



# ***HEALTH AND ENVIRONMENT COMMITTEE***

**Members present:**

Mr AD Harper MP—Chair  
Mr R Molhoek MP  
Mr SSJ Andrew MP  
Ms AB King MP  
Ms JE Pease MP  
Mr ST O'Connor MP

**Staff present:**

Ms R Easten—Committee Secretary  
Ms R Duncan—Assistant Committee Secretary

## **PUBLIC BRIEFING—INQUIRY INTO THE TOBACCO AND OTHER SMOKING PRODUCTS AMENDMENT BILL 2023**

### **TRANSCRIPT OF PROCEEDINGS**

**Friday, 31 March 2023**

**Brisbane**

## FRIDAY, 31 MARCH 2023

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### **The committee met at 10.33 am.**

**CHAIR:** I declare open this public briefing of the Health and Environment Committee's inquiry into the Tobacco and Other Smoking Products Amendment Bill 2023. I am Aaron Harper, the member for Thuringowa and chair of the committee. I would like to start by respectfully acknowledging the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all now share. With me today are Mr Rob Molhoek, the member for Southport and deputy chair; the member for Lytton, Ms Joan Pease, who will be joining us very shortly; Ms Ali King, the member for Pumicestone; Mr Sam O'Connor, the member for Bonney; and Mr Stephen Andrew, the member for Mirani.

On 14 March 2023 the Hon. Yvette D'Ath, Minister for Health and Ambulance Services, introduced the Tobacco and Other Smoking Products Amendment Bill 2023 into the Queensland parliament and referred it to this committee for detailed consideration and report. The briefing today by representatives from Queensland Health is to respond to issues raised in submissions and the public hearing for the inquiry. This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. I remind committee members that officers are here to provide factual and technical information. Questions seeking an opinion about policy should be directed to the minister or left to debate in the House.

**JOLDIC, Ms Jasmina, Associate Director-General, Strategy, Policy and Reform, Queensland Health**

**MAHLER, Mr Karson, Director, Legislative Policy, Queensland Health**

**WEST, Mr Mark, Executive Director, Prevention Strategy Branch, Queensland Health**

**CHAIR:** We welcome representatives from Queensland Health. It is good to see you again, Jasmina. Over to you to start with an opening statement and then we will move to any questions we have.

**Ms Joldic:** Thank you. Good morning, Chair and committee members. Mr Molhoek, I will keep this brief, not like last time. Thank you for the opportunity to brief you on the Tobacco and Other Smoking Products Amendment Bill. It is a pleasure to see you all in person. I would like to start by acknowledging the traditional custodians of the land on which we meet this morning and pay my respects to their elders past, present and emerging. We are on the land of the Turrbal and Yagara people.

The bill amends the Tobacco and Other Smoking Products Act 1999 to strengthen, modernise and futureproof the act and improve oversight of the smoking industry. The bill also implements the 2020 government election commitment to strengthen Queensland's smoking legislation and increase smoke-free public places. The object of the act is to improve the health of the public by reducing their exposure to tobacco and other smoking products. The bill supports this object by responding to ongoing and emerging issues with the supply and use of smoking products.

Earlier this week the Chief Health Officer, Dr John Gerrard, launched the latest health of Queenslanders report. The report notes that in Australia smoking remains the leading preventable cause of death and disease. In 2022, 10.4 per cent of Queensland adults still smoked daily. Despite this, between 2009 and 2022 concerted public health efforts saw an increase of 10 per cent in the proportion of Queensland smokers who have quit. This includes measures implemented under the act. However, the report then notes that e-cigarettes have suddenly emerged as a new lifestyle related public health threat. This and the increased trade in illicit tobacco is putting at risk the downward trend in smoking over the past 25 years. I would like to commend Dr John Gerrard and my team here, ably led by Mark West, for producing this important and timely report. I would also like to congratulate the Prevention Strategy Branch in Queensland Health for leading the development of a bill which addresses some of the key smoking product health issues highlighted in the report.

The amendments in the bill have been informed by outcomes from extensive public regulatory impact processes conducted in 2021 and 2022 and direct consultation with key stakeholders. Given the broad definition of ‘smoking products’ in the act, the new and expanded restrictions in the bill regarding the supply, use and promotion of smoking products will also impact on e-cigarettes. However, the bill does not attempt to extensively regulate e-cigarette use. Doing so would be premature in view of the e-cigarette reforms under the consideration of the Australian health ministers through the national E-cigarette Working Group and by the Therapeutic Goods Administration. I also note the committee has commenced an inquiry in relation to the availability and prevalence of vaping devices—that is, e-cigarettes—and their associated health risks. It is anticipated that the reforms in the bill will complement the eventual recommendations of this inquiry and the reforms and the consideration nationally.

