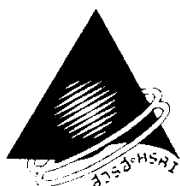


THAILAND'S
TOBACCO
CONTROL LAWS

❖ TOBACCO PRODUCTS CONTROL ACT
B.E. 2535 (1992)

❖ NON-SMOKERS' HEALTH
PROTECTION ACT B.E. 2535 (1992)



HEALTH SYSTEMS RESEARCH INSTITUTE
THAILAND

THAILAND'S TOBACCO CONTROL LAWS
TOBACCO PRODUCTS CONTROL ACT B.E. 2535 (1992)
NON-SMOKERS' HEALTH PROTECTION ACT B.E. 2535 (1992)

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FOREWORD

When the then Minister of Public Health (*Mr. Chuan Leekpai*) asked me a simple question but solemnly, “what should the government do to really get concrete results of reducing tobacco smoking?”, I thought it was a propitious time of strong political will. “So why don’t we grab this rare opportunity to draw the greatest benefit to the smoking control?”, I whispered. Hence I advised him that a National Committee for the Control of Tobacco Use (NCCTU) should be set up. In 1989, the NCCTU was actually founded with the Public Health Minister as chairman, and, myself the first secretary.

In March 1989, this unprecedented national body made a very decent start. “Strong anti-tobacco laws shall be enacted”, contended the committee. So on 28 July, the NCCTU appointed a special subcommittee to draft the bills.

We started with the “Tobacco Products Control Bill” (TPC) which was later approved in principle by the Executive Cabinet on October 15, 1990. Along the first few steps, we faced only little difficulty for two reasons. First, then the Cabinet was politically inclined to give the health movement a “consolation” for Thailand was just forced to open its market to foreign cigarettes. During the previous 18 months, the health team had maintained courageous fighting against the US Trade Representative (so-called the “Super-301 dispute”) and thereby won tremendous public support. The dispute ended with a GATT verdict ruling that tobacco importing would be allowed but the country may implement legislation to protect its people’s health. Second, then the transnational tobacco conglomerates (TTCs) had not yet gained significant influence in this country.

After the Cabinet’s approval, the bill was sent to the Judiciary Council (JC) for technical scrutinization. Here the TTCs launched stronger intervention by approaching a deputy prime minister. Apparently, they made attempts to have official seats at the JC meeting: As I observed, their request was

unusually vociferous. Consequently, the scrutiny subcommittee suspended the progressing session to consider an accommodation of the TTCs' representation. But I insisted that the TTCs should not be approved as official participants of the meeting though they could send in written information. Finally, the scrutiny moved on as I proposed.

While the TPC drafting was underway, we started the second bill -- the Non-smokers' Health Protection Bill (NSHP) -- which would ban smoking in public places. Then we had acquired the lesson from the former's path. So I had it examined quickly but carefully by legal experts so the scrutinization of the Judiciary Council could be waived or bring about less trouble. The Ministry of Public Health appointed me and **Dr. Siriwat Tiptaradol** (then chief of the Office for Tobacco Consumption Control) to defend it before a Cabinet's committee on January 8, 1991. Through less bothering course, the second bill received the final approval of the Cabinet first on February 4, 1992.

- 2 The Tobacco Products Control Bill was finished at the Judiciary Council in December 1991 and later sent back to the Cabinet for final approval. **Prof. Prakit Vattheesatokit** and I were nominated by the Minister of Public Health to defend the bill before the Cabinet on February 11, 1992. Then it looked as if the TTCs had successfully lobbied some ministers including a deputy prime minister. Removal of two important sections was proposed. The Cabinet was about to eliminate Section 8 (total ban on tobacco advertising and sale promotion) and Section 11 (ingredients must be disclosed to the health ministry). We had to assert with strong arguments and lots of supporting evidence. Eventually, Prime Minister **Anand Panyarachun** switched on the "green light" after I showed them the final evidence that Canada and the U.S. also implemented laws on ingredient disclosure.

Besides the ministers, the TTC's also approached the President of the National Assembly, subsequently at the time the two bills went from the Cabinet office to the legislative house. Consequently, another mysterious 'block' occurred preventing the bills from taking appropriate queue.

