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Heart Foundation submission on *Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015*.

The Heart Foundation welcomes the opportunity to provide comment on the Queensland Government's proposed tobacco legislation reforms. We commend the Queensland Government for its proposals to extend smoke-free places even further in Queensland and set a gold standard benchmark for the rest of the country.

We congratulate the Parliament of Queensland for its bipartisan support of smoke-free reforms, with the Opposition having previously proposed an extension of smoking bans this year.

The Heart Foundation therefore welcomes and supports all of the proposed amendments in the *Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015*.

We also reiterate our call for even further reforms to protect Queenslanders from smoking, which we outline below and have previously provided to the Health and Ambulance Services Committee in Submission 13 to the last Inquiry into the *Tobacco and Other Smoking Products (Extension of Smoking Bans) Amendment Bill 2015*¹.

Smoking and passive smoking cause heart disease, lung cancer and respiratory conditions

Smoking is a major cause of heart attack, stroke and peripheral vascular disease and is the largest single preventable cause of death. Smoking causes one in seven deaths in Queensland with 3700 Queenslanders dying every year from smoking², equal to around 10 large aircraft crashes a year. 10% of these deaths are estimated to be the result of second hand smoke³.

Exposure to second hand smoke is dangerous to all those exposed. Those at greater risk of harm are children, young people, pregnant women, elderly people, people with cardiovascular disease, including hypertension (high blood pressure), diabetes, asthma, lung cancer and lung diseases. Passive smoking causes coronary heart disease and lung cancer in non-smokers^{4,5}.

Smoke-free policies are effective in reducing smoking prevalence

New evidence strongly supports smoke-free policies as an effective method of reducing smoking prevalence. A recent Swiss study confirmed that comprehensive smoke-free policies achieved a 4.7% reduction in smoking rates in Australia over a thirteen year period⁶.

The same study found that along with comprehensive smoke-free policies, the large tax increase of April 2010 and plain packaging, were all associated with a clear and statistically significant reduction in smoking prevalence in Australia. Smoking bans have also been linked to lower hospitalisations for heart attacks and lung disease⁷.

Reducing access to places where people can smoke provides a supportive environment for non-smokers, reducing their exposure to second hand smoke. It also assists smokers to quit by providing a healthier environment in which smoking is less accessible and the healthy choice of not smoking is made easier.

We welcome the proposals to extend state-wide smoke-free areas because there are still a number of public places in Queensland where people gather in close proximity and are routinely exposed to second hand smoke. These loopholes need to be closed. Exposure to second hand smoke remains a health risk, and it is our responsibility as a community to protect the vulnerable.

It is important that further tobacco legislation reforms are passed because Queenslanders need more support to be smoke-free. We still have the second highest rate of smoking in Australia, next to the Northern Territory. We also have the most regionalised population in Australia, and smoking prevalence is greater in the regions compared to urban areas. In major cities 12.9% of people are daily smokers, while in regions it is 15%, increasing to 20% in very remote areas².

The Heart Foundation strongly supports the objectives of the proposed amendments in the *Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015* because it will:

- create more smoke-free public places across Queensland
- prohibit the sale of smoking products from temporary retail outlets, and
- make minor and technical amendments to clarify and strengthen Queensland's tobacco laws.

The Heart Foundation supports the proposals in the Bill as follows:

1. Public transport waiting points

The reform to ban smoking at public transport waiting points is a long awaited reform which we warmly welcome. Public transport waiting stops and stations often attract large numbers of people gathered in proximity. People at these waiting points are not easily able to avoid exposure to smoking when waiting in these areas.

The Heart Foundation strongly supports this proposed reform to ban smoking at and within five metres of all public transport waiting points across Queensland. This will deliver consistent, state-wide smoke-free legislation for the benefit of all Queenslanders.

We commend the Government for including train stations, light rail platforms, busway platforms, bus stops, including school bus stops, taxi ranks, limousine ranks and ferry terminals. We also strongly support the inclusion of bans applying to queues.

