



11 April 2025

The Honourable Pat Weir MP
Speaker of the Legislative Assembly
Queensland Parliament
2 George Street
BRISBANE QLD 4000

BY EMAIL: speaker@parliament.qld.gov.au

Dear Speaker,

I wish to draw your attention to a matter of privilege relating to an answer provided by the Minister for Health and Ambulance Services (Member for Clayfield) during Question Time on 3 April 2025. The question and response can be found at pages 794 and 795 of the Record of Proceedings for Thursday 3 April 2025 and relates to government action on illicit tobacco and vaping products within Queensland.

The question posed by the Liberal National Party (LNP) Member for Maryborough stated:
"My question is to the Minister for Health and Ambulance Services. Can the minister detail the LNP's action to crack down on illicit tobacco and vapes, and is the minister aware of any alternative approaches?"

In his response, the Member for Clayfield stated:

"The Labor Party shut their eyes and allowed illegal vapes to be sold at corner stores the length and breadth of the state. We have seen them flourish over the past three years. Under those opposite, there were no fines for selling vapes—no fines at all—and as a result those stores flourished. We are taking action; Labor failed to."

I submit that in making this statement, the Member for Clayfield has deliberately misled the Legislative Assembly of the Queensland Parliament and has therefore committed a contempt of Parliament, in breach of Standing Order 266.

There are three elements to be proven to establish that a Member of Parliament has committed the contempt of deliberately misleading the House:

1. The statement must have been misleading;
2. The Member making the statement must have known, at the time the statement was made, that it was incorrect; and
3. In making the statement, the member intended to mislead the House.

I will deal with each matter in turn.



miller@parliament.qld.gov.au

MarkBaileyMP

Mark_Bailey_MP



Local. Progressive. Effective.

The statement must have been misleading

The Member for Clayfield said that *“The Labor Party shut their eyes and allowed illegal vapes to be sold at corner stores the length and breadth of the state...”* and *“Under those opposite, there were no fines for selling vapes – no fines at all – and, as a result those stores flourished”*. It is clear from several public media reports and government releases that this statement by the Member for Clayfield is false and misleading.

On 11 May 2023, the ABC reported that a business in Brisbane had been ordered by a court to pay a fine of \$88,000 for the possession and sale of illicit vaping products: *“Metro South Public Health Unit prosecuted M & R Trading Pty Ltd, which trades as Zam Zam Supermarket, a convenience store in Kuraby, in court last month.”*¹

The matters referred to in this article were initiated by the Metro South Public Health Unit, a division of Queensland Health’s Metro South Hospital and Health Service, after receiving a complaint from members of the public.

Additionally, a media statement issued by the former Minister for Health, Mental Health and Ambulance Services and Minister for Women states:

*“Health authorities issued almost 500 infringement notices to retailers supplying illicit products since changes to smoking laws – including 140 in 2024 alone – drastically outstripping the 174 notices issued between 2019 and 2022.”*²

I also refer to media reports by the Therapeutic Goods Administration which outline seizure action and enforcement in joint operations between the TGA, Queensland Health and the Queensland Police Service in August 2024³ and September 2024⁴, with infringement notices issued in October and December 2024 as a result of the initial operations between state and federal agencies.

E-cigarettes are considered smoking products under changes made to the *Tobacco and Other Smoking Products Act 1998*. Under the *Medicines and Poisons Act 2019*, e-cigarettes (and e-liquids) that contain nicotine are unapproved therapeutic goods and illegal unless prescribed by a doctor.

Enforcement for these matters are undertaken by Environmental Health Officers from Public Health Units under the provisions of the Act. Queensland Health reported that in 2022-23 alone, enforcement and compliance included 107 recorded complaints, 618 inspections and 261 investigations undertaken by Public Health Units, and 120 enforcement actions.

For the Member for Clayfield to make the claim that the Labor party “allowed” for the sale of illegal vapes and that no fines were issued under Labor is not only false and misleading, but offensive to the Environmental Health Officers within Queensland Health who work hard to protect the community from the harms of illicit tobacco and illicit smoking products such as e-cigarettes.

The Member making the statement must have known, at the time the statement was made, that it was incorrect

The Member for Clayfield is an experienced member of the Legislative Assembly, having served since 2006 and twice served in the executive arm of government. It is reasonable to assume that, as a senior frontbencher when the LNP were in Opposition, the member kept abreast of official ministerial media statements.

