

Smoke-free underage music/dance events guide



Disclaimer: **This booklet is intended only as a general guide and introduction to the relevant provisions of the Tobacco Act 1987. The Department of Human Services does not accept any liability for any expense, loss or damage suffered as a result of reliance upon the information contained in this booklet. Nothing in this booklet should replace the seeking of appropriate legal advice where this is considered appropriate.**

Minister's message



From 1 March 2006 new laws will require underage 'music/dance' events to be smoke-free and the sale and promotion of tobacco products at underage 'music/dance' events will be prohibited. These laws are aimed at reducing the uptake of smoking by young people and preventing their exposure to the dangers of passive smoke.

Reducing the harms of smoking is one of the Victorian Government's highest priorities in its program to improve the health status of all Victorians. In particular, teenage smoking is a significant health problem facing our community. Eighty per cent of smokers begin before they turn 18 years old. The younger a person is when they start smoking, the more likely it is that they will continue to smoke and will die of a smoking related disease.

Organisers of underage 'music/dance' events can play an important role in ensuring young people have safe and smoke-free recreational opportunities.

This booklet is designed to provide underage 'music/dance' event organisers with information regarding the laws and to assist them in implementing the new laws. Please contact the Tobacco Information Line on 1300 136 775 or visit www.health.vic.gov.au/tobaccoreforms if you require further information.

A handwritten signature in black ink that reads "Bronwyn Pike". The signature is written in a cursive, flowing style.

Hon Bronwyn Pike MP
Minister for Health

Part A – Overview

Introduction

On 1 March 2006, amendments to the *Tobacco Act 1987* (the Act) will introduce new laws that affect underage ‘music/dance’ events.

Among other things, the laws place responsibilities and possible penalties on the ‘occupier’ of the area or premises where the event is being held. Depending on the circumstances, the ‘occupier’ could be the event organiser and/or the manager of the venue where the event is held.

This guide has been prepared for event organisers to help them ensure that their event complies with the new laws.

The key features of the new laws affecting underage ‘music/dance’ events are:

- Ban on smoking;
- Ban on the sale, display and promotion of tobacco products, including the display of vending machines and tobacco advertisements;
- Acceptable No Smoking signs must be displayed; and
- ‘Occupier’ of the event liable if smoking occurs, unless certain circumstances apply.

Note:

Please refer to page 12 for the full definition of terms like ‘occupier’ and underage ‘music/dance’ event.

Why are these laws being introduced?

Research has shown that social situations exert a powerful influence on people’s decisions to smoke. Being around others who smoke may result in a direct influence to smoke, for example by being offered cigarettes, or it may have an indirect influence on someone’s decision to smoke, simply through observation of other smokers. In addition smoking in social situations can result in smoking being seen as a normal activity. Smoking at underage ‘music/dance’ events exposes young people to such social situations.

Adding to this evidence, several studies have found that young people smoke more in social settings and that exposure to people smoking is a determinant for adolescents progressing from experimenting with smoking to becoming regular smokers. Finally it has been reported that young people are likely to reduce their overall consumption of cigarettes if smoking were banned in social venues.

For these reasons, a smoking ban has been introduced for underage ‘music/dance’ events. Smoke-free underage ‘music/dance’ events will reduce influence on young people’s smoking, help reduce their likelihood to progress from experimental to regular smokers, help reduce overall consumption of cigarettes and protect all young people at these events, smokers and non-smokers, from the serious harms that result from passive smoking.



Part B – Which events are affected by these laws?

The new laws will apply to all underage 'music/dance' events held in Victoria from 1 March 2006.

What is an 'underage 'music/dance' event?

Under the Act, an underage 'music/dance' event is an event that:

- Involves the provision of music (whether live or recorded and whether for listening to or dancing to or both); and
- Is predominantly organised or intended for, or predominantly attended by persons under the age of 18 years; and
- Is open to members of the public (whether with or without payment); and
- Takes place in any area or premises other than a private residence.

Which events are affected?

All events that fit the above criteria will be required to be smoke-free and subject to the other new controls in the Act. Examples of events that will be affected include:

- Freeza events;
- Blue light discos;
- Underage 'music/dance' events held at licensed premises; and
- 'Music/dance' events run by schools.

Will outdoor areas at events be required to be smoke-free?

Yes, outdoor areas of underage 'music/dance' events will be required to be smoke-free; the smoking ban applies to any area or premises where an event is being held. This includes outdoor areas such as beer gardens and balconies within the boundaries of the event. The ban does not extend to areas such as car parks and footpaths outside of the event.

Will private parties be affected?