Although the amendments in the bill are wideranging, they may be loosely grouped into several key areas which I will now briefly discuss. First and foremost, the bill introduces a licensing scheme for wholesalers and retail sales of smoking products. The purpose of the licensing scheme is to improve Queensland Health’s oversight of the smoking product industry and its ability to engage with the industry and design targeted compliance programs. It will also align Queensland with other Australian jurisdictions. Both kinds of licences—retail and wholesale—will authorise sales at one physical premise and one online shop. Any additional premises or online shops will require a separate licence. A liquor licensee may also apply for a retail licence to sell smoking products. Given the level of regulation already applying to liquor licensees under the Liquor Act 1992, they will automatically be granted a licence. However, their licence only authorises sale from the liquor licensed premises, not from an online shop.

Licences must be renewed annually and a fee will be charged for the initial grant of a licence and each renewal. It is anticipated the fee for application and renewal will be \$475 for a retail licence and \$675 for a wholesale licence. These fees are intended to ensure full cost recovery of the licensing infrastructure and delivery. The fee will also fund additional compliance activities throughout the state. The licensing scheme will ensure only legitimate businesses which comply with their legal obligations are entrusted to supply smoking products. It will also provide a strong incentive for industry to maintain compliance standards. The bill achieves this in several ways.

Firstly, before granting a licence, the chief executive must be satisfied the applicant is a fit and proper person to hold a licence. This includes consideration of any criminal history and the applicant’s compliance with smoking product laws of Queensland, the Commonwealth and interstate. Where a licensee breaches the act or otherwise stops being a fit and proper person, the bill empowers the chief executive to suspend or cancel their licence. The chief executive may also impose conditions on a licence. The bill provides a significant penalty for the unlicensed wholesale or retail sale of smoking products being 1,000 penalty units, which is \$143,750. The same penalty also applies where a wholesaler sells smoking products to an unlicensed retailer. It is expected that the application portal will go live later this year. Wholesalers and retailers will then have 12 months to become licensed by 1 September 2024.

The second area of reforms concerns illicit tobacco. This is the term used to describe smoking products which do not comply with Commonwealth requirements for plain packaging and health warnings. The bill makes the supply of illicit tobacco a specific offence under Queensland law. It will also be an offence for a retailer to possess illicit tobacco at their premises. This will empower Queensland Health to take direct action to enforce these Commonwealth requirements. The bill gives the chief executive a new power to forfeit seized illicit tobacco without first taking prosecution action to prevent it being used to commit further offences. Significant penalties will also apply for these new offences. The illicit tobacco provisions anticipate and allow for the enforcement of tighter Commonwealth requirements being introduced, for example, in relation to e-cigarettes.

Next, to effectively monitor enforced compliance with the act, the bill provides authorised persons with expanded powers. This includes making additional inquiries, remaining at a place to exercise powers and issuing an improvement notice to immediately prohibit an unlawful activity. These changes will address actual problems encountered by authorised persons when previously exercising their powers. To assist with effective enforcement of the new offences of unlicensed sale of smoking products and supplying illicit tobacco, the bill also deems police officers to be authorised persons. This will formalise the role police officers already play in supporting efforts to combat serious smoking product offences. The bill also introduces information-sharing provisions to allow the chief executive to share intelligence with other state and Commonwealth law enforcement agencies.

In addition to the trade in illicit tobacco, other challenges facing Queensland include the rise in e-cigarette use amongst young people and businesses finding new ways of circumventing the act. In response, the bill updates the existing advertising restrictions in the act. This will make it clear that the restrictions apply to online shops—that is, websites selling smoking products. The restrictions also apply to colloquial names for smoking products and using multiple business names which each reference smoking products. The bill also expands the existing display and promotion restrictions in the act. This includes prohibiting the supply of smoking products for a nominal fee and the display of multiple mandatory or permitted signs to indirectly draw attention to the fact that smoking products are available for sale.

Finally, in addition to ensuring the act adopts a present-day approach to e-cigarette sales and use, the bill expands the protections for children and families from exposure to tobacco products and second-hand smoke. A significant driver of smoking reduction in Queensland has been the steady decrease in smoking among young people. As such, preventing the uptake of smoking by this cohort is a critical objective of the bill. This will be achieved through a number of significant reforms. Under-18 employees who sell smoking products may grow to view smoking as a normal behaviour and be exposed to the variety of smoking products available. The bill prohibits the supply and handling of smoking products by children in the course of their employment. To ensure retailers have sufficient time to adjust their practices and staffing, this new prohibition does not commence until 1 September 2024. As smaller businesses, including those in rural and remote areas, may need more time to absorb the change, they will have a further 12 months after this in which to comply.

The bill also removes an exemption that allows parents to supply smoking products to children without breaching the act. No other jurisdiction in Australia provides such an exemption. The act already prohibits smoking at children's outdoor sporting events and on school grounds. The bill extends these prohibitions to include organised children's outdoor activities such as Scouts and Girl Guides and at car parks adjacent to a school. Other amendments in the bill increase protections at public places where families and community gather. The act prohibits smoking at an outdoor eating or drinking place such as an agriculture show. Although outdoor markets are similar places, there has been some uncertainty about the circumstances in which prohibition would apply. To ensure clarity, the bill specifically prohibits smoking at an outdoor market. To protect persons entering or passing by an outdoor eating or drinking place, the bill introduces a requirement for a no-smoking buffer zone around the perimeter of the place. Similarly, the bill requires a buffer zone from any clearly defined entrance or exit of an outdoor market. If either venue has a dedicated smoking area, the bill enforces a buffer zone around the area and requires the area to be clearly signed.

