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Committee Secretariat
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WELLINGTON

Tēnā koe, Mälō 'etau lava

SUBMISSION ON THE SMOKE-FREE ENVIRONMENTS (PROHIBITING SMOKING IN MOTOR VEHICLES CARRYING CHILDREN) AMENDMENT BILL

This submission is from the Cancer Society of New Zealand

The Cancer Society is a non-profit organisation which is committed to reducing the incidence and impact of cancer in the community. We work across the cancer continuum with a focus on prevention, supportive care, provision of information and resources and funding of research.

We congratulate Minister Salesa for her leadership on this issue and acknowledge the public health advocacy by numerous organisations and individuals over the years, including the Maori Affairs Select Committee (2011) and the National Smokefree Cars Working Group, with special thanks to Northland Cancer Society and Patu Tuauahi- Tai Tokerau Smokefree Northland.

Introduction

Cancer is a leading cause of illness, disability and death in New Zealand. The number of new cases of cancer diagnosed in New Zealand each year is expected to rise to around 50,000 by 2040 – an increase of nearly 50 percent from 2018 [1]. Thirty-one percent of all deaths recorded in NZ are due to cancer, with greater levels of premature deaths from cancer disproportionately affecting *Māori* and socioeconomically deprived populations [1, 2]. Inequalities in cancer incidence and mortality are largely due to causes associated with poverty; including tobacco and poorer access to quality care [2]. Tobacco use – the leading cause of preventable death - results in approximately 5,000 unnecessary deaths per year and thousands of New Zealanders who live with a disease or disability caused by smoking [3]. Secondhand smoke (SHS) exposure continues to be significant public health concern and a substantial threat to child health [4-6].

Summary of Cancer Society Recommendations

The Cancer Society of New Zealand strongly supports the intent of this Bill as it will reduce the level of secondhand smoke to which children will be exposed and protect their health. Further reasons for this support are outlined in this submission below.

- We support the intention set out in the Cabinet paper to prohibit vaping and heat not burn (HNB) products in vehicles carrying children and consider this should be explicitly recognised in the legislation.

- Explicit reference to monitoring and reporting should be made in the Bill to ensure equity and effectiveness
- That the clause *Part 1A S20D (2) (b): A person may smoke in a vehicle if - 'the motor vehicle is stationary on a road and in use as a dwelling'* be deleted.
- That the Act comes into force no later than one year after the date on which it receives the Royal assent.

More detailed recommendations are presented on page 5.

Rationale

1. Health and social impact of smoking in cars

The Cancer Society supports this legislation because it will reduce children's exposure to harmful secondhand smoke (SHS); improve health outcomes, reduce smoking related inequalities and contribute to the denormalising of smoking and a lower risk of future adolescent smoking.

- There is no safe level of SHS exposure for children [7]. Tobacco smoke contains thousands of noxious particles, chemicals and gases that have serious adverse health consequences, and these toxins are present regardless of whether the cars windows are open or closed or the air-conditioner is on [8, 9]. Tobacco smoke residue can linger in cars and cause harm long after the cigarette has been put out [10].
- Children are particularly vulnerable to SHS exposure because they have little control over their environment and may lack the understanding, agency and ability to avoid SHS. By permitting smoking in cars to continue unchecked, we are not in accordance with the United Nations Convention on the Rights of the Child which obligates us to protect children and ensure care "as is necessary for his or her well-being" (Article 3.2)
- Children also have particular physiological vulnerabilities because they have immature immune systems and higher respiratory rates [11]
- Childhood exposure to SHS is associated with an increased risk of sudden infant death syndrome, meningitis, respiratory and ear infections, and increased frequency and severity of asthma [12-15]. Repeated exposure to SHS increases the risk of lung cancer, cardiovascular and respiratory diseases in later life [7, 12]. These serious health risks are well documented.
- Children who are exposed to SHS are significantly more likely to smoke as they grow older, due to many interrelated factors including SHS exposure itself and smoking socialisation [16, 17].
- Requiring cars to be Smokefree will contribute toward the Smokefree Aotearoa 2025 goals.

2. SHS exposure in cars and smoking related health inequalities

- Large numbers of New Zealand children are exposed to SHS in cars and inequalities in exposure are persisting. This clearly shows that current efforts are not sufficient, and we are failing to achieve NZ's goal of youth being fully protected from exposure to SHS by 2025.

- New Zealand children spend an average of 3 hours per week as car passengers throughout their childhood [18]. Cars are one of their main sources of SHS exposure.
- In 2018, 15% of children (14-15 years old) were involuntarily exposed to SHS in cars each week, with a higher number of Māori (26%), Pacific (26%) [19] and those from lowest SES schools being exposed [20]¹. This proportion has changed little in recent years. These findings are supported by a body of evidence that has found indigenous children and those in lower socioeconomic groups are more likely to be exposed to SHS than other children [4, 19, 21, 22]. This compounds the already unacceptable health inequalities faced by these children.
- We note the concern expressed by some Māori health groups that Māori may be unfairly targeted by this law. We share this concern that a particular group may be disproportionately targeted and consider this reinforces the need for the development of culturally sensitive communication tools and resources to assist police, in addition to careful monitoring and reporting.

