

NATIONAL TOBACCO LEGISLATION CHART
Summary of Existing Legislation (compiled by Commonwealth Dept of Health, February 2004)

Jurisdiction	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
<i>Smoking and Tobacco Products Advertisements (Prohibition) Act 1989</i>		<i>Public Health Act 1991</i>	<i>Tobacco Act 1987</i>	<i>Tobacco and Other Smoking Products Act 1998</i>	<i>Tobacco Products Regulation Act 1997</i>	<i>Public Health Act 1997 - Part 4 - Tobacco Products</i>	<i>Tobacco Act 1927</i>	<i>Tobacco Control Act 1990, Tobacco Control Amendment Act 1993</i>	<i>Tobacco Control Act 2002</i>
<i>Tobacco Advertising Prohibition Act 1992</i>		<i>Public Health (Tobacco) Regulation 1999</i>	<i>Tobacco (Labelling) Regulations 1999</i>	<i>Tobacco and Other Smoking Products Regulation 1998.</i>	<i>Tobacco Products Regulation Act; Regulations 1997, 1998 & 1999</i>	<i>Guidelines under the PHA97</i>	<i>Tobacco Regulations 1991</i>	<i>Tobacco Control (General) Regulations 1991</i>	<i>Tobacco Regulations 1992</i>
<i>Tobacco Advertising Prohibition Regulations 1993</i>		<i>Smoke-free Environment Act 2000</i>	<i>Tobacco Regulations 1997</i>			<i>No 10 Guidelines for Packaging and Labelling of Tobacco Products</i>	<i>Smoke-free Areas (Enclosed Public Places) Act 1994</i>	<i>Tobacco Control (General) Regulations 1991</i>	<i>Tobacco Amendment Act 1993</i>
<i>Tobacco Advertising Prohibition Amendment Act 1995</i>									
<i>Trade Practices Act 1974</i>			<i>Tobacco (Victorian Health Promotion Foundation) Regulations 2003</i>		<i>Metropolitan Taxicab Act (prohibits smoking in all metropolitan cabs)</i>		<i>Smoking (Prohibition in Enclosed Public Places) Act 2003</i>	<i>Tobacco (Warning Labels) Regulations 1987</i>	<i>Cigarette Containers (Labelling) Ordinance 1972</i>
<i>Trade Practices (Consumer Product Information Standards (Tobacco) Regulations & Amendment 1994</i>						<i>No 12 Guidelines for Proof of Age (Tobacco Products) 2001</i>		<i>Tobacco Control (Package Labels) Regulations 1992 & 1993</i>	<i>Cigarette Containers (Labelling) Amendment Act 1986</i>
<i>Air Navigation Act 1920</i>					<i>State Transport Act 1974 (regulations under the Act pertaining to buses, trams & trains)</i>				
<i>Air Navigation Regulations (Amendments) 1987, 1990, 1995 & 1996</i>						<i>No 13 Guidelines for Price Tickets and Other Matters (Tobacco Products) 2000</i>		<i>Health (Smoking in Enclosed Public Places) Regulations 2003</i>	
<i>Broadcasting Services Act 1992</i>									
<i>Interstate Road Transport Act 1985</i>						<i>No 15 Guidelines for Smoke Free Areas (Snacks) 2001</i>		<i>Occupational Safety & Health Regulations 1996</i>	
<i>Interstate Road Transport Regulation (Amendment) 1988</i>									
<i>Federal Airports Corporation Act 1986 & Federal Airports (Amendment) By-Laws Act 1986</i>									
<i>Excise Amendment (Compliance Improvement) Act 2000</i>									
<i>Therapeutic Goods Act 1989 (amended 1990)</i>									
<i>National Health Act 1953 (relevant to Pharmaceutical Benefits issues)</i>									

