

LAW NO. 21,363 THAT SETS FORTH RULES REGARDING COMMERCIALIZATION AND ADVERTISING OF ALCOHOLIC BEVERAGES IS PUBLISHED

On August 6th of 2021, Law No. 21,363 (hereinafter the “Law”) was published in the Official Gazette. The Law introduces modifications to Law No. 19,925 about expenditure, commercialization and production of alcoholic beverages, and other associated Laws, establishing different limitations to the advertising of alcoholic beverages, as well as the obligation of including warnings about harmful consumption in the container of these kind of products.

Among the modifications introduced by this Law, we highlight the following:

Incorporation of warnings and additional information in labeling

The Law introduces a new Title II Bis to Law No. 19,925, named “About the information to the consumer and advertising”.

This new Title introduces the obligation for **any beverage having an alcoholic graduation equal to or above 0,5 degrees** to include, in its container, box and/or packaging, a visible warning about the consequences of its harmful consumption. Said warning shall consist in a legend with phrases regarding the risks of excessive alcohol consumption, along with graphic signs especially intended for those segments of greater risk, such as pregnant women, minors, and drivers. Additionally, the Law establishes that containers of these products shall also include a graphic warning sign, either adhered or printed, showing a car, a pregnant woman, or the number 18, each one fully circled, or whatever the correspondent regulations dictate.

It also establishes the obligation of including said warning in any advertising communicated through written media, or posters or advertisement signs of any kind, be they physical or virtual, audiovisual advertising and radio announcements

The characteristics, size and content of these warnings will be determined by ancillary regulations.

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Additionally, manufacturers, producers, distributors, and importers of alcoholic beverages shall inform in its containers or labels its **energy content**.

Responsibility for these labels will correspond to the producer or manufacturer, for national products, or to the importer, for imported alcoholic beverages, prior to its commercialization in Chile.

Advertising restrictions

At the same time, the Law introduces several limitations to the advertising of alcoholic beverages:

- Advertising of alcoholic beverages in television will be restricted to the timeframe between 22:00 and 6:00.
- Radio advertising, whether direct or indirect, will be restricted to the timeframe between 16:00 and 18:00.
- Prohibition of any form of advertising of alcoholic beverages –whether commercial or non-commercial, direct or indirect– in sports events, except for major sporting events (to be defined in the regulations).
- Prohibition to include, in any sports item massively distributed, as well as in promotional items linked to any kind of sports activity, the name, logo or images related to alcoholic beverages, including any sign or reference to their brands or products.
- Prohibition of any form of advertising of alcoholic beverages –whether commercial or non-commercial, direct, or indirect– in any product, publication or activity exclusively intended for minors. The Law also establishes a prohibition of selling these products by the means of commercial hooks such as gifts, contests, games, or other child attracting elements.
- Prohibition of developing propaganda that encourages the consumption of alcohol in public places, such as streets, squares, or beaches. However, signs found on roads or highways that allow arriving at places of production of alcoholic beverages, such as vineyards, are excepted.

Sanctions for the infringement of the new obligations introduced by the Law

The Law includes specific sanctions for the infringement of the new obligations and restrictions:

- In the event of infringement of the obligations related to warnings and other new labeling requirements (article 40 bis), the authority will sanction with a fine between 5 to 200 Monthly Tax Units (approximately, 3,351 to 13,405 USD), together with the seizing of the beverages.
- In the event of infringement of the advertising restrictions (article 40 ter), the authority will sanction with a fine between 20 to 200 Monthly Tax Units (approximately, 1,340 to 13,405 USD).

These sanctions may be doubled in case of recurrence.

Commencement

The new obligations regarding advertising and labeling will come into force within one year since the publication of the correspondent regulations, except for the obligation of informing the energy content of the product, which will come into force after 24 months since the publication of the Law, namely, on August 7th of 2023.

The new restrictions regarding advertising (including those especially related to events and sports equipment), will come into force after 36 months since the publication of the correspondent regulations.

The Law also establishes that the regulations shall be issued within one year.

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