




Speech By  
**Ros Bates**

**MEMBER FOR MUDGEERABA**

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## **TOBACCO AND OTHER SMOKING PRODUCTS (VAPING) AND OTHER LEGISLATION AMENDMENT BILL**

 **Ms BATES** (Mudgeeraba—LNP) (3.34 pm): I rise to speak to the Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024. I will start by saying that one does not need to look very far or hard to find a Queenslanders who is concerned about the sudden and concerning rise in vaping—or e-cigarette use—across our state, whether it is a parent of young teenagers, teachers in our schools or health professionals who are already dealing with the consequences of a generation of young Queenslanders who have taken to vaping. Like many in the greater Queensland public, the LNP is also worried about what toll vaping is taking on our society. In truth, that toll is something we might not know the full extent of for some years to come, which is really concerning. With that said, at the outset of this contribution I want to convey that the LNP will not oppose this bill.

Is the bill perfect? No, it is not. My colleagues and I will outline our concerns and the concerns of stakeholders throughout the course of debate. That is something that a constructive and reasonable opposition should and is entitled to do, and those concerns and issues will be placed on the record. With that said, we certainly will not stand in the way of this legislation because any progress in trying to turn the tide on vaping across Queensland is a good thing.

Let's be blunt: the tide does need to turn, particularly when you hear figures like those from the Chief Health Officer's report that nearly one in six Queensland children aged 12 to 17 has used e-cigarettes. For those aged 16 to 17, that number jumps to one in four. Those are frightening numbers in anyone's book. That paints a clear picture of the magnitude of the problem we are dealing with here. To be clear, those figures are from 2022. I would hazard a guess that the numbers are even greater today. I am sure the CHO has updated the media today on that.

As time goes on we are learning more about what is in e-cigarettes and vapes, and it does not paint a pretty picture. The anecdotal evidence about the level of nicotine in some of these vapes is particularly alarming. They are so potent; it is little wonder so many Queenslanders—so many young Queenslanders—are succumbing to an addiction to these products.

We all know the damage cigarette smoking can cause. The scale is immense. It runs into billions and billions of dollars every year to treat and manage the illness associated with the habit. We have made such significant progress in Queensland, and Australia more broadly, in reducing cigarette smoking and the associated harms over the past few decades, but what we are seeing now with the surge in vaping use threatens to undo much of that work, and that could come at great personal and societal cost. I think that context is important to remember as we debate these laws.

The objectives of the bill itself are to ensure Queensland can enforce the recent Commonwealth legislation, which passed subsequent to this bill being introduced, and give effect to the state government's response to recommendations made by the former Health and Environment Committee in its report *Vaping: an inquiry into reducing rates of e-cigarette use in Queensland*.

The bill will introduce a new definition of 'illicit nicotine product'. This definition will align with the recently passed Commonwealth legislation and will now include vaping goods, devices, substances and accessories.

The bill also introduces new offences relating to the supply and possession of illicit nicotine products and increases the current penalties for persons who supply and possess illicit tobacco as part of a business activity. Also included are changes that will allow for the interim closure of a premise from which illicit tobacco or illicit nicotine products are being supplied as part of a business activity or from which a business is being carried on without a licence. The Magistrates Court will also be enabled to order closure of a business like this for a longer period of up to six months. Those are some quite significant steps, and I do not imagine they will be handed out lightly.

It has been pointed out before in this place that it is often organised crime peddling illicit tobacco or illicit nicotine products like vapes across Queensland, so I have no issue with laws that come down hard on businesses or individuals with links to, or who are involved in, organised crime.

As the minister pointed out in her introductory speech, the bill contains limited exceptions for certain suppliers. Those include clinicians like medical practitioners, pharmacists and nurse practitioners. The bill as it was presented contained provisions to allow for the possession and supply of therapeutic vaping goods by these clinicians.

