

## TASMANIA

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# **PUBLIC HEALTH AMENDMENT (PROHIBITED TOBACCO AND OTHER PRODUCTS) BILL 2026**

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## **CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 30A substituted
  - 30A. Powers of nominated officers
6. Section 64 amended (Sale to children)
7. Part 4, Division 2: Heading amended
8. Section 69B inserted
  - 69B. Sale of smoking product by vending machine prohibited
9. Section 70A inserted
  - 70A. Display of smoking paraphernalia prohibited
10. Section 71 amended (Restrictions on holding smoking products, &c., in specialist tobacconist premises and general retail premises)
11. Section 73 amended (Packaging of smoking products)
12. Section 74A amended (Licence to sell smoking products)
13. Section 74J amended (Register of smoking product licences)
14. Part 4, Divisions 3A and 3B inserted
  - Division 3A – Prohibited tobacco and other products*
  - 74LB. Interpretation

- 74LC. Non-application of Division
- 74LD. Persons must not sell or supply prohibited smoking products
- 74LE. Person must not advertise or display prohibited smoking products
- Division 3B – Closure of certain premises*
- 74LF. Interpretation
- 74LG. Short-term premises closure order
- 74LH. Appeal Tribunal may order closure of premises
- 74LI. Offences relating to closed premises
- 74LJ. Secretary to publish certain information

- 15. Section 154 amended (Offences against authorised officers)
- 16. Repeal of Act

# **PUBLIC HEALTH AMENDMENT (PROHIBITED TOBACCO AND OTHER PRODUCTS) BILL 2026**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

LAURA ROSS, *Clerk of the House*  
16 April 2026

*(Brought in by the Minister for Health, Mental Health and Wellbeing, the Honourable Bridget Kathleen Archer)*

## **A BILL FOR**

### **An Act to amend the *Public Health Act 1997***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Public Health Amendment (Prohibited Tobacco and Other Products) Act 2026*.

#### **2. Commencement**

This Act commences on a day to be proclaimed.

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 3

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**3. Principal Act**

In this Act, the *Public Health Act 1997\** is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *electronic dispensing unit* and substituting the following definition:

*electronic dispensing unit* means a machine that is designed to dispense smoking products and be operated by means of an electronic keypad, whether or not, at a given time, the machine is in working order;

- (b) by omitting the definition of *vending machine* and substituting the following definition:

*vending machine* means a machine, other than an electronic dispensing unit, that is designed to dispense smoking products, whether or not, at a given time, the machine is in working order;

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\*No. 86 of 1997

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 5

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**5. Section 30A substituted**

Section 30A of the Principal Act is repealed and the following section is substituted:

**30A. Powers of nominated officers**

A nominated officer has the following powers:

- (a) the powers of an authorised officer specified in section 36, as if the nominated officer were an authorised officer;
- (b) such other powers of an authorised officer, specified in Division 5 of Part 2, as are authorised by the Director, as if the nominated officer were an authorised officer.

**6. Section 64 amended (Sale to children)**

Section 64 of the Principal Act is amended as follows:

- (a) by omitting the penalty from subsection (1) and substituting the following penalty:

Penalty: Fine not exceeding –

- (a) for a first offence, 200 penalty units; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 6

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(b) for a second offence, 400 penalty units; and

(c) for a third and subsequent offence, 800 penalty units.

(b) by omitting the penalty from subsection (2) and substituting the following penalty:

Penalty: Fine not exceeding –

(a) for a first offence, 200 penalty units; and

(b) for a second offence, 400 penalty units; and

(c) for a third and subsequent offence, 800 penalty units.

(c) by omitting the penalty from subsection (3) and substituting the following penalty:

Penalty: Fine not exceeding –

(a) for a first offence, 200 penalty units; and

(b) for a second offence, 400 penalty units; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 7

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- (c) for a third and subsequent offence, 800 penalty units.

**7. Part 4, Division 2: Heading amended**

Division 2 of Part 4 of the Principal Act is amended by omitting “*Display, advertising, packaging, &c.*” from the heading to that Division and substituting “*Display, sale, advertising, packaging, &c.*”.

**8. Section 69B inserted**

After section 69A of the Principal Act, the following section is inserted in Division 2:

**69B. Sale of smoking product by vending machine prohibited**

- (1) A person must not sell smoking products by means of a vending machine.

Penalty: Fine not exceeding 250 penalty units.

- (2) A person must not cause or allow a vending machine to be located in premises owned or operated by the person.

Penalty: Fine not exceeding 50 penalty units.