The bill also expands the protections for patrons and staff at liquor licensed premises. Where the venue has a designated outdoor smoking area, also known as a DOSA, the bill requires the buffer zone between it and any adjacent enclosed area. The bill also restricts the supply of smoking products at liquor licensed premises to a service area and requires the liquor licence to ensure a child is not allowed to remain in a DOSA. Chair, thank you for the opportunity to address the committee today. The bill supports better public health outcomes for Queenslanders and ensures the legislation remains contemporary and effective. We would be pleased to take questions.

**CHAIR:** Thank you very much, Ms Joldic. Just to start, it would be good to get an understanding of just how big the problem of illegal tobacco is in Queensland. I have had a number of retailers in my area of Townsville approach me around these pop-up shops and vans outside of pubs selling illicit tobacco, and obviously there is some crossover with the feds. How big is the problem? I also wanted to come back to one point you made around there being no regulation—was it e-cigarettes you were talking about—because you did say 'not to regulate' during your opening statement, but I might have misheard? If that is the case, that is okay. The retailers that come to me are saying that this is a problem. They have their plain packaging and they store them behind closed doors, so the aim here is to try to get some regulation around improved powers to Health and Police to stop it. How big is the problem?

**Ms Joldic:** Thank you for the question, Mr Harper. I might go to Mark West, because he and his team have done extensive consultation in the course of looking at the current bill and the amendments. As mentioned earlier, Mark and his team are the contributors and authors of the Chief Health Officer's report where we have done extensive work to really understand what is happening in the community, and he has a really strong perspective on what our community is saying and what our community is asking for. Mark, I will hand over to you to describe the size of the problem.

**Mr West:** Thank you. Queensland Health is very concerned about the size of the problem of illicit tobacco. Illicit tobacco is also known as chop-chop, which is a poorly processed loose-leaf tobacco product. It is also cigarettes that are imported illegally without the health warnings that we

have in Australia and the quality standards that we have for the product. There is an annual KPMG report that is done about the size of the illicit tobacco problem. Off the top of my head I cannot remember the amount, but they put a multimillion-dollar amount connected to the size of this problem.

**CHAIR:** We might ask for that report.

**Mr West:** We can certainly give you that report. It is also a problem in North Queensland because it is grown locally. What we want to do is introduce the licensing scheme so we know the retail outlets and then we can impose a penalty if they are caught with chop-chop, so we will be able to act quicker and the chief executive will be able to suspend their licence to trade, which is a greater deterrent.

**Ms Joldic:** If you do not mind, Chair, I would add to that. When Dr Gerrard launched the Chief Health Officer's report on Tuesday morning, he described this—and I think we have heard consistent language from the Commonwealth government as well as the state—as the biggest public health issue that is being faced by our community since the pandemic.

**CHAIR:** We will get a copy of that report as well, I think.

**Ms Joldic:** Absolutely.

**Mr MOLHOEK:** I have to admit that I was a bit surprised when this bill came up that there was not already a licensing regime in place. I did not realise that anyone could just sell tobacco products without a licence. My question is around the licensing. Does that mean that if this legislation is passed anyone who wishes to sell tobacco products will have to apply for a licence, a bit like they would under liquor and gaming? Who would manage that process? Will there be a cost involved in obtaining a licence? Will there be annual fees? I would ask for a bit more detail around that.

**Ms Joldic:** Sure. There will be a cost involved, and that is the reference in my opening remarks to the \$475 and the \$675. Everyone who wishes to sell tobacco will have to apply for a licence. We have staggered, should the bill pass, the introduction of a licensing scheme for South-East Queensland and also a longer lead-in period for rural and remote. The team is currently developing the IT solution for the applications. Mark, would you like to elaborate on the work that is currently underway and what we are anticipating to finalise by the end of the year 2024 and then 2025?

**Mr MOLHOEK:** Just before you do, did you say \$175 and—

**Ms Joldic:** No, \$475 for retailers and \$675 for wholesalers. They have to apply. It is an annual licence, so they will have to reapply annually.

**Mr MOLHOEK:** That is annual?

**Ms Joldic:** Annual, correct.

**Mr West:** It will be online, so we are trying to make it as easy as possible. We have a retailer working group that we have established and we are getting advice directly from retailers as end users about how we can make the program as simple as possible to be able to license and renew your licence as well.

**Mr MOLHOEK:** Who will look after that? Will that come under liquor and gaming licensing?

**Mr West:** No, Queensland Health.

**Ms Joldic:** Queensland Health.

**Mr MOLHOEK:** Queensland Health are going to have to set up—

**Ms Joldic:** Yes.

**Mr West:** Yes. We have licensing schemes already in place for pest control operators, for example, so what we are doing is looking at a very cost-efficient and effective way of amending that licensing system that we have for pest control operators to be in place for tobacco and other smoking product suppliers.

