Smoking in Cars Carrying Children

On 12 April 2007, the Hon S Robertson MP, Minister for Health, announced that a review of Queensland’s smoking laws would be conducted in mid-2007, including consideration of a possible ban on smoking in cars carrying children.

A diversity of views accompanies the issue of adults smoking in cars when children are present. These range from:

- uncertainty about the levels of exposure in cars and the effects of the car being stationary or moving, the windows being wound up or down, and internal ventilation devices such as air conditioners or fans being utilised;
- concern about the possible health effects on children;
- opinion that any level of exposure amounts to “child abuse”; and
- belief that a prohibition on smoking in cars would infringe the rights of individuals in a private space.

This Research Brief considers:

- the effects of exposure to environmental tobacco smoke (‘ETS’), particularly for children;
- recent research on ETS, including ETS generated in the car; and
- possible strategies to reduce or eliminate ETS exposure in the car.

It also considers the varying approaches of some Australian jurisdictions in addressing the issue of ETS exposure of children in cars, including legislative bans on smoking in the car while children are present and/or educational campaigns.

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Research Brief No 2007/19
EXECUTIVE SUMMARY

On 12 April 2007, the Hon S Robertson MP, Minister for Health, announced that a review of Queensland’s smoking laws would be conducted in mid-2007, including consideration of a possible ban on smoking in cars carrying children. The Cancer Council Queensland has called for such a prohibition, and has highlighted a range of adverse health effects to which children exposed to environmental tobacco smoke (‘ETS’) in the car are more susceptible (pages 1-2).

A diversity of views accompanies the issue of adults smoking in cars when children are present. These range from:

▪ uncertainty about the levels of exposure in cars and the effects of the car being stationary or moving, the windows being wound up or down, and internal ventilation devices such as air conditioners or fans being utilised;

▪ concern about the possible health effects on children;

▪ opinion that any level of exposure amounts to “child abuse”; and

▪ belief that a prohibition on smoking in cars would infringe the rights of individuals in a private space (pages 2-3).

This Research Brief considers:

▪ the effects of exposure to ETS, particularly for children;

▪ recent research on ETS, including ETS generated in the car; and

▪ possible strategies to reduce or eliminate ETS exposure in the car (pages 3-13).

Also considered are the varying approaches of some Australian jurisdictions in addressing the issue of ETS exposure of children in cars, including legislative bans on smoking in the car while children are present and/or educational campaigns highlighting the dangers of such a practice (pages 13-22). South Australia was the first Australian jurisdiction to pass legislation banning smoking in cars when children are present (pages 14-15). The Tasmanian Government has also announced its intention to introduce such legislation (pages 15-16). In comparison, New South Wales (pages 17-21) and Western Australia (pages 21-22) have supported educational rather than legislative approaches to the issue.
1 INTRODUCTION

On 12 April 2007, the Hon S Robertson MP, Minister for Health, announced that a review of Queensland’s smoking laws would be conducted in mid-2007. In relation to a possible legislative ban on smoking in cars carrying children, the Minister said:

_There are significant issues to resolve first to make a ban on smoking in private cars workable. For example, how do you enforce such a ban? Who do you report an offence to: the police or Queensland Health? Another issue is establishing proof of an offence because the evidence literally goes up in smoke. ... Educating parents will remain the most effective way of stopping people smoking in cars carrying children._

The Minister indicated that while he personally supports restrictions on smoking in cars carrying children, any final decision on whether such a restriction is legislated in Queensland would be a matter for State Cabinet.

Following the recent commencement of a prohibition on smoking in cars carrying children under 16 years of age in South Australia, the Premier, the Hon P Beattie MP, “ruled out” such a move for Queensland, saying it was instead a case where parents needed to take responsibility for their children. Shadow Minister for Health, Mr J-P Langbroek MP, said he supported such a prohibition.

The Cancer Council Queensland has called for such a prohibition, pointing to:

- a study of community attitudes regarding passive smoking which shows more than 80% of Queenslanders favour such a restriction;
- the death of 21 Queensland children each year from passive smoking; and
- the following adverse health effects to which children exposed to second-hand smoke in the car are more susceptible:
  - childhood cancers;

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1 Hon S Robertson MP, Minister for Health, ‘Proposal to ban smoking in cars carrying children’, _Ministerial Media Statement_, 12 April 2007 (a copy is included in the Appendix to this Research Brief). The Minister had earlier flagged the possibility of such a ban (Jason Gregory, ‘Ban on smoking in cars’, _Courier Mail_, 11 December 2006, p 6).

2 ‘Proposal to ban smoking in cars carrying children’, Ministerial Media Statement.

