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Dear Mr Hastie

Heart Foundation submission on the Tobacco and Other Smoking Products (Extension of Smoking Bans) Amendment Bill 2015

The Heart Foundation welcomes the opportunity to provide a submission on the Tobacco and Other Smoking Products (Extension of Smoking Bans) Amendment Bill. We support all of the proposed amendments with some adjustments and have also made further recommendations for reforms to protect Queenslanders from smoking. The Heart Foundation is seeking bipartisan support for this Bill.

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 smoking¹, equal to around 10 large aircraft crashes a year. Clearly, we need further reform to curb tobacco use and its ravages on the health of Queenslanders.

Tobacco legislative reforms have proven to be extremely effective public health measures, which is why the Heart Foundation supports further reforms. 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.

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.

Passive smoking caused by 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 and lung disease.

The Heart Foundation is seeking greater smoke-free areas and restrictions on sales and licensing of tobacco products, to reduce all people's exposure to smoking. Passive smoking causes coronary heart disease and lung cancer in non-smokers^{2,3}. Smoking bans have been linked to lower hospitalisations for heart attacks and lung disease⁴.

It is important that these smoking reforms be considered in the context of Queensland having 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 areas¹.

The Heart Foundation urges the Health and Ambulance Services Committee to support the proposed extensions in this Bill to the smoking laws and also seeks your support for our recommendations on further reforms below. We seek your recommendation of these reforms to the Parliament.

The Heart Foundation supports the proposed amendments, with adjustments as follows:

- (1) Ban smoking within five metres of all government buildings;
 - *and we recommend that for consistency and simplicity, this be amended to capture all non-residential enclosed places;*
 - *and we recommend consideration be given to extending this to multi-unit residential buildings which are not currently captured;*
- (2) Ban smoking at all public transport waiting points and all pedestrian malls;
- (3) Ban smoking at all public swimming pools and skate parks;
 - *and we recommend that this be extended to not within 10m of local club sports fields;*
 - *and we recommend this be amended to not within 10m of a skate park;*
- (4) Ban the sale of tobacco products at all temporary sales venues;
 - *and ensure that the definition of this ban captures all temporary sales venues including pop-up stores, vehicles or any other variation;*
 - *and ensure it captures personal vaporiser devices for e-cigarettes.*

We urge the committee to consider further reforms which the Heart Foundation has been advocating over many years^{5,6}:

- (5) Ban the sale of tobacco products from vending machines altogether;
 - *and ensure that personal vaporiser devices for e-cigarettes are also captured;*
- (6) Ban the sale of tobacco products by people under the age of 18 years;
- (7) Remove the exemption to smoke *indoors* in premium gaming rooms;
- (8) Ban smoking on licensed premises completely by removing the exemption to smoke in Designated Outdoor Smoking Areas (DOSAs);
- (9) Bring in a "positive" licensing scheme for retailers with a licensing fee; and a searchable public register of current licence holders.

The Heart Foundation supports the four proposed amendments to the Bill as follows:

- (1) **Ban smoking within five metres of all government buildings;**
 - *and we recommend that for consistency and simplicity, this new five metre rule be amended to capture all non-residential buildings (enclosed places);*
 - *and we recommend consideration be given to extending this to multi-unit residential buildings which are not currently captured;*

A smoking ban within five metres of all government buildings is a reasonable extension of the current law requiring smoking to occur outside the five metre boundary of school and hospital grounds. This extension will ensure a state-wide, consistent approach for all government buildings.

We recommend that for consistency and simplicity, that the current law which bans smoking within four metres of non-residential buildings, also be increased to five metres. This is also a very reasonable extension of the current law which will further protect people eating in outdoor dining areas, and will move smoking further away from the entrance to all non-residential buildings such as office buildings.

People exposed to second-hand smoke at entrances to multi-unit residential buildings are currently not covered by this legislation. In a similar way to non-residential buildings, people entering a private unit dwelling should also be protected from second-hand smoke. Extending the proposed five metre rule to these buildings will make the law consistent and further protect people where they're currently not protected.

(2) Ban smoking at *all* public transport waiting areas and *all* pedestrian malls;

A state-wide law banning smoking at *all* public transport waiting points (transit terminals, ferry and bus stops and taxi ranks) and in *all* pedestrian malls is needed because there is currently no consistent state-wide approach.

The current law gives express powers to councils to enact smoking bans in these public places; therefore smoking bans vary between councils. Unfortunately, despite being given the powers to make laws to protect citizens from smoking in pedestrian malls and at transport waiting areas since 2009, most local councils have failed to regulate.

