

Public Health Amendment (Juvenile Smoking) Bill 2002 (No 2)

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Public Health Act 1991* to create certain offences aimed at reducing the use of tobacco products and non-tobacco smoking products by persons under the age of 18 years.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Public Health Act 1991* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts new sections 58 and 58A into the principal Act. Section 58 (1) prohibits a person under the age of 18 years (a minor) from smoking a tobacco product or non-tobacco smoking product, or from purchasing such a product from premises where such products are sold. A person who contravenes this provision does not commit an offence but may be given a caution or warning under the *Young Offenders Act 1997*.

Under section 58 (7), a police officer who reasonably suspects that a person has contravened section 58 (1) may require the person to give their name and address, proof of age, and information relating to the identity of anyone who supplied them with the product. Section 58 (8) makes it an offence for the person to give false information in response to, or to refuse to comply with, such a requirement.

Under section 58 (3), a police officer may seize a tobacco product or non-tobacco smoking product in the possession of a person in a public place if the officer reasonably suspects the person is under the age of 18 years.

Section 58 (10) creates an offence for a person to send a minor to premises where tobacco products or non-tobacco smoking products are sold for the purpose of purchasing any such product.

Section 58A creates an offence for a person to purchase a tobacco product or non-tobacco smoking product on behalf of a minor from premises where such products are sold. A defence is provided to a person prosecuted under section 58A if the minor was over the age of 14 years and had produced to the defendant documentary evidence that might reasonably be accepted as proving that the minor was at least 18 years of age.

Schedule 1 [2] removes two provisions, consequential on the amendments made by Schedule 1 [3] and [4].

Schedule 1 [3] restates more simply an existing provision concerning evidence of age and relates it also to the defence created by proposed section 58A (2).

Schedule 1 [4] creates an offence for a minor to produce false evidence of the minor's age to any person in order to purchase any tobacco product or non-tobacco smoking product. Schedule 1 [4] also relocates an existing provision concerning confiscation of proof of age cards. The provision is modified by removing a surplus reference, and by including police officers as persons authorised to confiscate proof of age cards.