**Mr MOLHOEK:** I am assuming that when you are talking about pest control that is an area that you would inspect?

**Mr West:** Yes, we do that as well.

**Mr MOLHOEK:** Is that not typically a council responsibility?

**Mr West:** No, it is Queensland Health.

**Ms Joldic:** It is the public health units. It is from a public health point of view. It is done by our public health units, so the licensing scheme for tobacco will also come under the public health unit umbrella.

**Mr MOLHOEK:** Was there consideration to perhaps giving the responsibility for that to someone like gaming and liquor licensing, given that they are already normally operating in that space? It seems it would be a logical step.

**Mr West:** Everything is a consideration, but we also have the ability in Queensland Health and we have the inspectors on the ground from public health units who go into retail outlets already. They go in and inspect now, so they will go in in the future and inspect a licence. The licence has to be on display, so we will be able to verify online straightaway the bona fides of the retailer.

**Mr MOLHOEK:** When they go into food outlets and retail outlets, what are they looking for? How does that differ to, say, what council do with their pest inspections?

**Mr West:** Our environmental health officers who work in public health units enforce a range of legislation and for tobacco that means they go into retailers, so they mainly go in for tobacco inspections.

**Ms Joldic:** I might just add something in relation to the fees. The fees are designed to be full cost recovery so that there is no cost to Queensland Health, hence the fee.

**Mr MOLHOEK:** Perhaps just as a question on notice, could you provide a one-pager that explains what the inspectors do, where they go, how many there are and what their purpose is?

**Mr West:** Happy to.

**Ms Joldic:** More broadly—

**Mr MOLHOEK:** Just so I understand—

**Mr West:** The current system, you mean?

**Mr MOLHOEK:**—the current system, yes.

**Ms Joldic:** Okay, so more broadly what the environmental health officers do in the public health units?

**Mr MOLHOEK:** Yes. I just think it would be interesting to understand the context of how they operate and then how that would apply.

**Ms Joldic:** Sure. Yes, absolutely. Happy to.

**Ms PEASE:** Thanks for coming in. Sorry I was a bit late this morning and I am sorry if you have already covered this. You mentioned the report that has been released by Dr Gerrard just this week and you talked about it as being the biggest public health crisis that is confronting us since the pandemic. Are you talking about chop-chop or vaping?

**Mr West:** I would suggest both. Conventional cigarettes are still a problem because cigarettes you can buy from the shops will give you lung cancer. They are a problem. We are talking about chop-chop and illicit tobacco and we are also talking about vaping.

**Ms PEASE:** For my understanding, is illicit tobacco more harmful than the tobacco that is licensed and sold through cigarettes?

**Mr West:** No.

**Ms PEASE:** Okay.

**CHAIR:** We have the department for a while, so we can come back to you.

**Ms PEASE:** Yes, I have more questions. One of the questions that I did want to ask is with regard to the buffer zone around markets et cetera. Who will be responsible for setting up those buffers? Is it a requirement that there is a physical buffer or is it just a zone that everyone has to understand that you are not allowed to be within this distance of a market?

**Ms Joldic:** Would you like to take that one, Karson?

**Mr Mahler:** Yes, certainly. It would be the responsibility of the operator of a market to establish those buffer zones around the entrances to the market. They would be responsible for enforcing it and for making reasonable efforts to enforce those requirements, so warning people if they are smoking in the buffer zones to move along. There are offences that will apply to people if they are in those buffer zones and are smoking and breaching the act.

**Ms PEASE:** If, for example, the market is in a council park where there would already be restrictions around smoking anyway, would there be a requirement for that notification to be put out and enforcement by the people who are running the market?

**Mr Mahler:** I am not sure what you mean by notification, but there would be the requirement for whoever is operating the market—whoever has that element of control—to make sure that the entrances have that buffer zone around them. It is not around the entire perimeter; it is just around any points of ingress or egress.

**Ms PEASE:** I guess what I am trying to understand is: there would be overlap, because it would be in a public park where you are not allowed to smoke anyway and the market is in that place, so would there still be an onus on the organisers of the market to put that information out given that it is already in a place where you are not allowed to smoke anyway?

**Mr Mahler:** Yes, I believe that is correct.

**Ms PEASE:** So, yes, they would have to?

**Mr Mahler:** They would have a responsibility under the act.

**Mr ANDREW:** Mr West, in your comprehensive assessments did you see any schoolchildren or anyone who has died from vaping?

**Mr West:** Have I seen anyone who has died?

**Mr ANDREW:** Has Queensland Health identified that at all?

**Mr West:** There is concern about poisonings related to e-liquids. E-liquids go into vaping devices. E-liquids can be poisonous if taken, so there is a concern about child poisonings, but I do not have the number of child poisonings.