Given the bill is being introduced off the back of Commonwealth legislation, it is worth noting the eleventh-hour changes that the Labor Albanese government struck to pass this legislation with Labor's good friends, the Greens. The last-minute deal the Albanese government struck with the Greens was to allow vapes to be sold over the counter at pharmacies without the need for a prescription for people aged 18 years and over. Those amendments to the Commonwealth laws removed the requirement for adults to obtain a prescription for vaping products, as was originally set out in the bill. That decision was heavily criticised at the time by the Pharmacy Guild, with concerns also raised by the Pharmaceutical Society of Australia which represents practising pharmacists.

It is important to remember the kerfuffle in Canberra that happened after this bill had been introduced in the Queensland parliament. Given that fact, it is unsurprising that today we see amendments circulated which deal with the issues around that—amendments which are untested through a parliamentary committee process. We will assess them as best we can in the very limited time provided. I appreciate the need to be adaptive in this policy area as these are new and emerging trends, but it must be said that, without being subject to the rigour of the usual process, the likelihood of unintended consequences increases.

When the minister introduced this bill in early June, she made a point of talking about the number of enforcement notices being issued, and seizing vapes with nicotine and other illegal tobacco products. To that I say, 'Wonderful, well done to those involved in undertaking that work,' but the part that worries me is the government's record on enforcement. I expect that there will be some passionate contributions from this side of the chamber—as there was last time we debated the tobacco laws in 2023—with members frustrated about the illegal tobacco trade happening in their own electorates. I have written to health ministers over the years asking Queensland Health to clamp down on the illegal trading that is happening in the electorate of Mudgeeraba that I represent. But the shop kept trading in plain view and now there are two—one in the same shopping complex as my office. The local legal tobacconist estimates that they have lost \$30,000 a week in lost revenue due to the illegal chop-chop shop selling vapes in my local area. Even Coles next door to my office complained that on a Friday night they would run out of cash for cash advances as the chop-chop shop would only take cash and not cards. To circumvent that issue, the chop-chop shop have now installed their own ATM. It is not new, it is blatant and it is bad for Queensland.

I would love to believe that these laws will be passed and that in the months ahead we will see the sale of illegal vapes dry up. In my heart of hearts, I truly hope that is the case and I hope that these laws work, but if the government's record is anything to go by that simply will not happen. Put vaping to one side for a moment. We have existing laws in Queensland that prevent the illegal sale of tobacco, which this bill also deals with, but even with the existing laws the government has not been able to enforce them. It is as simple as that. Those opposite have not been able to enforce their own laws on illegal tobacco. With these laws we are debating today, the sale of vapes or e-cigarettes will be clamped down on—fantastic. If the decision has been taken by the government to strengthen the laws, that is great—we will not stand in the way of that—but I say to the Labor government: it is one thing to have the laws in place; it is another to enforce them.

I will make the same points I made when we last debated tobacco laws in this place. Good intentions do not deliver a good outcome. Good intentions will not stop the illegal trade of vapes laden with nicotine to teenagers. Good intentions will not stop unscrupulous operators selling illegal tobacco, or chop-chop as it commonly called, but good governance and good enforcement can.

Recently, when asked about the current enforcement issues across Queensland, staff in the Townsville Hospital and Health Service unit that deal with tobacco enforcement made this quite startling observation—

My very small team obviously have multiple acts—public health, food, water, radiation and pesticides—to deal with. They are completely overwhelmed.

Let me repeat—‘they are completely overwhelmed’. That is straight from the horse’s mouth—straight from the frontline, and straight from the people who deal with the problem at the coalface. Those frontline staff went on to make this very prudent observation when talking about the previous changes to illegal tobacco laws, saying—

... 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 ...

To those members on the benches opposite: you were warned. It is in black and white and it is written in the record as part of the former committee’s proceedings and again when the opposition raised those same concerns in the House. Clearly, despite that bell ringer of a warning, the government did not listen. It was not an external stakeholder or a third party; it was more than that. They did not even listen to their own staff. Those warnings were coming from within, yet here we are.

I want to respond to something the minister said in her introductory speech. She made this observation—

Despite recent amendments and enforcement efforts, profit margins for retailers of illicit tobacco remain high, and the number of stores selling these products continues to grow. Our current penalties are not deterring this illegal trade.