All Queenslanders deserve to be protected from tobacco smoke, and we welcome this decisive action to make state-wide legislation. State-wide legislation is necessary because nearly all local councils, except a handful of leaders, failed to make local laws to protect their citizens in these areas, despite being given the express powers to do so in 2009.

Community expectation for smoke-free areas is high and will be welcomed. We know that as far back as 2007 when we were advocating for these reforms, Queenslanders supported further smoking reforms with 90% supporting bans in malls and 92% supporting bans at public transport waiting points⁸.

Smoke-free public places create anti-smoking social norms and discourage smoking by making it harder to smoke in public places⁹. This provides healthy environments that support people to quit smoking and supports the resolve of those who have already quit.

2. Outdoor pedestrian malls

The Heart Foundation strongly supports this long awaited reform to ban smoking at outdoor pedestrian malls. We commend the Government for protecting all Queenslanders through this law which will deliver consistent, state-wide smoke-free legislation.

People in Brisbane have been protected by their local council with smoke-free pedestrian mall policies, but most people living outside of Brisbane have not been protected by their local council since being given the power to do so in 2009.

3. Public swimming facilities

We support the amendment for a state-wide smoking ban at all public swimming pool facilities owned or operated by a local government. Community expectation is that these kinds of facilities, that are particularly popular with families with children, should be smoke-free.

Public swimming pools are important places for people to be physically active and socially connected, and it is important that no-one is exposed to second hand smoke while engaging in these healthy activities.

4. Skate parks

We support the amendment to ban smoking within 10 metres of any part of a skate park. This will bring skate parks into a consistent line with the current law that bans smoking within 10 metres of children's playgrounds.

Children and young people are particularly vulnerable because they have smaller airways and less developed immune systems compared to adults.

5. Sporting grounds and spectator areas during organised under-age sporting events

We support the amendment to make sporting grounds, and within 10 metres beyond, the sporting grounds and the viewing areas for a water sport, during an organised sporting event or training session that is predominantly participated in by children.

This legislation will strongly support local sporting clubs and local councils to provide smoke-free environments around children and young people. It will re-inforce non-smoking social norms and protect people from exposure to second hand smoke.

Given that all people are harmed by second hand smoke, we strongly recommend that Queensland follows the Tasmanian example which prohibits smoking within 20 metres of organised sporting events, irrespective of the age of participants.

6. National Parks

We support the proposal to enable smoking to be banned at prescribed national parks, or parts of national parks, by allowing regulations to be made.

The inclusion of designated national parks is a welcome extension because this will increase the community's enjoyment of and safety in these green spaces; as well as support public health goals. It will also reduce the risk of accidental fires being started by unextinguished cigarette butts and reduce littering. This would bring Queensland into line with laws already implemented in NSW.

Extending smoking bans to all of these areas will bring about consistency in our state around smoke-free areas and reduce people's exposure to second hand smoke. In the same way that children's playgrounds, beaches and sports stadiums are smoke-free in Queensland, these public areas would benefit from being smoke-free.

7. Early childhood education and care services

We support the prohibition of smoking from early childhood education and care facilities and five metres beyond the boundary. This is an excellent proposed reform, as it is surprising that the current legislation does not cover these facilities. This will bring early childhood education and care services into line with schools and hospitals.

Given that such young children attend these services, it is really essential that this reform occur as soon as possible.

8. Government precincts

We support the proposal to prohibit smoking at any government precinct prescribed in regulation. These kinds of new smoke-free precincts, such as the Parliament and Queen's Wharf, will lead the way in Australia. These public precincts are important for our business, community, tourism and local residents and they will benefit from being smoke-free for all to enjoy.

We welcome the inclusion of the definition of a government precinct to include land that adjoins a building occupied by the State, the Legislative Assembly, a court or tribunal, an entity that represents the State, or another entity established by an Act.

