




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 11 September 2024

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

Second Reading

 **Hon. SM FENTIMAN** (Waterford—ALP) (Minister for Health, Mental Health and Ambulance Services and Minister for Women) (3.25 pm): I move—

That the bill be now read a second time.

On 12 June 2024, I introduced the Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024. The bill was referred to the Health, Environment and Agriculture Committee for its consideration. The committee's report was tabled on 2 August 2024. The report makes one recommendation—that the bill be passed—and I appreciate the committee's support for the bill. I would also like to thank the organisations and individuals who made submissions to the committee and participated in the public hearing. I am grateful for the broad support the bill received throughout the committee process. As one stakeholder told the committee—

... the amendments in the bill represent a significant and necessary advancement in Queensland's public health policy

From 1 July 2024, Commonwealth laws have banned the domestic manufacture, supply and commercial possession of recreational vaping goods. Queensland is the first state to implement and enhance the Commonwealth's vaping laws. With the introduction of stringent state-level offence provisions, comprehensive enforcement powers and a robust tiered enforcement framework, Queensland is taking decisive action. Our response not only aligns with the national ban but strengthens it, setting a new benchmark for combating illegal vaping in this country.

Safeguarding the health and safety of Queenslanders has always been a key priority of this government. However, vaping represents a serious and growing public health epidemic. The Cancer Council and the University of New South Wales recently published an incredibly alarming study showing that 12- to 19-year-olds who vape are five times more likely to end up smokers. The younger a person starts using vapes, the higher the risk is that they will try smoking.

Data released today by Dr John Gerrard, our Chief Health Officer, has revealed that over 35 per cent of Queensland school students aged 12 to 17 have tried vaping. This is more than twice the rate recorded in 2017. This is deeply concerning, particularly when the Queensland Department of Education have recorded that between the start of 2023 and the end of the first semester this year over 600 vaping related suspensions or expulsions occurred in our primary schools and nearly 6,000 in high schools. This alarming rise in vaping amongst children has been driven by specific and targeted advertising. These campaigns are not just selling a product; they are hooking the next generation of Queenslanders on nicotine.

The health risks associated with vaping are serious. These devices are filled with toxic chemicals, and nicotine exposure can affect the brain development of children and young people. The Lung Foundation, which strongly support this legislation, told the committee—

... strong and decisive action is needed as a matter of urgency to address the high levels of e-cigarette use among children, young adults and non-smokers.

The Miles government is doing just that. The bill introduces serious offences and penalties for operators who profit from the unlawful supply of vapes at the expense of the health of our young people and communities. Under the new enforcement framework, it will be an offence to supply vaping goods as part of a business activity. The penalty for this offence is up to two years imprisonment and 2,000 penalty units, which is roughly \$320,000 for an individual or \$1.6 million for a corporation. This reflects the seriousness with which this government views this issue.

Additionally, it will be an offence to store or possess vaping goods as part of a business activity. The maximum penalty is 12 months imprisonment and 1,000 penalty units. These new offences target persons involved in the commercial supply and possession of vaping goods. They do not criminalise the personal possession of vapes; nor do they apply to the lawful supply of vaping products for therapeutic purposes such as smoking cessation.

Specific exceptions exist for certain health professionals, such as pharmacists, who are permitted under Commonwealth legislation to possess or supply therapeutic vapes. This means that adults who have a legitimate therapeutic need for vaping goods can access them from their healthcare provider. The bill also includes a defence for possessing vaping goods for personal use. During consideration in detail I will be moving amendments related to this defence to ensure alignment with Commonwealth legislation.

To ensure the ban on vapes is not circumvented by the introduction of new or novel nicotine products in the future, the amendments related to the supply and possession of vapes also capture other harmful products and substances that may be prescribed by regulation.

The sale of illicit tobacco also poses a significant and escalating threat to the health and safety of Queenslanders. Colloquially referred to as chop-chop, illicit tobacco is often sold alongside vapes. We know that these operations are often tied to organised crime and they are generating huge profits that not only fuel this trade but also fund a web of other illegal and harmful activities in our communities. The bill significantly increases the penalties for supplying or possessing illicit tobacco as part of a business activity. These penalties align with those applying to the supply and possession of vapes. By enacting these harsher penalties, we will create a strong deterrent against those engaged in the illicit tobacco trade.

The bill also introduces a robust, nation-leading enforcement framework which will allow us to target repeat offenders. In addition to facing serious criminal charges and fines, businesses that continue to unlawfully sell vapes will face the prospect of being ordered to immediately close their premises and cease trading altogether. If there is reasonable suspicion of illicit trade, the chief executive will have the power to order the closure of a premises for up to 72 hours. Additionally, magistrates will have the authority to impose closure orders for up to six months, sending a strong message that we will not tolerate this kind of behaviour. I will be moving amendments during consideration in detail to ensure that the longer term closure powers can operate effectively without unfairly impacting landlords who have not been complicit in the wrongdoing of their tenants. This responds to concerns raised by stakeholders during the committee process, and I thank those stakeholders for their engagement and valuable input.

To further alleviate these concerns, the government will review the closure powers six months after the bill commences to ensure they are achieving the intended purpose of safeguarding our communities. However, let me be absolutely clear: we will not shield landlords who turn a blind eye to their tenant's illegal conduct or actively participate in it. Such landlords should understand they risk facing serious consequences, including liability for their tenant's actions. The bill also enables the chief executive to seek an injunction from the District Court against those found to be supplying illicit tobacco or vaping goods. The terms of the injunction will be determined by the court but are ultimately aimed at stopping individuals from continuing illicit trade.

The use of vaping goods is heavily influenced by their advertising, promotion and display. We know that these products are being marketed across a range of media channels, including social media, which often use vibrant imagery and enticing flavours, like fairy floss and bubblegum, to create a false perception that it is harmless and trendy. This bill introduces strict offences prohibiting the advertising, promotion and display of vapes as part of a business activity. This will complement similar offences at the Commonwealth level and ensure our young people can no longer be deliberately targeted by unscrupulous manufacturers and suppliers of these harmful products.

Vapes are harmful not only to our health but also to our environment. The pods are made of plastic which takes hundreds of years to decompose and contain toxic chemicals and heavy metals that can leach into the environment. The bill amends the Waste Reduction and Recycling Act 2011 to provide that littering of vapes is a dangerous littering offence, attracting a penalty of 40 penalty units.

Vaping has become a serious public health issue in our schools and community, and its impacts are far-reaching. We have an opportunity to take real action. Our young people are our future. By taking a tough stance now, we will keep these harmful products out of the hands of young people and safeguard the health and future wellbeing of the next generation of Queenslanders. I commend the bill to the House.