

## **Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024**

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# Submission to

## Health, Environment and Agriculture Committee

*Tobacco and Other Smoking Products (Vaping) and  
Other Legislation Amendment Bill 2024*

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submission

## Introduction

The Queensland Nurses and Midwives' Union (QNMU) thanks the Health, Environment and Agriculture Committee for the opportunity to provide feedback on the proposed changes to the *Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024* (the Bill).

The QNMU is Queensland's largest registered union for nurses and midwives, representing over 74,000 members. The QNMU is a state branch of the Australian Nursing and Midwifery Federation (ANMF) with the ANMF representing over 322,000 members.

Our members work in health and aged care including public and private hospitals and health services, residential and community aged care, mental health, general practice, and disability sectors across a wide variety of urban, regional, rural, and remote locations.

The QNMU is run by nurses and midwives, for nurses and midwives. We have a proud history of working with our members for over 100 years to promote and defend the professional, industrial, social, and political interests of our members. Our members direct the QNMU's priorities and policies through our democratic processes.

The QNMU expresses our continued commitment to working in partnership with Aboriginal and Torres Strait Islander peoples to achieve health equity outcomes. The QNMU remains committed to the Uluru Statement from the Heart, including a pathway to truth telling and treaty. We acknowledge the lands on which we work and meet always was, and always will be, Aboriginal and Torres Strait Islander land.

The QNMU commends the nationally consistent approach being undertaken by federal, state and territory governments to address the increase in vaping through stronger legislation, enforcement, education, and support measures. Such reforms are important for improving the health and wellbeing of Australians and future generations. They are also important contributors to reducing burden on Australia's already strained health and aged care system.

The QNMU is broadly supportive of the Bill and its aim to improve Queensland's ability to take strong and decisive action to regulate vaping and address the high levels of uptake of vaping among young people. The QNMU's submission reaffirms several recommendations we made to Queensland Health about the drafting of the Bill and highlights some additional considerations and safeguards to ensure the reforms achieve the intended aims.

## General comments

The QNMU welcomes the intent of the Bill to strengthen Queensland's existing regulatory framework, in line with broader actions being implemented by governments to reduce e-cigarette use (Department of Health and Aged Care, 2023). This includes giving effect to several of the recommendations made by the former Health and Environment Committee's *Inquiry into reducing rates of e-cigarette use in Queensland* in 2023 (the 2023 inquiry). The Bill also intends to align with the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024*, that has recently passed in the Senate on 26 June 2024. The

Commonwealth Bill restricts the sale of vapes to pharmacies, with products limited to regulated, plain-packaged nicotine vapes with menthol or tobacco flavouring.

Vapes are currently regulated through a complex combination of Commonwealth, state and territory laws. To date, jurisdictional gaps and inconsistencies between state and territory and Commonwealth legislative frameworks have created barriers to enforcement and compliance. States and territories have been largely left to face the enforcement and regulation challenges separately and with little consistency and effectiveness. Although some state and territory laws prohibit the sale of vapes to younger people, these measures have been proven ineffective in stemming the flow of vapes to youth and young adults and have proven ineffective at preventing retailers from selling nicotine vapes to young people.

An effective national regulatory system requires jurisdictions to have a harmonised regulatory approach, and to cooperatively enforce the legal framework, with consistent public health messaging to promote the harms of vapes. The QNMU urges that the Committee work with the Commonwealth Government to complement its proposed reforms introduced via the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024*.

### ***Evidence based approach to regulation***

The Queensland Government's response to vaping reforms is based on current evidence regarding the direct health risks that vapes may pose to human health, including respiratory illness, cardiovascular disease, and addiction to nicotine. Research also suggests that vaping may increase the likelihood of uptake of tobacco use (Baenziger et al., 2021). This is of particular concern among children and young people, who are known to be taking up vaping at alarming rates (Banks et al., 2023). The QNMU recommends that the Queensland and Commonwealth Governments continue to monitor the use of e-cigarettes, and emerging evidence following the implementation of these measures, to evaluate reform measures and ensure their appropriateness and effectiveness in reducing the use of e-cigarettes. We suggest a review of the framework in three to five years would be appropriate to assess whether the legislation meets the intended aims.

### ***Policy initiatives***

While the stated focus of the Bill is to prohibit the supply and possession of vaping goods through legislative amendments, the QNMU highlights a range of educational, funding and support service measures that are equally as important to reduce the use of e-cigarettes, particularly in target populations.