Buttress that quote from the minister against the one I mentioned earlier from the staff member from Townsville Hospital in 2023 that said the government’s recent amendments were ‘too little, too late, too weak, way too complicated and too slow’. How can the minister or the government be shocked and surprised the laws have not worked when they were warned from within that they would not? That situation so beautifully encapsulates everything that is wrong with this third-term, tired, broken Labor government. They are a government that no longer listens. One does not need a more clear-cut example than what we have seen transpire with this bill and its previous iteration.

I point out that as part of the committee’s inquiry this time around I could not find a hospital and health service submission or witness before the committee. I am happy to be corrected, but I could not find one. I wonder whether those staff might have been told not to provide evidence as part of the committee process on this occasion so as not to embarrass the government, because I do find it very odd that, while as part of the last committee process around tobacco laws they were only too happy to provide their passionate position, this time around there was nothing. I sincerely hope that was not the case, but with this government’s track record one could reasonably draw that unfortunate conclusion.

I would genuinely have liked to have heard the fearless and frank feedback from those staff who contributed to the last changes to tobacco laws from the different HHSs from across the state to understand how effective the laws we are debating today are likely to be. As I said, we know that transparency, accountability and, most of all, scrutiny are things this government has walked away from.

As I foreshadowed earlier, we certainly will not be standing in the way of this bill. We will not oppose the changes that increase the current penalties for people who supply and possess illicit tobacco as part of a business activity and we will not oppose laws that create a power to order the interim closure of premises from which illicit tobacco or illicit nicotine products are being supplied as part of a business activity. I wish you would start with the first two in Mudgeeraba!

Creating new offences around displaying, advertising and promoting illicit nicotine products is also a positive step in trying to stop normalising these products to young people and children. I see that a new offence is to be created relating to adults who supply illicit nicotine products to children outside of a business activity. We have seen disturbing images and videos posted to social media in recent years of adults forcing vapes on children, or even babies. Those actions are totally grotesque. I hope these laws act as a deterrent to that disgusting behaviour and I hope that if there is evidence of that behaviour happening, then authorities throw the book at perpetrators.

I want to take a moment to highlight some concerns that stakeholders raised in relation to this bill. While it is fair to say that most stakeholders agreed with the intentions of the bill, many were concerned about the potential for unintended consequences. The AMAQ said that this proposal could ‘inadvertently legitimatise vaping and other smoking products as proven cessation therapies when no such reliable evidence exists’. The AMAQ were also very critical of legislation which could allow children to be prescribed a vaping product. I think that is a legitimate concern, too. It stated—

Evidence is currently unclear as to whether it is ever clinically appropriate for therapeutic vaping devices to be prescribed to children. Further time is required to consider whether medical practitioners should be categorically prohibited from prescribing any therapeutic vaping products to children, or whether this matter is more appropriately dealt with in professional guidelines.

Like I said, those seem to be very legitimate concerns and I would appreciate it if the minister would take some time to address this matter in his summing-up.

I also acknowledge concerns from the Pharmacy Guild, who say they are worried about the absence of clinical guidance and protocols that pharmacists may use to establish a clinical need for a therapeutic vaping substance where it is an unapproved substance with no evidence of therapeutic benefit. Similarly, I understand the guild are concerned about the implications on both professional indemnity insurance and business insurance. Like other stakeholders, they highlighted there is minimal evidence for the place of vaping in assisting with smoking cessation and nicotine dependence, and there is ever-increasing evidence of the health risks associated with vaping. Again, these concerns go to the practicality of the laws being proposed and whether they are workable for the people who are being tasked with monitoring the sale of these products.

To round out my contribution, I want to again emphasise that the opposition will not be opposing this bill because we recognise the very real public health threat that illegal tobacco and nicotine products pose to the Queensland community. We do not want to see a generation of young Queenslanders addicted and reliant on these products and we do not want to see these products in our schools. We do not want our state's children and young people subject to misleading and inappropriate advertising for products laden with nicotine. I do wish the government had come to the realisation sooner that the laws it introduced a year and a half ago were not going to work. If only they were warned! I hope this time things are different.