

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

**Tobacco Products (Health Warnings)
(Amendment) Bill 1993**

**A BILL
FOR**

An Act to amend the *Tobacco Products (Health Warnings) Act 1986*

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

Short title

- 5 1. This Act may be cited as the *Tobacco Products (Health Warnings) (Amendment) Act 1993*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) Subject to subsection (4), the remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.
- (3) If the provisions referred to in subsection (2) have not commenced on or before 31 March 1994, those provisions, by force of this subsection, commence on 1 April 1994.
- 15 (4) Paragraph 4 (1) (c) of the Principal Act as amended by this Act commences on 1 July 1994.

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Principal Act

3. In this Act, "Principal Act" means the *Tobacco Products (Health Warnings) Act 1986*.¹

Repeal

- 5 4. Section 2 of the Principal Act is repealed.

Interpretation

5. Section 3 of the Principal Act is amended by—

- (a) omitting from subsection (1) the definition of "tobacco product" and substituting the following definition:

10 " 'tobacco product' means tobacco, a cigarette or cigar or any other product—

(a) a substantial ingredient of which is tobacco; and

(b) that is designed for human consumption or use;

15 but excludes nicotine and any product containing nicotine to which the *Poisons Act 1933* applies.";

- (b) by omitting from subsection (1) the definitions of "prescribed phrase" and "warning";

- (c) by inserting in subsection (1) the following definitions:

20 " 'package', in relation to a tobacco product, means a package—

(a) in which the product is packed by the manufacturer; and

(b) that immediately contains the product;

25 'prescribed information' means the prescribed information in clause 1 of Schedule 3;

'prescribed warning' means a warning consisting of Parts A and B of an item in Schedule 2;

'required labelling' means the labelling described in, or determined under, section 4;

30 'sell' includes—

(a) barter or exchange;

(b) offer or expose for sale, barter or exchange;

- 5
- (c) supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and
 - (d) supply, or offer to supply, gratuitously with a view to gaining or maintaining custom or otherwise with a view to commercial gain;” and

(d) by omitting subsection (2) and substituting the following subsections:

10 “(2) A reference in this Act to the surface of a package is a reference to the external surface of the package.

“(3) If a package is individually wrapped in material that is not wholly transparent so as to allow the required labelling on the package to be readable, a reference in this Act (except section 7) to a package is to be taken to include a reference to that material.”.

15 **Substitution**

6. Sections 4 to 8 (inclusive) of the Principal Act are repealed and the following sections and Schedules substituted:

Labelling of packages

20 “4. (1) A package in a class specified in Column A of an item in Schedule 1 shall be labelled—

- (a) subject to section 6, with Part A of a prescribed warning—
 - (i) positioned in the manner, and filling the area on the package, specified in Column B of that item; and
 - (ii) bordered by a black line;
- 25 (b) with Part B of that prescribed warning—
 - (i) positioned in the manner, and filling the area on the package, specified in Column C of that item; and
 - (ii) bordered by a black line; and
- (c) with the prescribed information—
 - 30 (i) positioned in the manner, and filling the area on the package, specified in Column D of that item; and
 - (ii) bordered by a black line.

“(2) A class of package not specified in Column A of Schedule 1 shall be referred to the Minister for a determination under subsection (3).

“(3) The Minister shall, on referral, determine in writing—

- (a) whether the whole, specified portions, or none, of the prescribed warnings and the prescribed information shall be required labelling for the class of package; and
- 5 (b) the position of the required labelling and the area to be occupied by it on a package in that class (being not more than 44% of the area of a package).

“(4) A package in a class that is the subject of a determination under subsection (3) shall be labelled in accordance with the determination.

10 Type and appearance of required labelling

“5. (1) The required labelling on a package shall be in black Helvetica type on a white background.

“(2) The size of the type shall be consistent within each of the following:

- 15 (a) Part A of a prescribed warning;
- (b) Part B of a prescribed warning;
- (c) the prescribed information.

