

2025

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Tobacco and Other Smoking Products (Vaping Goods) Amendment Bill 2025

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(Minister for Health)

Tobacco and Other Smoking Products (Vaping Goods) Amendment Bill 2025

A Bill for

An Act to amend the *Tobacco and Other Smoking Products Act 1927*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2023-1278

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- 1 **1 Name of Act**
- 2 This Act is the *Tobacco and Other Smoking Products (Vaping Goods)*
3 *Amendment Act 2025*.
- 4 **2 Commencement**
- 5 This Act commences on the day after its notification day.
- 6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Tobacco and Other Smoking Products Act 1927*.
- 10 *Note* This Act also amends other legislation (see schs 1 and 2).
- 11 **4 Legislation repealed**
- 12 The *Tobacco (Prohibited Smoking Products) Declaration 2011*
13 *(No 1)* (NI2011-584) is repealed.
- 14 **5 Meaning of *smoking product***
15 **Section 3A, definition of *smoking product*, new paragraph**
16 **(d)**
- 17 *insert*
- 18 (d) a vaping good other than a therapeutic vaping good.

1 **6 Section 3B**

2 *substitute*

3 **3B Meaning of *personal vaporiser* and *personal vaporiser***
4 ***related product***

5 (1) In this Act:

6 *personal vaporiser* means—

7 (a) a device that—

8 (i) is made for the purpose or apparent purpose of delivering
9 a substance into a person's body when the person inhales
10 through the device; and

11 (ii) has a cartridge or container to store a substance; or

12 (b) a device prescribed by regulation.

13 *personal vaporiser related product* means a device or other product
14 that is—

15 (a) made for the purpose or apparent purpose of being part of a
16 personal vaporiser; or

17 (b) made for the purpose or apparent purpose of being used in
18 connection with a personal vaporiser; or

19 (c) prescribed by regulation.

20 (2) However, a *personal vaporiser* or a *personal vaporiser related*
21 *product* does not include the following:

22 (a) a device designed to be used to deliver oxygen into an
23 individual's body;

24 (b) a drug pipe;

25 (c) a vaping good;

26 (d) a device or other product prescribed by regulation.

1 (3) In this section:

2 *drug pipe*—see the [Criminal Code](#), section 621A (2).

3 **3C Meaning of *therapeutic vaping good* and *vaping good***

4 (1) In this Act:

5 *therapeutic vaping good* means a vaping good supplied in a way that
6 is consistent with the [Therapeutic Goods Act 1989](#) (Cwlth).

7 *vaping good*—see the [Therapeutic Goods Act 1989](#) (Cwlth),
8 section 41P (1), definition of *vaping goods*.

9 (2) However, a *vaping good* does not include the following:

10 (a) a device designed to be used to deliver oxygen into an
11 individual's body;

12 (b) a drug pipe.

13 (3) Despite subsections (1) and (2), a regulation may prescribe that a
14 device or other product—

15 (a) is a vaping good; or

16 (b) is not a vaping good.

17 (4) In this section:

18 *drug pipe*—see the [Criminal Code](#), section 621A (2).

19 **3D Meaning of *prohibited smoking product***

20 (1) In this Act:

21 *prohibited smoking product* means—

22 (a) a vaping good other than a therapeutic vaping good; or

23 (b) a smoking product prescribed by regulation.

- 1 (2) A regulation may prescribe a smoking product as a prohibited
2 smoking product only if 1 or both of the following apply:
- 3 (a) the product, or the smoke of the product, has a distinctive fruity,
4 sweet or confectionary-like character;
- 5 (b) the product, or the product's package or packaging, may be
6 attractive to children.
- 7 (3) In this section:
8 *smoke* includes vapour.

9 **7 Prohibited smoking products**
10 **Section 21**

11 *omit*

12 **8 Prohibition on sale of prohibited smoking product**
13 **Section 22 (2)**

14 *omit*

15 **9 Retail tobacconist must obtain smoking products from**
16 **licensed wholesaler**
17 **Section 67 (4) and (5)**

18 *omit*

19 **10 Dictionary, new definitions**

20 *insert*

21 *prohibited smoking product*—see section 3D.

22 *therapeutic vaping good*—see section 3C.

23 *vaping good*—see section 3C.

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Drugs of Dependence Act 1989**

4 **[1.1] Section 171AB (4), definition of *smoke cannabis*,**
5 **paragraph (b) (ii)**

6 *substitute*

7 (ii) a personal vaporiser or vaping good that contains cannabis
8 and that is activated.

