



Cancer Society of New Zealand
National Office
Te Röpü Mate
Pukupuku o Aotearoa
Level 2
Red Cross House
69 Molesworth St.
PO Box 12700
Wellington

Telephone: 64 4 494-7270
Facsimile: 64 4 494-7271
Websites: www.cancernz.org.nz
Email: admin@cancer.org.nz

To: Committee Secretariat (Health)
Parliament Buildings
Wellington

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The Cancer Society of New Zealand would like to thank the Committee for the opportunity to make a submission on the Smoke-free Environments (Control and Enforcement) Amendment Bill. We would also like to acknowledge the government's efforts over the past year in the area of tobacco control as well as the recent Maori Affairs Select Committee report on tobacco industry in New Zealand. We hope that the recommendations from that report would guide and influence the upcoming legislation.

The Cancer Society of New Zealand supports the prohibition of display of tobacco products in retail outlets, and the tightening of tobacco controls and enforcement of tobacco product retail, and therefore supports (with stated reservations) the proposed amendments to the Smokefree Environments (Controls and Enforcement) Amendment Bill. A ban on the retail display of tobacco products is a key component of a comprehensive response to protect children from tobacco marketing and promotion, and to support those smokers committed to quitting.

Tobacco products are not normal consumer products and should not be treated as such. Tobacco displays are a highly effective marketing/advertising tool which undermines government investment in tobacco control, and decreases the impact of tobacco control legislation/regulation and other public health measures.

The Cancer Society of New Zealand is a non-profit organisation which aims to minimise the incidence and impact of cancer on all those living in New Zealand. Tobacco smoking causes cancer of the lung, oral cavity, naso-, oro- and hypopharynx, nasal cavity and paranasal sinuses, larynx, oesophagus, stomach, pancreas, liver, kidney (body and pelvis), ureter, urinary bladder, uterine cervix and

bone marrow (myeloid leukaemia). Furthermore, passive smoking is a cause of lung cancer in non-smokers; the excess risk is of the order of 20% for women and 30% for men.¹

As a result of the unequivocal link between smoking and cancer, the Society considers efforts to reduce smoking rates in this country to be one of the key strategic objectives of its cancer prevention programme and strongly supports efforts to reduce exposure to second-hand smoke, increase rates of smoking cessation and decrease uptake of smoking. Over the years the Society has provided important strategic leadership within Smoke-free, helping to establish key agencies which now play a major role in smoking cessation, health promotion and tobacco control policy development. We continue to strongly advocate for evidence-based regulation and other measures in order to reduce the impact of smoking in New Zealand.

In order to achieve better control and enforcement in retail environments, we consider that the following recommendations should also be considered.

1. The Committee should consider a shorter transition time to remove tobacco displays.
2. Only the Ministry of Health formatted booklets to be provided by retailers to purchasers on request. These should include rotating graphic health warnings.
3. Introduction of a total ban on tobacco vending machines as part of the legislation banning tobacco displays in retail outlets.
4. For the storage of tobacco products;
 - a. That legislation should prevent the use of tobacco storage areas/ containers to market tobacco, for instance, by positioning, colours, lighting or shapes. Containers should not be stand-alone structures.
 - b. A limit of one cash register and point of purchase (POP) location selling tobacco per shop.
 - c. The in-store display of large graphic/pictorial health warnings at the POP, with the Quitline and local Aukati Kai Paipa providers' telephone numbers.
5. The Committee should recommend regulations to clearly define the display of tobacco products when the products are transited or retailed.
6. The restrictions regarding trading names should not be limited to stated terms for example, 'discount' 'cheap smokes', 'smoko', etc. but should be at the discretion of the Director General of Health.
7. The Bill should stipulate that duty-free shops and specialist tobacconists are included as retail outlets for the purpose of section 23A of the Bill.
8. A ban on the payment of tobacco slotting fees to retailers, and any other payments to retailers in relation to the marketing and selling of tobacco.

¹ "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General". Surgeon General of the United States. 2006-06-27. Available at; <http://www.surgeongeneral.gov/library/secondhandsmoke>.

9. Notices for breaches of the Act should not be limited to sales to minors, but must include all breaches of the Smoke-free Environments Act relating to tobacco retail not just the provision relating to sales to minors.
10. The implementation of a self-funding Tobacco Retailer Licensing Scheme (TRLS) which requires retailers to attend annual training. Breaches in relevant regulations should result in the loss of licenses and therein the ability to sell tobacco products
11. Prohibition of use of misleading terms or descriptors on tobacco packages which imply one tobacco product is 'better', 'safer', 'cheaper' or 'tastier' than other products
12. We propose that section 25 relating to Promotion and advertising is amended to include all activities involving tobacco products, not just those that include trademarks

We have attached a submission to support our comments and recommendations.

We would also like to appear before the committee in person.

Yours Sincerely

Dalton Kelly
Chief Executive

DDI: (04) 494 7273
Mobile: 027 231 0067
Email: dalton.kelly@cancer.org.nz



For further information please contact:

Dr Jan Pearson
National Health Promotion Manager

DDI: (04) 494 7276
Mobile: 0274 517 359
Email: jan.pearson@cancer.org.nz

Specific Comments on the Bill

1. Shorter transition period

- The Committee should consider a shorter transition time to remove tobacco displays.
- The transition period for retailers to comply with the tobacco displays ban in Ireland was 12 months and 18 months for New South Wales and Victoria.

