

Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025

Explanatory Notes

For

Amendments to be moved during consideration in detail by the Honourable Tim Nicholls MP, Minister for Health and Ambulance Services

Title of the Bill

The title of the Bill is the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025.

Objectives of the Amendments

Nitrous oxide is a colourless and non-flammable gas that is used as an anaesthetic during surgery and dentistry. It also has non-therapeutic applications in hospitality, industrial and scientific settings and is also intentionally misused for its psychoactive effects when inhaled. Individuals misusing nitrous oxide access it from bulbs or canisters, typically via dispensers or nozzles, into balloons for inhalation, or by trapping the gas in a plastic bag.

Recreational inhalation of nitrous oxide is commonly associated with a ‘high’, and produces short-term effects such as euphoria, numbness of the body, sedation, giddiness and other dissociative effects. Sustained or heavy use of nitrous oxide can lead to a range of serious and potentially irreversible health consequences. Chronic exposure interferes with the body’s ability to absorb vitamin B12, which is essential for healthy nerve function. This deficiency can result in neurological damage including memory loss, numbness, impaired motor control and degeneration of the spinal cord.¹ Users may also experience psychiatric symptoms such as depression, anxiety and psychosis, and physical harms including bladder and bowel incontinence, cardiovascular damage and injury to lung tissue. Long-term misuse has been linked to adverse effects on reproductive health, and in extreme cases can result in brain

¹ Alcohol and Drug Foundation, 2023, *Nitrous oxide – uses, impacts and risks*, <https://adf.org.au/insights/nitrous-oxide/>.

damage or death.² Although rare, deaths involving nitrous oxide misuse can occur due to hypoxia from oxygen deprivation, particularly when inhaled through gas masks or plastic bags, or as a result of falls or other accidents.³

Nitrous oxide bulbs and canisters marketed for recreational use are readily available to the public from a range of stores, including tobacconists, convenience stores, petrol stations and gift shops. Products sold in these settings, and promoted for recreational use, are not legitimate medical or culinary products used by doctors, dentists or chefs. Although some may technically be legitimate culinary-grade products that comply with labelling and safety requirements, it is clear from the context of their sale and promotion that they are not being sold for legitimate use. They are often marketed so as to maintain the pretence of legitimate purposes, such as baking or cocktail making, but are packaged, promoted, and supplied in a way that clearly indicates they are sold for inhalation for their psychoactive effects.

Many of these retailers also sell a mix of legal smoking products, illicit tobacco, vapes and associated smoking and drug paraphernalia such as bongs, ice pipes and hookahs. During enforcement inspections under the *Tobacco and Other Smoking Products Act 1998* (Act), authorised persons have increasingly observed nitrous oxide bulbs and canisters being sold, including at premises engaged in the illicit tobacco and illicit nicotine product trade. Nitrous oxide bulbs and canisters are also widely available online at all hours, with expedited delivery within 15 to 20 minutes of purchase.

Nitrous oxide marketed for recreational use is commonly sold in large quantities, typically in boxes containing 100 eight-gram bulbs or larger canisters of up to 3.3 litres. Suppliers often package the bulbs and canisters with devices that facilitate inhalation, such as balloons, flavoured dispensers and ‘crackers’ that release nitrous oxide directly into a balloon for inhalation. These features promote recreational inhalation rather than legitimate use.

These products pose a distinct risk of misuse among young people and children. Retailers frequently use colourful packaging and confectionary-style flavours such as ‘rainbow candy’, to market these products specifically to younger cohorts. Many young people perceive nitrous oxide as a low-risk substance,⁴ further increasing the likelihood of misuse and experimentation.

