

**LAW No. 04/L-041
ON PRODUCTION, COLLECTION, PROCESSING AND TRADING OF TOBACCO**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON PRODUCTION, COLLECTION, PROCESSING AND TRADING OF TOBACCO

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Aim**

The present law stipulates production, collection, processing, trading of raw tobacco and its products in the Republic of Kosovo.

**Article 2
Scope of work**

This law stipulates legal relations related to procedures, rights and duties of the parties involved in the production, collection, processing and trade of tobacco.

**Article 3
Definitions**

1. Terms used in this law have the following meaning:

- 1.1. **Tobacco** - leaf of cultivated plant by *Nicotiana tabacum* and *Nicotiana rustica*;
- 1.2. **Fermentation** - necessary biochemical process inverting tobacco to the product available for consumption;
- 1.3. **Tobacco Products** - modified or genetically modified products made only or partially by tobacco, which are used to smoke, inhale or chew;
- 1.4. **Processing of tobacco and its products** - training of one technologic process in which the tobacco goes through;
- 1.5. **Industrial processing** - classification, manipulation, removal of footstalk, fermentation and preparation of tobacco for trading;
- 1.6. **Package** - coverage of tobacco and its production aiming at placing in the market for sale;
- 1.7. **Trading** - retail and wholesale, export and import of products of tobacco as well as its products;
- 1.8. **Variety** - a quantity of tobacco being not fermented and raw;
- 1.9. **tubing** - conjunction of two or more varieties of tobacco;
- 1.10. **Bundle** - conjunction of two or more variety of tobacco being not fermented and raw;
- 1.11. **Curing Barn** – a place where the Virginia tobacco and other types are dried;
- 1.12. **Collector of tobacco** - acceptance of non-fermented tobacco in the places of collection, placement,

and preservation for further processing;

1.13. **Cigarette** - enfold tobacco with standard length not accounting filtration;

1.14. **Cigar** - wrapper tobacco which is dedicated for smoking with internal or external wrapper made by natural tobacco for smoking;

1.15. **Label** - the written, printed, carved content of declaration attached to the goods;

1.16. **Tobacco for smoking** - cinkered tobacco after further industrial processing that is dedicated for smoking;

1.17. **Coal - tar** - dry remnant of smoke tobacco without nicotine;

1.18. **Nicotine** - poison alkaloid that it is in tobacco and has a toxic effect in neural autonomous system;

1.19. **Monoxide carbon** - toxic gas that is component part of the fume of smoking;

1.20. **Subjects** - natural and legal persons, dealing with production, collection and trade of tobacco;

1.21. **Banderol** - the fiscal stamp to be sticked to each common unit of tobacco production, as an evidence of excise payment;

1.22. **Ministry** - Ministry of Agriculture, Forestry and Rural Development;

1.23. **KVA** - Veterinary and Food Agency;

1.24. **MTI** - Ministry of Trade and Industry;

1.25. **MF** - Ministry of Finances;

CHAPTER II PRODUCTION OF TOBACCO

Article 4 Registration and licensing

1. All tobacco producers should register on the official register of MAFRD.
2. All industrial collectors and processors of tobacco should be licensed by MAFRD.
3. The form, content and the manner of issuing the license from paragraph 2. of this Article is determined with sub legal enactment by MAFRD.

Article 5 Contract binding

1. Subjects when binding a written contract for production and collecting tobacco with cooperators, producers, are obliged to present the planned production of tobacco no later than March 31 of the following year in MAFRD.
2. MAFRD issues the license to the subjects from paragraph 1. of this Article for all parcels verified by phytosanitary inspectors where the tobacco is produced.
3. Form, content and the way of given of license from paragraph 2. of this Article is stipulated by MAFRD with sub legal acts.

Article 6 Seeds and planting material

Seeds and planting material of tobacco is spread by subjects after the fail with phytosanitary certificate and

accompany documents.

