



Speech By  
**Hon. Shannon Fentiman**

**MEMBER FOR WATERFORD**


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Record of Proceedings, 24 May 2023

**TOBACCO AND OTHER SMOKING PRODUCTS AMENDMENT BILL**

**Second Reading**

Resumed from 14 March (see p. 333).

 **Hon. SM FENTIMAN** (Waterford—ALP) (Minister for Health, Mental Health and Ambulance Services and Minister for Women) (2.29 pm): I move—

That the bill be now read a second time.

On 14 March 2023 the Tobacco and Other Smoking Products Amendment Bill 2023 was introduced. The bill was referred to the Health and Environment Committee for consideration. On 5 May 2023 the committee tabled its report on the bill, making three recommendations. The first recommendation was that the bill be passed. I thank the committee for its thorough consideration of the bill. I now table the government response to their recommendations, supporting the recommendations in principle.

*Tabled paper:* Health and Environment Committee: Report No. 32, 57th Parliament—Tobacco and Other Smoking Products Amendment Bill 2023, government response [700](#).

I will also be moving some minor amendments during consideration in detail to address drafting issues.

Smoking remains the leading cause of preventable disease and deaths in Australia. In the past 25 years we have seen a steady downward trend in smoking in Queensland which is a direct result of concerted public health efforts across various levels of government over many years. We also committed ahead of the 2020 election to build on this record by strengthening tobacco legislation and increasing smoke-free places in this state. However, we have recently seen a rapid increase in the use of e-cigarettes and vapes and the illegal tobacco trade, both of which threaten the progress that has been made.

This bill will strengthen and modernise Queensland's tobacco and smoking products legislation and increase smoke-free public places. It will also make some immediate reforms to e-cigarette laws which will lay the groundwork for further reforms including in response to the Health and Environment Committee's inquiry. I will now turn to the key amendments in the bill.

In line with every state and territory other than Victoria, the bill introduces a licensing scheme for wholesale and retail sellers of smoking products. A special retail licence will also be available for liquor licensed premises in line with their existing licences. In addition, and in keeping with modern business practice, the licensing requirement will also apply to online shops.

Before being granted a licence, applicants must be assessed as being fit and proper to hold the licence. To ensure information about licensed sellers remains up to date and easily accessible, licences must be renewed every year and a public register of licences will be maintained. The application and renewal fees will be \$475 for a retail licence and \$675 for a wholesale licence. These fees will provide full cost recovery of delivering the scheme.

Businesses will have until 1 September 2024 to obtain a licence. From that date, the penalty for unlicensed wholesale or retail sale of smoking products will be 1,000 penalty units. The licensing scheme will provide Queensland Health with improved oversight of the smoking product industry, allowing it to engage better with sellers and design targeted enforcement activities. Retail stakeholders including the Australian Association of Convenience Stores and the Australian Lottery and Newsagents' Association have welcomed this reform as a way of ensuring only legitimate businesses are authorised to sell smoking products.

The licensing scheme established under the bill will complement the federal government's recent announcement that it will prohibit e-cigarette sales. The framework under this bill will be a way we can monitor and enforce compliance with the federal prohibition. If a retail licensee is found selling e-cigarettes in breach of this prohibition, or otherwise contravenes the act, the chief executive may suspend or cancel the licence. The bill facilitates federal policy change by making special provision for pharmacies to dispense on-prescription e-liquids and administration devices without needing a retail licence.

The new licensing scheme will also assist Queensland to combat the trade in illicit tobacco. These are smoking products which do not comply with Commonwealth requirements for plain packaging and health warnings including loose-leaf chop-chop grown overseas and illegally imported cigarettes. As no excise tax is paid on illicit tobacco, it may be sold very cheaply—at the expense of compliant businesses and taxpayers. The bill makes it an offence under Queensland law to supply illicit tobacco or for a retailer to possess illicit tobacco at their premises. This will empower Queensland Health to take direct action to enforce the Commonwealth requirements including forfeiture of seized illicit tobacco.

A supplier in breach of these new offences will face significant penalties. The breach may also be grounds for denying them a wholesale or retail licence or for suspending or cancelling a licence they already hold. The illicit tobacco provisions will also support new federal requirements for e-cigarettes including plain packaging, reduced nicotine concentrations and limited permissible flavours.

