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FINAL MANDATE**TOBACCO PRODUCTS CONTROL AMENDMENT
BILL [B7B-2008]**

The Portfolio Committee on Health and Social Services ("the Committee") met on the 19th September 2008 to deliberate and consider the Tobacco Products Control Amendment Bill [B7B-2008] ("the Bill"). The purpose of the meeting was to take a decision on and confer a voting mandate on the Bill.

During the deliberations, the Committee noted and considered the response of the National Department of Health to the concerns raised by the provinces in their respective negotiating mandates and the amendments proposed by the NCOP Select Committee on Social Services in its meeting of the 09th September 2008, as highlighted in its minutes of the said meeting.

After thorough deliberations, the Committee supported the Bill with the proposed amendments. The report of the Committee on its deliberations on the Bill is attached hereto as Annexure "A".

The delegation representing the Province of Mpumalanga in the National Council of Provinces ("the NCOP") is conferred with authority to vote in favour of the Bill, with the proposed amendments.

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19.9.08
DATE

SPEAKER: MPUMALANGA LEGISLATURE



1. Introduction

In terms of section 42 (4) of the Constitution, the National Council of Provinces (the NCOP) represents provinces to ensure that provincial interests are taken into account in the national sphere of government. In line with this Constitutional provision, the Speaker referred the Tobacco Products Control Amendment Bill [B7B-2008] (the Bill) to the Portfolio Committee on Health and Social Services (the Committee) for consideration and with the responsibility to report back its recommendations to the House.

2. Objectives of the bill

The Bill seeks to amend the Tobacco Products Control Act, 1993 (Act No 83 of 1993) to bring it in line with the World Health Organisation Framework Convention on Tobacco Control (to which South Africa is a signatory) by prohibiting the sale of tobacco products to children under the age of 18 years. The Bill also intends to close loopholes that exist in the current legislation.

3. Method of work

Having received the Bill from the Chairperson of the NCOP, the Speaker referred the Bill to the Committee. On 14 August 2008 the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces (NCOP), Hon. BJ Tolo, briefed the Committee on the Bill.

In compliance with section 118(a) of the Constitution, the Committee resolved to conduct public hearings in the three districts of the Province on 20, 22 & 27 August 2008. The Bill was then advertised in the local newspaper, i.e. Lowvelder of 15 August 2008, calling for written comments/submission to be submitted to the Legislature on or before 28 August 2008.

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Consequently, members of the Committee conducted radio talks and interviews through the Ligwalagwala and Ikwekwezi FM radio stations on 19 August 2008. Copies of the Bill were distributed to members of the public through the municipal offices, constituency offices, health institutions and other relevant stakeholders in Ehlanzeni, Gert Sibande and Nkangala Districts.

The Honourable Members and officials from the Department of Health and Social Services were deployed to the public hearings that were arranged as follows:

DATE	DISTRICT	VENUE	ATTENDANCE
20/08/2008	Ehlanzeni Region	Emjindini Community Hall; Umjindi Municipality	82
27/08/2008	Gert Sibande region	Mzinoni Community Hall, Govan Mbeki Municipality	160
22/08/2008	Nkangala Region	Vezubuhle Community Hall, Thembisile Municipality	204

The following stakeholders made written submissions and some attended the public hearings:

- Francois van der Merwe (Tobacco Institute of South Africa)
- British American Tobacco South Africa
- Maria Scholtz (CANSAs Lowveld)
- Juan Kotze (JT International South Africa (PTY) Limited)

On the 04th September 2008 the Committee met to consider the public inputs and submissions made on the Bill and to further deliberate and consider the Bill. Furthermore, the Committee considered its draft report and conferred a negotiating mandate to the delegation representing the Mpumalanga Province in the National Council of Provinces ("the NCOP").

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Subsequent to this meeting, the report of the Committee and the negotiating mandate were transmitted to the NCOP, accordingly.

On the 17th September 2008 the Committee received feedback from the NCOP on the concerns raised by the public which were incorporated in its report. The feedback was in the minutes of the NCOP Select Committee on Social Services ("the Select Committee") on its meeting held on the 09th September 2008 to consider negotiating mandates from provinces on the Bill. Attached, as an Annexure to the minutes, were responses by the Department of Health (National) on the concerns raised by provinces on the Bill.

