



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

BILLS

**Tobacco Plain Packaging Bill 2011, Trade Marks
Amendment (Tobacco Plain Packaging) Bill 2011**

Second Reading

SPEECH

Thursday, 10 November 2011

BY AUTHORITY OF THE SENATE

SPEECH

Date Thursday, 10 November 2011
Page 76
Questioner
Speaker Senator McKENZIE

Source Senate
Proof Yes
Responder
Question No.

() (NaN.NaN pm)

Senator McKENZIE (Victoria) (16:59): I rise to speak to the Tobacco Plain Packaging Bill 2011 and wish to highlight some of the complexities surrounding this bill and its intentions. But, firstly, I would like it on the record that the tragedy of death by smoking is felt on both sides of this parliament. The complexities I mentioned earlier go to human behaviour and concepts around personal responsibility. Firstly, let me place on the record my perspective of human behaviour as it pertains to smoking. It actually needs to be cool to smoke for people to take it up. In our culture, in our society, smoking is a whole lot less cool now than it was when I took it up at 19—and our national smoking figures actually back up that fact. What we are debating today is a bill that gives a great headline, but Australia is once again out there on its own in terms of legislative firsts. Like other legislation introduced by the government and voted on this week, the result of this legislation will be simply an increased cost and action burden for small business without a whole lot of action on real smoking rates. Let's face it: it is very difficult for young people to be lured by the bright colours and engaging packaging that currently sits behind roller doors, under lock and key, in milk bars across my state of Victoria. Whilst advertising of this product has become more sophisticated and targeted, in Victoria there is no avenue for the message—highly targeted and sophisticated as it is—to get out and let the people of Victoria know that smoking apparently, according to the companies that make the cigarettes, is an attractive proposition. So, in Victoria, we will be unable to see the plain brown packaging. But never mind—the headlines were great: 'Government won't be bullied by tobacco'; 'Labor beats big, bad tobacco'. Maybe the headlines should have said: 'Labor once again implements policy that burdens small business'.

I am a former health educator, and the number of adults and young people who smoke is certainly disappointing to me. Of course, it is a reality: everybody knows that smoking kills you. The Centre for Behavioural Research in Cancer released a study in 2008 that showed that 16.5 per cent of Victorian adults aged 18 and over smoked regularly—not happy; not good enough from my perspective. The smoking rate for men was 18½ per cent, which was higher than for women at 14 per cent—again, too many people are smoking, and this is a big drain on our health and the

economic fabric of our society. In 2010, the Cancer Council of Victoria spent \$27 million on research, education, prevention and support initiatives around tobacco control. Figures from Victoria indicate that almost \$8 million has been spent on tobacco control activities in that state. Of the \$8 million, over \$4 million was spent by VicHealth, an internationally recognised preventative health body and a statutory body of the Victorian parliament, around tobacco control activities. Currently VicHealth has placed tobacco control as one of its highest priorities. We have initiated several successful strategies within my home state as a result of VicHealth's advocacy which have been really successful in lowering the smoking rate.

School based smoking intervention programs have had only limited, if any, effect on smoking reduction. I have been part of delivering those programs in classrooms right across the state. These programs are generally viewed as dated and too narrow a form of health education without the backing of strong community-based programs. There has been a significant effort to reduce smoking rates in this country, and it has worked. We lead the world in smoking reduction strategy. The Victorian government introduced the Tobacco Act in 1987 and, since then, has constantly rolled out reforms and supporting regulations to reduce smoking rates. I understand that there needs to be an essential and comprehensive tobacco control strategy in place, but introducing legislation that simply adds costs and complexity to small business rather than complementing what Victoria has contributed towards tobacco control is not the solution to combat such a complex issue. While the intention of the Tobacco Plain Packaging Bill, to reduce smoking rates, is sound—put up your hand if you do not support a reduction in smoking rates—the broader implications of passing the bill mean that restrictions to small businesses and retailers, in terms of stock management and pricing methods, are significant.

I wish to bring to light the issues borne by retail and small business. They have advocated the issues to the Gillard government to no effect. My electorate office in Bendigo, Victoria, has received hundreds of phone calls and letters from small business owners opposing the plain packaging bill—not big tobacco industries but little corner stores and milk bars, where cigarettes are already under the table in Victoria. Owners of small stores in Dunkley, Ferny Creek and Ringwood

have all indicated that there would be many unintended consequences of the legislation. As an additional burden, any business would need to spend more time and money in relation to the plain packaging bill to ensure they were complying with the law. Frustrated small business under a Gillard government—what a surprise!

On this note, I turn to concepts around individual responsibility. The nanny state is alive and well. As a current smoker let me know recently, it would not matter if you wrapped the cigarettes in barbed wire—the addiction to nicotine is so complete that they would gladly reach in to get it. Let's remember that this is a legal substance. The best way to ensure that we reduce smoking rates would be to ban the substance that kills people. Smoking, since cigarettes are a legal product in a liberal democracy, is an individual choice and the decision to smoke is an individual decision. It is ignorant of the government's to justify that one rationale for plain packaging is to reduce the ability of the tobacco product and its package to mislead consumers about the harms of smoking. If I went out on the main street here or in any town across Australia, I would struggle to find anybody who does not know that smoking is bad for you. The government is misguided if it thinks that people smoke because they are not aware of the harmful effects. Social learning theory suggests that people smoke as a result of social and psychological influences, which usually start in an experimentation phase when people are in their teens. Smoking then becomes a physiological condition with nicotine as the addictive product.

Children and teenagers generally learn by example from others, and, when they see their peers or parents smoke, they emulate this behaviour. It is scientifically recognised that influences for people taking up smoking are peers, parents and economic status, not the colour of the packaging. There are several methodological issues around the research, particularly David Hammond's work, that I have concerns with. Smoking becomes associated with other social activities such as having a coffee or going to the pub.

Let's talk about the research. The virtues of science have been lauded in this chamber all week. The study that this bill is based on has serious flaws. The research used by the government to formulate the rationale that trademark imagery and brand appeal are directly related to people's decision to take up smoking—not whether they decide to take up smoking but whether they prefer colour packaging over khaki—just does not hold water. The article by Hammond et al 2009, 'Cigarette pack design and perceptions of risk among UK adults and youth', outlines the findings, and the research and was published in the *European Journal*

of Public Health. The results of the study showed that plain packs significantly reduced false beliefs about the health risk and ease of quitting and were rated as significantly less attractive and appealing to young people for picking up smoking. What a surprise—olive green is less attractive than blue, red or silver! No news there. 'Do teens prefer khaki or shiny, bright, primary colours?' What a great piece of research on which to base the legislation!

Effective public policy should be based on evidence-based best practice, not one-off studies. In fact, large independent studies have failed to identify a significant link between tobacco advertising and teenage smoking rates. We want to see surveys and statistical analysis from Australia which take into account our framework for housing cigarettes—you cannot see the packages in my home state—as well as our already stringent laws at a state level, our comprehensive tobacco education programs and the other cultural factors. In Australia right now, smoking is not cool. Plucking results and figures from other countries and pinning them onto Australians means the Gillard government is again dodging its responsibility to see the real problems and concerns of Australia at large.

I understand the goodwill of the bill, but I would hate it to be an opportunity for the government to distract itself—or, rather, the public—from other more pressing political issues. I would hate to think that this bill is a populist attempt to create a veneer of action by the Gillard government. The coalition has always been a strong advocate of public health advancement. We laud the good intentions of the bill. But, having said that, let me ask fellow senators: is this another example of the Labor government producing a quick headline—an irrational fix—to a very complex and deep-rooted societal problem? I will not be opposing the bill.