




Speech By  
**Ros Bates**

**MEMBER FOR MUDGEERABA**

---

Record of Proceedings, 24 May 2023

### **TOBACCO AND OTHER SMOKING PRODUCTS AMENDMENT BILL**

 **Ms BATES** (Mudgeeraba—LNP) (2.39 pm): I rise to give my contribution to the Tobacco and Other Smoking Products Amendment Bill 2023. All of us in this place know the negative and damaging effects of smoking, and after many long years of public campaigns and public health efforts so too do the overwhelming majority of Queenslanders. Even with the many gains made over many years, the effects of smoking still loom large over our community. Preventable disease and death and the subsequent economic flow-on effects of that are costly. They are costly on a very personal level; for example, the trials and tribulations of having a loved one who is unwell because of smoking. The flow-on effects are costly on a macro level as well. It costs Queensland and Queenslanders somewhere in the order of potentially \$30 billion each year for things like the cost to treat and manage the associated illnesses which can arise from smoking. That is significant, and those numbers alone should be a deterrent to anyone who is even thinking about taking up smoking.

It is also just one part of the reason why the opposition will not oppose the passage of this bill through the House. It is not all adversarial in this place, and as a constructive and responsible opposition we will never stand in the way of things that make sense. The bill is largely uncontroversial and common sense. Increasing deterrents for smoking and adapting legislation to try and combat modern trends is a sensible move by the government. My colleagues and I acknowledge the government's intent to modernise the rules, adapt to changes and ensure that the work done to deter and reduce smoking across Queensland continues.

It is no secret that smoking is more prevalent amongst our First Nation population, lower socio-economic populations and rural and remote populations. We know that the health outcomes for each of these cohorts is already below that of other groups in Queensland, so efforts made to try and limit the uptake and prevalence of smoking, particularly amongst these groups within our community, are important. Above all, the changes to protect children and families from the effects of smoking as a result of things like second-hand smoke are good. I do not think many Queenslanders would disagree with that, and we as the opposition certainly do not, which again is why the opposition will not oppose this bill.

Turning to the bill itself, it amends the Tobacco and Other Smoking Products Act 1998. The provisions included as part of the bill include: establishing a licensing scheme for the wholesale and retail sale of smoking products and introducing new penalties for a failure to comply with the licensing scheme and new offences, including prohibiting the supply of smoking products by children and prohibiting the supply of smoking products to children by parents and guardians; enabling Queensland Health to monitor compliance with Commonwealth requirements for smoking products and improve intelligence-sharing with other state, territory and Commonwealth law enforcement agencies; modernising and clarifying the requirements for advertising, display and promotion of smoking products, including their application to online trading; expanding smoke-free public spaces, including community spaces for children, including prohibiting smoking at carparks adjacent to schools; enhancing offences protecting children from the dangers of smoking, including prohibiting children from being in a

designated outdoor smoking area; and improving protections at liquor licensed premises, including tighter requirements for smoking areas and moving tobacco product vending machines to areas which cannot be accessed by patrons. The bill will also prohibit smoking in national parks and at places like outdoor markets, which of course we know are both family-friendly environments.

Unlike a great deal of the government's election commitments which remain in tatters, this legislation actually does try to meet two 2020 election commitments made by the government: to strengthen the retail supply, advertising and promotion provisions in the act and take direct action on illicit tobacco; and increase smoke-free public places. It is rare, but I will give the government some credit here. I acknowledge this legislation actually does try to meet a commitment made by the government, but just like my credit being rare, so too are election promises kept by those opposite. Remember the hospitals those opposite promised last election that are not really hospitals or the police they promised? Of course, now we know they are only funded positions, not actual officers. How could I forget?

**Ms FARMER:** Mr Deputy Speaker, I rise to a point of order. I seek your ruling on relevance.

**Mr DEPUTY SPEAKER** (Mr Lister): Member for Mudgeeraba, given your position as the shadow minister, the chair will usually afford you a bit of latitude. I would ask you to be mindful of relevance and encourage you to come back to the long title of the bill.

**Ms BATES:** The minister jumped a bit too early. I guess they had to get one eventually, but do not be fooled because it comes with some strings attached. I say that because there are very genuine concerns about how, and even if, the legislative changes can be enforced. I will come to that later. The bill itself is hardly a game changer, but it is an attempt at progress on trying to protect people from smoking and deter people from starting to smoke in the first place.

The Health and Environment Committee considered the bill. There were three recommendations made by the committee (1) that the bill be passed; (2) the improved alignment of the Medicines and Poisons Act 2019 and the Tobacco and Other Smoking Products Act 1998 to remove barriers to executing warrants, searching premises and seizing contraband items; and (3) that the government fully consider resourcing enhanced enforcement efforts coordinated between Queensland Health and the Queensland Police Service and between relevant state and federal agencies targeting illicit tobacco and vaping markets. Those recommendations are fair, particularly the third recommendation around enforcement, which the LNP has concerns about, as I have just mentioned, and will elaborate more on.

I think it is also important to make this point clear during the debate. This legislation will not really deal with the legality, regulation, sale or otherwise of e-cigarettes or vapes in any holistic way. There are many in the community rightly concerned with these products, but this legislation does not actually really deal with vapes or e-cigarettes. That needs to be transparent for all Queenslanders. The LNP acknowledges there was generally wide support for the bill among stakeholder groups; however, submissions made to the committee did question the government's ability to manage and enforce these laws, which is a concern. I agree with those views, as do my colleagues. It is one thing to have the laws in place, but it is another thing to be able to enforce them. We know the government has struggled to enforce the existing laws as they are, so increasing smoke-free spaces and limiting retail supply or changes to advertising laws for tobacco products will prove even more difficult.

