



# Legislative Council

## Public Health Amendment (Juvenile Smoking) Bill (No 2) Hansard - Extract

24/10/2002

### Second Reading

**The Hon. DAVID OLDFIELD** [11.18 a.m.]: I move:

That this bill be now read a second time.

The Public Health Amendment (Juvenile Smoking) Bill 2002 has three main points: to allow police officers to confiscate tobacco or non-tobacco smoking products possessed by under-18-year-olds while in a public place; to create an offence for those over 18 years of age who send under-18-year-olds to purchase tobacco or non-tobacco smoking products; and to create an offence for those over 18 years of age who purchase tobacco or non-tobacco smoking products on behalf of a person who is under 18 years of age. It should be specifically noted that the bill states that "a person who contravenes subsection (1) is not guilty of an offence but may be given a caution or warning under the Young Offenders Act 1997 as if the contravention were an offence to which that act applies". This bill is a reflection of that part of the Summary Offences Act that deals with the possession of liquor by minors. Madam President, I ask you to call the House to order so that we have only one or two conversations as opposed to seven.

**The PRESIDENT:** Order! I remind honourable members that if they wish to have private conversations they should leave the Chamber.

**The Hon. DAVID OLDFIELD:** Thank you, Madam President. Under the current situation the law with respect to minors and the use of tobacco is quite different to that of minors and the consumption of alcohol. In general terms, it is necessary to be 18 years of age to be able to purchase and legally consume alcohol, yet although for the most part tobacco use is far more dangerous to one's health than alcohol consumption, tobacco use by under 18-year-olds is fairly unimpeded. It is true that it is illegal to sell tobacco products to someone under the age of 18. While this is appropriate, unfortunately it is legal for a person under 18 years of age to consume tobacco products. The current provisions also fall down in that those over 18 are not precluded from purchasing tobacco products on behalf of minors. However, the laws regarding alcohol consumption by minors are different in that they address both of these situations. Considering the danger posed by tobacco products, it makes perfect sense to bring the way the law deals with minors and tobacco products in line with laws relating to minors and alcohol consumption. That is what this bill does.

To appropriately consider the positive nature and good sense of this bill, I will reiterate some of the pertinent points I made many months ago on juvenile smoking and related matters. Society has legislated age restrictions on many things, but not on consuming tobacco products. People must be 18 to vote, 17 to drive a car, and 16 or 18, depending on their orientation, to consent to sex. People must be 18 years of age to own a firearm, and 17 years of age to join the defence forces. All of these age restrictions have been put in place with the intention of providing a position whereby people reach an accepted level of physical and mental maturity that will likely enable them to understand the ramifications of what they are doing and hence act responsibly.

I return to the question of alcohol consumption. As with the other matters I have referred to, we readily accept that an age must be reached before the law allows access to alcohol. It is widely acknowledged that small amounts of alcohol are not bad for people's health. Indeed, it is well understood and medically accepted that a couple of glasses of red wine a day are actually beneficial to one's health. In fact, my father has had a couple of glasses of red wine a day specifically prescribed to him by his specialist because the antioxidants contained in the wine are considered helpful to an eye condition from which he suffers.

It is necessary to consider alcohol and tobacco together. We make it clear that it is reasonable to drink in moderation, and we accept that under some circumstances alcohol is actually beneficial to people's health. Yet we are even more clear in saying that every cigarette is doing you damage. There is no doubt that drink can be a good thing, just as there is absolutely no doubt that there is no such thing as a good cigarette. I say again: Every cigarette is doing you damage. Yet while people have to be 18 to drink alcohol, they can legally smoke at any age. I again make the point that what I am proposing does not in any way impact smokers who are over 18 years of age, except inasmuch as making it illegal for them to purchase cigarettes on behalf of minors.

I fully recognise, acknowledge and respect an individual's choice to smoke—that is, when that individual is over 18 years of age, and hence likely better placed to determine the right or wrong and positive or negative of what they are doing to themselves. I strongly uphold the rights of a person to smoke, just as I respect the rights of a person to drink, vote, drive a car, join the Army, own a firearm, and so on. However, we must reasonably acknowledge that we have, with good reason, put a starting age on all of those things. But society has not put a starting age on smoking.

