

HEALTH PROMOTION FOUNDATIONACT,  
B.E. 2544 (2001)<sup>1</sup>

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BHUMIBOL ADULYADEJ, REX;  
Given on the 27<sup>th</sup>Day of October B.E. 2544;  
Being the 56<sup>th</sup>Year of the Present Reign.

His Majesty King BhumibolAdulyadej is graciously pleased to proclaim that:  
Whereas it is expedient to have a law on the health promotion foundation;  
This Act contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section31 and section 48 of the Constitution of the Kingdom of Thailand so permit by virtue of law;  
Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1.** This Act is called the “Health Promotion Foundation Act, B.E. 2544 (2001)”.

**Section 2.**<sup>2</sup> This Act shall come into force as from the day following the date of its publication in the Government Gazette.

**Section 3.**In this Act:  
“alcoholic beverage” means an alcoholic beverage under the law on alcoholic beverage;

“tobacco” means tobacco under the law on tobacco;

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<sup>1</sup> Translated by Mrs. Thararut Hanlumyung under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

<sup>2</sup> Published in the Government Gazette, Vol. 118, Part 102 Kor, Page 6, dated 7<sup>th</sup>November B.E. 2544 (2001).

“tax” means a tax under the law on alcoholic beverage and a tobacco stamp duty under the law on tobacco;

“health promotion” means any act which is aimed at strengthening a person’s physical, mental and social well-being, by supporting a person’s behavior, social conditions and environment conducive to having a strong health, a firm mental condition, a long life and a good living quality;

“Foundation” means the Health Promotion Foundation;

“Committee” means the Health Promotion Foundation Committee;

“Assessment Committee” means the Committee to Assess the Performance of the Foundation;

“manager” means the manager of the Health Promotion Foundation;

“Minister” means the Minister having charge and control of the execution of this Act.

**Section 4.** The Prime Minister, the Minister of Finance and the Minister of Public Health shall have charge and control of the execution of this Act.

## CHAPTER I

### ESTABLISHMENT OF THE FOUNDATION

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**Section 5.** There shall be a foundation called the “Health Promotion Foundation”.

The Foundation shall be a juristic person and shall have the following objectives:

(1) to encourage and support health promotion of population at every age pursuant to the national health policy;

(2) to create awareness on hazardous behaviour from consumption of alcoholic beverages, tobacco, or substances or other health-deteriorating materials, and to create belief in health promotion to people of all levels;

(3) to support campaigns to reduce the consumption of alcoholic beverages, tobacco, or substances or other health-deteriorating materials, as well as to enable people to be aware of relevant laws;

(4) to study, research or support the study or research, training or arrangement for a meeting on the support for health promotion;

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(5) to develop the capacity of communities on health promotion by communities or private organizations, organizations for public benefit, government agencies, state enterprises or other state agencies;

(6) to support campaigns on health promotion through various activities in a manner which is conducive for people to strengthen their health, make the best use of their free time, and reduce their consumption of alcoholic beverages, tobacco, or substances or other health-deteriorating materials.

**Section 6.** The Foundation shall consist of the following money and assets:

- (1) subsidy of the Foundation collected under section 11;
- (2) money and assets received and transferred under section 43;
- (3) subsidy from the Government;
- (4) subsidy from the private sector or other organization, including from foreign sources or international organizations and money or asset being donated;
- (5) fees, maintenance fees, remuneration, service fees or income from its operation;
- (6) fruit of money or income accruing from asset of the Foundation.

**Section 7.** Activities of the Foundation shall not be subject to the law on labour protection, the law on labour relations, the law on labour relations of state enterprises, the law on social security, and the law on monetary compensation. However, the manager, officials and employees of the Foundation shall receive remuneration not less than as determined in the law on labour protection, the law on social security and the law on monetary compensation.

**Section 8.** The Foundation shall have its headquarter in Bangkok or in other *Changwat* as determined by the Minister by publishing in the Government Gazette.

**Section 9.** The Foundation shall have the power to conduct activities within the scope of its objectives under section 5, and such powers shall include:

- (1) to have ownership, possessory right and property right;
- (2) to create right or perform any juristic act both within and outside the Kingdom;
- (3) to seek benefit from assets of the Foundation;

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(4) to disseminate information and publicize in order to campaign for public awareness on the danger of consumption of alcoholic beverages, tobacco or substances or other health-deteriorating materials and on health promotion, as well as to disseminate and publicize on relevant laws;

(5) to perform any other tasks relating to or in connection with the achievement of objectives of the Foundation.