The inclusion of Parliament as a smoke-free workplace will not only protect all staff and visitors from smoking, but it also sends a strong message about leading by example.

Tertiary institutes could be provided for under this proposal, however, this would not capture all private tertiary institutions as well as the public.

The Heart Foundation recommends that all tertiary institutions be made smoke-free, which is currently under consideration by the Education, Tourism and Small Business Committee. Once early childhood education and care services, schools and workplaces are all providing smoke-free environments, it will be important for tertiary institutions to also provide smoke-free environments.

9. Private and public residential aged care facilities

We support this extension of current smoke-free areas to include private and public residential aged care facilities. This will protect all who attend these facilities including staff, visitors and residents alike, plus allowing a buffer of five metres.

This legislation proposes to allow a nominated outdoor smoking place at aged care facilities in acknowledgement of long term residents. Therefore, it would be important for local private residents and businesses that adjoin aged care facilities to have recourse if the smoke-drift from these smoking places causes distress in their premises.

For example, it would be important that children playing in their garden of a private residence adjoining an aged care facility, are not exposed to smoke-drift. It would make common sense that the aged care facility ensure that no-one is being harmed by the smoke-drift from their nominated outdoor smoking place.

10. Local laws prohibiting smoking in public places

We support this proposal to empower and encourage local governments to go even further to protect their citizens by giving them the power to make local laws prohibiting smoking in outdoor public places. The Heart Foundation would warmly welcome local councils enacting laws for new smoke-free precincts around restaurants and commercial precincts, parks and boardwalks.

We welcome the incentivisation of local councils whereby they are able to retain any fines for breaches that they collect or any fines imposed by courts. However, given the track record of very few local councils bringing in smoke-free laws for pedestrian malls and public transport waiting

points when given the power to do so in 2009, the State Government needs to provide further incentivisation to councils to enforce laws locally.

The State Government can always step in to enact state-wide laws where needed, when councils fail to do so; as with the current proposed bans at public transport waiting points and outdoor pedestrian malls.

11. Prohibit the sale of tobacco products from temporary retail outlets.

We strongly support this long awaited reform that will limit the exposure of young people to the sales and promotion of tobacco and other smoking products (including e-cigarettes) at public events such as music or art festivals and sporting events.

Pop-up or temporary sales venues have long been utilised by the tobacco industry and retailers to undermine the laws on restricting the sale and display of cigarettes. They are targeted at public events that are particularly of interest to younger people such as music festivals, concerts or sporting events. They undermine smoke-free environments and it's time that this loophole is closed.

We support the inclusion of a definition that temporary retail outlets include mobile structures, vehicles, vessels, tents, booths and other temporary structures (including a market stall or stand).

Given the track record of the tobacco industry and retailers finding ways around legislation, it is important to try to capture innovative ways they may try to get around the intent of the law to protect people from access to tobacco sales.

12. Minor and technical amendments

- **Clarify the smoking ban at major event facilities**

We accept the proposed clarification. However, our preference is for all major event facilities to be smoke-free without the provision of nominated outdoor smoking places.

- **Clarify that the smoking ban at health facilities and school land applies to persons in motor vehicles**

We support the proposed clarification to capture smoking in motor vehicles within the boundary of health or school facilities.

- **Extend the smoke-free area at the entrances to non-residential buildings from four metres to five metres**

This is a highly desirable extension of the current law. Increasing the buffer to five metres will further protect people from being exposed to smoking as they enter a building.

We strongly recommend that a five metre buffer also be legislated around outdoor eating and drinking areas. We have heard reports of restaurant and pub patrons standing outside the venue to smoke, and reaching in to get their drink. A five metre buffer would reduce smoke-drift back into the venue and stop this practice which allows smoking too near to a smoke-free area.

- **Update provisions relating to hookahs**

We strongly support the proposed amendment to ensure that the use of hookahs to smoke non-tobacco products is regulated the same as for smoking products to protect people from exposure to both tobacco and non-tobacco smoke and vapour.

