上述产品，没收违法所得，可以并处罚款。

Where an enterprise that does not hold a license for the tobacco monopoly production enterprise produces cigarette paper, filter rods, cigarette tow or cigarette manufacturing equipment, the department of tobacco monopoly administration shall order it to stop the production of the said products, confiscate the illegal income derived therefrom and may concurrently impose a fine.

第三十一条   无烟草专卖批发企业许可证经营烟草制品批发业务的，由烟草专卖行政主管部门责令关闭或者停止经营烟草制品批发业务，没收违法所得，并处罚款。

Article 31 Where an enterprise that does not hold a license for the tobacco monopoly wholesale enterprise engages in the wholesale trade of tobacco products, the department of tobacco monopoly administration shall order it to close down or to stop the wholesale trade of tobacco products, confiscate the illegal income derived therefrom and concurrently impose a fine.

第三十二条   无烟草专卖零售许可证经营烟草制品零售业务的，由工商行政管理部门责令停止经营烟草制品零售业务，没收违法所得，并处罚款。

Article 32 Where an enterprise or individual that does not hold a tobacco monopoly retail license engages in the retail sale of tobacco products, the administrative department for industry and commerce shall order it or him/her to stop retail business, confiscate the illegal income derived therefrom and concurrently impose a fine.

第三十三条   生产、销售没有注册商标的卷烟、雪茄烟、有包装的烟丝的，由工商行政管理部门责令停止生产、销售，并处罚款。

Article 33 Where an enterprise or individual produces or sells cigarettes, cigars or packed cut tobacco without registered trademarks, the administrative department for industry and commerce shall order it or him/her to stop the production and sales thereof and shall concurrently impose a fine.

生产、销售假冒他人注册商标的烟草制品的，由工商行政管理部门责令停止侵权行为，赔偿被侵权人的损失，可以并处罚款；构成犯罪的，依法追究刑事责任。

Where an enterprise or individual produces or sells tobacco products with counterfeit trademarks, the administrative department for industry and commerce shall order it or him/her to stop the infringing act and to compensate the losses of the infringed, and may concurrently impose a fine; if the infringement constitutes a crime, the offender's criminal liability shall be investigated according to law.

第三十四条   违反本法第二十条的规定，非法印制烟草制品商标标识的，由工商行政管理部门销毁印制的商标标识，没收违法所得，并处罚款。

Article 34 Where an enterprise or individual, in violation of the provisions of Article 20 of this Law, illegally prints trade mark labels for tobacco products, the administrative department for industry and commerce shall destroy the printed trade mark labels, confiscate the illegal income derived therefrom and concurrently impose a fine.

第三十五条   倒卖烟草专卖品，构成犯罪的，依法追究刑事责任；情节轻微，不构成犯罪的，由工商行政管理部门没收倒卖的烟草专卖品和违法所得，可以并处罚款。

Article 35 Where an enterprise or individual profiteers in tobacco monopoly commodities and the profiteering constitutes a crime, such profiteer's criminal liability shall be investigated according to law; if the circumstances are not so serious as to constitute a crime, the administrative department for industry and commerce shall confiscate the profiteered tobacco monopoly commodities as well as the illegal income derived therefrom and may concurrently impose a fine.

烟草专卖行政主管部门和烟草公司工作人员利用职务上的便利犯前款罪的，依法从重处罚。

Personnel of a department of tobacco monopoly administration or of a tobacco company, who, by taking advantage of their office, commit the crime specified in the preceding paragraph, shall be subjected to heavier punishments according to law.

第三十六条   伪造、变造、买卖本法规定的烟草专卖生产企业许可证、烟草专卖经营许可证等许可证件和准运证的，依照刑法有关规定追究刑事责任。

Article 36 Any enterprise or individual that purchases or sells the licenses prescribed in this Law such as those for tobacco monopoly production enterprises, tobacco monopoly business, as well as transportation permits, shall be investigated for criminal responsibility by applying mutatis mutandis the provisions of Article 117 of the Criminal Law.

烟草专卖行政主管部门和烟草公司工作人员利用职务上的便利犯前款罪的，依法从重处罚。

Personnel of a department of tobacco monopoly administration or of a tobacco company, who, by taking advantage of their office, commit the crime specified in the preceding paragraph, shall be subjected to heavier punishments according to law.

第三十七条   走私烟草专卖品，构成走私罪的，依照刑法有关规定追究刑事责任；走私烟草专卖品，数额不大，不构成走私罪的，由海关没收走私货物、物品和违法所得，可以并处罚款。

Article 37 Where the smuggling of tobacco monopoly commodities constitutes the crime of smuggling, the smuggler's criminal liability shall be investigated in accordance with the relevant provisions of the Criminal Law; if the smuggling does not involve tobacco monopoly commodities in large quantities, thus not constituting the crime of smuggling, the smuggled commodities and articles as well as the illegal income derived therefrom shall be confiscated by the Customs, and a fine may concurrently be imposed.

