



Australian Capital Territory

Tobacco (Vending Machine Ban) Amendment Act 2004

A2004-49

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Tobacco (Vending Machine Ban) Amendment Act 2004

A2004-49

An Act to amend the *Tobacco Act 1927*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

2004 063B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Tobacco (Vending Machine Ban) Amendment Act 2004*.

2 Commencement

- (1) Section 14 commences on the day after this Act's notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) The remaining provisions commence on 1 September 2006.

3 Legislation amended

This Act amends the *Tobacco Act 1927*.

Note This Act also amends the *Tobacco Regulations 1991* (see pt 3)

Part 2 Tobacco Act 1927

4 Legislation amended—pt 2

This part amends the *Tobacco Act 1927*.

5 New section 2B

insert

2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to an offence committed by a person against s 16 (Prohibition on sale of smoking products by vending machine) of this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 Location of display Section 12 (1) (b) and (2) (b) (ii)

omit

except in the case of a vending machine from which smoking products are sold—

7 Supply of smoking product to under 18 year olds Section 14 (3) and (4)

omit

8 Section 14

renumber subsections when Act next republished under Legislation Act

9 Section 16

substitute

16 Prohibition on sale of smoking products by vending machine

- (1) A person commits an offence if—
- (a) the person places a vending machine on premises; and
 - (b) the vending machine is used, or is available for use, by members of the public.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person occupies premises where there is a vending machine; and
 - (b) the vending machine is used, or is available for use, by members of the public.

Maximum penalty: 50 penalty units.

**10 Health warnings at point of sale displays
Section 22**

omit

(other than a vending machine)

11 Prohibited smoking advertising
Section 23 (6), definition of *personal use advertisement*,
paragraph (b)

omit

(including management of a retail outlet where a vending machine is used for the sale of smoking products)

12 Meaning of *tobacco retailing*
Section 44 (3)

omit

13 New section 49A

insert

49A No vending machines authorised

The registrar must not grant, renew or revive a tobacco licence that would authorise the use of a vending machine for the sale of tobacco products.

14 New section 49B

insert

49B 2005/2006 licences—no vending machines authorised

- (1) The registrar must not grant, renew or revive a tobacco licence that would authorise the use of a vending machine for the sale of tobacco products if the use would be authorised on or after 1 September 2006.
- (2) This provision expires on 1 September 2006.

**15 Refusal to grant or renew tobacco licence
Section 50 (1) (a) and (b)**

substitute

- (a) if the applicant holds another licence—the licence applied for would authorise the sale of smoking products at premises while, under a variation of the other licence under section 56 (2) (b), the sale of smoking products at the premises has been prohibited.

16 Section 50 (1)

renumber paragraphs when Act next republished under Legislation Act

**17 Disciplinary action—general
Section 56 (1)**

substitute

- (1) This section applies if the registrar has reasonable grounds for believing that a person who is a licensee has contravened this Act or a condition of the licence.

18 Section 56 (2) (a)

omit

19 Section 56 (2) (b) (i) and (ii)

omit

, the use of vending machines for the sale of smoking products

20 Section 56 (2)

renumber paragraphs when Act next republished under Legislation Act

21 Section 56 (4) (b) and (c)

substitute

(b) disqualify the person from holding a tobacco licence for 5 years after the notice is given to the person.

22 Section 56 (5)

omit

23 Section 58

omit

**24 Tobacco retailing—offences
Section 63 (2)**

omit

25 Section 63 (3)

renumber as section 63 (2)

**26 Licence particulars to be displayed
Section 64 (3), (4) and (5)**

omit

**27 Review of decisions
Section 68 (d)**

omit

28 Section 68

renumber paragraphs when Act next republished under Legislation Act

29 Dictionary, definition of *point of sale*

substitute

point of sale means a place, identified in accordance with the regulations (if any), where smoking products are sold within a retail outlet or wholesale outlet.

30 Dictionary, definition of *vending machine*

substitute

vending machine means a machine or mechanical device used or able to be used for the purpose of selling smoking products without the personal manipulation or attention of the seller, or the seller's employee or agent, at the time of the sale.

Part 3 Tobacco Regulations 1991

31 Legislation amended—pt 3

This part amends the *Tobacco Regulations 1991*.

32 Part 2

omit

33 Application—Act, s 22 Regulation 3

omit

(other than a vending machine)

34 Regulations—renumbering

*renumber provisions when regulations next republished under
Legislation Act*

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 June 2004.

2 Notification

Notified under the Legislation Act on 16 August 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Tobacco (Vending Machine Ban) Amendment Bill 2004, which was passed by the Legislative Assembly on 4 August 2004.

Clerk of the Legislative Assembly

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