DEMAND REDUCTION STRATEGIES									
MARKETING & PROMOTION									
Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Published Ads	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Commonwealth legislation applies.	Prohibited by legislation.	Prohibited by legislation from 31 May 2003.
Broadcast Ads	Prohibited by legislation.	Prohibited by legislation.	Commonwealth legislation applies.	Commonwealth legislation applies.	Commonwealth legislation applies.	Prohibited.	Commonwealth legislation applies.	Commonwealth legislation applies.	Prohibited by legislation from 31 May 2003.
Sponsorship	Acknowledgments restricted by legislation.	Prohibited by legislation, Minister may grant an exemption.	Health Promotion Foundation replaces tobacco sponsorship. Sponsorship prohibited by <i>Tobacco Act 1987</i> except where Governor in Council declares exemptions.	Commonwealth legislation applies.	Prohibited by legislation; government funded health promotion sponsorship program.	Nil.	Prohibited by legislation, Minister may grant an exemption.	Prohibited by legislation, Minister may grant an exemption; Health Promotion Foundation replaces tobacco sponsorship.	Any tobacco advertising or naming associated with sponsorship prohibited.

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Point-of-sale Advertising	<p><i>Tobacco Advertising Prohibition Act 1992</i> sets <u>minimum</u> standard.</p> <p>Point of sale advertising permitted in shops providing it (a) is within the boundaries of the shop; (b) not affixed to an outside wall, window or door of the shop; (c) faces the inside of the shop if placed on a window.</p>	Prohibited by legislation.	<p>Restricted by legislation.</p> <p>As of 1 January 2002, no point of sale advertising except product display & price information.</p> <p>Product display to be regulated.</p>	Prohibited by legislation.	Minimal restrictions. Currently being reviewed.	Prohibited by legislation.	No point of sale advertising except limited product display & price information.	<p>Advertising inside shops or retail outlets directly adjacent to where tobacco products sold permitted. Regulations prescribe size, position & health warnings required for such advertising.</p>	<p>Prohibited by legislation from 31 May 2003.</p> <p>Product display restrictions apply from 31 May 2003.</p>

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Value-added Promotions		Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	Prohibited by legislation.	<p>Legislation prohibits schemes & competitions.</p> <p>Value added promotions such as free lighters, discounting permissible.</p>	Prohibited from 31 May 2003.
Minimum Pack Size		Regulated by legislation.	Regulated by legislation (20).	Regulated by legislation (20).	Regulated by legislation (20).	Regulated by legislation (20).	Regulated by legislation (20).	Regulated by legislation.	Regulated by legislation (20).

EDUCATION ACTIVITIES									
Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Health Warning Labels	Mandatory by legislation on all retail packages of tobacco products.								
Telephone services	National information line service.	Quit line.	Quit line.	Quit line. Tobacco Hotline (for information regarding tobacco legislation)	Quit line.	Quit line.	Quit line.	Quit line.	Quit line.
Media Campaigns	National Tobacco Campaign. (currently in Phase 3 of the campaign).	QUIT and other community education campaigns.	QUIT campaigns.	QUIT campaigns. “Poison” Youth Smoking Campaign. Car and Home: Smoke-free Zone Campaign	QUIT Campaigns and additional Environmental Tobacco Smoke Campaigns funded through the Dept of Human Services.	Quit only.		Quit campaign, Quit – Young Adults campaign, and other maintenance media – DOH. Make Smoking history campaign – Cancer Council of WA, with part funding from DOH and Healthway. Smarter Than Smoking Campaign – Funded by Healthway, based at Heart Foundation.	Annual Quit (WNTD & New Years) Campaigns, and others as programmed.