Meanwhile, the legislative session was moving quickly to its termination. If it finished before approving the bills, it mean we had to re-start from “step one”

So Prakit and I decided to unveil the mysterious slipping to the public. On front-page headlines, we denounced the government for the “questionable” delay. Our cry worked. The Prime Minister promptly demanded that the tobacco control bills take first priority on the session agenda. Eventually, the National Assembly passed them swiftly through the first reading. Our “counter-attack” became fruitful in that two-week time.

During the second reading, the TTCs made another interruption. This time two assemblymen proposed to eliminate Section 4 (which would ban the sale of tobacco products to minors) and again -- Section 11. I and my team faced another tough fighting. But luck remained on our side. Unexpectedly, one of the lawmakers brought the Philip Morris country-manager into the restricted meeting without proper permission. Spotting the “spy”, I informed the chairperson of this indecent presence. So he asked the tobacco man to leave the room. The following morning all newspapers headlined, “Marlboro Man’ slips into the meeting of the National Assembly”. The opposition was then declined.

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But the cordial public support just won might be inadequate. The TTCs had made critical approaches. The lawmakers who opposed us at the second reading were quite influential politically. That late night, with whole-hearted facilitation of the deputy public health minister (*Prof. Athasit Vejajiva*), we worked out to contact a very influential person requesting him for another green light.

On March 13, 1992, the two bills were passed smoothly at the final reading. Thailand had the laws enacted. I suspect if this represents a world record that the legislature passed two major tobacco control laws on the same day!

We won beautifully -- after two years and eight months of hard work and tough fighting against the TTCs (and their allies).

The fight along the way had raised hue and cry. It aroused the empathy of many.

I felt like a warrior who attained a sweet victory. We -- a small group of health advocates -- won completely over the formidable Tobacco Goliath.

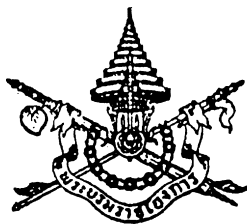
I considered it indeed a great victory for health.

Hatai Chitanondh

Hatai Chitanondh, M.D., F.I.C.S., F.R.C.S(T)

*Chairman of the Committee For
Drafting Tobacco Control Laws (1989-1992)*

October 1995



TOBACCO PRODUCTS CONTROL ACT

B.E.2535 (1992)

BHUMIBOL ADULYADEJ, REX.

Given on the 29th day of March B.E.2535

Being the 47th year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to promulgate the law on control of tobacco products;

5

Be it therefore enacted by the King, by and with the advice and consent of the National Assembly acting as the Parliament as follows:

Section 1 This Act is called the “Tobacco Products Control Act B.E.2535”

Section 2 This Act shall enter into force after the period of one hundred and twenty days as from the date of publication in the Government Gazette.

Section 3 In this Act
“Tobacco product” means the tobacco under the law on tobacco and any other product composed of tobacco leaves or nicotiana tabacum plant to be used either by smoking, sucking, sniffing, munching, eating, blowing or spraying into the mouth or nose or by other means in order to obtain the same result.

“Package” means a pack, carton or other packages used to wrap or contain the tobacco products.

“Advertising” means an act undertaken by any means to allow the public to see, hear or know the statement for commercial interest.

“Authority” means a person appointed by the Minister to execute this Act.

“Minister” means the Minister taking charge of this Act.

Section 4 No person shall be allowed to dispose of, sell, exchange or give the tobacco products to a person whom is known to the former that the buyer or receiver does not attain eighteen full years of age.

Section 5 No person shall be allowed to sell the tobacco products by vending machines.

Section 6 No person shall be allow to do any of the following acts:

(1) To sell goods or render services with the distribution, addition, gift of tobacco products or exchange with the tobacco products as the case may be,

(2) To sell the tobacco products with the distribution, addition, gift of or exchange with other goods or services,

(3) To give or offer the right to attend the games, shows, services or any other benefit as a consideration to the buyer of tobacco products or a person bringing the package of tobacco products for exchange or redemption therefor.

Section 7 No person shall be allowed to distribute the tobacco products as a sample of the tobacco products so as to proliferate such tobacco products or to persuade the public to consume such tobacco products except for a customary gift.

Section 8 No person shall be allowed to advertise the tobacco products or exposing the name or mark of the tobacco products in the printed matters, via radio broadcast, radio, television or any other advertiseable thing or to use the name or mark of the tobacco products in the shows, games, services or any other activity the objective of which is to let the public to understand that the name or mark belongs to the tobacco

products.

