

2 October 2014

Mr Karl Holden  
Acting Research Director  
Health and Community Services Committee  
Parliament House  
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Dear Mr Holden

### **Heart Foundation submission on the Health Legislation Amendment Bill 2014**

The Heart Foundation welcomes the opportunity to provide a submission on the Health Legislation Amendment Bill 2014. This submission will focus on our support for the proposed amendments to the *Tobacco and Other Smoking Products Act 1998* and our recommendations for further reforms.

Smoking is a major cause of heart attack, stroke and peripheral vascular disease and is the largest single preventable cause of death. More than 3400 Queenslanders die annually from smoking, equal to around 10 large aircraft crashes a year. Every year about 36,000 smoking related hospitalisations occur. 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.

### **Electronic cigarettes and other personal vaporising devices**

The Heart Foundation welcomes the proposed amendments that relate to electronic cigarettes and other personal vaporising devices and commend the Queensland Government on its leadership in protecting our children and our smoking laws. In Australia, no other jurisdiction has enacted legislation similar to the proposed amendments regarding personal vaporisers.

The Heart Foundation and Cancer Council Australia put out a joint position paper on electronic cigarettes recommending the following laws be implemented to protect Australians<sup>1</sup>:

1. **Restricting the retail sale of non-nicotine electronic cigarettes** because they are currently available unregulated to children who can purchase them as they don't contain tobacco leaf and are not automatically covered by tobacco laws. There are no restrictions relating to their sale and supply, promotion, use or enforcement.
2. **Ensuring smoke-free laws in each state and territory cover electronic cigarette use.** E-cigarettes need to be brought under smoke-free laws to ensure that both nicotine and non-nicotine e-cigarettes are not used in places where smoking tobacco is prohibited. Unrestricted use of e-cigarettes undermines Queensland's excellent smoke-free laws.
3. **Prohibiting advertising and promotion of electronic cigarettes, consistent with tobacco advertising prohibitions** to limit the aggressive promotion of e-cigarettes currently being directed at young people and children. E-cigarette advertising should be subject to similar restrictions as other tobacco products.

The Heart Foundation supports the proposed amendments, as long as they achieve the above recommendations and the intention of the law to capture all vaporising devices and associated

products such as liquids, cartridges and mouthpieces as smoking products, including those devices that deliver nicotine and those that claim to be nicotine-free.

We urge the committee to ensure that the proposed definition of a personal vaporiser as “a device that is capable of being used to deliver nicotine”; captures all devices, even those that don’t contain nicotine. This is extremely important to protect children, who can currently purchase these devices as they are unregulated. Users of these devices experience the same deep inhalation of substances into the lungs as cigarettes.

We support the amendments because they’re needed to ensure personal vaporising devices and their associated components are subject to the same restrictions applied to tobacco products. This includes prohibiting their sale and supply to children, restricting advertising and display at retail outlets and prohibiting use in enclosed and outdoor smoke-free places.

### **Prohibition of smoking on and around health facilities and schools**

The Heart Foundation supports the proposed amendments to prohibit smoking on and around health facilities and schools because this ensures a state-wide, consistent approach between schools and hospitals.

Importantly, it removes the discretion for an establishment to nominate an outdoor smoking place on the grounds and the extension beyond the perimeter will remove exposure by all people, particularly children, where people congregate to smoke at entry points. All people need protection from second-hand smoke around these facilities and it should not be a discretionary decision.

### **Prohibition of smoking at secure correctional facilities**

The Heart Foundation supports the proposed amendments to remove the exemption from smoking in secure correctional facilities from the *Tobacco and Other Smoking Products Act 1998* to ensure consistency with smoking bans implemented under the *Corrective Services Regulation 2006*, which took effect from 5 May 2014.

### **Recommendations for further smoking law reforms:**

The Heart Foundation urges the Health and Community Services Committee to recommend further smoking law reforms to the Queensland Government. Reducing access to places where people can smoke has been one of the single most effective public health strategies we have seen in tobacco control.

There are still a number of places in Queensland where people are routinely exposed to second-hand smoke. These loopholes need to be closed for Queensland to achieve the goals in the Queensland Plan<sup>2</sup> for better health and well-being and to support Queenslanders to regularly engage in healthy activities and live in well-planned and well-connected communities. Smoking rates are identified as a measure to track progress in achieving the goals of the Queensland Plan.

The Heart Foundation’s proposed recommendations are to amend the law to include:

#### **1. State-wide ban on smoking in pedestrian malls, at public transport waiting points and at taxi ranks**

There is currently no consistent state-wide approach to smoking bans in pedestrian malls, at public transport waiting points and at taxi ranks. The current law gives express powers to councils to enact smoking bans; therefore smoking bans vary between councils. Few have enacted these laws to protect their constituents from exposure to second-hand smoke.

All Queenslanders deserve to have access to smoke-free areas which provide fresh air for everyone, especially children and people with heart 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 points<sup>3</sup>.

Public transport and taxi waiting points are places where people congregate and are involuntarily exposed to second-hand smoke. We know that smoke-free laws provide healthy environments that support more people to quit smoking and support the resolve of those who have already quit.

**2. Remove the exemption for designated outdoor smoking areas (DOSAs) at licensed premises**

The exemption for smoking in liquor licensed premises in designated outdoor smoking areas (DOSAs) needs to be removed because they have become party zones amongst young people and they undermine Queensland's excellent smoke-free laws.

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. These are alarming growth rates when in the general population of adults smoking rates are at an all time low of 14%.<sup>4</sup>

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 by making the healthy choice to not smoke, the easier choice to make.

**3. Remove the exemption to smoke in premium gaming rooms**

Staff and patrons in premium gaming rooms continue to be exposed **indoors** to smoking. This anomaly needs to be removed now. 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 changed or lessened because the smoking is occurring in a gaming room that attracts wealthy gamblers. It is an occupational health and safety issue that must be addressed by all governments in Australia.

We are available for consultation if required and look forward to hearing the outcomes of the committee's inquiry.

Yours sincerely



Stephen Vines  
Chief Executive Officer

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**References**

<sup>1</sup> Cancer Council Australia and Heart Foundation (2014), Position Statement, Electronic cigarettes, [http://wiki.cancer.org.au/policy/Position\\_statement\\_-\\_Electronic\\_cigarettes#Recommendations](http://wiki.cancer.org.au/policy/Position_statement_-_Electronic_cigarettes#Recommendations)

<sup>2</sup> State of Queensland (*The Queensland Plan*) 2014.

<sup>3</sup> Queensland Government Review of Smoke-free Laws (2007), Public Consultation, Summary of Feedback.

<sup>4</sup> Department of Health, Queensland Government, Media statement (8Aug 2014), based on data collected for the *Health of Queenslanders 2014 Chief Health Officer's report*.