Neurological conditions linked to nitrous oxide misuse are increasing in both Australia and globally. An article published in the *Medical Journal of Australia* in 2019, reported a rise in recreational nitrous oxide use among regular drug users in Australia and internationally.⁵ The 2021 Global Drug Survey identified nitrous oxide as the 13th most popular recreational drug in the world, with 22.5 per cent of more than 32,000 respondents across 22 countries having

² Yockey, A., May 2025, *Nitrous oxide recreational use is linked to brain damage and sudden death – but ‘laughing gas’ is still sold all over the US*, The Conversation, <https://theconversation.com/nitrous-oxide-recreational-use-is-linked-to-brain-damage-and-sudden-death-but-laughing-gas-is-still-sold-all-over-the-us-254983>; European Monitoring Centre for Drugs and Drug Addiction, 2022, *Recreational use of nitrous oxide: a growing concern for Europe*, Publications Office of the European Union, Luxembourg, https://www.drugsandalcohol.ie/37506/1/EMCDDA_Recreational_use_of_nitrous_oxide.pdf.

³ Metro South Health, 2024. *Nitrous oxide misuse can cause paralysis and death*, <https://www.metrosouth.health.qld.gov.au/about-us/news/pa-hospital/nitrous-oxide-misuse-can-cause-paralysis-and-death>.

⁴ Walter H., et al., 2024, *Exploring the Experiences and Perceptions of Young People’s Recreational Nitrous Oxide Use*, Qeios, doi:10.32388/011IWW.

⁵ Bethmont, A., et al., 2019, *Increasing illicit use of nitrous oxide in presentations to NSW emergency departments*, *Medical Journal of Australia*, 2019; 211 (9), doi: 10.5694/mja2.50377.

used nitrous oxide in their lifetime. Among people aged 16 to 24 years, a self-reported survey of 592,000 people globally estimated that 24 per cent used nitrous oxide recreationally in 2021.⁶

While nitrous oxide is regulated at both the State and Commonwealth levels as a scheduled poison or medicine depending on its use, there are currently limited legislative controls to prevent its recreational misuse.

For therapeutic purposes, medical-grade nitrous oxide is classified as a Schedule 4 (prescription-only) medicine under the *Medicines and Poisons (Medicines) Regulation 2021*, with dealings restricted to authorised clinicians and specific clinical settings. For non-therapeutic purposes, nitrous oxide is classified as a Schedule 6 poison under the *Commonwealth Standard for the Uniform Scheduling of Medicines and Poisons* (Poisons Standard) and must be sold in distinctive packaging with clear warnings and safety directions.

Under the *Medicines and Poisons (Poisons and Prohibited Substances) Regulation 2021* (Poisons Regulation), it is an offence to sell a Schedule 6 poison without taking reasonable steps to ensure it is stored in child-resistant packaging and kept out of reach of children under four years of age. However, these requirements are limited in scope and do not extend beyond failures to display the required warnings on packaging in retail settings. Seizure powers are only available for retail (not wholesale) sale and where packaging and labelling requirements are not met, limiting the capacity of the current regulatory framework to effectively address the harms relating to the recreational use of nitrous oxide.

Under the *Summary Offences Act 2005*, it is illegal for a retailer or salesperson to knowingly sell a 'potentially harmful thing' to a person they reasonably believe will inhale or ingest it, or who intends to sell it to another person for inhalation or ingestion. The Summary Offences Act does not include seizure powers in relation to this offence.

The *Police Powers and Responsibilities Act 2000* includes a power for police to seize a potentially harmful thing for ingestion or inhalation. However, this power applies only to individual users and does not extend to the seizure of nitrous oxide from retailers or wholesalers.

In practice, retailers and wholesalers avoid regulatory action under the Poisons Regulation and Summary Offences Act by simply displaying the required warning labels and claiming their products are intended for legitimate uses, such as baking or making whipped cream. This is despite clear marketing to target recreational users through confectionary-style flavours, cartoon imagery, oversized 3.3 litre canisters with no practical culinary use, and 24/7 rapid delivery services. The legitimacy of these claims is further undermined by the fact that such products are commonly sold through tobacconists and convenience stores, which have no genuine reason to sell culinary or industrial nitrous oxide products to the public.

