

**House of Representatives**  
**Supplementary Order Paper**

**Wednesday, 13 July 2011**

**Smoke-free Environments (Controls and  
Enforcement) Amendment Bill**

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*Proposed amendments*

Rahui Katene, in Committee, to move the following amendments:

*Clause 2*

To insert “6A, 6B,” after “Sections” (line 5 on page 3).

To insert “registration of tobacco sellers” after “to” (line 7 on page 3).

*Clause 4*

To insert the following paragraph before paragraph (a):

- (aa) requires people who wish to carry out the business of selling tobacco products to be registered with the Director-General of Health before they can legally do so:

*Clause 5A: new section 3A*

To omit the second appearance of “and” (line 4 on page 6).

To insert “, and sale” after “promotion” (line 5 on page 6).

*New clause 6A*

To insert the following clause after clause 6:

**6A Section 21 amended**

Section 21(a)(i) is amended by omitting “or” after “advertising,” and inserting “, and sale” after “promotion”.

*New clause 6B*

To insert the following clause before clause 7:

**6B New sections 21A to 21G inserted**

Part 2 of the Act is amended by inserting the following heading and sections after section 21:

*“Registration of tobacco sellers*

**“21A Register of tobacco sellers**

- “(1) The Director-General of Health must keep a register of all persons carrying on a tobacco business (referred to in this Part as ‘the Register’).
- “(2) In this Part, **registered** means entered in the Register, and **un-registered** is to be construed accordingly.

**“21B All manufacturers, importers, wholesalers, distributors and retailers of tobacco products must be registered**

No person carrying on a tobacco business may sell tobacco products, or allow tobacco products to be sold on their behalf, in New Zealand unless they are registered and sell those tobacco products at or from premises or Internet sites that are listed in the Register against their registration.

**“21C Application for registration and addition of premises, etc**

- “(1) A person may apply to the Director-General of Health—
- “(a) to be registered; or
  - “(b) to add further premises or Internet sites to the person’s entry in the Register.
- “(2) An application under subsection (1) must—
- “(a) state the name and address of the applicant; and
  - “(b) where it is an application under subsection (1)(a), state the addresses of all premises or Internet sites at or from which the applicant proposes to carry on a tobacco business; and
  - “(c) where it is an application under subsection (1)(b), state the address of the further premises or Internet site at or from which the applicant proposes to carry on a tobacco business; and
  - “(d) contain any other information as is prescribed by regulations made under this Act; and
  - “(e) be made in such form and manner as is determined by the Director-General of Health; and
  - “(f) be accompanied by the prescribed fee for registration.
- “(3) If required, an application must provide other information including, if prescribed, information about the source of tobacco products made available for sale and the quantities of tobacco products sold and, in the case of manufacturers, wholesalers and distributors, to whom they are sold.
- “(4) The Director-General of Health must grant an application for registration unless—
- “(a) it does not comply with the requirements in subsection (2); or

- “(b) at the time the application is made, the applicant is subject to an order made under section 30AB of this Act that prohibits either the person from selling tobacco products, or from selling tobacco products from a premises named in the application for registration.
- “(5) On granting an application under subsection (1)(a), the Director-General of Health must enter the following information in the Register—
  - “(a) the name and address of the applicant; and
  - “(b) contact details of the applicant, including a valid phone number where they may receive information from the Director-General of Health and persons delegated with the functions and powers of the Director-General of Health; and
  - “(c) the addresses of the premises or Internet sites at or from which the applicant proposes to carry on the sale of tobacco products; and
  - “(d) any other information which the Director-General of Health considers appropriate.
- “(6) On granting an application under subsection (1)(b), the Director-General of Health must amend the applicant’s entry in the Register so as to include the address of the further premises or Internet site at or from which the applicant proposes to carry on the sale of tobacco products.

**“21D Certificates of registration**

- “(1) On granting an application under section 21C, the Director-General of Health must issue to the applicant a certificate of registration in respect of each premises or Internet site stated in the application.
- “(2) No premises or Internet site may be used for the sale of tobacco products unless a certificate of registration for that premises or Internet site is displayed in a prominent position on the premises or Internet site for inspection.

