




Speech By  
**Leanne Linard**

**MEMBER FOR NUDGE**

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**TOBACCO AND OTHER SMOKING PRODUCTS (SMOKE-FREE PLACES)  
AMENDMENT BILL; TOBACCO AND OTHER SMOKING PRODUCTS  
(EXTENSION OF SMOKING BANS) AMENDMENT BILL**

 **Ms LINARD** (Nudgee—ALP) (3.55 pm): I rise to speak in support of the government's Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015. The Health and Ambulance Services Committee was charged with looking at two bills related to tobacco reform—the Tobacco and Other Smoking Products (Extension of Smoking Bans) Amendment Bill, a private member's bill introduced in July last year, and the government's Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill introduced in November last year. Both bills share a common objective—to further decrease the incidence of smoking in Queensland by strengthening smoking bans.

When introducing the private member's bill, the shadow health minister and member for Caloundra made the comment that, while the prevalence of smoking has decreased by 26 per cent over the decade since 2004, the rate of decrease has slowed over recent years and that new measures are required to continue historical rates of progress. The private member's bill sought to achieve this objective by extending smoking bans to five metres within all state government buildings, all transport waiting areas and pedestrian malls, public swimming pools and skate parks, and to ban the sale of cigarettes at pop-up sales venues.

The committee received 16 written submissions and held a public hearing where the committee heard evidence from invited witnesses on the private member's bill. The overwhelming majority of submitters were supportive of the proposed legislation. The Cancer Council in its submission provided an overview of the current prevalence of smoking in Queensland, which I outline now for the benefit of members. About 17 per cent of Queenslanders are currently smokers. Fourteen per cent of Queenslanders smoke daily whereas the remaining three per cent are non-daily smokers. Twenty-eight per cent of Queenslanders are ex-smokers, so it can be done. Fifty-five per cent have never smoked. 15.8 years is the average age of the first full cigarette for persons aged 14 years or older. Fifteen per cent of women still smoke at some time during their pregnancy. Of that 15 per cent, 13 per cent will smoke throughout the whole pregnancy. A total of 500,000 Queensland adults are current smokers.

Despite significant advancements, tobacco smoking remains a leading cause of preventable death and disease. The Cancer Council submission estimated that one-third of smokers die in middle age, losing at least 20 years of life, and that current smokers will die an average of 10 years earlier than nonsmokers, with mortality rates increasing substantially with the increased intensity of smoking. I do not provide these statistics to be alarmist, but they are alarming. As my fellow committee members know, this is one of those hot buttons for me. I watched a grandparent who never smoked a day in her life die a very painful death due to passive smoking. I also buried two parents at far too young an age from non-preventable forms of cancer to understand why anyone would willingly choose this path for themselves or their family. Attitudes towards smoking tobacco have changed significantly, with

governments across Australia and abroad moving to institute legislation to ban the smoking of tobacco products in public places and, in so doing, reduce the impact of passive smoke on others.

Queensland, like other states and territories, has taken an incremental approach to smoking bans over a number of years. The phased introduction of smoking bans in specified enclosed public places has progressed to outdoor public places including eating and drinking places, entrances to public buildings, patrolled beaches, outdoor swimming areas and children's playgrounds. Importantly, the approach of this public health issue has not only included bans but also education and support programs to assist preventing people, particularly young people, from taking up smoking and assisting others to quit. In evidence provided by the Chief Health Officer at the public hearing, she said—

Over many years Queensland has implemented a proven multistrategy approach which aims to increase protection from second-hand smoke, support smokers to quit and prevent youth uptake. Our strategies include: creating smoke-free environments by law and policy; implementing quit-smoking campaigns to remind smokers of the dangers of smoking and encourage them to take action; providing tailored quit-smoking advice through the Quitline service—33,000 people call that line each year

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Taken all together, these strategies have been proven to influence healthier behaviours and strengthen community expectations for more smoke-free environments. Indeed, three-quarters of Queenslanders tell us that they actively avoid places where they are exposed to other people's smoke.

