



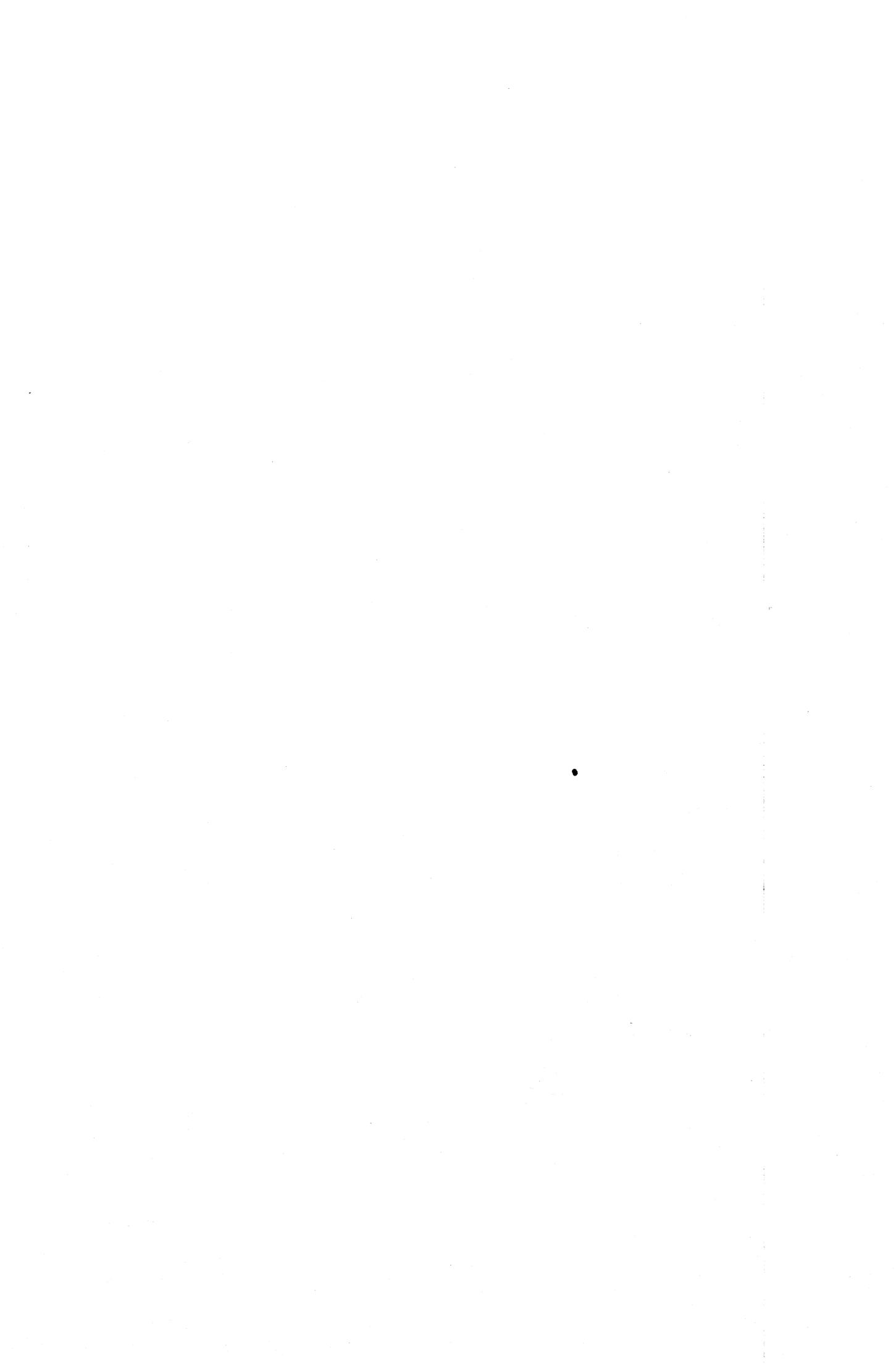
## **PUBLIC HEALTH AMENDMENT ACT 1996**

**No. 49 of 1996**

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# **PUBLIC HEALTH AMENDMENT ACT 1996**

**No. 49 of 1996**

**An Act to amend the *Public Health Act 1962***

**[Royal Assent 16 December 1996]**

Be it enacted by His 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:

## **Short title**

1. This Act may be cited as the *Public Health Amendment Act 1996*.

## **Commencement**

2. This Act commences on a day to be proclaimed.

**Principal Act**

3. In this Act, the *Public Health Act 1962*\* is referred to as the Principal Act.

**Part VIIIA inserted**

4. After Part VIII of the Principal Act, the following Part is inserted:

**PART VIIIA – UNDER-AGE SMOKING****Interpretation**

121A. In this Part –

**"approved"** means approved by the Director;

**"child"** means a person who has not attained the age of 18 years;

**"licensed premises"** has the meaning assigned to that expression in section 3 of the *Liquor and Accommodation Act 1990*;

**"nominated officer"** means –

- (a) the Director; or
- (b) a health officer; or

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\* No. 75 of 1962. Amended by No. 55 of 1965, No. 35 of 1966, Nos. 86 and 87 of 1968, No. 37 of 1970, Nos. 35, 54 and 75 of 1973, No. 72 of 1974, Nos. 16 and 21 of 1976, No. 46 of 1977, No. 63 of 1978, No. 9 of 1982, No. 46 of 1983, Nos. 29 and 100 of 1984, No. 116 of 1985, Nos. 4 and 17 of 1989, No. 5 of 1990, Nos. 4, 27, 43 and 46 of 1991, Nos. 19 and 96 of 1993, No. 68 of 1994, Nos. 14, 18, 30, 81 and 100 of 1995 and No. 8 of 1996.

