



Notification Number: 2007/614/F

## Decree on electronic breathalysers

Date received : 07/11/2007

End of Standstill : 08/02/2008

### Message

Message 002

Communication from the Commission - SG(2007) D/52635

Directive 98/34/EC

Translation of the message 001

Notification: 2007/0614/F

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidējimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 200702635.EN)

#### 1. Structured Information Line

MSG 002 IND 2007 0614 F EN 08-02-2008 07-11-2007 F NOTIF 08-02-2008

#### 2. Member State

F

#### 3. Department Responsible

Délégué interministériel aux normes – SQUALPI –

DGE 5 –bâtiment le Bervil-

12 rue Villiot-75572 PARIS CEDEX 12

d9834.france@industrie.gouv.fr ou syrte@industrie.gouv.fr

tél : 01 53 44 97 04 – fax : 01 53 44 98 88

#### 3. Originating Department

Ministère de l'économie, des finances et de l'emploi ; Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes.



#### 4. Notification Number

2007/0614/F - I10

#### 5. Title

Decree on electronic breathalysers

#### 6. Products Concerned

Electronic breathalysers for measuring the concentration of alcohol contained in the air exhaled by users, with the exception of equipment that conforms to a type-approved model in implementation of the Road Traffic Code and is used by officers from the Criminal Investigation Department.

#### 7. Notification Under Another Act

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#### 8. Main Content

The draft Decree prohibits the manufacture, import, possession with a view to sale or distribution free of charge, placing on the market, sale and distribution free of charge of breathalysers that do not meet a high level of quality guaranteeing the reliability of the measurements taken for the purposes of ensuring personal safety. Electronic breathalysers must either pass tests laid down in standards whose references will be published in the Official Gazette of the French Republic, or comply with a model that has been issued with an attestation of conformity with the requirements on the reliability of the measurements taken for the purposes of ensuring personal safety, following a type examination by an accredited body.

This Decree provides for the free movement of electronic breathalysers that conform to the standards, technical specifications or manufacturing processes laid down in the legislation of another Member State of the European Community or State signatory to the Agreement on the European Economic Area or Turkey, which provide a level of reliability suitable to ensure personal safety equivalent to that guaranteed by this Decree.

Those responsible for the initial placing on the market of this equipment must make documents available to the inspection authorities certifying that tests have been performed to check that the equipment complies with the reliability criteria necessary to guarantee user safety.

The packaging for this equipment must bear a mark detailing the name and address of the person responsible for placing the product on the market, a description enabling the product or model to be identified and, where appropriate, the product's manufacturing batch number, as well as information regarding the equipment's recommended length of use.

Lastly, the text lays down penalties for failure to comply with the conformity and marking obligations and for the absence of proof of an attestation of conformity.

#### 9. Brief Statement of Grounds

Following a study conducted in 2004 by the Directorate-General of Competition, Consumer Affairs and the Prevention of Fraud (DGCCRF) on chemical and electronic breathalysers, an order, dated 23 November 2004, imposed a one-year ban on the placing on the market of 19 electronic breathalysers intended for road users which were found to be non-compliant and dangerous since they displayed a lower blood alcohol level than was in fact the case.

Indeed, the existence of equipment that under-estimates the actual alcohol concentration is liable to pose a serious or immediate danger to the safety of road users, since it could lead consumers to drive when their blood alcohol level is above the legal limit.



A second study carried out by the DGCCRF during the first half of 2006 confirmed that the problem regarding the safety of electronic breathalysers remained.

For this reason, a second order, dated 10 November 2006 and issued in implementation of Article L. 221-5 of the Consumer Code, imposed a one-year ban on the import and placing on the market of electronic breathalysers for road users and ordered their recall.

This Decree will make permanent the temporary measures taken by order.

More generally, this text forms part of the French Government's strategy to combat drink driving, a cause of numerous fatal road accidents.

#### **10. Reference Documents - Basic Texts**

Penal Code, in particular Articles 111-2, 121-2, 131-13, 131-40, 131-41; 132-11, 132-15 and R. 610-1 thereof;  
Consumer Code, in particular Article L. 221-3 thereof;  
Road Traffic Code, in particular Article L. 234-4 thereof;

#### **11. Invocation of the Emergency Procedure**

NO

#### **12. Grounds for the Emergency**

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#### **13. Confidentiality**

NO

#### **14. Fiscal measures**

NO

#### **15. Impact assessment**

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#### **16. TBT and SPS aspects**

TBT a) YES

SPS

a) NO.

b) The draft is not a sanitary or phytosanitary measure pursuant to Annex A to the SPS Agreement.