We also strongly support the amendment to stop the display of part of a hookah to be taken to be the display of a hookah. This secures the intent of the law which is to ban the display of hookahs. This loophole has been used to get around the intent of the law and needs to be closed.

- **Remove references to nursing homes, in light of the new smoking ban at residential aged care facilities**

We support this amendment as it is now redundant with the proposal to include residential aged care facilities.

- **Clarify the interaction between smoking bans and outdoor smoking areas**

We accept this clarification.

- **Clarify requirements around the display of no smoking signs at licensed premises**

We accept this clarification.

Implementation

To support the smooth implementation of this new legislation, as well as the existing tobacco laws, it's recommended that education, public accountability and enforcement be considered and acted upon. Any extra resources needed by the Department of Health need to be allocated.

Education

In relation to all of the proposed reforms, education and enforcement will be an important component of implementation. While the community will welcome these reforms, some public awareness raising and industry education will be important to ensure a smooth transition.

Public accountability and enforcement: Change policy to publish data regularly

We support the inclusion of fines designated in the legislation for failure to comply with the law and ongoing monitoring so that breaches are kept in check.

It is strongly recommended that Queensland Health change its current policy of not routinely and transparently releasing data on compliance monitoring details around smoking bans and retail sales as well as enforcement data on breaches, fines and prosecutions.

It is recommended that this data be openly available and published on a regular basis by Queensland Health. Other jurisdictions such as NSW and WA publish this data online and available to all. There doesn't appear to be any valid reason why we wouldn't want this information to be publically available.

Commencement

We support the proposed commencement of the legislation six months after passage.

The Heart Foundation also proposes five further reforms:

Details of these proposals are included in our previous submissions to Parliament 2009-2015 ^{1,10,11} and are listed below for consideration:

a. Bring in a positive licensing scheme for retailers with a licensing fee; and a searchable public register of current licence holders.

We welcome the Minister's announcement on 17 October 2015, and the subsequent referral to the Health and Ambulance Services Committee of an inquiry into licensing arrangements that affect the sale and use of tobacco in Queensland. The Heart Foundation will put in a detailed submission to that inquiry.

b. Ban the sale of tobacco and e-cigarette products from vending machines altogether

In the same way that pop-up or temporary sale venues are proposed to be banned, so should the sale of tobacco products from vending machines. The current law allows tobacco products to be sold from vending machines if they are in a licensed bar or gaming machine area.

c. Ban the sale of tobacco products by people under the age of 18 years

People under 18 years of age are able to sell cigarettes in Queensland, even though they can't purchase them. This is an anomaly that needs to be removed. Queensland children are protected from selling alcohol, but not tobacco products.

d. Remove the exemption to smoke *indoors* in premium gaming rooms

Under the current laws in Queensland, we have the anomaly that people can smoke *indoors* in high roller rooms. This means that staff and patrons in premium gaming rooms continue to be exposed indoors to second hand smoke. This anomaly needs to be removed now. Passive smoking is dangerous and kills people. People should not be exposed to cigarette smoke while going about their daily tasks of earning a living or attending a venue for entertainment.

e. Ban smoking on licensed premises completely by removing the exemption to smoke in Designated Outdoor Smoking Areas (DOSAs);

The exemption for smoking at liquor licensed premises in Designated Outdoor Smoking Areas (DOSAs) needs to be removed because they undermine Queensland's excellent smoke-free laws. Smoking needs to be banned on licensed premises in the same way that smoking is banned in public stadiums and at restaurants and cafes.

If you would like further information please contact us. The Heart Foundation is available for further consultation as needed. We look forward to appearing as a witness before this Committee.

Yours sincerely



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References

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- ¹¹ Heart Foundation submission 031 (2009) to the Social Development Committee Parliamentary Inquiry into Chronic Disease. Accessed 7/12/2015 at: https://www.parliament.qld.gov.au/documents/committees/SDC/2009/Chronic_disease/submissions/031-HeartFoundation.pdf