

9 June 2015

Ms. Jenny Leaman
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Secretary, Legislative Council Sessional Committee - Tobacco Free Generation
Parliament of Tasmania
Parliament House
Hobart TAS 7000

Dear Ms Leaman

The Menzies Institute for Medical Research seeks to improve human health and well-being by performing research that focuses on the major diseases affecting the Tasmanian community. Our research has shown that **smoking contributes greatly to the burden of disease in Tasmania**. Accordingly, Menzies strongly supports the Public Health Amendment (Tobacco Free Generation) Bill 2014. We herein provide a submission to Legislative Council Sessional Committee Government Administration A regarding the proposed amendment to The Act. *Public Health Amendment (Tobacco-free Generation) Bill 2014*.

Smoking is the second greatest cause of the burden of disease (that is deaths and disability) worldwide.¹ The health effects of smoking are well known. Smokers in Australia die, on average, 10 years earlier than non-smokers and up to two-thirds of smokers will die due to their habit.² In addition to causing death, smoking contributes to substantial morbidity as well as impaired quality of life.

Tasmania has unacceptably high levels of smoking, with 21% of adults being current daily smokers, higher than the national average of 16%.³ In some groups, the levels of smoking are alarming - for example, 37% of Tasmanian males aged 25 to 44 years are current daily smokers. Of most relevance to the proposed legislation is that smoking among adolescents in Tasmania remains high with 16% of 16-17 year olds classified as current smokers in the most recent Australian Secondary Students Drug and Alcohol Survey (ASSAD) conducted in 2011. Of most concern is that there has been **no significant decline in current smoking among Tasmanian adolescents since 2005**. This is a very strong indication that more must be done to prevent the young people of Tasmania taking up smoking. It also suggests that we need to explore ideas beyond those currently used to target tobacco uptake, like the Tobacco Free Generation Bill.

Tasmania has a strong history of leading the way in tobacco control. We can continue to do so if we implement this legislation. The Tobacco Free Generation bill is generating a great deal of interest worldwide as positive leap forward in the tobacco endgame. Tasmania is being recognised as world leader on this issue with supporters including Margaret Chan, Director-General of the World Health Organization, who lauded our efforts at the recent international Tobacco or Health conference in Abu Dhabi. We cannot ignore that the tobacco industry has put significant efforts into fighting this amendment. History has shown that legislative changes that cause this kind of reaction from the tobacco industry are likely to be effective, with previous examples including plain packaging. This legislation is an important addition to the current tobacco control program funded by the Government, which through an evidence-based approach has seen tobacco use at a population level decreasing.

Attached to this letter, please find some specific observations regarding the Public Health Amendment (Tobacco-free Generation) Bill 2014.

Yours sincerely



Seana Gall PhD



Thomas H Marwick MBBS, PhD, MPH

Menzies comments re - Public Health Amendment (Tobacco-free Generation) Bill 2014.

Practicality of this legislation

This legislation is likely to be effective because it will have both direct and indirect effects on smoking. Direct effects will be through limiting the supply of cigarettes, whereas indirect effects will occur as smoking becomes rare among younger people contributing to its 'denormalisation' which is crucial to reduce smoking uptake.⁴ The legislation will initially only affect a small proportion of the population; however, over time, as the members of the 'Tobacco Free Generation' increase, its effects will multiply. The most recent data from the ABS on the Tasmanian population from 2011 shows there were 3,454 males and 3,145 females aged 17 that would become eligible to purchase cigarettes when they turned 18. If we apply the most recent prevalence of smoking in 17 year olds in Tasmania from the 2012 Australian Secondary Students Drug and Alcohol Survey (ASSAD) 17% of males and 18% of females were identified as current smokers.⁵ Therefore, if this legislation had been implemented in 2012 there would have been 587 male and 566 female smokers prevented from purchasing cigarettes. The fact that it affects only small numbers of people directly is likely to be of benefit in terms of implementation.

