

Ärende: VN/11255/2023

## **Regeringens proposition till riksdagen med förslag till lag om ändring av tobakslagen**

### Lausunnonantajan lausunto

#### **2 § Definitioner**

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#### **6 § Valviras uppgifter**

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#### **22 § Allmänna skyldigheter för tillverkare och importörer av vissa andra produkter**

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#### **25 a § Krav för rökfria nikotinprodukter**

Nordic Nicotine Pouch Alliance (NNPA.EU) welcomes the opportunity to provide a statement to the Government proposal to Parliament for an act amending the Tobacco Act. The NNPA is a Brussels based stakeholder platform advocating for a sustainable and adequate European regulation of nicotine pouches. The NNPA would like to begin by emphasizing that the objective to encourage Finns who have acquired snus through illegal channels to switch to legally sold nicotine pouches has already been met to some extent. The Finnish customs have reported a significant drop (approx. 80%) in seizures of illegal snus this year compared to the same period last year<sup>1</sup>. Such a fast change in consumer behavior must be considered an almost unparalleled success among policies to ensure consumption is addressed by taxed and regulated alternatives.

The NNPA strongly believes that this success is due to the fact that consumers don't have incentives to even consider buying illicit products if they are presented with adequate product propositions that are not burdened with excessive taxation. Current restrictions, like for example the 20mg/pouch nicotine limit, would seem not to impose any undue restriction affecting or limiting the preferences of an average adult consumer.

However, We do have some concerns that this balance could be disturbed if disproportionate restrictions or significant price gaps in favor of non-legitimate products are put in place.

The NNPA shares the concern of youth access/consumption and can understand the rationale behind restrictions such as a ban on cannabis flavor. However, how flavors are perceived is subjective and banning certain flavors to curb youth usage is a very blunt tool compared to for example promoting responsible retailing. A strict regulation of flavors would limit consumer choice and as such would be detrimental to the government's objective of guiding consumption from snus to nicotine pouches. A broader ban on flavors would in effect make the product unmarketable. One of the benefits of nicotine pouches is that it does not contain tobacco but a side effect of not using a plant-based filling is that there is no flavor, making it less attractive than higher risk products unless flavor is added. NNPA therefore welcomes that menthol/mint flavors are exempted. Cooling flavors are among the most sold products on the Finnish market and a ban or uncertain situation for such flavors would have had a significant impact on consumer choice as well as tax income. The proposed regulation of flavors also greatly differs in approach from similar regulation in other Nordic or EU member states. In this context, the NNPA would like to invite the Finnish authorities to consider similar regulation in Sweden and Norway, which do not have any restrictions on flavors. This difference in approach would be a relevant factor considering the objective to prevent grey imports, illegal trade and to combat organized crime.

We would like to highlight that the fact that the Ministry of Social Affairs and Health can issue more detailed instructions by decree on prohibited flavors weakens the predictability of the regulatory framework: this power should be clearly defined in scope, used with great care and only to halt egregious infringements and clearly irresponsible marketing. If putting such a safeguard in place is motivated by the need to preserve a broader scope for adult consumer choice, the legislations should focus on what should be achieved i.e. prohibit marketing directed towards risk groups, using clear rules on unsuitable descriptors (for example candy flavors such as bubblegum) and properly enforce such measures. The purpose and intended use should also be clear to prevent both uncertainty as well as arbitrary use of the mechanism.

The proposed prohibition on additives which modify the pH value of nicotine pouches will have significant consequences on the quality of the product if implemented. The functionality and storage capacity of a nicotine pouch would be impacted in such a way as to make a Finnish pouch of significantly lesser quality than that found in the neighboring countries. This would undoubtedly steer consumers towards illegal channels where normal high-quality products, alongside non-compliant products, can be easily found. Since the stated intention of this regulation is to promote domestic trade and fight illicit trade – we urge Finnish regulators to carefully consider regulation that would have severe impacts on the quality of the Finnish product.

It is clear that a significantly higher price compared to neighboring countries, or for that matter any restriction that is perceived as disproportionate and going against consumer preference, will steer purchases towards illegitimate channels, i.e., grey imports, traveler imports, and illegal trade, or dissuade existing smokers from trialing the category, even when presented in a legitimate and

controlled way. This would not only cause societal harm due to both the consumption of unregulated products and the prevalence of organized crime that is behind illicit trade (and financed by it), but it would also undermine generation of state's tax revenues.

