

# Should Australia lift the legal smoking age to 21?

## What they said...

*'I know for a fact that everybody under the age of 18 gets [tobacco] from family and friends and that is not going to change'*

**Robert Mallett, CEO of the Tasmanian Small Business Council**

*'Over a period of two or three years, smoking rates went down dramatically'*

**The United States Preventing Tobacco Addiction Foundation, commenting on what happened after the first town in America raised the smoking age to 21**

## The issue at a glance

On January 11, 2021, it was announced that in March 2021, Independent Tasmanian MLC, Ivan Dean, would bring on the second reading of the Public Health Amendment (Prevention of Sale of Smoking Products to Underage Persons) Bill. If the bill becomes law, Tasmania will become the first Australian state to lift the smoking age to 21.

<https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672>

On January 1, 2021, the legal age in Singapore for the purchase, use, possession, sale, and supply of tobacco products was raised from the previous 20 years to 21 years.

This was the third and last change to the minimum age requirement under the amendments to the Tobacco (Control of Advertisements and Sale) Act, which were passed in the Singaporean Parliament in November 2017. The minimum legal age was first raised from 18 to 19 years old on January 1, 2019, and from 19 to 20 years old on January 1, 2020.

<https://www.straitstimes.com/singapore/minimum-legal-age-for-smoking-raised-to-21-from-jan-1>

These developments follow an increasingly successful Tobacco21 campaign across the United States. The first American town to lift the smoking age was Needham, a Boston suburb, which claimed a large drop in smoking among young people as a result. After Needham, cities and states across the United States such as New York, California and Hawaii began to raise the age before in December 2019 it was raised across the entire country.

<https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672> Pressure is now being placed on Australian governments from lobby groups similar to the United States Tobacco 21.

Lifting the smoking age has met with the approval of most health authorities; however, some civil libertarians, and others, see it as an unnecessary infringement of citizens' rights and unlikely to be effective. <https://theconversation.com/when-is-a-smoker-an-adult-why-we-shouldnt-raise-the-legal-smoking-age-to-21-56985>

## Background

(Most of the information below has been taken from a background piece published in The Straits Times and titled '21, 18 or 14: A look at the legal age for smoking around the world' The full text can be accessed at <https://www.straitstimes.com/world/21-18-or-14-a-look-at-the-legal-age-for-smoking-around-the-world> )

Legal smoking age

The smoking age is the minimum legal age required to purchase or use conventional tobacco products (excluding vaping materials). Most countries have laws that forbid the sale of tobacco products to persons younger than certain ages, usually the age of majority, which in Australia is 18.

#### Smoking age – 21

Singapore is not the first country to set the age limit at 21. Others include: Honduras (Central America), Kuwait (Middle East), Samoa (Oceania), Sri Lanka (South Asia) and Uganda (East Africa). All these countries are the only ones in their respective region to set the minimum legal age at 21.

Until 2019, the situation was less clear within the United States, where individual states and even cities had raised the minimum purchase age to 21 years of age, while others have maintained it at 18 or 19 years old.

Some of the places where the legal age was set at 21 in the US include New York City (but not the entirety of the state of New York), Boston (but not the entirety of the state of Massachusetts) and Hawaii. In recent years, under the influence of Tobacco21 campaign, increasingly more states had lifted the smoking age to 21.

In California, where Los Angeles and San Francisco are located, an 18-year-old were allowed to smoke but will need to get someone aged above 21 to buy his or her cigarettes.

However, in 2019, federal legislation lifted the smoking age to 21 across the whole country.

<https://www.fda.gov/tobacco-products/ctp-newsroom/newly-signed-legislation-raises-federal-minimum-age-sale-tobacco-products-21#:~:text=On%20Dec.,cigarettes%E2%80%94to%20anyone%20under%2021.>

#### Smoking age – 18

Many countries in the world have the minimum purchase age set at 18. However, the age limit for most does not cover the use and possession of tobacco products. Among the many such countries are Australia, China, India, Russia, Malaysia and Indonesia.

Some notable exceptions include Germany, where the limit applies across the board (as in Singapore), and the United Kingdom, where the minimum smoking age is 16. In Ukraine, it is legal for people to smoke at age 14, although they must be 18 and above to purchase tobacco products.

#### Outliers

Iraq, Palestine and Egypt are among the countries with the lowest stipulated age limit - 14. In three countries - Antigua and Barbuda, Belize (both in the Americas) and Gambia (Africa) - there is no age limit at all.

All alone at the other end of the spectrum is Bhutan, where smoking is illegal regardless of how old you are.

## Internet information

On January 13, 2021, the United States Food and Drug Administration published the latest data on teenage tobacco use indicating that between 2019 and 2020 some 24 percent of high schoolers and 7 percent of middle schoolers were using tobacco products.

The full data can be accessed at <https://www.fda.gov/tobacco-products/youth-and-tobacco/get-latest-facts-teen-tobacco-use>

On January 11, 2021, ABC News posted a report titled 'Tasmania could become the first state in Australia to raise smoking age to 21'

The report detailed that in March 2021, Independent Tasmanian MLC, Ivan Dean, would bring on the second reading of the Public Health Amendment (Prevention of Sale of Smoking Products to Underage Persons) Bill. If the bill becomes law, Tasmania will become the first Australian state to lift the smoking age to 21.

The full text can be accessed at <https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672>

On January 11, 2021, Body and Soul published an article titled ‘Should the legal age for smoking in Australia be raised to 21?’ which considers some of the arguments for and against the proposal.

The full text can be accessed at <https://www.bodyandsoul.com.au/health/health-news/should-the-legal-age-for-smoking-in-australia-be-raised-to-21/news-story/8412427a4f239c9bc1ae4d0fb520872d>

On January 11, 2021, Daily Mail published an article titled ‘Australian state plans to raise the legal smoking age from 18 to 21 - and why the rest of the country could follow’ which considers some of the arguments for and against lifting the age.

The full text can be accessed at <https://www.dailymail.co.uk/news/article-9136539/Australian-state-planning-raise-legal-smoking-age-18-21.html>

On January 7, 2021, The National Library of Medicine published a paper by Dr Yvette Van Der Eijk, School of Public Health, National University of Singapore and Jacinta I-Pei Chen, School of Public Health, National University of Singapore, titled ‘Case for raising the minimum legal age of tobacco sale to 25’.

The authors argue that the neurological predisposition to nicotine addiction of those below 25 makes lifting the smoking age to above this a valuable health strategy.

A summary of this article can be accessed at <https://pubmed.ncbi.nlm.nih.gov/33414266/>

In December 2019, Drug and Alcohol Research Connections published a comment by Dr Robert Tait, National Drug Research Institute, titled ‘Up in smoke: The extraordinary cost of smoking to Australia’ which detailed the health and economic costs associated with smoking. The full text can be accessed at <http://www.connections.edu.au/opinion/smoke-extraordinary-cost-smoking-australia>

On July 24, 2019, the Australian Medical Association’s Media Centre released an article titled ‘Queensland best, NT worst in tobacco control’ which included further actions the federal government could take to reduce smoking in Australia.

The full text can be accessed at <https://ama.com.au/media/queensland-best-nt-worst-tobacco-control>

On March 21, 2019, The Conversation published an article by Robert Kozinets, Jayne and Hans Hufschmid Chair in Strategic Public Relations and Business Communication, USC Annenberg School for Communication and Journalism.

