



Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 (Proof)

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PUBLIC HEALTH (TOBACCO) AMENDMENT (E-CIGARETTES) BILL 2015

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Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [12.13 p.m.]: I move:

That this bill be now read a second time.

The Public Health (Tobacco) Amendment (E-Cigarettes) Bill 2015 proposes to amend the Public Health (Tobacco) Act to prohibit the sale of e-cigarettes and e-cigarette accessories to minors. The popularity and use of e-cigarettes is growing rapidly across the world. Regulators everywhere are faced with the challenge of responding in a way that is balanced and proportionate to the potential risk and benefit of these products. There is no conclusive evidence to say whether e-cigarettes help people to quit smoking. There is still a lot we do not know about e-cigarettes. What we do know, and what we can all agree upon, is that these are not products for minors.

The Government is acting to protect children and young people from the potential risk that e-cigarettes pose by ensuring that they cannot be purchased by minors. The New South Wales Government has made great strides in reducing smoking rates and preventing the uptake of smoking by young people. In 2012 the smoking rate among secondary school students was at an all-time low of 7.5 per cent. This is an impressive achievement, which demonstrates the effectiveness of our tobacco control efforts in New South Wales. We need to protect these gains at all costs.

What we are seeing in the United States and some other countries across the world is a sharp rise in the use of e-cigarettes by children and young people. E-cigarette use tripled among middle and high school students in the United States between 2013 and 2014. Among high school students alone, the current use rose from 4.5 per cent to 13.4 per cent in one year. Two million high school students reported current e-cigarette use in 2014. This figure is of great concern and is a warning to countries such as Australia where e-cigarette use is still low.

I am aware of concerns among some members of the public health community that e-cigarettes may act as a gateway to nicotine addiction and tobacco smoking. The sale of liquid nicotine is banned in New South Wales, unless there is an approval from the Ministry of Health, or the product is otherwise lawful under the Commonwealth Goods Act. However, e-cigarettes can sometimes contain nicotine without it being declared on the label. This is not only illegal, but may potentially cause harm. I am also aware of concerns that e-cigarettes will re-normalise tobacco smoking, given the similarities that often exist between the two products. While evidence is not conclusive in regard to these concerns, I am sure that we all agree it is vital that the Government and the community continue to work to reduce the number of people who smoke and to stop children and young people from becoming addicted to nicotine and smoking.

We must move promptly to protect our young citizens. To that end, the Public Health (Tobacco) Amendment (E-Cigarettes) Bill 2015 has been developed. The bill amends the Public Health (Tobacco) Act to make it an offence to sell an e-cigarette or e-cigarette accessory, including via a vending machine, to a person under the age of 18 years. The offence will carry the same maximum penalty as the sale of a tobacco product to a minor—that is, \$11,000 for an individual or \$55,000 for a corporation, and for repeat offenders \$55,000 for an individual and \$110,000 for a corporation. It will also be an offence for an adult to purchase e-cigarettes on behalf of a minor. This will have the same maximum penalty that applies to adults purchasing tobacco products on behalf of a minor, which is \$2, 200.

In addition, the bill makes amendments to division 3 of part 2 of the Public Health (Tobacco) Act to apply the current provisions in relation to tobacco vending machines to e-cigarette vending machines, which will limit children's access to e-cigarettes. This means that e-cigarette vending machines, as with tobacco vending machines, can be located only in licensed premises or gaming areas and that the vending machine can be operated only by a staff member or by obtaining a token from staff members. While the Ministry of Health is not aware of any e-cigarette vending machines in operation in New South Wales, these amendments are important to ensure that if such vending machines become a part of our society they are not located in areas that children generally access.

The bill includes a broad definition of "e-cigarettes" and "e-cigarette accessories" so as to capture any device that releases or generates an aerosol or vapour by electronic means for inhalation in a manner similar to the inhalation of smoke from a tobacco product. However, the ban will not apply to legitimate stop-smoking aids that meet the definition of "e-cigarettes" provided that these are registered under the Therapeutic Goods Act or where there is approval under the provision of the Act. The definition of "e-cigarettes" under the bill includes devices and liquids that contain nicotine as well as those that do not contain nicotine.

The Government acknowledges that there are legitimate concerns that e-cigarettes could cause harm, particularly to children and young people. The NSW Ministry of Health is monitoring, and will continue to monitor, the evidence about the harms and benefits of e-cigarettes. The Government will, if appropriate, bring further legislation to regulate the use and sale of e-cigarettes. However, it is imperative that we act now to ban sales to minors to prevent children and young people from buying and using e-cigarettes, which could undermine decades of anti-smoking efforts in New South Wales. I commend the bill to the House.