

**House of Assembly—No 107**

As laid on the table and read a first time, 4 June 2009

South Australia

**Tobacco Products Regulation (Ban On Children Smoking) Amendment Bill 2009**

A BILL FOR

An Act to amend the *Tobacco Products Regulation Act 1997*.

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**The Parliament of South Australia enacts as follows:**

### **Part 1—Preliminary**

#### **1—Short title**

This Act may be cited as the *Tobacco Products Regulation (Ban On Children Smoking) Amendment Act 2009*.

#### **5 2—Commencement**

This Act will come into operation 3 months after the date of assent.

#### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### **10 Part 2—Amendment of *Tobacco Products Regulation Act 1997***

#### **4—Amendment of section 3—Objects of Act**

Section 3(b)—after subparagraph (i) insert:

- (ia) by prohibiting children smoking;

#### **5—Amendment of section 38A—Sale or supply of tobacco products to children**

##### **15 (1) Section 38A—after subsection (1) insert:**

- (1a) For the purposes of this section, a tobacco product will be taken to have been sold or supplied to a child if a person provides a token to, or other assistance to, the child for the operation of a vending machine that is designed to sell tobacco products.

##### **20 (2) Section 38A(2)—delete "minor" wherever occurring and substitute in each case: child**

**6—Insertion of section 49**

After section 48 insert:

**49—Smoking etc by children prohibited**

- 5 (1) A child must not smoke.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (2) A child must not have a tobacco product in his or her possession.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- 10 (3) A child must not attempt to purchase (whether by retail sale, from a vending machine or otherwise) or otherwise obtain a tobacco product.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- 15 (4) Subsections (2) and (3) do not apply to a child who has in his or her possession, or who attempts to purchase or otherwise obtain, a tobacco product in the ordinary course of his or her employment or otherwise for the purpose of sale by retail in accordance with this Act.
- 20 (5) If a child is alleged to have committed an offence against this section, then, before a prosecution is commenced, an expiation notice must be given to the alleged offender under the *Expiation of Offences Act 1996*.
- 25 (6) Despite section 6 of the *Expiation of Offences Act 1996*, an expiation notice for an offence against this section may be given to a child who has attained the age of 15 years.
- (7) Non-compliance with subsection (5) does not invalidate a prosecution.

**7—Amendment of section 63—Appointment of authorised officers**

30 Section 63—after subsection (4) insert:

- (5) Without limiting any other provision of this Act, the following persons are authorised officers for the purposes of the enforcement of section 49:
- 35 (a) authorised officers within the meaning of the *Local Government Act 1999*;
- (b) authorised officers within the meaning of the *Environment Protection Act 1993*;
- (c) fisheries officers within the meaning of the *Fisheries Act 1982*;
- 40 (d) forest wardens within the meaning of the *Forestry Act 1950*;

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- (e) wardens within the meaning of the *National Parks and Wildlife Act 1972*;
- (f) authorised officers within the meaning of the *Natural Resources Management Act 2004*;
- (g) wardens within the meaning of the *Wilderness Protection Act 1992*.