The primary objective of the amendments is to provide a clear mechanism to reduce access to nitrous oxide bulbs and canisters for recreational use, and ensure access to new and emerging products that are detrimental to public health can be subject to equivalent regulatory controls, without limiting access for legitimate medical, dental, industrial or culinary purposes.

⁶ Zaloum, S., et al., 2025, *Tackling the growing burden of nitrous oxide-induced public health harms*, *Lancet Public Health*, 257 (10).

Achievement of the Objectives

The Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Bill) amends the Act to introduce the concept of ‘compromised goods’. This term is defined in the Bill to mean smoking products, hookahs and components of hookahs. Under the Bill, ‘compromised goods’ found alongside illicit tobacco and illicit nicotine products can be seized and forfeited. These lawful products become compromised by being sold alongside illicit tobacco or illicit nicotine products, and as such are subject to seizure and forfeiture.

The amendments to be moved during consideration in detail of the Bill expand this definition to include any receptacle containing nitrous oxide, such as bulbs and canisters. The amendments ensure authorised persons are not required to test or analyse the contents of a receptacle to confirm the presence of nitrous oxide before seizing it. A receptacle will be taken to contain nitrous oxide if it actually contains the gas, is labelled or represented as containing it, or is reasonably believed or commonly understood to do so. For example, if a nitrous oxide bulb is found outside its original packaging that identifies it as containing nitrous oxide, but the bulb is commonly recognised as being used for nitrous oxide, it may still be seized. This approach enables authorised persons to seize and forfeit these products whenever they are found at premises engaged in the trade of illicit tobacco or illicit nicotine products.

The amendments will apply in both retail and wholesale environments where recreational nitrous oxide products are commonly sold, particularly through tobacconists and convenience stores that also supply illicit tobacco and illicit nicotine products. Capturing wholesalers will also weaken the online market, noting that rapid delivery and e-commerce suppliers can source their stock from the same wholesale channels that supply bricks and mortar stores. Removing these products from circulation will provide an immediate and practical enforcement outcome, making it more difficult to conceal the sale and obstruct the seizure of illicit products, while removing community access to nitrous oxide and limiting opportunities for misuse.

Retailers and wholesalers engaged in the supply of illicit tobacco or illicit nicotine products often diversify their business models to include other harmful recreational products. The rapid emergence of vapes and nicotine pouches are clear examples of this. To respond to these evolving patterns, the amendments will also establish a regulation-making power to prescribe additional categories of ‘compromised goods’ in the future. This power will allow products that pose, or may pose, a risk to public health to be declared ‘compromised goods’, and ensures the framework remains flexible and responsive to emerging products and trends.

The regulation-making power is limited to prescribing things that may be detrimental to public health and are sold alongside illicit tobacco or illicit nicotine products. This ensures the power remains consistent with the objectives of the Act and cannot be used to capture unrelated products sold by these retailers, such as confectionery or soft drinks, which are outside the public health intent of the Act. The provision may extend to legal products such as nitrous oxide or similar substances, products or items, where their use or sale is associated with detrimental public health risks.

For consistency, the amendments also include two minor and technical changes to language used in the Bill.

Alternative Ways of Achieving Policy Objectives

Alternative options would be to prohibit the supply of nitrous oxide entirely or impose restrictions on the quantity, packaging, or timing of sales. However, such measures risk disproportionately affecting individuals and businesses that rely on the substance for legitimate purposes. Nitrous oxide has recognised applications in a wide range of settings, including medical, industrial, and culinary contexts, and blanket restrictions could frustrate access for legitimate users.

The proposed approach specifically targets retailers and wholesalers who are also engaged in the supply of illicit tobacco or illicit nicotine products, such as tobacconists and convenience stores, where supply for recreational purposes is more likely to occur. These businesses have no legitimate reason to sell nitrous oxide products, unlike hospitality, medical or industrial suppliers that sell the gas for genuine purposes. Individuals and businesses using nitrous oxide for legitimate, non-recreational purposes, are unlikely to source it from illicit suppliers, supporting this targeted and proportionate regulatory response.