3 ‘Proposal to ban smoking in cars carrying children’, Ministerial Media Statement.

4 ‘Opposition backs move to ban smoking in cars’, _ABC Newsonline_, 1 June 2007.

5 The Queensland Cancer Fund became known as The Cancer Council Queensland on 1 May 2007.
- sudden infant death syndrome (SIDS or cot death);
- bronchitis;
- pneumonia and other lung/airways infections;
- the onset of asthma;
- respiratory symptoms; and
- decreased lung function.  

Executive director of The Cancer Council Queensland, Professor Jeff Dunn, has said:

Passive smoking is a known cause of premature death and disease among children. ... Young children are especially vulnerable to the health effects of tobacco smoke because their lungs and immune systems are still developing. ... The car is one of the most dangerous and concentrated sources of second-hand smoke, so a smokefree environment is the only way to fully protect children from the dangers of second-hand smoke. ... Legislation restricting smoking in cars where children under the age of 18 are present should be part of the State Government’s tobacco legislation review ... . In the meantime, an immediate government education campaign is required to highlight the dangers of passive smoking to children.    

In 2005, a spokesperson for The Cancer Council Queensland had emphasised the importance of educating parents about the dangers of exposing their children to passive smoke in the car:

We see it more as an awareness and education issue. ... If parents and carers fully understood the dangers for kids when smoking in cars, they wouldn’t smoke anyway. They would stop for the love of their kids.  

A diversity of views accompanies the issue of adults smoking in cars when children are present. These range from:

- uncertainty about the levels of exposure in cars and the effects of the car being stationary or moving, the windows being wound up or down, and internal ventilation devices such as air conditioners or fans being utilised;
- concern about the possible health effects on children;
- opinion that any level of exposure amounts to “child abuse”;


7 ‘Call for government action to prohibit smoking in cars with children present’, Media Release.


belief that a prohibition on smoking in cars would infringe the rights of individuals in a private space.

Although there is growing awareness of the health effects of passive smoking, it has been recently acknowledged that “few, if any, objective data on the health effects of [environmental tobacco smoke] exposure in cars have been published”.  

This Research Brief considers:

- the effects of exposure to environmental tobacco smoke (‘ETS’), particularly for children;
- recent research on ETS, including ETS generated in the car; and
- the varying approaches of some Australian jurisdictions in addressing the issue of ETS exposure of children in cars, including legislative bans on smoking in the car while children are present and/or educational campaigns highlighting the dangers of such a practice.

2 ENVIRONMENTAL TOBACCO SMOKE

Part 2 of this Research Brief considers the effects of exposure to ETS, selected recent studies on ETS and some possible strategies to reduce ETS exposure in the car.

2.1 INFORMATION FROM THE CANCER COUNCIL QUEENSLAND

The Cancer Council Queensland website provides the following information about cigarettes, the effects of passive smoking, exposing children to tobacco smoke and parental influence on the future smoking habits of children.  

Information about cigarettes:
- cigarettes contain over 4,000 chemicals, more than 60 of which are known carcinogens (or cancer-causing agents);
- carbon monoxide, which is a gas produced by burning tobacco, decreases the amount of oxygen available to your body, forcing your heart to work harder;

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nicotine, the addictive drug in tobacco, increases blood pressure and heart rate and is more addictive than cocaine or heroin;
• 30 metals are present in tobacco smoke including nickel, arsenic, cadmium, chromium and lead;
• other chemicals found in cigarettes include turpentine, butane, ammonia, acetone, formaldehyde and methoprene.

Dangers of smoking:
• tobacco is responsible for 81% of drug-related deaths, and more than 19,000 Australians die from diseases related to smoking each year;
• tobacco is a major cause of heart disease and is responsible for about 30% of cancers.

The effects of passive smoking:
• there is no safe level of tobacco smoke exposure, and a passive smoker’s overall risk of cancer increases according to their level of exposure to tobacco smoke;
• tobacco smoke exposure and subsequent passive smoking may cause the following in adults: lung cancer, nasal sinus cancer, heart disease, and irritation of the eyes and nose. It has also been linked to breast cancer, cervical cancer, miscarriage, stroke and asthma.