The article is titled ‘How social media is helping Big Tobacco hook a new generation of smokers’ and details the various promotion strategies tobacco manufacturers use to attract young smokers.

The full text can be accessed at <https://theconversation.com/how-social-media-is-helping-big-tobacco-hook-a-new-generation-of-smokers-112911>

On April 3, 2018, The American Sociological Association published research findings from Paula Lantz, Associate Dean for Academic Affairs and James B. Hudak Professor of Health Policy at the Gerald R Ford School of Public Policy at the University of Michigan. Lantz's article is titled 'Tobacco 21' and disputes some of the claims made regarding the initial success of the measure and argues against it from a civil liberties perspective. The full text can be accessed at <https://journals.sagepub.com/doi/10.1177/1536504218767129>

On February 20, 2018, Retail World published an opinion piece by Michelle Park, Imperial Tobacco Australia Limited Communications Executive titled 'Butt out: why raising the legal smoking age won't work'.

The piece argues against lifting the smoking age in Australia and focuses on this as an infringement of the rights of legal adults.

The full text of the comment can be accessed at <https://retailworldmagazine.com.au/future-tobacco-australia/>

On March 30, 2016, The Conversation published an article by Simon Chapman, Emeritus Professor in Public Health, University of Sydney, titled 'When is a smoker an adult? Why we shouldn't raise the legal smoking age to 21'. The article argues against raising the smoking age to 21 based on not reducing the civil rights of smokers.

The full text can be accessed at <https://theconversation.com/when-is-a-smoker-an-adult-why-we-shouldnt-raise-the-legal-smoking-age-to-21-56985>

On March 5, 2016, The New York Times published an editorial titled 'Raise the Legal Age for Cigarette Sales to 21' which argued for California to lift the legal smoking age to 21. (Please note, this is an American argument and some of the arguments raised that refers to a legal driving age of 21 refer to the United States context.)

The full text can be accessed at <https://www.nytimes.com/2016/03/06/opinion/sunday/raise-the-legal-age-for-cigarette-sales-to-21.html>

On August 19, 2015, Science News for Student published an article titled 'Explainer: The nico-teen brain' which outlines why the brains of adolescents may be particularly susceptible to nicotine addiction.

The full text can be accessed at <https://www.sciencenewsforstudents.org/article/explainer-nico-teen-brain>

On April 2, 2015, The Conversation a comment by Micah Berman, Assistant Professor of Public Health and Law, The Ohio State University, titled 'Raising the minimum buying age for tobacco could mean fewer people start to smoke'

The article examines United States data which suggests lifting the smoking age reduces the number of people who take up smoking.

The full article can be accessed at <https://theconversation.com/raising-the-minimum-buying-age-for-tobacco-could-mean-fewer-people-start-to-smoke-39036>

On November 26, 2013, The Atlantic published a comment by Eric Levenson titled 'Raising the Smoking Age to 21 Is Pointless' which argued against Utah lifting the legal smoking age because the action was likely to be ineffective.

The full text can be accessed at <https://www.theatlantic.com/national/archive/2013/11/raising-smoking-age-21-pointless/355497/>

On October 15, 2013, the Annals of Internal Medicine published an article by Dr Michael B. Steinberg and Dr Cristine D. Delnevo titled ‘Increasing the “Smoking Age”: The Right Thing to Do’. The article examines the evidence base which supports the lifting of the legal smoking age.

The full text can be accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5726390/>

The Australian Institute of Health and Welfare (AIHW) has an overview of the health impact of smoking in Australia. The data can be accessed at <https://www.aihw.gov.au/reports-data/behaviours-risk-factors/smoking/overview>

Better Health Victoria has data on smoking and health for Victoria and for Australia as a whole. This can be accessed at

<https://www.betterhealth.vic.gov.au/health/healthyliving/smoking-statistics>

The Australian Council on Smoking and Health (ACOSH) has a variety of information on smoking and health. This can be accessed at <https://www.acosh.org/who-we-help/smoking-in-australia/>

The United States lobby group Tobacco Free Kids has a portion of its Internet site which explains the advantages of lifting the smoking age to 21.

This set of arguments can be accessed at <https://www.tobaccofreekids.org/what-we-do/us/sale-age-21>

## **Arguments in favour of lifting the smoking age to 21**

1. Smoking remains a major health, community, and economic issue in Australia. Supporters of lifting the smoking age in Australia to 21 as a means of discouraging many Australians from taking up the practice stress the enormous damage that smoking causes. They note the great harm that is done to the health of individuals, the shortening of their lives, their loss of enjoyment of life and the impact their diseases have upon their families, friends, associates, medical carers and the community at large. These costs are health based, economic and social.

Tobacco smoking is the single most significant preventable cause of ill health and death in Australia. 36,000 treatment episodes were provided by specialist alcohol and other drug agencies in 2018–19 that involved nicotine as the drug of concern. Tobacco smoke contains over 7,000 chemicals, of which over 70 cause cancer and other diseases.

<https://www.aihw.gov.au/reports-data/behaviours-risk-factors/smoking/overview> In 2011, 18,800 Australians died from smoking-related disease – that is 50 preventable deaths every day. Cancer is the number one cause of smoking-related death and illness in Australia (45 percent of the total burden of disease). Smoking also leads to a wide range of diseases other than cancer including heart disease and stroke, chest and lung illnesses and stomach ulcers. <https://www.cancer.org.au/about-us/policy-and-advocacy/position-statements/smoking-and-tobacco-control> Smoking-related diseases killed over 4,400 Victorians in 2011. That is over three times the number of Victorian deaths due to alcohol in the same year. One in eight Victorians who died as a result of tobacco use were aged in their 30s, 40s or 50s. Death rates from tobacco-caused disease are higher among Aboriginal and Torres Strait Islander people, who are more likely to die from these diseases at a younger age.

<https://www.betterhealth.vic.gov.au/health/healthyliving/smoking-statistics>

Smoking is responsible for the deaths of two-thirds of regular consumers and is responsible for most drug-caused deaths (90 percent). By 2019, smoking-related diseases killed more than 20,000 people every year. Over 750,000 days were spent in hospital in 2004–2005 by

those suffering tobacco-related illnesses which resulted in \$670 million in hospital costs.

<https://www.acosh.org/who-we-help/smoking-in-australia/>

New research released in 2019 by a national team led by National Drug Research Institute (NDRI) estimates that in the 2015-16 financial year, smoking cost Australia \$19.2 billion in tangible costs and \$117.7 billion in intangible costs, giving a total of \$136.9 billion.

