

Tobacco Bill

EXPLANATORY MEMORANDUM

Outline

The purposes of this Bill are to prohibit certain advertising and sale of tobacco products and to establish the Victorian Health Promotion Foundation.

To give effect to these purposes the Bill makes provision for the following:

- (a) Prohibition of tobacco sponsorship of sporting and cultural events.
- (b) Prohibition of other forms of promotion including competitions and free samples of tobacco products.
- (c) prohibition of cinema advertising, billboards and other external signs advertising tobacco products.
- (d) Controlling the access to cigarettes by persons under 16.
- (e) Establishment of the Victorian Health Promotion Foundation to provide replacement funding to sport and art groups, and for other purposes.

Clause Notes

PART 1—PRELIMINARY

Preamble outlines the background and aims of the Act.

Clause 1 describes the purposes of the Act.

Clause 2 is the commencement provision and specifies that with minor exceptions, the Act will commence on the day on which it receives the Royal Assent.

Clause 3 defines various terms used in the Act.

Clause 4 excludes radio and television broadcasts and tobacco sold outside Victoria from the ambit of the Act.

Clause 5 sets out the objects of the Act and the duties of the Minister in giving effect to the Act.

PART 2—PROHIBITION OF ADVERTISING ETC.

Clause 6 prohibits various forms of advertising of tobacco products.

Clause 7 makes it an offence to promote the purchase of tobacco products by conducting competitions or offering prizes or gifts.

Clause 8 makes it an offence to distribute free samples of tobacco products or items promoting a tobacco product.

Clause 9 prohibits sponsorship agreements which include the promotion of tobacco products or the interests of a manufacturer or distributor.

Clause 10 empowers the Governor in Council to exempt functions or events of special significance from the operation of Clause 8.

Clause 11 prohibits the sale of tobacco in packages which do not carry certain labels in accordance with the Regulations.

Clause 12 makes it an offence to sell to, or buy any tobacco product for, a person under sixteen years of age.

Clause 13 prohibits tobacco vending machines except on licensed premises.

Clause 14 makes it an offence to sell cigarettes in packages of less than 20.

Clause 15 prohibits the manufacture or sale of tobacco products other than those prepared for smoking unless exempted by regulation.

PART 3—VICTORIAN HEALTH PROMOTION FOUNDATION

Clause 16 provides for the establishment of a Victorian Health Promotion Foundation as a body corporate.

Clause 17 sets out the objectives of the Foundation including funding activity related to the promotion of good health and the prevention and early detection of disease.

Clause 18 sets out the functions of the Foundation including a capacity to make grants for research and to provide sponsorship of sporting and cultural events.

Clause 19 vests appropriate powers in the Foundation to perform its functions or achieve its objectives.

Clause 20 requires the Foundation to be responsible to the Minister and subject to any written guidelines of the Minister.

Clause 21 provides that the Foundation shall consist of between six and ten members to be appointed by the Governor in Council.

Clause 22 deals with the terms of appointment of members of the Foundation.

Clause 23 provides for the payment of remuneration and allowances to members of the Foundation.

Clause 24 empowers the Governor in Council to appoint acting members of the Foundation when necessary and goes on to detail the terms and conditions of such appointments.

Clause 25 enables the Governor in Council to remove a member of the Foundation from office.

Clause 26 sets out the procedure by which a member may resign from office.

Clause 27 deals with the responsibilities of any member of the Foundation who has an interest in any contract with the Foundation, possesses any property or holds any office whereby a conflict of interest may be created with that person's duties as a member of the Foundation. Among other things, the member must declare the fact, nature and extent of such conflict at a meeting of the Foundation.

Clause 28 provides that acts or decisions of the Foundation are not invalidated because of certain minor irregularities.

Clause 29 contains various machinery provisions relating to the conduct of meetings by the Foundation.

Clause 30 provides that the Governor in Council may appoint patrons of the Foundation.

Clause 31 enables the Foundation to appoint advisory committees with the approval of the Minister, to assist it in the performance of its functions.

Clause 32 provides for the appointment of a Chief Executive Officer and such other staff as are necessary to the Foundation.

Clause 33 establishes the Victorian Health Promotion Fund as part of the Public Account Trust Fund. The Victorian Health Promotion Levy referred to in Clause 46 shall be paid into the Fund. Grants, and the costs and expenses of the Foundation, are to be met from the Fund. An amount equal to ten per cent of the Levy shall be paid to a body designated by the Treasurer for the purpose of medical research.

Clause 34 requires the Fund to submit an Annual Budget for the Minister's approval.

Clause 35 sets out requirements for the keeping of proper accounts and records by the Foundation.

Clause 36 deals with the Annual Report of the Foundation.

Clause 37 requires the annual financial statements of the Foundation to be audited by the Auditor-General.

PART 4—MISCELLANEOUS

Clause 38 enables the issue of notices requiring the removal of tobacco advertisements which contravene the provisions of section 6 (2).

Clause 39 enables authorised officers to serve infringement notices on persons for offences under sections 12 and 13.

Clause 40 empowers police officers and other authorised officers to take proceedings for offences against the Act.

Clause 41 provides that all penalties recovered under the Act must be paid into the Consolidated Fund except that where proceedings are brought by a municipality the penalties recovered are payable to the municipality.

Clause 42 extends the liability of a body corporate for an offence against the Act to each director or other person concerned in the management of the body corporate.

Clause 43 protects persons from civil proceedings arising from a failure or refusal to do anything which would cause them to commit an offence under this Act.

Clause 44 makes applications for grants or financial assistance from the Foundation, exempt documents under the *Freedom of Information Act 1982*.

Clause 45 empowers the Governor in Council to make regulations with respect to certain matters.

PART 5—AMENDMENT OF OTHER ACTS

Clause 46 amends the *Business Franchise (Tobacco) Act 1974* by increasing the franchise fee from 25 per centum to 30 per centum and provides that one sixth of the amount paid as *ad valorem* fees for licences issued under the Act shall be received as the Victorian Health Promotion Levy and paid into the Victorian Health Promotion Fund.

Clause 47 repeals section 272 of the *Health Act 1958*.

Clause 48 repeals sections 43 and 44 of the *Summary Offences Act 1966*.

Schedule describes the offences for which infringement notices may be issued under clause 37.