Passive smoking and children:
• babies and children are particularly susceptible to the health effects of passive smoking as their lungs and immune systems are still developing;
• children of smokers inhale about the same amount of nicotine as they would if they were smoking 60 to 150 cigarettes per year;
• by being exposed to tobacco smoke, children are inhaling the same carcinogens as smokers;
• exposure of children to tobacco smoke causes an increased risk of:
  - sudden infant death syndrome (SIDS or cot death);
  - bronchitis, pneumonia and other lung and airway infections;
  - asthma, or worsening symptoms of asthma;
  - middle ear disease (‘glue ear’);
  - slow lung development; and
  - respiratory symptoms such as coughing and wheezing;
• exposing children to tobacco smoke has also been linked to:
  - childhood cancer;
  - reduced lung function;
  - adverse effects on cognition and behaviour; and
  - meningococcal disease.
Composition of passive smoke:

- passive smoke contains a combination of both ‘sidestream’ smoke and exhaled ‘mainstream’ smoke;
- sidestream smoke, which originates from the burning cigarette and is unfiltered, is the main component of passive smoke;
- exhaled mainstream smoke is smoke exhaled by the smoker and has been filtered by the cigarette’s filter and the smoker’s lungs;
- in terms of the dangers of sidestream and mainstream smoke:

Sidestream smoke is unfiltered and produced at a much lower temperature than mainstream smoke – this means fewer poisons are filtered out or burnt off. Sidestream smoke therefore contains a much higher concentration of the harmful substances inhaled by smokers.

For instance, the level of cancer-causing substances in sidestream smoke can be up to 30 times higher than mainstream smoke. Sidestream smoke also contains up to 15 times more carbon monoxide, up to 21 times more nicotine, up to 50 times more formaldehyde and up to 170 times more ammonia.

The particles that make up sidestream smoke are also smaller than those of mainstream smoke. They are therefore inhaled deeper and remain in the body for a longer period of time.\(^{12}\)

Parental influence on future smoking habits of children:

- children are twice as likely to take up smoking if at least one parent smokes.

### 2.2 SELECTED RECENT STUDIES ON ETS

Recent research on ETS, including ETS generated in the car, considered by this Research Brief is as follows:\(^{13}\)

- a 2006 report of the U.S. Surgeon General, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*;
- a letter from researchers at the Centre for Child Health Research at the University of Western Australia which was published in a 2007 edition of the *Medical Journal of Australia*; and

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\(^{12}\) ‘Passive smoking’, Fact Sheet.

\(^{13}\) A detailed reference to each of these studies is provided in Parts 2.2.1 to 2.2.3 of this Research Brief.

In June 2006, the U.S. Surgeon General issued a report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*. The key points from this report include:

- exposure to ETS causes heart disease and lung cancer in adults and sudden infant death syndrome and respiratory problems in children;
- ETS is harmful to all people, whether they are exposed in their homes, vehicles, workplaces or enclosed public spaces;
- there is no risk-free level of ETS exposure, with even brief exposure adversely affecting the cardiovascular and respiratory system;
- smoke-free environments are the only way to effectively protect non-smokers from ETS exposure in indoor spaces.

The report states that infants who die from SIDS tend to have a higher concentration of nicotine in their lungs and higher levels of cotinine, an indicator of exposure to ETS, than infants who die from other causes. Infants who are exposed to ETS after birth are also at an increased risk of dying of SIDS.

The U.S. Surgeon General makes the following points in a fact sheet about the exposure of children to ETS:

- infants and young children are especially vulnerable to ETS, because their bodies are still developing;
- babies whose mothers smoke during their pregnancy, and babies exposed to ETS after birth, are more likely to die from SIDS than babies who are not exposed to cigarette smoke. They also have weaker lungs, which increases the risk for many health problems;
- mothers who are exposed to ETS while pregnant are more likely to have lower birth weight babies;

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ETS exposure causes acute lower respiratory infections such as bronchitis and pneumonia in infants and young children;

ETS causes children who already have asthma to experience more frequent and severe attacks;

ETS also causes respiratory symptoms such as coughing, phlegm, wheezing and breathlessness among school-aged children;

children exposed to ETS are at a heightened risk for ear infections and are more likely to require an operation to insert ear tubes for drainage; and

on average, children are exposed to more ETS than non-smoking adults.  

In an easy-to-read booklet that explains the dangers of ETS, parents are told:

*Do not smoke or allow others to smoke in your home or car. Opening a window does not protect your children from smoke.*

### 2.2.2 University of Western Australia, Letter in *Medical Journal of Australia*, March 2007

A recent edition of the *Medical Journal of Australia* contained a letter from researchers at the Centre for Child Health Research at the University of Western Australia reporting on the risks of current wheeze (wheezing in the previous 12 months) in children at 14 years of age who have been exposed to ETS in their parents’ car.