The \$19.2 billion 'tangible costs' include \$5.5 billion that smokers spent purchasing cigarettes, \$5 billion in lost productivity and worker absences, \$2 billion for family members caring for someone with a smoking-related disease who effectively contribute to the health budget through their lost earnings, and the cost of 1.7 million hospital admissions to treat smoking-related conditions. Intangible costs, such as the years of life lost from premature deaths in that year or lost quality of life from living with a serious illness, were estimated at a massive \$117.7 billion. <http://www.connections.edu.au/opinion/smoke-extraordinary-cost-smoking-australia>

Further, the health costs associated with smoking increase over time. Cancer and many of the other conditions associated with smoking have long lead times, with an increased risk even if a person stops smoking compared with someone who has never smoked, so in 2015-16 Australia is still seeing the effects of smoking from years and perhaps decades earlier. Some of the increase in costs detected result from increases in the costs of medical care over time for many diseases. In addition, the Australian population has grown and aged; with age being a factor in many of these conditions. Together these offset some of the gains from fewer people smoking. <http://www.connections.edu.au/opinion/smoke-extraordinary-cost-smoking-australia>

Smokers also have major impacts on the health of non-smokers. Health experts note that There is no safe level of exposure to secondhand smoke; even breathing a little can be harmful secondhand smoke exposure can increase a person's risk of developing a wide range of serious diseases and illnesses. It is estimated that more than 600,000 people worldwide die every year because of exposure to secondhand smoke. <https://www.acosh.org/who-we-help/smoking-in-australia/>

2. Lifting the smoking age will reduce the number of people who take up smoking

Those who support lifting the smoking age to 21 argue that this is an important way of reducing the number of people who go on to become long-term or lifelong smokers.

Evidence suggests that lifting the smoking age significantly reduces the number of people who take up smoking. In 2005, the Boston suburb of Needham raised the legal age for purchasing tobacco from 18 to 21. The results were that tobacco use among high school students dropped by almost 50 percent, and Needham's decline in high school smoking rates outpaced those of surrounding suburbs. This prompted other United States cities and states to introduce the same restrictions. <https://theconversation.com/raising-the-minimum-buying-age-for-tobacco-could-mean-fewer-people-start-to-smoke-39036>

One of the reasons offered for why lifting the smoking age reduces the number of smokers is that most smokers take up the habit when young. Therefore, it is argued, if they can be legally assisted to avoid beginning the habit at this vulnerable time in their lives, they are likely never to start smoking at all. The pattern of early onset smoking can be seen around the world. In Australia, in 2016, the average age of initiation in tobacco use was 16.4 years. The prevalence of smoking among adolescents increases with age. In Australia, in 2017, smoking was extremely rare among 12-year-olds, but by the age of 17, 12 percent of males and 9 percent of females were current smokers (i.e., reported having smoked in the past week).

<https://www.tobaccoinaustralia.org.au/chapter-1-prevalence/1-6-prevalence-of-smoking-teenagers#:~:text=Also%20encouraging%20is%20that%20those,and%2015.6%20years%20in%201995>. A similar pattern is seen in the United States, where tobacco product use is

started and established primarily during adolescence. Nearly 9 out of 10 adults who smoke cigarettes in the United States daily first tried smoking by age 18, and 99 percent first tried smoking by age 26. Almost no one starts smoking after age 25. This data clearly demonstrates that if a potential smoker in America has not taken up the habit by 21, he or she will probably not begin smoking. <https://www.hhs.gov/surgeongeneral/reports-and-publications/tobacco/preventing-youth-tobacco-use-factsheet/index.html#:~:text=Use%20of%20multiple%20tobacco%20products,99%25%20started%20by%20age%2026.>

Australian research has suggested that young people have a particular set of life-stage factors that may make them vulnerable to beginning smoking. These include the need to deal with stress, the desire to fit in and susceptibility to peer pressure.

<https://www.health.gov.au/health-topics/smoking-and-tobacco/smoking-and-tobacco-throughout-life/smoking-and-tobacco-and-young-people> Research in Canada has drawn related conclusions. Jennifer O'Loughlin, a Professor at the University of Montreal School of Public Health has argued that since young people are more likely to frequent places where they can consume alcohol, they are more prone to be influenced by other smokers, or at least be more easily tempted. O'Loughlin has stated, 'Since alcohol reduces inhibitions and self-control, it is an important risk factor for beginning to smoke.'

<https://www.sciencedaily.com/releases/2013/09/130917085604.htm> Currently, the legal drinking age and the legal smoking age in Australia are the same. If this nexus can be broken, some health professionals have suggested, fewer young Australians may begin to smoke. Finally, legally prohibiting smoking till the age of 21 may reduce the pool of people willing to supply cigarettes to underage smokers. United States data indicates that 90 percent of cigarettes purchased for underage smokers are supplied by people aged 18 to 20 years who can legally purchase cigarettes. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5726390/> In the United States, the majority (59 percent) of 18- and 19-year-olds have been asked by someone younger than 18 years to buy cigarettes for them. Also, high-school students are less likely to have 21-year-old adults in their social circles than 18- to 20-year-olds, suggesting prohibiting smoking till 21 would reduce the opportunities to access tobacco from older buyers. Disrupting this well-established distribution cycle is a further reason for increasing the legal age for tobacco sales to 21 years.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4202948/>

### 3. Cigarette manufacturers target young potential smokers

Supporters of the smoking age being raised to 21 argue that this would help prevent young consumers, at whom most cigarette smoking promotions are directed, taking up the habit and potentially becoming addicted. They argue that cigarette manufacturers recognise the best way to build a smoking population is to attract young people to the habit who then become addicted users into the future.

Most forms of tobacco advertising and promotion in Australian states and territories have been progressively banned since 1973 by federal and state legislation. However, over this period, tobacco manufacturers have adapted to restrictions by targeting young people through increasing promotions in those areas where advertising is still allowed to occur – through events promotions and via upgraded products and packaging. The Internet has also become an important medium for pro-tobacco messages to young potential smokers.

<https://www.tobaccoinaustralia.org.au/chapter-5-uptake/5-15-tobacco-advertising-and-promotion-targeted-at>

In Australia and overseas, the tobacco industry has targeted young adults by sponsoring a range of events such as fashion shows, dance parties and music events, often staged in bars

and nightclubs. Young adults are of key importance to the industry, providing a pool of experimenters and uncommitted smokers.

Philip Morris Australia promoted its brand Alpine through young designer fashion shows and dance parties between 2000 and 2002; these events were themed in Alpine colours and included roving cigarette sellers dressed in the Alpine colour way. Other events have featured accessories bearing brand logos, new packaging and 'special edition' product configurations, free drinks, and discounts on cigarettes. The events have encouraged participants to sign on to an email database, providing the organisers with client contact details and profiles as well as facilitating publicity about future events. <https://www.tobaccoaustralia.org.au/chapter-11-advertising/11-7-promotion-events>

A 2019 investigation by Robert Kozinets and the Campaign for Tobacco-Free Kids uncovered tobacco companies inviting young social media influencers to parties and events where they were offered cigarettes and encouraged to pose and take photos with floor designs of cigarette brand logos placed strategically. This type of promotion encourages young 'influencers' to share photos of themselves with their many online followers, targeting a new generation of young potential consumers who are often underage and unaware that what they are looking at is effectively a paid advertisement. Although exposure to promotions of this kind may centre around young adults in the first instance, their influence can also be expected to trickle down to younger adolescents and children, who are keen to emulate adult behaviour. <https://www.tobaccoaustralia.org.au/chapter-5-uptake/5-15-tobacco-advertising-and-promotion-targeted-at>

Once traditional media such as television became off-limits to tobacco companies, social media platforms such as YouTube, Twitter, Facebook and Instagram have become a valuable form of relatively unregulated new media through which to attract new consumers. Online tobacco advertising is commonly encountered by young Australians, with almost one-third of the young people surveyed in 2013 reporting having been exposed. Participants of the study who were most likely to have recalled seeing online tobacco advertisements were young (12–15 years old) and/or female. Young non-smokers were also more likely to remember seeing tobacco advertising and branding than were current smokers. Tobacco advertising exposure increased over the time of the study, from 21 percent in 2010 to 29 percent in 2013, with much of the increase being seen via social media, specifically Facebook. At the time of the study, Facebook prohibited advertisements that directly promoted the sale of tobacco products; however, it did not prohibit advertisements that promoted the use of tobacco products. <https://www.tobaccoaustralia.org.au/chapter-5-uptake/5-15-tobacco-advertising-and-promotion-targeted-at>

Engineered products and gimmicks, designed to lure a new generation of customers into becoming addicted to nicotine, are also increasingly being used. These engineered products include 'crush-balls' – tiny plastic balls filled with flavoured liquid that are embedded in the filter of the cigarette – that can be crushed by the smoker to release flavours that make harsh tobacco more palatable to young smokers.