The Bill introduces important reforms on recreational vaping that will provide a significant step forward in reducing the net public health harm of vaping products. However, we note that moving towards more prohibitive regimes do not necessarily reduce harms associated with vaping or deal with the broader system level issues contributing to the proliferation of these products and rising use. Excessive restrictions and bans may not be the most effective approach and can often be counterproductive, perpetuating illegal vaping products further and taking money away from prevention and treatment initiatives (Mendelsohn et al., 2023). For these reasons, the QNMU believes that to successfully transition people away from vaping and empower them to make informed health decisions, there is a need to balance legislative reforms with addressing the broader system level issues and appropriately resource health services to support populations and targeted groups through prevention, education and

cessation services. This includes access to wrap-around support services, including multidisciplinary health teams, as discussed below.

### ***Funding***

The QNMU recommends the need for greater investment into funding of primary health services and preventative healthcare to meet the needs of populations and provide adequate support services and early intervention for people trying to quit vaping. While essential and underfunded, harm minimisation and rehabilitation services do not prevent initial or prolonged substance use. Any meaningful action must therefore address the wider socioeconomic causes that increase the likelihood of people using e-cigarettes or smoking.

Funding should support nurses and midwives to provide greater access to evidence-based cessation services to support people to quit the use of tobacco, e-cigarettes, and novel and emerging products. Funding should be provided to:

- Facilitate more nurse and midwife-led models of care, such as face-to-face and telehealth services;
- Increasing the number of nurse practitioners and nurse practitioner candidates in alcohol and other drugs services. Investing in nurse practitioner candidates will ensure the continued growth of this highly trained and skilled workforce; and
- Facilitate access to support services for target populations and vulnerable and marginalised populations.

### ***Training for health professionals***

The prevalence of tobacco use means that people receiving care across the full spectrum of nursing and midwifery practice are adversely affected. The QNMU maintains that increased training for healthcare professionals, including nurses and midwives, would better support health services to manage e-cigarette use in the community. Training and education should focus on e-cigarette use, interventions and support services for people who use e-cigarettes, and the effectiveness and safety of prescribing e-cigarettes to aid quitting smoking.

### ***Access to cessation services and education***

The 2023 inquiry recommended that the Department of Education and Queensland Health review and assess the adequacy of current vaping educational resources for schools on vaping and interventions for students found with vaping products as an alternative to pursuing punitive outcomes such as suspension.

We have raised in earlier submissions, the significant role that schools play in providing health and education services to children and adolescents about vaping. The QNMU continues to advocate for the involvement of School-Based Youth Health Nurses in strategies to prevent e-cigarette use, such as the provision of educational programs for students about the risks and health effects of e-cigarettes. Community-based healthcare models including multidisciplinary healthcare professionals are well placed in not only addressing the health and education aspects of reliance on vaping products, but they are also able to engage in conversations with consumers and are vital in understanding the true root causes of this addiction.

The Inquiry also emphasised that schools in regional and remote areas report difficulty in accessing health professionals to assist in the delivery of education programs about vaping. To address these issues, we seek that the Queensland Government provide greater investment into School-based Youth Health Nurses to improve the accessibility of e-cigarette cessation services and programs to people, including in regional and remote communities.

We welcome increased government funding to support vaping and other drug and alcohol education programs in schools. It is crucial that funding provides for attaining appropriate resources, including the workforce required to sustain services and be specifically allocated or tied to training and education programs to ensure accountability and effectiveness of these programs.

### **Proposed amendments**

The QNMU is broadly supportive of the proposed amendments to create a new offence for persons other than suppliers and wholesalers who supply illicit smoking products in retail and wholesale outlets. It is proposed that this offence will provide a strong deterrence effect and allow enforcement action to be taken against individuals who are not suppliers but are knowingly supplying illicit products at a retail or wholesale outlet. To achieve this aim, the Bill will need to provide adequate consideration and safeguards to ensure that enforcement action is only taken against individuals, such as employees, who are *knowingly* supplying illicit products. It is crucial that the amendments do not unintentionally capture individuals who are unaware they are supplying illicit products. Vulnerable employees, particularly those in low-wage industries such as retail, are often engaged under precarious or unlawful arrangements, and may be reluctant to raise a complaint about their working conditions or requests from an employer to follow unreasonable or unlawful directions or pursue their rights when they are contravened. The QNMU seeks that the proposed reforms provide for these required safeguards and only target those who are knowingly trading and supplying illicit products, including those who intentionally derive a positive financial benefit through this activity.

### **Minor amendments**

The proposed minor amendments are intended to improve alignment of the *Tobacco and Other Smoking Products Act 1998* (the Tobacco and other Smoking Products Act) with the *Medicines and Poisons Act 2019*. This includes removing barriers to executing warrants, searching premises, and seizing contraband items. Whilst important, the QNMU seeks that existing right of entry safeguards under the Tobacco and other Smoking Products Act will continue to operate under the new provisions. Appropriate safeguards are required to balance the limitations imposed on suppliers by officers exercising their right of entry to a premises without a warrant, with the benefit of protecting the community and public interest of combating the illicit tobacco trade in Queensland.

## References

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