

New South Wales

# Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015

## Contents

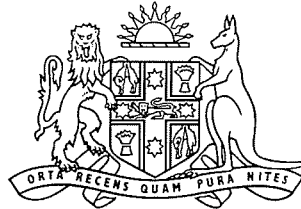
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	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Public Health (Tobacco) Act 2008 No 94	3

*This public bill which originated in the Legislative Assembly, has passed and is now ready for presentation to the Legislative Council for its concurrence.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2015*



New South Wales

## **Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015**

Act No , 2015

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An Act to amend the *Public Health (Tobacco) Act 2008* to prohibit the sale of e-cigarettes and e-cigarette accessories to persons who are under the age of 18 years; and for related purposes.

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***EXAMINED***

*Assistant Speaker*

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Public Health (Tobacco) Amendment (E-cigarettes) Act 2015</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5

<b>Schedule 1</b>	<b>Amendment of Public Health (Tobacco) Act 2008</b>	1
	<b>No 94</b>	2
<b>[1] Section 3 Objects of Act</b>		3
	Omit “those products” from section 3 (2) (b).	4
	Insert instead “tobacco products, non-tobacco smoking products, e-cigarettes and e-cigarette accessories”.	5 6
<b>[2] Section 4 Definitions</b>		7
	Insert in alphabetical order in section 4 (1):	8
	<i>e-cigarette</i> means:	9
	(a) a device (other than a device of a kind excluded by the regulations) that is designed to generate or release an aerosol or vapour (whether or not containing nicotine) by electronic means for inhalation by its user in a manner that replicates, or produces an experience similar to, the inhalation of smoke from an ignited tobacco product or ignited non-tobacco smoking product, or	10 11 12 13 14 15
	(b) any other device of a kind prescribed by the regulations that is designed to be used by its user in a way that replicates, or produces an experience similar to, the use of a tobacco product or non-tobacco smoking product.	16 17 18 19
	<i>e-cigarette accessory</i> means:	20
	(a) a cartridge, capsule or other container designed to contain a liquid, aerosol, gas, vapour or other substance for use in an e-cigarette, or	21 22
	(b) a heating element designed for use in an e-cigarette, or	23
	(c) any other component of an e-cigarette (or class of e-cigarettes) of a kind prescribed by the regulations.	24 25
	<i>e-cigarette vending machine</i> means a machine, device or contrivance from which e-cigarettes or e-cigarette accessories can be obtained by an operation that involves inserting money, or a token or object, into the machine, device or contrivance, whether or not some other action is required to activate the machine.	26 27 28 29 30
<b>[3] Section 4 (1)</b>		31
	Omit the definition of <i>tobacco vending machine token</i> . Insert in alphabetical order:	32
	<i>vending machine token</i> means:	33
	(a) in relation to a tobacco vending machine—a tobacco vending machine token, or	34 35
	(b) in relation to an e-cigarette vending machine—a token that is designed to be inserted into an e-cigarette vending machine to enable the purchase or supply of e-cigarettes or e-cigarette accessories from the vending machine.	36 37 38 39
<b>[4] Part 2, Division 3, heading</b>		40
	Insert “and e-cigarette vending machines” after “machines”.	41