Ethics of this legislation

We are aware of public discourse regarding the fact that this legislation is an infringement of civil liberties. Ethicists in Singapore have conducted an insightful analysis of the concept of the Tobacco Free Generation legislation with reference to numerous human rights conventions.⁶ The authors concluded that *'It supports some fundamental rights, including the rights to life, health and a clean environment, and does not unduly violate the rights to liberty, self-determination, privacy or equality.'* We also note that the Tasmanian Anti-Discrimination Commissioner has provided advice that the proposed legislation does not discriminate against people who are members of the tobacco free generation.

Public Health Amendment (Tobacco Free Generation) Bill 2014

Clause 67(J)(1) designates that tobacco cannot be sold to people born on or after the 1st of January 2000. The implementation of this amendment is likely to be simple with minimal change in the practices of retailers. In fact, the amendment may actually simplify processes at the point of sale. Currently, those selling cigarettes must check that customers are over the age of 18. This requires some mental arithmetic regarding whether a given person is above this age based on the year cited on their identification. The proposed amendment is therefore a simplification of this process with anyone with a year of birth from 2000 onwards denied the sale of tobacco products. The current guidelines given to retailers (e.g. Guidelines for the Sale of Tobacco or Tobacco Retailers Guide published by the DHHS) outlining sales of tobacco to children could continue be used with reference to 'people under the age of 18' change to 'people born on or after the 1st January 2000'.

Further support for the legislation comes from the fact that it can be policed using current methods and resources and within provisions in the Public Health Act 1997. At present, the Department of Health and Human Services is required to complete at least one statewide compliance survey of licensed tobacco sellers to ensure they comply with age restrictions.⁷ These involve an underage person attempting to purchase cigarettes without identification from a sample of retailers across the state. Adaptation to this amendment would only require the use of a person born after 1st of January 2000 instead of under the age of 18. These

compliance checks are authorized within the Public Health Act 1997 in section 67A (monitoring compliance).

Clause 67(J)(2) focuses the legislation on people with a tobacco seller's license therefore not penalizing other people, such as family or friends, that might *supply* tobacco to members of the Tobacco Free Generation. We support that Clause 4 67(J)(1) does attach penalties for the *sale* of tobacco to members of the Tobacco Free Generation that could apply to family and friends. This should serve as a barrier to 'black markets'; although, the risk of this is very low given the widespread availability of cigarettes even with the proposed legislation in place. Given these clauses, not all people born on or after the 1st January 2000 will be prevented from smoking immediately. Tasmanian data show that people under the age of 18 mostly obtain their cigarettes from a friend over the age of 18.⁵ It is likely that many young people that choose to smoke will continue to do this. However, over time, there will be fewer people within the social networks of young people that will be able to legally purchase cigarettes thereby reducing smoking uptake.

Clause 67(L) outlines reviews in 2021 and 2025, which we believe is a crucial part of this legislation. As a research organisation, we believe very strongly in the evaluation of policies and therefore support the inclusion of this clause within the proposed amendment. It is likely that the evaluation of whether the legislation is working to prevent the uptake of smoking can be done with existing studies such as the Australian Health Survey (likely future collection years: 2015-17, 2019-20, 2023-24); Tasmanian Population Health Survey (likely future collection years: 2017, 2021, 2025) and the Australian Secondary Students Drug and Alcohol Survey (likely future collection years: 2017, 2020, 2023). We at the Menzies Institute for Medical Research are already working with colleagues internationally to devise a research and evaluation strategy for this legislation.

Regarding implementation there will be a requirement for the Government to investment in public education regarding these changes in legislation. This must occur well before the changes, for example, 12 months prior to the start date. For previous changes in this type of legislation, for example increases in smoke free areas, the DHHS has outsourced education to other organisations with an interest in tobacco control, such as the Heart Foundation and the Cancer Council Tasmania. The increased use of social media, particularly among members of the Tobacco Free Generation, provides opportunities to access the affected population groups with potentially lower cost than 'traditional' forms of advertising.

References

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