**Section 10.** The Foundation shall have the status of a state agency which is not a government agency or a state enterprise under the law on budgetary procedures, and the income of the Foundation is not required to be remitted as income of the State.

**Section 11.** The Foundation shall have the power to collect subsidy from a person who is under the duty to pay tax under the law on alcoholic beverages and the law on tobacco at a rate of two per cent of the tax collected from alcoholic beverages and tobacco under the law on alcoholic beverages and the law on tobacco.

In calculating subsidy of the Foundation pursuant to the rate as determined in paragraph one, if there is fraction of one *satang*, it shall be discarded.

**Section 12.** For the purpose of collecting and remitting subsidy of the Foundation:

(1) the Excise Department and the Customs Department shall be the authorities to collect subsidy of the Foundation to be remitted as income of the Foundation, without having to remit such income to the Ministry of Finance as income of the State, pursuant to the regulations as determined by the Minister of Finance;

(2) subsidy of the Foundation shall be deemed as a tax, but shall not be accumulated in the calculation as value of the tax.

**Section 13.** A person who is under the duty to pay tax under the law on alcoholic beverages and the law on tobacco shall have a duty to remit subsidy of the Foundation pursuant to the rate as determined under section 11, together with payment of the tax pursuant to the regulations as determined by the Minister of Finance.

**Section 14.** In the case where a person who is under the duty to pay tax under the law on alcoholic beverages and the law on tobacco receives exemption or refund

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of the tax, such person shall be exempted or refunded with the subsidy of the Foundation pursuant to the regulations as determined by the Minister of Finance.

**Section 15.** In the case where a person who is under the duty to remit subsidy of the Foundation fails to remit the subsidy or remits the subsidy after the specified period of time or remits an incomplete amount of the subsidy, in addition to having committed an offence under this Act, such person shall pay an additional amount at a rate of two per cent per month of the amount of money that has not been remitted or remitted after the specified period of time or the remaining amount of the subsidy that has to be remitted, as the case may be, as from the date the remission is due until the date the subsidy is remitted. However, the additional amount calculated shall not exceed the amount of the subsidy of the Foundation and shall also be deemed as the subsidy of the Foundation.

In calculating the period of time under paragraph one, a fraction of a month shall be counted as one month.

**Section 16.** The Foundation shall have the power to expend from the Foundation, pursuant to the criteria and procedures as determined by the Committee as the following expenditures:

- (1) expenditures in the operation of the Foundation;
- (2) expenditures in the conduct of activities under section 5 and section 8;
- (3) other expenditures pursuant to the criteria as determined by the

Committee.

## CHAPTER II

### MANAGEMENT OF THE FOUNDATION

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**Section 17.** There shall be a committee called the “Health Promotion Foundation Committee”, consisting of:

- (1) the Prime Minister as Chairperson;
- (2) the Minister of Public Health as the first Vice-Chairperson;
- (3) one qualified member appointed by the Council of Ministers from those qualified persons under (5) as the second Vice-Chairperson;
- (4) *ex officio* members, namely a representative from the Office of the National Economic and Social Development Board, a representative from the Office of the

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Permanent Secretary, Prime Minister Office, a representative from the Ministry of Finance, a representative from the Ministry of Transport, a representative from the Ministry of Interior, a representative from the Ministry of Labour, a representative from the Ministry of Education, a representative from the Ministry of Public Health, and a representative from the Ministry of University Affairs;

(5) eight qualified members appointed by the Council of Ministers from persons selected from those with knowledge and experience on health promotion, community development, mass communication, education, sports, art and culture, law or administration, at least one-half of whom shall operate in the private sector.

The manager shall be member and secretary, and the manager shall appoint an official of the Foundation as assistant secretary.

Selection of a qualified member shall be in accordance with the criteria, procedures and conditions as determined by the Committee.