2. Information on tobacco products to smokers

- Because of the potential for the product and price list display to be used as advertising, we suggest that the only lists allowed are Ministry of Health formatted booklets. We also suggest that these are provided by retailers to purchasers on request only. These should include rotating graphic health warnings.

3. Vending machines

- The issue of vending machines must be tackled as part of a ban on tobacco displays. Clearly vending machines operate in similar ways to retail displays and could be used to undermine the legislation. Vending machines also provide a potentially higher risk of dispensing tobacco products to minors. We therefore strongly support the introduction of a total ban on tobacco vending machines as part of the legislation banning tobacco displays in retail outlets.

4. Storage of tobacco products

- We acknowledge the Bill gives retailers flexibility to find the most cost-effective way to keep tobacco products from sight. No definite clauses or regulations are in the Bill to define allowable methods of storing tobacco products. We suggest that;
- A limit of one cash register and point of purchase (POP) location selling tobacco per shop.
- That legislation should prevent the use of tobacco storage areas/containers to market tobacco, for instance, by positioning, colours, lighting or shapes. Containers should not be stand-alone structures.
- The in-store display of large graphic/pictorial health warnings at the POP, with the Quitline and local Aukati Kai Paipa providers' telephone numbers.

- The Committee should consider setting regulations on what are “acceptable” or “unacceptable ways” of storing tobacco products in a retail outlet.
- For example, the tobacco displays should not be covered by a curtain that will expose many tobacco products to the public whenever the curtain is opened. To circumvent potential problems the Society recommends that tobacco products are required to be kept in closed containers/cupboards that are out of sight from the customer when the dispensing unit is open for sale/restock.

5. Exemption when tobacco products are delivered

- The Committee should recommend regulations to clearly define the display of tobacco products when the products are transited or retailed.
- For example, guidelines in Victoria, Australia specify that only the display of a ‘single immediate package of the tobacco product line’ is allowed during sale. In a stack dispenser, the tobacco packages must be placed in a way that sides with the largest graphic health warnings are exposed to the public.
- Legislation in Ontario, Canada required retailers to ensure no tobacco products should be exposed to potential customers while re-stocking, conducting inventory or any other similar process.

6. Restricting retailers from using tobacco trading names to advertise tobacco

- The restrictions regarding trading names should not be limited to stated terms for example, ‘discount’ ‘cheap smokes’, ‘smoko’, etc. but should be at the discretion of the Director General of Health.

7. Inclusion of duty-free shops and specialist tobacconists

- The Bill should stipulate that duty-free shops and specialist tobacconists are included as retail outlets for the purpose of section 23A of the Bill.

8. Trade rebates

- The Bill should remove the provision for standard trade rebates to be used by the tobacco industry and associated parties. Removal of rebates could also be used as a mechanism to ensure that tobacco companies cannot provide ‘exclusive distribution deals’ where tobacco is sold at special events including music and fashion events. Rebates also provide direct

financial control for tobacco companies over retailers and can be used to provide incentives for selling greater volume of tobacco products.

9. Infringement offence

- Notices for breaches of the Act should not be limited to sales to minors, but must include all breaches of the Smoke-free Environments Act relating to tobacco retail not just the provision relating to sales to minors.
- We strongly support the provisions in the bill for an increase in the amount of infringements for up to a maximum of 10,000 dollars
- We recommend that the Act should include the ability for the infringement fees, infringement offences and all penalties to be adjusted in future in line with inflation to ensure they maintain the same value in real terms over time.

Additional recommendations

10. Licensing

- We support the introduction of a comprehensive self-funded tobacco licensing scheme in order to support greater regulation and control of the retail of tobacco products. This infrastructure will assist in managing and monitoring tobacco sale in New Zealand. Measures which should be considered as part of the introduction of a comprehensive tobacco retailer licensing scheme include:
- Requiring tobacco retailers to stock and advertise a minimum range of smoking cessation aids, to levels set by the Ministry of Health.
- A minimum age of staff selling tobacco, as is the case for alcohol. We suggest that the danger of the product, and the pressures on young people to sell tobacco, requires that a minimum age of 25 be made.
- Compulsory requirement for all the tobacco retailers to attend annual training
- Any breach in relevant regulations should result in the loss of license and therein the ability to sell tobacco products (e.g. selling to minors)

11. Prohibition of using tobacco packages as promotional tools (misleading descriptors and brands)

- We recommend 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 is not limited to

words such as *light, mild, smooth, fine* and *mellow*. Also included would be references on tobacco packaging to a fixed retail price.

- As an example, the tobacco industry has used terms such as '\$10' on tobacco packaging after the GST hike in October 2010.
- The Committee also asked to consider introducing standardised or 'plain' tobacco packaging as part of this Bill.

12. Organising or promoting activity using trade mark, etc, of tobacco products (Section 25)

- We propose that section 25 relating to Promotion and advertising is amended to include all activities involving tobacco products, not just those that include trademarks. As noted earlier tobacco companies currently provide 'exclusive distribution deals' to supply and promote tobacco at special events including music and fashion events.

Conclusion

The Cancer Society of New Zealand would like to thank the Committee for the chance to comment on the Bill. We hope that the Committee will consider the above recommendations in the context of better control and enforcement in retail environments and subsequent reduction in smoking and smoking related harm to all New Zealanders.