On the 19th September 2008 the Committee met to consider the minutes of the Select Committee as well as the responses by the Department. The Committee is satisfied with the responses of the Department and agrees with the explanations provided therein. The Committee has also noted the amendments proposed by the Select Committee and unanimously supports the said amendments.

4. Submissions by the Public on the Bill

While the public generally supported the Bill, the following issues were raised:

- Warning signs on tobacco packaging should be changed on a periodic basis (regularly), preferably every after seven (7) months;
- Stringent measures should be put in place to prohibited the selling loose cigarettes ("loose draws");
- To change the definition of package by deleting the words 'at wholesale or at' so that it read as 'package means the container, receptacle or wrapper in which tobacco products are sold, supplied or distributed at retail'.
- It has been proposed that a provision in the Bill must be included to read as follows:

"The Minister may, by notice in the Gazette, exempt certain retailers or categories of retailers from the provisions of section 3(9) and (10) on such conditions as the Minister may determine in the notice if compliance therewith proves uneconomical for such retailers."

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- The majority of the people in attendance were in favour of the Bill and strongly emphasised the total banning of the use and selling of tobacco products in the future.

5. Committee Observation

The Committee noted that most of the definitions contained in the Bill are already defined in the principal Act and the amendments are just changing the wording used, but the effect remains the same.

6. Recommendation

The Committee examined and considered:

- the Tobacco Products Control Amendment Bill [B7B -2007];
- the inputs and submissions made by the public and stakeholders on the Bill;
- the minutes of the Select Committee on its meeting held on the 09th September 2008; and
- the responses provided by the Department of Health (National) on the concerns raised by the provinces.

The Committee deliberated on the Bill accordingly. After a thorough deliberation the Committee in a unanimous voice decided to:

- support the details and principles of the Bill;
- accept and support the explanations contained in the responses by the Department; and
- accept and support the amendments proposed by the Select Committee as contained in the minutes of the 09th September 2008.

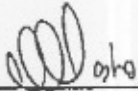
Consequently, the Committee recommends that the delegation representing the Province of Mpumalanga in the National Council of Provinces be conferred with authority to vote in favour of the Bill, with the amendments as proposed by the Select Committee.

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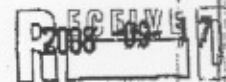
7. Conclusion

On behalf of the Committee, the Chairperson extend gratitude to the Honourable Members of the Committee for their sterling commitment to the work of the Committee, the Department of Health and Social Services in the Province, the Legislature's support staff, as well as the stakeholders for their active participation in the process of considering the Bill.



HON PE PASHA
CHAIRPERSON:
PORTFOLIO COMMITTEE ON HEALTH
AND SOCIAL SERVICES

19/09/08
DATE



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OFFICE OF THE SPEAKER

HEALTH PORTFOLIO COMMITTEE

15 September 2008

Report on the final 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-Patchfestrdom and Bophirima-Ganyesa.

4. RESOLUTION

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

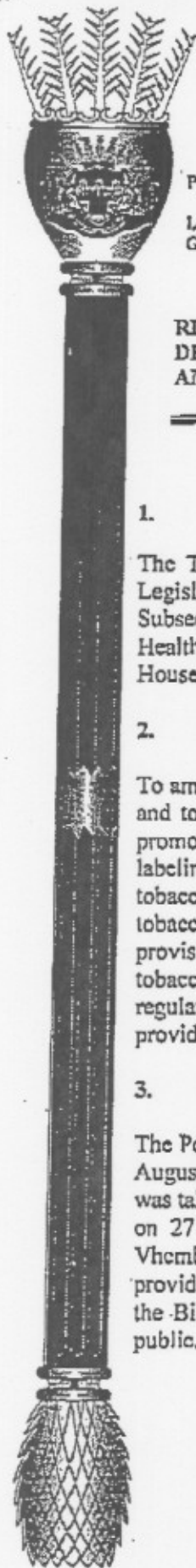
Signed

P.P.