**Mr ANDREW:** I have two school-age children and they have come to me and told me, 'Dad, everybody that we know in our school vapes'—everybody, including people who would not normally. What concerns me is: have we ever done an assessment on the percentages of different materials and the different chemicals that make up vapes?

**CHAIR:** Member for Mirani, I know that you are just as passionate about this as I am, but I want to try and stick to this bill, because the vaping—

**Mr ANDREW:** Does the bill encompass that? Why would we—

**CHAIR:** I do not want to confuse—

**Mr ANDREW:** The labelling stuff is there, but I mean the regulations around the actual consistency or what these things are made up of. Is that considered as part of it?

**CHAIR:** The committee is going to undertake something in that vaping space, member for Mirani. It is an important question, but when we meet after this I will explain why.

**Ms KING:** Thank you for coming in and presenting to us about these really important issues. I want to ask you to paint a picture please, if you would, of the views that you have picked up within the mainstream tobacco sales industry. I have had many contacts in my electorate office from mainstream retailers who are finding that the sale of illicit tobacco products, whether chop-chop or unlicensed and non-approved vaping items, is undercutting their businesses. What has been the response from industry in your industry working group so far to this licensing regime?

**Ms Joldic:** I am very happy to go to Mark on that. I would say that, as I mentioned earlier, the consultation has been extensive and the collaboration on this issue has been significant, both from retailers and wholesalers, but, Mark, if you want to go to that question.

**Mr West:** I am happy to. Queensland Health also receives extensive information and concerns in letter writing from retailers about chop-chop and vaping impacting their business, so we have been working with the Master Grocers Association, the Australian Association of Convenience Stores, the Australian Lottery and Newsagents' Association and the National Retail Association that collectively, if you like, paint a picture of the pressure on business. Conventional cigarettes are still legal and you can sell them. We want to introduce a licence for that to happen, but the legitimate businesses that sell tobacco products are very concerned about black market tobacco and vaping as well.

**Ms KING:** We are contemplating the introduction of a fit and proper person test. Can you please talk to us, insofar as Queensland Health is able to comment, about the importance of ensuring tobacco retailers meet that fit and proper person test in terms of the landscape of illicit behaviour more broadly?

**Mr West:** We are concerned that illicit activity also includes other illicit activity, if you like, so there can be the involvement of organised crime. If you see it on TV, the Australian tax office will do a bust and it will be millions of dollars worth of illicit tobacco, so we are talking about the potential for organised crime to be involved, which is why we have added into this bill the authorisation of police officers to help our health inspectors, if you like, because this is a serious business of crime.

**Ms KING:** What I am being told over and over by my constituents is that there is currently a gap in the regulation where the police cannot take full action, the federal taxation bodies cannot take full action and Queensland Health cannot take full action, so how is it anticipated that this legislation will plug that gap?

**Mr West:** We are trying to fix that and we are trying to fix it by deeming police officers as authorised persons under the act. We are also working more closely nationally with the ATO and Border Force, so it is coming to a head nationally. Minister Butler has announced federally that they are doing work in this area as well, so we need to come together to help the retailers.

**Ms KING:** Reading some of the submissions that we have received to the inquiry so far, one in particular noted that illicit tobacco products were initially more of a problem in New South Wales and Victoria. Is it your evidence that that has changed in the last period of time where suddenly it is more of an issue in Queensland?

**Ms Joldic:** I have no evidence of that.

**Ms KING:** Obviously these were not your submissions.

**Mr West:** No, I have no evidence about that. We are hearing loud and clear from retailers and others that it is a big problem in Queensland.

**CHAIR:** What is in the chop-chop and the illegally imported stuff? Has someone done a study to see whether there are any toxins and poisons within it—and I do not want to confuse the vaping thing? We will get you back for a vaping briefing at a separate time, but what is in the illegal tobacco and is it harmful?

**Ms Joldic:** Yes, it is harmful. That is the point: because it is not regulated, we actually are not sure what is in those products, hence the emphasis on illicit tobacco. Do you want to explain? I think that is why we are seeing this from the retailers—that is, the fact that they are selling a viable product and we know what is in legal cigarettes. We do not know what is in illicit tobacco, hence the focus on illicit tobacco and how we regulate it through this bill. Did you want to elaborate on that?

**Mr West:** I have no more to add.

**Mr O'CONNOR:** You mentioned that the licence structure is to make it cost neutral for the department. How much revenue is it expected to generate?

**Mr West:** Some \$3 million per annum, and that is based on 6,300 retailers that we think we have in Queensland—we are not too sure because we do not license them—and we think there are about 60 wholesalers.

**Mr O'CONNOR:** That will cover the whole compliance regime, do you think?

**Mr West:** In a very lean cost recovery, it will cover the regime.

**Mr O'CONNOR:** Okay. My understanding of the liquor licence explanation from before is that it essentially automatically grants those locations with an active liquor licence to sell tobacco products, but the explanatory notes said that was only about half of all locations that sell alcohol. With regard to the automatic granting of that, why did you not go for an opt-in model instead of automatically saying that everyone with a liquor licence gets one? Does that not sort of double the number of places that could potentially sell it?

