

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Ms Roslyn Dundas)

# Tobacco (Vending Machine Ban) Amendment Bill 2004

## Contents

---

|   | Page |
|---|------|
| <b>Part 1</b>   |      |
| <b>Preliminary</b>  |      |
| 1 Name of Act   | 2    |
| 2 Commencement  | 2    |
| 3 Legislation amended   | 2    |
| <b>Part 2</b>   |      |
| <b>Tobacco Act 1927</b>   |      |
| 4 Legislation amended—pt 2  | 3    |
| 5 New section 2B  | 3    |
| 6 Location of display Section 12 (1) (b) and (2) (b) (ii)                   | 3    |
| 7 Supply of smoking product to under 18 year olds<br>Section 14 (3) and (4) | 3    |
| 8 Section 14  | 4    |
| 9 Section 16  | 4    |

---

2004 063B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Contents

---

|               | Page  |   |
|---------------|---|---|
| 10            | Health warnings at point of sale displays<br>Section 22   | 4 |
| 11            | Prohibited smoking advertising<br>Section 23 (6), definition of personal use advertisement, paragraph (b) | 5 |
| 12            | Meaning of <i>tobacco retailing</i> Section 44 (3)  | 5 |
| 13            | New section 49A   | 5 |
| 14            | New section 49B   | 5 |
| 15            | Refusal to grant or renew tobacco licence<br>Section 50 (1) (a) and (b)                                   | 6 |
| 16            | Section 50 (1)  | 6 |
| 17            | Disciplinary action—general<br>Section 56 (1)   | 6 |
| 18            | Section 56 (2) (a)  | 6 |
| 19            | Section 56 (2) (b) (i) and (ii)   | 6 |
| 20            | Section 56 (2)  | 6 |
| 21            | Section 56 (4) (b) and (c)  | 7 |
| 22            | Section 56 (5)  | 7 |
| 23            | Section 58  | 7 |
| 24            | Tobacco retailing—offences<br>Section 63 (2)  | 7 |
| 25            | Section 63 (3)  | 7 |
| 26            | Licence particulars to be displayed<br>Section 64 (3), (4) and (5)  | 7 |
| 27            | Review of decisions<br>Section 68 (d)   | 7 |
| 28            | Section 68  | 7 |
| 29            | Dictionary, definition of <i>point of sale</i>  | 8 |
| 30            | Dictionary, definition of <i>vending machine</i>  | 8 |
| <b>Part 3</b> | <b>Tobacco Regulations 1991</b>   |   |
| 31            | Legislation amended—pt 3  | 9 |
| 32            | Part 2  | 9 |
| 33            | Application—Act, s 22<br>Regulation 3   | 9 |
| 34            | Regulations—renumbering   | 9 |

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Ms Roslyn Dundas)

## **Tobacco (Vending Machine Ban) Amendment Bill 2004**

---

### **A Bill for**

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

---

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Tobacco (Vending Machine Ban) Amendment Act*  
4 *2004*.

5 **2 Commencement**

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

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

9 (2) The remaining provisions commence on 1 September 2005.

