

# Bill

## on amendments to the Act on alcohol, no. 75/1998, with subsequent amendments (a clearer prohibition for advertisements).

(Presented to parliament at the 140th congress 2011–2012.)

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### Article 1

Article 20 of the act is worded as follows:

Any type of advertisement or other commercial messages for marketing for alcohol or particular types of alcoholic beverages are prohibited. This ban also applies to liquid which is below 2.25% of pure alcohol if it is put onto the market in packaging which is so similar to packaging of alcoholic beverages that there is a risk of confusion between the alcoholic product and the non-alcoholic one. Furthermore, it is prohibited to show consumption or any type of other treatment of alcohol in advertisements or other commercial messages or information about another type of product or service.

The term commercial message signifies text, photos and/or audio which is intended to steer direct or indirect attention to types of alcohol or other aspects associated with alcohol consumption, and is distributed for a payment or presented for its own benefit. Commercial messages are considered to be advertising, product insertion, sponsorship of media content and sponsorship in relation to gatherings or events, as well as hidden commercial messages which are intended to serve marketing goals and which can mislead consumers concerning their nature.

The ban extends in the same way to commercial messages which only include a company name and/or logo of an alcohol manufacturer. However, a manufacturer which in addition to alcohol produces other beverage products is permitted to use a company name or logo in commercial messages which are intended for marketing those beverages on the explicit condition that non-alcoholic beverages are involved in the eyes of the law, and that reference would not be made to the alcoholic beverage production and that there exists no risk of confusion between the alcoholic production and that which is being marketed with the name of a product, packaging or other attributes.

Prohibition in accordance to Paragraph 1 does not apply to:

1. Commercial messages in a foreign language in a foreign publication which is transported to the country, except if the main purpose of the publication or importation is to advertise alcohol.
2. Commercial messages in foreign retransmissions, when they are in accordance with laws of the transmitting country.
3. Identifiers with a company name and/or logo on normal equipment to service alcohol at a restaurant where alcoholic beverages are permitted. The same applies for on-site boards and displays.
4. Identifiers with a company name and/or logo on an alcohol manufacturer's product packaging, stationery or other things which directly are related to the manufacturer's operations.

5. Price and product information which are provided on the website of the State Alcohol and Tobacco Company of Iceland, the website of the DutyFree shop and on websites of registered alcohol importers for orders and sale of products which pertain to this Act, on the conditions of clauses 1-3 of the Paragraph.

6. Discussion in news or trade journals, news, cultural and cooking shows, on the condition that alcohol is not discoursed on or advertised in accordance to this Act for payment or other reciprocation or in connection with marketing of the product.

7. Other audio or visual media content and other film content than advertisements and commercial messages which is produced in accordance with the laws of the manufacturing country.

## Article 2

After Article 20 of the Act, there is another article, Article 20 a, as follows:

Monitoring of whether a violation has occurred against Article 20 is the responsibility of the Consumer Agency. The Consumer Agency can charge each individual or legal entity which negligently or unintentionally violates Article 20 with a governmental fine which can amount for up to ISK 10 million. A legal entity may be charged a fine regardless of whether fault is found to be tied to a legal entity's employee. In deciding a fine, i.e. the seriousness of the violation and earnings of violation if applicable, will be taken into consideration. Fines go to the Icelandic State Treasury after deducting costs associated with their collection. A decision of the Consumer Agency may be challenged via the Appeal Committee of Consumer Affairs within four weeks from an individual's notification of the ruling. A purchaser of commercial messages, whether he is an individual or legal entity, is responsible for their content if he has legal domicile in Iceland or if Icelandic jurisdiction pertains on another basis. In other cases, whoever publishes the content or in another way disperses the commercial message is liable.

If the Consumer Agency has ruled that a violation has occurred against Article 20 and the illegal conduct has not ceased, the Consumer Agency can charge a per diem fine which can amount up to ISK 500 thousand each day until the illegal conduct is ceased. Per diem fines will not be given for a longer time-period than 100 days at a time. A decision about per diem fines shall be presented in writing in a certifiable manner to whom they are intended. A decision on per diem fines may be challenged via the Appeal Committee of Consumer Affairs within fourteen days from which it was presented to whom it is intended. Per diem fines are not calculated before the period during which complaints may be lodged; also, they go to the State Treasury after deductions from the cost of their collection. If a decision is brought before the Appeal Committee of Consumer Affairs, per diem fees are not given until the Committee's opinion is available. The provisions of Act no. 57/2005, regarding monitoring of business practices and marketing, apply for the legal remedies and monitoring of the Consumer Agency, including court procedures where appropriate. A Consumer Agency decision will not be referred to the courts until the ruling of the Appeal Committee for Consumer Affairs is available. A ruling by the Appeal Committee shall be available within six weeks from when an appeal is received by the Committee. Rulings by the Appeal Committee of Consumer Affairs are final within the government and are enforceable. In the case that an individual does not accept an Appeal Committee ruling, he may then take legal action for annulment before the courts. Such action shall be taken within six months from when an individual was notified of the Appeal Committee's ruling. Proceedings neither delay the adoption of the ruling of the Committee nor the permission for legal enforcement.

## Article 3

Instead of the words "Violation against this Act or set rules in accordance with it involve" in paragraph 1 of Article 27 will be the following: Excluding Article 20 violations against this Act or rules set hereunder in accordance to it are involved.