

LEGISLATIVE COUNCIL

TOBACCO AMENDMENT BILL 2016

(Amendments to be proposed in Committee by Ms Hartland)

1. Clause 4, line 18, omit "at the same premises" and insert ", irrespective of whether or not the outdoor drinking area and the outdoor dining area are operated by the same occupier".
2. Clause 4, lines 19 to 21, omit all words and expressions on these lines.
3. Clause 4, line 22, omit "(c)" and insert "(b)".
4. Clause 4, line 26, omit 'units.'" and insert "units.".
5. Clause 4, after line 26 insert—
  - '(1B) It is a defence to a prosecution under subsection (1A) if the accused proves that the accused was not aware and could not reasonably be expected to have been aware, that the accused was contravening subsection (1A).".'
6. Clause 4, page 4, after line 1 insert—
  - '( ) in section 5D(1), for "section 5C" **substitute** "section 5C(1)".'
7. Clause 4, page 4, before line 2 insert—
  - '( ) At the end of section 5D of the Principal Act **insert**—
    - "(3) If a person smokes in an outdoor drinking area in contravention of section 5C(1A), the occupier of the outdoor drinking area is guilty of an offence.  
Penalty: In the case of a natural person, 10 penalty units.  
In the case of a body corporate, 50 penalty units.
    - (4) It is a defence to the prosecution under subsection (3) if the occupier of the outdoor drinking area proves that the occupier of the outdoor drinking area—
      - (a) was not aware and could not reasonably be expected to have been aware, that the contravention of section 5C(1A) was occurring; or
      - (b) the contravention of section 5C(1A) occurred during a period of 3 months starting on the day that the outdoor dining area was first used as an outdoor dining area.".
  - '( ) In the Principal Act—'.
8. Clause 9, page 12, after line 29 insert—
  - '( ) in the definition of *tobacco product*, for "the main ingredient of which is" **substitute** "containing".'