Apart from the current state law on 'prescribed outdoor pedestrian malls' in Brisbane and other major towns in Queensland, the majority of Queenslanders are not protected by bans on smoking in pedestrian malls. And there are even fewer regulations around public transport waiting points.

The Heart Foundation has been advocating for a state-wide law to ban smoking at all public transport waiting points and in all pedestrian malls for many years. These are places where people gather in close proximity, and unless they are smoke-free areas, people are at risk from involuntary exposure to second-hand smoke.

All Queenslanders deserve to be protected from tobacco smoke, and now is the time to act and make state-wide legislation. All Queenslanders deserve to have access to smoke-free areas which provide fresh air for everyone, especially children, young people and people with cardiovascular and lung diseases.

We know that Queenslanders support further smoking reforms with 90% supporting bans in malls and 92% supporting bans at public transport waiting points⁷. Smoke-free public places create anti-smoking social norms and discourage smoking by making it harder to smoke in public places⁸. This provides healthy environments that support people to quit smoking and supports the resolve of those who have already quit.

The Heart Foundation seeks the Committee's strong support and recommendation of this amendment to the Parliament.

(3) Ban smoking at *all* public swimming pools and skate parks;

- *and we recommend that this be extended to not within 10m of local club sports fields;*
- *and we recommend this be amended to not within 10m of a skate park;*

A ban on smoking at all public swimming pools and skate parks; as well as at local club sports fields is supported because these are areas where children, young people, pregnant women and families congregate in close proximity to be physically active and to connect socially. Children and young people are particularly vulnerable because they have smaller airways and less developed immune systems compared to adults.

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. It continues the de-normalisation of smoking in our community and requires that people who choose to smoke, move away from where people congregate.

Under current laws, only some public swimming pools are covered by the definition of "prescribed outdoor swimming areas – Act, s 26Z1". It is legal to smoke in outdoor swimming areas, as long as it doesn't contravene current laws around not smoking within 4 metres of entrances to enclosed places, within 10 metres of children's playground equipment, or in outdoor dining areas of a café/kiosk in the complex. Swimming pool owners/managers can, however, bring in their own

policy to ban smoking in their facility, but this means there is inconsistency in exposure to second-hand smoke around the State.

We recommend that the ban around skate parks be extended from the proposed 5m to 10m to be consistent with the current law on banning smoking within 10m of children's playground equipment. Given the vulnerability of children and young people, who are the main frequenters of skate parks, a 10m buffer would be safer and give some consistency to the laws.

Sports fields are currently not explicitly covered in our existing laws and remain an area of contention when adults smoke on the boundaries of children's sporting games. Again this means that the vulnerable can be exposed to second-hand smoke in a place where they should be able to mix freely and easily in a smoke-free environment. A state-wide law would remove the contention and inconsistency around the state.

The Heart Foundation seeks the Committee's strong support and recommendation of these amendments to the Parliament.

(4) Ban the sale of cigarettes at all temporary sales venues;

- *and ensure that the definition of this ban captures all temporary sales venues including pop-up stores, vehicles or any other variation;*
- *and ensure it captures personal vaporiser devices for e-cigarettes.*

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 such as music festivals, concerts or sporting events where there are many young people who are vulnerable to being influenced to smoke. This is a loophole in the law that needs to be closed.

The Heart Foundation has been advocating for this reform for many years, so we welcome this proposed reform and seek the Committee's strong support and recommendation to the Parliament.

The Heart Foundation recommends further reforms as follows:

(5) Ban the sale of tobacco products from vending machines altogether;

- *and ensure that personal vaporiser devices for e-cigarettes are also captured.*

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.

This exemption to sell tobacco products from a vending machine needs to be removed altogether to reduce the availability of tobacco products, to stop undermining the resolve of ex-smokers and to remove this avenue of tobacco advertising and promotion. The law may need to also specify that personal vaporiser devices for e-cigarettes cannot be sold from vending machines.

The World Health Organisation's Framework Convention on Tobacco Control (WHO FCTC)⁹, to which Australia is a signatory, recommends a total ban on tobacco vending machines.

The Heart Foundation has been advocating for this reform for many years, so we recommend that the Committee take this opportunity to strongly support this proposal and recommend it to the Parliament.

(6) 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.

The WHO FCTC⁹ also calls for this prohibition on the sale of tobacco products by those under the age of 18 years. Research has found that teenage employees are more likely than adults to sell tobacco products to minors and take tobacco products to supply to minors¹⁰. Protecting young people from selling tobacco products would be consistent with the current laws that prevent children from being supplied and purchasing tobacco products.

(7) 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.

