

Passed by both Houses



New South Wales

Public Health Amendment (Juvenile Smoking) Bill 2002

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council

2002

Clerk of the Parliaments



New South Wales

Public Health Amendment (Juvenile Smoking) Bill 2002

Act No , 2002

An Act to amend the *Public Health Act 1991* with respect to the availability of tobacco products and non-tobacco smoking products to minors.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Health Amendment (Juvenile Smoking) Act 2002*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Public Health Act 1991 No 10

The *Public Health Act 1991* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Sections 58 and 58A

Insert before section 59:

58 Seizure of tobacco products or non-tobacco smoking products in possession of minors

- (1) 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 suspects on reasonable grounds that the person is under the age of 18 years.
- (2) Any tobacco product or non-tobacco smoking product seized under subsection (1) is forfeited to the Crown.
- (3) A tobacco product or non-tobacco smoking product may be seized under subsection (1) from a person's possession even though the person is under the age of criminal responsibility.
- (4) The regulations may make provision for or with respect to the following:
 - (a) the procedure to be followed as regards the seizure of tobacco products or non-tobacco smoking products under subsection (1),
 - (b) without limiting paragraph (a), prescribing the circumstances in which, and the procedure by which, tobacco products or non-tobacco smoking products seized under this section are to be returned.

58A Purchasing tobacco products or non-tobacco smoking products on behalf of minors

- (1) A person of or above the age of 18 years who purchases, on behalf of a person under the age of 18 years, a tobacco product or non-tobacco smoking product from premises where such products are sold is guilty of an offence.

Maximum penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence under this section if the court is satisfied that:

- (a) the person on whose behalf the relevant product was purchased was over the age of 14 years, and
- (b) at or before the time the relevant product was purchased there was produced to the defendant documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was at least 18 years of age.

[2] Section 59 Sale of tobacco products or non-tobacco smoking products to minors

Omit section 59 (3) and (4).

[3] Section 59AA

Insert after section 59:

59AA Evidence of age

For the purposes of sections 58A (2) and 59 (2), documentary evidence includes evidence that is of a kind prescribed by the regulations for the purposes of section 117E (Reasonable evidence of age) of the *Liquor Act 1982*.

[4] Section 60

Insert after section 59A:

60 Confiscation of proof of age cards

The following persons are authorised persons for the purposes of section 152A (Confiscation of proof of age cards) of the *Liquor Act 1982*:

- (a) any police officer,
- (b) any environmental health officer,
- (c) a person who sells tobacco products or non-tobacco smoking products and any employee of that person

(being a person or employee of or above the age of 18 years), but only while on, or in the immediate vicinity of, the premises where the tobacco products or non-tobacco smoking products are sold.