

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

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Submitted by: Real Estate Institute of Queensland (REIQ)

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The Honourable Timothy Nicholls MP
Minister for Health and Ambulance Services
1 William Street
BRISBANE QLD 4000

By Email: HEIC@parliament.qld.gov.au

Dear Minister Nicolls

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

Thank you for the opportunity to provide a submission on the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Bill)*.

We write on behalf of a membership body representing property management professionals and real estate agents (**REAs**) across Queensland. Our members are responsible, among other things, for the day-to-day management of residential and commercial rental properties and play a critical role in ensuring compliance with tenancy laws and broader regulatory obligations.

We support the Queensland Government's objective to reduce the illegal tobacco trade and strengthen enforcement mechanisms. However, we wish to raise several considerations regarding the proposed provisions that impose new obligations and potential liabilities on both lessors and REAs.

Lessors Knowingly Permitting Illegal Use of Premises

Proposed Offence

The Bill introduces a new offence for lessors who knowingly permit the use of a premises for the illegal sale or storage of tobacco or nicotine products (**Proposed Offence**). While we understand the intent of this provision, we are concerned about the potential implications for lessors and REAs, particularly in the absence of clear guidance on what constitutes "knowledge" or "reasonable steps" to prevent such use.

Following on from this, the REIQ recommends:

- **Clarifying the threshold for "knowingly permitting" illegal activity**
For example, would a landlord or REA be liable if they received an anonymous complaint but had no evidence to substantiate it?
- **Providing a clear definition of due diligence**
Providing a clear definition of reasonable steps for lessors and REAs should be given, including specifically what steps are expected to be taken to avoid liability.
- **Ensuring protections for REAs acting in good faith**
This is particularly applicable where REAs have taken reasonable steps to investigate concerns and notify authorities.

Property managers are often the first point of contact for complaints or concerns about tenant behaviour. However, they are not law enforcement officers and may not have the authority or expertise to determine whether a tenant is engaging in illegal tobacco activity. It is essential that the legislation recognises these practical limitations.

Impact on Commercial Leasing

The Proposed Offence may have unintended consequences for commercial leasing arrangements. In particular:

- **Commercial lessors** may not have visibility over the day-to-day operations of tenants, especially in multi-tenant complexes.
- **Commercial property managers** may not have access to the premises or the ability to monitor tenant conduct beyond what is permitted under tenancy law.
- **Commercial leases in Queensland are not standardised**, unlike residential tenancy agreements. As a result, the rights of landlords and property managers to inspect premises or enforce compliance can vary significantly from lease to lease.
- The **frequency and scope of inspections** may be restricted or not provided for at all in some commercial leases, limiting the ability of landlords or their agents to detect unlawful activity.

We recommend that the Committee consider:

- **Exemptions or defences** for lessors and REAs who have limited contractual rights or practical ability to monitor tenant activities.
- **Clear guidance and education materials** for the commercial property sector to support compliance, particularly in light of the non-standardised nature of commercial leasing in Queensland.

Enforcement and Procedural Fairness

The Bill proposes significant enforcement powers, including extended closure orders and the ability to compel information from individuals. While we support strong enforcement against illegal tobacco trade, we urge the Committee to ensure that:

- **Property owners and managers are afforded procedural fairness**, including the right to respond to allegations before penalties or closure orders are imposed.
- **Appeal mechanisms are clearly outlined**, particularly where closure orders may impact innocent lessors, agents, or co-tenants.

Education and Sector Engagement

To support the successful implementation of the Bill, we recommend that the Government:

- Develop targeted education campaigns for lessors and REAs.
- Engage with industry bodies and tenancy support services to co-design guidance materials.
- Provide clear reporting pathways for agents and lessors who suspect illegal activity.

Property managers are well-placed to support compliance efforts if they are equipped with the right tools and information. Early engagement with the sector will be critical to ensuring the effectiveness of the proposed reforms.

Conclusion

We support the Government's efforts to dismantle the illegal tobacco trade and protect public health. However, it is essential that the Bill strikes an appropriate balance between enforcement and fairness, particularly for lessors and property managers who may be unaware of unlawful conduct occurring on their premises.

We would be pleased to discuss any of the matters raised further and invite you to contact Katrina Beavon, General Counsel at [REDACTED].

Yours Sincerely



Antonia Mercorella
Chief Executive Officer