




Speech By  
**Stephen Andrew**

**MEMBER FOR MIRANI**

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**TOBACCO AND OTHER SMOKING PRODUCTS AMENDMENT BILL**

 **Mr ANDREW** (Mirani—PHON) (3.15 pm): I rise to speak on the Tobacco and Other Smoking Products Amendment Bill 2023. The bill amends the Forestry Act 1959, the Police Powers and Responsibilities Act 2000, the Recreation Areas Management Act 2006 and the Tobacco and Other Smoking Products Act 1998. The bill's primary aim is to significantly expand the current laws and restrictions on smoking as contained in the state's Tobacco and Other Smoking Products Act 1998. To achieve its objective, the bill seeks to: establish a licensing scheme for the wholesale and retail sale of all smoking products in Queensland; impose stronger restrictions on the unlawful supply of smoking products; introduce harsher penalties for noncompliance; enable Queensland Health to share data and intelligence with other law enforcement agencies; increase the additional restrictions on the marketing of smoking products; expand restrictions on smoking in public spaces; create new antismoking offences under the act; and impose tighter laws and penalties for noncompliance.

The bill's changes are expressly aimed at further reducing smoking rates in Queensland as well as toughening the laws on second-hand smoke and the illicit trade in tobacco. Over the past 25 years smoking rates in Queensland have more than halved. This huge reduction in smoking is attributable to the significant cost increases and the strict antismoking provisions already implemented under the act.

From 2001 to 2020 the level of excise duty generated from tobacco sales in Queensland increased from \$4.5 billion to around \$17 billion in 2020. Queenslanders are smoking much less and yet somehow they are still forced to pay more taxes than anyone else in the community. Cigarette prices in Australia are rated the highest in the world. A pack-a-day smoker in Queensland now spends over \$10,000 a year to maintain their habit. According to the latest figures, only 10.4 per cent of Queensland adults continue to smoke daily with most being males.

Despite the falling smoking rates, the practice is still cited by Queensland Health officials as the No. 1 risk factor contributing to preventable death and disease in Queensland. According to the health minister, the annual cost of smoking to the Queensland taxpayer is \$27.4 billion. Exactly how this figure was calculated is not clear. Given the fact that smokers supposedly die earlier than everyone else, they must logically spend a lot less time on the aged or disability pension and far less time in aged care. Even their drain on the health and hospital system must be a lot less than that of elderly non-smokers once the cost is aggregated over the course of their brief lifetime. Surely this must be saving taxpayers bucketloads of cash. Was that factored into the \$27 billion? I am just wondering. It probably was not. I return to the bill.

Another significant challenge the bill addresses is the growing number of suppliers who are engaged in the illicit trade of tobacco products, and we have seen this firsthand. The sale of these cheap products does not comply with the laws on plain packaging or health warnings and successfully manage to circumvent the state's many excises and duties on the trade. According to the testimony of witnesses who appeared before the committee, the illicit trade in tobacco has a hugely negative impact on the profitability of many law-abiding businesses. To secure better compliance and enforcement, therefore, the bill creates a number of new offences and harsher penalties.

Currently, there is no requirement for sellers of smoking products in Queensland to be licensed. This restricts the government's ability to identify and monitor the number of locations of businesses that are engaged in selling them. This impedes the ability of authorities to effectively run various surveillance, compliance and enforcement programs. To address this, the bill introduces a licensing scheme for all wholesale and retail industries where these products are sold.

The scheme creates two types of licences—one for sales at physical premises and one for online trading side. Both licences must be renewed annually and both involve the payment of yearly fees and charges on a cost-recovery basis. In granting a licence, the regulator must be satisfied that the applicant is a fit and proper person to hold a licence. If a licensee ceases to be a fit and proper person or breaches the act, the regulator is authorised to take disciplinary action against them. The regulator may also impose conditions on the licence which will be listed on a register of licences and published online. The new licensing portal will go live on 1 September 2023, and suppliers will have 12 months from then to become licensed.

