Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025

Submission No: 37

Submitted by: Shopping Centre Council of Australia

Publication: Making the submission and your name public

Attachments: See attachment

Submitter Comments:

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

10 October 2025

Mr Robert Molhoek MP
Chair
Health, Environment and Innovation Committee
Parliament of Queensland
Cnr of George and Alice Streets
BRISBANE QLD 4000

Email: heic@parliament.qld.gov.au

Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025

The Shopping Centre Council of Australia (SCCA) welcomes the opportunity provide feedback on the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (the Bill).

The SCCA is the national industry group for shopping centre owners and operators, including owners across Queensland and Australia.

Our principal interest relates to provisions of the Bill that enable landlords to terminate leases. As the Committee may be aware, the SCCA supported Hon. Tim Nicholls MP when the Bill was tabled on 16 September 2025.[1]

Recommendation

The SCCA supports the Bill and encourages the Committee to recommend to the Queensland Parliament that the Bill be passed. In our view, the Bill provides a clear and effective framework to enable landlords to terminate leases of retailers found selling illicit tobacco and issued with a closure order.

The SCCA worked closely with the Queensland Government on the development of the Bill and commends its engagement throughout the consultation process. We have emphasised the Bill to other jurisdictions as the most comprehensive and considered approach to effectively utilise closure orders to affect governments' intended outcomes, while preserving the rights of lessors.

Background

As the Committee may be aware, the SCCA engaged with the Health, Environment and Agriculture Committee of the 57th Parliament when the then *Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024* (the 2024 Bill) was examined between 12 June and 2 August 2024.

During the Committee inquiry the SCCA identified a critical shortcoming: while government could order a premises to be closed, lessors themselves had no clear ability to terminate the lease of a lessee subject to such a closure order. We believe there was a mistaken assumption that lessors could simply terminate the lease in such circumstances, which is not the case.

As it stands, when a closure order is issued, lessors currently have no straightforward means to regain possession of the premises or recover associated costs, as lessees can exercise various legal, administrative and/or mediation rights. In effect, lessors are left to carry the financial and administrative consequences of regulatory enforcement, without the tools to protect their own legal interests. For this reason, the SCCA advocated for the introduction of a statutory lease termination right to accompany and complement the use of closure orders.

Pleasingly, the Bill before the current Parliament comprehensively addresses existing shortcomings and limitations, as outlined below.

Best practice for lease termination

The SCCA has been pleased to inform the development of the Bill, which provides lessors with the legislative right to terminate a lease when a closure order is issued and enables them to do so by way of legal protections and a best practice framework. The following five elements of the Bill are critical to enabling this to occur:

(1) Legislated right to terminate if a short-term or long-term closure order is issued

The Bill introduces a specific legislated right to terminate a lease based on repudiation of the lease by the lessee if a closure order has been issued. Repudiation recognises that the lessee has demonstrated a refusal to fulfil their obligations under the lease and enables lessors to claim damages or draw down on rental bonds to deal with any unpaid rent and de-fit costs.

[1] Queensland Government, *Illegal tobacco and vape crackdown continues with new nation-leading laws*, 16 Sep. 2025.

This allow lessors to swiftly disengage from a lessee, which we expect will be the case in almost all instances.

(2) Lessee's rights to mediation, dispute resolution and compensation are disapplied

Lessees have the right and ability to initiate mediation, disputes and compensation claims under many laws, including the *Retail Shop Leases Act 1994*, the *Small Business Commissioner Act 2022* and the *Property Law Act 2023*. In the event of a lease being terminated as a result of a closure order, the Bill ensures that lessors would not subsequently be encumbered by vexatious/speculative appeals or disputes from the lessee that are otherwise enabled by the above mentioned legislation.

The Bill disapplies the rights and abilities for lessees subject to closure orders, so that lease termination can occur swiftly, without exposing lessors to financial and administrative encumbrances. In doing so, the Bill introduces an even stronger disincentive to those choosing to trade in illicit tobacco.