No, these laws will not affect parties that are not open to members of the public or are held at a private residence.

Will the new laws also affect open age events?

Yes, if the event is predominantly organised or intended for, or predominantly attended by persons under the age of 18 years, smoking will not be permitted. This may include events where parents or other adults attend with children, where the predominant intent of the event is for young people eg. Deb Balls and children's concerts.

Who will be prohibited from smoking at underage 'music/dance' events?

Everyone at the event will be prohibited from smoking, including young people, adults, event organisers, band members/entertainment, staff and volunteers.

Underage events at licensed premises

Do underage events held at premises with a liquor license have to be smoke-free from 1 March 2006?

Yes, the smoking ban applies to underage 'music/dance' events held at licensed premises such as bars and nightclubs. The underage 'music/dance' events laws prevail over other smoking laws that currently apply to licensed premises, meaning that they must be completely smoke-free and subject to other restrictions during the underage 'music/dance' event.

The laws apply to any area or premises while the event is taking place there. This includes outdoor areas of the licensed premises such as beer gardens and balconies if they are part of the event area.



Part C – What do I need to do to comply with the laws?

What offences apply under the new laws?

Offences by the occupier

The ‘occupier’ of an underage ‘music/dance’ event is liable to be penalised if:

- the required No Smoking signs are not displayed;
- vending machines, tobacco advertisements and tobacco product displays aren’t covered at all times while the event takes place; or
- smoking occurs at the event.

Offences by smokers

A person aged 18 or older commits an offence by smoking in any area or premises while an underage ‘music/dance’ event is taking place there; and commits a further offence if they do not stop smoking after being asked to by an inspector under the Act (a Local Council Environmental Health Officer or other person appointed under the Act).

Persons aged under 18 must not smoke, but do not commit an offence under the Act if they do. The occupier must still ask the person to stop smoking, and the situation should be managed in the same way as for other breaches of event policy or rules. For example, where appropriate, the person might be asked to leave the event.

Offence of selling tobacco

A person must not sell a tobacco product to another person in any area or premises while the event is taking place there.

Who is the occupier?

The ‘occupier’ of an underage ‘music/dance’ event is defined under the Act as a person who is over 16 years of age and who is, or appears to be, in control of the area or premises.

The ‘occupier’ can be an event organiser and/or the proprietor or managing staff member of the venue where the event is held.

No Smoking signs

Are No Smoking signs required to be displayed?

To avoid penalties, the occupier is responsible for ensuring that ‘acceptable No Smoking signs’ (see definition on page 12) are displayed at events.

How do I display the No Smoking Signs?



No Smoking signs need to be displayed in a manner that ensures a person is reasonably likely to see one or more of them either on entering the area or event or from within the area or event.

What do the No Smoking signs look like?

The occupier can either display the Department of Human Services’ standard No Smoking signs (as shown above) or design their own signs in accordance with the definition of ‘acceptable No Smoking signs’ (see page 12).

Copies of the standard No Smoking signs are available for the event from the Department of Human Services by calling the Tobacco Information Line on 1300 136 775.

What are the requirements for vending machines; and selling, displaying, and advertising tobacco at underage ‘music/dance’ events?

Tobacco products cannot be sold, displayed or advertised at underage ‘music/dance’ events.

To avoid penalties, the occupier must ensure that cigarette vending machines, tobacco displays and tobacco advertisements in the area or premises are completely covered by an opaque material or by other means so they are not visible. Alternatively, they should be removed while the underage ‘music/dance’ event is taking place.

How do occupiers avoid liability for other people smoking at an event?

Occupiers of underage ‘music/dance’ events are liable to be penalised if smoking occurs at an event.

It is a defence if the occupier was not aware, and could not reasonably be expected to have been aware, that the smoking was taking place.

To avoid liability, people in control of an event should take reasonable measures to ensure that attendees and staff are aware of the new laws and they do not smoke at the event.

This includes:

- displaying No Smoking signs;
- not providing any materials that facilitate smoking such as ashtrays and lighters; and
- informing anyone who does smoke that they are committing an offence and should stop smoking.

Who will enforce these laws?

Local Council Environmental Health Officers are inspectors under the Act. Both inspectors and the police have the power to enforce the Act. Complaints and reports of smoking at events should be referred to the Department of Human Service’s Tobacco Information Line on 1300 136 775.



What are the penalties for the offences?

