

Sub # 8

**From:** Justin Pleass [justinp@restaurantcater.asn.au]  
**Sent:** Tuesday, 27 September 2011 11:03 AM  
**To:** Health and Disabilities Committee  
**Subject:** Restaurant & Catering Australia's Submission on the Queensland Health Amendment Bill  
**Attachments:** Restaurant & Catering Australia's Submission for the Queensland Health Legislation Bill Amendment.pdf

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To Whom It May Concern

Please find attached the Association submission for Health Amendment Bill

If you have any queries please let me know by return or email or you can call me on (02) 9966 0055.

Regards

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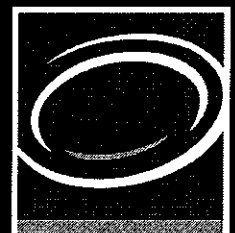
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**Restaurant & Catering is the peak national organisation representing the interests of restaurateurs and caterers. The Association exists to lead the restaurant and catering industry.**



**Restaurant & Catering Australia**

**Restaurant & Catering Australia's Submission for  
the *Queensland Health Legislation Amendment  
Bill***



Restaurant  
& Catering

## **Restaurant & Catering Australia's Submission for the Health Legislation Amendment Bill**

Restaurant & Catering Australia (R&CA) is the only peak organisation representing the interests of the 32,000 restaurants, cafes and caterers in Australia. R&CA is thankful for the opportunity to provide a submission on the following Legislative amendment to the *Health Act 1937* in Queensland.

The Association understands the following seven (7) amendments will be made to the following legislation in Queensland:

The Bill amends seven health portfolio Acts:

1. *Food Act 2006*, to provide a framework for food business rating schemes
2. *Health Act 1937*, to create a head of power to make fees
3. *Health Quality and Complaints Commission Act 2006*, to clarify the Commission's ability to interact with both national and state health practitioner registration boards about complaints
4. *Pest Management Act 2001*, to prescribe a competency document to accompany a licence application
5. *Public Health Act 2005*, to amend powers to control contagious conditions at schools and child care services
6. *Public Health (Infection Control for Personal Appearance Services) Act 2003*
7. *Tobacco and Other Smoking Products Act 1998*, to ban the sale of fruit-flavoured and confectionary flavoured cigarettes and the sale of objects that resemble smoking products, clarify designated outdoor smoking areas at licensed premises, and to provide that smoking products seized from children are forfeited to the state.

### **1. Food Act 2006, to provide a framework for food business rating**

R&CA would like to provide comment on amendment one (1), which states the main purposes of the Food Act are to: ensure food for sale is safe and suitable for human consumption; to prevent misleading conduct in relation to the sale of food; and to apply the Food Standards Code. Some of the ways in which the purposes are achieved are by providing for the licensing of particular food businesses and by providing for the monitoring and enforcement of compliance with the Act and the Food Standards Code.

Using the functions of the Food Act as a basis, some local governments have implemented, or have shown an interest in implementing, a food business rating scheme within their local government area as a means of improving food safety standards, reducing incidences of food borne illness and assisting consumers to make informed food and dining choices.

R&CA have been involved in the consultation process with the pilot and extended twelve (12) month program implemented by the NSW Food Authority who have rolled out the Scores on Doors program in New South Wales, the Association was also involved in the consultation period with Brisbane's 'Eat Safe program'. These two (2) programs are operating under a 'star rating' (3 stars; 4 stars; 5 stars) scheme, which the Association supports as an alternative to the letter ratings (A, B, C) and the (3) three levels of pass, conditional pass, closed notice programs used by other countries.

While there are some positives for this type of 'Scores on Doors' program, R&CA believe this program will pose a challenge to the 'name and shame' program or its alternative a *'register of convicted food businesses'*. Some challenges for 'Scores on Doors' is that consumers may be confused about what constitutes a fail, and some consumers may not realise 'B' or 'C' ratings indicate an acceptable standard of food safety. The system may result in consumer's unfairly avoiding restaurants and cafes with a rating less than 'A'. There also remain concerns surrounding unfair or inconsistent scoring and the right to appeal a decision, as well as the potential publication of poor results by local media outlets.

R&CA supports the 'star rating' system; however the Association will only support a voluntary 'scores on doors' program, if 'Name and Shame' program or its alternative a *'register of convicted food businesses'* is abolished. Its operation in parallel with the 'scores on doors' creates confusion for customers, who do not understand how a restaurant and/ or café can be on the name and shame list when they have received a four (4) or five (5) star rating.