Considering that Finland, until recently, had a quite large and developed illicit trade, there is an obvious risk that over-regulation will rather undermine the intended purpose to ensure a well-controlled market environment than to support it. Tobacco snus, which has been banned in Finland since 1995, is still prevalent and the demand has been increasing every year, despite the ban and harsh penalties on illicit trade. According to a survey by National Institute for Health and Welfare THL about 7 percent of Finnish men aged 20–64 used snus daily in 2020, which is two percentage points higher than in 2019. This very clear trend of growing demand and corresponding illicit trade was broken in less than a year following the legalization nicotine pouches which provided a readily available legal alternative to consumers. We consider this a very clear indication that pragmatic legislation on nicotine pouches is an essential tool to reduce the grey market on tobacco snus consumption.

Finally, the NNPA urges the Finnish government to take into consideration that the relative risk of nicotine pouches is significantly lower and on the completely opposite side of the risk spectrum compared to smoking cigarettes. This should be reflected in the legislation and given due and proportional attention when deciding what rules are appropriate for each category of nicotine products. This is relevant both from a public health perspective, as well as from a public finance perspective, as it can provide significant net effects.

Lowering thresholds and restrictions on these products, which have been scientifically proven to pose significantly lower health risks compared to consumption of combustible tobacco, can enable a shift towards better (and legitimate) alternatives as a part of a strategy to reduce harm from smoking tobacco.

## **29 a § Anmälningar om rökfria nikotinprodukter**

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## **29 b § Försäljningsvolymerna för rökfria nikotinprodukter**

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### **30 § Metod, format och tidpunkt för lämnande av uppgifter om vissa andra produkter**

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### **31 § Allmänna bestämmelser för detaljhandelsförpackningar**

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### **39 a § Märkning av detaljhandelsförpackningar för rökfria nikotinprodukter**

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### **39 b § Utformningen i övrigt av detaljhandelsförpackningar för rökfria nikotinprodukter**

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### **39 c § Utformningen av rökfria nikotinprodukter**

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### **40 § Undantag för varningsmärkning i utrikestrafik**

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### **44 § Tillståndsplikt för detaljhandel**

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### **48 § Anmälan om detaljhandel med nikotinvätska och rökfria nikotinprodukter**

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### **50 § Anmälningsplikt för partihandel**

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### **52 a § Förbud mot försäljning av produkter avsedda för smaksättning av tobaksprodukter och rökfria nikotinprodukter**

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### **53 § Förbud mot försäljning till minderåriga**

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### **58 § Förbud mot distansförsäljning**

NNPA welcomes the proposal to ban cross-border distance sales of nicotine pouches in order to protect Finnish consumers from non-compliant products, to decrease grey market imports and fight illegal trade. However we propose that this ban enters into force on the date of implementation of the new law and not six months later as suggested in this proposal. This would significantly decrease the period during which non-compliant and duty not paid products could be brought into Finland. An immediate implementation would of course also have a positive impact on the collected tax revenue for 2024.

**59 § Förbud mot försäljning på tullauktion**

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**60 § Begränsningar i partihandel**

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**62 § Införselförbud som gäller för minderåriga**

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**63 § Förbud mot införsel av vissa rökfria tobaksprodukter**

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**65 § Förbud mot införsel med hjälp av ett medel för distanskommunikation**

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**66 § Tidsgränser för resandeförsel**

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**67 § Kvantitativa begränsningar för resandeförsel**

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**74 § Allmänna rökförbud**

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**80 § Anslag om rökförbud**

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**81 § Verkställighet av rökförbud**

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**90 § Avgifter för behandling av ansökningar och anmälningar**

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**91 § Avgifter för övervakningen enligt tobakslagen**

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**94 § Registrering och offentliggörande av uppgifter om produkttillsyn**

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**97 § Återkallande av detaljhandelstillstånd**

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**100 § Försäljningsförbud**

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**109 § Försäljningsförbud**

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**113 § Rökningsförseelse**

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**117 § Ytterförpackningar**

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**118 § Förbud mot innehav**

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**119 § Förstöring**

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**Ikraftträdande**

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**Något annat att kommentera?**

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Nordic Nicotine Pouches Alliance