

Tobacco and Other Smoking Products Amendment Bill 2023

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Submitter Comments:

Given the number of current tobacco and vape store owners deliberately flouting the law, the criteria for approving a retail or wholesale licence should be tightened. The Bill details the criteria for granting the issuing of a licence. One of the criteria is that the person must be a fit and proper person. A person with a criminal history may be consider not to be a fit and proper person but as so often happens, even if a person is taken to court and is found guilty by a Magistrate, they either get little or no penalty or the Magistrate finds the person guilty but does not record a conviction. The critiera for a fit and proper person should be extended to include situations where the person has been found guilty of a relevant offence even if a conviction wasn't recorded. It should also include where issued a Penalty Infringement Notice for offences against the current and future Tobacco Act. Given the number of tobacco and vape stores located in close proximity to schools - and so clearly targetting children, there should be an additional criteria related to the approval of a retail licence. The criteria should be that a smoking product retail store cannot be located within 1 km of a school. Given the role of organised crime in the supply and sale of illicit tobacco and nicotine vapes I believe the proposed penalties associated with supplying these products is way too low given the profits made by these organisations. As demonstrated by the current vapes crisis, the proposed miniscule penalties are totally ineffective in deterring businesses from selling illegal nicotine vapes or illicit tobacco. If found guilty of an offence, Magistrates will generally order a fine of no more than 10% of the maximum penalty. So the proposed fine for supplying smoking products without a licence would only be 100 penalty units (\$14,300) instead of 1000 penalty units and for selling illicit tobacco would only be 30 penalty units (\$4310) instead of 300 penalty units. Many of these businesses are making more in profit per day than the fine they will get from the Magistrate. Given this lack of deterrent, the Bill should also include the ability for the Health Department to seek a court enforceable injunction to stop a business from operating without a licence or selling illicit tobacco or nicotine vapes, bongs and ice pipes. Given that vapes are clearly targeted at children, the Bill should ban the sale or supply of all vapes. Alternatively, as occurs in the US, only plain packaged and tobacco flavoured vapes should be available for sale.