**Section 18.**A qualified member shall have qualifications and not be under the prohibitions, as follows:

- (1) being of Thai nationality;
- (2) being not more than seventy years of age;
- (3) not being bankrupt, being an incompetent person or a quasi-incompetent person;
- (4) not having been sentenced by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.
- (5) not being a person holding political position, a member of local assembly or local administrator, a director of or a person holding any position responsible for the administration of a political party, an advisor or an official of a political party;
- (6) not being a person whose behaviour is contrary to or inconsistent with the objectives of the Foundation under section 5;
- (7) not being an interested person in the conduct of activities of the Foundation or in the conduct of activities which are contrary to or inconsistent with the objectives of the Foundation, or a person who receives benefit from activities which are contrary to or inconsistent with the objectives of the Foundation, whether directly or indirectly, except where that person carries out such activities for public benefit and does not seek profit.

**Section 19.**A qualified member shall hold office for a term of three years.

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In the case where a qualified member vacates office before the expiration of the term, a new qualified member shall be appointed to replace the member vacating office, except where the term of that member is less than ninety days. The new member appointed to replace the member vacating office shall be in office for the unexpired term of office of the qualified member already appointed.

Upon the expiration of the term of office under paragraph one, if a new qualified member has not yet been appointed, the qualified member whose term of office has expired shall be in office to continue to perform his or her duties until a new qualified member assumes his or her duties.

A qualified member who vacates office upon the expiration of the term may be reappointed.

**Section 20.** In addition to vacating office on the expiration of term, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to negligence in the performance of the duty, disgraceful behaviour, or incapability;
- (4) being disqualified or being under any of the prohibitions under section 18.

**Section 21.** The Committee shall have the powers and duties to control and monitor the Foundation to operate in accordance with the objectives as determined in section 5. Such powers and duties shall include:

- (1) to determine administrative policies and approve an operational plan of the Foundation;
- (2) to approve an annual operational plan, a financial plan and an annual budgetary plan of the Office;
- (3) to determine the criteria and procedures of allocating money to support activities in various fields;
- (4) to raise funding;
- (5) to control and monitor the general operation and administration, as well as to issue regulations or by-laws of the Foundation in the following matters:
  - (a) internal division of work within the Office of the Foundation and the scope of duty of such division;

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(b) qualifications and prohibitions of the manager and the criteria for the selection of the manager;

(c) the determination of positions, specific qualifications of officials and employees of the Foundation;

(d) the determination of rate of salaries, wages and other remuneration of officials and employees of the Foundation;

(e) the selection, recruitment, appointment, discharge, disciplines and disciplinary penalties, dismissal from position, complaint and appeal against penalties of officials and employees of the Foundation, including the procedures and conditions for hiring an employee;

(f) the administration and management of finance, procurement and assets of the Foundation, including accounting and deletion of assets from an account;

(g) the provision of welfare and other benefit to officials and employees of the Foundation;

(h) the scope of powers and duties and regulations relating to the performance of duty of an internal auditor.

(6) to present an annual report and views to the Minister for the execution in accordance with the objectives of the Foundation;

(7) to perform any other task which is necessary or continuing in order to achieve the objectives of the Foundation.

**Section 22.** At a meeting of the Committee, the presence of not less than one-half of members is required to constitute a quorum.

In a meeting, if the Chairperson does not attend or is unable to perform the duties, the first Vice-Chairperson shall preside over the meeting. If the first Vice-Chairperson does not attend or is unable to perform the duties, the second Vice-Chairperson shall preside over the meeting. If both the first Vice-Chairperson and the second Vice-Chairperson do not attend or are unable to perform the duties, the meeting shall elect one member to preside over the meeting.

In the discharge of duty, any member having a direct or indirect interest in the matter under consideration by the Committee shall inform the meeting of such interest. The meeting shall consider whether or not such member should remain in the meeting or take part in the decision on that matter. Such consideration shall be made pursuant to the regulations as determined by the Committee.

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A decision of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

**Section 23.** The Committee shall have the power to appoint a qualified person who has expertise as advisor to the Committee, and shall have the power to appoint a sub-committee to consider or perform a task as entrusted by the Committee.

Section 22 shall apply to the meetings of the sub-committee, *mutatis mutandis*.

**Section 24.** The Chairperson, members of the Committee, advisors and members of the sub-committee shall receive a meeting allowance or other remuneration pursuant to the criteria as determined by the Council of Ministers.