The Australian Secondary School Alcohol and Drug (ASSAD) Survey, conducted by Cancer Council Victoria, found that 48 percent of all underage past-month smokers in Victoria had used cigarettes containing 'crush-balls'.

In 2019, the Royal Children's Hospital National Child Health Poll found that two thirds (65 percent) of parents believe flavoured e-cigarettes encourage teenagers to take up the habit and more than half supported a ban on flavoured e-cigarettes. Most parents also supported improved enforcement of laws that ban advertising and promotion of e-cigarettes and their sales to children.

Australian Council on Smoking and Western Australia's Health Chief Executive, Maurice Swanson, have recently noted that there is currently no legislation in Australia that controls



the contents or design of cigarettes and e-cigarettes. They are looking to develop legislation that prohibits the sale and importation of all tobacco products that contain flavourings including menthol; that prohibits the use of squeeze filter capsules that contain flavourings; and that requires tobacco companies to fully disclose all additives in tobacco products and the purpose for their inclusion. <https://www.cancerwa.asn.au/articles/news-2020/our-kids-must-be-protected-from-the-tobacco-indust/>

In a marketplace where tobacco manufacturers are deliberately using new promotion outlets to attract young smokers, health experts believe that lifting the smoking age may limit the effectiveness of these strategies.

#### 4. Increasing the smoking age is unlikely to foster the black-market tobacco trade

Those pushing for lifting the smoking age argue that there will not be a growth in black market supply of illicit tobacco products as a result.

It is argued that raising the smoking age to 21 would not create sufficient new demand to extend the black market in tobacco products. Smoke Free Tasmania have estimated that on current figures fewer than 1,000 potential new smokers would turn 18 each year, with around three people per day having their 18th birthday. This is both a small and gradual increase unlikely to significantly fuel black market demand. It is also argued that demand is likely to gradually decrease as the difficulties of gaining illegal access to cigarettes discourage increasing numbers of young people from taking up the habit.

<https://www.smokefreetasmania.com/faq-2/> It is further argued that the black market is unlikely to be the first recourse of young people not legally able to buy cigarettes. Research has shown that most young people who currently smoke illegally do not use the black market to gain their supply. Tasmanian figures indicate that among this group some 62 percent 'bot' cigarettes from friends and family. <https://www.smokefreetasmania.com/faq-2/>

It has further been claimed that assertions that the black market in tobacco products in Australia is booming are an exaggeration. Simon Chapman, a tobacco control activist and health academic, has quoted tobacco industry figures which estimate illegal sales constitute only 15 percent of the total market. He has also cited the National Drug Strategy Household Survey which suggests that the figure is only about 2 to 3 percent of the total market.

<https://www.theage.com.au/national/victoria/expensive-as-silver-warnings-criminals-will-cash-in-on-cigarette-price-hikes-20200122-p53tt1.html> The tobacco industry's figures, based on surveys and a range of other data estimates, suggest that in 2018, illicit products including both unbranded tobacco and manufactured cigarettes saw a decline of 15.7 percent and 7.1 percent respectively. [https://www.pmi.com/resources/docs/default-source/australia-market/kpmg-illicit-tobacco-in-australia-2018.pdf?sfvrsn=90c092b5\\_2A](https://www.pmi.com/resources/docs/default-source/australia-market/kpmg-illicit-tobacco-in-australia-2018.pdf?sfvrsn=90c092b5_2A)

A Border Force spokesman has also pointed to several new laws being implemented by Border Force which he claimed had 'had a positive impact on reducing illicit tobacco activity in Australia'. He stated, 'These important law reforms target the importation, possession, purchase, sale and production of illicit tobacco.'

<https://www.theage.com.au/national/victoria/expensive-as-silver-warnings-criminals-will-cash-in-on-cigarette-price-hikes-20200122-p53tt1.html>

On 1 July 2018, the Illicit Tobacco Taskforce (ITTF) was established as part of new reforms intended to tackle the black market in illicit tobacco products. In its first year of operation the ITTF detected and seized more than 262 tonnes of illicit tobacco, with an estimated excise value of more than \$270 million. Such seizures are seen not as an indicator of the growing size of the black market, but as a sign of how effectively it is being combatted.

<https://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Illicit-Tobacco/#ITTF>

More severe punishments are also serving to combat the sale and use of illicit tobacco products. On 16 August 2018, the government passed the Treasury Laws Amendment (Illicit Tobacco Offences) Bill which created a new tobacco offence regime. The tax laws increased the set penalties to a level that provides greater deterrence to illegal activity. Penalties for possessing more than two and less than five kilograms of illicit tobacco include a civil penalty of at least \$44,000. Penalties for possessing over five kilograms of illicit tobacco include a criminal penalty of a prison sentence of up to five years or at least a \$222,000 fine or both. The same penalties apply for selling illicit tobacco. Penalties for manufacturing or producing illicit tobacco include a criminal penalty with a prison sentence of up to 10 years or at least a \$333,000 fine or both. <https://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Illicit-Tobacco/#Penalties> Supporters of lifting the smoking age to 21 argue that the severe punishments in place for those who obtain tobacco products illegally would make this very unattractive to young people.

#### 5. Lifting the smoking age is not age discrimination

Those who support a smoking age of 21 argue that lifting the age at which it is lawful to smoke is not prohibited by anti-discrimination legislation. They further argue that such age-dependent limitations have a protective and public health purpose and finally note that the heightened addictive effects of nicotine on the adolescent brain may make it far harder for the smoker below 21 to exercise adult judgement and choose not to continue smoking.

Legally in Australia, age and other restrictions placed on smokers are not regarded as discrimination. Federal, State and Territory laws prohibit age discrimination specifically make exemptions for laws in relation to 'liquor licensing, tobacco [sale], driving licences etc.' <https://humanrights.gov.au/our-work/legal/age-discrimination-legislation> The Australian Human Rights Commission has endorsed such exemptions.

<https://humanrights.gov.au/our-work/legal/age-discrimination-legislation> In addition to this, the federal Age Discrimination Act makes it legal to discriminate in the implementation of 'certain health and employment programs' <https://humanrights.gov.au/our-work/employers/age-discrimination> Both these bases for allowing age discrimination would permit Tasmania (and other States and Territories) to lift the legal smoking age.

As explained by Victoria Legal Aid, discrimination means being treated unfairly or not as well as others because of a nominated characteristic like age, sex, gender identity, race, or disability. <https://www.legalaid.vic.gov.au/find-legal-answers/discrimination-harassment-and-bullying/discrimination-and-victimisation> Supporters of lifting the legal smoking age to 21 argue that legislation that is put in place to protect a certain section of the community (such as protecting those aged between 18 and 21 from the dangers associated with smoking tobacco products) should not be described as an unjust or unfair restriction of the rights or freedoms of that section of the community.