9 **[1.2] Section 171AB (4), definition of *smoke cannabis*, new**
10 **example**

11 *after 1st dot point, insert*

- 12 • a vaping good

13 **[1.3] Section 171AB (4), new definition of *vaping good***

14 *insert*

15 *vaping good*—see the [Tobacco and Other Smoking Products](#)
16 [Act 1927](#), section 3C.

1 **Part 1.2** **Smoke-Free Public Places**
2 **Act 2003**

3 **[1.4] Section 3, note 1**

4 *substitute*

5 *Note 1* The dictionary at the end of this Act defines certain terms used in this
6 Act, and includes references (*signpost definitions*) to other terms defined
7 elsewhere.

8 For example, the signpost definition ‘*gaming area*—see the [Gaming](#)
9 [Machine Act 2004](#), dictionary.’ means that the term ‘gaming area’ is
10 defined in that dictionary and the definition applies to this Act.

11 **[1.5] Section 5B**

12 *substitute*

13 **5B Meaning of *smoke***

14 (1) For this Act, *smoke* means—

- 15 (a) smoke from an ignited tobacco product or herbal product; or
16 (b) vapour from an activated personal vaporiser or vaping good.

17 (2) For this Act, a person *smokes* if the person—

- 18 (a) directly puffs, draws or inhales smoke or vapour, whether or not
19 the person uses a device designed for the inhalation of smoke or
20 vapour by a smoker; or
21 (b) holds or has control over a smoking product while it is ignited
22 or activated.

23 **Examples—devices—par (a)**

- 24 1 a cigarette holder
25 2 a pipe (including a hookah, water pipe or bong)

1 (3) However, a person does not *smoke* only because the person holds or
2 has control over a smoking product if the person holds or has control
3 over it for the purpose of extinguishing it, deactivating it or removing
4 it from—

- 5 (a) an enclosed public place; or
6 (b) an outdoor eating or drinking place; or
7 (c) an underage function.

8 (4) In this section:

9 *herbal product*—see the *Tobacco and Other Smoking Products*
10 *Act 1927*, dictionary.

11 *personal vapouriser*—see the *Tobacco and Other Smoking Products*
12 *Act 1927*, section 3B.

13 *smoking product* means any of the following:

- 14 (a) a tobacco product;
15 (b) a herbal product;
16 (c) a personal vapouriser;
17 (d) a vaping good.

18 *tobacco product*—see the *Tobacco and Other Smoking Products*
19 *Act 1927*, dictionary.

20 *vaping good*—see the *Tobacco and Other Smoking Products*
21 *Act 1927*, section 3C.

22 **[1.6] Dictionary, definitions of *personal vapouriser* and *smoking***
23 ***product***

24 *omit*

1 **Part 1.3** **Smoking in Cars with Children**
2 **(Prohibition) Act 2011**

3 **[1.7] Section 6**

4 *substitute*

5 **6 Meaning of *smoke***

- 6 (1) For this Act, *smoke* means—
7 (a) smoke from an ignited tobacco product or herbal product; or
8 (b) vapour from an activated personal vaporiser or vaping good.
9 (2) For this Act, a person *smokes* if the person—
10 (a) directly puffs, draws or inhales smoke or vapour, whether or not
11 the person uses a device designed for the inhalation of smoke or
12 vapour by a smoker; or
13 (b) holds or has control over a smoking product while it is ignited
14 or activated.

15 **Examples—devices—par (a)**

- 16 1 a cigarette holder
17 2 a pipe (including a hookah, water pipe or bong)

- 18 (3) In this section:

19 *herbal product*—see the *Tobacco and Other Smoking Products*
20 *Act 1927*, dictionary.

21 *personal vaporiser*—see the *Tobacco and Other Smoking Products*
22 *Act 1927*, section 3B.

23 *smoking product* means any of the following:

- 24 (a) a tobacco product;
25 (b) a herbal product;

1 (c) a personal vaporiser;

2 (d) a vaping good.

3 *tobacco product*—see the *Tobacco and Other Smoking Products*
4 *Act 1927*, dictionary.

5 *vaping good*—see the *Tobacco and Other Smoking Products*
6 *Act 1927*, section 3C.

7 **[1.8] Dictionary, definitions of *personal vaporiser* and *smoking***
8 ***product***

9 *omit*

1 **Schedule 2** **Technical amendments**

2 (see s 3)

3 **Part 2.1** **Medicines, Poisons and**
4 **Therapeutic Goods Act 2008**

5 **[2.1]** **Section 14, definition of *regulated therapeutic good*,**
6 **paragraph (a) (iii)**

7 *omit*

8 **Explanatory note**

9 This amendment omits reference to a therapeutic device as that term is no longer used by the
10 *Therapeutic Goods Act 1989* (Cwlth).

