

Why shouldn't we raise the legal smoking age to 21? Because the tobacco free generation idea is better!

Most Tasmanian NGOs support the intention of the government to significantly reduce smoking prevalence, though do not support the push to raise the minimum legal smoking age to 21 or 25 (MLSA) as the means to achieving this. We support the phase out of tobacco sales altogether over some decades, via the tobacco free generation (TFG) proposal.

The [Public Health Amendment \(Tobacco Free Generation\) Bill 2014](#) currently before the Legislative Council in Tasmania would eliminate the sale of tobacco products to anyone born after the year 2000. It would not penalise smokers, and purchase use and possession (PUP) laws would not apply to anyone over the age of 18 years. The Tasmanian Liberal Government proposal is much more punitive to smokers, and would apply PUP laws to this group.

We consider the emphasis on criminalising smokers to be a mistake, and that as with all sound drug policy the emphasis should be on “pushers and dealers”, those who deliberately seek to make profits from selling lethal products, in this case the Tobacco Industry. If smoking itself is penalised, then would the stigma discourage a 20-year-old smoker from seeking help to quit?

Influential and key health organizations supporting TFG include: [SmokeFree Tasmania](#); Asthma Foundation of Tasmania; Australian Medical Association (AMA) TAS; Australian Dental Association Tasmanian Branch; Breathe Well, Centre of Research Excellence for Chronic Respiratory Disease and Lung Ageing; Cancer Council of Tasmania; Drug Education Network (DEN); Heart Foundation Tasmania; Lung Foundation Australia; Menzies Institute for Medical Research; The Royal Australasian College of Physicians (RACP) – Chapter of Addiction Medicine; The Royal Australian College of General Practitioners (RACGP) – Tasmania; Faculty, School of Medicine, University of Tasmania; SmokeFree Tasmania; The Thoracic Society of Australia and New Zealand; Tasmanian Chronic Disease Prevention Alliance; Tasmanian Aboriginal Centre. Furthermore, the Tobacco Free Generation proposal is incorporated into the government's own [Tasmanian Tobacco Action Plan](#).

The Tasmanian Liberal Government proposal to raise the minimum legal smoking age came out of the blue. The Department of Health and Human Services knew nothing about it, tobacco control staff, population health and public and environmental health, drug and alcohol senior officers were left in the dark. The government advisory committee on tobacco, and the ministerial advisory committee on health were not told about it, nor did any of them recommend the idea. Whilst there is some tepid support from some quarters for the idea being “better than nothing”, this proposal will fall far short of meeting the Tasmanian government's plans for the being the “[Healthiest State by 2025](#)”. Tasmanian governments have a long history of ignoring evidence, a particular example being the failure to provide sufficient funding to cessation support services and mass media education campaigns which has got us to the health and hospital crisis we are in today. The Director of Public Health has publicly acknowledged this as a key reason Tasmania has such high smoking rates.

“Tasmania has always had strong tobacco control legislation but this is largely to compensate for a lack of resources available for health education and clinical interventions, particularly at the level provided by other Australian jurisdictions. Legislation on its own

*however is not sufficient to reduce smoking rates and **this is the main reason why Tasmania has the second highest smoking rate in Australia, which has not decreased since 2001**"*¹

We understand the seductiveness of the idea of raising the minimum age after the success in the county of Needham, Massachusetts in the USA where smoking uptake fell in young people after the sale – but not smoking itself! – age was raised to 21. Wild Tobacco Industry predictions of a surge in “smuggling” and “black market activity” never eventuated, and the young people couldn’t even be bothered driving to the next county to buy cigarettes. In recent weeks California has also legislated to raise the age at which cigarettes can be sold. Significantly the California measure mirrors the TFG proposal in that it does not punish smokers: instead it repeals PUP laws. Once more, like our TFG it aims to curb sales of tobacco.

The problem with any minimum age proposal is that it reinforces the idea that smoking is safe or at least acceptable at a certain age, which it clearly is not. It reinforces the ‘rite of passage’ effect – what Imperial Tobacco call a ‘badge of coming of age’² – making smoking more attractive to adolescents who wish to appear more grown up. The tobacco industry knows this, and has acted on this for many decades, and even supported the raising of the smoking age to 18 years, and funded “18 Plus, It’s the Law” signs to place prominently in shops at the point of sale, because they knew it would create a sense of rebellion in children and incite them to smoke. The time has come for lawmakers to get as savvy about youth psychology as the Tobacco Industry has been for decades.