**Section 25.** The Foundation shall have one manager appointed by the Committee.

The manager shall be capable of working for the Foundation full-time, and shall have qualifications and not be under the prohibitions, as follows:

- (1) being of Thai nationality;
- (2) being not more than sixty years of age on the date of appointment;
- (3) being a person with knowledge and experience suitable to the activities of the Foundation;
- (4) not being under any of the prohibitions under section 18 (3), (4), (5), (6) or (7).

**Section 26.** The manager shall hold office for a term of four years and may be reappointed. However, the manager shall have qualifications and not be under the prohibitions under section 25 on the date of re-appointment, and may not be in office for more than two consecutive terms.

**Section 27.** In addition to vacating office on the expiration of term, the manager vacates office upon:

- (1) death;
- (2) resignation;

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(3) leave pursuant to the case as stipulated in an agreement between the Committee and the manager;

(4) being dismissed by the Committee due to negligence in the performance of the duty, disgraceful behaviour or incapability;

(5) being disqualified or being under the prohibitions for being a manager under section 25.

The decision of the Committee to dismiss the manager under (4) shall consist of not less than two-thirds of the existing members, excluding the manager.

**Section 28.** The manager shall have the following powers and duties:

(1) to administer activities of the Foundation to be in accordance with the law and objectives of the Foundation;

(2) to study, analyse and assess the performance of the Foundation, including to present targets, work plans, projects, annual operational plans of the Foundation, and financial and annual budgetary plans to the Committee;

(3) to prepare a report and accounting of the Foundation and to report the annual performance;

(4) to control and monitor the performance of officials and employees of the Foundation to be in accordance with the regulations and by-laws;

(5) to perform any other task as entrusted by the Committee.

**Section 29.** The manager shall be answerable to the Committee in the administration of activities of the Foundation.

The manager shall represent the Foundation in activities relating to external parties. In this connection, the manager may delegate his or her power to any person to perform a particular task on his or her behalf, but shall be in accordance with the by-laws as determined by the Committee.

**Section 30.** The Committee shall determine the rate of salary and other remuneration of the manager.

**Section 31.** An official and employee of the Foundation shall have qualifications and not be under the prohibitions, as follows:

(1) being of Thai nationality;

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(2) being not less than eighteen years of age and not more than sixty years of age;

(3) being capable of working for the Foundation full-time;

(4) having qualifications and experiences suitable to the objectives and powers and duties of the Foundation;

(5) not being a government official or an employee of a government agency, a staff or an employee of a state enterprise or other state agency, or a staff or an employee of a local administration;

(6) not holding any position in a partnership, a company or an entity which conducts business contrary to or inconsistent with the objectives of the Foundation;

(7) not being under any of the prohibitions under section 18 (3), (4), (5), (6) or (7).

**Section 32.** An official or employee of the Foundation vacates office upon:

(1) death;

(2) resignation;

(3) being disqualified or being under any of the prohibitions under section 31;

(4) being dismissed due to failure to pass a performance assessment;

(5) being dismissed or discharged due to disciplinary breach.

A case under (4) and (5) shall be in accordance with the criteria and procedures as determined by the Committee.

**Section 33.** Accounting of the Foundation shall be prepared pursuant to international principles under the format and criteria as determined by the Committee.

**Section 34.** The Foundation shall arrange for an internal audit relating to financing, accounting and procurement of the Foundation, as well as report the result of the audit to the Committee for information at least once a year.

In an internal audit, an official of the Foundation shall be an internal auditor and shall be directly answerable to the Committee pursuant to the regulations as determined by the Committee.

**Section 35.** The Foundation shall prepare a financial statement which shall at least consist of a balance sheet, and accounts to be sent to an auditor within one hundred and twenty days as from the end of every fiscal year.

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At every yearly interval, the Office of the Auditor-General or an external auditor as appointed by the Committee with the approval of the Office of the Auditor-General shall conduct an audit and evaluate the expenditure and asset of the Foundation, and shall present an analytical opinion on how such expenditure is in accordance with the objectives, is cost-saving and achieves the target, and prepare a report of the audit for presentation to the Committee.

In this connection, the auditor shall have the power to examine accounting records and documents and evidence of the Foundation, to question the manager, an internal auditor, an official and employee of the Foundation, and to call on additional accounting records and documents and evidence of the Foundation as necessary.

