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Island Council

Island ordinance restricting the sale of tobacco by the Public Entity of Saba (Saba Tobacco Use Restriction Ordinance)

Resolution of the Island Council of Saba dated July 13th 2023 to establish the Saba Tobacco Use Limitation Ordinance.

the Island Council of Saba;

Having regard to Articles 149, first paragraph, and 152 of the Bonaire, St. Eustatius and Saba Public Entities Act

HAS DECIDED:

To adopt the following island ordinance:

CHAPTER 1

Definitions

Article 1 Definitions

In this regulation and the provisions based thereon, the following definitions shall apply:

- *related product*: electronic vapor merchandise, electronic heating device and herbal product intended for smoking;
- *additive* means a substance other than tobacco that is added to a tobacco product, nicotine-containing liquid, or wrapper or outer packaging thereof;
- *electronic heating device*: device or part of that device that can be used for the consumption of tobacco products through a process of heating, whether or not in combination with any other process;
- *electronic vapor goods*: electronic cigarette, refill pack, electronic cigarette without nicotine, refill pack without nicotine and cartridge without nicotine;
- *electronic cigarette means* a product that can be used for the consumption of nicotine-containing vapor through a mouthpiece, or a component of that product, including a cartridge, a reservoir and the device without a cartridge or reservoir;

- *non-nicotine electronic cigarette*: a disposable product that contains a reservoir of non-nicotine liquid and can only be used for the consumption of non-nicotine vapor through a mouthpiece;
- *non-nicotine refill container*: a container containing non-nicotine liquid that can be used to refill an electronic cigarette;
- *nicotine-containing liquid*: nicotine-containing liquid in an electronic cigarette or refill pack;
- *non-nicotine-containing liquid*: non-nicotine-containing liquid in a nicotine-free electronic cigarette, a nicotine-free refill pack or a nicotine-free cartridge;
- *cartridge without nicotine*: a cartridge containing non-nicotine liquid intended for reloading an electronic cigarette;

CHAPTER 2 ***Sales Restrictions***

Article 2

1. It is prohibited to supply tobacco products or related products, whether for business or otherwise, to a person who has not been found to have reached the age of 18. Providing shall also include providing a tobacco product or related product to a person who has been found to have reached the age of 18, which tobacco product or related product, however, is clearly intended for a person who has not been found to have reached the age of 18. The Island Governor may lay down further rules in this regard and prescribe a model.
2. The determination referred to in the first paragraph is omitted if it concerns a person who has unmistakably reached the age of 25. The determination shall be made on the basis of a document as referred to in article 1, first paragraph, of the BES Compulsory Identification Act.
3. In places where tobacco products or related products are normally supplied to private persons on a commercial basis or otherwise than free of charge, it must be clearly visible and legible that no tobacco products or related products are supplied to persons under the age of 18. The Island Governor may lay down further rules in this regard and prescribe a model.

Article 3

The placing on the market of nicotine-containing and non-nicotine-containing liquids and of other components of the electronic vapor goods containing flavoring additives as ingredients is prohibited.

CHAPTER 3

Fines

Article 4

Violations of the provisions of Article 2 and Article 3 shall be punished by a fine of \$1,360 when the violation was committed by a natural person or a legal entity that had fewer than fifty employees on the day the violation was committed. This amount shall be increased to:

- \$ 2,040 if the natural person to whom or the legal entity to which the offense is attributable has previously been fined for a similar offense and no 12 months have elapsed since that previous fine became final;

- \$2,720 if within 12 months of the fine for the first offense becoming final, a similar offense is committed for the third time; and

- \$4,500 if within 12 months of the fine for the first offense becoming final, a similar offense is committed for the fourth time.

Article 5

1. The Island Governor may deny the natural person or legal entity who provides tobacco products or related products to private persons on a business basis or otherwise than free of charge, and who has violated Section 2, subsection 1, or Section 3 three times in a 12-month period, the authority to sell tobacco products or related products from the location where said behavior occurred.
2. The disqualification shall be imposed for not less than one week and not more than 12 weeks.
3. The Governor is authorized to impose an administrative order to enforce a disqualification imposed under this article.

CHAPTER 4

Final Provisions

Article 8 Entry into force

This regulation shall enter into force on September 1st, 2023.

Article 9 Citizen

This ordinance shall be cited as: Saba Tobacco Use Limitation Ordinance.

Thus established by the Island Council of the Public Entity of Saba in the public Island Council meeting of July 13th, 2023.

The Island Registrar

The Chairman of the Island Council

A.M. Levenstone

J.G.A. Johnson M. Ed