The provisions of paragraph one does not apply to the live broadcast from abroad via radio or television and the advertisement of the tobacco products in the printed matters printed outside the Kingdom without the objective to dispose of specifically in the Kingdom.

Section 9 No person shall be allowed to advertise the goods using the name or mark of the tobacco products as a mark of such goods in such a manner as to make such a mark to be understood as that of the tobacco products.

Section 10 No person shall be allowed to manufacture, import for sale or general distribution or advertise any other goods having such an appearance as to be understood as an imitation of such tobacco products as cigarettes or cigars under the law on tobacco or of the package of the said products.

Section 11 The tobacco products to be sold shall have the composition in accordance with the standards prescribed in the Ministerial Rules.

The manufacturer or importer of the tobacco products shall have a duty to inform the Ministry of Public Health of the particulars of composition of the tobacco products in accordance with the criteria, procedures and conditions prescribed in the Ministerial Rules.

In case where the composition of any product does not comply with the standards prescribed in paragraph one, the Minister shall have the power to order the prohibition of sale or import of such tobacco product.

Section 12 The manufacture or importer of the tobacco products must exhibit the labels on the packages of tobacco products before moving out of the manufacturing site or before importation into the Kingdom as the case may be.

The criteria, procedures and conditions of exhibition of such labels and the statements therein shall be in accordance with those published in the Government Gazette by the Minister.

Section 13 No person shall be allowed to sell the tobacco products without exhibition of the labels as provided for in Section 12 on the packages of such tobacco products.

Section 14 In performing the duties under this Act, the authority shall have the power to

(1) enter any place during sunrise and sunset or working hours of such place or enter any vehicle which in order to search in case where there is reasonable ground to suspect that the offenses hereunder have been committed;

(2) take reasonable quantity of the tobacco products as a sample for inspection;

(3) issue an inquiring letter or summon any person for interrogation or submission of the accounts, documents, evidence or other items required for consideration.

In performing the duties under paragraph one, the persons concerned shall reasonably accord facilitation therefor.

Section 15 In performing the duties under this Act, the authority shall present the identity card to the persons concerned.

Such identity cards of the authority shall be in accordance with the form prescribed in the Ministerial Rules.

Section 16 In performing the duties under this Act, the authority shall be the officers under the Penal Code.

Section 17 Any person violating Section 4 or Section 5 shall be subject to an imprisonment not exceeding one month or a fine not exceeding two thousand baht or both.

Section 18 Any person violating Section 6, Section 7, Section 9 or Section 10 shall be subject to a fine not exceeding twenty thousand baht.

Section 19 Any person violating Section 8 paragraph one shall be subject to a fine not exceeding two hundred thousand baht.

Section 20 Any manufacturer or importer failing to inform the particulars or informing incomplete particulars or informing false particulars or selling or importing the tobacco products in violation of Section 11 shall be subject to an imprisonment not exceeding six months or a fine not exceeding one hundred thousand baht or both.

Section 21 Any manufacturer or importer violating Section 12

shall be subject to a fine not exceeding one hundred thousand baht.

Section 22 Any person violating Section 13 shall be subject to a fine not exceeding twenty thousand baht.

Section 23 Any person obstructing or failing to accord facilitation to the authority in performing the duties under Section 14 shall be subject to an imprisonment not exceeding one month or a fine not exceeding ten thousand baht or both.

Section 24 In case where the violation of Section 4, Section 5, Section 6, Section 7, Section 8 paragraph one, Section 9, Section 10 or Section 13 is the manufacturer or importer, the violator shall be subject to the penalty twice that provided for such offenses.

Section 25 In case where the offender who is subject to the penalty hereunder is a juristic person, the managing director or a person responsible for the operation of such juristic person shall also be subject to the penalty provided for by law for such offenses unless it is proved that the action of such juristic person is committed without the knowledge or approval of such managing director or responsible person.

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Section 26 The Minister of the Ministry of Public Health shall take charge of this Act and shall have the power to appoint the authority and to prescribe the Ministerial Rules for the execution of this Act.