烟草专卖行政主管部门和烟草公司工作人员利用职务上的便利犯前款罪的，依法从重处罚。

Personnel of a department of tobacco monopoly administration or of a tobacco company, who, by taking advantage of their office, commit the crime specified in the preceding paragraph, shall be subjected to heavier punishments according to law.

第三十八条   烟草专卖行政主管部门有权对本法实施情况进行检查。以暴力、威胁方法阻碍烟草专卖检查人员依法执行职务的，依法追究刑事责任；拒绝、阻碍烟草专卖检查人员依法执行职务未使用暴力、威胁方法的，由公安机关依照治安管理处罚法的规定处罚。

Article 38 The department of tobacco monopoly administration shall have the right to carry out inspection on the implementation of this Law. Whoever by means of violence or threat obstructs such inspectors from carrying out their duties according to law shall be investigated for criminal liability according to law; whoever refuses or obstructs such inspectors from carrying out their duties according to law, but without resorting to violence or threat, shall be punished by the public security organs in accordance with the Law on the Administrative Penalties for Public Security.

第三十九条   人民法院和处理违法案件的有关部门的工作人员私分没收的烟草制品，依照刑法有关规定追究刑事责任。

Article 39 Personnel from a people's court or a relevant department dealing with law-breaking cases who share out the confiscated tobacco products shall be investigated for criminal liability in accordance with the relevant provisions of the Criminal Law.

人民法院和处理违法案件的有关部门的工作人员购买没收的烟草制品的，责令退还，可以给予行政处分。

Personnel from a people's court or a relevant department dealing with law-breaking cases who purchase the confiscated tobacco products shall be ordered to return the products and may be subjected to administrative sanctions.

第四十条   烟草专卖行政主管部门和烟草公司的工作人员滥用职权、徇私舞弊或者玩忽职守的，给予行政处分；情节严重，构成犯罪的，依法追究刑事责任。

Article 40 Personnel from the department of tobacco monopoly administration or from a tobacco company who abuse their power, seek personal interests and commit malpractice or neglect their duties shall be subjected to administrative sanctions; if the circumstances are so serious as to constitute a crime, the offender shall be investigated for criminal responsibility according to law.

第四十一条   当事人对烟草专卖行政主管部门和工商行政管理部门作出的行政处罚决定不服的，可以在接到处罚通知之日起十五日内向作出处罚决定的机关的上一级机关申请复议；当事人也可以在接到处罚通知之日起十五日内直接向人民法院起诉。

Article 41 A party, if not satisfied with the decision on administrative sanctions made by the department of tobacco monopoly administration or the administrative department for industry and commerce, may, within 15 days after receiving the notice about the decision on punishment, apply for reconsideration to the authorities at the next higher level over the authorities that made the decision on punishment; the party may also, within 15 days after receiving the notice about the decision on punishment, directly bring a suit in a people's court.

复议机关应当在接到复议申请之日起六十日内作出复议决定。当事人对复议决定不服的，可以在接到复议决定之日起十五日内向人民法院起诉；复议机关逾期不作出复议决定的，当事人可以在复议期满之日起十五日内向人民法院起诉。

The reconsideration organ shall, within 60 days after receiving the application for reconsideration, make a reconsideration decision. If the party is not satisfied with the reconsideration decision, it may, within 15 days after receiving the reconsideration decision, bring a suit in a people's court; if the reconsideration department fails to make a reconsideration decision within the time limit, the party may, within 15 days after the expiration of the time limit for reconsideration, bring a suit in a people's court.

当事人逾期不申请复议也不向人民法院起诉、又不履行处罚决定的，作出处罚决定的机关可以申请人民法院强制执行。

If upon expiration of the time period, the party concerned has not applied for reconsideration, nor brought a suit before a people's court, nor complied with the sanction decision, the authorities that made the sanction decision may apply to the people's court for compulsory execution.

第八章 附 则

Chapter 8 Supplementary Provisions

第四十二条   国务院根据本法制定实施条例。

Article 42 The State Council shall, in accordance with this Law, formulate rules for its implementation.

第四十三条   本法自１９９２年１月１日起施行。１９８３年９月２３日国务院发布的《烟草专卖条例》同时废止。

Article 43 This Law shall go into effect as of January 1, 1992. The Regulations on Tobacco Monopoly promulgated by the State Council on September 23, 1983 shall be annulled simultaneously.