**Ms Joldic:** The reason we have gone to automatic granting is that there are very rigorous restrictions in terms of the liquor stores that apply for a liquor licence, so we thought the rigour that is placed on that application is similar to the rigour that we would be placing on smoking products, hence why we have gone that way. Would you like to go into detail, Karson?

**Mr Mahler:** Yes. I think it is important to clarify that the amendments will not automatically confer a tobacco licence on a liquor licensee. What the provision does is say: if you have a liquor licence and you apply for a licence to sell smoking products then you will automatically be granted that licence. Hopefully that addresses your concerns.

**Mr O'CONNOR:** Right. On the DOSAs, there was some concern raised by the QHA about minors working in their licensed venues. Can we get a bit more of an explanation? If a minor is working and they are going to collect glasses, is that allowed under the legislation?

**Mr Mahler:** A minor will not be allowed to be in a DOSA unless they are just transiting through. I would not imagine a minor would be serving alcohol at a—

**Mr O'CONNOR:** There would be some venues where they would have people under 18 who are working there—

**Mr Mahler:** Perhaps delivering.

**Mr O'CONNOR:** Yes.

**Mr Mahler:** That would not really be covered by the DOSA requirements; that would be covered by the rules around the actual licensing of liquor—



**Mr O'CONNOR:** They can still work in those venues; there are some restrictions on what they can serve and when they can serve alcohol, being a minor, but would they be prohibited from going and performing their duties within the DOSA?

**Mr Mahler:** They would be, because anybody would be prohibited from serving food or drink in a DOSA.

**Mr O'CONNOR:** Right, okay.

**Mr Mahler:** Yes. Even currently, no food or drink or entertainment can be provided in a DOSA.

**Mr O'CONNOR:** You can still drink in a DOSA.

**Mr Mahler:** You can take your own drink in—

**Mr O'CONNOR:** Yes.

**Mr Mahler:**—but you cannot have food or drink service.

**Mr O'CONNOR:** That is what I mean.

**Ms PEASE:** Glassies going in and picking up the glass.

**Mr O'CONNOR:** Yes. If you have an under-age glassie, can they go into the DOSA and clear glasses?

**Mr Mahler:** Yes.

**Mr O'CONNOR:** They will be able to, even if they are a minor?

**Mr Mahler:** Nothing in the bill that I am aware of would prohibit that specifically. I am not sure what would apply under the Liquor Act, so that could be properly directed to the other relevant departments or we could provide some further advice.

**Mr O'CONNOR:** Yes, they can under that. This will basically mean that you have to have a buffer zone between the DOSA and the venue, so you cannot have a door from the internal of the venue that opens straight into the smoking area?

**Mr Mahler:** That is correct.

**Mr O'CONNOR:** Okay.

**Mr MOLHOEK:** Does it prescribe how much the buffer zone is? Is it a metre or five metres?

**Mr Mahler:** It is two metres in a liquor licensed venue. That is an existing requirement; it is just that at the moment there is no requirement to have that two-metre buffer between the enclosed place and the DOSA.

**Mr O'CONNOR:** That might be difficult for some places.

**Ms PEASE:** With the 6,300 retailers that you currently have and 60 wholesalers, will you be reaching out to them to register so they are being made aware that they have to undertake a process to get their licence?

**Mr West:** Absolutely. We will first go through the associations that I mentioned before, but we will also use our enforcement officers to remind retailers to join up, basically, so we will have a mini campaign, if you like, to join up.

**Ms PEASE:** How long do you imagine that fit and proper person assessment to take and will it restrict them from their day-to-day operations until such time as that process has been completed?

**Mr West:** We will do our very best to make it as quick as possible.

**Ms PEASE:** They would be able to continue to operate until such time as that has been delivered?

**Mr West:** Yes.

**Ms PEASE:** It is not going to restrict their operations?

**Mr West:** In particular because the licensing scheme comes into place on 1 September 2024, we will be working for over—

**Ms PEASE:** So you are starting.

**Mr West:** We are hoping the system will be up in September this year, so it will be live and retailers can apply.

**Ms PEASE:** Thank you. My next question then is again about that. With a retailer like a small grocer that might employ some high school kids, do they apply as an entity and then they have one licence or do they have to license all of the people who are likely to be selling cigarettes in their shop?  
Brisbane

**Mr West:** It is the outlet that gets licensed.

**Ms Joldic:** If I may just clarify around 2024, there is a further year up to 2025 for rural and remotes to reallocate—

**Ms PEASE:** Yes, I have got that; thank you very much. The other area that I wanted to get a bit of clarity around was vending machines and who has to apply for those. Is it the organisation that owns the vending machine or is it the location where the vending machines are?

**Mr West:** The location where they are. It becomes an outlet and it has to apply for a licence for the vending machine.

**Ms PEASE:** Finally, and I am sorry to bring up the vaping issue, we talk about this as being about tobacco and other smoking products, so I guess that is where it falls under, but people under the age of 18 will not be allowed to sell vaping products either?

