




Speech By
Michael Berkman

MEMBER FOR MAIWAR

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**TOBACCO AND OTHER SMOKING PRODUCTS (DISMANTLING ILLEGAL
TRADE) AND OTHER LEGISLATION AMENDMENT BILL**

Second Reading

 **Mr BERKMAN** (Maiwar—Grn) (7.46 pm): I rise to make my brief contribution on the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill. The bill will expand closure periods for businesses caught selling illegal tobacco and vapes, with interim closure orders expanding from 72 hours to three months and long-term closure orders from six months to 12 months. Queensland Health will also be able to seize legal products, including nitrous oxide cartridges, alongside any illegal products. This bill also establishes a means for lessors to terminate a lease agreement in the wake of a closure order and to be held responsible for permitting, either knowingly or recklessly, the use of their premises for the supply or possession of illicit tobacco or illicit nicotine products.

These changes represent real and substantial consequences that cannot simply be incorporated into the cost of doing business. I hope that they act both as a general deterrent and as a means of ending repeat offending. I do want to put on the record my fears that, once again, the LNP's sledgehammer approach—following in the footsteps of the longstanding and consistently failed war on drugs and prohibition era policies—will not work.

Of course, like everyone else here, I am deeply concerned about the proliferation of black market tobacco and vapes in recent years. The impacts can be felt throughout our communities—with increased crime associated with the supply of illegal products, adverse impacts on local businesses, less tax revenue from legal sales, increasing numbers of children reporting regular use of vapes and all of the associated flow-on effects to our health systems. However, I myself and many experts in the area of harm reduction have concerns about the pattern of increasing regulation, restriction and reliance on law enforcement in relation to tobacco and vapes.

This bill will significantly expand the powers available to Queensland Health and its enforcement officers. Specifically, officers will be able to enter wholesale premises without a warrant and without consent, they will be able to conduct covert operations and they will be empowered to require information from any person for the purpose of monitoring and enforcement actions. These are significant powers, and in that respect I want to draw specific attention to the submission of the Crime and Corruption Commission, which raised concerns about the oversight of those powers and the potential for misuse.

There is absolutely no doubt that the government has a role to play in curtailing the use of tobacco and vapes and in addressing the harms that these products cause, but we have seen the sledgehammer approach time and again and I cannot be convinced that it will be effective, and certainly not without adequate investment in healthcare centred interventions and harm reduction. In their submission on the bill, the Queensland Network of Alcohol and Other Drug Agencies raised the difficulties their member

services have in providing access to nicotine replacement therapies, which are too expensive both for service providers and for their clients individually. In their view, increasing access to these therapies would be far more effective at curtailing use.

Lung Foundation Australia also calls for all smoking cessation products to be made freely available. Recent analysis of Australia's approach to nicotine policy in the *Harm Reduction Journal* drew attention to the way in which hardline policies have incentivised the growth in black market sales by limiting legal supply and making products prohibitively expensive for consumers. In turn, those consumers who are vilified in government messaging struggle to access affordable cessation services and products or lower risk nicotine products.

In some respects it is a perfect storm of over-regulation both driving the black market and causing difficulty in accessing the services that this health-based approach, a sensible evidence-based approach, tells us will be more effective. The government can keep trying to plug the holes, but until our focus and resources are funnelled into evidence-based demand and harm reduction strategies, black markets will continue to find a foothold. I would love to say that I thought this bill was going to address the problem in a substantial and comprehensive way, but it is really difficult, on the evidence we have, to be convinced of that.