

# FACT SHEET

## **PUBLIC HEALTH AMENDMENT (PREVENTION OF SALE OF SMOKING PRODUCTS TO UNDERAGE PERSONS) BILL 2018**

(Windemere MLC Hon. Ivan Dean)

The **PUBLIC HEALTH AMENDMENT (PREVENTION OF SALE OF SMOKING PRODUCTS TO UNDERAGE PERSONS) BILL 2018**, referred to as the T21 bill, amends the Public Health Act 1997. The amendment aims to reduce the uptake of smoking by young people in Tasmania, with long-lasting health benefits and reductions in tangible costs to the health system and economy.

The Bill will gradually increase the minimum age for the sale of smoking products to 21 years. Smoking products includes tobacco and electronic vaping devices. At present, smoking products must not be sold to persons under the age of 18 years.

Tasmania continues to have the second highest smoking rate in the nation after the Northern Territory. The National Health Survey 2017-18 reported 17.6 per cent of adult Tasmanians were estimated to be either daily or occasional smokers, compared to 15 per cent nationally.

The survey also reported that the highest smoking by age group in Tasmania was 18-24 year olds at 22.6 per cent. Tasmania has high smoking rates amongst [young pregnant women](#) leading to extremely high rates of preterm births, with consequential medical complications. Approximately 560 Tasmanians die every year from illness related to smoking.

Lifting the minimum age for the sale of smoking products to 21 years is a proven tobacco control mechanism to prevent smoking uptake. This measure has been adopted nationally in the USA and Singapore.

Young people [become addicted](#) to smoking products rapidly and find it difficult to quit. Furthermore, nicotine [alters the structure](#) of the developing human brain.

While there are other ongoing strategies to address the cessation of smoking, T21 supports current prevention strategies to increase the median age of smoking experimentation and addiction. Delaying the age of initiation is known to reduce the likelihood of young people becoming addicted to nicotine.

Most young people obtain smoking products from similar age peers via friends and family. T21 prevents the supply of smoking products to underage peers, limiting smoking experimentation by effectively removing smoking products from schools. This is because there would no longer be any student in schools who is old enough to legally purchase smoking products. On campus unlawful tobacco dealing would be reduced, and potentially eliminated, from many schools.

Under the existing Public Health Act 1997, gifting or supply of cigarettes and other smoking products to a child (e.g. a person under the age of 18) is prohibited, by any person, including retailers, family members and friends. To date there have been no recorded prosecutions for gifting or supply of cigarettes to a child by family or friends. Further the selling of smoking products to a child, by holders of a tobacco license and including by family or friends, is prohibited.

Under the T21 amendment, under-age person is defined as a person aged 18 to 21 years. Under the proposed amendment any persons gifting a family member aged 18-21 years (under-age person) with a smoking product would not commit an offence unless the provider is a licenced tobacco seller or staff. Any persons selling smoking products to an under-age person (18-21 years) would be

committing an offence. Licensed tobacco sellers must ensure that their staff do not sell or gift smoking products to under-age persons.

The T21 Bill ensures that the onus of selling these products is on the seller, not the purchaser. Few Tasmanian retailers currently sell to minors and the Department of Health reports a 98% compliance rate from retailers.

Young people who attempt to buy cigarettes, tobacco or electronic vaping devices are not penalised under the provisions of this Bill. [Purchase Use Possession \(PUP\) laws](#) are not supported in Australia, as they have been found to be ineffective and counterproductive. The tobacco industry supports PUP laws.

Intending purchasers are obliged to provide age identification if requested by the seller, and there are penalties for providing false identification. This is already an obligation on licensed tobacco sellers and age identification is requested when young adults purchase smoking products.

In 1997, the age at which tobacco could be sold to minors was raised from 16 to 18 years. There was no phase in period, and young people who had bought cigarettes on one day were not permitted to the next day, over time the age of tobacco initiation increased from 14 years to 16 years.

The T21 Bill has a phase in period, so that there is no sudden effect on adolescent smokers attempting to purchase smoking products. Beginning in the year after legislation is passed, it is proposed to raise the minimum sales age for tobacco products in three annual steps from 18 to 19, 20 and then 21 years of age. An amendment will be moved by Hon. Ivan Dean to clarify the process of phase-in.

The T21 Bill includes provisions to evaluate the T21 amendment and the effects of the entire section of the Act relating to sale of smoking products to children and adolescents. The Review would be conducted by the Director of Public Health, must be tabled in Parliament, and may recommend changes.

The T21 Bill has been on the Tasmanian Parliament notice paper for two years, since November 2018. During that time, an enormous amount of work has been completed to ensure members of parliament have everything needed to make an informed decision on the Bill, including research conducted by the Menzies Institute for Medical Research, which clearly demonstrates community support and evidence supporting T21.

Since the bill was introduced in Tasmania, the US has mandated T21 at the end of 2019, and already there has been a [decline in uptake of e-cigarettes by young people](#).

The second reading of the T21 Bill was delayed in October 2020 at the request of the Tasmanian Government to allow for further briefings of Cabinet and party members. It is due to be read for a second time in March 2021.

## Recent research

### *Wells Economic Analysis*

Independent economic modelling conducted in 2020 shows a relatively low expected impact on gross profit from tobacco sales for the small Tasmanian retail sector if the legal sales age of smoking products is increased to 21 years.

In partnership with SmokeFree Tasmania, Minderoo Foundation commissioned an independent economic analysis at the request of the Tasmanian government. The report shows an expected total impact of between \$500,000 to \$1.5million per annum in gross profit for the less than 600 small businesses who currently hold retail tobacco licenses across Tasmania over the phased implementation period of five years.

The report by Wells Economic Analysis focuses on the 593 small and medium licensed tobacco outlets in Tasmania, which account for 40 per cent of tobacco sales. The analysis does not include large supermarkets, wholesalers and vending machine sales. Impact was assessed in terms of the effect of the T21 proposal on gross profit per store over a five-year period.

The report can be accessed [here](#) .

### *Menzies Institute for Medical Research*

The Menzies Institute for Medical Research was engaged by Minderoo Foundation to analyse the prevalence of smoking in Tasmania, examine the attitudes and beliefs of stakeholders and young people impacted by the proposed T21 legislation, and review the evidence for T21 laws in other jurisdictions.

The analysis found that most Tasmanians, including young people and stakeholders, support or agree with Tobacco 21. Young people and youth workers believed that more should be done to stop young people from starting to smoke.

A summary of the report can be accessed here - [summary](#) .

All recent Tasmanian research and links to other research can be accessed here - <https://www.smokefreetasmania.com/> .