Workplace Fairness, a body which seeks to explain and protect employees' rights, has looked at the limitations imposed on smoking in the workplace. Many of the same justifications can be used to validate age restrictions on smoking. Workplace Fairness states, 'Most states have some laws that protect smokers from discrimination. However, due to the health hazards related to smoking, smokers are not completely protected in the same way that non-smokers are.' This comment acknowledges that the health dangers associated with smoking mean that it is not treated in the same way as many other activities and that legal anti-discrimination measures do not apply. <https://www.workplacefairness.org/smoking-rights-workplace#1>

Opponents of lifting the smoking age to 21 argue that doing so denies the legal maturity of those aged 18 and above. Simon Chapman, Emeritus Professor in Public Health at the University of Sydney in a comment published in The Conversation on March 30, 2016, noted that what was important was to recognise the 'sentience and responsibility' of those

aged over 18. That is, they are assumed to be old enough to make reasonable choices and to deal with the consequences of their choices. <https://theconversation.com/when-is-a-smoker-an-adult-why-we-shouldnt-raise-the-legal-smoking-age-to-21-56985>

Opponents of this view argue that tobacco consumption is an activity where this assumption of rational and reasonable choice does not apply. One of those opposing access to tobacco at 18 replied to Professor Chapman by stating, ‘The difference between smoking and the other behaviours you mention is that none of them are addictive, whereas cigarettes are.’

<https://theconversation.com/when-is-a-smoker-an-adult-why-we-shouldnt-raise-the-legal-smoking-age-to-21-56985> What this implies is that the addictive qualities of nicotine mean that a young adult may lose the capacity to act on their subsequent rational desire to stop smoking.

The development and maturation of the prefrontal cortex occurs primarily during adolescence and is fully accomplished at the age of 25 years. The development of the prefrontal cortex is very important for complex behavioral performance, as this region of the brain helps accomplish executive brain functions.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/#:~:text=The%20development%20and%20maturation%20of%20the%20prefrontal%20cortex%20occurs%20primarily,helps%20accomplish%20executive%20brain%20functions.>

It has been suggested that the adolescent brain may be particularly susceptible to nicotine addiction. Two sets of research conducted in 2000, and another in 2007, have indicated that adolescent brains are particularly vulnerable to nicotine addiction. Adolescents report symptoms of dependence even at low levels of cigarette consumption. The most susceptible youth lose autonomy over tobacco intake within one or two days of first smoking. Among adolescents the appearance of tobacco withdrawal symptoms and failed attempts to stop smoking can precede daily smoking dependence and appear even before consumption reaches two cigarettes per day. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3543069/>

Richard J. Bonnie, Harrison Foundation Professor of Medicine and Law and director of the Institute of Law, Psychiatry, and Public Policy at the University of Virginia in Charlottesville, has stated, ‘While the development of some cognitive abilities is achieved by age 16, the parts of the brain most responsible for decision making, impulse control, and peer susceptibility and conformity continue to develop until about age 25.

A balance needs to be struck between the personal interests of young adults in being allowed to make their own choices and society’s legitimate concerns about protecting the public health and discouraging young people from making decisions they may later regret, due to their vulnerability to nicotine addiction and immaturity of judgment.’

<https://www.nationalacademies.org/news/2012/03/raising-minimum-age-to-buy-cigarettes-to-at-least-21-will-reduce-smoking-prevalence-and-save-lives-says-iom>

## **Arguments against lifting the smoking and vaping age to 21**

### **1. Lifting the smoking age to 21 is unnecessary**

Those who oppose lifting the legal smoking age to 21 claim that this is unnecessary as Australia has been highly successful in reducing smoking rates by other means and this age cohort are not at significantly greater risk.

Early data from the Anti-Cancer Council of Victoria show that, in the 1950s, over 50 percent of Australian males aged 16 and over were smokers, compared to about one-quarter of females. By the 1970s, smoking among men declined, probably in response to the initial publicity regarding the health effects of smoking, which first emerged in the 1950s and early 1960s. Women’s smoking prevalence has always been lower than men’s, but smoking among

women continued to increase in the 1970s. <https://www.tobaccoinaustralia.org.au/chapter-1-prevalence/1-3-prevalence-of-smoking-adults>

The prevalence of smoking further declined for both men and women between the 1980s and 1998, with the most dramatic drop occurring among males between 1983 and 1986, when prevalence decreased by approximately 15 percent. After a relatively static period in the 1990s, the decline resumed for both sexes after 1998. Data from the National Drug Strategy Household Survey shows that since 2001, there has been a statistically significant decline in the prevalence of smoking for men and women. Between 1995 and 2013 there was a decline of 48 percent in the proportion of the population who smoked.

<https://www.tobaccoinaustralia.org.au/chapter-1-prevalence/1-3-prevalence-of-smoking-adults>

The latest data from the National Drug Strategy Household Survey (NDSHS) estimated that 11.6 percent of adults smoked daily in 2019. This daily smoking rate has declined from an estimated 12.8 percent in 2016 and has halved since 1991.

Similarly, data from the National Health Survey (NHS) 2017–18 show that smoking rates declined steadily over the nearly three decades to 2017–18 and, after adjusting for age, the proportion of adults who are daily smokers has halved since 1989–90.

<https://www.aihw.gov.au/reports/australias-health/tobacco-smoking> Between 2016 and 2019 the proportion of never-smokers (fewer than 100 cigarettes smoked in a lifetime) increased to an all-time high of 63.1 percent across all age groups, 76.4 percent in 18–29-year-olds and 96.6 percent in 14–17-year-olds. <https://www.phrp.com.au/issues/september-2020-volume-30-issue-3/time-to-re-energise-tobacco-control-in-australia/> Over 15 years (2002 to 2017), the proportion of secondary school students who smoked declined significantly. While 9 percent of secondary school students 12 to 17 were smoking in 2002, in 2017 this had decreased 4-fold to 2 percent. <https://www.aihw.gov.au/reports/children-youth/australias-children/contents/health/smoking-and-drinking-behaviour> In 2017, among 16- to 17-year-olds, 9 percent were current smokers; the smoking rate for males was 10 percent and for females 9 percent. [https://criticschoice.quit.org.au/page.asp?ID=quit\\_critics-choice-smoking-in-australia](https://criticschoice.quit.org.au/page.asp?ID=quit_critics-choice-smoking-in-australia) Less tobacco addiction among younger Australians has been a key driver in reduced smoking prevalence in this country. There are those who claim that this low rate of smoking among Australia's young suggests that lifting the smoking age to 21 may not be necessary, as smoking behaviour is being reduced via other means.