The letter reports a finding that passive smoking in cars has more serious consequences for the respiratory health of children than exposure in the home. It states that:

- about 15% of children are exposed to ETS in vehicles, compared to about 9% of children who are exposed in the home; and

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those exposed to ETS in the car have a greater risk of both current wheeze and persistent wheeze than those exposed to ETS in the home.\textsuperscript{20}

The researchers said:

\textit{This is the first time we’ve been able to show absolutely that these kids are actually at higher risk than ones in the home.}\textsuperscript{21}

\textit{These data provide evidence that the community needs to be educated about the adverse health consequences of ETS exposure in cars and suggest that health care professionals should include such education in counselling sessions for families of children with asthma. Teenagers can escape ETS exposure in the home, either by removing themselves or by their parents smoking outside. However, children of this age and younger have no choice but to travel with their parents in the car, especially given the phenomenon of “mum’s taxi” transporting children to school and extracurricular activities. Smoke-free cars are important for all children.}\textsuperscript{22}

2.2.3 Harvard School of Public Health, ‘Measuring air quality to protect children from secondhand smoke in cars’

In November 2006, the Harvard School of Public Health published an article, ‘Measuring air quality to protect children from secondhand smoke in cars’, in the \textit{American Journal of Preventative Medicine}.\textsuperscript{23}

It states that ETS is “a major, preventable contributor to acute and chronic adverse health outcomes that affect children disproportionately. The predominant source of [ETS] among children is domestic exposure …” (p 363). It also states that to “help promote more effective protection through legislation, health communication strategies, or behavioural interventions, data demonstrating the adverse effects of [ETS] on air quality in cars are needed” (p 363).

The researchers employed a method of measuring the ‘respirable suspended particles’ (‘RSPs’) of less than 2.5 microns in diameter\textsuperscript{24} and carbon monoxide in a

\textsuperscript{20} See also ‘Smoking in cars doubles asthma risk’, \textit{Australian}, 19 March 2007, p 7, which states, on the basis of the letter, that children exposed to ETS in the car have “a 55 per cent increased risk of a recent wheezing problem than other kids and [are] 2.1 times more likely to have long-term asthma”.

\textsuperscript{21} ‘Smoking in cars doubles asthma risk’, Australian.

\textsuperscript{22} ‘Exposure to environmental tobacco smoke in cars increases the risk of persistent wheeze in adolescents’, \textit{Medical Journal of Australia}.

car under actual driving conditions. Forty-five driving trials were conducted using teams of volunteer drivers and smokers recruited from the general community. Three smoking conditions (a non-smoking baseline together with active smoking and immediate post-smoking periods) were tested, in circumstances where the windows were open (involving all four windows being half open) and closed (where the driver’s window was lowered to five centimetres). The researchers stated that although high emission concentrations had been found in simulated exposures to ETS in cars, measures of ETS from cars in real driving situations had not been published (p 364).

The study found that private passenger cars have the potential to yield unsafe levels of ETS contaminants, and that these findings “may assist policymakers and health advocates to promote protective strategies to ensure smoke-free domestic environments for children” (p 363).

The article concludes that:

- “alarming” RSP levels are generated from smoking a single cigarette for only five minutes in a car, with concentrations being significantly higher than baseline during the smoking and post-smoking periods (p 366);
- RSP levels were higher under the closed-window condition than when the windows were open (p 366);
- mean RSP concentrations of 272 micrograms per cubic metre ($\mu g/m^3$) were recorded while smoking with the windows closed, compared to 51$\mu g/m^3$ when smoking with the windows open. Peak levels of concentrations of 505$\mu g/m^3$ (closed) and 104$\mu g/m^3$ (open) were also observed. These concentrations compared to mean readings between 205$\mu g/m^3$ and 412$\mu g/m^3$ observed in various bars in eastern Massachusetts and western New York State. The concentrations should also be compared to the U.S. Environmental Protection Agency’s air quality index which rates 24-hour exposure to concentrations greater than 40$\mu g/m^3$ as “unhealthy for sensitive groups”, such as children, and greater than 250$\mu g/m^3$ as “hazardous” for all individuals (p 366); and
- carbon monoxide levels significantly increased under the closed-ventilation condition, however not under the open-ventilation condition (p 366).

The article states that “it should be concluded that smoking in cars under typical driver and traffic conditions provides potentially unsafe secondhand smoke exposure” (p 367).

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24 2.5 microns equals 0.00025 centimetres.
2.3 COMMUNITY SUPPORT FOR BANNING SMOKING IN CARS CARRYING CHILDREN

2.3.1 University of New South Wales and University of Sydney, letter in *British Medical Journal*

The October 1995 *British Medical Journal* contained a letter from researchers at the University of New South Wales and the University of Sydney reporting the results of a household survey of nearly 1,500 people conducted throughout New South Wales in November 1994 testing community support for the banning of smoking in cars when children are passengers.25

In response to the question “Do you think it should be illegal to smoke in cars when travelling with children?”, the survey found that 72% of respondents agreed, 27% disagreed and 1% were undecided. There were no significant differences in responses by age, educational attainment, country of birth, city or rural residence or employment status. More women (about 76%) than men (about 69%) agreed with the proposal. 63% of current smokers also agreed.