Countersigned by
Anand Punyarachan
Prime Minister

Notes: The reason for the promulgation of this Act is that at present it is recognized among the physicians that the tobacco products cause fatal diseases to the consumers as well as affect the fetus in case where the consumers are pregnant and also have adverse effect on the persons nearby. However, at present there exists no law to exclusively control the tobacco

products thereby proliferating the advertisement and promotion of the sale of tobacco products by various means especially among the juveniles who are the significant resources of the nation which creates a serious obstacle for the prevention of diseases caused by the consumption of tobacco products and for the maintenance of health of the public. It is therefore necessary to promulgate this Act.¹

¹ Published in the Government Gazette, Book 109, Part 38 dated 5 April 1992



Announcement of the Ministry of Public Health (No.2) B.E.2535

**Subject: Criteria, procedures and conditions of exhibition of
label and statements therein of cigarettes under the Tobacco
Products Control Act, B.E.2535**

By virtue of the power vested by the provisions of Section 12 of the Tobacco Products Control Act, B.E.2535, the Minister of the Ministry of Public Health hereby prescribed the announcement as follows:

11

Article 1 The cigarettes manufactured in or imported into the Kingdom shall have a label of warning statements in Thai and in parallel with the bottom side both on the front and back in the largest area of the pack or carton containing cigarette packs.

The statement in the label under the preceding paragraph must have any of the amalgamation of 10 warning statements with respect to the harm of cigarette at the ratio of one warning statement per 5,000 packs and one warning statement per 500 cartons containing cigarette packs as the case may be namely.

- (1) “Warning”
Smoking causes lung cancer.
- (2) “Warning”
Smoking causes heart disease.
- (3) “Warning”
Smoking causes pulmonary emphysema.

- (4) “Warning”
Smoking causes cerodro vascular disease.
 - (5) “Warning”
Smoking causes gradual death.
 - (6) “Warning”
Smoking is addicted.
 - (7) “Warning”
Cigarette smoke is harmful to people nearby.
 - (8) “Warning”
Cigarette smoke is harmful to a fetus.
 - (9) “Warning”
Qoitting smoking reduces the risk of fatal dis-
- ease.
- (10) “warning”
Quitting smoking strengthens the body.

Article 2 The label and statements under Article 1 shall have the following format.

(1) Having the area, and if there is a frame when including the outer edge of the frame, of not less than 25 percent of the area on the front and back of the pack or carton containing cigarette packs,

In case there is a frame surrounding the statements, the thickness of such frame shall not be less than 1 millimeter and not more than 2 millimeters,

(2) The label background being of white color and the black letters shall be used and surrounded by black frame or the label background being of black color and the white letters shall be used without a frame,

(3) Using the “Sipraya” font and having the following size

(a) A pack having the area on the front and back less than 37 square centimeters, the letters of the size of 16 points shall be used.

(b) A pack having the area on the front and back from 37 square centimeters but less than 85 square centimeters, the letters of the size of 21 points shall be used.

(c) A pack having the area on the front and back from 85 square centimeters and above, the letters of the size of 33 points shall be used.

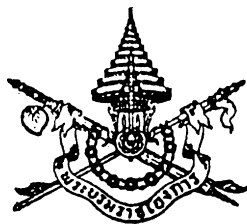
(d) The letters of the size of 36 points shall be used on a carton containing cigarette packs.

Article 3 This Announcement shall enter into force after one year as from the day following the date of its publication in the Government Gazette.¹

Announced on 25 August B.E.2535

(Signed) Piroj Ningsanond
(Mr.Piroj Ningsanond)
Minister of the Ministry of Public Health

¹ Published in the Government Gazette, Book 109, Part 38 dated 5 April 1992



NON-SMOKERS' HEALTH PROTECTION ACT B.E. 2535 (1992)

BHUMIBOL ADULYADEJ REX.
Given on the 30th day of March B.E.2535
Being the 47th year of the Present Reign

14 His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to promulgate the law on the health protection of non-smokers,

Be it therefore enacted by the King, by and with the advice and consent of the National Assembly acting as the Parliament, as follows:

Section 1 This Act is called the “Non-Smokers’ Health Protection Act B.E.2535”

Section 2 This Act shall enter into force as from the day following the date of its publication in the Government Gazette.

Section 3 In this Act
“Cigarette” means a cigarette, cigar, other cigarettes, tobacco or modified tobacco pursuant to the law on tobacco.