Many factors have contributed to Australia's success in reducing the number of its citizens who take up smoking or who continue to smoke. Some important measures have been increasing taxes on tobacco products which have dramatically increased the price and social marketing campaigns focusing on health warnings. The later includes plain packaging and graphic health warnings on every pack. Laws that have substantially reduced sales to minors also appear to have contributed to declines in teenage smoking both in Australia and other countries. <https://www.tobaccoinaustralia.org.au/chapter-2-consumption/2-10-factors-driving-reductions-in-tobacco-consump> Comprehensive legislation concerning smoke-free enclosed public places has been enacted in Victoria in 1987, the Australian Capital Territory (ACT) (1994), Western Australia (1999), New South Wales (2000), Tasmania (2001), Queensland (2002) and the Northern Territory (2003). Such measures reduce the opportunities for all citizens to smoke and do not focus exclusively on those aged between 18 and 21. Simone Dennis, an associate professor at Australian National University, says a culture of shame surrounding smoking has begun to emerge, and that itself has become a smoking deterrent. <https://www.bbc.com/news/magazine-38733502>

President of the Australian Medical Association, Tony Bartone, has stated, 'Australia is a world leader in tobacco reduction [and] targeting cohorts where smoking rates are high will hopefully see smoking targets met.' <https://www.abc.net.au/news/2019-08-17/anti-smoking->

[crusaders-criticise-government-plan-to-cut-smoking/11423438](#) Critics of lifting the smoking age to 21 argue that Australians aged between 18 and 21 are not an appropriate target group as they do not form a significantly high proportion of those who smoke.

2. There is no clear evidence that lifting the smoking age to 21 will result in a decline in smoking

Critics of lifting the smoking age to 21 argue that there is insufficient evidence to justify that this measure reduces smoking. This concern has been raised in the United States, where lifting the smoking age to 21 has now been adopted across the country.

In 2018, Sage Journal published an article by Paula Lantz, Associate Dean for Academic Affairs and James B. Hudak Professor of Health Policy at the Gerald R Ford School of Public Policy which argued that there was to this point limited evidence of the effectiveness of lifting the smoking age to 21. Professor Lantz wrote, ‘Despite widespread support and rapid diffusion, the Tobacco 21 policy is not without concerns. There is a lack of empirical evidence regarding its public health impact...’

Tobacco 21 is a public policy that has been spreading quickly without an empirical evidence base. To date, there have been no experimental or time-series studies of its impact in the United States or elsewhere.’ <https://journals.sagepub.com/doi/10.1177/1536504218767129>

In 2016, the New England Journal of Medicine (NEJM) reported that there has been only one study of a Tobacco 21 policy to that point: An evaluation of the 2005 law change in Needham, Massachusetts, reported a 47 percent decline in smoking among high school students after implementation. This statistic was based on self-reported data from high school students in the area. Self-reported data is often considered unreliable because there is likely to be a bias in the sample. For example, more students who stopped smoking may have reported their behaviour than students who kept smoking.

<https://journals.sagepub.com/doi/10.1177/1536504218767129>

This research based on results from Needham has been criticised for other flaws. These include that Needham simultaneously implemented additional anti-smoking activities along with the Tobacco 21 policy. This means that is not possible for researchers to determine why the smoking rate among those aged between 18 and 21 fell. Was it because of the smoking age being lifted to 21? Was it because of the other reforms that were put in place? Or, was it because of a combination of these factors. Another concern is that the study did not address the impact on 18–20-year-olds. In addition, caution is needed when generalising public policy results from a small, racially homogenous, and wealthy Boston suburb to other populations and jurisdictions. That is, Needham may simply not have been representative enough of the rest of the United States for the results that were achieved there to be expected elsewhere.

<https://journals.sagepub.com/doi/10.1177/1536504218767129>

In an article published in Reason on July 25, 2017, Christian Britschgi expressed similar reservations about the apparent success of Needham in reducing youth smoking. Britschgi noted the criticisms made in 2015 by an Institute of Medicine study which stated, ‘Although Needham...has been cited as having seen significant declines in tobacco use and tobacco-related disease, there are no published data on these outcomes.’ The paper further explained that no baseline data exists for Needham prior to the town raising the smoking age. That is, the smoking data from Needham before the town changed its laws did not exist in enough detail to make a comparison with what occurred after the law change.

<https://reason.com/2017/07/25/dont-buy-the-hype-about-an-increased-smo/>

Britschgi further observed that teen smoking has fallen across the United States independently of whether jurisdictions raise their smoking age. In 2005—just as Needham was getting its ban up and running—some 50 percent of American high school seniors had reportedly tried tobacco. By 2015 that figure had fallen to 31 percent according to the

University of Michigan's Monitoring the Future study. The number who have smoked in the last 30 days is down even more, from 23 percent to 11.4 percent, the lowest the rate has ever been in the University of Michigan's data. As critics of the Tobacco 21 scheme note, these achievements are not dependent on lifting the smoking age.

<https://reason.com/2017/07/25/dont-buy-the-hype-about-an-increased-smo/>

### 3. Lifting the smoking age to 21 will encourage illegal purchases and increase the black market in tobacco products

Those who oppose lifting the smoking age to 21 argue that smokers who can no longer legally obtain cigarettes will resort to illegal means, especially through black-market suppliers.

There have been widespread claims that lifting the smoking age to 21 will only direct these smokers to illegal sources for their supply. Michelle Parker, a communications spokesperson for Imperial Tobacco Australia has stated, 'Demand for tobacco will not be reduced by increasing the legal smoking age. These adults will instead search either for a new method of supply or, more likely, avail themselves of an existing alternative, such as the black market. Illicit tobacco is readily available nationwide. Criminals selling illegal tobacco will sell to anyone of any age.'

<https://retailworldmagazine.com.au/future-tobacco-australia/> The concern that a change in the smoking age will merely feed the black market in illegal tobacco products has been expressed by many around the world. Bill Dombrowski, president of the California Retailers Association, has suggested that raising the smoking age would simply drive young people to the black market. He has claimed, 'If you raise the age, people under 21 will find the cigarettes somewhere else.'

<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/10/14/should-the-smoking-age-be-21-some-legislators-say-yes> Those who warn of the likelihood that lifting the smoking age will simply drive smokers onto the black market point to the large number of smokers who already buy their tobacco products from this source. In 2015, when Tasmania first considered lifting the smoking age to 21, Scott McIntyre, a spokesperson for British American Tobacco Australia, cautioned that 14 percent of tobacco purchased in this country was already coming from the black market.

<https://www.abc.net.au/news/2015-11-24/labor-aware-cigarette-price-rise-will-hurt-the-poor-bowen-says/6968898> Six years later, under the influence of further tax increases driving up the cost of cigarettes, it has been noted that illegal tobacco sales are still growing. A KPMG International Limited report estimates that more than 20 per cent of all tobacco consumed in Australia is illicit.

<https://9now.nine.com.au/a-current-affair/the-illegal-imports-allegedly-sold-at-local-aussie-stores-seized-by-police/46284bb8-ed5f-482b-85da-b0b6efe0e921#:~:text=And%20the%20statistics%20are%20staggering,lost%20revenue%20for%20the%20government>. This statistic has been affirmed by the founder of Australia's Border Force, Rohan Pike, who has claimed that one in five cigarettes smoked in Australia is now illegal. Pike has stated that normally law-abiding citizens from lower socio-economic backgrounds have been pushed into buying cheap imported 'chop chop' because they cannot afford Australia's 'exorbitant tobacco excise, which is now the highest on tobacco in the world'.

<https://www.watoday.com.au/national/western-australia/black-market-cigarettes-a-growing-boom-trade-in-wa-warns-ex-top-border-cop-20210121-p56vzf.html> Concern has been expressed that the lower price at which illegal tobacco products are sold may act as an incentive for young smokers to keep smoking. Rohan Pike has stated, 'Criminal syndicates are preying on this addiction by smuggling cheap tobacco, largely from Indonesia, Malaysia and China, over our borders, selling it on the streets and in stores for sometimes half the cost of legal tobacco.'