“(3) A word or number in a prescribed warning or the prescribed information that appears in this Act in bold type or upper case shall appear in the required labelling on a package similarly in bold type or upper case.

“(4) The area on a package required to be occupied by required labelling shall not contain any matter other than that required by this Act.

“(5) The black line bordering a Part of a prescribed warning or the prescribed information shall be 0.5 millimetres thickness.

25 Rotation of warnings

“6. Where the required labelling for a class of package includes the whole, a Part, or any other portion, of a prescribed warning, a person who manufactures or imports tobacco products in that class of package shall ensure that each prescribed warning or the required Part or portion of each
30 prescribed warning, as the case may be, is used in labels on packages in that class with equal frequency during any 12 month period beginning on 1 July.

Penalty:

- (a) if the offender is a natural person—\$500;
- (b) if the offender is a body corporate—\$2,500.

Required labelling not to be removable etc.

“7. (1) No portion of the required labelling on a package shall be able to be removed from the package.

5 “(2) No portion of the required labelling on a package shall be destroyed or become unreadable when the package is opened in the normal way.

Prohibited words

“8. (1) In this section—

‘prohibited words’ means words that—

- 10 (a) contradict or tend to contradict the content of any required labelling on a package;
- (b) comment on, refer to, or explain the content of or the requirement for any required labelling on a package; or
- 15 (c) directly or indirectly attribute the content of Part A of a prescribed warning to any person.

“(2) A package shall not be labelled with or bear prohibited words.

“(3) A package shall not be sold containing anything on which there are prohibited words.

Penalty:

- 20 (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Containers without warnings

“9. A person shall not sell a tobacco product unless it is in a package that complies with this Act.

25 Penalty:

- (a) if the offender is a natural person—\$5,000 or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—\$25,000.

SCHEDULE 1

Section 4

LABELLING REQUIREMENTS FOR PACKAGES

Column A	Column B	Column C	Column D
CLASS OF PACKAGE	POSITION OF PART A OF PRESCRIBED WARNING AND AREA TO BE OCCUPIED BY IT	POSITION OF PART B OF PRESCRIBED WARNING AND AREA TO BE OCCUPIED BY IT	POSITION OF PRESCRIBED INFORMATION AND AREA TO BE OCCUPIED BY IT
1. Box or packet with flip-top, or soft packet, or square or rectangular tin, containing cigarettes	Position: On the front of the box, packet or tin, at the top and across the full width of the box, packet or tin Area: 25% of the whole front of the box, packet or tin	Position: On the back of the box, packet or tin Area: The whole of the back of the box, packet or tin	Position: On one of the long sides of the box, packet or tin Area: The whole of the long side of the box, packet or tin excluding the part that forms part of the lid (if any)
2. Pouch or wallet containing loose tobacco	Position: On the front of the pouch or wallet at the top and across the full width of the pouch or wallet Area: 25% of the whole of the front of the pouch or wallet	Position: On the back of the pouch or wallet Area: The whole of the back of the pouch or wallet	Nil
3. Box or tin containing loose tobacco or loose cigars	Position: On the lid of the box or tin Area: 25% of the whole of the lid of the box or tin	Position: On the back of the box or tin Area: The whole of the back of the box or tin	Nil
4. Package containing plug tobacco	Position: On the package Area: 25% of the surface area of the package	Nil	Nil

SCHEDULE 2.

