

Tobacco Control Legislation (Amendment) Bill 2025

Debate and voting arrangements

- Object of the Bill: To amend certain Ordinances and their subsidiary legislation to implement **eight** out of the ten tobacco control measures announced by the Administration in June 2024, including:
- (1) implementing a duty stamp regime for tobacco;
 - (2) increasing the penalties for offences relating to tobacco to which duty is not paid;
 - (3) prohibiting the provision of alternative smoking products (“ASPs”) to underage persons and prohibiting the possession of specified alternative smoking products;
 - (4) adjusting the packaging requirements for conventional smoking products (“CSPs”);
 - (5) extending no smoking areas (“NSAs”) and prohibiting smoking while queuing to board public transport carriers or to enter certain places, etc;
 - (6) prohibiting the provision of CSPs to underage persons;
 - (7) increasing and introducing fixed penalties for certain smoking-related offences; and
 - (8) prohibiting the sale of CSPs that contain specified additives (e.g. flavourings) (“flavoured cigarettes”), and introducing a regime for issuing certificates for CSPs (“certification regime”).

Joint debate : **Clauses with no amendments, clauses and long title with amendments, as well as new headings and new clauses proposed by the Secretary for Health (“SH”), Hon SHIU Ka-fai and Hon LEE Chun-keung**

— **Clauses 1 to 72, the headings of Subdivisions 1 and 2 of Division 1 as well as the headings of Subdivisions 1 and 2 of Division 2 of proposed new Part 4, clause 23A, the heading of Division 2A of Part 8, clause 57A, the headings of Divisions 1 and 2 of Part 9, clauses 65A, 66A, 68A and 73 as well as the long title**

Joint debate on the original clauses and the amendments (including the proposed new headings, new clauses and amendments to the long title).

I. Commencement arrangements of the Bill and regulations

Hon SHIU Ka-fai’s Group 1A amendments

(Clause 1)

- To amend subclauses (2), (3)(b) and (3)(e) of clause 1 and add subclause (6) to provide that SH should **make subsidiary legislation on the following matters** by way of “**positive vetting**” (instead of “negative vetting”): commencement notices in respect of the **duty stamp regime, adjustment of the packaging requirements for CSPs, and the implementation of the certification regime.**

Hon SHIU Ka-fai's Group 1B amendments

(New clause 73)

- To add new clause 73 (add subsection (3) to section 18 of the Smoking (Public Health) Ordinance (Cap. 371)) to provide that SH should **make subsidiary legislation relating to the packaging requirements for CSPs and the certification regime** by way of **“positive vetting”** (instead of “negative vetting”).

SH's Group 1 amendments

(Clause 1 under this group)

- To amend subclauses (3) to (5) of clause 1 to provide that provisions relating to the following arrangements shall **take effect from the date of gazettal of the enacted Ordinance**: (a) **prohibiting the provision of CSPs and ASPs to persons aged below 18** and the relevant fixed penalties; (b) empowering the Director of Health to **specify clinic or health centre** by notice for **extending NSAs**; (c) empowering the Tobacco and Alcohol Control Inspectors (“TACIs”) to issue fixed penalty notices for new scheduled offences, and **adding** a new category of public officers namely **“Market Supervision Assistant”** to support enforcement; (d) empowering SH to make subsidiary legislation on the packaging requirements for CSPs and the relevant technical amendments; and (e) empowering SH to **provide for the certification regime**.

II. Prohibition on the sale of flavoured cigarettes and implementation of the certification regime

SH's Groups 2 and 4 amendments

(The heading of Part 9, clauses 64, 67 and 68, and the headings of Divisions 1 and 2 of the proposed new Part 9 and clauses 65A and 68A)

- To amend clause 67(2) (amend proposed new section 18(1)(cc) of Cap. 371) to, in case of withdrawal of CSPs by **suppliers in the event of suspension and cancellation of the certificates**, **empower SH to provide for the effect of such withdrawal**.
- To amend clause 64, adding proposed new section 10AAD(1A) to Cap. 371, to provide that if any product designed for **imparting a flavouring to a CSP is for export from Hong Kong**, and is held by the manufacturer or importer of that product, it **will not be subject to the requirements of the prohibition on sale in respect of such product under section 10AAD(1)**.
- To add proposed new section 10B to Cap. 371 to **empower TACIs to, for the purpose of implementing the ban on flavoured cigarettes, enter a place that is used for the storage or sale of CSPs at any reasonable time to take samples of CSPs**.
- To amend Part 1 of the proposed new Schedule 10 to Cap. 371 to bring its presentation more in line with the relevant Canadian regulations, including **adopting a formulating approach of not categorizing “specified additives” by their purpose of use, explicitly stating the exclusion of the following substances: (a) mineral nutrients necessary to manufacture CSPs; and (b) starch in vegetable extracts**. In addition, **two menthol-related substances will be added to Part 2 of Schedule 10 to facilitate the implementation of the ban on nonmenthol flavoured cigarettes in the first phase, making the provisions clearer and facilitating actual operation**.