The Speaker: Hon. T. Modise

Limpopo Legislature

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**REPORT OF THE PORTFOLIO COMMITTEE ON HEALTH AND SOCIAL
DEVELOPMENT ON TOBACCO PRODUCTS CONTROL
AMENDMENT BILL [B7B-2008]**

1. INTRODUCTION

The Tobacco Products Control Amendment Bill [B7B-2008] was referred to the Legislature of Limpopo Province by the National Council of Provinces (NCOP). Subsequently, Limpopo Legislature referred the Bill to the Portfolio Committee on Health and Social Development for consideration and to report to this Honourable House. The Committee having considered the Bill begs to report as follows:

2. PURPOSE OF THE BILL

To amend the Tobacco Products Control Act, 1993, so as to define certain expression and to amend certain definitions; to provide anew for the advertising, sponsorship, promotion, distribution and information required in respect of the packaging and labeling of tobacco products; to make the standards that apply to manufacturers of tobacco products applicable to importers of tobacco products; to prohibit the sale of tobacco products to and by persons under the age of 18 years; to extend the provisions in respect of free distribution of tobacco products; to provide anew for tobacco sales by means of vending machines; to extend the Minister's power to make regulations; and to adjust the provisions in respect of offences and penalties; and to provide for matters connected therewith.

3. CONSIDERATION OF THE BILL

The Portfolio Committee met the National Department official Mr K. Mahlako on 14 August 2008 for a briefing on the principle and provisions of the Bill and a decision was taken to facilitate public involvement on the Bill. Public hearings were conducted on 27 August 2008 at Capricorn and Sekhukhune Districts, 28 August 2007 at Vhembe and Waterberg Districts and on 29 August 2007 at Mopani Districts, to provide provincial stakeholders and the public a platform to express their views on the Bill. The Public hearings were well attended by Stakeholders and the general public.

4. PUBLIC HEARINGS

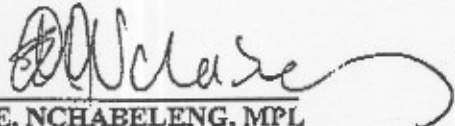
- o Institutions for enforcement of the law should be given serious attention
- o Punitive measures should be applied to those who violate the provision of the legislation.
- o vending machines should only be located in smoking areas
- o Stakeholders believe that the Bill will promote the health and welfare of the nation
- o the Bill should provide obligatory framework for awareness programmes in schools and in home based centers
- o sales of loose cigarette should be prohibited
- o reporting of those who do not enforce the law should be intensified
- o There should be regulation on the sale of tobacco than banning it
- o No person must sell tobacco products at retail unless the prescribed notice has been displayed
- o Smoking in front of children should be prohibited
- o The Bill did not consider the implications and the challenges for Tobacco industries.
- o Ban all direct and indirect pro-tobacco advertising, because they lead to an increase in experimentation by young people
- o Stakeholders support picture warnings, and all other provisions of the Bill.
- o No person must sell tobacco products at retail, unless the prescribed notice are displayed
- o Smoking in front of children should be prohibited

4. RECOMMENDATIONS

- The Bill should consider the economic position such as loss of employment due to cut in advertisements and promotions by tobacco companies.
- The Bill should have the provision of tightening of Border control to curb tobacco trafficking from other countries.
- Those who are found and assisting in tobacco trafficking should be severely punished.
- Stringent penalties should be imposed on those who violate the provision of the legislation.
- Any person or company who violates the provision of section 7 subsection (2) and (3) of the law should be liable to a fine exceeding R 100 000 and R 1000 000 respectively
- Sales of tobacco products should be prohibited in Health and Educational institutions.
- home based care givers should be trained as facilitators in order to educate learners about the impact of smoking.
- license should be a requirement to sell tobacco products.
- reporting of those who do not enforce the law should be intensified
- Public smoking should be prohibited

5. CONCLUSION

The Committee conducted Public hearings and solicited inputs to which public involvement was appreciated. Hon. Speaker, on behalf of the Committee, I therefore move that this report be adopted as a report of this House and that a final mandate be conferred to NCOP delegates to vote in favour of the Bill and be passed into law.



E. NCHABELENG, MPL
**CHAIPERSON: PORTFOLIO COMMITTEE ON HEALTH AND SOCIAL
DEVELOPMENT**