“Smoking” includes any act which results in the production of smoke from the burning of cigarette.

“Public place” means a place or any vehicle where the public is entitled to enter.

“Operator” means an owner, manager, supervisor or a person responsible for the operation of the public place.

“Non-smoking area” means an area where smoking is prohibited.

“Smoking area” means an area where smoking is allowed.

“Authority” means a person who is appointed by the Minister to execute this Act.

“Minister” means the Minister taking charge of this Act.

Section 4 The Minister shall have the power to publish in the Government Gazette

(1) designating the names of types of public places where the health of non-smokers shall be protected;

(2) designating any part or all of the public places under (1) as a smoking or non-smoking area,

(3) designating the condition, nature and standard of non-smoking or smoking areas with respect to smoke or air ventilation;

(4) designating the criteria and procedures of sign demonstration in the smoking or non-smoking areas.

The publication under (3) or (4) shall also fix the date, time or period on which the operator must complete such compliances.

Section 5 After publication by the Minister under Section 4, the operator shall have the duty

(1) to arrange any part or all of the public places as the smoking and non-smoking areas;

(2) to arrange the smoking area to have such condition, nature and standard as designated by the Minister;

(3) arrange for the signs in the smoking or non-smoking areas in accordance with the criteria and procedures designated by the Minister.

Section 6 No person shall be allowed to smoke in a non-smoking area,

Section 7 The authority shall have the power to enter such public places as published by the Minister under section 4(1) and (2) during sunrise and sunset or working hours of such places for inspection or supervision of the implementation of this Act

Section 8 In performing the duty, the authority shall present the identity card to the persons concerned.

Such identity card of the authority shall be in accordance with the form prescribed by the Minister and published in the Government Gazette.

Section 9 The operator and persons concerned with the public places shall reasonably facilitate the authority performing the duty under Section 7.

Section 10 In executing this Act, the authority shall be the officers under the Penal Code.

Section 11 Any operator failing to comply with Section 5(1) shall be subject to a fine not exceeding twenty thousand baht.

Any operator failing to comply with Section 5(2) shall be subject to a fine not exceeding ten thousand baht.

Any operator failing to comply with Section 5 (3) shall be subject to a fine not exceeding two thousand baht.

Section 12 Any person violating Section 6 shall be subject to a fine not exceeding two thousand baht.

Section 13 Any person obstructing or failing to facilitate the authority performing the duty under Section 7 shall be subject to an imprisonment not exceeding one month or a fine not exceeding two thousand baht or both.

Section 14 The competent inquiring officer inquiring a case shall have the power to effect the fine in accordance with the Criminal Procedure Code.

Section 15 The Minister of the Ministry of Public Health shall take charge of this Act and shall have the power to appoint the authorities as well as to prescribe the announcements for the execution of this Act.

Such announcements shall enter into force after their publication in the Government Gazette.

Countersigned by
Anand Punyarachun
Prime Minister

Notes: The reason for the promulgation of this Act is that it is recognized among the physicians that cigarette smoke causes several harms to the health of smokers and non-smokers alike such as lung cancer or cancer of other organs and Coronary Artery Thrombosis. Cigarette smoke also aggravates the symptom of certain diseases such as chronic bronchitis or allergies. Moreover, it is proved that the non-smokers inhaling such cigarette smoke of other persons suffer health deterioration the same way as cigarette smokers do especially in case where the inhaling persons of such cigarette smoke are children. It is therefore expedient to protect the health of non-smokers against the cigarette smoke in the public places by prohibiting cigarette smoking in certain places or by designating specific smoking areas or otherwise. It is therefore necessary to promulgate this Act.¹

¹ Published in the Government Gazette, Book 109, Part 40 dated 7 April 1992



Announcement of the Ministry of Public Health (No.2) B.E.2535

Subject: Designation of the names or types of public places for which the protection of health of non-smokers is provided and designation of the areas or coverage thereof as the smoking or non-smoking areas.

18

By virtue of the power vested by the provisions of Section 4(1) and (2) and Section 15 of the Non-Smokers' Health Protection Act B.E.2535, the Minister of the Ministry of Public Health hereby prescribes this Announcement as follows:

Article 1 The following public places shall be the places for which the protection of health of non-smokers is provided.