Sections 4, 5 and 6

PRESCRIBED WARNINGS

Part A

Part B

1. SMOKING CAUSES LUNG CANCER

**HEALTH AUTHORITIES WARN
SMOKING CAN KILL YOU**

LUNG CANCER. Tobacco smoke contains many cancer-causing chemicals. When the smoke is breathed in, these chemicals can damage the lungs, and can cause cancer. Lung cancer is the most common cancer caused by smoking. Lung cancer usually grows and spreads before it is noticed. In most cases, it kills rapidly.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as heart disease, stroke, and emphysema, as well as lung cancer. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

2. SMOKING CAUSES HEART DISEASE

**MEDICAL EXPERTS WARN
SMOKING CAN KILL YOU**

HEART DISEASE. Tobacco smoking is a major cause of heart disease. It is a cause of blockages in the body's arteries, which can lead to chest pain and heart attack. Heart attack is the commonest cause of death in Australia. Smokers have double the chance of a heart attack compared to people who don't smoke.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, stroke, and emphysema, as well as heart disease. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

3. SMOKING CAUSES EMPHYSEMA

HEALTH AUTHORITIES WARN SMOKING CAUSES DISEASE

EMPHYSEMA. When tobacco smoke is breathed into the lungs, the small airways and air sacs become damaged. This is emphysema. It is harder for your body to get the oxygen it needs, and you feel breathless. Emphysema can kill you. Almost all smokers who have smoked for a long time have some degree of emphysema.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, and stroke, as well as emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

4. SMOKING IS A MAJOR CAUSE OF STROKE

MEDICAL EXPERTS WARN SMOKING IS DANGEROUS

STROKE. Tobacco smoking is a cause of blockages in the blood-carrying arteries and weakens their walls. A stroke happens when blood to the brain is blocked and part of the brain dies. Some people die of stroke, and many others lose the use of part of their body.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, and emphysema, as well as stroke. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

**5. SMOKING CAUSES
PERIPHERAL VASCULAR
DISEASE**

**MEDICAL EXPERTS WARN
SMOKING CAUSES DISEASE**

PERIPHERAL VASCULAR DISEASE. Tobacco smoking causes narrowing of the blood-carrying arteries. When blood cannot flow properly in the legs it is called peripheral vascular disease. In severe cases, a blockage can develop in the legs. This is very painful and serious and a leg may have to be cut off. This occurs mostly in smokers.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

**6. SMOKING REDUCES
YOUR FITNESS**

**HEALTH AUTHORITIES WARN
SMOKING HARMS YOUR BODY**

FITNESS. Tobacco smoking raises heart rate and blood pressure, and lowers the amount of oxygen in the blood. Chemicals in the smoke irritate the airways of lungs and make them more narrow. These immediate effects make it more difficult for your body to work at its best level.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine. Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

7. SMOKING KILLS**HEALTH AUTHORITIES WARN AGAINST SMOKING**

DEATH. Tobacco smoking causes more illness and early death than the use of any drug in Australia. It kills almost three times as many people as are killed by alcohol and all other drugs, combined. Six times more people die from the effects of smoking each year than from car accidents.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

8. MOST SMOKERS DEVELOP PERMANENT LUNG DAMAGE**MEDICAL EXPERTS WARN SMOKING HARMS YOUR BODY**

LUNG DAMAGE. Tobacco smoke contains many chemicals which irritate and finally destroy the air sacs and airways in the lungs. Smokers are more likely to cough and feel short of breath. Most smokers who have smoked for a long time have permanent lung damage.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine.

Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

For more information or help to quit:
Call the Quit Line on 008 054321.

**9. YOUR SMOKING
CAN HARM OTHERS**

**HEALTH AUTHORITIES WARN
TOBACCO SMOKE IS DANGEROUS**
HARM TO OTHERS. Other people who breathe your tobacco smoke can be harmed. Your smoking can increase their risk of lung cancer and heart disease. Children who breathe your smoke are more likely to be taken to hospital with asthma, and chest illnesses. Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.
Smoking in pregnancy can harm the unborn child.
Smoking is addictive because of the drug nicotine. Strong cravings for nicotine can make it difficult to quit.
Quitting at any age will help your health and reduce risk of serious illness.
For more information or help to quit:
Call the Quit Line on 008 054321.