A recent MJA article by Prof Haydn Walters noted:

“Robert Proctor’s book “Golden Holocaust” alerts us to the perverse reverse psychology utilised by the tobacco industry of telling adolescents that “kids don’t smoke” so that they will do so to appear ‘adult’³. The Tobacco Free Generation (TFG), as proposed by Prof Jon Berrick, seeks to undermine that ‘rite of passage’ by progressively raising the age for young people at which retailers can legally sell cigarettes.⁴ Tasmania is the first jurisdiction in the world to seriously contemplate this.”⁵

There is a fundamental point of difference between the Tobacco Free Generation proposal and various Minimum Legal Smoking Age proposals. The signal of the TFG will have an effect on current adult smokers that is likely to increase their quitting intentions. The MLSA would not have this impact. We note that a recent article by Roger Magnusson in the Medical Journal of Australia⁶ acknowledges the many merits of the TFG and indicates that raising the smoking age should be done only if the TFG fails to attain parliamentary support.

The Tobacco Free Generation proposal responds to the overwhelming medical evidence that there is no safe level of tobacco smoking, at any age, and provides a mechanism by which these toxic products are phased out, comparable to a total product recall. This is one of several potential

¹ Dr. Roscoe Taylor, Director of Public Health. (2010, *Working in Health Promoting Ways: A Strategic Framework for DHHS 2009-2012*, Department of Health and Human Services Tasmania.

² Kwechansky Marketing Research Inc report for Imperial Tobacco Limited. "Project 16" (18 October, 1977) <http://legacy.library.ucsf.edu/tid/jyj51f00>

³ Proctor, R. N. *Golden Holocaust: origins of the cigarette catastrophe and the case for abolition*, University of California Press. 2011. Page 1

⁴ Berrick, A. J. The tobacco-free generation proposal. *Tob Control* 2013; 22: i22-i26.

⁵ Walters, EH & Barnsley, K 2015, “Tobacco-free generation legislation”, *Medical Journal of Australia*, vol. 202, pp. 509-510.

⁶ Magnusson, R. *Medical Journal of Australia*, 04/04/2016, Volume: 204 Issue: 6 Page: 220-221

tobacco end-game strategies being considered in Tasmanian and many other jurisdictions around the world. In contrast the MLSA proposals seek only to reduce smoking uptake in young people, while simultaneously striving to protect the commercial interests of tobacco corporations and retailers, and offering no clear path to eliminating these lethal products. Tobacco lobbyists' contention that all that's needed is more education is merely a ruse to shift blame onto teenagers themselves, in reality the victims of their marketing efforts. One must always remember that once a person becomes a long-term smoker they have a 70% of dying from a related disease and losing on average 12 years of useful life!

Regional Australia and small under-funded states and Territories like Tasmania and Northern Territory, struggle with high smoking rates particularly amongst young men. The defunding by major NGOs of the key advocacy organisation ASH Australia, in the mistaken assumption that tobacco control advocacy would continue, has proved to be an error. Fortunately, [ACOSH](#) in WA still exists, and provides an important advocacy role as does [SmokeFree Tasmania](#).

Uniquely, in Tasmania there is a 98% compliance from retailers for sales to minors laws, and children can rarely purchase tobacco from these sources. Therefore, most Tasmanian child smokers obtain their cigarettes from similar age peers, not retailers. Tasmania is well placed to introduce this reform, unlike some other states, as it already has appropriate effective enforcement mechanisms and law abiding retailers.

Further, recent US research shows that 15% of females commence smoking after the age of 25 years, and have especially high rates of lung cancer, leading to the only prudent conclusion that tobacco sales should be eliminated altogether.^{7 8}

For all these reasons, the TFG is a far superior proposal which will gradually phase out tobacco sales. The comparison Table 1 sets out the issues.