2.3.2 The Cancer Council Victoria

A December 2006 media release of The Cancer Council Victoria stated that there is “huge support for banning smoking in cars with kids” and that a “staggering 90% of Victorians think that smoking should not be allowed in cars when children are present”.26 It also stated “an overwhelming 85% of smokers think smoking in cars when children are present should not be allowed”.

The following table is replicated from a table of survey results provided in the media release.

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Opinion whether smoking should be allowed in cars when children are present

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Smoker</th>
<th>Former Smoker</th>
<th>Never Smoker</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, allowed</td>
<td>5.0%</td>
<td>8.0%</td>
<td>4.3%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Maybe allowed</td>
<td>3.7%</td>
<td>4.6%</td>
<td>3.3%</td>
<td>3.4%</td>
</tr>
<tr>
<td>No, not allowed</td>
<td>89.6%</td>
<td>85.1%</td>
<td>90.9%</td>
<td>90.8%</td>
</tr>
<tr>
<td>Don’t know/can’t say</td>
<td>1.8%</td>
<td>2.4%</td>
<td>1.6%</td>
<td>1.6%</td>
</tr>
</tbody>
</table>

2.3.3 Pfizer Australia Health Report

In July 2005, healthcare company Pfizer Australia issued a media release reporting the findings of national polling undertaken by the company and by lobby group Action on Smoking and Health (‘ASH’) Australia.  

The media release stated that 73% of Australian smokers support the banning of smoking in cars carrying children, with 90% of Australian overall being in favour of smoke-free cars.

2.4 Strategies to Reduce Exposure of Children to ETS

The number of children who die each year as a result of exposure to ETS differs between various reports.

Quit Victoria has said:

*It is estimated that 23 Australian children under the age of 14 died from illnesses related to passive smoking in 1998.*

Other research has estimated that 224 Australians died in 1999 as a result of passive smoking, and that 103 of these were under the age of 15.

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In October 2005, the *Sunday Mail* reported on figures obtained from Queensland Health which showed almost 400 hospital admissions a year for children under five suffering tobacco-related conditions including asthma and respiratory distress.\(^{30}\)

The article also states that the figures show that “dozens of children – some less than a year old – are dying because their mothers smoke while pregnant, or from inhaling second-hand smoke from parents and caregivers”. In addition, the article states:

- 40% of Queensland children aged 14 or under live in a home with at least one smoking parent;
- 21 children under five die every year in Queensland from passive smoking due to ETS; and
- more than 380 Queensland children aged four and under are hospitalised each year for tobacco-related conditions.

The key sources of ETS exposure for children are the family home and car. Other sources include friends’ and carers’ houses, social settings and shopping centres.\(^{31}\)

Not only can infants and children develop health problems from other people’s smoke because their lungs and body weight are small, they also:

- spend a lot of time with their parents/carers and if these people smoke, the children are exposed to the harmful effects for long periods of time;
- are not able to move away from tobacco smoke; and
- do not realise the danger to themselves.\(^{32}\)

Quit Victoria provides the following information to parents about protecting their children from smoking:

> *If you smoke:*
>  - remember that you are a role model;
>  - think about quitting;
>  - don’t smoke in front of your children;

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• don’t smoke inside the house;
• don’t smoke inside the car.

If you do not smoke:
• protect your children from other people’s smoke;
• avoid dining in or attending smoking venues;
• look for carers or childcare facilities that have a smokefree policy; and
• stop other people from smoking in your car or your home.33

The Environmental Tobacco Smoke and Children Project NSW, as part of its Car and Home: Smoke Free Zone campaign, also provided parents with the following practical suggestions to ensure their children do not come into contact with ETS in the car:
• make a rule – your car is smoke free to all family and friends;
• use a sticker that states that your car is a smoke free zone, and use ‘no smoking’ stickers on the car ashtray and dashboards; and
• clean out the car ashtray and remove the cigarette lighter.34

3 OTHER AUSTRALIAN JURISDICTIONS

The Federal Minister for Ageing, the Hon Christopher Pyne MP, has been a vocal supporter of moves by various Australian jurisdictions to introduce a ban on smoking in cars carrying children.35

South Australia was the first Australian jurisdiction to pass legislation banning smoking in cars when children are present. That legislation commenced on 31 May 2007.

The Tasmanian Government has also announced its intention to introduce such legislation.


