

# **TOBACCO LEGISLATION AMENDMENT BILL 2002**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Policy Objectives of the Bill**

The policy objective of the *Tobacco Legislation Amendment Bill 2002* is to improve the health of the public by reducing exposure to passive smoking.

#### **Means of Achieving Objectives**

The *Tobacco and Other Smoking Products (Prevention of Supply to Children) Amendment Act 2001*<sup>1</sup> gained assent on 11 May 2001 and commences on 31 May 2002. The Amending Act gives effect to key aspects of the Queensland Tobacco Action Plan. This Plan was developed to provide a blueprint to comprehensively address smoking issues in Queensland over the next four years. The aims of, and initiatives under, the Queensland Tobacco Action Plan were derived from the *National Tobacco Strategy 1999-2003/4*, which all States and Territories adopted in June 1999.

Exposure to passive smoking is of particular concern to the Government, given the evidence that any degree of exposure to smoking is potentially harmful. In order to reduce the public's exposure to environmental tobacco smoke, Part 2B (Smoke-free Enclosed Places) of the Amending Act will, from 31 May 2002, prohibit smoking in most enclosed places, workplaces, dining areas of licensed premises and at gaming table areas of a casino.

An anomaly in the application of the ban on smoking in certain enclosed places has been identified. Under Part 2B, smoking will be banned in community halls and other non-liquor licensed premises at all times, including when bingo is played. However, smoking would be permitted in

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1 Hereafter referred to as 'the Amending Act'.

non-dining areas of liquor licensed premises, including, for example, areas set aside for the conduct of bingo.

In order to ensure that there is a consistent approach to smoking in places where bingo may be played, smoking is to be prohibited in areas set aside in licensed premises for bingo sessions, while bingo is being conducted. The prohibition will apply 30 minutes immediately before the commencement of a bingo session until the session ends, including all breaks during a session.

It is important to emphasise that the ban on smoking in bingo areas will apply only to the 'area' in licensed premises where bingo is conducted. This approach is consistent with the approach for dining where only the 'dining areas' of licensed premises must be non smoking.

The offence provisions of the Amending Act which relate to the ban on smoking in an enclosed place will be extended to bingo areas of licensed premises while bingo is conducted. Under the Amending Act, a person will be liable for a maximum of \$1,500 fine for smoking, or failing to abide the prohibition on smoking or if they fail to stop smoking after they have been directed to do so by an authorised person, the occupier of the place, or an employee of the occupier. A licensee of licensed premises may also be liable for a maximum penalty of \$1,500 if a person smokes in a bingo area during a bingo session. However, the licensee has a defence if the licensee was not aware of the contravention, or the person was directed to stop smoking and informed that it was an offence to fail to stop smoking.

The no smoking signage requirements under the Amending Act are also to be extended to bingo areas of licensed premises. Under section 26S of the Amending Act, a licensee of licensed premises may be liable for a maximum penalty of \$750 should they fail to display a no smoking sign in accordance with the requirements of the regulation.

### **Estimated Cost for Government Implementation**

Implementation costs associated with the Bill are to be met from the existing Queensland Health budget. No smoking signs already produced by Queensland Health can be provided free-of-charge to liquor licensed premises.

### **Consistency with Fundamental Legislative Principles**

The Bill is consistent with fundamental legislative principles.

## **Consultation**

On 9 May 2002, a consultation draft of the Bill was distributed to four key stakeholders.

The following stakeholders support the Bill:

- Queensland Hotels Association
- Queensland Bingo Operators Association
- Australian Liquor, Hospitality and Miscellaneous Workers Union.

Clubs Queensland does not fully support the Bill, but has indicated it would work with clubs to ensure the smooth introduction of the legislation.

## **NOTES ON PROVISIONS**

*Clause 1* sets out the short title of the Act.

*Clause 2* identifies that the Bill amends the *Tobacco and Other Smoking Products (Prevention of Supply to Children) Amendment Act 2001*.

*Clause 3* amends section 26 by inserting three definitions. The Bill adopts the definitions of **bingo** and **bingo session** in the *Charitable and Non-Profit Gaming Act 1999*:

- **bingo** is defined to mean a game known as bingo, housie, or housie-housie, or a similar game, whatever called, in which (a) each player is given a ticket with numbers, letters or symbols printed on it; and (b) the winner is decided by the player matching randomly selected numbers, letters or symbols to the numbers, letters or symbols on the player's ticket.
- **bingo session** is defined to mean the period in which the number of bingo games for the session, decided by the person conducting the session, are played.

The Bill also defines **bingo area** to clarify which area of the licensed premise is to be non-smoking.

This cause also inserts a provision to ban smoking in bingo areas 30 minutes immediately prior to the start of a bingo session, as well as during the bingo session (which includes breaks of play).

In addition, this clause makes it mandatory for a no smoking sign to be displayed for bingo areas as prescribed under a regulation. The signage will be consistent with that displayed for dining areas and gaming table areas of licensed premises.