

17 May 2017

Hon Cameron Dick
Minister for Health and Minister for Ambulance Services
PO Box 48
BRISBANE QLD 4001

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

Dear Minister

Queensland Health seizure of e-liquid

We are instructed by ----- Our client represents the interests of Australians who have used, or wish to use, electronic nicotine delivery systems (**ENDS**) to quit combustible tobacco products (e.g., cigarettes).

During the last 14 days, our client has been contacted by a number of Queensland residents advising that they have received letters from Queensland Health stating that:

1. e-liquid imported from international suppliers, has been seized by Queensland Health on suspicion that the imported e-liquid may contain nicotine; and
2. the possession of nicotine, in any form, is illegal in Queensland; and
3. a fine of up to \$9,752 may be issued if the liquid is, after testing, found to contain nicotine.

On 8 May 2017, our client made telephone enquiries with Queensland Health regarding the importation, possession, use, and seizure of e-liquid under Queensland law. Our client's enquiries resulted in the following statements being made by Queensland Health:

4. Queensland Health has seized e-liquid that may, or may not, contain nicotine has occurred at Brisbane Airport.
5. Queensland Health does not recognise any prescription of nicotine in accordance with Schedule 4 of the *Poisons Standard 2009* (Cth) (i.e., therapeutic use).
6. A medical doctor in Queensland cannot prescribe nicotine in accordance with Schedule 4 of the *Poisons Standard 2009* (i.e., therapeutic use) and in doing so would be "breaking the law" and subject to prosecution.
7. Any Queensland non-resident found in possession of e-liquid whilst visiting Queensland, whether the nicotine is validly prescribed by a medical doctor or otherwise, would be "breaking the law" and subject to prosecution.

Given that our client represents the interests of, and advises, e-liquid consumers in all Australian states (including Queensland), we ask that you provide the specific legal basis for the:

- (a) seizure of e-liquid (whether or not containing nicotine) by your department;
- (b) statements made to consumers by Queensland Health on seizing e-liquid;
- (c) statements made to our client by Queensland Health officials.

Our client's position is that there is no legal basis for the seizure of e-liquids by Queensland Health and that the statements made by Queensland Health officials are either wrong at law or misleading.

Our client is concerned that "heavy touch" regulation or prohibition, as it appears in the current circumstances, by government will act as a deterrent to cigarette smokers switching to ENDS. Further, given the cost to individuals, communities and governments resulting from the known effects of tobacco use, our client believes that any pathway that reduces the number of people smoking should be encouraged by governments and their agencies.

So that you may have a better understanding of ENDS, nicotine, e-liquid and the associated benefits and risks, our client invites you to read the following position statement by the Royal College of Physicians:

Royal College of Physicians. *Nicotine without smoke: Tobacco harm reduction*. London: RCP, 2016. <<http://t.cn/Ra6qDTs>>

Yours faithfully