

TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2017

Committee

Resumed from 11 April. The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

Clause 2: Commencement —

Progress was reported after the clause had been partly considered.

Hon NICK GOIRAN: I refer the parliamentary secretary to the explanatory memorandum on clause 2. She will see there that it provides a reference to an explanation of why clause 4 has a delayed commencement. The second dot point reads —

section 4 commences on the day after the period of 24 months beginning on assent day; and

Further on, the memorandum states —

The reason for delaying the commencement of clause 4 of the Bill is explained below.

It does not say exactly where to go, but at the end of the notes for clause 4, the memorandum states —

It is noted that clause 2 of the Bill delays the commencement of this clause until the day after the period of 24 months beginning on assent day. This will provide industry with the time required to transition to the new arrangements.

Whoever drafted that explanatory memorandum has helpfully explained to us why a 24-month period was chosen for clause 4. Can the parliamentary secretary explain the six-month delay for the rest of the bill?

Hon ALANNA CLOHESY: I am advised that it is a fairly standard period in order to allow for the preparation of regulations et cetera.

Hon NICK GOIRAN: This is new and novel. I have not heard before that six months is the standard period. I have heard from time to time the government asking that the commencement be on a date to be proclaimed, but I am not aware that six months is a standard period at all. In any event, why does clause 3 need a six-month period?

Hon ALANNA CLOHESY: I am advised that the lead-in time will allow for education, training and the development of any materials that might be required before its commencement. As I said before, it will also allow for regulations to be drafted and approved et cetera.

Hon NICK GOIRAN: Clause 3 reads —

This Act amends the *Tobacco Products Control Act 2006*.

I do not think that the government needs six months to prepare regulations for that clause to come into effect or to provide training materials and the like, so what is the explanation for the six months for clause 3?

Hon ALANNA CLOHESY: I am advised that it is a drafting mechanism used to capture all the other clauses whether action is required or not. It is an all-encompassing drafting tool. I am advised that it has been applied in the act as well.

Hon RICK MAZZA: I move —

Page 2, line 7 — To delete “24 months” and substitute —

5 years

I will give an explanation of why I would like to extend that time to five years. I would in fact like to see the whole clause deleted from the bill, but I do not think I will get support for that. As I understand it, we are the only jurisdiction that will have this restriction on retailers selling tobacco products. I am very concerned about the impact on small family businesses, which might have family members working in the store, or IGA stores and others, particularly in the country where younger people work in those stores. I think the idea behind the clause was that there was some concern that younger people might be more inclined to sell tobacco products to younger people. The department’s own survey in 2015 stated, in part, that in 2013 younger retailers estimated to be younger than 20 years of age were significantly more likely to be noncompliant; however, in 2015 there were no significant differences between retailer age groups, but noncompliance had reduced significantly across all retailer age groups. That suggests to me that younger people are not more inclined to sell to younger people and it may have been more of an educational or compliance issue that changed the results of that survey in 2015. I feel that giving smaller businesses, particularly country businesses, more time to adapt would be a good thing. I have not seen any research about where the time frame of 24 months has come from. It seems to be an arbitrary time, and I believe that five years might be a more reasonable time frame in which those businesses can restructure.

Hon AARON STONEHOUSE: I wholeheartedly support this amendment. To restrict people under 18 years of age from being able to work behind the counter of the store that sells tobacco will result in higher youth

unemployment. The degree by which youth unemployment increases may be hard to measure—it may be a few hundred jobs, maybe fewer, maybe more. Who knows? We do not know what the number will be. The Department of Health has not conducted any survey to determine how many jobs will be lost by such a measure, but it will result in youth unemployment. Youth unemployment is a serious concern because so many young people find their first entrance into the job market through retail in the kinds of places that sell tobacco—supermarkets, convenience stores or petrol stations.

Again, I think this will adversely affect smaller businesses, as has been mentioned. Large supermarket chains normally do not have young people working on the kiosks where their tobacco products are sold—Coles and Woolworths, for example—whereas small independent grocers, convenience stores and suchlike are often family-run businesses. I am thinking of businesses such as the ones I frequent. There was a deli down the street from my last place of employment that was run by a Vietnamese family where mum, dad and the kids all worked behind the counter covering various shifts. If we pass this bill and we restrict the age of people who are able to sell tobacco products, we are telling those families that they cannot employ their own children to work behind the counter to cover those shifts. They will not be able to employ their children to work, at least unsupervised by an adult, to cover those shifts. That is going to put tremendous strain on those small businesses.

The counter to this argument is that young people would be less compliant in checking the identification of other young people who are buying tobacco. As Hon Rick Mazza has pointed out, the department's own survey in 2015 found the opposite; there was no link. In fact, looking at some data on successful tobacco purchases by minors in Western Australia between 2002 and 2016, the number has drastically decreased, and that is based on data from our own health department. The percentage of Australians between 12 and 17 years old who said they had smoked in the last week has also drastically declined, from about 15 per cent in 2002 to a little over five per cent in 2014. Our efforts to curb youth smoking rates have been quite successful. Unamended, this Tobacco Products Control Amendment Bill will impose restrictions that no other jurisdiction has adopted. We will be the only jurisdiction in this country that imposes a restriction on the age of those who can sell tobacco products. It does not make any sense; it will result in youth unemployment, and there is no data to back up this measure.

Hon ALANNA CLOHESY: I thank Hon Rick Mazza for the amendment and I understand where he is coming from on this. I indicate that the government will not support the amendment for a couple of reasons. I want to try to address a number of the points that both members raised in their contributions. Firstly, the point of this bill is to restrict young people's access to using tobacco in particular. The members cited a piece of research from the Department of Health about the impact of young people selling cigarettes. I would like to point to some research from the Department of Health—old research, including from 2011, 2013 and, more recently, from 2017—that clearly demonstrates that young sales staff are more likely to sell tobacco products to people under 18 years of age, in particular because of the peer pressure they experience. The most recent compliance survey conducted by the Department of Health found that young sellers are twice as likely to sell cigarettes to minors.