Estimated Cost for Government Implementation

There may be additional costs to Government to implement the amendments to the Bill. However, enforcement will be met by existing budget allocations—it will occur incidentally to, and concurrently with, enforcement relating to illicit tobacco and illicit nicotine products.

Consistency with Fundamental Legislative Principles

Nitrous oxide is a dangerous product when misused. It is being deliberately marketed to young people for recreational use. The amendments aim to reduce access to this substance for recreational use, support and promote the health of young people and the community more generally, and minimise the burden on the health system.

In addition to the clear public health benefits, the amendments will increase the financial impact on suppliers of illicit tobacco and illicit nicotine products. This ensures that businesses engaged in the illicit trade face meaningful financial consequences, further deterring unlawful activity and undermining the profitability of selling harmful recreational products.

The amendments potentially depart from some fundamental legislative principles to ensure that the objectives of the amendments are met. These potential departures are justified and discussed in further detail below.

Whether the proposed legislation has sufficient regard to the rights and liberties of individuals (Legislative Standards Act, s 4(2)(a))

Exercise of administrative power

Section 4(3)(a) of the *Legislative Standards Act 1992* refers to legislation which makes rights and liberties dependent on administrative power. It provides that legislation may have regard to the rights and liberties of individuals if the administrative power is sufficiently defined and subject to appropriate review.

The amendments confer administrative powers on authorised persons to seize nitrous oxide bulbs and canisters, when found at a place where illicit tobacco and illicit nicotine products are also seized. Once the associated illicit tobacco or illicit nicotine products are forfeited, the ‘compromised goods’ may likewise be forfeited and destroyed. These powers are a targeted measure to disrupt the proliferation of these harmful products and protect the community from their effects.

It is established that the long-term recreational misuse of nitrous oxide can lead to serious and potentially irreversible health consequences. Chronic exposure interferes with the body’s ability to absorb vitamin B12, which is essential for nerve function. This deficiency can result in neurological damage such as memory loss, numbness, and even spinal cord injury.⁷ Users may also experience psychiatric symptoms including depression, anxiety, and psychosis. Physical effects like incontinence and impaired motor control have been reported, and in extreme cases, prolonged misuse can lead to brain damage or death.⁸

These powers are clearly defined, appropriately constrained and supported by existing procedural safeguards. ‘Compromised goods’ may only be seized if illicit tobacco or illicit nicotine products are also found and seized at the same place. In addition, the power to seize ‘compromised goods’ can only be exercised if authorised persons have obtained lawful entry to a premises under the Act—the power does not authorise inspections or entry into places that are otherwise off-limits, such as residential premises, without the necessary authority. The scope and conditions for seizure are therefore precise and limited to clearly defined circumstances, preventing arbitrary or disproportionate use of the power.

Appropriate safeguards have been implemented to ensure the power is exercised fairly and proportionately. In extremely rare cases, legal property may be inadvertently forfeited and destroyed—for example, in circumstances where a ‘personal use’ defence would have applied to the seized illicit tobacco or illicit nicotine products. In such circumstances, section 219 of the Act provides an avenue for individuals to seek compensation through the courts for any loss or expense incurred due to the exercise, or attempted exercise, of a power under part 11 of the Act, including under this new power.

Interference with a person’s right to hold legal property is justified in this context, as the seizure of harmful products is a reasonable and proportionate measure to address the significant public health harms associated with sustained or heavy recreational use of nitrous oxide. The power is narrowly framed, applies only in defined circumstances, and includes safeguards to prevent arbitrary or disproportionate use. It will not impact individuals, including legitimate retailers of nitrous oxide, who do not engage in the supply of illicit tobacco or illicit nicotine products. It responds to a clear enforcement gap and targets conduct undermining the regulatory scheme and public health objectives.

⁷ Alcohol and Drug Foundation, 2023, *Nitrous oxide – uses, impacts and risks*, <https://adf.org.au/insights/nitrous-oxide/>.

