



Appendix F—Commonwealth
Electoral Amendment (Tobacco
Industry Donations) Bill 2011

2010-2011

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Commonwealth Electoral Amendment
(Tobacco Industry Donations) Bill 2011**

No. , 2011

(Senator Bob Brown)

**A Bill for an Act to amend the *Commonwealth
Electoral Act 1918* in relation to political donations
by the tobacco industry, and for related purposes**

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Schedule 1—Amendment of the Commonwealth Electoral Act 1918²⁶⁷

A Bill for an Act to amend the *Commonwealth Electoral Act 1918* in relation to political donations by the tobacco industry, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Commonwealth Electoral Amendment (Tobacco Industry Donations) Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	The 28th day after the day this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Commonwealth Electoral Act 1918

1 After section 303

Insert:

303AA Certain gifts not to be received

(1) It is unlawful for:

- (a) a political party; or
- (b) a State branch of a political party; or
- (c) a person acting on behalf of a political party or a State branch of a political party;

to receive a gift made to or for the benefit of the party or branch by another person or entity if the person or entity making the gift is:

- (d) a manufacturer or wholesaler of tobacco products; or
- (e) the agent of a manufacturer or wholesaler of tobacco products.

(2) It is unlawful for:

- (a) a candidate; or
- (b) a member of a group; or
- (c) a person acting on behalf of a candidate or group;

to receive a gift made to or for the benefit of the candidate or the group, as the case may be, by another person or entity if the person or entity making the gift is:

- (d) a manufacturer or wholesaler of tobacco products; or
- (e) the agent of a manufacturer or wholesaler of tobacco products.

(3) A person or entity must not accept a gift at any time, if the purpose of the gift is to:

- (a) to enable the person or entity to make gifts covered by subsections (1) and (2);
or
- (b) to reimburse the person or entity for making such gifts.

(4) For the purpose of subsection (2), a person who is a candidate in an election shall be taken to remain a candidate for 30 days after the polling day in the election.

(5) For the purpose of subsection (2), persons who constituted a group in an election shall be taken to continue to constitute the same group for 30 days after the polling day in the election.

(6) If a person or entity receives a gift that, by virtue of this section, it is unlawful for the person or entity to receive, an amount equal to the amount or value of the gift is payable by that person or entity to the Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against:

- (a) in the case of a gift to or for the benefit of a political party or a State branch of a political party:
 - (i) if the party or branch, as the case may be, is a body corporate—the party or branch, as the case may be; or

- (ii) in any other case—the agent of the party or branch, as the case may be; or
- (b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

303AB Unlawful circumvention of subsection 303AA(1), (2) or (3)

- (1) A person or an entity must not:
 - (a) circumvent, or attempt to circumvent, subsection 303AA(1), (2) or (3); or
 - (b) act in collusion with another person or entity for that purpose.
- (2) A person or entity who contravenes subsection (1) is guilty of an offence punishable on conviction:
 - (a) if the offender is a natural person—by a fine not exceeding 10 penalty units or imprisonment for 3 months, or both; or
 - (b) if the offender is a body corporate—by a fine not exceeding 50 penalty units.

303AC Unlawful contributions

- (1) A person or entity must not make a gift to or for the benefit of a political party or a candidate that comes from money, property or services of another person or entity, if that other person or entity is:
 - (a) a manufacturer or wholesaler of tobacco products; or
 - (b) the agent of a manufacturer or wholesaler of tobacco products; andthe money, property or services were provided to the first person or entity to enable the person or entity to make that gift or to reimburse the person or entity for making that gift.
- (2) A person or entity who contravenes subsection (1) is guilty of an offence punishable on conviction:
 - (a) if the offender is a natural person—by a fine not exceeding 10 penalty units or imprisonment for 3 months, or both; or
 - (b) if the offender is a body corporate—by a fine not exceeding 50 penalty units.