35 Both in his current capacity as Minister for Ageing and in his previous capacity as Parliamentary Secretary to the Minister for Health and Ageing. See, for example, ‘Further support for ban on smoking in cars welcomed’, Media Release, 29 March 2007; ‘Tasmania ban on smoking in cars welcomed’, Media Release, 2 March 2007; ‘Smoke ban in cars with kids needs to be widened’, Media Release, 15 December 2006; and ‘Support for ban on smoking in cars with kids’, Media Release, 28 November 2006.
Legislation banning smoking in cars carrying children has been introduced into the New South Wales Parliament on a number of occasions, and has either failed or lapsed. Recently, a joint select committee of the New South Wales Parliament examined the issue and recommended an educational rather than a legislative approach to the issue. This has received the support of the New South Wales Government, and follows an extensive campaign in that State, *Car and Home: Smoke Free Zone*, to inform the community of the dangers of passive smoking in car and home environments.\(^{36}\)

The Western Australian Government has similarly supported a public education campaign warning of the dangers of passive smoking in homes and when travelling in cars, in preference to a legislative prohibition.

### 3.1 South Australia

South Australia was the first Australian jurisdiction to pass legislation banning smoking in cars when children are present.

The *Tobacco Products Regulation (Smoking in Cars) Amendment Act 2007* (SA) was assented to on 5 April 2007 and commenced on 31 May 2007. The amending Bill\(^ {37}\) had been introduced into the Parliament of South Australia on 16 November 2006.

The *Tobacco Products Regulation Act 1997* (SA) was amended to insert a new provision (a new section 48) as follows:

> **Smoking in motor vehicle if child present**

(1) A person must not smoke in a motor vehicle if a child is also present in the motor vehicle.

Maximum penalty: $200

Expiation fee: $75.

(2) In proceedings for an offence against this section an allegation in the complaint that a child was present in a motor vehicle at a specified time will be accepted as proved in the absence of proof to the contrary.

(3) In this section-

child means a person under 16 years of age;

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\(^{36}\) However, comments in early July 2007 from the New South Wales Minister Assisting the Minister for Health (Cancer) indicated support for a ban on smoking in cars carrying children under 16 years of age. These comments are discussed in further detail in Part 3.3.1 of this Research Brief.

\(^{37}\) *Tobacco Products Regulation (Smoking in Cars) Amendment Bill 2006* (SA).
In introducing the amendments, the Hon G Gago, Minister for Environment and Conservation, stated:

This government has already introduced laws to prohibit smoking in vehicles that are used for work purposes, to help protect the health of workers. This new proposal will afford the same protection to children who are exposed to this harm while travelling in cars or other motor vehicles. Media campaigns conducted in recent years advocating for people to make their cars smoke-free have reduced the numbers of people who smoke in their cars when their children are present.

Despite these campaigns, as many as 30 per cent of smokers who have cars continue to smoke in them when children are present. This bill will ban smoking in cars when any child under the age of 16 years is present. A child 16 years and over who may be driving a vehicle will not be committing an offence if smoking in the car, provided there are no other children under 16 years present at the time.

South Australian police officers … will be responsible for the enforcement of this ban when it comes into effect. Expiation notices – that is, on the spot fines – can be issued for breaches of this law. The expiation fee has been set at $75, which is the same as the expiation fee for smoking in other places where it is not allowed such as indoor workplaces. The maximum fine is $200.38

### 3.2 TASMANIA

In March 2007, the Tasmania Government announced its intention for it to become an offence to smoke in a car carrying a child under the age of 18. The Tasmanian Health Minister has said that she envisages the law will be enforced by the police.39

The announcement followed the release, in May 2006, of a discussion paper prepared for the Tasmanian Government by that State’s Director of Public Health, ‘Strengthening Measures to Protect Children from Tobacco’.40 Submissions closed in July 2006. The discussion paper considered a number of proposals, including

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prohibiting smoking in cars when children are present. It sets out the following arguments for and against such a prohibition:

Arguments for:

- a child who is a passenger in a vehicle in which an adult is smoking is involuntarily exposed to high concentrations of ETS;
- to reduce rates of childhood asthma and other effects of ETS on the health of children;
- to give effect to the support of various organisations, the community and the Tasmanian Commissioner for Children for such a prohibition;
- precedent already exists in terms of intervention in the private conduct of adults in cars, such as making the use of seat belts and infant restraints compulsory;
- to ‘denormalise’ smoking; and
- to decrease the risk of injury through accidents resulting from distraction or blurred vision while smoking.

Arguments against:

- such a prohibition amounts to excessive regulation of the private behaviour of adults in their cars;
- the support of Tasmania Police would be required to enforce such a prohibition, and they may not have sufficient resources or time; and
- it may be difficult to identify children aged between 15 and 17.