Specifically, the bill allows the definition of 'illicit tobacco' to be updated by regulation to include e-cigarettes or vapes which do not comply with Commonwealth requirements that may be introduced. This will mean all the illicit tobacco enforcement measures, including forfeiture of seized products and suspension or cancellation of retail licences, would also apply to businesses selling noncompliant e-cigarettes and vapes.

To effectively monitor and enforce compliance with both of these new offences and existing offences in the act, the bill provides authorised persons with expanded powers. For example, they will be able issue an improvement notice to immediately prohibit an unlawful activity which may have the practical effect of shutting down a noncompliant business.

To further assist authorised persons to enforce the new offences, the bill deems police officers to be authorised persons. This will formalise the role police already play in supporting efforts to combat serious smoking product offences. The bill also introduces information-sharing provisions to allow the chief executive to share intelligence with other state and Commonwealth law enforcement agencies.

The bill also clarifies and modernises the advertising, display and promotion restrictions in the act, especially where businesses have found ways of circumventing existing restrictions. For example, the bill clarifies that the existing advertising restrictions apply to online shops selling smoking products and prohibits using multiple business names to refer to different smoking products.

The bill will further protect children from exposure to smoking products. For example, we know that where people who are under 18 sell smoking products they may start to view smoking as normal behaviour. For this reason, the bill will prohibit the supply and handling of these products by children in the course of their employment. It will also remove an exemption that allows parents to supply smoking products to children without breaching the act. This important change brings Queensland into line with other Australian jurisdictions.

The bill will also protect children and families from exposure to harmful second-hand smoke by extending existing smoking bans to new situations where emerging or continuing public health risks have been identified. The bill prohibits smoking at organised children's outdoor activities such as Scouts or Girl Guides and at car parks adjacent to a school.

Other extended smoking bans in the bill increase protections at public places where families and the community gather. For example, the existing smoking ban at an outdoor eating or drinking place will be extended to include a no-smoking buffer zone around its perimeter. Similarly, new smoking bans will be introduced for outdoor markets, both inside the place and around any defined entrance or exit.

For liquor licensed premises, the bill removes the temptation posed by tobacco product vending machines by restricting the sale of smoking products to a service area. If the venue has a designated outdoor smoking area, the bill expands the existing no-smoking buffer zone requirements around it and makes it an offence for the liquor licensee to allow a child to remain in a designated outdoor smoking area.

I want to again thank the Health and Environment Committee for their thorough consideration of the bill. I want to thank the stakeholders who made submissions to the committee's inquiry including No More Butts, the Australian Medical Association, the Lung Foundation and the Cancer Council.

I now turn to the Health and Environment Committee's report and recommendations on the bill. As previously noted, the committee's first recommendation was that the bill be passed.

Recommendation 2 went to better aligning the Tobacco and Other Smoking Products Act and the Medicines and Poisons Act to remove barriers to executing warrants, searching premises and seizing contraband items. Queensland Health has established an internal working group to better understand how the powers under these two acts apply and interact in practical situations. It is intended that this working group will develop guidelines for the most effective use of these powers such as simplified and standardise processes for seizing evidence and applying for warrants. It is also intended that the working group may recommend amendments to either or both of the acts if required. In the interim, the bill facilitates stronger enforcement action by providing authorised persons with expanded powers. This will be complemented by increased compliance activities across Queensland.

Recommendation 3 was that the government consider resourcing enhanced and coordinated enforcement efforts targeting illicit tobacco and e-cigarette markets. Queensland Health is developing a monitoring and evaluation plan to assess the entire enforcement program, and identify and implement any operational revisions needed.

As I noted earlier, the bill promotes a more coordinated approach to enforcement between state agencies and between the state and the Commonwealth. For example, the bill deems police officers to be authorised persons to enforce the new offences of unlicensed sale of smoking products and supply of illicit tobacco. The bill also allows the chief executive to share compliance intelligence with other state and Commonwealth law enforcement agencies including the Queensland Police Service.

In closing, I again want to thank the Health and Environment Committee for its careful consideration of the bill. I look forward to the outcomes of the committee's inquiry into reducing the rates of e-cigarette use in Queensland when the committee tables its report in August.

The Palaszczuk government is committed to strengthening public health protections for all Queenslanders but particularly families and children. Queensland's smoking laws are comprehensive and among the strongest in the world. This bill will ensure that we stay this way, by expanding smoke-free places across the state, enhancing monitoring and enforcement of the retail industry, and supporting efforts to combat the trade in illicit tobacco. I commend the bill to the House.