**Mr West:** That is correct. We do not want children involved in the sale of tobacco products or vapes.

**Ms PEASE:** Thank you.

**Ms KING:** I wanted to ask a few more questions about the harm of imported illicit tobacco. I assume that, primarily, much of that is packaged cigarettes brought across the border from other countries that may have lower standards of health requirements, not just around packaging but around contents. Do we know anything about the health standards, if any, of where much of these products are produced and the standards for ingredients or regulation for safety? Are they at variance with Australian standards in a way that puts our consumers at risk potentially?

**Mr West:** I would think that most of the illicit tobacco that comes in will be from South-East Asia. We can name where it is from. That is where the organised crime is involved. We do not know the standards of production in South-East Asia of cigarettes. We assume that they are not the same as Australia so there are concerns about what is in the cigarettes and the ingredients. They are probably stronger in content for nicotine, for example. If you have ever been to South-East Asia, you can certainly smell their different cigarettes. That is what is illegally imported into Australia and sold.

**Ms Joldic:** They are manufactured in uncontrolled environments, hence why they are sold on the black market. We actually do not know the content. We know that the public health risk is enormous.

**Ms KING:** Is there any suggestion that they may contain bulking agents or fillers or anything of that nature that may be even illegal in the countries of manufacture?

**Mr West:** That is correct. They could contain those ingredients. Pesticides is another one. It is highly likely that they could contain pesticides, and that is different to the standards for conventional cigarettes sold in Australia.

**Mr O'CONNOR:** A number of submitters raised their desire to raise the legal age of smoking in Queensland as other jurisdictions have done. Do you have data by age range of smoking in Queensland specifically?

**Mr West:** I certainly do. We have information that is collected through a student survey of all school students so we know the smoking prevalence for children, which is seven per cent daily smoking.

**Mr O'CONNOR:** Seven per cent?

**Mr West:** Seven per cent.

**Mr O'CONNOR:** Is that high school?

**Mr West:** That is high school. That is age 12 to 17.

**CHAIR:** Can we get that data too, please?

**Mr West:** Yes.

**Mr O'CONNOR:** Another point that was raised—I think it was in the Cancer Council's submission—was their desire to have online sales banned. Is that something that the department has considered? How would it potentially work?

**Ms Joldic:** We have. With the licensing scheme that we are proposing through this bill we are also regulating the online. When you apply for a licensing scheme, you are allowed to have one online shop as well. We are trying to regulate that environment as well.

**Mr O'CONNOR:** That is the retail and the wholesale side?

**Mr West:** That is right.

**Ms PEASE:** In my electorate, and I am sure it is everywhere, there are a number of vaping stores that have popped up and they are just selling vapes. Do they fit within this bill? Will they have to apply for a licence as well, even though they are not necessarily selling cigarettes? They are just selling vaping products.

**Mr West:** Yes, they will.

**Ms Joldic:** Vaping is defined as e-cigarettes for the purposes of the bill.

**Mr ANDREW:** You mentioned in your opening statement the fact that school grounds and car parks adjacent to school grounds are areas where children cannot vape or smoke. We are seeing a whole lot of smoking or vaping within the school grounds. How does the regulation fix this issue? The toilets are basically Cheech and Chong rooms: there is smoke coming out of them everywhere. How do we address it? It is coming back to us from people I know that the situation is out of control but that the teachers cannot do anything because they cannot enter into the areas. Did we cover this off in the regulations?

**CHAIR:** I think we can ask the Department of Education, because each school will have some role to play.

**Mr West:** The current laws set the standard, if you like. The standard is no smoking on school property, and in this bill we are adding adjacent car parks because there is a concern about that. It is a public health standard, if you like. It is extremely difficult for teachers, who work so hard in their daily jobs. We are working with Education Queensland, independent schools and Catholic Education on strategies for what they can do locally to address both smoking and vaping, but it is a tough gig for teachers.

**Mr ANDREW:** I just wondered what we could do, that is all.

**Mr West:** We are working together.

**Ms KING:** I want to seek some clarification about a matter that was touched on in your opening statement and I think I misheard. What I heard was something about there being an exemption for parents supplying tobacco products to children. Was that about removing an exemption?

**Ms Joldic:** There is currently an exemption and we are removing that.

**Ms KING:** Removing a current exemption. Can you tell me about that exemption?

**Mr West:** That is an exemption that was put in the act 20 years ago around the concern of the role of the state, if you like, coming into a domestic situation between a parent and a child. Twenty years ago it was deemed that that would be possible.

**Ms KING:** Parents could be allowed to make up their own mind if their under-age child smoked?

**Mr West:** Yes. We are the only jurisdiction with that exemption and we are modernising the act to remove that exemption from 20 years ago that I was involved in putting in place at the time.

**Mr MOLHOEK:** What does that mean in practice?

**Mr West:** It means that parents should not give cigarettes or vapes to their children. We will take an educative approach to that. We are not going to be enforcing it strongly. We are talking about education with parents.