The discussion paper supports a proposal to prohibit smoking in cars carrying children. In the alternative, the discussion paper notes that simply encouraging parents and adults through a public education campaign to voluntarily refrain from smoking in a car when a child is present would:

- rely on voluntary action;
- still expose some children to ETS; and
- most likely require an ongoing campaign, which would become costly.

Appendix D of the discussion paper contains a comparison of secondhand smoke levels in cars and in houses.

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3.3 NEW SOUTH WALES

3.3.1 Educational rather than legislative approach

The Joint Select Committee on Tobacco Smoking of the New South Wales Parliament, which was established on 8 March 2006, inquired into and reported on tobacco smoking in New South Wales.\(^{45}\)

In June 2006, the Committee tabled a report, *Tobacco Smoking in New South Wales*.\(^{46}\) The terms of reference for the Committee’s inquiry, resulting in the report, included considering the Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005 (NSW), which was a Private Member’s Bill introduced into the Legislative Council by Revd the Hon Fred Nile MLC in June 2005 proposing a complete ban on smoking in cars.\(^{47}\)

The Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005 (NSW) proposed to amend the *Smoke-free Environment Act 2000* (NSW) by inserting a new provision as follows:

\[
\text{Offence of smoking in motor vehicle}
\]
\[
A \text{ person must not smoke in a motor vehicle at any time.}
\]

A maximum penalty of $550 was proposed for a contravention of this provision.

Revd Nile pointed to the following reasons for introducing the Bill:

- to reduce the effects that ETS exposure has on passengers, particularly children;

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\(^{45}\) The Committee was re-established on 25 May 2006 and expired on 30 June 2006.


to improve road safety by reducing accidents caused by drivers being distracted by their smoking; and

to eliminate or reduce the danger of fires when cigarette butts are thrown from car windows.48

In relation to the Bill, the Committee concluded that, on balance, an educational rather than a legislative approach was preferable, and recommended that “a substantial campaign drawing on the model and lessons of the ‘Car and home: smoke free zone’ project49 be implemented”. The initiative should:

- target the broad community and diverse groups within it;
- be supported by strategies delivered through the broad range of health and community services utilised by families and children; and
- be developed and implemented in partnership with the Roads and Traffic Authority, the NSW Police Service and motoring organisations.50

The committee said that while it had received “very broad and strong support” for reducing smoking in cars, it had received mixed support for a legislated ban. Some supported a ban applying to all smoking in cars, whereas others supported a ban being limited to cars carrying children.51 Those who were more cautious about a legislated ban raised concerns about the practical issues of how such a prohibition would be implemented, together with concerns about infringing the rights of individuals in a private space.52

In January 2007, the New South Wales Government responded to the Committee’s report by stating that it would “continue to fund and implement a sustained education campaign in association with non-government organisations”.53

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49 The Car and Home: Smoke Free Zone campaign is discussed below in part 3.3.2 of this Research Brief.

50 Joint Select Committee on Tobacco Smoking, Tobacco Smoking in New South Wales, chapter 7, recommendation 26, p 134.

51 Joint Select Committee on Tobacco Smoking, Tobacco Smoking in New South Wales, p 127.

52 Joint Select Committee on Tobacco Smoking, Tobacco Smoking in New South Wales, pp 128-129.

53 New South Wales. Response to the Legislative Council Joint Select Committee on Tobacco Smoking in New South Wales Inquiry into Tobacco Smoking in New South Wales, January 2007, pp 23-25, downloaded on 16 May 2007 from
Despite this, in early July 2007, the Hon Verity Firth MP, New South Wales Minister Assisting the Minister for Health (Cancer), was reported as indicating her support for a ban on smoking in cars carrying children under 16 years of age:

*I think smoking in cars should be looked at. The problem with smoking in cars is enforcement, but I would consider it. ... Of course we understand that people have a right to light up, but when that impacts on other people we have to do something about it.*

### 3.3.2 Car and Home: Smoke Free Zone campaign

The *Environmental Tobacco Smoke and Children Project 2001-2005* was funded by NSW Health and managed by The Cancer Council NSW in partnership with The Asthma Foundation NSW, the National Heart Foundation of Australia (NSW Division) and SIDS and Kids NSW.

The target audience for the Project was parents and carers of children aged zero to six. The Project involved, in large part, media campaigns on television, radio advertisements and billboard posters. It was also supported by printed brochures and other resources, a website for further information and communication activity such as free education sessions for health and childcare professionals. The *Car and Home: Smoke Free Zone* campaign was launched in September 2002, with mass media campaigns being conducted in 2002, 2003 and 2005.

