

Tobacco Products Control Amendment Bill 2008

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Western Australia

LEGISLATIVE ASSEMBLY

(Introduced by Dr Janet Woollard MLA)

Tobacco Products Control Amendment Bill 2008

A Bill for

An Act to amend the *Tobacco Products Control Act 2006*.

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This Act is the *Tobacco Products Control Amendment Act 2008*.

2. Commencement

This Act comes into operation as follows —

- 5 (a) sections 1 and 2 on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act within 6 months of sections 1 and 2 receiving the Royal Assent.

3. Act amended

10 This Act amends the *Tobacco Products Control Act 2006*.

4. Section 4 amended

In section 4 insert in the appropriate alphabetical order:

outdoor eating or drinking area means —

- 15 (a) a part of a thoroughfare or public place in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public; or
- (b) any outdoor area within any licensed premises defined in section 3 of the *Liquor Control Act 1998*.

20 ***outdoor playing area*** means an area primarily designated for the use of children for play or sporting purposes;

passenger car has the same meaning as in the *Motor Vehicle Dealers Act 1973*;

25 ***safe swimming area*** means a beach or part of a beach identified as a safe swimming area by flags, marker buoys or otherwise.

5. Section 22 replaced

Delete section 22 and insert:

22. Display of tobacco products

- 5 (1) A person who is the responsible person in relation to
licensed premises on which tobacco products or
smoking implements are sold must ensure that
customers cannot see any of those products or
10 implements from inside or outside of the licensed
premises.
Penalty applicable: see section 115.
- (2) This section does not apply to:
- 15 (a) the display of tobacco products and smoking
implements to a customer at his or her specific
request; or
- (b) the display of tobacco products and smoking
implements by customers on licensed premises.

6. Sections 106A to 106D inserted

20 After section 106 insert:

106A. Use of tobacco products in passenger cars an offence

- 25 (1) A person must not use tobacco products in a passenger
car at any time if one or more passengers is a young
person.
Penalty applicable: \$150.
- (2) For the purposes of this section, a young person has the
meaning given to it in section 98.

106B. Use of tobacco products in outdoor eating or drinking areas an offence

- (1) A person must not use tobacco products in an outdoor eating or drinking area.

Penalty applicable: \$150.

- (2) The license holder, if the outdoor area is part of licensed premises, or the person otherwise responsible for the outdoor eating or drinking area must not allow the use of tobacco products in that area.

Penalty applicable: see section 115.

- (3) The Governor may make regulations that are necessary to be prescribed for the signage to be displayed on outdoor eating or drinking areas prohibiting the use of tobacco products.

106C. Use of tobacco products in outdoor playing areas an offence

A person must not use tobacco products in an outdoor playing area.

Penalty applicable: \$150.

106D. Use of tobacco products in safe swimming areas an offence

A person must not use tobacco products in a safe swimming area.

Penalty applicable: \$150.

7. Section 115 amended

In section 115(b) in the Table:

- (a) in column 1 delete “s. 22(1), (2), (3), (4)” and insert:

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s. 22(1).

- (b) in column 2 after “s. 106” insert:

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s. 106B(2).

TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2008 (EM017)

(Introduced by Dr Janet Woollard MLA)

EXPLANATORY MEMORANDUM

Smoking is Western Australia's largest preventable cause of death and disease, causing over 1400 deaths annually and costing the State \$2.4bn a year. Both major parties have supported legislation to control supply and use of tobacco, but other States are now more advanced. This Bill will enable Western Australian legislation to be more in line with best practice legislation. Tobacco control issues addressed in other States include -

- Smoking prohibited in cars if child is present: legislation passed in South Australia, Tasmania, New South Wales and Queensland;
- Point-of-sale tobacco advertising through product displays, restricted in all States; prohibiting legislation passed in New South Wales and Tasmania;
- Smoking in outdoor locations such as al fresco areas, beaches and children's playgrounds, sport and play areas prohibited in Queensland, and by many local governments around Australia.

In Western Australia, Fremantle, Cockburn, Rockingham, City of Perth, Vincent and Joondalup have introduced or announced restrictions on smoking in public places, including al fresco areas, and other local governments are considering similar approaches.

This bill amends the *Tobacco Products Control Act 2006* to -

- prohibit smoking in cars if a young person (as defined in the principal Act) is present;
- prohibit the display of tobacco products at point of sale;
- prohibit smoking in al fresco areas, outdoor playing areas and safe swimming areas.

Clause 1 Short title.

Clause 2 Commencement clause - this clause provides that -

- (a) sections 1 and 2 come into effect when the Act receives the Royal Assent;
- (b) the rest of the Act comes into operation within 6 months after sections 1 and 2 receive the Royal Assent.

Clause 3 Identifies the principal Act to be amended.

Clause 4 Introduces new definitions into the principal Act.

Clause 5 Prohibits the display of tobacco products at point of sale.

Clause 6 By way of inserting new sections 106A to 106D into the principal Act, prohibits smoking in:

- Passenger cars in which young persons (as defined in the principal Act) are present (new section 106A)
- Outdoor eating or drinking places (new section 106B)
- Outdoor playing areas (new section 106C)
- Safe swimming areas (new section 106D)

Clause 7 Makes amendments to the penalties provisions in the principal Act.