10 **3 Legislation amended**

11 This Act amends the *Tobacco Act 1927*.

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

---

## 1 Part 2 Tobacco Act 1927

### 2 **4 Legislation amended—pt 2**

3 This part amends the *Tobacco Act 1927*.

### 4 **5 New section 2B**

5 *insert*

### 6 **2B Offences against Act—application of Criminal Code etc**

7 Other legislation applies in relation to offences against this Act.

8 *Note 1 Criminal Code*

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

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

16 *Note 2 Penalty units*

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

### 19 **6 Location of display** 20 **Section 12 (1) (b) and (2) (b) (ii)**

21 *omit*

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

### 24 **7 Supply of smoking product to under 18 year olds** 25 **Section 14 (3) and (4)**

26 *omit*

- 1 **8 Section 14**
- 2 *renumber subsections when Act next republished under Legislation*
- 3 *Act*
- 4 **9 Section 16**
- 5 *substitute*
- 6 **16 Prohibition on sale of smoking products by vending**
- 7 **machine**
- 8 (1) A person commits an offence if—
- 9 (a) the person places a vending machine on premises; and
- 10 (b) the vending machine is used, or is available for use, by
- 11 members of the public.
- 12 Maximum penalty: 50 penalty units.
- 13 (2) A person commits an offence if—
- 14 (a) the person occupies premises where there is a vending
- 15 machine; and
- 16 (b) the vending machine is used, or is available for use, by
- 17 members of the public.
- 18 Maximum penalty: 50 penalty units.
- 19 **10 Health warnings at point of sale displays**
- 20 **Section 22**
- 21 *omit*
- 22 (other than a vending machine)

- 1 **11 Prohibited smoking advertising**  
2 **Section 23 (6), definition of *personal use advertisement*,**  
3 **paragraph (b)**
- 4 *omit*
- 5 (including management of a retail outlet where a vending machine is  
6 used for the sale of smoking products)
- 7 **12 Meaning of *tobacco retailing***  
8 **Section 44 (3)**
- 9 *omit*
- 10 **13 New section 49A**
- 11 *insert*
- 12 **49A No vending machines authorised**
- 13 The registrar must not grant, renew or revive a tobacco licence that  
14 would authorise the use of a vending machine for the sale of tobacco  
15 products.
- 16 **14 New section 49B**
- 17 *insert*
- 18 **49B 2005/2006 licences—no vending machines authorised**
- 19 (1) The registrar must not grant, renew or revive a tobacco licence that  
20 would authorise the use of a vending machine for the sale of tobacco  
21 products if the use would be authorised on or after 1 September  
22 2005.
- 23 (2) This provision expires on 1 September 2005.

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

3 *substitute*

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

9 **16 Section 50 (1)**

10 *renumber paragraphs when Act next republished under Legislation*  
11 *Act*

12 **17 Disciplinary action—general**  
13 **Section 56 (1)**

14 *substitute*

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

18 **18 Section 56 (2) (a)**

19 *omit*

20 **19 Section 56 (2) (b) (i) and (ii)**

21 *omit*

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

23 **20 Section 56 (2)**

24 *renumber paragraphs when Act next republished under Legislation*  
25 *Act*



---

|    |           |  |
|----|-----------|--|
| 1  | <b>21</b> | <b>Section 56 (4) (b) and (c)</b>                                      |
| 2  |           | <i>substitute</i>  |
| 3  |           | (b) disqualify the person from holding a tobacco licence for           |
| 4  |           | 5 years after the notice is given to the person.                       |
| 5  | <b>22</b> | <b>Section 56 (5)</b>  |
| 6  |           | <i>omit</i>  |
| 7  | <b>23</b> | <b>Section 58</b>  |
| 8  |           | <i>omit</i>  |
| 9  | <b>24</b> | <b>Tobacco retailing—offences</b>                                      |
| 10 |           | <b>Section 63 (2)</b>  |
| 11 |           | <i>omit</i>  |
| 12 | <b>25</b> | <b>Section 63 (3)</b>  |
| 13 |           | <i>renumber as section 63 (2)</i>                                      |
| 14 | <b>26</b> | <b>Licence particulars to be displayed</b>                             |
| 15 |           | <b>Section 64 (3), (4) and (5)</b>                                     |
| 16 |           | <i>omit</i>  |
| 17 | <b>27</b> | <b>Review of decisions</b>   |
| 18 |           | <b>Section 68 (d)</b>  |
| 19 |           | <i>omit</i>  |
| 20 | <b>28</b> | <b>Section 68</b>  |
| 21 |           | <i>renumber paragraphs when Act next republished under Legislation</i> |
| 22 |           | <i>Act</i>   |

---

1 **29 Dictionary, definition of *point of sale***

2 *substitute*

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

6 **30 Dictionary, definition of *vending machine***

7 *substitute*

8 *vending machine* means a machine or mechanical device used or  
9 able to be used for the purpose of selling smoking products without  
10 the personal manipulation or attention of the seller, or the seller's  
11 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 2004.

### 2 Notification

Notified under the Legislation Act on 2004.

### 3 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).