To any reasonable person there is a clear and serious anomaly when we consider all the things we legally preclude children from on the basis of age, only to then realise that smoking tobacco suffers no such impediment. Of all the things we wish to protect children from, surely drugs is one of the most obvious. Make no mistake, tobacco is a seriously addictive and damaging drug without equal in our community. We all understand smoking to be dangerous, and though some people are apparently willing to subject themselves to the possibility of serious illness, the facts speak for themselves. Every year smoking kills around 19,000 Australians, including several thousand from New South Wales.

Smoking is responsible for more than 80 per cent of all drug-related deaths. Smoking kills more people than road accidents, homicides, HIV, illicit drugs, alcohol and diabetes combined. It is estimated that smoking causes 21 per cent of all cancer deaths, and yet tobacco use is the biggest single, preventable cause of both cancer and heart disease. In 1998 more than 140,000 Australians were hospitalised due to illnesses caused by smoking. More than 940,000 hospital patient days are swallowed up each year by tobacco-related illness. It is estimated that New South Wales business loses \$2 million each working day to tobacco-related sickness, absenteeism and medical retirement.

It should be abundantly clear to everyone that tobacco use costs the State of New South Wales billions of dollars each year. Indeed, it is statistically proven that most regular smokers were introduced to smoking while juveniles. The vast majority of adult smokers got hooked on cigarettes very early in life, and yet we legally allow minors to smoke. While we reasonably respect the rights of adults who choose to smoke, we must also do everything we possibly can to discourage people from taking up smoking in the first place. The most successful way to reduce the number of smokers will be to stop young people from taking up the habit. However, as it stands, the law is certainly not effectively impeding or discouraging young people from access to, or possession of, tobacco products.

Publications of the New South Wales Cancer Council, supported by the Heart Foundation, make it clear that smoking rates amongst New South Wales children are high. If this bill plays a role in reducing the number of smokers, even losses of tax revenue to the New South Wales Government will be more than offset by drastically reduced health costs. Millions of dollars—and, if the number of smokers were seriously reduced, billions of dollars—would ultimately be available for redirection within the overall health budget. Only the tobacco industry stands to lose as a consequence of what I propose.

The Cancer Council and other concerned bodies such as Action on Smoking and Health Australia [ASH] make it clear that 25 per cent of children smoke yet only 20 per cent of the overall adult population smoke. The size of the adult smoking population is, and will be, determined by the size of the population of child smokers. Most people who are going to be lifelong smokers will start smoking somewhere between 12 and 16 years of age. If we can cut down the number of children who start smoking, that will automatically flow on to reduce the overall adult smoking population. I received a letter of support for the bill from Anne Jones, the Chief Executive Officer of ASH. The letter reads:

David,

We welcome support by members of Parliament to reduce smoking rates in New South Wales—potentially amongst children as the most recent secondary schools survey in 1999 reveals that over 85,000 children in our state are weekly smokers.

Although around a third of children are purchasing their own cigarettes from retailers who illegally supply to minors, nearly two thirds of children obtain their cigarettes from other people, including adults.

Legislation that aims to reduce tobacco sales to children should be part of a well funded and more comprehensive strategy to reduce smoking rates amongst both adults and children, and accordingly we support making it illegal for adults to supply tobacco products to minors.

We also agree with your comment that it is a double standard for police officers to have powers to confiscate alcohol from minors but have no power to confiscate the more deadly and addictive tobacco products.

Our view on the legal supply is that enforcement officers should give priority to ensuring tobacco retailers comply with the law and end their illegal supplies to children. In the event of police officers intervening to confiscate alcohol from children, we would not oppose broadening of their powers to include the more harmful tobacco products, as long as the children are not penalised or criminalised.

Yours sincerely

Anne Jones  
Chief Executive Officer  
Action on Smoking and Health Australia.

Police will most likely effect tobacco product confiscation in the same way and at the same time as enforcement of the laws pertaining to alcohol consumption by minors. It is likely that in the normal course of their existing duty to address under-age drinking, police will at the same time be able to also address under-age smoking.

In New South Wales it is illegal to sell toys or confectionery that resembles cigarettes, but real cigarettes are legally available to children. I ask members to consider the irony of that. The law has made it impossible for children to play with toy cigarettes or eat chocolate cigarettes, but it has failed miserably in its attempts to keep

real cigarettes out of children's mouths. Let us make it clear to those under 18 that smoking is so bad for them, and the danger of their becoming addicted is so real, that we are going to take their cigarettes from them at any opportunity.