

SECOND PRINT

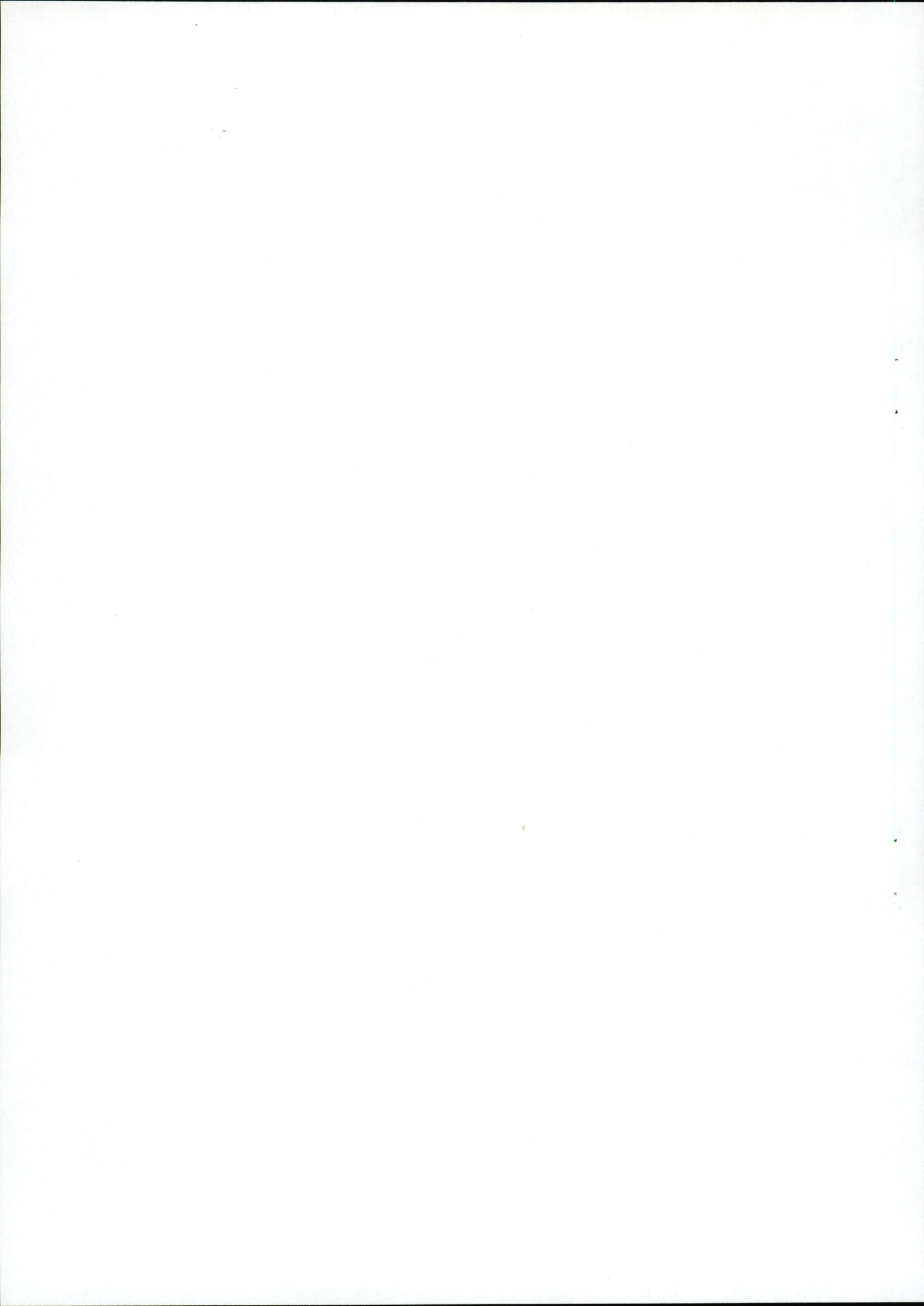
**PUBLIC HEALTH (SALE OF TOBACCO TO JUVENILES)
AMENDMENT BILL 1994**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Public Health Act 1991 No. 10, sec. 59 (Sale of tobacco to person under 18 prohibited)
 4. Amendment of Business Franchise Licences (Tobacco) Act 1987 No. 93, sec. 50 (Cancellation of licence)
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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1994

An Act to amend the Public Health Act 1991 and the Business Franchise Licences (Tobacco) Act 1987 to make further provision in relation to the offence of selling tobacco to juveniles.