Even Queensland Health itself admitted this during the committee's consideration of the bill. The West Moreton Hospital and Health Service indicated that funding to support the implementation of enforcement action will be required, estimating an additional two FTE positions would be required to manage ongoing compliance. The submission from West Moreton Hospital and Health Service states—

Funding to support the Public Health Unit (PHU) implementation will be required. While the licensing regime is not designed as a fee for inspection service, we anticipate a significant expectation from both business and community that inspections will be undertaken. We additionally expect a rise in complaints of unlicensed or non-conforming businesses and dealing with commonwealth related offences.

The submission goes on to say—

We estimate in the order 300 licensable businesses in the West Moreton PHU area which could conceivably require an additional two full time equivalent staff to ensure we do not reduce service expectations in other program areas. Appropriate recurrent funding should be provided to PHUs to ensure the sustainable implementation of the legislation.

That is it in black and white. If these changes are going to be effective and enforced, then it is going to take the government to put its money where its mouth is. That is just one hospital and health service covering one relatively small geographical region. It is over to the minister now to explain how that will occur across all of Queensland. It is something which the government and the minister have not adequately addressed in any significant detail.

Similar concerns were raised by staff from the Townsville Hospital and Health Service during a public hearing. At the committee hearing in Townsville on 12 April the director of the Townsville Public Health Unit said—

My very small team obviously have multiple acts—public health, food, water, radiation and pesticides—to deal with. They are completely overwhelmed. They go to a tobacco seller and most likely the person will refuse consent for entry. Therefore, you can only go in with a warrant which is really hard to get ...

Teams are ‘overwhelmed’. Those are not my words: they are the words of someone working for Queensland Health. They are struggling to keep up. There is more though, and this is the worrying bit. Before I read this out, it is very blunt and it is very brave. I want to commend the director for being as open and honest as he was. He went on to say—

Fundamentally, this amendment bill is too little, too late, too weak, way too complicated and too slow, and the cost of trying to implement it is way beyond what we have resources for. I am not expecting an improvement ...

Well, I think that says it all—overwhelmed and under-resourced with a bleak outlook as to whether any tangible change can occur. It is damning feedback, so again I say this to those opposite: if you are going to change the law, no matter how well intentioned, you have to back it up with the resources. Evidently, from the submissions and evidence given to the Health and Environment Committee, it seems that will not occur. That feedback is being received by not just external parties; it is being received from Queensland Health itself. It is quite extraordinary really. I hope the government hears those concerns, because the opposition certainly has. It does follow a trend by this government—with a failure to listen about the laws they are enforcing. We heard it in the debate on the bill prior to this. We have seen this not just in health but in other portfolios as well—housing, public works and the environment portfolio. It is habitual.

I speak on this issue not just as shadow health minister but also as the member for Mudgeeraba. In the Mudgeeraba community, there are illegal tobacco shops—chop-chop shops as they are commonly called—which have been operational for years. I wrote to the previous health minister about this issue two years ago. In that email it cited 85 illegal chop-chop shops in 15 electorates in Queensland, and nothing changed. I wrote that these illegal chop-chop shops—there is one in Mudgeeraba, one in Worongary and one in Burleigh Waters that I know about—all have illegal signage. They have cigarettes on the front of them. They have tobacco on the front of them. They have smokes on the front of them. They are illegal chop-chop shops. They are not hard to recognise. When my licensed Cignall tobacconists, who are doing everything right, complained to Queensland Health, they had Queensland Health come down on them like a tonne of bricks and Queensland Health never even visited the illegal chop-chop shop. Those local businesses are losing up to \$30,000 a week. This is revenue which is taxable—it goes to the Commonwealth—but the only place it is going is into the pockets of the owners of the illegal chop-chop shops. They will keep doing it until there are laws that can be enforced to stop them from doing it.

The concerns that the laws were, and will be, too complex and cumbersome are legitimate because I have seen it play out in the community I represent. That also goes for the resourcing issues which have been raised. I feel that nothing has happened because those public health unit teams are not able to enforce the laws because they are not resourced properly. I take this opportunity to give my sincere thanks to the staff working in those public health units and the environmental health officers out there both on the Gold Coast and right across the state. They do a stellar job day in, day out—just like all our other amazing frontline health staff across the health system in Queensland. It is not just me who is concerned about illicit tobacco. This is what the Attorney-General said when she introduced the bill—

The community is also concerned about the increasing trade in illicit tobacco. These are smoking products that do not comply with Commonwealth requirements for plain packaging and health warnings and that circumvent excises and duties. As these products are often illegally imported or manufactured in unsafe or uncontrolled conditions, they are also unlikely to meet Australian safety standards in relation to ingredients and concentrations and may contain dangerous toxins.

I could not agree more with those comments. It is why I was perplexed when I heard them because I have been raising this issue for years, since 2021, directly with the responsible minister about examples in my own community. I will be honest; it seemingly went nowhere. It was really disappointing. Sadly, I fear that, even with the changes made in this bill, nothing will actually change on the ground. I hope that is not the case, but time will tell.

I will round out my conclusion on the bill by saying this. For all the many and varied reasons I have mentioned about the health outcomes of Queenslanders, the opposition will not oppose the bill. We, like the government, want to see fewer people smoking, and we want to see those who do not smoke protected from the effects of it. We acknowledge the intentions of government—we really do. They are good intentions, but good intentions do not always deliver a good outcome. If the government is not serious about listening to the concerns of stakeholder groups about shutting down illegal chop-chop shops—and even Queensland Health itself has concerns about this legislation—then it will not get the outcome it was hoping for. It is as simple as that.