**“21E Duty to notify certain changes**

- “(1) A registered person must give the Director-General of Health notice of—
  - “(a) a change in the person’s name or address;
  - “(b) the fact that the person is no longer carrying on a tobacco business at an address or Internet site noted in the person’s entry in the Register.
- “(2) A notice under subsection (1) must be given within one month of the date of the change to which it relates.

**“21F Changes to and removal from Register**

- “(1) The Director-General of Health may correct the Register, following notification under section 21E or otherwise, as he or she considers appropriate.
- “(2) Where an order is issued under section 30AB of the Act requiring a person or premises to cease the sale of tobacco products for a stated period of time, the Director-General of Health must amend the person’s entry in the Register so as to remove references to the person or premises being registered for that period of time.
- “(3) The Director-General of Health may remove a person’s entry from the Register if—
- “(a) as a result of a correction or amendment under subsection (1) or (2), there are no premises noted in the person’s entry in the Register; or
  - “(b) they are not satisfied that the person is carrying on a tobacco business.
- “(4) Where the Director-General of Health corrects, amends or removes a person’s entry in the Register under this section, he or she must—
- “(a) as soon as reasonably practicable notify the person of the correction, amendment or, as the case may be, removal; and
  - “(b) if it is appropriate to do so, issue at the same time to the person a revised certificate of registration.
- “(5) The Director-General of Health must reinstate a person’s entry in the register if—
- “(a) the entry was removed under subsection (3)(b); and
  - “(b) the person provides notification no later than 28 days after notice of the removal is given under subsection (4)(a) that the person is still carrying on a tobacco business.
- “(6) A notice under subsection (4)(a) may be given—
- “(a) by delivering it to the person; or
  - “(b) by leaving it at the person’s usual or last known address; or
  - “(c) by sending it by post to the person at that address.

**“21G Public inspection of the Register**

- “(1) The Director-General of Health must make available for public inspection, at all reasonable times and free of charge, a list of premises at which tobacco businesses are carried on or proposed to be carried on.
- “(2) Officers appointed under section 14 as enforcement officers shall have full access to the Register to enable them to undertake their duties.”

*New clause 9A*

To insert the following clause after clause 9:

**9A Section 30AB amended**

Subsection (2) is amended by—

- (a) omitting from paragraph (a)(ii) “a shop at” and substituting “or from a premises or Internet site at or from”;
- (b) omitting from paragraph (b)(ii) “in the place in” and substituting “at or from a premises or Internet site at or from”;
- (c) omitting from paragraph (c)(ii) “shop at” and substituting “or from a premises or Internet site at or from which”.

*Clause 12*

To insert the following subclause after subclause (1AA):

(1AB) Section 36 is amended by inserting the following subsections before subsection (1):

“(1AA) Any person carrying on a tobacco business who, without reasonable excuse, sells, or allows to be sold on their behalf, a tobacco product without being registered and operating in accordance with section 21B commits an offence and is liable,—

- “(a) in the case of a manufacturer, an importer, a wholesaler or a distributor, to a fine not exceeding \$50,000; or
- “(b) in any other case, to a fine not exceeding \$10,000.

“(1AB) Any person who fails to display a certificate of registration as required under section 21D(2) or fails to notify required changes to the Director-General of Health in accordance with section 21E commits an offence and is liable,—

- “(a) in the case of a manufacturer, an importer, a wholesaler or a distributor, to a fine not exceeding \$10,000; or
- “(b) in any other case, to a fine not exceeding \$2,000.”

*Clause 13*

To insert the following paragraph before paragraph (a) (line 1 on page 21):

- (aa) section 36(1AA) (which relates to an unregistered person selling tobacco products, or a registered person selling tobacco products at or from a premises or Internet site that has not been entered in the Register established under section 21A)—maximum infringement fee amount \$1,000:

*Clause 14*

To insert the following subclause before subclause (1) (line 33 on page 22):

(1AA) Section 39(1) is amended by inserting, after paragraph (b), the following subsection:

“(ba) prescribing the information that must be included in applications for registration under section 21C and the fees payable with any application for registration.”

*Clause 16*

To insert the following paragraph before paragraph (a) (line 1 on page 26):

(aa) requires people who wish to carry out the business of selling tobacco products to be registered with the Director-General of Health before they may legally do so:

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**Explanatory note**

This Supplementary Order Paper amends the Smoke-free Environments (Controls and Enforcement) Amendment Bill so as to introduce a registration requirement for the sale of tobacco.

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