⁸ Yockey, A., May 2025, *Nitrous oxide recreational use is linked to brain damage and sudden death – but ‘laughing gas’ is still sold all over the US*, The Conversation, <https://theconversation.com/nitrous-oxide-recreational-use-is-linked-to-brain-damage-and-sudden-death-but-laughing-gas-is-still-sold-all-over-the-us-254983>.

Natural justice

Section 4(3)(b) of the Legislative Standards Act states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation is consistent with the three principles of natural justice, which require:

- that something should not be done to a person if it would arbitrarily deprive the person of some right, interest or legitimate expectation;
- that the decision-maker be unbiased; and
- procedural fairness.⁹

In the human rights context, arbitrarily is taken to mean capricious, unpredictable, unjust, and unreasonable in the sense of not being proportionate to a legitimate policy objective. The amendments do not arbitrarily deprive a person of their right to legal property, as seizure is clearly connected to the presence of illicit tobacco or illicit nicotine products at the premises. Seizure of these illicit products is lawful under the Act, and the seizure of ‘compromised goods’ ancillary to the illicit products achieves the objectives of reducing access to harmful products and the protection of public health.

In certain circumstances, the forfeiture of these products may be subject to limited procedural fairness—specifically when they are discovered alongside vaping goods. Under section 205B of the Act, vaping goods are subject to forfeiture without a show cause process. As the forfeiture of ‘compromised goods’ is contingent on the forfeiture of the associated illicit products, nitrous oxide bulbs and canisters found alongside vaping goods will likewise be forfeited without prior notice or opportunity for the owner to be heard.

Importantly, this limitation does not expose legitimate businesses to arbitrary enforcement. Vaping goods that are lawfully supplied through pharmacies for therapeutic purposes are easily distinguishable by their packaging, labelling and presentation, which clearly identify them as compliant products approved under the *Therapeutic Goods Act 1989* (Cth). By contrast, illicit vaping goods sold through tobacconists and similar retailers are unregulated and readily identifiable as unlawful by their branding, flavours, or lack of health warnings. Accordingly, there is very limited risk that lawful goods would be wrongfully seized.

The limitation applies only where nitrous oxide is sold from premises supplying illicit tobacco or illicit nicotine products and does not affect law-abiding businesses or legitimate users. Accordingly, the limitation is consistent with the principles of natural justice, as it is clearly defined, proportionate, and directed toward a legitimate public health objective. It applies only to retailers already engaged in unlawful conduct, operates within existing procedural safeguards, and includes avenues for review and compensation.

Entry and seizure via warrant

Section 4(3)(e) of the Legislative Standards Act provides that legislation should have sufficient regard to rights and liberties of individuals by ensuring that powers to enter premises, and to search or seize property, are exercised only under the authority of a warrant issued by a judicial officer.

⁹ The Office of Queensland Parliamentary Committee, *Fundamental Legislative Principles – The OQPC Notebook*, https://www.legislation.qld.gov.au/file/Leg_Info_publications_FLPNotebook.pdf, pp. 24-25.

The power to seize and forfeit nitrous oxide bulbs and canisters located at a place where illicit tobacco and illicit nicotine products are seized may depart from the general presumption that seizure should be pursuant to a warrant. Under the amendment, an authorised person may seize items they reasonably believe to be ‘compromised goods’ if illicit tobacco or illicit nicotine products have also been seized at the same location. The authorised person must have a lawful power of entry under the Act before seizing the goods. The Act provides multiple avenues for lawful entry, including entry with consent, entry under a warrant, and specific powers to enter certain premises and outlets without consent or a warrant.¹⁰

The Bill amends the Act to ensure that, regardless of how lawful entry is obtained, authorised persons may seize ‘compromised goods’, including where those goods are not explicitly listed in a warrant. This ensures that seizures of ‘compromised goods’, including nitrous oxide bulbs and canisters, are appropriately authorised and legally robust.

