

To:  
**Ms Jenny Leaman**  
**Committee Secretary**  
**Government Administration Committee 'A'**

Regarding the proposed:

**Public Health Amendment  
(Tobacco Free Generation) Bill 2014**

Submission on behalf of:

**National Independent Retailer Association Inc.  
(NIRA)**



**About National Independent Retailers Association**

The National Independent Retailers Association (NIRA) was formed in 1953 by State organisations within Australia which represented the interests of small food shops - notably milk bars and mixed businesses.

Over the years the organisation expanded its membership so as to provide representation to Government on behalf of independent retailers from all sectors of the industry including independent supermarkets; convenience stores; mixed businesses; general stores and specialist retailers such as electrical, furniture, lottery, clothing, giftware and so on.

NIRA is the "association of associations" and has an affiliated independent retail organisation in almost every state. NIRA represents over 15,000 small independent retailers within Australia.

## **SUBMISSION**

The National Independent Retailer Association (NIRA) would like to thank those involved for the opportunity to voice its opinion on the proposed Public Health Amendment (Tobacco Free Generation) Bill 2014, currently before Government Administration Committee 'A' for consideration.

Although NIRA applauds the Tasmanian Government on its efforts to reduce the incidence and uptake of juvenile smoking we feel that the proposed legislation will have little or no impact to this end. The potential flow on effects of this legislation will be damaging to Tasmanian retailers and will have serious consequences that will do more harm than good in relation to this initiative.

The proposed legislation can only be described as draconian and an affront to civil liberties for those to which the legislation is intended to help. To suggest that a select group of people simply by nature of their birth date do not have the same right to choose to purchase a legal product that everyone else in the world is able to, would only reflect badly on the nature of the Tasmanian legislative process and its reputation on being a "nanny state".

To suggest that come January 1<sup>st</sup> 2018 an 18 year old would be legally able to drive a car, own a house, own a company, incur debt, marry, be charged and imprisoned as an adult, buy and drink alcohol at will and more importantly die defending their country and not be able to buy a perfectly legal tobacco product in Tasmania is ludicrous to the extreme. To ask them to wait till they turn 25 is nothing more than insulting.

History has proven again and again that prohibition does not work. The fact that this legislation makes no effort to make it illegal for anyone born after 2000 to actually smoke or purchase tobacco is another reflection on the legislations limitations.

One only needs to look at the illegal drug trade to see what influence prohibition has had on the youth. Drugs such as ICE, Ecstasy and Marijuana which are illegal to sell, use and even have in ones possession are at epidemic levels in all communities including Tasmania. Here we have a controlled, legal, taxed and comparatively safer product sold by reputable and responsible retailers which short sighted and draconian legislation like the one proposed is likely to help become illegal, untaxed, potentially poisonous commodity sold by organised crime and opportunists.

One has to ask how the increase in internet sales to those affected by this legislation is to be managed. The ability for those restricted by this legislation to legally purchase tobacco products from the Australian mainland and overseas would negate any impact this legislation might have while having a negative affect on Tasmanian retailers and resulting in stockpiling and increased use. As every smoker knows that the more cigarettes you have the more you smoke and it is easier for children to get access to a cupboard than a retailer. Most smokers state they began smoking by stealing from their parents stash. Why would you want to encourage that?

The flow on effects of plain packaging and higher excise taxes has already seen an explosion of illegal tobacco on the market and absolutely no reduction in tobacco use, simply a shift to cheaper brands, roll your own tobacco and the illegal trade. It has led to stockpiling (buying larger quantities from supermarkets and discounters) and an increase in actual consumption while reducing the value of the tobacco market and reducing excise tax returns. Organisations such as ASH and Anti Cancer Council use this to suggest these measures have worked but the real truth from the coal face is contrary. As expected by the industry and retailers those measures have done more harm than good as will this legislation should it go ahead.

The greatest issue NIRA has in representing independent retailers would have to be on the increased responsibility placed wholly and solely on the retailer to act as the only enforcer of this legislation.

Why should the complete responsibility of enforcing this legislation to the general public be left completely up to the retailer? Effectively making an innocent retailer whose sole intention is to survive in an extremely competitive environment the policeman, judge and jury for a piece of legislation that in effect will most likely alienate them from their own customers.

One could only imagine the impact if this legislation was attempted with Alcohol sales which can have far more severe social implications than tobacco and is currently illegal for under 18's to buy and generally consume in public. Yet the same initiatives are not being suggested for tobacco, instead the innocent retailer is to become 100% responsible instead of sharing this responsibility with police, parents, users and the community, as it should be.

At a time when small businesses are drowning in red tape and restrictive legislation; when small retailers are struggling to survive and remain profitable; when large retailers like Coles and Woolworths now sell over 80% of tobacco products to Australians due to the effect of previous legislation; when black market tobacco has become a lucrative industry which will not adhere to this legislation; why on earth would you want to put another nail in the coffin of legitimate small businesses?

Why would you want to make an untrained, unskilled shopkeeper and their often elderly or young family members and staff the unpaid policemen of this legislation that will make them unpopular with the very people they rely on to survive and then hit them over the head with a sledgehammer if they make an honest mistake?

Will the government provide all retailers, family and staff with free training on how to deal with irate customers and tourists who may find this legislation offensive to their human rights? How can proponents of this legislation expect an untrained shop keeper often with poor language skills to take on the responsibility for enforcing a piece of legislation that will be extremely unpopular with 100% of all those most affected by its restrictions.

One can only imagine the potential explosion in the already lucrative fake ID trade this legislation will help to fuel. Perhaps the Committee should ask the youth of today how many already carry counterfeit, altered (scratchies) and fake or borrowed identification available almost anywhere for anything from \$50 to \$400 each.

It is absurd to suggest that 80% of the population support such legislation when it's likely all of them are non smokers and therefore not affected by it. No matter whom you ask to comment about this proposed legislation you are likely to get a large percentage of positive responses, but these responses will either be because those asked will not be affected by it or will not be aware of the possible flow on consequences.

It is common sense that as an example, any legislation banning skydiving for under 25 year olds in Tasmania would only serve to upset those that care for the sport. Asking the general Australian public and getting agreement is irrelevant. This proposed legalisation should be seen in the same light.

It should be your responsibility as the Government Administration Committee to see past the motherhood statements and noise created by misdirected self interest lobby groups or people. It should be your responsibility to seriously consider those most affected by this legislation, that being the basic rights of the future 18, 21 and 24 year olds and the small independent retailers you intend to sacrifice by going ahead with this legislation. All other noise is just that, "noise" and should be treated as such.

We urge the Committee members charged with the heavy responsibility of reviewing and reporting on this proposed legislation to consider all the possible implications, both economic and social, and indeed the reputation of Tasmania and its political leaders when deciding on the correct course of action. We urge you to consider the impact it will have on, not those who make the most noise, but those most affected by it, all of whom are now under 15 years old or just trying to run a legitimate, honest and successful business.

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