

**Legislative Council—No 58A**

As reported with an amendment, report adopted, Standing Orders suspended and passed remaining stages, 30 November 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.