As outlined above, the power to seize and forfeit ‘compromised goods’ is narrowly framed, applying only in defined circumstances where illicit tobacco or illicit nicotine products are also seized. It will not affect individuals and businesses unconnected to the supply of illicit tobacco and illicit nicotine products. This targeted approach ensures that nitrous oxide for recreational use is not readily available, particularly to children and young people, through tobacconists and similar retailers.

Accordingly, any limitation on this fundamental legislative principle is reasonable and proportionate. The amendment maintains an appropriate balance between protecting individual rights and enabling effective enforcement to safeguard public health.

Compulsory acquisition of property

Section 4(3)(i) of the Legislative Standards Act provides that legislation should provide for the compulsory acquisition of property only with fair compensation. This means that a legislatively authorised act of interference with a person’s property must be accompanied by a right of compensation, unless there is a good reason for not doing so.

While the seizure and forfeiture of nitrous oxide bulbs and canisters as ‘compromised goods’ involves interference with legal property and a person’s right to property, it is not an unjustified acquisition. The amendment targets suppliers who engage in illegal supply or possession of illicit tobacco or illicit nicotine products. In addition, the amendment authorises the forfeiture of nitrous oxide bulbs and canisters to address the public health harms associated with the recreational misuse of nitrous oxide.

Nitrous oxide sold by tobacconists and similar retailers is solely intended for recreational use through inhalation, despite being ostensibly marketed for other legitimate uses—for example, making whipped cream. It is highly unlikely legitimate users of nitrous oxide for culinary purposes, such as chefs or bakers in commercial kitchens, purchase from tobacconists. Instead, these individuals typically source nitrous oxide from reputable hospitality suppliers or commercial wholesalers. Accordingly, the amendment will not affect legitimate users or suppliers.

¹⁰ See section 181, *Tobacco and Other Smoking Products Act 1998*.

By prescribing nitrous oxide bulbs and canisters as ‘compromised goods’, the amendment provides a targeted and proportionate enforcement mechanism that reduces public health risks while increasing the financial consequences for businesses engaged in illicit trade. It also creates an immediate financial consequence for illegal trading, making it more difficult to conceal and obstruct the seizure of illicit products. The power applies only where nitrous oxide is found and seized alongside illicit tobacco or illicit nicotine products at the same premises.

In the unlikely event that nitrous oxide bulbs and canisters are wrongfully seized, forfeited and destroyed as ‘compromised goods’, compensation will be available under section 219 of the Act. The Act provides a pathway for a person to claim compensation from the State where they incur loss or expense because of the exercise or purported exercise of a power, including a seizure power.

Any limitation on fundamental legislative principles is therefore reasonable and proportionate, and the amendment remains consistent with the rights and liberties of individuals.

Whether the legislation has sufficient regard to the institution of Parliament (Legislative Standards Act, s 4(2)(b))

Section 4(4)(a) of the Legislative Standards Act states that legislation has sufficient regard to the institution of Parliament if the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons.

The amendments introduce a regulation-making power that will allow additional categories of ‘compromised goods’ to be prescribed in the future. This power recognises that retailers and wholesalers involved in the supply of illicit tobacco or illicit nicotine products often diversify into supplying other harmful recreational products, and new products of this kind, such as nicotine pouches, are emerging with increasing frequency.

The power may be used to address existing legal products that present health risks when misused, as well as newly emerging products that are not yet identified as public health risks under the current legislative framework. Matters of this kind are appropriately addressed through subordinate legislation, as they are subject to frequent change and require timely action to protect public health.¹¹ The regulation-making power provides the ability to classify new products as ‘compromised goods’. This is a dynamic way of reducing access to harmful products, as new products can appear suddenly and spread rapidly through retail and online markets associated with illicit tobacco and illicit nicotine products.

The regulation-making power represents an appropriate delegation of legislative power, as it provides the flexibility to respond promptly to emerging public health risks while maintaining accountability through the usual scrutiny of regulations. The power is appropriately confined to only capture products that may be detrimental to the health of members of the public—its scope is suitably defined for its intended purpose, and the objectives of the Act. This limitation ensures that the regulation-making power cannot capture unrelated products sold by suppliers, including confectionary or soft drinks, which fall outside the public health intent of the legislation.

