

Consultation response



Proposed Tobacco Sales Licensing (Scotland) Bill; A Consultation – Smoking and the Bandits February 2008

Children in Scotland welcomes the opportunity to respond to the **Proposed Tobacco Sales Licensing (Scotland) Bill; A Consultation – Smoking and the Bandits.**

We welcome the recognition that tobacco is a highly-addictive, dangerous substance that particularly affects children and young people. The facts relating to children and young people's smoking habits are well presented by the Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS), and should be of equal concern to parents, children's organisations and governmental policy makers. Preventing access to, and the use of, tobacco products by children and young people under the age of 18 also should be a priority concern for the tobacco industry and for retailers.

Children in Scotland welcomed the legislation in 2007 raising the legal age for purchasing tobacco from 16 to 18. However, evidence that up to 80% of 13 year-olds are able to purchase cigarettes for themselves highlights a systematic disregard for the welfare of children and for the law by tobacco sellers in Scotland. The law becomes largely irrelevant, if it is not enforced rigorously. Tobacco sellers have a responsibility to ensure that they are not selling products illegally to underage children and young people and should be required to check proof of age with every purchase. Failure to do so, either by error or by design, should be subject to non-trivial fines and stiff penalties.

The prevalence of regular smokers among 13 – 15 year olds in Scotland, and its connection with long-term smoking addiction noted in the General Household Survey 2005, is alarming. So too, is the disproportionate and increasing number of girls taking up smoking at a young age. Self-image concerns, mental health problems, boredom, and stress are all contributory issues that national and local governments – as well as health services at every level -- should do more to address.

Female smoking habits also have negative consequences for maternal health and the well-being of the next generation of children throughout Scotland. Smoking addictions are difficult to break. Many women use the realities of pregnancy to kick the habit, but many others find this too difficult – with the health of both mother and baby placed in (well-documented) jeopardy.

Questions and Answers

Question 1: What concerns, if any, do you have about the enforcement of the minimum age limit for the purchase of tobacco?

Previous experience shows that without proper enforcement illegal sales to children will continue - regardless of the minimum age limit set. Children in Scotland believes that increasing the minimum age for legal purchase of tobacco products to 18 – thus, bringing tobacco in line with alcohol -- was the right step to take. However, retailers, local authorities and the police must take this issue more seriously. We agree that requiring local authorities to monitor tobacco sellers is a positive step forward, if the change in the minimum age is to have a meaningful effect.

Children in Scotland also believes that those individuals and businesses selling tobacco products should have a positive duty placed upon them to routinely check that their customers are over the minimum age. Failure to check the age of a customer should result in a fine and other penalties. The actual sale of tobacco to underage children should result in a sales ban, which should become permanent in the case of multiple offences.

Question 2: What are your views on the effectiveness of a positive licensing scheme, i.e. a scheme requiring all outlets to apply for and receive a license before tobacco products could be sold?

Question 3: What are your views on the effectiveness of a negative licensing scheme, i.e. a scheme whereby any outlet is entitled to sell tobacco without a license and sanctions are only applied once a breach of the law has occurred? Question 4: Do you have a preference for either a positive or a negative licensing scheme?

The danger of a positive licensing scheme is that resources and effort will be focused on ensuring that retailers hold a license rather than inspecting whether they are selling goods illegally. It is Children in Scotland's view that a licensing scheme is only useful if it enables local authorities and legal bodies to better enforce the law, rather than being the focus of the law..

Question 7: What sanctions would be appropriate for a retailer found to have sold or supplied tobacco to under-age customers?

Question 9: What sanctions should be applied to retailers who repeatedly sell or supply tobacco to under-age customers?

Children in Scotland favours linking sanctions for retailers selling *either tobacco or alcohol* to children and young people below the age of 18. Retailers should be required to check the age of young people whp want to buy cigarettes or alcohol. Children and young people grow and mature at varying rates. Retailers should be required to check identification (rather than guessing

ages) before a sale.

Given the potential harm of smoking at a young age, the failure to check for valid age identification, followed by an illegal sale of tobacco products to a child or young person should result in a significant fine and/or suspended license. This should progress to the permanent removal of a license if the retailer re-offends.

Children in Scotland believes that license and inspection of tobacco sales should be linked to the license and sale of alcohol products. In other words, selling either tobacco **or** alcohol to under-age customers should result in stiff penalties that are linked and cumulative. Thus, a retailer who is caught selling tobacco to under-age customers once and selling alcohol to under-age customers once should be regarded and penalised as a *multiple* offender, not as a first-time offender twice.

For further information please contact Paula Evans, Policy and Parliamentary Officer, at pevans@childreninscotland.org.uk
Prepared February 2008

Children in Scotland is Scotland's national agency for organisations and professionals working with and for children, young people and their families. It exists to identify and promote the interests of children and their families and to ensure that policies, services and other provisions are of the highest possible quality and are able to meet the needs of a diverse society. Children in Scotland represents over 450 members, including all major voluntary, statutory and private children's agencies, professional organisations, as well as many other smaller community groups and children's services. It is linked with similar agencies in other parts of the UK and the European Union.

The work of Children in Scotland encompasses extensive information, policy, research and practice development programmes. The agency works closely with MSPs, the Scottish Executive, local authorities and practitioners. It is a partner of the Participation Partnership Group for children and young people's mental health. It services a number of groups such as: the Cross Party Parliamentary Group on Children and Young People; the National Children's Voluntary Forum; the National Early Years Forum, and the Rural Advisory Group. Children in Scotland hosts Enquire, the national advice service for additional support for learning.