Catherine Day  
Secretary-General  
European Commission



Point de contact Directive 98/34  
Fax: (32-2) 296 76 60  
Email: Dir83-189-central@cec.eu.int

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sent to :

BELNotif (Qualité et Sécurité) SPF Economie,PME,Classes moyennes, Energ  
M. Paul Caruso

Bundesministerium für Wirtschaft und Technologie (Referat EA3)  
Frau Christina Jäckel

Bundesministerium für Wirtschaft und Arbeit - Abteilung C2/1  
Frau MARKL Iris

Bundesministerium für Wirtschaft und Arbeit - Abteilung C2/1  
Ida CSISZAR

Bundesministerium für Wirtschaft und Arbeit - Abteilung C2/1  
Frau Brigitte WIKGOLM

CU N Lovseth Hanne Leen  
.

Cyprus org. for the promotion of quality Ministry of Commerce, Industry & Tourism  
M. Antonis Ioannou

Czech Office for Standards, Metrology and testing  
Mrs Lucie Ruzickova

Department of Trade and Industry Office of Science & Innovation  
Mr Philip Plumb

Délégation Interministérielle aux Normes  
Mme Piau

EFTA Surveillance Authority  
Mr. Gunnar Thor PETURSSON

ELOT  
M.Mourtzanos K

EU internal market coordination (Ministry of Economics)  
Mr. Dainis Matulis

Erhvervs- og Byggestyrelsen/ National Agency for Enterpr.& Construct.  
Bjarne Bang Christensen



European Free Trade Association

.

Hungarian Notification Centre Ministry of economy & transport  
Mr Zsolt Fazekas

Institut Belge de Normalisation  
Mme F. Hombert

Instituto Português da Qualidade  
Sra Cândida Pires

Kauppa-ja teollisuusministeri  
Ms. Leila Orava

Kommerskollegium  
Ms Kerstin Carlsson

Lithuanian Standards Board  
Daiva Lesickiene

Malta standards Authority  
Dr Stephanie A Fenech

Min. of Economic Affairs & Communication  
Mr. Karl Stern

Min. of Industry, Energy & Technology  
Mr K. Polychronidis

Ministerie van Financiën Belastingdienst - Douane Noord / CDIU  
De Heer IJ.G. van der Heide

Ministerio de Asuntos Exteriores Secretaría de Estado para la Unión Europ  
Esther Perez Pelaez

Ministero dello sviluppo economico F1 - Ispettorato tecnico industria  
Signor Vincenzo Correggia

Ministry of Economy Dept for Economic Regulations  
Mrs Barbara H. Kozłowska

Ministry of Economy and Commerce Division for Internal Market  
Catalina Groza

NSAI  
Mr Tony Losty

Office of standards, metrology & Testing Director of the department of European I  
Mrs Kvetoslava STEINLOVA



Représentation Permanente de la Belgique auprès de l'Union européenne

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Représentation Permanente de la France

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Représentation Permanente du Luxembourg

.

SL

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Service de l'Energie de l'Etat  
Mr J.-P. Hoffmann

Slovenian Institute for Standardization SIST  
Mrs Vesna Stazisar

State Agency for Metrological and Technical Surveillance  
Violetta Veleva

Undersecretariat of Foreign Trade General Directorate of Standardisation  
Mr Mehmet COMERT

-----  
sent to :

CU N Lovseth Hanne Leen

.

Department of Trade and Industry Office of Science & Innovation  
Mr Philip Plumb

EFTA Surveillance Authority  
Mr. Gunnar Thor PETURSSON

European Free Trade Association

.

Hungarian Notification Centre Ministry of economy & transport  
Mr Zsolt Fazekas

Kauppa-ja teollisuusministeri  
Ms. Leila Orava

Malta standards Authority  
Dr Stephanie A Fenech



Ministry of Economy and Commerce Division for Internal Market  
Catalina Groza

NSAI  
Mr Tony Losty

Représentation Permanente de l'Irlande  
Denis Colfer

Représentation Permanente du Royaume-Uni

.

SL

.

State Agency for Metrological and Technical Surveillance  
Violetta Veleva

Undersecretariat of Foreign Trade General Directorate of Standardisation  
Mr Mehmet COMERT