3. Effectiveness of Smokefree cars legislation

- Smokefree cars laws have been adopted in most Western countries/jurisdictions worldwide. In many of these countries, legislation has been in place for over 10 years (including Arkansas in 2006, Canada, California, South Australia and Tasmania 2007 and NSW 2009).
- *Evaluations have found that Smokefree car laws reduces children's exposure to SHS* [21, 23-25]. There also appears to be no marked increase in smoking at home after the implementation of legislation [26, 27].
- *Comprehensive smokefree policies have been pivotal in reducing children's exposure to SHS and have substantially improved child health* [28, 29]. SF cars will extend this protection and build on public support for existing Smokefree legislation.

4. Child/public opinion – support for SF cars

- *We consider that compliance with the legislation on smoking in cars with children is dependent on the level of public support, not enforcement action. Our surveys consistently show a very high level of public support for this law among New Zealanders, including from children and people who smoke.*
- In the lead up to the submissions phase, the Cancer Society conducted electronic and paper-based surveys at *Relay for Life* and other events nationwide to gauge public support for Smokefree cars. We wanted to hear what New Zealanders thought should be strengthened in the Smokefree Environments Act. Across regions surveyed, there was extremely high support

¹ A staggering 100,000 NZ children aged 0-14 years were conservatively estimated to be exposed to smoking in cars each week in 2012 [20]

for Smokefree cars carrying children legislation: Otago/Southland 96% (number of participants n=1379) Auckland/Northland 98% (n=360), Wellington/Marlborough 94% (n=132), Canterbury/West Coast 98% (n=104), Central Districts 98% (n=336).

Participants strongly believed that legislation would be effective and were surprised that Smokefree cars legislation had not already been enacted:

“I am shocked that NZ is way behind Australia and Canada in these matters. I expected NZ to be way ahead. 1st country to allow women to vote yet last one in regards to smoking laws” (Lily, Dunedin)

Comments also centred on the unfairness of exposing others to SHS, for example:

“Lung cancer is an awful preventable disease. It's hard watching people you love who have never smoked in their lives, dying from something someone else has done to them” (Maia, Auckland)

- The Cancer Society engaged with school children from Clearview primary who have been overwhelmingly supportive of Smokefree Cars. They have collected over 400 postcards of support because in their words “*We don’t want children to get sick or suffer from the long term consequences of travelling with someone who smokes. We believe that parents and caregivers aren’t realising the impact that smoking has on children.*” (Clearview report attached as Appendix 1).
- The findings from our surveys and discussions align with large national surveys consistently showing huge support for banning smoking in cars with children present, such as: young people 96% [19], adults 95% [19, 30], smokers and recent quitters 91% [31], and Maori 94.5% and Pacific peoples 96.6% [30].

5. Enforcement and compliance

- Efforts to date have failed to protect all children and significantly reduce the rate of smoking in cars. Smoking in cars when children are present continues unchecked across NZ. We feel that legislation is long overdue.
- In Canada pre-implementation of a ban, the proportion of people smoking in cars (with children present) was higher among smokers who knew there was no legislation prohibiting this practice [32]. Where smokefree cars legislation has been introduced, children’s exposure to SHS has been reduced [33]. We therefore consider that this legislation will set out a clear expectation that is likely to lead to positive behaviour change (in a similar way to high compliance that occurred after the introduction of legislation to regulate seatbelts, bicycle helmets and mobile phone use in vehicles).
- We strongly agree with the expressed focus of this Bill as a children’s health (and Rights) issue and not a road traffic offence. The priority should be on the provision of appropriate and sustained social marketing campaigns informing the public of the dangers of SHS and why this legislation is needed. There is still a perception among some groups surveyed that SHS is not

harmful if car windows are open, and very little awareness that tobacco smoke residue can linger in cars and cause harm [31].

- Transgressions should be dealt with by the Police through the provision of advice (explaining why this law is important for children’s health), warnings and quit referrals. We support the intention in the Cabinet paper that the issuing of infringement notices should be kept to an absolute minimum. We agree that people who repeatedly transgress should be motivated to comply by being issued with a small infringement fine (as set out in Part 1A/3D) or Demerit points.

6. Monitoring and reporting

- Careful monitoring and reporting should be undertaken including a) equity analyses to ensure that no particular group is disproportionately targeted when enforcing the law; b) to monitor effectiveness and c) to allow refinements to be made to social marketing campaigns where necessary.