- (1) General commuting buses and air-conditioned buses,
- (2) Taxi cars and air-conditioned taxi cars,
- (3) Air-conditioned wagons of the Railroad Authority of Thailand only for the areas where air-conditioning system is provided,
- (4) Taxi boats and commuting boats,
- (5) Domestic airliners,
- (6) Passenger elevators,
- (7) School buses,
- (8) Entertainment theaters.

The public places under paragraph one, while in operation rendering or receiving service, shall be non-smoking areas.

Article 2 The following public places shall be the places for which protection of health of non-smokers is provided.

(1) Schools or educational institutions at the high school level or lower,

(2) Cultural exhibition building, museums and art galleries,

(3) Libraries,

(4) Kindergarten nurseries,

(5) Air-conditioned taxi boats only for the areas where air-conditioning system is provided,

The public places under paragraph one, while in operation, rendering or receiving services, shall be non-smoking areas except for the areas of private rooms or private offices of the operators in such public places.

Article 3 The following public places shall be the places for which protection of health of non-smokers is provided.

(1) Hospitals,

(2) Buildings of the universities, colleges and educational institution of the university level,

(3) Shopping centers and department stores only for the areas where air-conditioning system is provided,

(4) Showroom or exhibition building only for the areas where air-conditioning system is provided,

(5) Indoor stadiums,

(6) Government and state enterprise places only for the areas where public contacts are normally carried out,

(7) Banks and financial institutions only for the areas where public services are normally rendered,

(8) Entertainment theaters only for the waiting areas where air-conditioning system is provided,

(9) Bus stop only for the areas where air-conditioning system is provided,

The public places under paragraph one, while in operation, rendering or receiving services shall be non-smoking areas except for

- (1) the private rooms or private offices of the operators in such public places;
- (2) the areas designated as “smoking areas”

Article 4 The following public places shall be the places for which protection of health of non-smokers are provided.

- (1) General wagons of the Railroad Authority of Thailand,
- (2) Food-selling places and catering places only for the areas where airconditioning system is provided.

The public places under paragraph one, while in operation, rendering or receiving services shall be non-smoking areas except for the areas designated as smoking areas the coverage of which must not exceed 50 percent of such public places.

Article 5 The Announcement shall enter into force after thirty days as from the day following the date of its publication in the Government Gazette.¹

Announced on 24 July B.E.2535

(Signed) Piroj Ningsanond
(Mr.Piroj Ningsanond)

Minister of the Ministry of Public Health

¹ Published in the Government Gazette, Book 109, Part 114 dated 10 September 1992



Announcement of the Ministry of Public Health (No.3) B.E.2535

Subject: Designation of the mark of smoking and non-smoking areas

By virtue of the power vested by the provisions of Section 4(4) and Section 15 of the Non-Smokers' Health Protection Act B.E.2535, the Minister of the Ministry of Public Health hereby prescribes this Announcement as follows:

21

Article 1 The sign of smoking area in the public places is a circle sign of white background with a diameter of not less than 5 inches with a blue parameter of not less than 0.5 inch wide having a picture of a cigarette with black smoke in the middle. The width of the cigarette is equal to that of the blue parameter and having the statement of “smoking area” underneath the circle sign.

Article 2 The sign of non-smoking area in the public places is a circle sign of white background with a diameter of not less than 5 inches with a red parameter of not less than 0.5 inch wide having a picture of a cigarette with black smoke in the middle crossed by a red ban. The width of the cigarette and the red ban across the cigarette is equal to that of the red parameter and having the statement of “non-smoking area, smoking is prohibited, violation thereof entailing a fine not exceeding 2,000 baht” underneath the circle sign.

Article 3 The details and format of the sign of smoking and non-smoking areas are attached herewith.

Article 4 The sign under Article 1 and Article 2 must be exhibited openly in the area as follows:

- (1) Entrance gate of such public places;
- (2) Any other place in such public places which can be conspicuously observed.

Article 5 This Announcement shall enter into force after thirty days as from the day following the date of its publication in the Government Gazette.¹

Announced on 24 July B.E2535

(Signed) Piroj Ningsanond

(Mr.Piroj Ningsanond)

Minister of the Ministry of Public Health

¹ Published in the Government Gazette, Book 109, Part 114 dated 10 September 1992