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 9

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**9. Section 70A inserted**

After section 70 of the Principal Act, the following section is inserted in Division 2:

**70A. Display of smoking paraphernalia prohibited**

(1) In this section –

*inhalable substance* includes –

- (a) a smoking product; and
- (b) a controlled drug, and a controlled plant, within the meaning of the *Misuse of Drugs Act 2001*; and
- (c) a herb, or other chemical or plant matter, that is intended for smoking;

*smoking paraphernalia* includes a utensil, appliance, device and other thing, including, but not limited to, a hookah and a bong, that is –

- (a) designed or used, or intended to be used, in connection with the preparation, smoking, inhalation, administration or taking of an inhalable substance; or

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 10

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(b) intended, after some adjustment, addition or other modification, to be used in connection with the preparation, smoking, inhalation, administration or taking of an inhalable substance; or

(c) a utensil, appliance or other thing that, if possessed by a person, would constitute an offence under section 23 of the *Misuse of Drugs Act 2001*.

(2) A person must not display smoking paraphernalia, in retail premises or outside those premises, so that it can be seen in or from a public place.

Penalty: Fine not exceeding 100 penalty units.

**10. Section 71 amended (Restrictions on holding smoking products, &c., in specialist tobacconist premises and general retail premises)**

Section 71 of the Principal Act is amended as follows:

(a) by omitting subsections (5), (6) and (7);

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 11

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- (b) by omitting the definition of *electronic dispensing unit* from subsection (10);
- (c) by omitting “access;” from paragraph (b) of the definition of *service area* in subsection (10) and substituting “access.”;
- (d) by omitting the definition of *vending machine* from subsection (10).

**11. Section 73 amended (Packaging of smoking products)**

Section 73 of the Principal Act is amended by omitting the penalty and substituting the following penalty:

Penalty: In the case of –

- (a) a body corporate –
  - (i) for a first offence, a fine not exceeding 400 penalty units; and
  - (ii) for a second offence, a fine not exceeding 800 penalty units; and
  - (iii) for a third and subsequent offence, a fine not exceeding 16 000 penalty units; or
- (b) a natural person –

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 12

---

- (i) for a first offence, a fine not exceeding 200 penalty units; and
- (ii) for a second offence, a fine not exceeding 400 penalty units; and
- (iii) for a third and subsequent offence, a fine not exceeding 800 penalty units.

**12. Section 74A amended (Licence to sell smoking products)**

Section 74A(1) of the Principal Act is amended by omitting the penalty and substituting the following penalty:

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 400 penalty units for a first offence and 1 600 penalty units for a subsequent offence; or
- (b) a natural person, a fine not exceeding 200 penalty units for a first offence and 800 penalty units for a subsequent offence.

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 13

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**13. Section 74J amended (Register of smoking product licences)**

Section 74J of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) The register, other than the addresses of holders of smoking product licences, is to be made freely available by publishing the register on the website maintained by, or on behalf of, the Department.

**14. Part 4, Divisions 3A and 3B inserted**

After section 74LA of the Principal Act, the following Divisions are inserted in Part 4:

***Division 3A – Prohibited tobacco and other products***

**74LB. Interpretation**

In this Division –

***prohibited nicotine product*** includes products that contain nicotine –

(a) if –

- (i) the product encloses the nicotine in packaging or is packaging that is coated, or

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

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otherwise treated,  
with nicotine; and

(ii) all, or part, of the  
packaging is  
designed to be  
placed in the  
mouth and the  
packaging is not  
designed to be  
ingested; and

(iii) the nicotine is  
designed to be  
absorbed, via the  
membranes in the  
mouth, from or  
through the  
packaging; and

(iv) the product has  
not been obtained  
and administered  
in accordance with  
the *Poisons Act  
1971*; or

(b) that are prescribed as  
prohibited nicotine  
products;

***prohibited personal vaporiser product***  
includes personal vaporiser  
products that –

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

- (a) are prohibited goods within the meaning of the *Customs Act 1901* of the Commonwealth; or
- (b) are excisable goods, within the meaning of the *Excise Act 1901* of the Commonwealth, if duty is due and owing in respect of the products; or
- (c) are prescribed as prohibited personal vaporiser products;

***prohibited smoking product***  
includes –

- (a) prohibited tobacco products; and
- (b) prohibited personal vaporiser products; and
- (c) prohibited nicotine products; and
- (d) other products and items that are prescribed as prohibited smoking products;

***prohibited tobacco product*** includes tobacco products that –

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026*  
*Act No. of 2026*

s. 14

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- (a) fail to comply with the *Public Health (Tobacco and Other Products) Act 2023* of the Commonwealth; or
- (b) are prohibited goods within the meaning of the *Customs Act 1901* of the Commonwealth; or
- (c) are excisable goods, within the meaning of the *Excise Act 1901* of the Commonwealth, if duty is due and owing in respect of the products; or
- (d) are prescribed as prohibited tobacco products.