	Infringement	Maximum Penalty if Prosecuted
Smoking offences by individuals		
Individuals over the age of 18 years who smoke at an event	1 penalty unit*	5 penalty units*
Individuals over the age of 18 years who continue to smoke after being asked to stop by an inspector under the Act	Not applicable	5 penalty units*
Offences by occupiers: smoking; signage; vending machines; displays; and advertisements		
Occupier of the premises at the time the smoking occurs	1 penalty unit*	5 penalty units*
Occupier who breaches the No Smoking signage requirements	1 penalty unit*	5 penalty units*
Occupier who does not cover or remove a tobacco vending machine, tobacco advertisement or tobacco display	1 penalty unit*	60 penalty units*
Offences by any person who sells a tobacco product		
Any person who sells a tobacco product	1 penalty unit*	50 penalty units*

Note: Penalties do not apply to minors (under 18 years of age).

* The value of a penalty unit in 2005/06 is \$104.81

Part D – How do I manage the smoking ban at my event?

What do I do if someone smokes at an event?

To avoid penalties, if someone smokes at an event you must request that they stop, and inform them that it is against the law. You must also ensure that you do not provide anything that facilitates smoking such as ashtrays and matches.

If they refuse to stop smoking, advise them that they will have to leave the event if they wish to continue smoking and that it will be at the event staff's discretion whether they will be allowed to return to the event.



If the person smoking is under 18 years of age, the matter should be treated the same way as other breaches of event policy or rules eg. consumption of alcohol or violence.

Due to safety and security reasons the issuing of pass-outs is not recommended as a method of allowing young people to smoke while at events.

What do I do if adults (staff & parents) insist on smoking during the event?

Adults cannot smoke at events, therefore if they wish to smoke during the event they will have to leave the event. In order to protect young people from being exposed to smoking it is suggested that adults be requested to smoke out of view of young people.

Can attendees bring cigarettes to events?

The laws do not prohibit people under the age of 18 from possessing tobacco products, therefore young people are able to bring cigarettes to underage 'music/dance' events. If you become aware of young people who have brought cigarettes to the event you may consider reminding/advising them that they are not able to smoke while at the event.

How can I make attendees aware of the smoking ban?

- Display No Smoking signs and other signage at events.
- List 'No Smoking' as a condition of entry at events and on tickets.
- Include 'No Smoking' in your advertising and promotion of the event.
- Provide details of the smoking ban in emails and websites that promote your organisation/events.

Checklist for implementing a smoke-free event.

The checklist below has been designed to assist in ensuring that you comply with the laws in relation to smoke-free underage 'music/dance' events.

As an occupier/event organiser there are a number of things that you must do (shaded steps). Further suggestions have been included which may assist you in implementing the new laws at your event.

Checklist for smoke-free event	Completed
Ensure that smoking does not occur either inside or outside areas of the event	
Display No Smoking signs at the event	
Remove ashtrays, matches and lighters etc from premises during the event	
Cover cigarette vending machines, tobacco advertisements and tobacco displays during the event	
Ensure that cigarettes are not available for sale during the event	
List 'No Smoking' as a requirement on tickets, promotional material and conditions of entry	
Advise adults (including staff, bands, volunteers) that smoking is prohibited in both inside and outside areas of the event	
Develop a policy for dealing with young people who smoke at events	
Advise staff (crowd control etc) of the policy for dealing with young people who smoke at the event	
For the safety of patrons and event security, it is recommended not to provide pass-outs for young people to leave the event to smoke	

Part E – Definitions

Acceptable No Smoking sign means a sign that contains-

- (a) a no smoking symbol in the form of a circle and a diagonal line printed in red over a depiction of a cigarette and smoke printed in black, or other symbol that clearly indicates that smoking is not permitted, with the symbol being at least 70mm in height; and
- (b) the phrase “No Smoking” or “Smoking Prohibited”, or other wording that clearly indicates that smoking is not permitted, in letters that are at least 20mm in height.

Covered:

- (a) In relation to a vending machine - covered by an opaque material or some other means in such a way that none of the top, front, back and sides of the machine or its contents are visible;
- (b) In relation to a tobacco advertisement or display of tobacco products-covered by an opaque material or some other means in such a way that the advertisement or products are not visible.

Occupier:

In relation to an area or premises, means a person who appears to be of or over 16 years of age and who is, or appears to be, in control of the area or premises.

Underage ‘music/dance’ event

An event that:

- Involves the provision of music (whether live or recorded and whether for listening to or dancing to or both); and
- Is predominantly organised or intended for, or predominantly attended by persons under the age of 18 years; and
- Is open to members of the public (whether with or without payment); and
- Takes place in any area or premises other than a private residence.

Part F – Further information

Where can I get further information?

www.health.vic.gov.au/tobaccoreforms or

Tobacco Information Line on Ph: 1300 136 775