Article 7
Production of certified seeds

For production of nurseries of tobacco are used only seeds that are produced and certified in the accordance with legislation into force for production of local and foreign agriculture seeds.

Article 8
Declaration

1. Producers of tobacco, at the beginning of the year, until 30 June, declare in written to MAFRD, with factual data for production place, surface, type, sort, brand and production planned for tobacco.
2. Register of tobacco producers and cultivated surfaces with this crop is sustained in MAFRD.
3. Producers records types and brand of tobacco in the register of MAFRD.
4. Type, sort, brand and criterions for assessment of tobacco, content and work of professional Commission will be stipulated by MAFRD sub legal act.

CHAPTER III
CONTRACTS OF PRODUCTION AND COLLECTION OF TOBACCO

Article 9
Form of contract

1. For production of tobacco, the producer makes a written contract with the collector or processor of tobacco.
2. For production and collection of tobacco within a season, the producer can not bind a contract with more than a licensed collector from MAFRD for the same product.
3. Collector may not make a contract for quantities of tobacco, for which producer has made a contract with the other collector within one producing season and for the same production.

Article 10
Registration

Each producer of tobacco should certify with a stamp the contracted quantity and the number of contract in the certified register of tobacco producers.

Article 11
Data

Data on collected tobacco, in quantity and quality, are declared by collectors and registered to the MAFRD register.

CHAPTER IV
INDUSTRIAL PROCESSING OF TOBACCO AND ITS PRODUCTS

Article 12
Industrial processing

1. Industrial processing of tobacco until the finalization is carried out by local and foreign subjects, equipped with processing license by MAFRD.
2. The license from paragraph 1. of this Article shall be given to local and foreign subjects that fulfill the technical and technological industrial conditions of tobacco and its products.

3. Criteria, manner and form of giving the license from paragraph 1. and 2. of this Article are defined by sub legal enactments by MAFRD.

CHAPTER V TRADE OF TOBACCO

Article 13 Tobacco and its products

Tobacco and fermented cankered tobacco products are traded packed depending on specific of its product type.

Article 14 Trading of dry tobacco

1. Producer trades dry tobacco prepared to the variety – bundle and other products as well as fresh tobacco of virgin type.

2. Prohibited export of tobacco without fermented and raw.

Article 15 Label

1. Products of tobacco for circulation to the Kosovo market, should contain label with data for contain of coal – tar nicotine and carbon monoxide as specified with Law No.02/L-36 on Tobacco and of European Union standards.

2. Products of tobacco which are imported to the EU member states may have both name and address of producer or name of producer and the note “produced in EU”. The importer of tobacco products according to this paragraph is not excluded from the obligation to submit to MTI the accurate declaration of imported products, in accordance with the Law for Consumer Protection.

3. Products from paragraph 1. of this Article, should contain banderole sticked in visible place in the coverage inland of sheer package and contain data in accordance with the Law on Tobacco.

CHAPTER VI PROHIBITION OF TRADING OF TOBACCO AND ITS PRODUCTS

Article 16 Prohibition

1. It is prohibited the trade of tobacco and its products in the market if:

- 1.1. it is carried out from subject without being licensed;
- 1.2. tobacco or its products with defects decrease quality use;
- 1.3. tobacco is cankered but without being packaged;
- 1.4. it doesn't have a label and there are no data, as specified in the Law on tobacco.

CHAPTER VII LICENSE OF SUBJECTS THAT TRADE TOBACCO AND ITS PRODUCTS

Article 17 License

1. Subjects dealing with trading of tobacco and its products are equipped with appropriate license for exercising of this activity by MTI.

2. None of local or foreign subjects can trade tobacco and its products without being equipped with appropriate license.
3. Subjects that develop trade activities, after being registered to the MTI under this law, should apply for license of import or trading of tobacco and its products to KVA.
4. Criteria and conditions for given of subject's license that develops activities from paragraph 3. of this Article are regulated with sub legal enactment from MTI.

