



**Government of West Bengal
Office of the District Magistrate
Kalimpong**

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Memorandum

The Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 was enacted in May 2003 essentially to discourage the consumption of cigarettes and other tobacco products and to protect youth and the general population from the harmful effects of tobacco use. This act is applicable to the entire country.

Section 5 of COTPA prohibits direct and indirect advertisements, promotion and sponsorship of use or consumption of cigarettes or any other tobacco products and Section 6(a) of COTPA protects the minors and youths from tobacco by regulating and restricting the tobacco business. All shops which sales tobacco are to abide by the law to comply with the provisions of Section 5 and Section 6(a) of COTPA.

For compliance of Section 5 the following things must be ensured by the owner or the manager or the in-charge of the affairs of any point of sale where cigarettes or other tobacco products are sold:

1. At the point of sale a white board may be displayed to show that tobacco products are sold here. However, the size of the board used for the advertisement of cigarettes and any other tobacco products displayed at the entrance of a warehouse or a shop where cigarette or any other tobacco product is offered for sale shall not exceed sixty centimeters by forty-five centimeters
2. Each such board shall contain in Nepali and English, one of the following warnings occupying the top edge of the board in a prominent manner measuring twenty centimetres by fifteen centimetres, namely:-
 - (i) Tobacco causes cancer, or
 - (ii) Tobacco kills
3. The health warning referred to in sub-rule 2 must be prominent, legible and in black colour with a white background
4. The display board shall only list the type of tobacco products available and no brand pack shot, brand name of the tobacco product or other promotional message and picture shall be displayed on the board. The display board shall not be backlit or illuminated in any manner

In order to ensure the compliance of Section 6(a) the owner or the manager or the in-charge of the affairs of a place where cigarettes or other tobacco products are sold shall ensure that,-

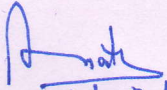
- (a) A board with a warning as specified in "Annexure I" is displayed at the entrance of the place where cigarettes or other tobacco products are sold
- (b) No tobacco product is sold through a vending machine;
- (c) No tobacco product is handled or sold by a person below the age of eighteen years;
- (d) Tobacco products are not displayed in a manner that enables easy access of tobacco products to persons below the age of eighteen years.

(2) The onus of proof, that the buyer of the tobacco product is not a person below the age of eighteen years lies with the seller of the tobacco products and the seller in case of doubts may request the buyer to provide appropriate evidence or age proof of having reached eighteen years of age.

Whereas Government of India has passed Juvenile Justice (Care and Protection of Children) Act, 2015 has become enforceable from January 15, 2016 across whole of India. According to Section 77 of this Act says that, 'Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a terms which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees'. According to Section 2(12) of the Act "child" means a person who has not completed eighteen years of age.

It is to be further noted that the difference between the two legislations is set to rest by the legal fact that Juvenile Justice (Care and Protection of Children) Act, 2015 being a special law it shall prevail over COTPA, 2003. Therefore, if any person is found giving or causes to be given tobacco product to any person below eighteen (18) years of age he shall be dealt with in the new legislation, i.e. Juvenile Justice Act, 2015.

It is essential that all necessary steps are to be taken to implement Section 5 and Section 6(a) of COTPA and Section 77 of Juvenile Justice Act, 2015 in Kalimpong to ensure that the display of specified Section 6a signage under COTPA and no visible tobacco advertisements at the point of sale, the Kalimpong District Administration will go for enforcement drive and the violators will be punished under the appropriate provision of the laws.

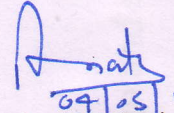

09/03/18
District Magistrate
Kalimpong

Memo No. 342 (70) /COTPA

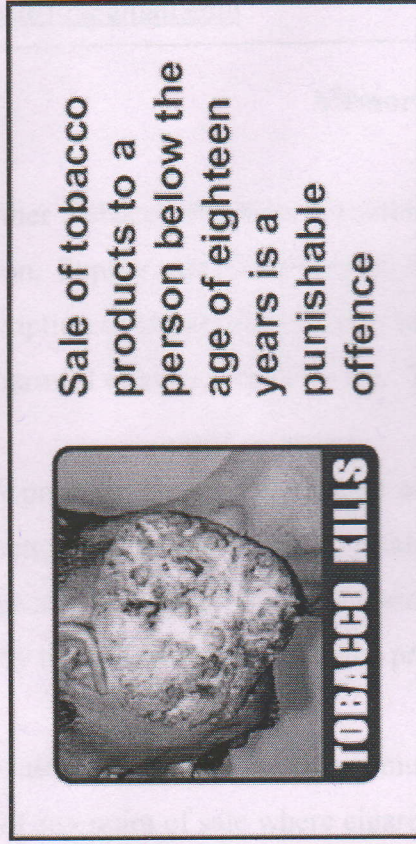
Date: 04/05/2018.

Copy forwarded for kind information and taking necessary action to:

1. The Principal Secretary, GTA, Darjeeling
2. The Mission Director (NHM), Govt of WB, Deptt of H&FW
3. The Superintendent of Police, Kalimpong
4. The Additional District Magistrate (D)
5. The Sub-Divisional Officer, Kalimpong
6. The Officer in Charge of Health, Kalimpong
7. The Executive Officer, Kalimpong Municipality, Kalimpong
8. The Regional Transport Officer, Kalimpong
9. The BDO _____ Dev. Block (All)
10. The Commercial Tax Officer, Kalimpong
11. The Superintendent of Excise, Kalimpong
12. The District Inspector of Schools (Secondary), Kalimpong
13. The District Inspector of Schools (Primary), Kalimpong
14. The AI of School, Kalimpong with a request to send the same to all HM, Secondary School under your jurisdiction for implementation it strictly.
15. The Assistant Labour Commissioner- Kalimpong
16. The Dy. Director Agricultural Officer, Kalimpong
17. The Dy. Chief Medical Officer of Health-II, Kalimpong
18. The Dy. Chief Medical Officer of Health-III, Kalimpong
19. The ACMOHs, Kalimpong
20. The Principal, _____, Kalimpong (All)
21. The HM, _____ School, Kalimpong (All)
22. The Senior Post Master, Kalimpong Head Post Office
23. The District Library Officer, Kalimpong
24. The G.M, District Industries Centre, Kalimpong
25. The District Information and Cultural Affairs Officer, Kalimpong
26. The BMOH/MOIC, _____ BPHC/RH(all)
27. The CDPO, _____ Block (all)
28. The SI of Schools _____ (all) with a request to send the same to all HM, Secondary School under your jurisdiction for implementation it strictly.
29. The CA to Principal Secretary, Govt of WB, Deptt of H&FW to apprise.
30. The Executive Director, MANT, Kolkata


04/05/18
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Section- 6(A)- Signage- Options



Specifications as given in the Compact Disk : Pictorial image shall occupy 50% of the board (60cm x30cm)

The design and specification of board can be downloaded from <http://mohfw.nic.in/showfile.php?lid=937>