Originally, there was to be a six-month lead-in period. The members asked why the lead-in period was changed from six months to 24 months. That was done, in part, due to the consultation undertaken with the Minister for Small Business and the office of the Small Business Development Corporation. It was deemed that 24 months was a reasonable period. Rather than the original six months, the period was extended to two years to take into account the need for the transition.

Another point members raised was that it will restrict young people from working behind the counter. It will not restrict young people from working behind the counter. It may restrict young people from selling a particular product. That is not unusual across the board in a number of areas. They were the main issues that members raised.

Hon NICK GOIRAN: Is the parliamentary secretary in a position, given her advisers are here, to indicate to the chamber whether a person who has not reached the age of 18 years can sell an alcohol product?

Hon ALANNA CLOHESY: I am advised that although the advisers indicate they are not experts in that area, it is unlikely that a person under the age of 18 is able to sell alcohol because they would need to be on a licensed premises to sell alcohol.

Hon NICK GOIRAN: The opposition will not on this occasion support the amendment moved by the very hardworking Hon Rick Mazza, because there does not seem to be any evidence to explain why the time frame of five years has been selected by the honourable member. I understand and acknowledge his original remark that his preference would be to delete this altogether. That being said, that is not the opposition's position. We support the government on clause 4 and the extension of the transition period from six to 24 months. In the absence of any evidence indicating why five years is preferable to two years, we are unable to support the amendment. Finally, the opposition has not received any information from affected retailers indicating that they have a concern about this provision.

Hon AARON STONEHOUSE: To address some of the comments made so far, I suspect the reason members of the opposition have not received representations from industry groups is that many do not realise these changes are

coming. If he were to ask convenience store owners or independent grocers, he would find that they have no idea these changes are on board. I reiterate two points. We will be the only jurisdiction to impose this restriction. Maybe other jurisdictions will follow, but so far it has not been done anywhere else. I understand there is inconsistency between how we treat the sale of alcohol and how we treat the sale of tobacco. This will be the only jurisdiction to implement this change. There will be a cost to youth employment, but we do not know what that cost will be. I urge members that it is irresponsible to pursue changes to legislation without fully understanding the costs. There may well be a health benefit or a connection between people under 18 years selling tobacco and noncompliance with identification checks. We can see there may be a benefit there but we do not fully understand the costs associated with it. I urge members to contemplate that when considering whether they support the amendment.

I agree that five years is an arbitrary time frame, but so is two years. If we allow a longer time, it will provide employers more time to adjust to these changes. It will result in less immediate unemployment of young people currently employed in positions selling tobacco, because employers will have to fire staff who they were previously counting on to cover shifts when they work alone and sell tobacco products without having another 18-year-old staff member rostered on. I think the longer the time frame, the better in this instance.

Hon RICK MAZZA: It is obvious that this amendment will not succeed. This bill really goes against job creation and may mean that many young people may not have jobs because they will be unable to sell tobacco products. I take on board what Hon Aaron Stonehouse said about many tobacco retailers having no idea these changes are coming. What information programs will there be for tobacco licensees to advise them of these changes?

Hon ALANNA CLOHESY: I am advised that there will be information programs for licensees, including writing to licensees and sending fact sheets to licensees.

Amendment put and negatived.

Clause put and passed.

Clause 3: Act amended —

Hon NICK GOIRAN: Madam Deputy Chair, to facilitate your chairmanship of the Committee of the Whole, I indicate that we will be going through this bill clause by clause. No clause will be overlooked. Members may recall that that is because of the tabling of a false document on a previous occasion, which we cannot rely on in terms of its accuracy, so we will need to find out the situation with respect to each of these clauses.

With respect to clause 3, could the parliamentary secretary please indicate to the house whether there are any differences between the 2016 draft and the bill that is before us.

Hon ALANNA CLOHESY: There was no false document. The document was my notes comparing the 2016 and 2017 bills. Those notes were not intended for tabling; they were my notes to jog my memory.

Hon Nick Goiran: You tabled them.

Hon ALANNA CLOHESY: The member asked me to table them, so I provided them in order to be helpful. I would like it on the record that there were no false documents.

There is no difference between clause 3 in the 2016 bill and the 2017 bill. There were no changes.

Clause put and passed.

Clause 4: Section 18A inserted —

Hon NICK GOIRAN: Despite what the parliamentary secretary has just told us during consideration of clause 3, a document was tabled, which I described as false. Obviously, the characterisation by me of it being a false document was not appreciated by the parliamentary secretary. It might assist if I could clarify that the document has false information in it. If the parliamentary secretary wants to dispute that, I am quite happy to spend as much time as is necessary to debate that. However, I foreshadow that I will need the clerks to provide me with a copy of that tabled document with that false information because members may recall that I disposed of mine on the last occasion by throwing it into the wastepaper basket because I said I never wanted to see the thing ever again because it had false information. If we want to revisit that episode, I am happy to do so.

We are now on clause 4. I ask the parliamentary secretary to indicate to the chamber the differences between clause 4 of the 2016 bill and clause 4 of the bill before us.

Hon ALANNA CLOHESY: The word “retail” is added to the heading of proposed section 18A in the bill before the chamber.

The DEPUTY CHAIR: Members, I know how detailed your questions can be, so noting the time, I will leave the chair until the ringing of the bells.

Committee interrupted, pursuant to standing orders.

[Continued on page 4122.]

Sitting suspended from 4.14 to 4.30 pm