Recommendations

The Cancer Society of New Zealand strongly supports the intent of this Bill as it will reduce the level of secondhand smoke to which children will be exposed.

A number of points have been raised in the Cabinet Paper ‘Prohibiting smoking in vehicles carrying children under 18 years of age’ that we would like to see explicitly laid out in the proposed legislation. In particular:

- We support the intention set out in the Cabinet paper to prohibit vaping and heat not burn (HNB) products in vehicles carrying children to protect children from exposure to vapour in a confined space; prevent driver distraction; and ensure consistency with the Smokefree Environments (Vaping) Amendment Bill. We do not believe this will negatively impact on current efforts to promote vaping as a potential quit tool among adults and consider it should be explicitly recognised in this Bill.
- We support the intention expressed in the Cabinet paper that the focus of this Bill is on children’s health and rights and not criminalising people who smoke and consider this should also be explicitly stated in the Bill.

We further recommend that:

- Explicit reference to monitoring and reporting, including equity analyses.
- **Part 1A S20D (2) (b): A person may smoke in a vehicle if - ‘the motor vehicle is stationary on a road and in use as a dwelling’.** Children in any vehicle should be protected from SHS and therefore we consider that smoking should be prohibited in any vehicle on a public road. Given that these children are likely to be living in poverty, this is a welfare issue where people require support and should not be faced with a fine. ***We recommend removing this clause and explicit recognition of the need for police discretion and referral for support in such instances.***

- We strongly believe the lead-in period for action is excessively long and note that there is overwhelming support among the general public, smokers and adolescents for smokefree cars legislation, and the issue has been widely debated, so the public is prepared for this legislation to be introduced. In addition, the majority of drivers are already operating smokefree vehicles. The year 2025 is fast approaching for the Smokefree Aotearoa goal. There is therefore no reason to delay its introduction by 18 months.

Thank you for the opportunity to make this submission



Mike Kernaghan

Chief Executive Cancer Society of New Zealand

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Appendix 1

Clearview Primary - Smoke Free Cars Campaign 2019

We are the 2019 Student Ambassadors at Clearview Primary. Our role is to provide a strong partnership link between our students, teachers, families and the wider community. For the past two years we have been collaborating with the Selwyn Cancer Society.

We wanted to support the Smoke Free Cars Campaign because we see this is an ongoing issue not just in our community but in the whole of New Zealand. We feel that the wellbeing and health of children and teenagers across not only NZ but the world should be one of the top priorities for parents and caregivers. We don't want children to get sick or suffer from the long term consequences of travelling with someone who smokes. We believe that parents and caregivers aren't realising the impact that smoking has on children.

This campaign is important to our leadership group because we believe we can make a difference in the world around us. By promoting this campaign within our school, we can promote change and this could stop an ongoing issue that has disastrous consequences. As young leaders, we encourage all students to speak up and be able to have a say on issues that impact their health and future! Many of us know people that are or have been affected by cancer and we see this campaign as a way of reducing the number of smokers in our community.

We have promoted our Smoke Free Cars campaign at several assemblies last term. With Amanda from the Cancer Society's support we set up a display in our Community Room and invited parents and students into sign our postcards of support. May students had their photo taken with "Herbie", the smoke free car cutout. We were blown away with the level of support and the key messages overall include that our kids health does matter, smoking can cause cancer and that parents should be role models for their kids.

Overall, we have collected about 400 postcards of support and this number keeps growing because we have had postcards displayed in the Senior learning areas during our learning conferences. Our junior students have used sticky notes to write their messages of support. We will then take these postcards to our local MP Amy Adams to take to parliament.

The age range of those who contributed a message of support is from 5 years old to 63 years old.

Mackenzie Wills - 13, Chase Stanley - 12, Ezra Paton - 12, AJ Rush - 12, Maddi Brown - 12, Rian Drewett - 12



Q by Tracey Young

Smoke-Free Cars for Children

TRACEY YOUNG - JUN 19, 2019

Student Ambassadors 2019

This year the 2019 Student Ambassadors are continuing their partnership with the Rolleston Cancer Society. We have been supporting Amanda and the team with their latest campaign to help promote smoke-free cars.

Why is having smoke free cars is so important? This is because:

- We need to protect children from the risk of serious medical conditions that come from being in smoke-filled cars
- Smoke contains more than 4000 chemicals at least, some of these chemicals can potentially cause cancer
- Children can get sick if they breathe in second-hand smoke because their lungs are smaller and they have a faster breathing rate.

This Friday in the cafe area, we will be collecting student and parent voice on this topic. Pop in and see us first thing in the morning or straight after school to share your thoughts on this very important issue. You will also have the opportunity to get your photo taken if you wish with "Herbie". Thanks again to those who have already shown their support and completed a postcard to our local member of parliament!

