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Health and Community Services Committee  
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George Street  
Brisbane Qld 4000  
[hcsc@parliament.qld.gov.au](mailto:hcsc@parliament.qld.gov.au)

2 October 2014

Dear Mr Ruthenberg

**Submission on *Health Legislation Amendment Bill 2014***

Please find enclosed my submission to the Health and Community Services Committee on the Health Legislation Amendment Bill 2014. In this submission, I provide my expert opinion as a researcher on smoking cessation and tobacco control policy on the provisions within the amendment bill.

I also report data from a survey of Australian personal vaporiser users conducted earlier this year. The survey collected responses from 705 eligible participants. Eligibility criteria included aged 18+, residing in Australia and having ever used a personal vaporiser. Participants ranged in age from 18 to 74 and the majority of them were men (71%). Most reported being current daily users of personal vaporisers (93%). It should be noted that participants for this online survey were a convenience sample recruited via online 'vaper forums', personal vaporiser vendors and 'word of mouth' and therefore may not be representative of the whole population of Australian personal vaporiser users. However, since these participants are likely to be longer-term established users, they are the population most affected by regulations on personal vaporisers, particularly with respect to restrictions on public use.

Overall, I commend an approach that ensures that the "same rules apply" to vaporisers as to cigarettes rather than a policy that totally prohibits sale or use of personal vaporisers. There are relatively few harm reduction options available to Australian smokers and these products may have a role to play in reducing health risk for some smokers who find them an acceptable replacement to combustible cigarettes. Therefore, it is encouraging that this proposed amendment will use regulation rather than prohibition to strike a balance between potential risks posed by potentially inappropriate promotion of these products and the potential benefits to adult smokers from being allowed access to personal vaporisers.

Yours sincerely



Coral Gartner  
UQ Centre for Clinical Research  
The University of Queensland

**Amendment of s 26ZS to exempt personal vaporisers from the ban on sale of products resembling tobacco products.**

S 26ZS has been a source of confusion regarding whether it applies to sale of personal vaporisers intended for use by adults. This proposed amendment which clarifies that personal vaporisers are not included in this sales ban is to be commended as sensible public policy.

**Prohibiting the sale and supply of personal vaporisers to children**

Imposing an age restriction on sale of personal vaporisers is a sensible public health policy, and one that is likely to have widespread community support. This is also supported by current personal vaporiser users. Participants in the personal vaporiser survey endorsed an age restriction on personal vaporiser sales. Ninety per cent of participants agreed that personal vaporisers should be “available for sale to anyone aged 18 and over”.

**Restricting advertising and display of personal vaporisers at retail outlets**

The benefit of prohibiting advertising and retail display of personal vaporisers is that it decreases inappropriate marketing to young people aged under 18 by removing these products, which are intended for adults, from the line of sight of children.

These products are likely to be much less harmful than cigarettes and so could have a role to play in substantially reducing the health risks of smoking if smokers were to switch to solely using these products. Seeing a personal vaporiser on display where cigarettes are sold may be one way for smokers to become aware of alternatives to tobacco cigarettes and so removing them from display may limit smokers’ awareness of these products. However, I note that the retail price of personal vaporisers could still be displayed to alert customers to the availability of these products for sale and sales assistants could also advise smokers of their availability during sales transactions. Furthermore, the online survey of vaporiser users indicated that most found out about personal vaporisers by word of mouth (47%), social media (14%), general media (10%) or seeing someone use one (16%), rather than seeing one on display in a retail store.

**Including use of personal vaporisers in public smoking bans**

There has been much public confusion about whether public smoking bans also apply to the use of personal vaporisers so the proposed legislative clarification will enable the public to know where personal vaporisers may and may not be used. From a public health perspective, banning use indoors in public venues is a sensible provision, particularly in confined spaces such as on public transport. While these devices generate far fewer pollutants and at much lower levels than cigarettes, it is sound policy to avoid any unnecessary sources of indoor air pollution. This is consistent with prevailing community standards, even if the risk to others is low.

It is more difficult on public health grounds to justify a prohibition on the use of personal vaporisers in outdoor spaces because the public risk posed by exposure of bystanders to the aerosol from these devices in outdoor environments is likely to be trivial or non-existent compared to cigarettes. It is also substantially less than other outdoor exposures from other common sources of air pollution, such as traffic exhaust fumes.

The most persuasive argument for banning personal vaporiser use in outdoor smoke free areas is to simplify enforcement and reduce public confusion about where these devices may be used. It would be challenging to enforce separate and very different restrictions on the public use of cigarettes and personal vaporisers. However, it would be worthwhile for the committee to consider whether there is a viable alternative to banning vaporiser use in all outdoor smoke free areas.

Banning use of vaporisers in all smoke-free areas will have some impact on current users. Many survey participants (65%) reported using a personal vaporiser in public places where smoking is banned. It should be noted that many participants (58%) supported some restrictions on where vaporisers can be used, but fewer restrictions than those that apply to smoking cigarettes. Only 6% agreed that the same restrictions as for smoking cigarettes in public places should apply to using personal vaporisers, while 35% felt there should be no restrictions on where vaporisers can be used.