Article 18 **Prohibition of the activity**

1. When a subject does not stick to the implementation of procedure provisions of this law, may be taken the license for trade and production of tobacco from MTI.
2. If the subject is convicted for contraband with trade of tobacco and its products, MTI takes the license and forbids permanently the import and export activities of tobacco products.
3. If the subject from paragraph 1. of this Article is recidivist, maybe prohibited the exercising of this activity.

CHAPTER VIII **RETAIL SALE**

Article 19 **Places for retail sale**

1. Retail sale is exercised in certain places in accordance with legislation into force.
2. Prohibited and sanctioned the sales of tobacco from the underage and for the underage.

Article 20 **Determination of price**

Retail prices of tobacco products, sold in market, are determined in accordance with the principles of free market.

Article 21 **Registration of trade mark and declaration of goods**

1. Tobacco products manufactured and traded in Kosovo, may protect the trade brand under the Law No.02/L-54 for Trade Marks.
2. In produced and trade products of tobacco in Kosovo, should be placed the label of goods in which producer, importer distributor and seller are obliged to provide the respective data about those goods to the consumer.
3. Tobacco products produced in Kosovo must be accompanied with the declaration of goods which contains: name, type, origin of goods, importer, exporter, distributor, measure, date of production and address, headquarter and phone number of producer, importer, exporter and distributor.

Article 22 **Documentation**

1. Tobacco products by Article 21 paragraph 3. of this law, when transported through customs areas of Kosovo, must be accompanied with relevant custom documents as well as other documents which indicate that those products are intended for export and where the documents were taken from.
2. In the customs areas of Kosovo, in customs free shops, in supply storage and in free zones, not allowed the sale of tobacco products, their transport without documents where they were taken from, respectively exported, nor be purchased, if they are not marked with brands or if they are marked with control mark.

Article 23 Banderols

1. Producers of tobacco products are obliged to submit a written request for printing banderols at MF.
2. The establishment without authorization or counterfeit of banderols is considered a criminal act and sanctioned by the legislation into force.

Article 24 Bank guarantees

Producers, exporter and importers, exporters of tobacco products who receive banderols for the first time, and are obliged to provide bank guarantee or any other instrument with which is ensured the payment of all fiscal obligation for tobacco products.

Article 25 Evidence

1. Subjects which produce, collect, export, import and trade tobacco products are obliged to keep daily records for production, circulation and their state.
2. In the bill for tobacco products intended for export, number and date should be marked for export.

Article 26 Reports

1. Importers are required to draft and submit to MF monthly and annual reports for import, export of tobacco products, for stocks in customs warehouses, sales in duty free shops, supply warehouses and free zones as well as domestic sales.
2. Commercial entities, by the end of the month for the previous month, must submit to MF a report with copies of export documents, where it is seen that in which crossing point tobacco products have come from Kosovo.

Article 27 Advertisement

The advertisement and promotion of all forms of tobacco trade and its products is forbidden.

Article 28 Supervision

The supervision of implementation of this law and provisions issued under it shall be done by Phytosanitary Inspectors and Trade Inspectorates according to the legislation into force.

Article 29 Phytosanitary inspection

1. Phytosanitary inspection takes a Decision which prohibits the production and circulation of tobacco if:
 - 1.1. ascertains that the collector before making a contract for production does not represent the production of tobacco of the production year in MAFRD according to Article 4 of this law;
 - 1.2. producer of tobacco does not use seeds that are produced and certified according to the legislation into force for the production of agriculture seeds according to Article 6 of this law;
 - 1.3. ascertains that the producer of tobacco does the production of tobacco without making a contract for production and collection of tobacco with a collector according to Article 9 of this law;
 - 1.4. the collector of tobacco does not declare its value and quantity according to MAFRD register according to Article 11 of this law;

1.5. industrial processing and collection of tobacco is carried out by respective entities without being licensed according to Article 12 of this law.