A report on the Project was released in October 2005.

The report states:

> Children’s exposure to ETS is involuntary and they are particularly susceptible to health damage caused by inhaling ETS. Their bronchial tubes are smaller and their immune systems are less developed, making them more likely to develop respiratory and ear infections when exposed to ETS. Because they have smaller airways, children breathe faster than adults and consequently breathe in more harmful chemicals than an adult would in the same amount of time.

...
Children may not be aware of the dangers that exposure to ETS presents, or may not be able to remove themselves from risk if people smoke around them. The only way to protect them is for parents or carers to remove their children’s exposure to ETS.\textsuperscript{58}

It also states that the children of smokers are four times more likely to become smokers themselves.\textsuperscript{59}

The main goal of the Project was to reduce the exposure of children aged between zero and six to ETS in the homes and cars of New South Wales. The four key objectives were to:

- increase awareness among parents/carers of the effects of ETS on children;
- increase the knowledge of strategies to reduce the exposure of children to ETS in homes and cars;
- increase the number of homes and cars designated as smoke free zones; and
- increase the number of health professionals routinely identifying children aged between zero and six at risk of ETS exposure, and providing information and advice to carers.\textsuperscript{60}

The results of the Campaign showed:

- a 56% increase in the number of smoke free homes in the target audience since the implementation of the campaign (to 73% of those surveyed);
- a 42% increase in the number surveyed reporting that all cars in which children had travelled in the last month were smoke free (to 61% of those surveyed); and
- a decrease, from 12% to 7%, of respondents who believed it was safe to smoke with children present in the car if the windows were wound down.\textsuperscript{61}

In addition:

- those disagreeing with the statement “I believe that smoking in the car is unlikely to effect the children’s health” increased from 77% to 88%;
- those agreeing with the statement “Because children don’t have a choice, it’s up to adults to think about whether there is tobacco smoke around the children” increased from 87% to 93%;
- those disagreeing with the statement “If no-one blows smoke in their direction, the children will probably be fine” increased from 79% to 83%;

\textsuperscript{58} ‘Car and Home Smoke Free Zone’, Report, p 4.

\textsuperscript{59} ‘Car and Home Smoke Free Zone’, Report, p 4.

\textsuperscript{60} ‘Car and Home Smoke Free Zone’, Report, p 8.

\textsuperscript{61} ‘Car and Home Smoke Free Zone’, Report, pp 10-11, figures rounded.
those agreeing with the statement “There is no hard evidence that passive smoking is harmful to children” decreased from 18% to 13%;

those agreeing with the statement “Passive smoking is more harmful to children than to adults” remained fairly static (60% to 59%);

those agreeing with the statement “Most healthy children would be unlikely to be harmed by exposure to passive smoking” decreased from 19% to 13%; and

those agreeing with the statement “Only children who have asthma or a breathing problem can be harmed by passive smoking” decreased from 17% to 10%.

In conclusion, it is reported that the Campaign appeared to have a greater impact on smoking behaviours in the home than in the car:

*It is plausible to suggest that prohibiting smoking in the car is actually a more difficult thing than not smoking in the home, for various reasons.*

3.4 Western Australia

In June 2006, the Hon Dr K Hames MLA introduced a Private Member’s Bill, the Road Traffic (Smoking in Motor Vehicles) Amendment Bill 2006 (WA), into the Western Australian Parliament which proposed to amend the Road Traffic Act 1994 (WA) by inserting a new provision making it an offence for a person to smoke inside a motor vehicle, whether in motion or at rest, when any other person inside the motor vehicle was under 17 years of age. A penalty of $100 was proposed for a contravention of this provision.

Shortly after the Bill was introduced, the Hon Dr K Hames MLA stated that he did not propose to move the second reading of the Bill and instead introduced a motion calling on the Western Australian Government to “initiate a major education campaign to highlight the dangers of second-hand cigarette smoke to children in cars and in the home”.

The Western Australian Government then announced an advertising campaign targeting parents who smoke in cars and homes. The Cancer Council of WA had

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63 Evaluation of the Campaign Regarding Young Children’s Exposure to ETS in Homes and Cars: 2005, p 58.

64 Hon Dr K Hames MLA, ‘Smoking in Cars – Education Campaign’, Motion, Hansard (Legislative Assembly), 28 June 2006, pp 4468-4486.
been contracted to undertake a public education campaign warning of the dangers of passive smoking in home and when travelling in cars. The Minister for Health, the Hon J McGinty MLA, stated:

*We want to change people’s attitudes on smoking in the presence of children through education, rather than legislation and that is why we have asked the public health experts to take control of this very important anti-smoking campaign.*

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