**74LC. Non-application of Division**

For the avoidance of doubt, this Division does not apply to smoking products if those products –

- (a) are in the possession of a person who –
  - (i) is authorised under the *Poisons Act 1971* to possess or supply the products; or

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

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- (ii) has been supplied lawfully with the product under the *Poisons Act 1971*; or
- (b) are in the possession of a person who –
  - (i) is authorised under a law of the Commonwealth or a State or Territory to possess or supply the products; or
  - (ii) has been supplied lawfully with the product under a law of the Commonwealth or a State or Territory; or
- (c) have been seized, forfeited, retained, confiscated or otherwise withheld lawfully by the State or the Commonwealth; or
- (d) are prescribed as products to which this Division does not apply.

**74LD. Persons must not sell or supply prohibited smoking products**

- (1) A person must not, without lawful excuse, possess a prohibited smoking

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

product that the person intends to supply to another person.

Penalty: In the case of –

(a) a body corporate –

- (i) for a first offence, a fine not exceeding 400 penalty units; and
- (ii) for a second offence, a fine not exceeding 800 penalty units; and
- (iii) for a third and subsequent offence, a fine not exceeding 16 000 penalty units; or

(b) a natural person –

- (i) for a first offence, a fine not exceeding 200 penalty units; and
- (ii) for a second offence, a fine not exceeding 400 penalty units; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

- (iii) for a third and subsequent offence, a fine not exceeding 800 penalty units.
- (2) A person must not, without lawful excuse –
  - (a) sell or supply a prohibited smoking product; or
  - (b) offer to supply a prohibited smoking product.

Penalty: In the case of –

- (a) a body corporate –
  - (i) for a first offence, a fine not exceeding 400 penalty units; and
  - (ii) for a second offence, a fine not exceeding 800 penalty units; and
  - (iii) for a third and subsequent offence, a fine not exceeding 16 000 penalty units; or
- (b) a natural person –

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

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- (i) for a first offence,  
a fine not  
exceeding 200  
penalty units; and
- (ii) for a second  
offence, a fine not  
exceeding 400  
penalty units; and
- (iii) for a third and  
subsequent  
offence, a fine not  
exceeding 800  
penalty units.

**74LE. Person must not advertise or display  
prohibited smoking products**

- (1) A person must not, without lawful  
excuse, offer to sell –
  - (a) a prohibited smoking product; or
  - (b) a product that purports to be a  
prohibited smoking product.

Penalty: In the case of –

- (a) a body corporate –
  - (i) for a first offence,  
a fine not  
exceeding 400  
penalty units; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

- (ii) for a second offence, a fine not exceeding 800 penalty units; and
  - (iii) for a third and subsequent offence, a fine not exceeding 16 000 penalty units; or
- (b) a natural person –
  - (i) for a first offence, a fine not exceeding 200 penalty units; and
  - (ii) for a second offence, a fine not exceeding 400 penalty units; and
  - (iii) for a third and subsequent offence, a fine not exceeding 800 penalty units.
- (2) For the avoidance of doubt, subsection (1) applies to an offer to sell, regardless of whether –
  - (a) the offer is made in person or by electronic means including, but not limited to, telephone, email,

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

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online, on a website or other  
means; or

(b) the offer is expressed or implied.

(3) A person must not display a prohibited  
smoking product, or a product that  
purports to be a prohibited smoking  
product, in retail premises.

Penalty: In the case of –

(a) a body corporate –

(i) for a first offence,  
a fine not  
exceeding 400  
penalty units; and

(ii) for a second  
offence, a fine not  
exceeding 800  
penalty units; and

(iii) for a third and  
subsequent  
offence, a fine not  
exceeding 16 000  
penalty units; or

(b) a natural person –

(i) for a first offence,  
a fine not  
exceeding 200  
penalty units; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

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- (ii) for a second offence, a fine not exceeding 400 penalty units; and
- (iii) for a third and subsequent offence, a fine not exceeding 800 penalty units.

***Division 3B – Closure of certain premises***

**74LF. Interpretation**

In this Division –

***closed premises*** means premises in respect of which a premises closure order is in effect;

***premises closure order*** includes –

- (a) a short-term premises closure order; and
- (b) an order of the Appeal Tribunal made under section 74LH(3);

***prohibited smoking product*** has the same meaning as in Division 3A;

***Secretary*** means Secretary of the Department;

*short-term premises closure order*  
means an order made under  
section 74LG(1).

