



New South Wales

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

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 (Tobacco) Act 2008* to prohibit the sale of e-cigarettes and e-cigarette accessories to persons who are 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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Public Health (Tobacco) Act 2008 No 94

Schedule 1 [3] makes it an offence for a person to sell an e-cigarette or e-cigarette accessory to a person who is under the age of 18 years unless it is an authorised product. **Schedule 1 [1], [4] and [6]** make consequential amendments. **Schedule 1 [2] and [5]** define the terms *authorised product*, *e-cigarette* and *e-cigarette accessory*.

An *e-cigarette* is defined to mean a device (other than a device of a kind excluded by the regulations) that is designed to generate or release an aerosol or vapour (whether or not containing nicotine) by electronic means for inhalation by its user in a manner that replicates, or produces an experience similar to, the inhalation of smoke from an ignited tobacco product or ignited non-tobacco smoking product. It is also defined to include certain other kinds of devices if they have been prescribed by the regulations.

An *e-cigarette accessory* is defined to include such things as a cartridge, capsule or other container designed to contain a liquid, aerosol, gas, vapour or other substance for use in an e-cigarette and a heating element designed for use in e-cigarettes.

An *authorised product* is defined to mean certain therapeutic goods that are registered (or the subject of an approval or authority) under the *Therapeutic Goods Act 1989* of the Commonwealth or supplied under a licence or authority in force under the *Poisons and Therapeutic Goods Act 1966* or the regulations under that Act.

The maximum penalty for the offence will be:

- (a) in the case of an individual, 100 penalty units (currently, \$11,000) for a first offence or 500 penalty units (currently, \$55,000) for a second or subsequent offence, or
- (b) in the case of a corporation, 500 penalty units (currently, \$55,000) for a first offence or 1,000 penalty units (currently, \$110,000) for a second or subsequent offence.