<https://www.watoday.com.au/national/western-australia/black-market-cigarettes-a-growing-boom-trade-in-wa-warns-ex-top-border-cop-20210121-p56vzf.html> British American Tobacco Australia's spokesperson, Scott McIntyre,

has indicated that all that may be happening through Australia's efforts to reduce smoking is that many people are now smoking illegally and at a lower price. McIntyre has stated, 'If the goal is to quit ... you are not actually making people quit, you are just essentially having people smoking the same, but paying less for it.' <https://www.abc.net.au/news/2015-11-24/labor-aware-cigarette-price-rise-will-hurt-the-poor-bowen-says/6968898> A similar point has been made by Andrew Gregson, Imperial Tobacco's Australian head of corporate and legal affairs. Gregson has argued that the bill to lift the smoking age in Australia is unenforceable and claimed it would result in young people buying tobacco online or on the black market. Mr Gregson has stated, 'It will merely shift tobacco demand and supply onto other channels.' <https://www.abc.net.au/news/2015-03-17/tobacco-retailers-lobby-against-generational-ban-on-cigarettes/6327004> The growing popularity of 'chop chop', illegally grown or imported raw tobacco, is indicated by the increase in the number of Australian smokers who are rolling their own. The percentage of Australian smokers using raw tobacco rose from 26 per cent in 2006 to 36 per cent in 2016.

<https://www.dailymail.co.uk/news/article-7914363/The-hacks-Australians-using-buy-10-cigarettes-prices-rise-nearly-50-packet.html>

It has further been claimed that the Internet makes ordering and receiving illegal tobacco products far easier than it once was. A United States study conducted in 2016 found that minors ordering online received cigarettes from 32.4 percent of purchase attempts, all delivered by the United States Postal Service (USPS) from overseas sellers. None failed due to age or ID verification. All failures were due to payment processing problems. USPS left 63.6 percent of delivered orders at the door with the remainder handed to minors with no age verification. <https://pubmed.ncbi.nlm.nih.gov/27413060/>

#### 4. Lifting the smoking age to 21 undermines the civil liberty of those over 18

Many opponents of lifting the smoking age to 21 argue that this is a serious infringement of the rights of legal adults who should be able to decide for themselves if they wish to smoke. Opposition to lifting the smoking age in Tasmania has come from civil libertarians and others who are concerned that such a law strips away the rights of legal adults. An online survey of one thousand Tasmanians conducted in 2016 found that half of those surveyed believed that raising the smoking age would infringe civil liberties.

<https://www.themercury.com.au/news/tasmania/smokers-willing-to-break-law/news-story/6d5441dd588d820a158fea5138a656a9>

This view has been expressed by a range of Australian ethicists and social commentators, including some public health experts. On March 30, 2016, The Conversation published a comment by Simon Chapman, Emeritus Professor in Public Health at the University of Sydney, titled 'When is a smoker an adult? Why we shouldn't raise the legal smoking age to 21'. Professor Chapman has written, 'An argument often put against raising the legal smoking age to 21 is that the legal adult age for many significant rights is 18. At 18 you can vote, sign contracts, get married without parental consent, join the armed forces, be held criminally responsible for your actions, and serve custodial sentences in adult jails.' <https://theconversation.com/when-is-a-smoker-an-adult-why-we-shouldnt-raise-the-legal-smoking-age-to-21-56985> Professor Chapman explains further that if young people are believed to be capable of exercising personal responsibility in all these other aspects of their lives, then the same standard should be applied to their decisions regarding taking up smoking. He stated, 'The argument here is that in all these areas sentience and responsibility are assumed. The freedoms involved carry consequences (both positive and negative) for which those engaging in those freedoms should take personal responsibility. I find that argument pretty hard to disagree with.'

<https://theconversation.com/when-is-a-smoker-an-adult-why-we-shouldnt-raise-the-legal-smoking-age-to-21-56985>

There are many within the United States who are equally opposed to lifting the smoking age to 21, a public health strategy referred to there as Tobacco 21, on the basis that it takes away the rights of legal adults to make decisions about their actions. In 2018, Sage Journal published an article by Paula Lantz, Associate Dean for Academic Affairs and James B. Hudak Professor of Health Policy at the Gerald R Ford School of Public Policy at the University of Michigan, in which she argued against lifting the smoking age to 21 as a civil liberties issue. Professor Lantz stated, ‘Young adults [those aged 18 and above] can legally get married, serve in the military, purchase property, and make a plethora of other adult decisions; nonetheless, Tobacco 21 would prohibit them from purchasing (but not using) tobacco products.’ <https://journals.sagepub.com/doi/10.1177/1536504218767129> Professor Lantz criticises prohibiting those 18 to 20 from smoking as an example of paternalism, the limiting of the rights of the individual in the belief that governments are better placed to make decisions, especially health or safety decisions for the individual. Professor Lantz has argued, ‘The growth in public policies that infringe upon personal behaviors and choices that are not related to infectious disease or otherwise do not directly affect others has fueled “nanny state” concerns...Some view Tobacco 21 in the same paternalistic light as other public health policies that restrict adult personal choice, such as mandatory helmet laws, regulatory limits on restaurant portion sizes, bans on trans fats, and sugar-sweetened beverage taxes.’

<https://journals.sagepub.com/doi/10.1177/1536504218767129>

A similar point of view was adopted by Paul Hsieh, who despite being a physician with a long-standing interest in public health, opposes lifting the smoking age to 21. Hsieh is the co-founder of Freedom and Individual Rights in Medicine. In a comment published in Forbes on May 28, 2019, Hsieh stated, ‘As a physician, I think smoking is a terrible and foolish idea. But as an American, I respect and defend every adult’s right to make that decision for themselves. (This is analogous to respecting and defending everyone’s right to free speech, even if some people exercise that right to express foolish or offensive opinions.) Your life is yours to live...Don’t let anyone tell you otherwise.’

<https://www.forbes.com/sites/paulhsieh/2019/05/28/if-18-year-olds-can-fight-for-their-country-they-should-be-able-to-smoke-a-cigarette/?sh=14081680170a>

##### 5. There are other more effective ways to reduce smoking

Those opposed to lifting the smoking age to 21 question the effectiveness of this measure and argue that there are better ways of reducing the prevalence of smoking in Australia.

In 2015, when Tasmania first proposed lifting the smoking age in the state to 21, public health experts warned that other measures were more urgently needed to reduce national smoking rates, including better enforcing the current legal smoking age. The Australian Medical Association’s then president, Professor Brian Owler, stated, ‘Prohibition has not been shown to be particularly effective as many young people under 18 still have access (to tobacco).’ <https://www.smh.com.au/national/doctors-say-raising-raising-legal-age-for-smoking-wont-work-20151221-glsocy.html>

Greg Barns, barrister and criminal justice spokesperson, has also doubted the effectiveness of prohibition, stating, ‘All you’re going to do is get people who are 21, 22, or with fake ID, going into shops and buying cigarettes and distributing them.’ <https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672>

Professor Owler claimed that adding health warnings to movies and television shows that displayed smoking and regulating the sale of e-cigarettes to young people would better reduce smoking. He stated, ‘We’ve got to keep getting the message out there, using other levers like price and taxation and at the end of the day trying to deter people taking smoking up.’ The Professor further suggested that assisting people to quit smoking would be a



valuable measure. He proposed subsidizing some of the more expensive Nicotene therapies on the Pharmaceutical Benefits Scheme. <https://www.smh.com.au/national/doctors-say-raising-raising-legal-age-for-smoking-wont-work-20151221-glsocy.html>

Critics of further prohibition have argued that there is little point in extending the smoking age to 21 when there are still young people taking up smoking under the current legal age of 18. They claim that what is required is more effective enforcement of the regulations that currently exist. Maurice Swanson, president of the Australian Council on Smoking and Health, has stated, 'If we could ensure no retailer in Australia sold tobacco to a child ... that would put an even bigger dent (in the youth smoking rate).'