**74LG. Short-term premises closure order**

- (1) The Secretary may order that premises specified in the order be closed if the Secretary reasonably suspects that –
  - (a) smoking products are being, or are likely to be, sold at the premises otherwise than in accordance with this Act; or
  - (b) prohibited smoking products are being, or are likely to be, sold at the premises.
- (2) An order under subsection (1) –
  - (a) is to –
    - (i) be in writing; and
    - (ii) state the premises to which it relates; and
    - (iii) specify the day on which the order takes effect; and
  - (b) may be subject to such conditions as the Secretary considers reasonable in the circumstances; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

- (c) may be made, whether or not a short-term premises closure order is in effect, or has recently been in effect, in respect of the premises.
- (3) Despite subsection (2)(c), no more than 2 short-term premises closure orders may be made in respect of the same premises in a single calendar year.
- (4) Before a short-term premises closure order takes effect in respect of premises, a copy of the order must be –
  - (a) given to the owner, or occupier, of the premises; or
  - (b) affixed to a conspicuous part of the premises.
- (5) A short-term premises closure order has effect for a period of 90 days commencing from the day specified in the order as the day on which the order takes effect, unless sooner cancelled by the Secretary.
- (6) Section 165 does not apply to a decision of the Secretary to make or revoke a short-term premises closure order.

**74LH. Appeal Tribunal may order closure of premises**

- (1) The Minister may apply to the Appeal Tribunal for an order to be made to close premises specified in the order.
- (2) For the avoidance of doubt, the operator of premises that are the subject of an application, under subsection (1), is a party to any proceedings in respect of the application.
- (3) After considering an application under subsection (1) in respect of premises, the Appeal Tribunal may make an order to close the premises if the Appeal Tribunal is satisfied that –
  - (a) smoking products are being, or are likely to be, sold at the premises otherwise than in accordance with this Act; or
  - (b) prohibited smoking products are being, or are likely to be, sold at the premises.
- (4) An order of the Appeal Tribunal under subsection (3) in respect of premises –
  - (a) may order that the premises be closed for a period not exceeding 12 months; and

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

- (b) may specify steps that may be taken for the order to be revoked; and
- (c) may be subject to such conditions as the Appeal Tribunal considers appropriate in the circumstances; and
- (d) may be made, whether or not a short-term premises closure order is in effect, or has been in effect, in respect of the premises.

**74LI. Offences relating to closed premises**

- (1) While a premises closure order is in effect in respect of premises, a person must not sell or supply prohibited smoking products at the premises.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 366 penalty units; or
  - (b) a natural person, a fine not exceeding 3 145 penalty units.
- (2) While a premises closure order is in effect in respect of premises, a person must not –

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

---

- (a) sell or supply smoking products at the premises; or
- (b) carry on a business in relation to the sale or supply of smoking products at the premises.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 600 penalty units; or
  - (b) a natural person, a fine not exceeding 800 penalty units.
- (3) While a premises closure order is in effect in respect of premises, a person must not enter into, or remain on, those premises other than in accordance with the terms and conditions of the order.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 600 penalty units; or
  - (b) a natural person, a fine not exceeding 800 penalty units.
- (4) Subsection (3) does not apply to –
- (a) an authorised officer or a nominated officer performing a

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 14

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- function, or exercising a power,  
under this Act; or
- (b) a police officer performing a  
function, or exercising a power,  
under any Act; or
- (c) a person authorised by the State  
Fire Commissioner under the *Fire  
Service Act 1979*; or
- (d) a paramedic performing a  
function, or exercising a power,  
under any Act; or
- (e) a person who is a member of a  
class of persons prescribed for the  
purposes of this section.

**74LJ. Secretary to publish certain information**

- (1) If a premises closure order is made under  
this Division, the Secretary is to ensure  
that the following information in respect  
of it is made publicly available in a  
format determined by the Secretary:
  - (a) the type of order made;
  - (b) the name and address, and a  
description, of the premises in  
respect of which the order was  
made;
  - (c) the date on which the order was  
made;

*Public Health Amendment (Prohibited Tobacco and Other  
Products) Act 2026  
Act No. of 2026*

s. 15

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- (d) the period for which the order is in effect in respect of the premises;
  - (e) any other prescribed information;
  - (f) any other information that the Secretary considers relevant.
- (2) Information published under subsection (1) in respect of a premises closure order is to remain so published while the order is in effect.

**15. Section 154 amended (Offences against authorised officers)**

The penalty under section 154(1) of the Principal Act is amended by omitting “100 penalty units” and substituting “250 penalty units”.

**16. Repeal of Act**

This Act is repealed on the first anniversary of the day on which this Act commenced.