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
School-based programs		Included in required PDHPE syllabus.	<p>The Dept of Education and Training have been funded by the Cth to undertake a tobacco education project. The project aims to address:</p> <ul style="list-style-type: none"> • Education material available in schools about the harms caused by smoking. • Managing students who smoke. • Smoking policies at schools. <p>A trial of the new guidelines will be undertaken in 13 schools throughout 2004.</p>	<p>Education Dept programs.</p> <p>“Poison” Youth Smoking Campaign School Resource Package.</p> <p>School-based Youth Health Nurse Program.</p> <p>Pilot project “Smoking: No Way” targeting Indigenous primary school students</p>	<p>Schools kit produced 1998 - The truth is out there.</p> <p>Oxygen website (www.OxyGen.org.au), Peer Support Program</p> <p>Activities on tobacco and smoking, Health Promoting School grant</p> <p>Critics Choice & Life Education Program, Tobacco Education Curriculum Development, Smoke-free education and child care guidelines, grant funded projects in schools.</p>	Education Dept.	Part of the Health & PE section of the school curriculum.	Produce drug education resources. Smarter than Smoking Program.	<p>NT Education Dept, Drug & Alcohol Resistance Education (DARE) Program (NT Police).</p> <p>Health Education syllabus T-9.</p>

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Grants programs	Ad hoc grants administered to national organisations.	Ad hoc grants programs including WNTD Grants Area Health Service grants for monitoring compliance with tobacco legislation.	The Dept has funded 5 tobacco projects within Koori communities across Victoria to undertake a variety of activities increasing awareness of tobacco issues and promoting smoking cessation. An evaluation of the five projects will also be undertaken.	Event Support Program: <i>Smoking: It can cost us the game</i> and <i>Smoking: It could cost us our culture</i> Financial and resource support given to local Indigenous communities to run sporting and cultural events that promote the no smoking message.	Grants program from Dept Human Services.	Ad hoc funding available from the Tasmanian Health and Wellbeing Fund	HealthPACT funding for sports, arts & community organisations; some funding support from Dept to QUIT.	Grants through Health Promotion foundation (Healthway).	Aboriginal Incentives Funds and Quit Week School Grants Program.

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Cessation Services		Quit campaign, area health services, church & private services.	Quit campaign. The Dept has provided \$150,500 to the Royal Australian College of General Practitioners to assess the role of practice nurses in providing smoking cessation intervention in general practice.	Quit campaign.	Quit campaign. Hospital based grant projects. GPs cessation support project.	Quit campaign.	Quit campaign; individual's General Practitioner.	Quit campaign ADIS, private organisations, public health units, Cancer Council of WA.	Quit campaign through DHCS; community health program; Indigenous resource training.

SUPPLY REDUCTION STRATEGIES									
Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Vending machines		Self-serve vending machines permitted in restricted areas of licensed premises & staff amenity rooms.	Self-serve vending machines permitted in licensed premises, bingo centres & staff amenity rooms.	Vending machines limited to bar & gaming areas of liquor licensed premises and must be easily observed by persons working in the area (except in casinos where minors not permitted).	Self-serve vending machines permitted in licensed premises.	No restrictions on location. Two approved health warning notices are required. Maximum of 40 vending chips can be displayed. Licence to sell tobacco product required.	Self-serve public vending machines permitted only in designated bar-rooms, or places licensed to hold gaming machines.	Self-serve vending machines permitted in licensed premises and staff amenity areas.	Regulations require health warnings on vending machines. From 31 May 2003 restricted to adults only section of licensed premises within line of sight of bar staff.

