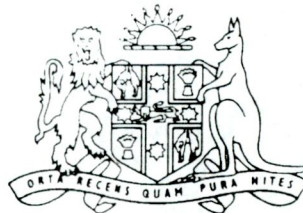


Introduced by the Hon R S L Jones, MLC

First print



New South Wales

Public Health (Smoking in Vehicles) Amendment Bill 1997

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 prohibit the smoking of tobacco in motor vehicles in which persons under the age of 18 years are present. A consequential amendment is made to the *Justices Act 1902*.

Outline of provisions

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

Clause 2 provides that the proposed Act is to commence 30 days after the date of assent, unless an earlier commencement date is proclaimed.

Clause 3 is a formal provision that gives effect to the Schedule amending the *Public Health Act 1991*.

Clause 4 makes a consequential amendment to the *Justices Act 1902*.

Schedule 1 Amendment

The Schedule inserts Division 4 into Part 6 (Tobacco Products) of the Principal Act.

The Division contains the following proposed sections:

Proposed section 61A defines the terms *motor vehicle* and *tobacco* used in the Division. *Tobacco* has the same meaning as in Division 3 of Part 6 which prohibits the sale of tobacco to persons under 18 years of age.

Proposed section 61B makes it an offence for a person to smoke tobacco in a motor vehicle in which a person under the age of 18 years is present. The offence may occur only if the motor vehicle is on a public street. It is a defence to a prosecution for an offence under the section that the defendant believed, on reasonable grounds, that no person in the motor vehicle was under 18 years of age. The section does not apply to the driver of a bus providing a public passenger service if the driver smokes in a driving cabin that is separated from the area in which the passengers travel.

Proposed section 61C provides that a police officer may serve a penalty notice on a person for an offence under section 61B.

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New South Wales

Public Health (Smoking in Vehicles) Amendment Bill 1997

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New South Wales

Public Health (Smoking in Vehicles) Amendment Bill 1997

No , 1997

A Bill for

An Act to amend the *Public Health Act 1991* to prohibit the smoking of tobacco in motor vehicles in which persons under 18 years of age are present.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Health (Smoking in Vehicles) Amendment Act 1997*.

2 Commencement

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This Act commences on the day that is 30 days after the date of assent, unless commenced sooner by proclamation.

3 Amendment of Public Health Act 1991 No 10

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

4 Consequential amendment of Justices Act 1902 No 27

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The *Justices Act 1902* is amended by inserting (in alphabetical order) in the statutory provisions listed in paragraph (a) of the definition of *penalty notice* in section 100I (1) the following matter:

Public Health Act 1991, section 61C,

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Schedule 1 Amendment

(Section 3)

Part 6, Division 4

Insert after Division 3:

Division 4 Smoking in motor vehicles

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61A Definitions

In this Division:

motor vehicle has the same meaning as in the *Traffic Act 1909* and, without limitation, includes a bus and a taxi, but does not include a motor cycle.

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tobacco has the same meaning as in Division 3.

61B Smoking of tobacco in motor vehicles prohibited

- (1) A person who smokes tobacco in a motor vehicle in which a person under the age of 18 years is present is guilty of an offence.

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Maximum penalty: 10 penalty units.

- (2) This Division only applies to a motor vehicle on a public street within the meaning of the *Traffic Act 1909*.

- (3) It is a defence to a prosecution for an offence under this section if the court is satisfied that, at the time the defendant smoked the tobacco, the defendant believed, on reasonable grounds, that no person in the motor vehicle was under the age of 18 years.

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- (4) The driver of a bus used to provide a public passenger service within the meaning of the *Passenger Transport Act 1990* is not guilty of an offence under this section in relation to smoking tobacco in the cabin in which the driver drives the bus if the cabin is separated, by partitioning or similar means, from the area in which passengers in the bus travel.

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61C Penalty notices

- (1) A police officer may serve a penalty notice on a person if it appears to the police officer that the person has committed an offence under section 61B.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time, and to a person, specified in the notice the amount of the prescribed penalty for the offence if dealt with under this section. 5
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- (3) A penalty notice may be served personally or by post.
- (4) If the amount of the prescribed penalty for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence. 15
- (6) For the purposes of this section, *prescribed penalty* means the amount of \$100. 20
- (7) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.