

TASMANIA

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**PUBLIC HEALTH AMENDMENT (PREVENTION  
OF SALE OF SMOKING PRODUCTS TO UNDER-  
AGE PERSONS) BILL 2018**

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**PUBLIC HEALTH AMENDMENT (PREVENTION  
OF SALE OF SMOKING PRODUCTS TO UNDER-  
AGE PERSONS) BILL 2018**

*(Brought in by the Honourable Ivan Dean)*

**A BILL FOR**

**An Act to phase in restrictions on the sale of tobacco products to under-age persons, and for related purposes**

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Public Health Amendment (Prevention of Sale of Smoking Products to Under-age Persons) Act 2018*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Public Health Act 1997*\* is referred to as the Principal Act.

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\*No. 86 of 1997

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**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by inserting after the definition of *tobacco product* the following definition:

*under-age person* means –

- (a) for the period of 12 months commencing 6 months after the day on which the *Public Health Amendment (Prevention of Sale of Smoking Products to Under-age Persons) Act 2018* commences – a person who has attained the age of 18, but not 19, years; and
- (b) for the period of 12 months after the end of the period referred to in paragraph (a) – a person who has attained the age of 18, but not 20, years; and
- (c) after the end of the period referred to in paragraph (b) – a person who has attained the age of 18, but not 21, years;

**5. Section 63 amended (Smoking, &c., by children or under-age persons)**

Section 63 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (1) “or under-age person” after “child”;
- (b) by inserting in subsection (2) “or under-age person” after “child”;
- (c) by inserting in subsection (2) “, or the under-age person’s,” after “child’s”.

**6. Section 64 amended (Sale to children or under-age persons)**

Section 64 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):
  - (1A) A person must not sell, or offer to sell, any smoking product to, or for the use of, any under-age person.

Penalty: Fine not exceeding –

- (a) for a first offence, 120 penalty units; and
- (b) for a second offence, 240 penalty units; and
- (c) for a third and subsequent

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offence, 360  
penalty units.

(b) by inserting the following subsection after subsection (2):

(2A) A person who is the holder of a smoking product licence must not permit the sale, loan, gift or supply of any smoking product to, or for the use of, any under-age person.

Penalty: Fine not exceeding –

(a) for a first offence,  
120 penalty units;  
and

(b) for a second  
offence, 240  
penalty units; and

(c) for a third and  
subsequent  
offence, 360  
penalty units.

(c) by inserting the following subsection after subsection (3):

(4) An employer who is not the holder of a smoking product licence must not permit any employee on or within 100 metres of any premises owned or

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occupied by the employer to sell any smoking product to, or for the use of, any under-age person.

Penalty: Fine not exceeding –

- (a) for a first offence, 120 penalty units; and
  - (b) for a second offence, 240 penalty units; and
  - (c) for a third and subsequent offence, 360 penalty units.
- (d) by inserting in subsection (5) “or subsection (1A)” after “subsection (1)”;
  - (e) by inserting in subsection (6) “and under-age persons” after “children”;
  - (f) by inserting the following subsections after subsection (7):
    - (7A) Subsections (1A) and (4) do not apply to a person who has taken reasonable steps to prevent the sale of smoking products to any under-age person.
    - (7B) Subsection (2A) does not apply, in relation to an alleged

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contravention of the subsection in relation to an under-age person, to a person who has taken reasonable steps to prevent the sale, loan, gift or supply of smoking products to any under-age person.

- (g) by inserting in subsection (8) “or under-age person” after “child”.

**7. Section 64A amended**

Section 64A of the Principal Act is amended as follows:

- (a) by numbering the text of the section as subsection (1);
- (b) by inserting the following subsection after subsection (1):
- (2) A person must not sell, or offer to sell, any non-tobacco cigarette to, or for the use of, an under-age person.

Penalty: Fine not exceeding 50 penalty units.

**8. Sections 65 and 65A inserted**

After section 64A of the Principal Act, the following sections are inserted in Division 1:

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**65. Under-age person to provide proof of age on request when attempting purchase of smoking product**

An under-age person who attempts to purchase a smoking product from another person and who is requested by the other person to provide proof of age must provide proof of age to the other person.

**65A. False proof of age not to be provided**

A person who knows, or ought reasonably be expected to know, that his or her proof of age is false must not provide the proof of age to another person from whom the person is attempting to purchase a smoking product.

Penalty: Fine not exceeding 10 penalty units.

**9. Section 67AB inserted**

After section 67A of the Principal Act, the following section is inserted in Division 1:

**67AB. Review of this Division**

- (1) The Director is to conduct, after the end of the period of 3 years from the day on which this section commences, a review in respect of –

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- (a) the operation of this Division;  
and
  - (b) whether this Division is operating effectively and efficiently so as to discourage or prevent smoking or the use of smoking products by children and under-age persons;  
and
  - (c) whether further amendments to this Act are required in order to discourage or prevent smoking or the use of tobacco products by children and under-age persons.
- (2) The Director is to submit to the Minister, within the period of 3 years and 6 months after the day on which this section commences, a report in relation to the review.
- (3) A report may contain recommendations as to whether, and the manner in which, this Division may be amended so as to increase the effective and efficient operation of this Division.
- (4) The Minister is to cause a report submitted to the Minister under this section to be tabled in both Houses of Parliament within 10 sitting-days after the report is submitted to the Minister.

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**10. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.