¹¹ The Office of Queensland Parliamentary Committee, *Principles of Good Legislation: OQPC guide to FLPs: The institution of Parliament— subordinate legislation*, https://www.oqpc.qld.gov.au/file/Leg_Info_publications_FLP_Institution_of_Parliamentsubordinate_legislation.pdf, p.4.

Accordingly, the delegation of legislative power is considered appropriate and necessary to ensure swift and effective responses to emerging substances of concern.

Consultation

No public consultation was undertaken in relation to the amendments.

Consistency with legislation of other jurisdictions

The concept of ‘compromised goods’ is unique to Queensland. Other jurisdictions have pursued other regulatory options to address the supply of nitrous oxide for recreational purposes.

In Western Australia, the *Medicines and Poisons Regulations 2016* (WA) prohibits the supply of large nitrous oxide canisters and restricts the supply of small bulbs to approved recipients such as registered food businesses. This framework effectively prevents members of the public from purchasing nitrous oxide. Suppliers are required to maintain records and evidence lawful supply of nitrous oxide to approved recipients.

In South Australia, the *Controlled Substances (Poisons) Regulations 2011* (SA) makes it an offence to sell or supply nitrous oxide to persons under the age of 18, sell nitrous oxide between 10pm and 5am, make nitrous oxide visible or accessible to the public in retail stores, or to fail to display a notice on the premises that details the offence of selling nitrous oxide to minors.

Notes on provisions

Insertion of new s 194A

Amendment 1 amends clause 15 of the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025. Clause 15 of the Bill inserts new section 194A into the *Tobacco and Other Smoking Products Act 1998* to define *compromised goods*. The amendment inserts a new subsection (1) within new section 194A.

Amendment 2 replaces the reference to ‘either’ of the following things with ‘any’ in clause 15, to reflect the expanded scope of the definition of *compromised goods*. The definition is expanded from two categories of products (being smoking products and a hookah or a component of a hookah) to four categories.

Amendments 1 and 2 restructure the definition of *compromised goods* to allow for the seizure of receptacles that contain nitrous oxide, such as bulbs and canisters, and to establish a regulation-making power enabling additional categories of *compromised goods* to be prescribed in the future.

Amendment 3 makes a minor and technical change to clause 15, to update the language used to refer to where compromised goods may be found. Reference to ‘in’ a place has been changed to ‘at’ a place for consistency with the rest of the Bill.

Amendment 4 removes the full stop at the end of paragraph (b) of the definition of *compromised goods*, as inserted by clause 15, and replaces it with a semicolon. This is to allow for the addition of two additional categories of products as compromised goods. The additional categories of goods are inserted by Amendment 5.

Amendment 5 inserts subparagraphs (c) and (d) at the end of the definition of *compromised goods*, as inserted by clause 15. The new categories of compromised goods are:

- a receptacle that contains nitrous oxide; and
- another thing that may be detrimental to the health of members of the public prescribed by regulation, as *compromised goods*.

Amendment 6 inserts a new subsection (2) within new section 194A to clarify that, for the purposes of subsection (1), a receptacle is taken to contain nitrous oxide if the receptacle actually contains nitrous oxide, is labelled as containing nitrous oxide, is claimed to contain nitrous oxide, or is reasonably believed or commonly understood to contain nitrous oxide. This ensures that authorised persons are not required to test or analyse the contents of a receptacle for the presence of nitrous oxide before seizing it, and can instead rely on one of the above reasons as a basis to believe it is eligible to be seized.

Amendment of s 197 (Seizing evidence at a place that may be entered without consent or a warrant)

Amendment 7 makes a minor and technical change to clause 17, to update the language used to refer to where compromised goods may be seized. Reference to ‘in’ the place has been changed to ‘at’ the place for consistency with the rest of the Bill.

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