As mentioned earlier, the intent of the private member's bill to decrease the incidence of smoking in Queensland received widespread support from submitters including the Cancer Council and Australian Medical Association Queensland. A number of submissions, however, considered that the bans did not go far enough including the Cancer Council Queensland, Heart Foundation and Public Health Association of Australia, Queensland branch. Others provided qualified support and highlighted what they considered were flaws in the proposed legislation. With regard to the provision banning smoking within five metres of all state government buildings, a number of issues were raised relating to enforcement, signage and consistency with existing provisions. The Cairns and Hinterland Hospital and Health Service provided a detailed submission highlighting potential confusion that could arise from the term 'building', that in the absence of any formal definition of the term, confusion could arise as to whether the building itself included attachments, such as awnings, walkways and undercover driveways. The committee considered that what constitutes a building needs to be clarified and where the five-metre boundary ends so as to avoid uncertainty in the application of the proposed legislation.

With regard to the provision banning smoking at skate parks, a number of submitters considered that, to be consistent with existing bans on smoking in children's playgrounds, the five-metre ban under the bill should be extended to 10 metres. The committee recommended that the bill be amended to ensure consistency between the proposed provision banning smoking at or near a skate park and the existing provision banning smoking near children's playground equipment.

Definitional issues also arose with regard to clause 6 of the private member's bill, banning smoking at public swimming pools. As drafted, the term 'other body of water' in the definition of 'public swimming pool' could be interpreted to include any part of a beach, lake, dam, creek or river throughout Queensland. While supporting the intent of the amended provision to ban smoking at swimming pools and associated areas where young people in particular are more likely to frequent, the committee recommended that the definition of 'public swimming pool' be reviewed to ensure the ban only refers to those areas to which it was intended to apply.

During the committee's deliberations issue was raised with the explanatory notes to the private member's bill. Explanatory notes are designed to ensure effective parliamentary scrutiny of bills and to assist legal practitioners and courts in interpreting legislation. The notes provided were minimal and did not contain all of the information required to assist the committee to understand the technical aspects of the bill. The notes contained numerous typographical and grammatical errors and did not address every clause or provide an appropriate narrative to explain the purpose or operation of each clause. I note that amended explanatory notes were circulated during the last sitting week for the benefit of the House, and I thank the shadow health minister for taking on the committee's feedback in this regard.

Overall, the committee made five recommendations in regard to the private member's bill: that the definition of 'government building', what constitutes a building and the requirements for signage be reviewed to ensure there is certainty in regard to the area in which the ban is to operate; the bill be amended to ensure there is consistency between the proposed provision banning smoking at or near a skate park and the existing provision banning smoking at children's playground equipment; the definition of 'public swimming pool' be reviewed to ensure the bans imposed under the bill only refer to those areas to which they were intended to refer; the definition of 'public transport waiting point' be reviewed to ensure the bans imposed under the bill extend to an appropriate area at or near the waiting point where people may gather when waiting to use public transport; and, finally, that the bill be passed.

During its inquiry, the committee noted a statement from the Minister for Health and Minister for Ambulance Services on 21 September 2015 that the government is working on a range of initiatives to reduce smoking and that the minister considered that there is more that can be done. The committee were in agreement that any practical measures to reduce the incidence of smoking in Queensland should be supported, noting within our report that any additional measures brought forward by the minister be considered as the bill progressed.

The Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015, the government bill, was introduced into the House on 10 November 2015. The Minister for Health and Ambulance Services outlined within his introductory speech the key objective of the bill: to create more smoke-free places, reduce exposure to second-hand smoke, reduce the normalcy and social acceptability of smoking behaviours, and provide smoke-free environments to help people quit smoking. In his speech the minister outlined the significant impact that strong smoke-free laws, in conjunction with retail restrictions, quit-smoking campaigns and targeted services to help people stop smoking, have had on reducing the smoking rates in Queensland, outlining a 30 per cent reduction since 2001, when the Beattie Labor government commenced initiatives to expand the number of smoke-free places in Queensland. However, the minister also stated that even though a significant reduction has occurred, every day almost 10 Queenslanders die from a smoking related illness. One of these 10 people will be a nonsmoker who has died from an illness related to inhaling other people's smoke. This is why smoking is a key health priority of the government and the reason for the introduction of the government bill.