(3) Lessors are immune from any claim for damages or compensation

Lessors acting on a closure order that is later found to have been erroneously issued will not be exposed to the risk of damages or compensation claims from the impacted lessee. The Bill removes this risk by prohibiting any claims against the lessor arising from a termination resulting from a closure order, which is a fair and appropriate safeguard given that lease termination (in direct response to a government-issued closure order) is tacitly expected to occur.

(4) The party in closest proximity to the store operator is the 'relevant lessor'

Many leasing arrangements for tobacco retailers are structured through franchising arrangements, where the right occupy the premises is subleased, assigned or licensed from a franchisor to a franchisee, with little involvement from the head lessor. These arrangements may also be considered to form part of a franchise agreement and be subject to the *Competition and Consumer (Industry Codes – Franchising) Regulations 2024* (Cth).

In these circumstances, the Bill rightly delineates between the property owner and the franchisor as the 'relevant lessor'. Given the franchisor is the party with the most direct relationship to the retailer, it is the franchisor that has responsibility for removing the store operator from the premises, noting that a lessor offence applies. Conversely, if the property owner retains a direct relationship with the retailer/lessee then they have obligations under the Bill, which is appropriate.

(5) Lessor offences are based on clear knowledge criteria

We are mindful of the notion that lessors are generally aware of, or 'turn a blind eye' to, illegal activity relating to illicit tobacco. However, we consider that these views are better directed at landlords in high street locations, noting any potentially unlawful activity by lessees presents a massive reputational and tangible risk, which would incentivise shopping centre owners and operators in particular to disassociate from businesses trading in illicit tobacco.

It is pertinent to recognise that only relevant government regulators can make a determination on alleged or actual illegal activity and that lessors are typically unaware of any regulatory, compliance or enforcement activities being undertaken against a lessee.

Accordingly, we support the drafting of the proposed new section 209CF in the Bill. This prescribes criteria for how 'knowledge' – in terms of a relevant lessor permitting their premises to be used to supply or possess illicit tobacco or illicit nicotine products – would be determined. We recognise that lessor offences are drafted to apply only to those who have actual knowledge of, or act with reckless disregard for, such illegal activity.

Follow up

Thank you for the opportunity to provide feedback on the Bill.

We would welcome an opportunity to expand on this submission and discuss our support of the Bill at the public hearing on 21 October 2025. Please do not hesitate to contact me on [redacted] or at [redacted] as required.

James Newton

Head of Policy and Regulatory Affairs, SCCA

Queensland Government

The Queensland Cabinet and Ministerial Directory

Media Statements (/)

› Subscribe (/Subscribers/Create)

› Help and Support (/Help)

Published Tuesday, 16 September, 2025 at 12:01 PM

Queensland Government

Minister for Health and Ambulance Services
The Honourable Tim Nicholls

Illegal tobacco and vape crackdown continues with new nation-leading laws

- **Crisafulli Government is cracking down on illegal tobacco and vape traders with new laws giving authorities the power to shut down illegal traders on-the-spot for three months.**
- **Landlords will gain a new power to terminate leases with illegal operators, while landlords who knowingly permit illegal activity in their premises will face harsh fines and even jail time.**
- **Queensland Health officers will be granted the authority to conduct undercover investigations to target illegal operations.**
- **Crisafulli Government is delivering strong new laws to crackdown on the illegal tobacco trade in its first 10 months, after a decade of decline under Labor.**

The Crisafulli Government is delivering the nation's strongest illicit tobacco and vape laws, putting illegal tobaccos stores and their landlords on notice.

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade)* and *Other Legislation Amendment Bill 2025* has been introduced to Parliament today, continuing the Crisafulli Government's crackdown on criminal networks peddling illegal cigarettes, 'chop chop', vapes and nicotine pouches to kids.

The changes will allow Queensland Health to shut down illegal businesses on-the-spot for three months (up from 72 hours), while the courts will be empowered to close businesses for up to 12 months (up from a maximum of six months).

Under these reforms, landlords will also be given the power to terminate the leases of illegal operators.