**Mr MOLHOEK:** It will not be like the liquor licensing law around supply of alcohol to household parties?

**Mr West:** Yes.

**Mr ANDREW:** I was going to ask about the regulatory impact statements around small businesses. Did you have a look at how that was going to work?

**Mr West:** We certainly did. The proposals for illicit tobacco would be positive for businesses. If we clamp down on illicit tobacco then Queensland businesses that sell conventional tobacco products will benefit. We looked at that.

**CHAIR:** Are there any final questions? We have asked for a little bit of data.

**Ms Joldic:** We are very happy to provide any data that we have in relation to this. We are aware that you are going through an inquiry process and we will be preparing a submission in terms of your inquiry, but if there are any datasets that you would like from us in relation to this we are very happy to supply that.

**CHAIR:** Is there any collaboration in other jurisdictions between agencies, task forces or mixing it with the feds to clamp down on illegal tobacco that we could look at?

**Ms Joldic:** We have very strong working relations with all jurisdictions across Australia, including the Commonwealth government. The most recent one is the e-cigarettes working group that Mark is sitting on. We have really strong collaborations and we constantly monitor what happens in other jurisdictions.

**CHAIR:** Is there one that is a standout that we can look to?

**Mr West:** We are all tackling the same problems and taking a similar approach to it.

**Ms KING:** Could I also ask if we have any data, even just in short form, about the prevalence and morbidity associated with tobacco related disease in Queensland—not just how it has changed over time but COPD rates, lung cancer, other conditions?

**Ms Joldic:** Absolutely.

**Mr ANDREW:** Could we get a copy of the regulatory impact statement too?

**Mr West:** Yes.

**Mr MOLHOEK:** I want to clarify something, because I was not very clear about it. If you are a retailer and you have a licence to sell cigarettes and you have junior shop assistants working for you, are they allowed to serve product?

**Ms Joldic:** No.

**Mr MOLHOEK:** If you are a check-out operator at Woolworths, you would not be allowed to serve in the service desk where they sell the smokes? If you are at 7-Eleven and you have a licence, you would not be allowed to serve—

**Ms KING:** I understood that was already the case.

**Mr West:** Woolworths and Coles have policies where they have adults who serve in the tobacco dispensing area.

**Mr MOLHOEK:** I just wanted to be clear, that is all. I did not quite understand that earlier.

**Mr West:** There is a lot of industry self-regulation in this space around children not handling cigarettes.

**Mr O'CONNOR:** Rob used to work at Woolies at Sundale, was it, in the seventies?

**Mr MOLHOEK:** And Indooroopilly where we had gondolas of cartons of cigarettes and it was self-service.

**CHAIR:** I declare I worked at Coles as well.

**Ms Joldic:** In relation to the age issue, we are staggering the start dates to 2024 and 2025. We are anticipating that 16-year-olds by 2025 will be 18-year-olds, so there is that provision to allow for a transitional process to happen and lots of education campaigns.

**Ms KING:** I know that this bill does not contemplate it, but it occurs to me that for the service of alcohol we have the responsible service of alcohol system that effectively licenses individual employees within the workplace to be involved in the sale of alcohol products. Are there any jurisdictions where a similar approach is taken, not just to the licensing of the wholesaler and retailer but also to the individual workers who may be dispensing products?

**Mr West:** There is not for tobacco. Some of the regulations in tobacco are similar to liquor, but there is also a difference and that is one of the big differences. It is a very interesting idea, though.

**Ms KING:** It strikes me that you have things like responsibilities not to serve people who are already intoxicated that are not really reflected in the sale of tobacco products.

**Ms PEASE:** When I look at someone on a mobility scooter with an oxygen tank attached coming in to buy a packet of Craven 'A'—

**Mr West:** Yes, it is not good for their health.

**Ms KING:** Or bystanders, potentially.

**Ms PEASE:** That is exactly right.

**CHAIR:** This time this morning has been extremely helpful for the committee.

**Mr Mahler:** Just before you wrap up, can I make a correction to the record so we do not have to do it later. The member for Lytton asked earlier about the requirements on the operator of a market to police the entrances and exits. I confess that I have confused that with the requirements for DOSAs.

There is not a personal liability attached to the operator of the market for policing anything outside the perimeter of the market, so that would not be the responsibility of the market operator. I just wanted to clarify that.

**CHAIR:** That is interesting, because the Lions in my patch do a car park market every Sunday in the shopping centre. Would it be the view that there would be 'no smoking' signs in the markets?

**Mr West:** Yes, we will help with that. Signage is really important. Queensland Health has a service where we provide free 'no smoking' signage to make it as easy as possible. It is about education.

**CHAIR:** This has been very helpful. This is probably the first time I have heard the reference 'Cheech and Chong' and Hansard smile so thank you, member for Mirani.

**Mr ANDREW:** That is the only way I could explain it.

**CHAIR:** It has been extremely helpful for the committee. I declare this public briefing closed.

**The committee adjourned at 11.28 am.**