¹ <https://www.abc.net.au/news/2023-05-11/brisbane-store-illegal-vapes-nicotine-fined-88000/102328362>

² <https://statements.qld.gov.au/statements/99960>

³ [TGA fines Bundaberg retailer \\$18,780 for unlawful vapes | Therapeutic Goods Administration \(TGA\)](#)

⁴ [Sunshine Coast business fined over \\$37k for alleged unlawful sale of vapes | Therapeutic Goods Administration \(TGA\)](#)

Additionally, on 25 May 2023, the *Tobacco and Other Smoking Products Amendment Bill* was passed in the Queensland Parliament. This Bill allowed for the definition of 'illicit tobacco' to be updated by regulation to include e-cigarettes or vapes meaning any enforcement measures also apply to businesses selling illegal e-cigarettes and vapes. The Member for Clayfield, upon review of the Record Proceedings and associated video for 25 May 2023, was present for and participated in the business of the day.

It is more than reasonable to assume the Member was aware that this Bill was on the Notice Paper for debate on that day's sitting, and as a senior Shadow Minister at the time and experienced Member of Parliament, was aware of the measures contained within, including its actions to crackdown in illegal vapes.

In making the statement, the member intended to mislead the House

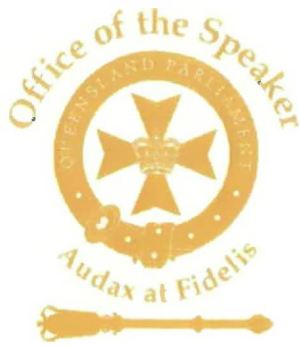
In making the statement, the Member for Clayfield can be seen to be reading from a pre-written and prepared speech. In the preparation of the speech the Member for Clayfield would have known the facts as outlined above and therefore would have known the answer he was providing was false, showing a clear intent to mislead the House.

I therefore respectfully ask that this matter be given serious consideration and referred to the Ethics Committee for further investigation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Bailey', with a long, sweeping underline.

The Honourable Mark Bailey MP
Shadow Minister for Health and Ambulance Services
Shadow Minister for Mental Health
State Member for Miller



Your Ref:

Our Ref: 250414-OUT-Nicholls

14 April 2025

Hon Tim Nicholls MP
Minister for Health and Ambulance Services
GPO Box 48
Brisbane Qld 4001

By E-mail: health@ministerial.qld.gov.au

Dear Minister

The Office of the Speaker received correspondence on 11 April 2025 from the Member for Miller. The said matter concerns whether you have deliberately misled the House. A copy of this correspondence is attached.

Deliberately misleading the House is listed as an example of behaviour that the House may treat as a contempt (see *Standing Order 266 (2)*).

Standing Order 269 (5) provides that in considering whether such a matter should be referred to the Ethics Committee, the Speaker may request further information from the person the subject of the allegation. Accordingly, I am writing to you pursuant to that Standing Order.

Standing Order 269 (4) provides that in considering whether the matter should be referred to the Ethics Committee, the Speaker shall take account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in respect of the matter.

I wish to stress that I have not yet formed a view as to whether this particular allegation should be referred to the Ethics Committee. However, as a matter of course, I remind all members who are the subject of such allegations of the long-established convention that should a Member become aware they have inadvertently misled the House, they should, at the earliest opportunity, correct the record and apologise for their inadvertence.

Parliament House
George St Brisbane Queensland 4000 Australia

Phone + 61 7 3553 6700
Fax + 61 7 3553 6709
Email speaker@parliament.qld.gov.au
Web www.parliament.qld.gov.au

Should you wish to provide me with further information to assist me in making a determination as to whether the matter should be referred to the Ethics Committee under *Standing Order 269* please provide your response by COB 1 May 2025.

In the meantime, should your office have any queries relating to this matter, they may be directed to my Executive Officer, Coral-Leah Kemp, by email to Speaker@parliament.qld.gov.au or on 07 3553 6700.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Pat Weir', with a stylized flourish at the end.

HON PAT WEIR MP
Speaker of the Legislative Assembly

Enc.