The health consequences of exposure to second-hand smoke are not lessened because the smoking is occurring *inside* a gaming room that attracts wealthy gamblers. It is an occupational health and safety issue that must be addressed by all governments in Australia.

There is *no other indoor public place* in Queensland where people can smoke. There is no room for this unfair exemption to continue, whereby staff and patrons are exposed to tobacco smoke indoors.

(8) 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. The removal of DOSAs in pubs, clubs and licensed venues would reduce the exposure of non-smokers in or near these DOSAs to second-hand smoke. Patrons would be required to move off-site to a distance of 4 to 5 metres from the premises.

DOSAs continue to allow smoking in outdoor areas in pubs, clubs and licensed areas. These areas have become party zones, with groups of people, smokers and non-smokers, gathering together in large numbers and being exposed to tobacco smoke for hours. Banning smoking altogether from licensed premises will remove this exposure to smoking. People will need to remove themselves from the venue to smoke, which is now common practice in Queensland and expected by the community.

Unfortunately we have seen a marked increase in smoking amongst young people aged 25 to 34 years over the past two years. A staggering 28% of young men aged between 25 to 34 years are smoking, compared to 19.8% in 2012. Among women in this age group, 16.7% are smoking, an increase from 12.8% in 2012^{1,11}. These are alarming growth rates when smoking rates are at an all-time low of 14% among the general population of adults (18+) ¹.

These young people are 'frequent flyers' at licensed premises and would be supported to reduce their smoking and encouraged to attempt to quit smoking by the removal of the easy option to smoke in DOSAs. These only serve to reinforce the strong link between alcohol and smoking. Let's support Queenslanders to make the healthy choice not to smoke.

(9) Bring in a "positive" licensing scheme for retailers with a licensing fee; and a searchable public register of current licence holders

Despite the devastating consequences of tobacco use in Queensland, thousands of retailers sell tobacco products and don't need a licence. Tobacco products are easily accessible in

supermarkets, local convenience stores and in petrol stations, and the lack of a “positive” licensing scheme means that Queensland authorities do not have reliable data on who is selling tobacco in Queensland.

How is it possible for adequate education to be provided to tobacco retailers on their legal obligations around tobacco sales; and how is it possible to adequately monitor and enforce tobacco retailers, when an accurate list of these retailers doesn’t exist? What is the disincentive to retailers to comply, if there is no licence to lose? Our particular concern is with sales to minors breaches.

The lack of controls on where and how tobacco can be sold is in stark contrast to the regulation of other restricted and dangerous goods such as alcohol, pharmaceutical products, poisons, firearms, pesticides and dangerous chemicals which are subject to a wide variety of restrictions¹². Given that tobacco is a product that kills one in two of its long term users when used exactly as intended, the lack of control must change.

Queensland currently has a “negative” licensing scheme. The tobacco industry has publically put its support behind the negative licensing scheme model¹³. A negative licensing scheme is not proactive or prevention-oriented. It is a reactive system that responds to problems after they occur.

The Heart Foundation and the tobacco control community recommend a positive licensing scheme to replace the current negative licensing scheme. Retailers would be required to pay a licensing fee to sell tobacco products, face fines and the removal of a licence for breaches. Fees would be used to run the licensing scheme and provide a revenue stream to support education, monitoring and enforcement programs.

The benefits of a tobacco retailer license scheme were confirmed in a report for the Commonwealth Government thirteen years ago in 2002 revealing best practice approaches to tobacco licensing¹³. It found there is a strong case for introducing licensing based on economic and public health grounds.

A positive licensing scheme in Queensland would achieve the following objectives¹³:

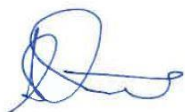
- Provide sufficient information for enforcement authorities so they can adequately enforce the laws relating to the sale of tobacco products and personal vaporiser devices;
- Ability to provide information to retailers regarding their obligations; and
- Efficient and effective penalties for use against those retailers who breach the laws.

The ACT, Northern Territory, South Australia, Tasmania and Western Australia all have positive licensing schemes, with an annual fee ranging from \$200 to \$300. Western Australia raised \$832,000 (2010-2011) from nearly 3,800 licensees and have a searchable public register of current licence holders at <http://www.tobaccocontrol.health.wa.gov.au/licensing/receiptregister.cfm>¹⁴.

Queensland has an estimated 13,000 retailers with no record of licence holders or fees collected. The Committee may wish to request compliance data from Queensland Health to ascertain the situation in Queensland.

The Heart Foundation is available for consultation and to appear as a witness if required. I look forward to hearing the outcomes of the Committee’s inquiry.

Yours sincerely



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