Hon SHIU Ka-fai's Group 2A amendments

(Clause 68)

- To amend clause 68 to add a proposed new item to Part 2 of the proposed new Schedule 10 of the Bill so as to, under the ban on the sale of flavoured cigarettes, **exempt in principle substances conventionally used or necessary in the manufacturing, processing, storage or preservation of CSPs**, and substances not added for imparting flavour or aroma to a CSP, etc (collectively known as “additional exempted substances”).

Hon SHIU Ka-fai's Group 2B amendments

(New clause 66A)

- To add clause 66A (amend section 16A of Cap. 371) to provide that provisions relating to the amendment of the “additional exempted substances” in the proposed new Schedule 10 made by SH by order published in the Gazette would be subject to scrutiny **by way of positive vetting** (instead of “negative vetting”).

Hon LEE Chun-keung's Group 1A amendments

(Clauses 1, 2 and 35, deleting Part 9 and renumbering Part 10)

- To **delete all the provisions** relating to the **ban on flavoured cigarettes** (including the certification regime) in **Part 9**.
- Corresponding technical amendments include:
 - amending provisions containing the reference to Part 9 following the deletion of Part 9.
 - amending clause 35 to replace the Chief Executive in Council with the **Secretary in making certain regulations** under section 18(1) of Cap. 371 (e.g. anything required or permitted to be prescribed under Cap. 371), and provide that the **maximum penalty** for contravening such regulations is **a fine at level 5 and imprisonment for six months**.

III. Amendments related to other matters

SH's Groups 1 and 3 amendments

(Details of the provisions concerned and the relevant amendments are in **Annex**)

SH's other amendments seek to amend the following matters:

- increasing the penalties for offences involving duty-not-paid tobacco;
- prohibiting the possession of specified alternative smoking products;
- extending NSAs and implementing fixed penalties for certain smoking offences;
- adjusting the packaging requirements for CSPs; and
- technical and textual amendments.

IV. Amendments to the long title

SH's Group 5 amendments

- To **correspondingly amend** “specified alternative smoking products” in the long title as “such products” following the amendment to change “specified alternative smoking products” into “ASPs”.

Hon LEE Chun-keung's Group 1B amendments

If Hon LEE Chun-keung's Group 1A amendments are passed, references in the long title relating to the ban on flavoured cigarettes (including the certification regime) should be deleted accordingly.

Voting order	Remarks
1. Clauses with no amendments (i.e. clauses 3 to 14, 16 to 19, 21 to 23, 25 to 34, 36, 37, 39, 41 to 44, 46 to 54, 57, 59, 69, 71 and 72) standing part of the Bill	—
2. Hon SHIU Ka-fai's Group 1A amendments (to amend clause 1)	<ul style="list-style-type: none"> - If Hon SHIU Ka-fai's Group 1A amendments are <u>passed</u>, clauses 4(1) and 9, and Part 10 (except clause 73) shall come into operation on the day from the date of gazettal of the enacted Ordinance, and the commencement notice relating to clauses 35(2), (3) and (4) and clause 67 are subject to LegCo's approval. Therefore, SH should <u>amend</u> his amendments to clause 1 in Group 1 to remove those provisions. - Irrespective of whether Hon SHIU Ka-fai's Group 1A amendments are <u>passed</u>, he <u>may move</u> his Group 1B amendments.
3. Hon LEE Chun-keung's Group 1A amendments (to amend clauses 1, 2 and 35, delete Part 9 (i.e. clauses 60 to 68) and renumber Part 10 as Part 9)	<ul style="list-style-type: none"> - If Hon LEE Chun-keung's Group 1A amendments are <u>passed</u>, Part 9 of the Bill (i.e. clauses 60 to 68) will be deleted. Therefore: <ul style="list-style-type: none"> (i) SH should <u>amend</u> his amendment to clause 1 in Group 1 to delete subclause (3)(k) of clause 1, but he <u>may not move</u> his Groups 2 and 4 amendments; and (ii) Hon SHIU Ka-fai should <u>amend</u> his Group 1B amendments to update the reference to Part 10 as Part 9 and delete the provisions originally set out in Part 9, but he <u>may not move</u> his Groups 2A and 2B amendments. - If Hon LEE Chun-keung's Group 1A amendments are <u>negatived</u>, he <u>may not move</u> his Group 1B amendments relating to the long title.
4. SH's Group 1 amendments (to amend clauses 1 and 15, the heading of Part 4, clause 20, the heading of Division 2 of Part 4, and clauses 24, 38, 40, 45, 55, 56, 58, and 70)	<ul style="list-style-type: none"> - Irrespective of whether SH's Group 1 amendments are <u>passed</u>, he <u>may move</u> his Group 2 amendments.
5. SH's Group 2 amendments (to amend the heading of Part 9, clauses 64, 67 and 68)	<ul style="list-style-type: none"> - Irrespective of whether SH's Group 2 amendments are <u>passed</u>, Hon SHIU Ka-fai <u>may move</u> his Group 2A amendments.
6. Hon SHIU Ka-fai's Group 2A amendments (to amend clause 68)	<ul style="list-style-type: none"> - If Hon SHIU Ka-fai's Group 2A amendments are <u>negatived</u>, he <u>may not move</u> his Group 2B amendments.

