




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 12 June 2024

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

Introduction

 **Hon. SM FENTIMAN** (Waterford—ALP) (Minister for Health, Mental Health and Ambulance Services and Minister for Women) (2.00 pm): I present a bill for an act to amend the Tobacco and Other Smoking Products Act 1998 and the Waste Reduction and Recycling Act 2011 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Health, Environment and Agriculture Committee to consider the bill.

Tabled paper: Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024 [1040](#).

Tabled paper: Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024, explanatory notes [1041](#).

Tabled paper: Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024, statement of compatibility with human rights [1042](#).

In 2024 the Commonwealth government took decisive action to address the issue of vaping by introducing a bill to ban the importation, manufacture, supply and commercial possession of all disposable single-use and recreational vapes. The Miles government is leading the charge as the first state to implement the Commonwealth ban through corresponding state legislation which will allow for effective and targeted enforcement. We are taking strong and coordinated action to protect the health of Queenslanders, and this bill demonstrates a significant step forward in delivering this government's commitment to address the rising availability of illicit tobacco and vaping products on the market.

The impacts of vaping, particularly for young people, are now well known. We recognise the importance of keeping Queenslanders safe and healthy, especially our children and young adults. Since the supply of illicit tobacco became an offence under Queensland law in June 2023, we have made tremendous strides in reducing smoking rates. Queensland Health has instigated over 850 enforcement actions which included 475 on-the-spot fines and multiple prosecutions. Additionally, almost 20 million cigarettes, eight tonnes of loose tobacco and 171,000 nicotine vapes have been seized. But there remains a public health risk that is being exacerbated by the deliberate exploitation of gaps in state and national enforcement frameworks particularly by organised crime.

The health and safety of Queenslanders is being put at risk by the increased criminal activity perpetuated by these organisations. We are witnessing a new generation falling prey to nicotine addiction. Since 2022, data collected through a joint project by Queensland Health, CSIRO and the University of Queensland shows that an average of 12 new suspect tobacco and vape stores open every month in Queensland. Our bill aims to strike at the heart of this issue by supporting the implementation of the Commonwealth vaping reforms. It aims to end the supply and possession of vaping products by businesses, bolster Queensland's resources and capabilities for compliance monitoring and enforcement, and ensure our legislation remains robust and effective in the face of emerging challenges.

To effectively enforce the Commonwealth ban on vaping products, the bill introduces a new definition of 'illicit nicotine product'. This includes vaping goods, devices, substances and accessories as defined in the Commonwealth definition, as well as any nicotine or harmful substances prescribed by regulation. The Commonwealth's broad definition ensures all vapes are covered regardless of nicotine content or therapeutic claims. This is important because we know it is common for vaping products to be deceptively labelled as 'nicotine free' to circumvent current restrictions on the supply of nicotine without a prescription.

Furthermore, the ability to prescribe other products by regulation ensures we can address novel products as they emerge. This includes items like nicotine pouches, the use of which is becoming widespread in Queensland including by children and young adults. We have also heard of other new products reaching the market such as flavoured nicotine toothpicks. This bill allows us to respond in an agile manner to prevent the harm these products can cause, particularly to children and young people.

The bill addresses the illegal trade of illicit nicotine products by prohibiting people supplying these products as part of a business activity. This includes all commercial operations from wholesalers and retailers to online businesses. Committing this offence can result in penalties of up to two years imprisonment or 2,000 penalty units, or both.

The bill will prohibit people from possessing illicit nicotine products as part of a business activity. This offence is broad and will capture suppliers and wholesalers using underhanded and deceptive tactics to store illicit nicotine products at other locations, such as storage vehicles or sheds located near the retail store, to evade enforcement action. The penalty for possession is up to 12 months imprisonment or 1,000 penalty units, or both.

The bill contains limited exceptions for certain suppliers, such as pharmacists, medical practitioners and nurse practitioners, who are permitted under the Commonwealth's framework to possess or supply therapeutic vaping goods.

Illicit tobacco remains a major issue nationwide, accounting for up to 25 per cent of the tobacco market. 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. Illicit tobacco retailers are often linked to organised crime, posing significant risks to the community. There have been multiple arson attacks on tobacco retailers in Victoria and to date several attacks in Queensland. Criminal networks exploit gaps in enforcement to generate immense profits which can then fund other illegal activities. By addressing the illicit tobacco trade, we are not only protecting public health but also weakening the grip of organised crime on our communities. To address these concerns, the bill aligns the penalties for commercial supply and possession of illicit tobacco with those for illicit nicotine products. This means a maximum of two years imprisonment or 2,000 penalty units, or both, for supply and up to 12 months imprisonment or 1,000 penalty units, or both, for possession.

The bill will make it an offence for an employee to supply illicit nicotine products. This will also capture someone who claims not to be in an employment relationship—for example, a friend of the business owner working in the business. The bill also makes it an offence for adults to supply illicit nicotine products to children outside of a retail setting. For example, an adult cannot supply an illicit nicotine product to a friend or family member who is under 18. This ensures every person involved in the supply of these harmful products will be held accountable.

The current act lacks the power to close business premises. Seizing illicit products often fails to deter noncompliant suppliers, particularly those linked to organised crime who simply restock almost immediately and continue trading. To address this, the bill introduces a power allowing the chief executive to issue an interim closure order for up to 72 hours if there is reasonable suspicion of illicit trade. A magistrate can extend this closure for up to six months. To further combat recidivist suppliers of illicit tobacco and nicotine products, the bill also empowers the chief executive to seek injunctions from the District Court. If a person is found supplying illicit products and it is deemed necessary in the public interest, the court can issue an injunction to stop the person from continuing their business.

The rise of illicit nicotine products has led to increased advertising efforts targeting children and young adults. These products are often promoted as fun and cool, with attractive packaging and flavours like bubblegum, ice cream and tutti-frutti. Evidence shows that advertising makes children and young adults more likely to try these products and lowers their perception of associated risks. To combat this, the bill introduces new offences specifically prohibiting the advertising, promotion and display of illicit nicotine products, with penalties up to 140 penalty units.

Littered vaping devices and accessories pose significant environmental hazards, containing toxic chemicals and heavy metals that can leach into our waterways and soil. To tackle this issue, the bill amends the Waste Reduction and Recycling Act 2011 to deem the littering of vaping devices and accessories to be a 'dangerous littering offence', with a maximum penalty of 40 penalty units. This will help protect both our environment and public health.

This bill implements robust measures to curb the illegal trade of nicotine products, protect Queenslanders and ensure our enforcement framework is strong and effective. Vaping presents unacceptable health risks to our children and young adults and has become a significant problem in our schools, communities and homes. The reforms outlined in this bill will address the ongoing and alarming public health crisis and ensure these products are kept out of the hands of children.

By tightening regulations and enhancing enforcement, the Miles government is taking bold and necessary steps to disrupt the flow of these dangerous products and to protect the health and future of our community. I commend the bill to the House.

First Reading

Hon. SM FENTIMAN (Waterford—ALP) (Minister for Health, Mental Health and Ambulance Services and Minister for Women) (2.09 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Health, Environment and Agriculture Committee

Mr DEPUTY SPEAKER (Mr Lister): In accordance with standing order 131, the bill is now referred to the Health, Environment and Agriculture Committee.