



26 January 2011

Committee Secretariat
Health Select Committee
Parliament Buildings
Wellington 6160

Smoke-free Environments (Control and Enforcement) Amendment Bill

Thank you for your invitation to make a submission to the Health Select Committee on the Smoke-free Environments (Control and Enforcement) Amendment. Our submission is attached.

We previously submitted to the 2008 and 2010 consultations on the proposals in the Bill.

We would like the opportunity to appear before the Health Select Committee hearings.

Yours sincerely

G.M. Keating
National Executive Officer

Who we are

The Public Health Association of New Zealand (PHA) is a voluntary association which provides a major forum for exchanging information and stimulating debate about public health in New Zealand. Membership of the PHA is open to individuals interested in public health. Our members belong to the public, private and voluntary sectors. As well as membership fees, donations and other earnings, the PHA has a contract with the Ministry of Health to encourage and facilitate informed debate on key public health issues, and to support public health workforce development. The PHA is a member of the World Federation of Public Health Associations.

Public health is defined as actions to improve, promote and protect the health of the whole population ‘*through the organised efforts of society*’¹.

The PHA operates in accordance with the Treaty of Waitangi. We partner with Māori in our decision-making, and recognise the rights Te Tiriti affords Māori as the indigenous people of Aotearoa New Zealand. Our organisational vision is “Good health for all - health equity in Aotearoa”, or “Hauora mō te katoa – oranga mō te Ao”.

Our position

As a long-term supporter of smokefree action, the Public Health Association welcomes the Bill. It is time to remove retail tobacco displays completely, and a significant majority of all New Zealanders support this direction.

As we have said in previous submissions on this topic, tobacco products are not normal consumer products, and should not be treated in that way. They are highly addictive, and cause thousands of preventable deaths each year in New Zealand. Banning the retail display of tobacco products is a health issue, not an economic one.

A complete ban on displays is in line with the goals of the Smoke-free Environments Act (1990), as well as with New Zealand’s commitments under the Framework Convention on Tobacco Control (2003), which calls on parties to prohibit all forms of tobacco advertising, promotion and sponsorship.² The Bill also fulfils three recommendations made in the Māori Affairs Select Committee’s 2010 tobacco report.

Tobacco displays are a highly effective marketing tool. They undermine government’s investment in tobacco control, and decrease the impact of tobacco control legislation and other public health action. We agree with the statement in the Bill that removing tobacco products from sight in retail outlets will help protect children and young people from exposure to tobacco advertising; support smokers who are trying to quit and former smokers who are trying to stay smoke-free; and help de-normalise tobacco, as an ‘everyday’ item or consumer ‘good’.

¹ Acheson D. (1998). Independent inquiry into inequalities in health. London: HM Stationery Office.

² Article 13, section 4(a), Tobacco advertising, promotion and sponsorship.

Banning retail displays will also simplify retailer compliance with legislation, and make enforcement easier. Similar legislation in other countries has had a high compliance rate.

In this submission we have not provided supporting references, but are happy to supply references if requested.

Recommendations

Tobacco retailing

- Specialist tobacco retailers and duty-free shops should also be defined as “retail outlets” under section 23A of the Bill.
- The number of locations where tobacco can be bought should be restricted to one check-out in each retail outlet, to make enforcement of age restrictions easier and to limit the exposure of young people to tobacco.
- All tobacco products should be kept in closed containers or cupboards under the counter. The legislation, and any regulations made under the Act, should limit the visibility of tobacco packages to the consumer (as is done, for instance, in the Australian state of Victoria).
- The Health Select Committee should also recommend regulations to clearly define the display of tobacco products, so that restrictions also apply when products are in transit, or during re-stocking, carrying out inventory and other similar activities.
- We support the provisions in Clauses 9 and 10 that only health warnings and notices produced by the Health Ministry should be provided and displayed where tobacco is sold.
- We recommend that retailers and tobacco suppliers should be allowed no more than six months to fully comply with the requirements.

Licensing

- We urge the Health Select Committee to recommend in its report that government introduce a comprehensive national retailer licensing scheme. Licensing would make it easier for smokefree officers to enforce present and future regulations as well as helping crack down on illicit tobacco sales to enforce compliance. The recently introduced Scottish tobacco retailer register is an existing model for licensing.
- Licensing should be accompanied by an effective enforcement regime. Non-compliance with regulations should result in the permanent loss of licenses to sell tobacco.

Marketing and advertising

- We support the proposal to restrict retailers from using trading names which effectively advertise tobacco (Clauses 6 and 7). The restrictions regarding trading

names should not be limited to stated terms (such as ‘discount’ or ‘cheap smokes’) but should be at the discretion of the Director-General of Health.

- We recommend that the Select Committee amend section 25 of the Bill (relating to promotion and advertising) to include *all* activities involving tobacco products, not just those that include trademarks. This would cover current ‘exclusive distribution deals’ where tobacco companies supply and promote tobacco at special events (such as music and fashion events).
- The Bill should also remove the provision for standard trade rebates, and any other payments to retailers in relation to marketing tobacco.
- We support measures to stop the use of using tobacco packages as promotional tools. In particular, we recommend that the Bill prohibits misleading terms or descriptors on tobacco packages which imply one tobacco product is ‘better’, ‘safer’, ‘cheaper’ or ‘tastier’ than other products. This includes (but would not be limited to) words such as light, mild, smooth, fine and mellow. References on tobacco packaging to retail price should also be included.
- We recommend that the Select Committee also consider introducing standardised or ‘plain’ tobacco packaging as part of this Bill.

Enforcement

- We recommend that notices for breaches of the Act should not be limited to sales to minors, but should include *all* breaches of the Smoke-free Environments Act relating to tobacco retail.

Conclusions

We urge the Health Select Committee to recommend in its report that the Ministry of Health give urgency to drafting the regulations needed to implement the provisions of the Bill. The Ministry of Health also needs to make sure that those charged with enforcing the Act are given the necessary resources and training, so that the aims of the Act can be met.

We congratulate the government for its leadership in introducing this Bill. What has been achieved in reducing smoking rates in New Zealand as a whole shows what can be done if governments make a real commitment to reducing tobacco use in Aotearoa New Zealand, and provide the resources to support its commitment. This Bill offers the opportunity to take another key step in the journey to a smoke-free nation.