We agree with [Prof Simon Chapman](#) that existing measures should continue and also that regulation of ingredients should be implemented urgently. We strongly support this at a national level. In Australia we have demolished the alluring **outside** of cigarette packets and ensured they reflect the reality of the diseases they cause. Now we need to regulate the **inside** of cigarettes and tobacco products.

We can never have a safe cigarette, but we could make them [less radioactive](#), less addictive and less palatable and remove the diabolical filter ventilation which contributes to soaring rates of untreatable lung cancers.

So in Australia we need to undertake three actions to eliminate tobacco-related disease and protect both existing smokers, and potential future smokers:

- Save the next generation of children, adolescents and young people by introducing the TFG in every state;
- Continue with tax rises, packaging warnings, information campaigns, protecting non-smokers from second hand smoke and cessation support; and

⁷ Jha P,Ramasundarahettige, C,Landsman V, et al. 21st-Century hazards of smoking and benefits of cessation in the United States.N Engl J Med 2013;368:341-350

⁸ Schroeder, Steven A. "New evidence that cigarette smoking remains the most important health hazard." *New England Journal of Medicine* 368.4 (2013): 389-390.

- Nationally regulate the ingredients in tobacco, and reduce their addictiveness and palatability.

These three measures would save billions in health costs and save millions of families and individuals from the misery and pain of tobacco related illness and death.

Sounds like a good election policy to us!

(signed)

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Table 1

Effects	MLSA Raise legal smoking age to 21 or 25	TFG Maintain no sale of tobacco to any person born from year 2000 (reviewed in 2021, 2025)
"Rite of passage"	Reinforces smoking as a "badge of coming of age" (Imperial Tobacco).	Eliminates rite of passage effects – smoking no longer "for adults".
Acceptability messaging effect	Tobacco <u>not</u> so dangerous that it needs to be eradicated; allows industry "legal product" defence.	Tobacco so dangerous that it needs to be eradicated.
Penalizes smokers	Yes	No – smokers not penalized if found smoking.
Penalizes informal family, peer supply	Unclear	No – smokers can "bot" cigarettes from mates and family.

Effects	MLSA Raise legal smoking age to 21 or 25	TFG Maintain no sale of tobacco to any person born from year 2000 (reviewed in 2021, 2025)
Complexity	Difficult for retailers to implement as they will have to do arithmetic to calculate the age of customers from their IDs.	Easy to implement as retailers only have to look at ID to see if a person was born before or after 2000.
Transition	Complicated and confusing. "Cold turkey" can be avoided only by going from MLSA (18) to TFG during transition, then MLSA (21/25).	Seamless (midnight 31/12/2017).
Reviews	Unclear – Director of Public Health said this would be onerous for him.	Reviews required in 2021 and 2025, to see whether changes need to be made; enforcement staff already available.
Community advice and education	Would be necessary – costs associated with advising retailers and community. Minimal costs of advising retailers – a letter with their annual license advice.	Would be necessary – however, as a world first (if announced soon), this would attract much free media attention raising awareness.
Effectiveness in reducing smoking rates overall.	Some initial reduction in uptake – similar to Needham in USA.	Better initial reduction in uptake because of messaging effects. Eventually eliminating smoking in all age groups, as occurred for opium smoking.
Emphasis on purveyors of harm	No. Condone industry's denial of harming others.	Yes.
Victim-blaming	Yes – smoker made to feel at fault for their addiction.	No – emphasizes the responsibility of sellers of tobacco and industry for promoting the smoking tragedy.
Compatibility with cessation efforts	No – admission of law-breaking deters sub-21/25 addicts from seeking quit advice.	Yes – message "too dangerous at any age" encourages quitting.
What would tobacco industry prefer to maintain their sales?	BAT: "company policy worldwide is not to market to anyone under 18 years old, or more if the law in a particular country sets the age higher." Imperial Tobacco: "we support the enforcement of legal minimum age restrictions"	Vigorously opposed by the tobacco industry – attempts to mobilize retailers, threats made (legal action, smuggling). Passes the "scream" test.
Positioning Tasmania	Follows on from other jurisdictions.	If announced soon, world first with clean Tasmania publicity globally – others to follow us.

The TFG Amendment would be far more effective in reducing smoking rates in Tasmania.

K Barnsley, Convenor, Smoke-Free Tasmania, 20 Jan. 2016