<b>[5] Section 12 Places where tobacco or e-cigarette vending machines may be placed</b>	1
Omit “tobacco vending machine” wherever occurring in section 12 (1) and (2).	2
Insert instead “tobacco or e-cigarette vending machine”.	3
<b>[6] Section 13 Operation of tobacco or e-cigarette vending machines to be controlled by staff</b>	4
Omit “tobacco vending machine” where firstly occurring, “tobacco products or non-tobacco smoking products” and “tobacco vending machine token”.	6
Insert instead “tobacco or e-cigarette vending machine”, “tobacco products, non-tobacco smoking products, e-cigarettes or e-cigarette accessories” and “vending machine token”, respectively.	7
<b>[7] Section 14 Regulation of product display on tobacco or e-cigarette vending machines</b>	11
Omit “tobacco vending machine”, “tobacco products or non-tobacco smoking products” and “form” from section 14 (1).	13
Insert instead “tobacco or e-cigarette vending machine”, “tobacco products, non-tobacco smoking products, e-cigarettes or e-cigarette accessories” and “form (if any)”, respectively.	14
<b>[8] Section 15 Responsibilities of occupiers for vending machines</b>	17
Omit “tobacco vending machine” and “tobacco products or non-tobacco smoking products” wherever occurring.	18
Insert instead “tobacco or e-cigarette vending machine” and “tobacco products, non-tobacco smoking products, e-cigarettes or e-cigarette accessories”, respectively.	19
<b>[9] Section 15 (4)</b>	22
Omit “tobacco products”.	23
Insert instead “tobacco products, non-tobacco smoking products, e-cigarettes or e-cigarette accessories”.	24
<b>[10] Section 22 Sale of tobacco and non-tobacco smoking products or e-cigarettes and e-cigarette accessories to minors</b>	26
Insert after section 22 (2):	27
(2A) A person must not sell an e-cigarette or e-cigarette accessory to a person who is under the age of 18 years unless it is an authorised product.	28
<b>Note.</b> The sale of an e-cigarette that generates or releases an aerosol or vapour that contains nicotine, or the sale of an e-cigarette accessory containing nicotine, is prohibited in New South Wales unless it is an authorised product. See, in particular, the <i>Poisons and Therapeutic Goods Act 1966</i> .	29
(2B) A person who contravenes this section is guilty of an offence.	30
Maximum penalty:	31
(a) in the case of an individual, 100 penalty units for a first offence or 500 penalty units for a second or subsequent offence, or	32
(b) in the case of a corporation, 500 penalty units for a first offence or 1,000 penalty units for a second or subsequent offence.	33
<b>[11] Section 22 (3)</b>	34
Omit “or non-tobacco smoking product” wherever occurring.	35
Insert instead “, non-tobacco smoking product, e-cigarette or e-cigarette accessory”.	36

<b>[12] Section 22 (4)</b>	1
Omit the maximum penalty from the end of section 22. Insert instead:	2
(4) In this section:	3
<i>authorised product</i> means a device or accessory (other than a device or accessory of a kind excluded by the regulations) that is:	4
(a) a therapeutic good (as defined in the <i>Therapeutic Goods Act 1989</i> of the Commonwealth):	5
(i) registered in the Australian Register of Therapeutic Goods maintained under section 9A of that Act, or	6
(ii) the subject of an approval or authority under section 19 of that Act, or	7
(b) supplied under a licence or authority in force under the <i>Poisons and Therapeutic Goods Act 1966</i> or the regulations under that Act.	8
<b>[13] Section 23 Purchasing tobacco, smoking or vaping products on behalf of minors</b>	9
Omit “tobacco product or non-tobacco smoking product” from section 23 (1).	10
Insert instead “tobacco, smoking or vaping product”.	11
<b>[14] Section 23 (3)</b>	12
Insert after section 23 (2):	13
(3) In this section:	14
<i>tobacco, smoking or vaping product</i> means any of the following:	15
(a) a tobacco product,	16
(b) a non-tobacco smoking product,	17
(c) an e-cigarette that is not an authorised product within the meaning of section 22,	18
(d) an e-cigarette accessory that is not an authorised product within the meaning of section 22.	19
<b>[15] Section 24 Supplying vending machine tokens to minors and activating tobacco or e-cigarette vending machines for minors</b>	20
Omit “tobacco vending machine” where firstly and thirdly occurring in section 24 (1) and wherever occurring in section 24 (2).	21
Insert instead “tobacco or e-cigarette vending machine”.	22
<b>[16] Section 24 (1)</b>	23
Omit “tobacco vending machine token”. Insert instead “vending machine token”.	24
<b>[17] Section 25 Obtaining vending machine tokens on behalf of minors</b>	25
Omit “tobacco vending machine token” from section 25 (1).	26
Insert instead “vending machine token”.	27

<b>[18]</b>	<b>Section 26 Seizure of tobacco products, non-tobacco smoking products or e-cigarettes in possession of minors</b>	1
		2
	Omit “or non-tobacco smoking product” and “or non-tobacco smoking products” wherever occurring.	3
		4
	Insert instead “, non-tobacco smoking product or e-cigarette” and “, non-tobacco smoking products or e-cigarettes”, respectively.	5
		6
<b>[19]</b>	<b>Section 28 Liability of employers</b>	7
	Omit “or non-tobacco smoking products” from section 28 (4).	8
	Insert instead “, non-tobacco smoking products, e-cigarettes or e-cigarette accessories”.	9
<b>[20]</b>	<b>Section 58 Regulations</b>	10
	Omit “tobacco vending machines” from section 58 (1) (d).	11
	Insert instead “tobacco or e-cigarette vending machines”.	12