R&CA believe the QLD Department of Health need to implement a scoring system which will both accentuate the positive as well as identify non performers among restaurants and cafes. R&CA have indicated they support the New South Wales and current 'Scores on Doors' / 'Eat Safe' program which is run by the Brisbane and Logan councils. The Association contends that State based regulation should support rather than conflict with this approach. R&CA advocates that the 'Scores on Doors' program needs a universal grading system so consumers are not confused by the grading systems in each state (as there is a move to implement a national 'Scores on Doors' approach). However R&C believe the 'scores on doors' program should remain a voluntary program and allow business owners to make the decision whether to be part of this program and display a rating.

In NSW, all venues selling food which is freshly cooked and served to a customer can volunteer to join the 'Scores on Doors' program if the venue operator chooses to do so. In NSW these venues include fast food outlets, restaurants, cafes, pubs and clubs serving food, bakeries and deli's in supermarkets who serve fresh food, not packaged food.

An important component of the 'Eat Safe' scheme is that businesses can apply for reassessment. This facet of the scheme provides businesses with the opportunity to improve their standard of food safety and receive recognition for the improvement. R&CA suggests that any state based regulation should support, if not encourage, this approach.

R&CA does not support a 'Name and Shame' program or its alternative a *'register of convicted food businesses'*. R&CA does not believe this program and the 'Scores on Doors' program can work in conjunction. The basic 'name and shame' scheme does little for consumers in that the same mark is applied to a business that has a serious breach in its standard of hygiene as it does to a business that is subject to a technical breach.

This does little to provide advice to consumers of what is good and what is bad, further the 'name and shame' scheme does nothing to encourage businesses to improve their standard of food safety, the 'star rating' scheme does allow for this. The requirement for reassessment coupled with the gradation in the system provides an incentive to earn a higher rating and increase their standard of hygiene.

R&CA notes the Bill does not provide for the immediate introduction of a rating scheme, as it is reliant upon the development and approval by the Australia and New Zealand Food Regulation Ministerial Council for a national framework. The Bill establishes a head of power to provide for the establishment of a consistent state-wide model for local governments to implement. The proposed inclusion will legislate against Brisbane City Council using the *Eat Safe Brisbane* scheme in its current form. Although the proposed provision is not specific in terms of the rating criteria, initial discussions with Queensland Health have indicated the State's criteria will only relate to the legal requirements of the Act. This includes the licensing provisions of the Act and compliance with the *Food Standards Code*. Queensland Health has advised that the 'Section B' component of Council's scheme (Good Management Practices) is not a legal minimum requirement and therefore is not applicable to food safety.

The Association also disagrees with the inclusion of an offence created by section 271H 'Offence about conducting food business rating scheme'. This new provision also establishes an offence for a local government to conduct a food business rating scheme that does not comply with the scheme prescribed in regulation. A penalty of 1,000 penalty units (\$10,000) applies to this offence.

R&CA support amendments 3, 4, 5 and 6 to the Health Legislation Amendment Bill.

## **7. Tobacco and Other Smoking Products Act 1998**

R&CA does not agree with the ban on smoking in an outdoor area where eating or drinking is allowed, such as an alfresco dining area of a restaurant or café. R&CA will continue to support the existing non-smoking legislation for indoor areas where food is consumed; the Association will continue to support education on non-smoking.

R&CA believes a sensible approach is needed when considering a strategy to ban smoking in outdoor settings. R&CA is unaware of any evidence to illustrate that smoking has an effect on an individual in an outdoor setting.

When a consumer walks into a restaurant / café to order a meal and/or drink, it is not reasonable to have legislation dictate where this person should eat and/or drink if they choose to have a cigarette in an outdoor setting.

R&CA believes that banning smoking at an outdoor venue will cause confusion and bewilderment for interstate or overseas travellers, reducing the patronage to these venues that rely on tourism to run their business daily.

For restaurants and cafes that have outdoor settings, there are other harmful gases such as carbon monoxide from vehicles driving past that could cause illness for adults and children – these drivers are not asked to turn their vehicles off as they drive past! It is an impossible to protect diners from these dangers for which there is evidence of harm.

Restaurants and cafes have already spent large amounts of money conforming to the ban on indoor smoking and supported this ban given the available evidence and the inherent OH&S risks. R&CA believes that without any evidence to demonstrate any public detriment from unenclosed areas, the ban should not proceed.

## Summary

In conclusion, the Association believes there is a cause for a public hearing and would like the opportunity to discuss the amendments in further detail. R&C understands and support a desire for consistency; however, this arbitrary and prescriptive approach should is not necessary if Queensland Health is effectively engaged with Stakeholders.