10. SMOKING IS ADDICTIVE

**HEALTH AUTHORITIES WARN
SMOKING IS DANGEROUS**
ADDICTION. Tobacco smoking is addictive. Nicotine, a drug in tobacco, makes smokers feel like they need to smoke. The more you smoke, the more your body will depend on getting nicotine, and you can find yourself hooked. Strong cravings for nicotine can make it difficult to give up.
Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.
Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.
Smoking in pregnancy can harm the unborn child.
Quitting at any age will help your health and reduce risk of serious illness.
For more information or help to quit:
Call the Quit Line on 008 054321.

**11. STOPPING SMOKING
REDUCES YOUR RISK OF
SERIOUS DISEASE**

**MEDICAL EXPERTS WARN
AGAINST SMOKING**

QUITTING. Quitting tobacco smoking at any age will help your health and reduces risk of serious illness. Quitting allows your body to recover from some of the damage smoking causes. Even if you have been smoking for a long time, or have the signs of smoking-caused illness, it is still worth quitting.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking in pregnancy can harm the unborn child.

Smoking is addictive because of the drug nicotine. Strong cravings for nicotine can make it difficult to quit.

**For more information or help to quit:
Call the Quit Line on 008 054321.**

**12. SMOKING IN PREGNANCY
CAN HARM THE UNBORN
CHILD**

**MEDICAL EXPERTS WARN
SMOKING IS DANGEROUS**

UNBORN BABIES. Tobacco smoking in pregnancy can harm the unborn child. Poisons in tobacco smoke can reach the baby through the blood-stream. If you smoke when you are pregnant you double the chances of having a baby of low birth-weight. This risks the baby's health.

Smoking has immediate bad effects on the lungs and heart, and after some years may cause serious illnesses such as lung cancer, heart disease, stroke, and emphysema. If you smoke through your life, the chance your smoking will kill you early is higher than one in four. The younger you start, the more you smoke and the longer you smoke, the greater the danger.

Other people who breathe your smoke can also be harmed. Your smoking can increase their risk of chest illnesses, cancer, and heart disease.

Smoking is addictive because of the drug nicotine. Strong cravings for nicotine can make it difficult to quit.

Quitting at any age will help your health and reduce risk of serious illness.

**For more information or help to quit:
Call the Quit Line on 008 054321.**

SCHEDULE 3

Section 4

PRESCRIBED INFORMATION

1. For packages containing cigarettes, the following, with such insertions as are necessary due to the contents of the package, shall be the prescribed information:

The smoke from each cigarette contains:

... milligrams of tar (condensed tobacco smoke containing many chemicals, including some that cause cancer);
... milligrams of nicotine (a poison and addictive drug);
... milligrams of carbon monoxide (a deadly gas which reduces the ability of blood to carry oxygen).

2. The amount of tar and nicotine in the smoke of a cigarette shall, for the purposes of this Schedule, be determined in accordance with the International Organization for Standardisation standard 3308:1991.
3. The amount of carbon monoxide in the smoke of a cigarette shall, for the purposes of this Schedule, be determined in accordance with the International Organization for Standardisation standard 8454:1987."

First rotation period

7. The first period to which section 6 of the Principal Act as amended by this Act applies is the period beginning on the day on which the provisions referred to in subsection 2 (2) of this Act commence and ending at the expiration of 30 June 1995.

Transitional

8. (1) It is a defence to a charge for an offence against the Principal Act alleged to have been committed on or after the day on which this Act is notified in the *Gazette* and before the day on which the provisions referred to in subsection 2 (2) of this Act commence to prove that the labelling on a package would have complied with the Principal Act as amended by this Act.

(2) It is a defence to a charge for an offence against the Principal Act as amended by this Act alleged to have been committed during the 3 month period beginning on the day on which the provisions referred to in subsection 2 (2) of this Act commence to prove that the labelling on a package would have complied with the Principal Act.

NOTE

1. Reprinted as at 31 July 1991.

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