Voting order	Remarks
7. SH's Group 3 amendments (the heading of Subdivisions 1 and 2 of Division 1 of proposed new Part 4, the heading of Subdivisions 1 and 2 of Division 2 of proposed new Part 4, clause 23A, the heading of Division 2A of Part 8, and clause 57A be read the second time and added to the Bill)	- Irrespective of whether SH's Group 3 amendments are <u>passed</u> , he <u>may move</u> his Group 4 amendments.
8. SH's Group 4 amendments (the heading of Division 1 of proposed new Part 9, clause 65A, the heading of Division 2 of Part 9 and clause 68A be read the second time and added to the Bill)	- Irrespective of whether SH's Group 4 amendments are <u>passed</u> , Hon SHIU Ka-fai <u>may move</u> his Groups 1B and 2B amendments; but if Hon SHIU Ka-fai's Group 2A amendments are <u>negatived</u> , he <u>may not move</u> his Group 2B amendments.
9. Hon SHIU Ka-fai's Group 2B amendments (proposed new clause 66A be read the second time and added to the Bill)	- Irrespective of whether Hon SHIU Ka-fai's Group 2B amendments are <u>passed</u> , he <u>may move</u> his Group 1B amendments.
10. Hon SHIU Ka-fai's Group 1B amendments (proposed new clause 73 be read the second time and added to the Bill)	—
11. SH's Group 5 amendments (to amend the long title)	- Irrespective of whether SH's Group 5 amendments are <u>passed</u> , Hon LEE Chun-keung <u>may move</u> his Group 1B amendments; but if Hon LEE Chun-keung's Group 1A amendments are <u>negatived</u> , he <u>may not move</u> his Group 1B amendments.
12. Hon LEE Chun-keung's Group 1B amendments (to amend the long title)	—

SH's amendments

(set out in LC Paper No. CB(2)1687/2025(01) issued on 2 September 2025)

Hon SHIU Ka-fai's amendments

(set out in LC Paper No. CB(2)1720/2025(01) and (02) issued on 8 September 2025)

Hon LEE Chun-keung's amendments

(set out in LC Paper No. CB(2)1720/2025(03) issued on 8 September 2025)

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Secretary for Health's other amendments

<i>Main objects of the amendments</i>	<i>Clause(s) involved</i>
1. Increasing the penalties for offences involving duty-not-paid tobacco <ul style="list-style-type: none"> - To remove the phrase “a fine” from clause 15 to streamline the provision. 	Clause 15
2. Banning the possession of specified ASPs <ul style="list-style-type: none"> - To add a new Subdivision under Division 2 of Part 4 to further amend the proposed new section 15DAB of Cap. 371 so as to extend the ban to cover ASP devices (or commonly known as “vaping devices”) in the next phase, under which a fixed penalty mechanism for handling cases involving devices not more than a specified quantity will also be provided. - To repeal the definition of “specified alternative smoking products” and change the term to “ASPs” and related amendments. The new requirement can be taken forward in the next phase by commencement notice without the need to amend the principal Ordinance. - To add new sections 15DG(2)(ab) and 15DG(2A) to Cap. 371 and new sections 13Q(2)(b) and 13Q(2A) to the Import and Export Ordinance (Cap. 60) to further empower TACIs with the authority to search and use any force that is reasonably necessary to effect the search or arrest, thereby enhancing the enforcement efficacy of the Tobacco and Alcohol Control Office in relation to the ASP ban. 	Clauses 20, 24 and 70 and proposed new clause 23A, the heading of Subdivision 1 and the heading of Subdivision 2 of Division 2 of Part 4
3. Extending no smoking areas and implementing fixed penalties for certain smoking offences <ul style="list-style-type: none"> - To include “Kai Tak Youth Sports Ground” under the definition of “stadium” in the proposed amended section 2 of Cap. 371 so that the smoking prohibition arrangements of the relevant venue under Cap. 371 are consistent with those of the Kai Tak Stadium. - To empower TACIs to issue fixed penalty notices for the new scheduled offences under the proposed new section 57A(1) and (2), and propose to add “Market Supervision Assistant” under the proposed new section 57A(4) to support enforcement. 	Clauses 40, 45, 55, 56 and the heading of Division 2A of proposed new Part 8, and clause 57A
4. Adjusting the packaging requirements for CSPs <ul style="list-style-type: none"> - To extend the transitional period for pictorial health warnings on packets or retail containers of tobacco products (i.e. Form 5 of Parts 2, 2A or 2B of the Schedule to Cap. 371) under clause 58 from 6 months to 9 months. 	Clause 58
5. Technical and textual amendments <ul style="list-style-type: none"> - To make necessary technical and textual amendments to the Bill. 	The heading of Part 4, the heading of Division 2 of Part 4, clause 38, and the heading of Subdivision 1 of Division 1 and the heading of Division 2 of proposed new Part 4