<https://www.smh.com.au/national/doctors-say-raising-raising-legal-age-for-smoking-wont-work-20151221-glsocy.html> In 1996, it was reported that 38 per cent of Australian students who smoked obtained their own cigarettes through illegal sales from retail outlets such as milk bars, corner stores, petrol stations and supermarkets.

<https://www1.health.gov.au/internet/publications/publishing.nsf/Content/tobacco-res-access-minors~tobacco-res-access-minors-overview> By 2017, the percentage of underage smokers buying cigarettes had fallen; however, health experts still regard illegal, under-age, cigarette purchase to be a significant problem. In 2017, most (84 percent of) Australian secondary school students who currently smoke (smoke at least weekly) did not buy their last cigarette themselves. The most common way Australian adolescents accessed cigarettes was through friends (48 percent of current smokers aged 12–17), followed by purchasing the cigarettes themselves (16 percent of current smokers aged 12–17) and asking someone else to buy them (15 percent of current smokers aged 12–17). The likelihood of having made a personal purchase increased with age, from about 8 percent of 12–15-year-olds, to about 21 percent of 16–17-year-olds. <https://www.tobaccoinaustralia.org.au/chapter-5-uptake/5-21-reducing-tobacco-access-and-supply> This last figure of 21 percent of 16–17-year-olds buying the cigarettes they smoked indicates a significant enforcement problem which critics argue must be addressed before governments could even consider increasing the legal smoking age further. Stafford Sanders, who, in 2009, coordinated a coalition of pressure groups called Protecting Children from Tobacco has claimed that convenience stores and service stations were some of the 'worst offenders' when it came to the places where underage teens and children could obtain cigarettes. <https://www.smh.com.au/national/underage-smoking-should-be-illegal-20091110-i5kn.html> It has been noted that in some states in the United States which had introduced laws to lift the smoking age to 21, the move had only served to highlight the inadequacy of the enforcement measures that were in place. Findings from New York City showed no increase in ID checks following the new law.

<https://www.tobaccoinaustralia.org.au/chapter-5-uptake/5-21-reducing-tobacco-access-and-supply>

It has further been noted that controlling distribution outlets is another important but neglected measure that is necessary to reduce adolescent smoking. United States research has indicated that areas that are more densely populated with tobacco retailers may promote adolescent smoking not only by increasing access but also by increasing the promotions to smoke within the local environment. A 2018 meta-analysis exploring the association between tobacco outlet density arounds homes and schools and adolescents' past-month cigarette smoking found higher tobacco outlet density around homes was associated with significant increased odds of past-month smoking. The researchers illustrated that for each subsequent tobacco outlet near adolescents' homes the odds of having smoked in the past month increased 8 percent. <https://www.tobaccoinaustralia.org.au/chapter-5-uptake/5-21-reducing-tobacco-access-and-supply>

Critics of lifting the smoking age to 21 argue that there are other measures that must be taken to control the distribution and availability of cigarettes that are more important.

## Further implications

It is difficult to determine whether the Public Health Amendment (Prevention of Sale of Smoking Products to Underage Persons) Bill will be passed by the Tasmanian Parliament in March 2021.

At the end of 2015, a similar Bill had been proposed in Tasmania. By July 2016, the Tasmanian government had decided not to proceed with it. Tasmania's then Health Minister, Michael Ferguson, stated, 'As I said at the time we released the proposal for consultation, it is a challenging proposal involving a balance of preserving individual adult rights and freedom of choice with the desire to reduce youth smoking...

We have consulted widely on the concept after having included it in the Healthy Tasmania Consultation Draft and have come to the view that it is not an appropriate response at this time.' <https://www.abc.net.au/news/2016-07-28/tas-government-backs-away-from-increasing-legal-smoking-age-25/7670186>

Then, as now, the proposal had been opposed by civil liberties groups and by the business community. This time the government has been careful to argue that the prohibition would have limited impact on small businesses selling cigarettes. Kathryn Barnsley, a spokesperson for Smoke Free Tasmania has claimed that studies have shown that most young people buy cigarettes from supermarket, which means that the proposed change in the law would not affect small businesses significantly. <https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672>

Again, however, the Tasmanian Small Business Council does not accept the proposal to lift the legal smoking age. The chief executive officer of the Council, Robert Mallet, has stated, 'I know for a fact that everybody under the age of 18 gets [tobacco] from family and friends and that is not going to change.' <https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672> Mr Mallet further stated, 'Lifting the legal smoking age to 21, and demonising small businesses who already do the right thing by not selling cigarettes to young people, won't [stop some young people smoking].

<https://acapmag.com.au/2019/10/tasmanian-small-business-council-comes-out-swinging-in-smoking-age-debate/>

More controversially, Mallet has suggested that a more effective means of reducing smoking among all ages would be to make e-cigarettes more readily available. Mallet has stated, 'Australia is one of the few places in the world not to have regulated and legalised its use which is a crying shame because harm reduction experts throughout the world recognise that vaping a nicotine liquid is significantly less harmful than burning tobacco paper and smoking it through a filter.' <https://www.abc.net.au/news/2021-01-11/legal-smoking-age-of-21-in-tasmania-increase-laws/13045672>

Mr Mallet has stated further, 'Regulation of the sale and use of smoke-free products in Tasmania would allow responsible local small retailers that already sell tobacco products in to reduce their sales of traditional cigarettes, without negatively affecting their economic viability.' <https://acapmag.com.au/2019/10/tasmanian-small-business-council-comes-out-swinging-in-smoking-age-debate/>

The recent federal legislation in the United States lifting the smoking age across the country to 21 seems to have emboldened Tasmania's politicians to reconsider the Tasmanian proposal. This time there does not appear to have been the same degree of community consultation as occurred in 2015-2016. There now seems to be a general belief that the issues have already been well canvassed both among parliamentarians and within the general community. Leader of Government Business in the Legislative Council, Leonie Hiscutt, said the government supported the motion, citing the fact that Tasmania remains above the

national average for smoking rates. <https://www.examiner.com.au/story/6499748/tobacco-inquiry-move-fails/>

Whatever the outcome, there seems to be a general desire for the Bill to be put before the parliament. Robert Mallett said the bill needed to be brought on for debate as soon as possible to remove uncertainty from the retail sector.

<https://www.examiner.com.au/story/6499748/tobacco-inquiry-move-fails/> It will be interesting to see whether the Tasmanian Small Business Council will attempt to have the state liberalise its approach to e-cigarettes, irrespective of what becomes of the bill to lift the smoking age.

Should Tasmania decide to raise the smoking age to 21, the next question will be whether other states will follow its lead. The long-term success of this proposal both in Tasmania and across Australia will in part depend on whether lifting the smoking age in the United States delivers the reduction in smoking rates that have been promised.