The government bill seeks to achieve a further reduction in smoking behaviours by prohibiting smoking at: all outdoor pedestrian malls; all public transport waiting points, including within five metres of the public transport waiting point; all public swimming facilities; within 10 metres of a skate park; sporting grounds or viewing areas during organised under-age sporting events, including within 10 metres of the sporting ground or viewing area; early childhood education and care facilities, including a five-metre buffer around the facility; residential aged-care facilities, including a five-metre buffer around the facility; prescribed national parks; and prescribed government precincts.

The committee received 20 written submissions and held a public hearing, where the committee heard evidence from invited witnesses including: the Cancer Council of Queensland, the Heart Foundation and the Local Government Association of Queensland. The overwhelming majority of submitters were supportive of the government legislation. Dr Jeanette Young, Chief Health Officer, gave evidence to the committee that—

We are living longer and we are smoking less. Some 86 per cent of Queensland adults do not smoke anymore. We are making a difference. ... however, tobacco smoking remains a leading health challenge. Tobacco related deaths and hospitalisations are still too high.

Both the Cancer Council of Queensland and the Department of Health noted in evidence provided to the committee that, although the prevalence of smoking has decreased, the rate of that decrease is slowing. The Cancer Council asserted that this slowing signals that new measures are now urgently required to continue historical rates of progress.

Provisions contained in the bill are clearly reflective of a growing community expectation that people, especially children, will be protected from second-hand smoke. Young people are particularly vulnerable to the harmful effects of second-hand smoke and are more likely to view smoking as desirable the more often they see people smoking. As a parent, I am very pleased and relieved to see the actions proposed in regard to early childhood education and care facilities, public swimming facilities, under-age sporting events—all of which I frequent with my two young boys—and skate parks to which I will now turn. The act does not currently regulate smoking at or near skate parks or under-age sporting events. The bill contains a new provision to prohibit smoking at a sporting ground or viewing area for a water sport during an organised under-age sporting event or training session and introduces a provision to prohibit smoking at or near skate parks. The government bill will ban smoking within 10 metres of such events where children under 18 years are the main participants and within 10 metres of any part of a skate park. The private member's bill deals only with skate parks, prohibiting smoking within five metres of such a park. The committee was of the view that smoking should be prohibited within 10 metres of an under-age sporting event and at skate parks to ensure there is consistency with the existing provision banning smoking near children's playground equipment. The Cancer Council was supportive of the greater protections provided for under the government bill.

Further protections are also provided for early childhood education and care facilities under the government bill. Currently, an approved education and care service must provide a tobacco-, drug- and alcohol-free environment under their service. However, this tobacco-free environment does not extend to the perimeter around the facility. As we all know, cigarette smoke travels. Amendments introduced by the government bill will create a smoke-free environment at, and in the vicinity of, early childhood education and care facilities.

The current act contains six prescribed outdoor swimming areas. Both bills propose to broaden the ban to mean a pool or other body of water that is open to the public for swimming. The definition contained in the government bill overcomes a definitional issue in the private member's bill and was supported by the committee.

Something which has elicited a number of letters to my office is public transport waiting points: bus stops, taxi ranks and ferry terminals. Public transport waiting points are an area where nonsmokers are regularly exposed to second-hand smoke. Elderly passengers and mothers with young children—among others, of course—can be seen standing away from bus shelters, which contain seats and shelter from weather, to avoid the effect of someone smoking over their pram, their children and themselves. Some local governments, such as Ipswich City Council and Fraser Coast Regional Council, have already declared that all bus stops and taxi ranks within their respective local government areas are smoke-free areas following amendments in 2010 giving councils discretionary powers to make local laws prohibiting smoking at certain places, including such public transport waiting points; however, the introduction of such bans has not been uniform across the state. A more consistent statewide approach is needed. The effect of this provision is that a local government will no longer have the ability to opt in to make local laws banning smoking at public transport waiting points as it will already be an offence under the act for a person to do so. This bill will enable such waiting points to achieve the same smoke-free status as railway, busway and light-rail platforms have under state transport legislation. The provision also gives effect to recommendation 5 of the committee's report on the private member's bill to extend the ban to include the queue and five metres beyond it.

