

Children and Families Bill

AMENDMENTS
TO BE MOVED
ON REPORT

After Clause 95

BARONESS FINLAY OF LLANDAFF
LORD FAULKNER OF WORCESTER
BARONESS TYLER OF ENFIELD
LORD McCOLL OF DULWICH

Insert the following new Clause—

“Children’s health: standardised tobacco packaging

- (1) The Children and Young Persons (Protection from Tobacco) Act 1991 is amended as follows.
- (2) After section 3A (Sales from vending machines in England and Wales) insert—

“3B Standardised packaging

- (1) The Appropriate National Authority must, if satisfied that doing so is in the interests of preventing harm to the health of children under the age of 18 or of promoting the health of children under the age of 18, make regulations specifying retail tobacco packaging requirements in England and Wales.
- (2) Regulations made under subsection (1) must provide that retail packaging or tobacco products of any such description, or falling within any such class as may be specified in the regulations, shall not, except in such circumstances as may be so specified, be of any such colour or shape, or display any such mark or trade mark, or any other particulars as may be so specified.
- (3) A person is guilty of an offence if—
 - (a) in the course of a business the person owns or manages retail or commercial premises or a leisure facility; and
 - (b) the person sells or supplies, or has in the premises or facility for sale or supply, any tobacco product; and
 - (c) the retail packaging of the tobacco product does not comply with a specified retail tobacco packaging requirement.

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- (4) A person (“person A”) is guilty of an offence if –
- (a) person A manufactures any tobacco product; and
 - (b) either –
 - (i) person A packages the product for retail sale; or
 - (ii) person A enters into a contract or arrangement, or arrives at an understanding, for another person (person B) to package the product for retail sale; and
 - (c) (in a case falling within paragraph (b)(ii)) the tobacco product is packaged for retail sale by person B; and
 - (d) the retail packaging does not comply with a specified retail tobacco packaging requirement.
- (5) Sections 13, 14 and 15 of the Tobacco Advertising and Promotion Act 2002 (enforcement etc.) apply for the purposes of this section and regulations made under it as they apply for the purposes of provisions of that Act.
- (6) The power of the appropriate national authority to make regulations under this section –
- (a) is exercisable by statutory instrument,
 - (b) may be exercised to make different provision for different cases or circumstances, and
 - (c) includes power to make supplementary, incidental, consequential or transitional provision.
- (7) A statutory instrument containing regulations made under this section may not be made –
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, and
 - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) In this section –
- “the appropriate national authority” –
 - (a) in relation to England, means the Secretary of State; and
 - (b) in relation to Wales, means the Welsh Ministers;
 - “container” includes any pack, carton, box, tin, packet, bag, pouch, tube or other container;
 - “retail packaging” means –
 - (a) container for retail sale in which a tobacco product is directly placed;
 - (b) any container for retail sale that contains a smaller container in which a tobacco product is directly placed;
 - (c) any cigarette paper in which tobacco is contained and anything else forming part of a cigarette other than the tobacco;

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- (d) any plastic or other wrapper that covers any retail packaging of the type described in paragraphs (a) to (c);
 - (e) any plastic or other wrapper that covers a tobacco product, being a tobacco product that is for retail sale; or
 - (f) anything (other than a tobacco product) that is placed inside or is affixed or otherwise attached to retail packaging of the type described in paragraphs (a) to (e) but does not include the lining of a cigarette pack if the lining complies with retail packaging requirements;
- a “retail tobacco packaging requirement” is a requirement relating to any of the following particulars –
- (a) the colour of retail packaging;
 - (b) the shape and material of retail packaging;
 - (c) trade marks or registered trade marks displayed on retail packaging;
 - (d) the labelling of or on packages, packaging or tobacco products, or associated with retail packaging or tobacco products;
 - (e) the contents of retail packaging (including the shape and size of tobacco products);
 - (f) any covert or overt markings, coded numbering or any other security features on retail packaging or tobacco products; or
 - (g) any other particulars relating to retail packaging or tobacco products as may be prescribed by the Secretary of State;
- a “specified retail packaging requirement” is a retail tobacco packaging requirement specified in regulations made under subsection (1);
- “trade mark” and “registered trade mark” have the same meaning as in section 1 of the Trade Marks Act 1994.””

BARONESS FINLAY OF LLANDAFF
BARONESS TYLER OF ENFIELD

Insert the following new Clause –

“Offence of failing to prevent smoking in a private vehicle when children are present

- (1) The Health Act 2006 is amended as follows.
- (2) After section 8 insert –

“8A Offence of failing to prevent smoking in a private vehicle when children are present

- (1) It is the duty of any person who drives a private vehicle to ensure that that vehicle is smoke-free whenever a child or children under the age of 18 are in such vehicle or part of such vehicle.

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- (2) A person who fails to comply with the duty in subsection (1) commits an offence.
 - (3) A person convicted of an offence under this section who has not previously been convicted of such an offence shall have the option of attending a smoke-free driving awareness course in place of paying a fine under subsection (4).
 - (4) A person who does not wish to attend an awareness course or who has previously been convicted of an offence under this section is liable on summary conviction to a fine of £60.
 - (5) The Secretary of State may introduce regulations to alter the level of penalty payable under subsection (4).
 - (6) The Secretary of State shall update all relevant regulations regarding the offence created under subsection (2) within six months of this section coming into force.
 - (7) The Secretary of State shall introduce regulations within six months of this section coming into force to prescribe the format of the awareness course in subsection (3)”
- (3) In section 79(4)(a), for “or 8(7)” substitute “, 8(7), or 8A(5)”.”

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