Public Health (Sale of Tobacco to Juveniles) Amendment 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Health (Sale of Tobacco to Juveniles) Amendment Act 1994.

5 **Commencement**

2. This Act commences on the date of assent.

Amendment of Public Health Act 1991 No. 10, sec. 59 (Sale of tobacco to person under 18 prohibited)

10 3. The Public Health Act 1991 is amended by omitting section 59 (2) and by inserting instead the following subsections:

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

(a) the person to whom the tobacco was sold was over the age of 14 years at the time of the sale; and

15 (b) at or before the time of the sale there was produced to the defendant approved documentary evidence that might reasonably be accepted as applying to the person to whom the tobacco was sold and as proving that the person was at least 18 years of age.

20 (3) An environmental health officer may request a person who is on or near premises on which tobacco is sold in the course of a business and whom the officer reasonably suspects of being under the age of 18 years and of having been sold tobacco on those premises to state his or her full name and residential address and produce evidence of his or her age. Failure to comply with such a request is not an offence.

25 (4) An environmental health officer is an authorised person for the purposes of section 152A (Confiscation of proof of age cards) of the Liquor Act 1982.

(5) In this section:

30 **“approved documentary evidence”** means 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.

35 (6) Section 59, as amended by this Act, does not apply in respect of a prosecution for an offence under that section alleged to have been committed before the commencement of the amendment. Section 59, as in force immediately before the commencement of that amendment,

Public Health (Sale of Tobacco to Juveniles) Amendment 1994

continues to apply in respect of any such proceedings as if the amendment had not been made.

- (7) The Director-General is required:
- (a) to monitor the incidence of sales of tobacco to persons under the age of 18 years and is to take such action, in relation to those sales, as the Director-General considers appropriate; and 5
 - (b) to institute education programs to ensure that persons who sell tobacco are aware of their responsibilities under this section; and
 - (c) to report on action taken under this section in the report of the Department of Health required to be submitted to the Minister under the Annual Reports (Departments) Act 1985. 10
- (8) For the purposes of the monitoring of sales of tobacco to persons under the age of 18 years, the Chief Commissioner for Business Franchise Licences (Tobacco) is, despite section 69 of the Business Franchise Licences (Tobacco) Act 1987, if requested to do so in writing, to provide: 15
- (a) the Director-General with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing, and the names of the holders of those licences; or 20
 - (b) the Director for the time being of a Public Health Unit under the control and management of an Area Health Service constituted under the Area Health Services Act 1986 or an incorporated hospital under the Public Hospitals Act 1929 (or a person employed in such a Unit) with the addresses of premises at which holders of a retailer's licence or a group retailer's licence (within the meaning of that Act) are authorised to carry on tobacco retailing in the area for which the Area Health Service is constituted, or the hospital is located, and the names of the holders of those licences. 25 30

Amendment of Business Franchise Licences (Tobacco) Act 1987 No. 93, sec. 50 (Cancellation of licence)

4. The Business Franchise Licences (Tobacco) Act 1987 is amended by inserting at the end of section 50 the following subsections: 35

- (2) After the commencement of the Public Health (Sale of Tobacco to Juveniles) Amendment Act 1994, the Chief Commissioner must, on being notified by a court of a conviction for an offence under section 59 of the Public Health Act 1991 committed by the holder of a 40

Public Health (Sale of Tobacco to Juveniles) Amendment 1994

retailer's licence or a member of a group in respect of which a group retailer's licence is held, cancel by notice served on the licensee any such licence currently held by the licensee from a date specified in the notice.

5 (3) Despite section 36, a retailer's licence or a group retailer's licence must not be granted if, within the previous 6 months, any such licence held:

(a) in the case of an application for a retailer's licence—by the applicant; or

10 (b) in the case of an application for a group retailer's licence—by any member of the group on behalf of which the application is made,

has been cancelled under subsection (2).

15 (4) Subsection (2) applies only to a conviction in respect of an offence committed after the commencement of the Public Health (Sale of Tobacco to Juveniles) Amendment Act 1994.