An issue of equal frustration and concern is outdoor pedestrian malls. The community has an expectation that people will not be exposed to second-hand smoke at busy public outdoor areas. This has been raised with me time and time again, with people confused over a perception that pedestrian malls are already supposed to be smoke-free, but do not appear to be or only have sporadic bans. Currently, local governments have the ability under the tobacco act to create local laws banning smoking in these places, but to date only five local governments have prohibited smoking at the public transport waiting points referred to earlier and outdoor pedestrian malls in their local government area. I commend those local governments that have acted, but we need to ensure that all outdoor pedestrian malls are smoke-free areas.

Feedback on the provisions that prohibit smoking at regulated outdoor pedestrian malls and public transport waiting points varied from strong support to opposition relating to challenges regarding implementation. The Local Government Association of Queensland, Logan City Council, Ipswich City Council, Brisbane City Council and Gold Coast City Council all made submissions to the bill. Most were generally supportive of the provisions but raised concerns including the removal of local council power to decide whether and where to prohibit smoking and issues associated with the enforcement of the new provisions. There are a number of agencies responsible for enforcement: hospital and health services, local governments and the Queensland Police Service. Smoking bans are primarily enforced by Queensland Health and environmental health officers who, as authorised persons under the tobacco act, can issue individual warnings and on-the-spot fines; issue business improvement notices, warnings and on-the-spot fines; respond to complaints; inspect premises; and initiate legal proceedings for breaches of the tobacco laws.

The tobacco act provides that both state and local governments have a role in the enforcement of smoking bans. While local governments have a role, nothing in the act imposes a duty on a local government to enforce the division. This role of local governments in enforcement remains largely unchanged under the bills. The council of the City of Gold Coast considered that, although there was no duty on a local government to enforce smoking bans in outdoor areas, they felt that such provisions raise community expectations for local governments to provide what they consider to be an essentially unfunded new service to the community. The Local Government Association of Queensland submitted that flexibility and discretionary powers for councils to tackle enforcement action is required and deemed most appropriate to allow for differing circumstances across local government areas.

The committee acknowledges the concerns expressed by some local councils, but found that laws have been applied inconsistently across local government jurisdictions and considered that the benefits of the proposed legislation far outweigh the concerns conveyed.

The remaining provisions relate to prohibiting a supplier from selling smoking products from a temporary retail store to limit young people's exposure to the sale and promotion of smoking products; prohibit smoking at a government precinct prescribed in regulation, making it an offence to smoke at both public and private residential aged-care facilities or on land within five metres beyond the boundary of a residential aged-care facility; and banning smoking at national parks. These reforms, both the government and private member's bills, reflect the parliament's commitment to continue the momentum of Queensland's tobacco control efforts.

There are a number of similar provisions in the bills and some additional provisions in the government bill. The government bill gives effect to the five recommendations contained in the committee's report on the private member's bill and, in my opinion, is a superior bill for the additional protections it affords with regard to: increased buffers at skate parks, sporting grounds or viewing areas at organised under-age sporting events; at early childhood education and care facilities; at residential aged-care facilities; national parks; and prescribed government precincts.

In closing, I would like to thank my fellow committee members for their constructive approach to considering the bills. I would like to thank those who made written submissions and witnesses who provided evidence at public hearings. Thank you to the Department of Health representatives who briefed the committee and the secretariat. Finally I thank the Minister for Health and Minister for Ambulance Services for bringing forward these important health improvements that will protect my children and the broader community. I commend the government bill to the House.