There is also a new criminal offence for commercial landlords who knowingly permit illegal tobacco or activity, with a maximum penalty of a $161,300 fine and one year in jail.

The new laws will empower Queensland Health to seize all lawful smoking products found at illegal stores that are 'tainted' by being alongside illicit tobacco and vapes.

Queensland Health officers will also be allowed to conduct undercover operations at illicit tobacco and vape stores.

During Labor's decade of decline, black-market traders were allowed to set up illegal chop shops on street corners across the State, selling potentially lethal products to Queensland kids.

Under the Crisafulli Government, between 1 November 2024 and August 2025, more than 420,000 illegal vapes, 52.4 million illicit cigarettes and 7,500 kilograms of loose tobacco have been seized by Queensland Health.

Over 140 interim (3-day) closure orders have been issued, and more than 3,000 fines imposed.

Minister for Health and Ambulance Services Tim Nicholls said these new laws cemented the Government's commitment to stamping out the criminal trade and preventing tobacco products falling into the hands of our children.

"Labor allowed organised criminals to undermine enforcement efforts and threaten legitimate businesses, while they pedalled their addictive and cancer-causing products to our kids," Minister Nicholls said.

"The Crisafulli Government has taken a zero-tolerance approach to this criminal trade, by ramping up enforcement efforts and introducing the highest on-the-spot fines in Australia.

"We need to stop this game of whack-a-mole where every time we hit an illegal business, it reopens within days or another springs up in its place.

"We're pulling out all stops to help keep our kids safe, hitting illegal sellers harder and closing them for longer, with landlords also held accountable.

"This is about shutting down the criminal illegal tobacco racket which is putting our kids at risk."

Chief Executive of the Shopping Centre Council of Australia, Angus Nardi, welcomed the Queensland Government's new laws to combat the sale of illicit tobacco head-on.

"The new laws are strong, clear and will give landlords the backing and protections they need to terminate the leases for anyone found selling illicit tobacco and issued with a closure order," Mr Nardi said.

"We commend Health Minister Tim Nicholls for his engagement on these laws, which are nation leading, common sense, and will have a real and positive impact on community safety.

"These laws will be a model for other jurisdictions, and we look forward to working with Minister Nicholls and the Government to help ensure their effective implementation."

Matt Gardiner, CEO Cancer Council Queensland commended the Government's introduction of this nation-leading Bill as a vital step to protect public health, helping prevent cancer and other chronic diseases.

"We support the introduction of these amendments which give authorities greater power to shut down illegal tobacco and vape dealers," Mr Gardiner.

"These reforms are essential to safeguard decades of progress in tobacco control and ensure stronger protections for Queensland communities."
ENDS

MEDIA CONTACT: Torny Miller 0439 426 196

ADDITIONAL INFORMATION:

Seizure data by Public Health Unit - 1/11/2024-31/8/2025				
PHU	Illicit Cigarettes	Illicit Loose-Leaf tobacco (KGs)	Vaping Goods	$ Value
Central Qld PHU	2,891,991	523,705	16,017	$369,707,943
Darling Downs PHU	937,724	271,365	17,813	$191,596,329
Gold Coast PHU	7,087,820	424,354	51,786	$305,307,017
Mackay PHU	3,736,476	380,903	25,873	$270,914,931
Metro North PHU	12,837,250	2,144,557	36,477	$1,513,283,445
Metro South PHU	11,612,752	1,009,860	129,961	$722,690,252
Central Compliance Team	1,341,862	331,107	25,432	$234,119,990
Sunshine Coast PHU	2,372,088	417,795	29,114	$295,809,870
Townsville PHU	533,176	224,424	11,559	$158,101,378
Tropical PHS (Cairns)	1,285,264	473,221	15,551	$333,060,461
West Moreton PHU	1,180,594	248,724	19,940	$176,048,275

Wide Bay PHU	6,596,390	1,139,360	43,796	$805,018,912
Totals	52,413,387	7,589,375	423,319	$5,375,658,803