

Client Alert

February 2020

For further information, please contact:

Seck Yee Chung
Partner
+84 28 3520 2633
YeeChung.Seck@bakermckenzie.com

Nguyen Lan Phuong
Partner
+84 28 3520 2643
LanPhuong.Nguyen@bakermckenzie.com

Vietnam adopts new law to tackle the effects of alcohol

On 14 June 2019, the National Assembly of Vietnam adopted Law No. 44/2019/QH14 on Prevention and Fighting against the Negative Effects of Alcohol ("**Alcohol Law**"). The new Alcohol Law took effect on 1 January 2020. The draft decree guiding the details of a number of articles of the Law on Prevention and Fighting against the Harmful Effects of Liquor and Beer ("**Draft Decree**") is currently under consideration to provide further guidance on a number of articles of the Alcohol Law.

The aim of the Alcohol Law and Draft Decree is to prevent and control the harmful effects of alcohol through education and reducing the availability and ease of access to alcohol.

1. Prohibitions

The Alcohol Law introduces a wide range of measures in regards to limiting the sale, consumption and use of alcohol, which include:

- It is prohibited to incite, persuade or coerce another person to consume alcohol, as well as to drive under the influence of alcohol, regardless of the driver's blood alcohol level.
- The sale and consumption of alcohol has been restricted in certain public areas, including health facilities, education institutions, centres targeted towards minors as well as workplaces of regulatory authorities and any other place as prescribed by the government. Under the Draft Decree, the consumption of alcohol will also be banned at parks, bus stations, cinemas, theatres, and cultural and sport establishments during times of operation.
- Furthermore, it is prohibited to sell, supply or promote alcohol to minors under the age of 18 or to employ them in the alcohol industry in any capacity.
- There are now also various restrictions on trading in alcohol, particularly in regards to trading without a license, or trading in, stockpiling or transporting counterfeit or smuggled alcohol, illegally importing alcohol or importing alcohol that uses unqualified and unknown-origin goods.

2. Advertising and Promotion of Alcohol

The Alcohol Law places various restrictions on the means and content of advertisements of alcohol, including the ban on advertising or promoting alcohol products with an alcohol content greater than 15% by volume (15% ABV). Advertisements for alcohol containing between 5.5% and 15% ABV have been explicitly restricted from appearing at cultural, theatre, movie and sports events and activities, or on outdoor advertising facilities (except for





signboards of alcohol trading entities). In addition, the following further restrictions apply generally to all alcohol advertisements:

- Alcohol advertisements cannot feature inaccurate or misleading information about the health effects of alcohol and must contain warnings regarding the negative effects of drinking. The Draft Decree specifies that alcohol advertisements appearing on online, visual or social media platforms must display written warnings in colors that contrast with background colors to ensure visibility and that such warnings must occupy a minimum of 10% of the advertisement area. Such warnings must be written and occupy the width of the entire screen during television advertisements and are to be read aloud and at the same speed as all other content during audio or broadcast advertisements. The exact phrasing required for use in such warnings has been provided for in the Draft Decree.
- Advertisements appearing on electronic formats, including social media, must contain mechanisms to filter and block access to minors. These mechanisms are elaborated on under the Draft Decree, which states that advertisements cannot be displayed until visitors declare their age and that advertisements shall not be linked with or promote user accounts, websites, channels and others means of information on the Internet. Alcohol advertisements that fail to meet these standards, but were implemented before the effective date of the Draft Decree, may remain until the end of the advertising contract.
- Further, advertisements cannot contain content or images that target children, students or pregnant women or appear at events or facilities catered towards minors. Alcohol products may also not be advertised on visual or audio programs for children or between 6 p.m. to 9 p.m., with the exception of pre-installed advertisements during live sports broadcastings licensed from overseas. The Draft Decree provides a further exception for advertisements of alcohol under 5.5% ABV appearing between 6 p.m. and 9 p.m. if the advertisement is for the sponsor of a venue of a regional, continental or world sports event held in Vietnam during live broadcasting. The Draft Decree also restricts the use of images of actors or actresses drinking alcohol in theatrical, cinematographic and television works to artistic, rather than promotional, purposes. Such artistic content cannot be targeted towards minors and is further subject to certain conditions and the approval of competent agencies as per the Cinematography Law and Decree No. 15/2016/ND-CP amending and supplementing a number of articles of Decree No. 79/2012/ND-CP on art performances and fashion shows; beauty and model contests; and circulation of and trading in audio and visual recordings of song, dance, musical and theatrical performances.
- Alcohol products cannot be advertised on vehicles or by outdoor means if the outdoor advertisement appears within 100 meters or 200 meters (depending on certain specific parameters) from educational and recreational institutions catered to minors, and 100 meters from vocational training establishments and universities (except for the signboards of alcohol trading establishments). Any advertisements falling within these metrics, but implemented before



www.bakermckenzie.com

Baker & McKenzie (Vietnam) Ltd.
12th Floor, Saigon Tower
29 Le Duan, Blvd District 1
Ho Chi Minh City, Vietnam
Tel: +84 28 3820 5585
Fax: +84 28 3829 5618

Baker & McKenzie (Vietnam) Ltd.
– Hanoi Branch
Unit 1001, 10th floor
Indochina Plaza Hanoi
241 Xuan Thuy Street
Cau Giay District
Hanoi 10000, Vietnam
Tel: +84 24 3825 1428
Fax: +84 24 3825 1428

the effective date of the Draft Decree shall be permitted to remain only until the relevant advertising contract ends.

3. Management of Alcohol Supply

The Alcohol Law provides stringent restrictions on the trade and circulation of alcohol within Vietnam. Namely, all alcohol products must conform to technical regulations as well as food safety and environmental regulations. The Alcohol Law also prescribes that any entity that wants to trade alcohol must be established as prescribed by law and obtain all necessary licenses.

4. E-Commerce

The Draft Decree features the following additional restrictions on the sale and promotion of alcohol on e-commerce platforms:

- Online sellers will be required to include an application for internet users to declare their name and age before accessing information and to declare their name, age, residential address and cashless payment method prior to processing purchasing information. Retailers will also be required to check that consignees are at least 18 years old before completing any deliveries of alcohol.
- E-commerce sites will be prohibited from providing links that allow users to access databases of other organizations and individuals selling alcohol or from displaying advertisements that link to and promote user accounts, websites and other channels on the Internet.
- Organizations and individuals selling alcohol on e-commerce platforms before the effective date of the Draft Decree shall be required to implement the above requirements by June 30, 2020.

* * *

The Alcohol Law and subsequent Draft Decree place stringent conditions and restrictions on alcohol manufacturers and distributors as well as consumers. These regulations represent a concerted effort to clamp down on the sale and consumption of alcohol within Vietnam. The ensuing effects of these strict regulations will impact all aspects of the alcohol supply chain as well as related third parties, such as advertisers, venues and marketing firms.