Article 30 **Market inspector**

1. Market inspectorate takes decides to forbid the trade of tobacco products if:

1.1. tobacco products are in Kosovo market and do not posses the label for content of tobacco according to Article 15 of this law;

1.2. entities dealing with trade of tobacco and its products that are not equipped with a license for exercising this activity according to Article 17 of this law;

1.3. tobacco products manufactured and traded in Kosovo do not have data for trade mark according to Article 21 of this law.

Article 31 **Inspector access to documentation**

Producers, collectors, processors and traders of tobacco and its products are obliged to assist the relevant inspector in performing the duty and provide necessary data and information and free Access to records and relevant documentation.

Article 32 **Complaint**

1. Against the decision of the inspector under Article 29 and 30 of this law, a written complaint may be submitted to the leader of the relevant inspection, within fifteen (15) days since the day of accepting the decision.

2. The answer to the presented complaint from the paragraph 1. of this Article should be given in written within thirty (30) days.

3. Against the decision of the respective inspectorate, party may law - suit appeal to the competent court within thirty (30) days.

CHAPTER IX **PENALTY PROVISIONS**

Article 33 **Offences**

1. With a fine of three thousand (3.000) € to ten thousand (10.000) € convicted for offence the natural respectively legal entity, if:

1.1. does not use the production of seedlings-seeds that are produced and certified under the legislation into force for the production of agriculture seeds in the country and are not registered according to Article 6 of this law;

1.2. the data for the trade tobacco in quantity and quality are not declared by collector and are not registered in MAFRD register according to Article 11 of this law;

1.3. does not have a license for trade of tobacco and its products according to Article 17 of this law;

1.4. acts in contradiction with Article 31 of this law.

2. With a fine of three hundred (300) € to five hundred (500) € for offence from paragraph 1. of this Article, convicted the responsible person of the legal person.

3. With a fine of five hundred (500) € to five thousand (5.000) € for offence is convicted natural and legal person, if:

3.1. it is not registered in tobacco register that keep the MAFRD Article 12 of this law;

3.2. does not contain the label with data for coal-tar and nicotine content Article 15 of this law;

3.3. persons who are not equipped with the permission or license of import and export of tobacco products Article 17 of this law;

3.4. when tobacco products that are produced and traded in Kosovo do not possess data for trademark registration, declaration and control sign Article 21 of this law.

4. With a fine of two hundred (200) € to five hundred (500) €, is convicted the natural respectively legal person, if:

4.1. does not present to MAFRD the factual data for production site, surface, type, and tobacco production planed Article 8 of this law;

4.2. deals with the production of tobacco without making a contract for production and collection of tobacco with a collector Article 9 of this law;

4.3. it does not provide monthly and annual reports on import and export of tobacco products Article 26 of this law.

Article 34 **Protection measures**

Except the penalty for offence from Article 33 of this law, entity may be imposed to the measure of protection confiscation of tobacco and its products used or intended to carry out offence as well as the protection measure for confiscation of property which is achieved as a result of offence.

Article 35 **Payments and revenues**

All payments that come from the implementation of punishment provisions of this law and tax revenues, go to the Budget of the Republic of Kosovo.

CHAPTER X **FINAL PROVISIONS**

Article 36 **Implementation**

For implementation of this law MAFRD and MTI are obliged to issue the sub legal acts within twelve (12) months, upon the day of entry into force of this law.

Article 37 **Abrogation**

The entry into force of this law abrogates provisions of the law on tobacco (Official Gazette of KSAK no.39/72) as well as provisions of other laws that are against this law.

Article 38 **Entry into force**

This law shall enter into force (15) days after publication in the Official Gazette of Kosovo.

Law No. 04/L-041
21 October 2011

Promulgated by Decree No.DL-048-2011, dated 15.11.2011, President of the Republic of Kosovo Atifete Jahjaga.