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Passive smoking	Smoking prohibited in Commonwealth workplaces, aircraft, airports, interstate trains and federally registered motor coaches.	Commenced September 2000: Smoking is prohibited in enclosed public places, including shopping centres, restaurants, cafes, schools. Exemptions apply to premises with a hoteliers licence, nightclub licence or registered clubs (except for certain dining areas). Smoking is banned at the Casino except for the bar and gaming machine areas.	Smoke free dining introduced in restaurants & eateries in July 2001. Ban also applies to indoor dining areas in hotels & licensed clubs when the 'predominant activity in that area is the consumption of food or non-alcoholic drinks'. From 1 November 2001 shopping centres were required to be smoke-free From 1 September 2002: Licensed premises that are non-gaming venues must designate a smoke-free room at all times when 2 or more rooms are operating.	It is an offence to smoke in an enclosed space. Exemptions apply to homes, private vehicles or business vehicles without passengers, private living areas in multi-unit dwellings, premium gaming rooms in casinos, licensed premises (but not dining & bingo areas), secure facilities (eg. prisons) and smoking as part of a performance.	Smoking prohibited on trains, taxis & buses (except group charters), lifts, auditoria of places of public entertainment, & enclosed public dining or café areas. Exemptions apply to dining area rule eg. designated smoking area in bar/lounge that also provides non-smoking area, licensed premises where meals not available.	Smoking is prohibited in all enclosed work and public places. Exemptions apply to gaming areas unless food is served, bars & licensed restaurants where food is not served, individual prison cells, individual rooms in nursing homes & hotel rooms. Bars must provide reasonable non-smoking area of equal amenity. The legislation was reviewed in 2003. Draft legislation was tabled in Parliament in early 2004 to give effect to the following smoke free areas as of 1 January 2005: <ul style="list-style-type: none">Nightclubs,	Smoking prohibited in enclosed public places (eg. shops, cafes, theatres, recreational facilities, restaurants). See Schedule to the Act for exceptions & special circumstances. Restaurants & parts of licensed premises may apply for an exemption under which smoking is restricted. There is a Code of Practice under the OH&S Act 1989 to protect employees from ETS. In November 2003 the ACT Legislative Assembly passed the <i>Smoking</i>	Smoking prohibited in enclosed public areas (eg. shops, business premises, restaurants). OH&S Regulations prohibit smoking by employers, employees & self employed persons in enclosed workplaces. Exemptions apply to bar or lounge areas of licensed premises (but not restaurants, nightclubs or cabarets) where meals not served & area adequately ventilated. Smoking permitted in single, separately enclosed area of licensed restaurant where no meals served if adequate ventilation, & in covered outdoor area of restaurant that is not substantially enclosed. Smoking as part of a performance allowed.	Smoking in restaurants, shopping centres & plazas, halls & community facilities, public transport & their waiting & ticketing areas, areas of common access eg. stairways, toilets, lobbies, buildings and grounds of schools & child care facilities (unless management boards allow out of view outdoor designated smoking area), within 2 metres of doorways & within 3 metres of air conditioning

			<p>Gaming machine area in 1 room gaming venues must be smoke-free at all times.</p> <p>In gaming venues consisting of 2 or more rooms, any room containing operating gaming machines must be smoke-free at all times.</p> <p>Gaming venues with 3 or more rooms in operation must designate a smoke-free room in addition to the gaming room.</p> <p>Bingo centres must be completely smoke-free.</p> <p>Where bingo is played in a place other than a bingo centre (eg. a pub or hall) the bingo area must be smoke-free during bingo sessions.</p>			<p>cabarets and gaming areas.</p> <ul style="list-style-type: none"> • 50% outdoor dining areas. • All bars except for one. In the one bar where smoking is permitted 1 metre from the bar service area must be smoke free. In premises where there is only one bar, 50% must be smoke free in addition to the 1 metre bar service area exclusion zone. 	<p><i>(Prohibition in Enclosed Public Places) Act 2003.</i></p> <p>From 1 December 2006 smoking will be prohibited in all enclosed public places with some minor exceptions.</p>		<p>g inlets, half of fixed seating in outdoor venues.</p> <p>From 31 May 2003, 'equal amenity' applies to smokers & non-smokers in liquor licensed premises, dance floors to be smokefree, all other indoor workplaces to become smokefree.</p>
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			Casino must be smoke-free except in TAB areas, bar areas and high roller rooms that have been specifically exempted by the Minister.						
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Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Retailer compliance campaigns.		Yes – Compliance Campaigns relating to sales to minors, tobacco advertising and smoke-free venues are undertaken.	<p>The Dept has a specialist Cigarette Sales to Minors Enforcement Team who test retailers for cigarette sales to people under the age of 18 years.</p> <p>The State Govt provides funding to local councils to undertake education and enforcement of tobacco laws including test purchasing</p>	Compliance surveys for signage, advertising and tobacco display provisions, but not youth purchase surveys.	Controlled purchase operations use Tobacco Control officers, trained teenage volunteers and witnesses to test whether retailers are selling tobacco products to people under 18. Retailers who offend twice are interviewed and the case forwarded to the Crown Solicitor's Office for consideration about whether prosecution is appropriate.	<p>Tobacco Control Officers visit stores routinely & provide advice relating to point of sale and sales to minors legislation.</p> <p>Tobacco Control officers also conduct controlled purchase operations using trained teenage volunteers and witnesses to test whether retailers are selling tobacco products to people under 18.</p> <p>Controlled purchase operations are approved activities under the Act for compliance with the law. If a retailer is found to sell to a minor a caution is issued and evidence about</p>	Premises inspected but no compliance testing for underage sales currently conducted.	<p>Biennial compliance testing conducted since 1992.</p> <p>Regional compliance program initiated 2003.</p> <p>Monitoring and enforcement of legislation focussed around ongoing retail inspections and investigations of all complaints. Surveillance of retail outlets often used for complaints of sales to minors offences.</p>	Awaiting new legislation before reinstating compliance monitoring.

