

***PUBLIC HEALTH AMENDMENT (TOBACCO-FREE GENERATION) BILL
2014***

CLAUSE NOTES

Clause 1 – Short title

This clause provides the short title to be used when citing the Act or for any legal purpose.

Clause 2 – Commencement

This Act commences on the day on which it is proclaimed.

Clause 3 – Principal Act

The ***Public Health Act 1997*** is the Principal Act

The Public Health Act 1997, **PART 1 Section 3. Interpretation Section** contains definitions which are relevant to this amendment and defines key terms such as “proof of age”, “tobacco product”, “tobacco seller’s licence”, “premises”, “guidelines”, “Director” and “sell”.

Clause 4. Part 4, Division 1B

A new Division is created to provide for circumstances relating to tobacco sales for the Tobacco-Free Generation.

67I Interpretation of this Division

A member of the tobacco-free generation is anyone born on or after January 1 2000. This includes visitors to Tasmania.

67J Sale of cigarettes, &c., to member of tobacco-free generation

The following provisions are similar to those in the Principal Act, relating to children.

- (1) No one can **sell** tobacco products to a member of the tobacco-free generation. There is an offence and penalty attached. This

includes friends and family of the person. However, there is no offence for friends and family giving tobacco products away to a member of the tobacco-free generation. People aged over 18 born after the year 2000 can “bot” cigarettes.

- (2) Licensed tobacco sellers are not allowed to **sell or give away** or permit another person (including an employee or representative of the license holder) to sell or give away tobacco products to a member of the tobacco-free generation, and there is a penalty attached. This particular section is designed to prevent the supply of free cigarettes and tobacco to members of the tobacco-free generation by the holder of the licence or employees in shops, or the tobacco industry or its representatives at music festivals and other events.
- (3) If a person who sells a tobacco product is prosecuted, but has obtained proof of age from the buyer, there is a defence to the charge.
- (4) If a person has taken reasonable steps to stop his/her staff from selling or supplying tobacco to persons from the tobacco-free generation, there is a defence to any related charge. This would include telling employees etc. that they must not do this.
- (5) A person in charge of premises must give information about the guidelines about the tobacco-free generation to their staff. A penalty applies.
- (6) If a person is alleged to be a member of the tobacco-free generation in proceedings the prosecution is not required to produce birth certificates or other documentation to prove this. A similar provision is already in the Act, relating to children. This will not prevent a person providing proof that another person was NOT a member of the tobacco-free generation, but they will need to do this to counter the implied proof that the other person was a member of the tobacco-free generation.

67K. False proof of age to tobacco sellers, &c., must not be provided

Members of the tobacco-free generation must not provide false proof of age to tobacco sellers. A penalty applies. This is the only penalty that might apply to a member of the tobacco-free generation. This section does not apply to adults born prior to 2000, as it is irrelevant to their legal purchase of tobacco. If older people are using false identification they may be breaching other legislation, but not public health, with which this Act is principally concerned.

67L. Review of this Division

(1) The Director of Public Health is to conduct reviews in 2021 and 2025 when the tobacco-free generation reaches the ages of 21, and 25. This will enable the parliament and the public to see how well the legislation is operating. These particular reviews need not be onerous, long or resource intensive. The Director already provides five yearly comprehensive reports on the state of public health.

(2) (a) & (b) the Director of Public Health is to provide the reports to the Minister.

(3) The reports may recommend amendments to the legislation.

(4) The Minister must ensure that the reports are tabled in both Houses of Parliament within 10 sitting-days. Members of Parliament will then be in a position to decide if the legislation requires amendments.

6. Repeal of the Act

This is a standard clause that allows amending Acts to be repealed once they have done their job and amended the Principal Act.