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NATIONAL ASSEMBLY OF KENYA

NINTH PARLIAMENT- SIXTH SESSION

**DEPARTMENTAL COMMITTEE ON HEALTH,
HOUSING, LABOUR AND SOCIAL WELFARE**

REPORT ON THE TOBACCO CONTROL BILL, 2007

**CLERKS CHAMBER,
PARLIAMENT BUILDINGS,
NAIROBI**

JULY, 2007

**PROPOSED AMENDMENTS TO THE TOBACCO CONTROL
BILL, 2007**

1.0 PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Health, Housing, Labour and Social Welfare was constituted at the commencement of the Ninth Parliament pursuant to the provisions of Standing Order No. 151. The said Standing Order No. 151 (1) (c) mandates the Committee, among other things:-

(c) to study and review all legislation after the First Reading subject to the exemptions under Standing Order No. 101 A (4)

2.0 SUBJECTS

The Committee's subjects are as follows:-

- (a) Health;
- (b) Housing;
- (c) Labour; and,
- (d) Social Welfare.

The Committee oversees the performance of the following Ministries:-

- (a) Health;
- (b) Labour and Human Resource Development;
- (c) Housing; and
- (d) Sports, Gender, Culture and Social Services.

3.0 MEMBERSHIP

The Committee comprises the following Members:-

The Hon. (Dr.) Hezron Manduku, MP – **Chairman**
The Hon. Tobias Ochola Ogur, MP
The Hon. Reuben Ndolo, MP
The Hon. Norman M. G. K. Nyagah, MP
The Hon. (Dr.) Naomi Shaaban, MP

The Hon. Zebedeo J. Opore, MP
The Hon. Abdalla Ngozi, MP
The Hon. (Prof.) Julia Ojiambo, MP
The Hon. William Boit, MP
The Hon. Benson Mbai, MP
The Hon. David Koros, MP

4.0 SUMMARY

Mr. Speaker, Sir,

On behalf of the Departmental Committee on Health, Housing, Labour and Social Welfare, I am pleased to present to the House the Committee's recommendations on the Tobacco Control Bill, 2007, pursuant to the provisions of Standing Order 162. The Bill was referred to the Committee after it was read a First Time in the House on 17th May, 2007.

I take this opportunity to thank all Members of the Committee and the secretariat for their dedication and hard work and their desire to improve the Bill.

The Committee held three sittings to deliberate on the Bill with various stakeholders some of whom sent in their memoranda. The stakeholders' views have been incorporated in the form of proposed amendments.

5.0 BACKGROUND

Mr. Speaker, Sir,

The Tobacco Control Bill seeks to protect the health of Kenyans from the hazards of using tobacco and tobacco products. The Bill provides for a comprehensive legal framework to control the production, manufacture, sale, labeling, advertising and promotion of tobacco products.

Tobacco is a major issue because it kills, on top of the suffering and harm to the people and the economies of countries. It strains the meagre resources in the health and other sectors of the economy. The leaves of tobacco plant contain pollutants, poisons, carcinogens

and addictive drug-like chemicals among other substances known and unknown.

Tobacco use is one the chief preventable causes of premature death. Cigarette smoking is associated with heart diseases; cancers of the lung, larynx, mouth, oesophagus and bladder, stroke and chronic obstructive airway diseases etc.

In Kenya alone over 6 billion cigarettes are smoked in a year without regard to non smokers both born and unborn. Tobacco prevalence is estimated at 67% for males, 33% for females while 45% of all smokers are below 20 years. Indeed, the future of this country is being decimated by tobacco.

Mr. Speaker, Sir,

The Framework Convention on Tobacco Control (FCTC) was developed in recognition of the importance of legislation in tobacco control by member countries of the WHO. As a signatory to this treaty Kenya is duty-bound to set up legislation based on the standards set by the covenant.

The Parliamentary Committee on Health, Housing, Labour and Social Welfare supports the ban of smoking in public places; creation of designated areas; establishment of a fund to help in advocacy, research and dissemination of information on the effects of tobacco; integration of tobacco and its health consequences on the education system; protection of young people from deceptive inducement to tobacco use; restriction to access to tobacco and tobacco products by young people and the creation of economically viable alternatives for tobacco growers. The Committee further supports the right of non-smokers to live in a smoke free environment.

There is no safe exposure to second hand tobacco smoke. Realizing that every body is becoming a tobacco user as a result of passive smoking we are recommending protection of non smokers by creating smoke free zones. Indeed the Government acknowledging this danger designated all its buildings and health institutions as smoke free zones. Some local authorities have already put up by laws prohibiting smoking in public places and there is no reason why the Kenyan legislature cannot pass a law to that effect.

It is sad to note that 13% of the Primary School pupils in Kenya are among the regular smokers. It has been established that smoking at a young age increases the risk of death from tobacco related illnesses and lowers the age at which death is likely to occur in addition to mental retardation.

6.0 CONCLUSION

Mr. Speaker, sir,

It is worth noting that the Tobacco Control Bill was first introduced in the House in November 1994 and since then the Bill has been lapsing year in year out. The onus is upon the Members of this Ninth Parliament to enact this Bill into law as their legacy to the people of Kenya and future generations. The Committee recommends the enactment of this Bill into law but with the attached proposed amendments.