Over the past 25 years, Australian governments have doubled down on their efforts to eliminate smoking. These efforts usually involve the use of escalating price signals and increasingly restrictive laws and penalties. This strategy is now under threat, with the hugely successful uptake—particularly amongst young people—of new and allegedly safer smoking products such as e-cigarettes or vapes. For those who are not aware, electronic cigarettes—known as e-cigarettes—do not contain tobacco and do not involve the burning of any substance. Instead, they are fuelled with a liquid that usually—but not always—contains nicotine. We found out differently. A small heating element inside the device turns the liquid into vapour, which is then inhaled through the mouthpiece. There is no combustion, no tobacco and no smoke. This is known as vaping. It is very different to lighting up a cigarette and considerably cheaper. Vaping costs around \$1,500 a year compared to the \$10,000 an average smoker spends.

The vaping industry generates about \$2 billion for the national economy each year, but, of course, this does not come close to the amount pouring into government coffers from taxes on smoking. As vaping products are mostly imported, they are unlikely to meet Australian safety standards, particularly in relation to ingredients and concentration. The fact that the sale of liquid nicotine e-cigarettes is banned in Australia is puzzling. Most people probably do not know that it is illegal to buy liquid nicotine even though, ironically, it is perfectly legal to import it from overseas, where we do not even know what we are getting.

The bill will enable the appointment of authorised persons under the act to monitor and enforce compliance with its provisions. The bill provides authorised persons with expanded powers including the power to make inquiries, issue improvement notices, immediately prohibit an activity and remain at the premises for a reasonable period to check compliance with an improvement notice. The bill empowers authorised persons to seize products without first taking any prosecution action. The bill further authorises the chief executive to share intelligence and data with other law enforcement jurisdictions. In accordance with the bill's changes, police officers will be deemed authorised persons who may take compliance action under the act.

The bill significantly increases the maximum penalties for noncompliance. The maximum penalty for the unlicensed wholesale or retail sale of smoking products will now be 1,000 penalty units, which equates to \$143,750. For supplying illicit tobacco the bill prescribes a penalty of up to 300 penalty units, which equates to \$43,125. For the offence of possessing illicit tobacco at a retail premises the maximum penalty is 140 penalty units, equating to \$20,125. Other measures include new restrictions on the display of vaping products, whether or not they contain tobacco. These restrictions will also apply to the packaging of hookahs and non-tobacco substances smoked in a hookah. Employees under the age of 18 will be prohibited from the sale or handling of smoking products. Smoking will also be prohibited from children's outdoor activities such as outside Scout halls or car parks adjacent to schools.

The act already allows liquor licensed premises to have a designated outdoor smoking area. Amendments in the bill, however, will add a new requirement for the creation of a no-smoking buffer zone around its perimeter. The bill expands the existing prohibition on smoking in outdoor eating areas and drinking places to include outdoor markets and a buffer zone around a market's entry and exit points. The person in charge of an outdoor market is permitted to set aside a smoking area; however, the smoking area must be clearly signed and surrounded by a buffer zone, with no food or drink to be served within the smoking area or its buffer zone. Any person creating such an area, however, should know that they will be held liable under the act for any persons in the buffer zone.

I thank my fellow committee members and everyone who gave information to these inquiries. It was interesting to hear about the methods schools are using to stop vaping within and adjacent to their grounds. I thank the department for the breakdown of information on vaping and the chemicals within vapes. The committee has made this information public knowledge so that people can access it. I

strongly advise all members to take this information, which shows the concentration of poison and chemicals within vapes, and allow it to be used in schools to show people, including parents, just what these vapes contain and how dangerous they can be. Hopefully this will make people understand that what seems an innocuous pastime compared to lighting up a cigarette is just as dangerous when it comes to vapes imported from overseas in terms of their ability to kill, to harm people medically and to give and pass on disease.