The Honourable Tim Nicholls
Minister for Health and Ambulance Services

1 William Street Brisbane Qld 4000
GPO Box 48 Brisbane
Queensland 4001 Australia
Telephone +61 7 3035 6100

The Hon Pat Weir
Speaker of the Legislative Assembly
Queensland Parliament
speaker@parliament.qld.gov.au

22 APR 2025

Dear Speaker,

Thank you for your letter dated 14 April 2025 in relation to correspondence from the Member for Miller dated 11 April 2025 regarding Standing Order 266(2).

As outlined in the Member for Miller's letter, there are three elements to be proven to establish that a Member of Parliament has committed the contempt of deliberately misleading the House:

1. The statement must have been misleading;
2. The Member making the statement must have known, at the time the statement was made, that it was incorrect; and
3. In making the statement, the member intended to mislead the House.

I submit the following in response to the matters raised by the Member for Miller.

The statement must have been misleading

My statement was in relation to on-the-spot fines, known formally as a penalty infringement notice (PIN). It was clear that I was referring to these types of fines because I referenced both "penalty infringement notices" and "on-the-spot fines" in my answer.¹

The Member for Miller pointed to three examples of evidence that fines were issued for vapes. Two of these examples are from the Commonwealth Government's Therapeutic Goods Administration and relate to action taken under Commonwealth legislation, not Queensland legislation.²

The third example, as reported by the ABC on 11 May 2023, was a court ordered penalty following prosecution, not a fine in the form of a PIN.

During my ministerial statement prior to Question Time on 3 April 2025, I explained the difference between on-the-spot fines and court ordered penalties:

*"This is the first time that enforcement officers will be handed the power to issue on-the-spot fines for vaping goods ... These steep penalties can be issued as an alternative to court ordered penalties ... However, where offences are still prosecuted through the courts, fines of up to \$1.6 million and up to two years imprisonment can be imposed on retailers found to be supplying or possessing illegal tobacco or vapes."*³

I referenced "on-the-spot fines" in both my ministerial statement and answer to the Member for Maryborough's question. In fact, in these two statements I made four references to "on-the-spot

¹ Queensland, Hansard, Legislative Assembly, 3 April 2025, p.794.

² The fines referred to in both the 28 October 2024 and 17 December 2024 media releases were issued under the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024* (Commonwealth).

³ Queensland, Hansard, Legislative Assembly, 3 April 2025, p.782.

fine(s)" and a further reference to "penalty infringement notices". This further underscores that I was referring to these types of fines and not court ordered penalties.

The Member making the statement must have known, at the time the statement was made, that it was incorrect

It is a statement of fact that there were no on-the-spot fines, or PINs, for the commercial supply of illicit nicotine products.

Prior to 2024, the supply of nicotine vapes was prohibited under the *Medicines and Poisons Act 2019*. The maximum court ordered penalty was 500 penalty units and no PINs were available.

The supply of illicit tobacco was prohibited under the *Tobacco and Other Smoking Products Act 1998* (Act) in 2023. PINs of 20 penalty units were available.

On 19 September 2024, the *Tobacco and Other Smoking Products and Other Legislation Amendment Act 2024* amended the Act to create new offences relating to the supply and commercial possession of illicit nicotine products (vaping goods). The maximum penalty for supply that can be imposed by the court is 2 years imprisonment, 2000 penalty units or both. No PINs were prescribed for supply of vaping goods at that time.

On 3 April 2025, the *Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2025* was notified. This made PINs available for the supply of vaping goods (200 penalty units for individuals, 1000 penalty units for corporations) for the first time. The existing PINs for illicit tobacco were increased to the same levels.

The fact that PINs were not available for vaping goods prior to this change was reported by the media, including by the Courier Mail on 3 April 2025 prior to my statements:

*"The sale or possession of zyns (nicotine pouches) and illegal vaping products can also be hit with fines. Prior to the changes, offences relating to vaping goods could only be prosecuted through the court system. Fines can be issued as an alternative to prosecuting the offences through the courts."*⁴

In making the statement, the member intended to mislead the House

My statements were an accurate representation of the facts. There were no on-the-spot fines available for the commercial supply of vapes until 3 April 2025, thanks to action taken by the Crisafulli LNP Government.

Should you require any clarification in relation to this matter, please contact me on health@ministerial.qld.gov.au.

Yours sincerely



Tim Nicholls MP
Minister for Health and Ambulance Services
Member for Clayfield

⁴ Sinnerton, J. (3 April 2025). Black market tobacco industry targeted with massive \$161k fines. Courier Mail (online).