**HON. DR. HEZRON MANDUKU, MP.
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH, HOUSING, LABOUR
AND SOCIAL WELFARE.**

Date: 

PROPOSED AMENDMENTS TO THE TOBACCO CONTROL BILL, 2007

CLAUSE 1: - SHORT TITTLE - agreed to

CLAUSE 2: - That Clause 2 be amended as follows:

- (i) That the interpretation of "**brand element**" be amended by deleting the word "**reasonably**" appearing in the third line
- (ii) That the interpretation of "**harmful constituent**" be amended by inserting the word "**tobacco**" after the word "**of**" appearing in the second line.
- (iii) That the interpretation of "**lifestyle advertising**" be amended by inserting the words "**but not limited to**" after the word "**includes**" appearing in the third line.
- (iv) That the interpretation of "**vending machine**" be amended by deleting the word "**similar**" appearing in the third line and substituting therefor the word "**other**".

CLAUSE 3: That Clause 3 be amended as follows:

- (i) That sub clause (a) be amended by inserting the word(s);
 - (a) "**growing, handling**" after the word "**tobacco**" appearing in the third line.
 - (b) "**tobacco,**" after the word "**to**" appearing in the third line.
- (ii) That sub clause (c) be amended by inserting the words "**exposure or**" after the word "**their**" and the words "**tobacco or**" after the word "**to**" appearing in the second line.
- (iii) That sub clause (i) be amended by inserting the words "**growing, handling**" after the word "**tobacco**" appearing in the second line.

CLAUSE 4: That Clause 4 be amended as follows:

That sub clause (b) be amended by deleting the words "**in the production**" appearing after the word "**ingredients**" and substituting therefor the words "**through agricultural practises or manufacturing process**".

CLAUSE 5: That Clause 5 be amended as follows:

- (i) That sub clause (2) be amended by inserting the words "**in writing**" after the word "**designate**" appearing in the second line.

- (ii) That sub clause 12 be amended by deleting the words **"he"** and **"his"** appearing in the second line and substituting therefor the words **"he/she"** and **"his/her"** respectively.
- (iii) That the proviso be amended by deleting the word **"the"** appearing after the word **"have"** in the fourth line.

CLAUSE 6: That Clause 6 be amended as follows:

That sub clause (a), be amended by deleting the word **"production"** appearing in the second line and substituting therefor the word **"growing"**.

CLAUSE 7: That Clause 7 be amended as follows:

That sub clause (3), be amended by deleting the word **"he"** appearing in the third line and substituting therefor the words **"he/she"**.

CLAUSE 8: That Clause 8 be amended as follows:

- (i) That sub clause (1) be amended by deleting the word **"him"** appearing after the word **"by"** in the fourth line and substituting therefor the words **"him/her"**.
- (ii) That sub clause (3)(b) be amended by deleting the words **"him"** and **"his"** appearing on the second line and substituting therefor the words **"him/her"** and **"his/her"** respectively.

CLAUSE 9 to CLAUSE 11: - agreed to

CLAUSE 12: That Clause 12 be amended as follows:

That sub clause (a) be amended by inserting the words **"tobacco and"** after the word **"on"** appearing in the second line.

CLAUSE 13: - agreed to

CLAUSE 14: That Clause 14 be amended as follows:

That sub clause (3) be amended by deleting the words **"manufactured in Kenya"** appearing after the word **"statement"** in the second line.

CLAUSE 15 and 16: - agreed to

CLAUSE 17: That Clause 17 be amended as follows:

That sub clause (2) be amended by deleting the word **“one”** appearing after the word **“exceeding”** in the third line and substituting therefor the word **“two”**.

CLAUSE 18 and 19: - agreed to

CLAUSE 20: That Clause 20 be amended as follows:

That sub clause (3) be amended by deleting the word **“one”** appearing after the word **“exceeding”** in the third line and substituting therefor the word **“two”**.

CLAUSE 21: That Clause 21 be amended as follows:

- (i) That sub clause (6) be deleted in its entirety and subsequent sub clause be renumbered accordingly.
- (ii) That sub clause (7) be amended by deleting the words **“five hundred thousand”** appearing after the word **“exceeding”** in the third line and substituting therefor the words **“one million”**.

CLAUSE 22 to CLAUSE 24: – agreed to

CLAUSE 25: That Clause 25 be amended as follows:

That sub clause (4) be amended by deleting the words **“five hundred thousand”** appearing after the word **“exceeding”** in the third line and substituting therefor the words **“one million”**.

CLAUSE 26: That Clause 26 be amended as follows:

- (i) That a new sub clause (2) be introduced to read **“this section shall not apply to events or activities which are held for tobacco product manufacturer employees, members of the trade or investors, nor events or activities which are held or undertaken by manufacturers for community investment purposes and which contain no reference to tobacco product brands”** and subsequent subsection be renumbered accordingly.
- (ii) That sub clause (2) be amended by deleting the words **“five hundred thousand”** appearing after the word **“exceeding”** in the third line and substituting therefor the words **“one million”**.

CLAUSE 27 and CLAUSE 28: - agreed to

CLAUSE 29: That Clause 29 be amended as follows:

That sub clause (3) be amended by deleting the words "**one hundred and fifty**" appearing after the word "**exceeding**" in the third line and substituting therefor the words "**two hundred**".

CLAUSE 30 to 36: - agreed to

CLAUSE 37: That Clause 37 be amended as follows:

That sub clause (1)(b) be amended by deleting the word "**libelling**" appearing after the word "**packaging**" in the second line and substituting therefor the word "**labelling**".

CLAUSE 38 to 62: - agreed to

SCHEDULE: - agreed to

MEMORANDUM OF OBJECTS: That the memorandum of objects be amended as follows:

That **part II** be amended by deleting the words "**Clause 4**" and substituting therefor the words "**Clause 5**"