



**Public Health Association**  
AUSTRALIA

**Public Health Association of Australia  
submission on the Northern Territory  
*Tobacco Control Amendment Bill 2018***

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# Preamble

## The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia.

The PHAA works to ensure that the public's health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people's health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

## Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.

## Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.



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## Introduction

PHAA welcomes the opportunity to provide input to the Economic Policy Scrutiny Committee's inquiry into the *Tobacco Control Amendment Bill 2018*.

Data from the National Drug Strategy Household Survey for people aged 18 years and over shows that, since 2001, adults in the Northern Territory (NT) have consistently had the highest level of regular smoking among those aged 18+ years (20% in 2016).<sup>(1)</sup> These Amendments are an important step, as they provide important regulatory reform that will bring NT in line with other states and territories and will create an environment that supports broader tobacco control efforts.

## E-cigarette regulation

Scientific evidence is building on the health harms of e-cigarettes, the role they play in increasing smoking uptake, particularly for young people, and concerns that they may depress smoking cessation rates. It is important that governments protect the community from potential harm by ensuring that they are only marketed if approved by the Therapeutic Goods Administration.

The state and territory law in Australia relating to e-cigarettes is somewhat fragmented. For example, in Western Australia tobacco laws do not permit the sale of e-cigarettes on the basis that they resemble a tobacco product, while legislation in Queensland, ACT and Victoria states that e-cigarettes may not be sold to minors, used in smoke-free areas, or advertised, promoted or displayed at retail outlets.

The Bill before the Northern Territory Legislative Assembly would join in what is becoming the predominant state and territory legislative approach, by proposing Amendments which include conditions on sale, supply and use of e-cigarettes, as well as a complete prohibition on the advertising and marketing of e-cigarettes.

However, these Amendments need to go further. Recent reviews of the evidence by Australia's National Health and Medical Research Council, the US National Academy of Sciences, Engineering and Medicine and Australia's CSIRO have found no evidence for the effectiveness of e-cigarettes for smoking cessation, found increasing evidence for harm, and highlighted the use of e-cigarettes as a likely precursor to children taking up smoking.<sup>(2-4)</sup> The recent reviews provide strong evidence for regulation as proposed, but even more so, provide strong evidence for prohibiting the sale of e-cigarettes (and similar products) altogether, unless otherwise approved by the Therapeutic Goods Administration, (as recommended by Cancer Australia, and supported by leading health authorities).<sup>(5)</sup> The prohibition of sale should be further supported by banning use of e-cigarettes in existing and new public smoke-free areas.

Based on this evidence, PHAA would urge the Committee to go further than suggested, by ensuring:

- The sale of alternative nicotine and non-nicotine delivery systems including e-cigarettes should be prohibited unless they have received TGA approval.
- Advertising and promotion of e-cigarettes should be prohibited and consistent with tobacco advertising prohibitions
- Use of e-cigarettes is prohibited in existing and new public smoke-free areas.

## Other regulatory measures

We take note of the other policies implemented in the Bill including:

- regulation of places and devices where minors might obtain tobacco products
- buffer zones around community events
- prohibition of under-aged retail staff from selling tobacco products

PHAA supports each of these measures, which will bring the Territory into better alignment with public health law in other Australian jurisdictions.

### *Extension to 10m of the gate or boundary and mandatory signage*

Scientific evidence is unequivocal about the serious health effects of second-hand smoke, and a major review by the US-Surgeon General concluded that there is no risk free level of exposure to second-hand smoke and highlighted that infants and children are particularly vulnerable as their bodies are still developing and are susceptible to the poisons found in tobacco smoke.<sup>(6)</sup>

There is a wealth of research showing the health and social benefits of smoke-free legislation and demonstrating its effectiveness as a powerful public health intervention. Limiting opportunities for tobacco use in public places including public events, sporting and recreation facilities, through the introduction of smoke free policies and regulations, can be a successful strategy for reducing tobacco consumption, as well and reduce the social acceptability of smoking and children's exposure to role-modelling of smoking.<sup>(7)</sup>

PHAA therefore supports the extension to a 10 metre smoke-free buffer from the boundary and entry area of community events and community facilities, and mandatory signage to ensure compliance with smoke-free requirements.

### *Smoke free entry and boundary at educational facilities*

For the reasons outlined above, PHAA supports amendments to make the entry and boundary area of an educational facility smoke-free.

However, PHAA does not support maintaining the power to exempt an educational facility from being entirely smoke free *Tobacco Control Regulations* 10(a), and given the definition of 'educational facility' in the Act is limited to schools, childcare and any other facility used for educating or caring for children, there is no rational argument for requiring the exemption.

### *Vending machines to be located in child free area of liquor licensed premises*

PHAA strongly recommends that vending machines that sell tobacco are banned in the NT altogether. There is evidence to suggest that vending machines can prompt unplanned purchases and, undermine attempts to quit smoking.<sup>(8)</sup> Banning vending machines completely would align with ACT legislation, and would position NT as a leader in this area.

### *Child employees prohibited from selling tobacco products*

PHAA strongly supports children not being able to sell tobacco products as proposed in the Amendments.

This Amendment would ensure the NT Government meets an obligation of the WHO FCTC (of which Australia, and all governments are a Party) under Article 16(7), which recommends the adoption of ‘measures to prohibit the sale of tobacco products by persons under the age set by domestic law, national law or eighteen’. It would also reduce minors’ access to tobacco products and prevent their initiation into smoking and protect under-age employees from exposure of tobacco products, as these minors experience far more frequent and intensive exposure than other minors.

It is likely that an amendment of this nature would have strong support from the NT public. Surveys from Western Australia (WA) conducted by the Cancer Council WA have shown 90% support for measures to prohibit child employees from selling tobacco products. In addition, a measure of this kind is likely to impact of the number of sales to minors in the NT. Surveys conducted by the Health Department of WA in 2017 confirmed that sales staff estimated to be younger than 20 years of age were twice as likely to sell to children.<sup>(9)</sup>

In view of this evidence, Western Australia (WA) only recently passed legislation to have this effect, therefore providing an important precedent for NT.

#### *Alignment with neighbouring jurisdictions*

In several ways, the Bill helps align Territory policy with developments in Western Australia. The WA Parliament has recently passed a Bill that:

- bans the sale of tobacco products by those under 18 (WA will be the first to do this)
- bans the sale of fruit and confectionery-flavoured, and split-pack cigarettes (bringing WA in line with the rest of Australia)
- stops tobacco sales at events such as music festivals or other public events
- prevents the inclusion of tobacco purchases in shopping reward schemes
- requires graphic health warnings to be displayed beside price signage for tobacco products
- further restricts the public display of tobacco products or smoking implements (except cigars and cigar cutters) inside specialist tobacco stores
- streamlines the administrative functions related to the licensing of tobacco retailers and appointment of authorised officers under the Act

We would urge the Committee to recommend amendments to the Bill to ensure that the Territory at least matches these WA initiatives.

PHAA also notes that to support the measures in the Bill, enforcement agencies will need to be identified and provided with adequate new resourcing.

Finally, PHAA also recommends that the Bill be amended to include clarification of the regulations relating to the visibility of non-smoking area signage – which is currently not defined. Such regulations are not effective unless signage is prominently displayed to all persons in a non-smoking area.

## Conclusion

PHAA supports the Bill, with the recommendations included in this submission. The Bill, in all its terms – but particularly in relation to its inclusion of e-cigarettes into the tobacco regulation system – will benefit the health of Territorians immediately and into the future.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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