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NORTH WEST PROVINCIAL LEGISLATURE

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OFFICE OF THE SPEAKER

HEALTH PORTFOLIO COMMITTEE

04 September 2008

Report on the negotiating Mandate of Tobacco Products Control
Amendment Bill [B7B-2008]

1. TERMS OF REFERENCE

The above mentioned Bill was referred to the Portfolio Committee for consideration as a matter of priority.

2. BRIEFING

On the 14 August 2008, Hon. J. Masilo and Hon Kgarebe, NCOP Permanent Delegate briefed the members of the Portfolio Committee on Health on the above Bill. Present at the briefing was Committee members, the Department legal advisors and Legislature legal advisors.

3. CONSIDERATION

There was a need for public hearing and it was held on the 18th to 21st August 2008 at Bojanala-Meriting, Central-Lichtenberg, Southern-Potchefstroom and Bophirima-Ganyesa.

4. RESOLUTION

The Committee having considered the bill, resolved to accept and support the bill with the attached amendments.

Signed

The Speaker: Hon. T. Modise

4.1 Questions and comments/inputs

- ❖ The following compressed questions and comments/inputs are based on the above-mentioned / identified regions. They are randomly arranged. Most of the questions and comments are in line with the Bill.

4.1.1. Community

- ❖ What are the government and parliament doing about the people who advertise or display tobacco products?
- ❖ What is going to happen to the people who are distributing tobacco freely?
- ❖ Other companies do not comply with the Bill. Most of them manufacture and import a tobacco product without any prescribed manner. What is the wayforward?
- ❖ What are you doing with the vending machines that sell tobacco?
- ❖ Can the selling of loose-draws be stopped?
- ❖ Is it possible to prevent the planting of tobacco?
- ❖ Snuff and tobacco are used for cultural activities while they are deteriorating the health condition of the children.
- ❖ Is there a strategy or mechanism in place to help the fatalities of tobacco?
- ❖ Educational awareness or roadshows should be organized to educate the learners at the school premises.
- ❖ Smoking areas should be identified and monitored at all times. Most of the people smoke in restaurants; accompanied by their children and others in public areas.
- ❖ Are there demarcation areas for smoking in schools, tertiary levels, universities, public areas, etc.?
- ❖ What will be done to people who are selling tobacco to learners and minors?
- ❖ What will be done to protect those who report cases of selling tobacco to children?

- ❖ Some parents forcibly sent children to buy cigarettes. What is the government doing about this unfortunate situation?
- ❖ Some people say that they gain weight when they stop smoking. What is the Health Department's intervention and intrusion in this matter?

4.2.1 The following compressed responses are based on the above-mentioned / identified regions. They are randomly arranged. It is emphasized that:

- ❖ No person shall advertise or promote, or cause any other person to advertise or promote tobacco products. Furthermore, a commercial communication between a tobacco manufacturer or importer and its trade partners, business partners, employees and shareholders, must contain no other information except for factual information about the tobacco product, its characteristics, its availability or price, pictures of the tobacco products, the component parts and their packaging.
- ❖ No person shall manufacture or import a tobacco product unless it complies with such standards as may be prescribed.
- ❖ Prohibition in respect of tobacco products to persons under age of 18 years. No person shall sell or supply any tobacco product to any person under the age of 18, whether for his personal use or not.
- ❖ The owner or person in charge of any business shall ensure that no person under the age of 18 years in his or her employ or under his or her control, as the case may be, shall sell or offer to sell any tobacco product on the business premises.

- ❖ The sale of tobacco products from vending machines shall be restricted to places in which purchases from such machines are inaccessible to persons under the age of 18 years.
- ❖ No person shall sell or offer tobacco products in any place where a person under age of 18 years receives education or training (in school premises).
- ❖ According to this Bill, no person under the age of 18 years shall sell, offer to sell, supply, distribute or buy any tobacco product through the postal services, the internet or any other electronic media.
- ❖ Any person who contravenes or fails to comply with the sections identified in the Bill, or contravenes or fails to comply with any regulation made in terms of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 and R1 000 000 (it differs from one situation to another).
- ❖ The Chairperson of the Portfolio Committee concludes by pointing out Tobacco Control Training – Products of tobacco, dated January 28 , 2008 in Klerksdorp, as follows:

4.3. Fines / Penalties

- ❖ Most of the people if not all, including Cancer Association raised a point that, they are not happy about the amendment of Section 7 of Act 83 of 1993, as substituted by section 5 of Act 23 of 2007. They are concerned about the people who will be convicted being homeless, jobless, above all, who are responsible for their families and extended families. They would like to know whether the Bill had ample time to consider those identified facts.

4.4. Amendment from 18 to 21 years.

- ❖ Irrespective that the Constitution has pronounced over 18 years to use tobacco products. There is this concern that 18 years old child in African culture is still a person who needs parents' guidance. He or she is not expected to sell; offer to sell, supply, distribute or buy any tobacco product in any place, let alone to smoke. It is an appeal from the participants, in particular the parents, to amend this Bill from 18 to 21 years.

4.5. Protection of non-smokers and children.

- ❖ The Portfolio Committee and legislation must insist this point in the Bill, that is, to protect non-smokers and children in restaurants, cars and public places.

4.6. Tobacco should be banned at all.

- ❖ The participants are quite aware that there is high rate of unemployment and the Tobacco companies fill in the gaps by providing their employees loans for houses, bursaries for children to further their studies, including medical benefits etc.