- (c) a police officer within the meaning of the *Police Regulation Act 1898*; or
- (d) any other approved person;

**"tobacco product" means –**

- (a) tobacco in the form of any cigars or cigarettes; or
- (b) any other product of which tobacco is an ingredient; or
- (c) any device designed or intended only for the use of tobacco.

**Smoking by children**

**121B.** A child must not smoke or use any tobacco product.

**Sale to children**

**121C. (1)** A person must not sell, lend, give or supply or offer to sell, lend, give or supply any tobacco product to, or for the use of, any child.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and
- (b) for a subsequent offence, 100 penalty units.

**(2)** A person who is the holder of a licence under the *Tobacco Business Franchise Licences Act*

1980 must not permit the sale, loan, gift or supply of any tobacco product to, or for the use of, any child.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and
- (b) for a subsequent offence, 100 penalty units.

(3) An employer who is not the holder of a licence under the *Tobacco Business Franchise Licences Act 1980* must not permit any employee on or within 100 metres of any premises owned or occupied by the employer to sell, lend, give or supply any tobacco product to, or for the use of, any child.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and
- (b) for a subsequent offence, 100 penalty units.

(4) A person who sells any tobacco product must display a notice in the approved form in a conspicuous position in the place where it is sold.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and
- (b) for a subsequent offence, 100 penalty units.

(5) In any proceedings for an offence under subsection (1) it is a defence for a person to prove that credible proof of age was provided.

(6) A person in charge of any premises which sells or supplies any tobacco product must provide to persons employed at the premises information according to approved guidelines about the sale and supply of tobacco products to children.

Penalty: Fine not exceeding 5 penalty units.

(7) Subsection (1) does not apply to a person who has taken reasonable steps to prevent the supply of any tobacco product to any child.

### **Vending machines**

**121D.** (1) The following persons are taken to have supplied any tobacco product to any person:

- (a) a person apparently responsible for a machine that sells any tobacco product;
- (b) the owner or lessee of premises at which a machine that sells any tobacco product is situated if the owner or lessee carries on business in the area of the premises in which the machine is situated.

(2) A person responsible for a machine which sells any tobacco product must ensure that the machine –

- (a) is locked or otherwise secured so that a person is unable to obtain the tobacco product from the machine; or
- (b) is under the supervision of a person who is not a child.

Penalty: Fine not exceeding 25 penalty units.

(3) A person must not permit a machine that sells any tobacco product to be operated on any premises other than licensed premises.

Penalty: Fine not exceeding 25 penalty units.

(4) The Director may formulate a code of practice for the use and placement of machines selling any tobacco product.

(5) A person must comply with the provisions of a code of practice formulated under subsection (4).

Penalty: Fine not exceeding 25 penalty units.

### **Seizure of tobacco product**

**121E.** (1) A nominated officer may seize any tobacco product being smoked or used by a child.

(2) Any tobacco product seized under subsection (1) is forfeited to the Crown.

(3) The Minister may destroy or dispose of any tobacco product forfeited under subsection (2) in any manner that the Minister considers appropriate.

### **Warnings and information**

**121F.** (1) A nominated officer who reasonably believes that a child has contravened a provision of this Part may –

(a) give the child a warning or a caution;  
and

- (b) provide the child with approved information.

(2) To exercise a power under subsection (1), a nominated officer, with the approval of a parent or guardian of a child, may require the child to attend a specified place at a specified time as is reasonable in the circumstances.

(3) A nominated officer may require a child to give –

- (a) his or her name and address; and
- (b) the name and address of his or her parent or guardian.

(4) A nominated officer may –

- (a) notify a parent or guardian of a child of a contravention of this Part by the child; and
- (b) provide the parent or guardian with approved information.

### **Offences relating to tobacco products**

**121G.** (1) A person must not –

- (a) supply, or be in possession of, any confectionery that resembles or is intended to represent any tobacco product; or
- (b) supply cigarettes to the public –
  - (i) in a package containing less than 20; or

- (ii) otherwise than in a package; or
- (c) utilise any marketing device, plan or scheme, other than price discounting, which is dependent on the purchase of any tobacco product.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and
- (b) for a subsequent offence, 200 penalty units.

(2) If a person uses price discounting as a marketing device, plan or scheme, that person must not advertise the price discounting.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and
- (b) for a subsequent offence, 200 penalty units.

### ***Police Offences Act 1935 amended***

5. Sections 31 and 32 of the *Police Offences Act 1935* are repealed.

*[Second reading presentation speech made in:–  
House of Assembly on 26 November 1996  
Legislative Council on 6 November 1996]*