

House of Assembly—No 53

As received from the Legislative Council and read a first time, 1 December 2022

South Australia

**Tobacco and E-Cigarette Products (Tobacco
Product Prohibitions) Amendment Bill 2022**

A BILL FOR

An Act to amend the *Tobacco and E-Cigarette Products Act 1997*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Tobacco and E-Cigarette Products (Tobacco Product Prohibitions) Amendment Act 2022*.

Part 2—Amendment of *Tobacco and E-Cigarette Products Act 1997*

2—Amendment of section 4—Interpretation

(1) Section 4(1), definition of *health warning*—delete the definition and substitute:

10 *health warning* means a health warning that meets the requirements of Parts 2 and 9 of the *Competition and Consumer (Tobacco) Information Standard 2011* made under the *Competition and Consumer Act 2010* of the Commonwealth to the extent that those requirements relate to labelling, marking, display, position, prominence and rotation.

15 (2) Section 4(2)—delete subsection (2)

3—Amendment of section 30—Restrictions on retail sale of tobacco products and e-cigarette products

(1) Section 30(1)(b) and (c)—delete paragraphs (b) and (c) and substitute:

20 (b) a person must not sell a tobacco product unless it is enclosed in a package that complies with the requirements for the retail packaging and appearance of tobacco products under the *Tobacco Plain Packaging Act 2011* of the Commonwealth;

(ba) a person must not sell a tobacco product that is enclosed in a package unless the package is marked with a health warning;

- (c) a person must not sell a tobacco product that is enclosed in 2 or more packages unless each package is marked with a health warning;
- (2) Section 30(1), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$50 000.
- 5 (3) Section 30(1), expiation fee—delete the expiation fee and substitute:
Expiation fee: \$1 250.

4—Substitution of sections 31 and 32

Section 31 and 32—delete the sections and substitute:

31—Prohibition on packing and sale of tobacco product without health warning

- 10 (1) A person must not pack a tobacco product into a package into which the product is to be sold unless the package is marked with a health warning.
Maximum penalty: \$50 000.
15 Expiation fee: \$1 250.
- (2) A person must not sell a tobacco product unless the package in which the product is sold is marked with a health warning.
Maximum penalty: \$50 000.
Expiation fee: \$1 250.
- 20 (3) This section does not apply to the packaging or sale of single cigars.

32—Prohibition on sale or supply of certain tobacco products

A person must not sell or supply tobacco products that the person knows or ought reasonably to know—

- 25 (a) are prohibited goods as defined in the *Customs Act 1901* of the Commonwealth; or
- (b) are excisable goods as defined in the *Excise Act 1901* of the Commonwealth on which excise duty has not been paid; or
- (c) do not comply with the requirements of the *Tobacco Plain Packaging Act 2011* of the Commonwealth.

30 Maximum penalty: \$50 000.

33—Possession of certain tobacco products

- (1) A person must not, without lawful excuse, have possession of prescribed tobacco products for the purpose of sale.
Maximum penalty: \$50 000.

- 35 (2) In this section—

prescribed tobacco product means tobacco products that—

- (a) are prohibited goods within the meaning of the *Customs Act 1901* of the Commonwealth; or

- (b) do not comply with the requirements of the *Tobacco Plain Packaging Act 2011* of the Commonwealth.