11 **[2.2]** **Section 15 (2)**

12 *substitute*

13 (2) For subsection (1), but subject to any modification prescribed by
14 regulation, an amendment of a current poisons standard or a new
15 poisons standard takes effect in accordance with the *Legislation*
16 *Act 2003* (Cwlth), section 12.

17 **Explanatory note**

18 This amendment updates the way that the poisons standard takes effect in the ACT to reflect
19 updates to the *Therapeutic Goods Act 1989* (Cwlth).

1 **[2.3] Section 15 (3), definition of *current poisons standard***

2 *omit*

3 section 52A

4 *insert*

5 section 52A (1)

6 **Explanatory note**

7 This amendment updates a cross-reference.

8 **[2.4] Section 108 (4)**

9 *omit*

10 made of the medicines and poisons inspector under subsection (1)
11 if the inspector

12 *substitute*

13 under subsection (1) if the medicines and poisons inspector

14 **Explanatory note**

15 This amendment clarifies the wording of subsection (4) to avoid the impression that a medicines
16 and poisons inspector could make a requirement of themselves under subsection (1).

17 **Part 2.2 Tobacco and Other Smoking**
18 **Products Act 1927**

19 **[2.5] Section 14 (2), new note**

20 *insert*

21 *Note* The defendant has a legal burden in relation to the matters mentioned in
22 s (2) (see [Criminal Code](#), s 59).

23 **Explanatory note**

24 This amendment inserts a note in line with current legislative drafting practice.

1 **[2.6] Section 23 (4), new note**

2 *insert*

3 *Note* The defendant has an evidential burden in relation to the matters
4 mentioned in s (4) (see [Criminal Code](#), s 58).

5 **Explanatory note**

6 This amendment inserts a note in line with current legislative drafting practice.

7 **[2.7] Section 25A (2), new note**

8 *insert*

9 *Note* The defendant has a legal burden in relation to the matters mentioned in
10 s (2) (see [Criminal Code](#), s 59).

11 **Explanatory note**

12 This amendment inserts a note in line with current legislative drafting practice.

13 **[2.8] Section 28 (3), new note**

14 *insert*

15 *Note* The defendant has an evidential burden in relation to the matters
16 mentioned in s (3) (see [Criminal Code](#), s 58).

17 **Explanatory note**

18 This amendment inserts a note in line with current legislative drafting practice.

19 **[2.9] Sections 33, 35 and 36**

20 *omit*

21 his or her

22 *substitute*

23 their

24 **Explanatory note**

25 This amendment updates language in line with current legislative drafting practice.

1 **[2.10] Section 36 (1) and (2)**

2 *omit*

3 he or she

4 *substitute*

5 they

6 **Explanatory note**

7 This amendment updates language in line with current legislative drafting practice.

8 **[2.11] Sections 37 and 38**

9 *omit*

10 his or her

11 *substitute*

12 their

13 **Explanatory note**

14 This amendment updates language in line with current legislative drafting practice.

15 **[2.12] Section 38 (2) (b) and (3) (a)**

16 *omit*

17 he or she need not comply with the requirement in relation to any
18 information in respect of which he or she is entitled

19 *substitute*

20 they need not comply with the requirement in relation to any
21 information in respect of which they are entitled

22 **Explanatory note**

23 This amendment updates language in line with current legislative drafting practice.

1 **[2.13] Sections 39, 46 and 54**

2 *omit*

3 his or her

4 *substitute*

5 their

6 **Explanatory note**

7 This amendment updates language in line with current legislative drafting practice.

8 **[2.14] Section 62 (3), new note**

9 *insert*

10 *Note* The defendant has a legal burden in relation to the matters mentioned in
11 s (3) (see [Criminal Code](#), s 59).

12 **Explanatory note**

13 This amendment inserts a note in line with current legislative drafting practice.

14 **[2.15] Section 67 (3), new note**

15 *insert*

16 *Note* The defendant has a legal burden in relation to the matters mentioned in
17 s (3) (see [Criminal Code](#), s 59).

18 **Explanatory note**

19 This amendment inserts a note in line with current legislative drafting practice.

20 **[2.16] Section 71 heading**

21 *substitute*

22 **71 Recovery of unpaid fees from unlicensed people**

23 **Explanatory note**

24 This amendment updates language in line with current legislative drafting practice.