						<p>the sale is referred for prosecution.</p> <p>Compliance surveys are also conducted by Quit Tasmania on behalf of the Dept. The surveys check to see if retailers are selling tobacco products to people U-18. Surveys use teenage mystery shoppers recruited and trained by Quit Tasmania. Information from the surveys is provided to the Dept which sends warning / congratulation letters to retailers depending upon their performance. Compliance surveys are a research tool to test compliance and are not used as the basis for prosecutions.</p>			
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Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Minimum age at which tobacco can be sold.		18 years.	18 years.	18 years.	18 years.	18 years.	18 years.	18 years.	18 years.
Penalties for selling to minors.		Fine of up to \$5,500.	\$5000 fine for all offences. Tobacco retailers risk losing the ability to sell tobacco for a set period of time.	\$5,250 first offence, \$10,500 subsequent offence.	Max penalty of \$5000 & possible disqualification of tobacco license for 6 months.	\$5000 first offence, \$10000 subsequent offences.	Maximum penalty 50 penalty units (\$5000 for individual; \$25000 for corporation); also licensing sanctions.	Individual 1 st offence \$5000, subsequent offence \$10000. Body Corporate 1 st offence \$20000, subsequent offence \$40000.	Max penalty of \$10000. Possible loss of licence.
Penalties for minors purchasing				Nil.	\$200 if give false ID or statement or refuse to produce ID at purchase.	Policy is not to prosecute minors.	Maximum penalty 10 penalty units (\$1000) for providing false ID.		Proposed offense for providing false ID

PRICING MECHANISMS

Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Excise	Excise levied per kg of tobacco; rate gauged to CPI increases.								
Business Franchise Fees	State/Territory fees now collected by the Commonwealth and returned to each jurisdiction.				License fee required for retailers at approximately \$12 per year. Retail licensing fees under review.	Wholesalers and retailers are required to be licensed. The current annual fee is \$83.25 per premises.	Licences required for retailers & wholesalers (incl. where tobacco is sold by vending machine). \$200 annual fee.		Licenses required for retailers from 31 May 2003.

OTHER									
Activity:	Commonwealth	NSW	VIC	QLD	SA	TAS	ACT	WA	NT
Herbal Cigarettes		Section 59 of the <i>Public Health Act 1991</i> bans sale to minors of any product (tobacco or non-tobacco) that can be smoked.	VIC legislation does not address.	Same legislation as applies, ie. whether tobacco cigarette or herbal cigarette.	Section 38 of the <i>Tobacco Products Regulation Act 1997</i> bans sale to minors of any tobacco products and prescribed products. s 28 defines “prescribed products” as a product that is not a tobacco product but is designed for smoking.	Same legislation as applies to tobacco. No sales to minors.	Same legislation as applies to standard cigarettes.	WA legislation does not address.	Definition of ‘tobacco products’ includes herbal cigarettes, & same restrictions apply.