**Section 36.** The Foundation shall prepare an annual report for presentation to the Council of Ministers, the House of Representatives and the Senate for consideration within one hundred and eighty days as from the end of the fiscal year. Such report shall include the performance of the Foundation during the previous year, including the financial statement and the report of the auditor.

### CHAPTER III

#### PERFORMANCE ASSESSMENT OF THE FOUNDATION

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**Section 37.** There shall be a committee of seven persons to assess the performance of the Foundation, consisting of the Chairperson and six qualified members appointed by the Council of Ministers with the recommendation of the Minister of Finance. Such qualified members shall be appointed from those with knowledge and experiences in finance, health promotion and assessment, with at least two persons having expertise in assessment.

The Assessment Committee shall appoint a person it deems appropriate as secretary.

Section 18, section 19, section 20, section 22 and section 24 shall also apply to the Assessment Committee and the meeting of the Assessment Committee, *mutatis mutandis*.

**Section 38.** The Assessment Committee shall have the following powers and duties:

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(1)to assess the policies and the determination of activities of the Foundation;

(2)to monitor, examine and assess the performance of the Foundation;

(3)to report the result of operation, including recommendation to the Committee at every yearly interval.

The Assessment Committee shall have the power to call on documents or evidence relating to the Foundation from any person or to call on any person to explain facts in the consideration of an assessment.

**Section 39.**In the performance of duties under this Act, the Assessment Committee may appoint a sub-committee to consider and present views on any matter or entrust it with any task as the Assessment Committee deems appropriate.

Section 22 and section 24 shall also apply to the performance of duties of the sub-committee under paragraph one, *mutatis mutandis*.

#### CHAPTER IV PENALTIES

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**Section 40.**Any person who is under the duty to remit subsidy of the Foundation who fails to do so or remits an incomplete amount of the subsidy, shall be liable to imprisonment for a term of not exceeding one year, or to a fine of five times to twenty times of the subsidy to be remitted, or to both.

**Section 41.**In the case where an offender who is liable under this Act is a juristic person, the managing director, the manager or any person responsible for the operation of such juristic person shall also be liable for the punishment prescribed for such offence, except where such person can prove that the offending act was committed without his or her involvement or consent.

**Section 42.**All offences under this Act may be settled by the Director-General of the Excise Department or a person entrusted by the Director-General of the Excise Department. In this case, the provisions relating to the settlement of the case under the law on alcoholic beverages and the law on tobacco shall apply to the settlement of the case under this Act, *mutatis mutandis*.

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## TRANSITORY PROVISIONS

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**Section 43.** Upon the establishment of the Foundation under this Act, the operations pursuant to the objectives of the Health Promotion Foundation pursuant to the Royal Decree establishing the Health Promotion Foundation, B.E. 2543 shall be deemed terminated. The Minister having charge and control of the execution of such Royal Decree shall proceed under section 44 (2) of the Public Organisation Act, B.E. 2542 by publishing the termination of operation of the Health Promotion Foundation in the Government Gazette.

All activities, properties, rights, obligations, budgets income and operators of the Health Promotion Foundation pursuant to the Royal Decree establishing the Health Promotion Foundation, B.E. 2543 shall be transferred to the Health Promotion Foundation under this Act.

**Section 44.** The manager of the Health Promotion Foundation pursuant to the Royal Decree establishing the Health Promotion Foundation, B.E. 2543 who holds office on the date this Act comes into force shall be the acting manager under this Act until the manager is appointed pursuant to this Act, which shall not exceed one hundred and twenty days as from the date this Act comes into force.

**Section 45.** During the initial period, the Committee shall consist of members under section 17 (1), (2) and (4) and the acting manager under section 44 shall be member and secretary, and the Committee shall perform the duties under this Act until qualified members under section 17 (3) and (5) are appointed, which shall not exceed ninety days as from the date this Act comes into force.

In proceeding to appoint qualified members under paragraph one, members under section 17 (1), (2) and (4) shall determine the criteria, procedures and conditions in the selection of qualified members in order to present to the Council of Ministers for appointment.

Countersigned by

Police Lieutenant Colonel Thaksin Shinawatra  
Prime Minister

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