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NSW Legislative Council Hansard

SMOKE-FREE ENVIRONMENT AMENDMENT BILL

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Second Reading

The Hon. HENRY TSANG [Parliamentary Secretary] [8.59 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The purpose of the bill is to amend the Smoke Free Environment Act 2000 to phase in a prohibition on smoking in enclosed public spaces in licensed premises.

From July 2007, the Bill proposes to ban smoking inside all clubs, hotels, nightclubs, casinos and licensed premises. The ban will be phased in from the commencement of the legislation, with increasing restrictions to come into force in January 2005, July 2005 and July 2006 culminating in a complete ban by 2 July 2007.

It is well known that tobacco smoking is the single greatest cause of premature death in New South Wales. It kills approximately half its long term users. Tobacco related illnesses account for 54,000 hospital admissions annually. The cost to the health system of providing hospital beds alone amounts to \$180 million per year or \$500,000 per day. The social costs to the community in terms of the ill health and premature death of family and friends is incalculable.

But it is not only smokers who are exposed to the harmful effects of tobacco smoke. Environmental tobacco smoke (or ETS) contains 4000 chemicals, of which at least 60 are known to cause cancer. It is known to increase the risk of developing lung cancer and heart disease, as well as sore throats, nasal symptoms, asthma attacks and chest diseases. EST presents a hazard for employees who have to work in areas where they are exposed to tobacco smoke.

The Government is concerned about the health risks to workers and patrons of licensed premises who are exposed to ETS. The consultative and phased in approach taken by the Government has studied these health risks and also considered the concerns of business proprietors who own or operate business in licensed premises or enclosed public spaces. The extensive consultation process has been underway for a number of years.

Everyone in the community would be aware of the incremental steps that have led up to the proposed ban. The hospitality industry has been under notice for a decade that smoking restrictions would be introduced in NSW. In 2000, the Smoke Free Environment Act banned smoking in enclosed public spaces but exempted non-dining areas of licensed premises. Other Australian States have also moved to restrict smoking areas. Details and the timetables for introduction may vary from state to state, but the result will be the same: smoking bans in enclosed public areas.

Consultation on the issue of ETS in the hospitality industry was progressed in 1996 with the formation of the Passive Smoking Taskforce. It consisted of health groups, representatives of the hospitality industry and NSW Health. As a consequence of its recommendations, many building owners and employers introduced smoking restrictions or bans.

Following the commencement of the Smoke Free Environment Act 2000, an Industry Working Group was formed to deal with practical implementation issues. This resulted in the issue of guidelines to prevent the spread of smoke to smoke-free zones.

A further Working Group was convened in 2002 to develop measures to further reduce smoking in licensed venues. The Group developed the Share the Air Agreement. This was a voluntary agreement that involved a two year transitional phase for licensed premises to agree, by July 2004 to:

Ban smoking at counter areas

Make one bar non-smoking in multi-bar venues, and

Make one gambling or activity room non-smoking, in multiroom venues with more than one room for each activity.

The agreement also noted in principle support for future legislation to mandate the restrictions.

There has been substantial compliance with the agreed restrictions by the hospitality industry.

The restrictions in the Bill proposed to commence in January 2005 are substantially the same restrictions that were voluntarily implemented through the Share the Air agreement.

The restrictions on smoking in licensed premises to commence on in January 2005 are:

No smoking at any counter where drinks are ordered or served

In venues that have more than one bar room, one room must be smoke free

In venues that have more than one gambling area or recreation room, at least one of each area or room offering a particular activity must be smoke free.

In July 2005 further restrictions will come into operation. Smoking will only be permitted in one room of a venue. The Minister may authorise a licensed premises to set aside a second room. Regulations will be made setting out the criteria for granting the authorisation. This is intended to apply only to very small premises with unusual configurations, numerous small rooms, heritage features or other planning or structural restrictions that would severely disadvantage them in attempting to comply with the one room requirement. The smoking room, or rooms, must not exceed 50% of the total area of bar, gaming and recreation rooms.

If there is only one room in the venue, from July 2005, smoking is only to be permitted in 50% of the room. Smoking will not be permitted in any, toilet area, lobby, thoroughfare, dance floor, auditorium or counter area.

From July 2006, the smoking area will be reduced to one room not exceeding 25% of the total area of the bar, gaming and recreation rooms. In single room venues, smoking will only be permitted in 25% of that room. The only exemption will be for premises whose total public room areas do not exceed 100 square metres. It is acknowledged that it may be impractical for operators of such small premises to reduce the smoking areas to 25% and maintain the required separation of areas.

From July 2007, smoking will not be permitted in any enclosed public space in licensed premises.

The only exemption from this provision is the international private gaming area of Star City Casino. This area is not open to the general public and is primarily used by a small number of overseas visitors. The casino competes with similar establishments in other states to attract overseas clientele to the private gaming areas. This will be reviewed after twelve months to determine whether the interstate competition situation justifies continuing the exemption.

However, this exemption does not, in any way, diminish the responsibility the casino, or any other licensed premises, owes to its employees under occupational health and safety legislation, to provide a safe work environment.

The Bill allows for regulations to be made about the issuing of guidelines to industry in relation to the areas are considered to be enclosed spaces. It is anticipated that some sections of the hospitality industry may require guidance in relation to building renovations and arrangements to comply with the legislation.

The Department is committed to working co-operatively with the licensed hospitality industry to help ensure compliance - just as it has worked with the restaurant industry to assist with compliance with earlier bans on smoking in enclosed dining areas. The provision for regulations and guidelines, will allow for greater clarification, if necessary, of the terms set out in the legislation.

The legislation makes it clear that the smoking bans do not apply to private residential accommodation in motels or hostels. The Bill protects the Government from any claims for compensation arising from the enactment of the Act relating to the regulation of smoking in public places.

This Bill builds upon the incremental steps the Government has been taking for almost a decade to reduce the prevalence of tobacco smoke in the environment. It is also an integral part of the NSW Cancer Plan to reduce smoking rates by 1 % per annum.

Most importantly, it is a vital public health initiative that will save lives by reducing the exposure of workers and the public to environmental tobacco smoke. I am pleased to announce that the implementation of the legislation will be accompanied by an extensive advertising campaign. Not only will this advise people about the provisions of the legislation, but it will encourage them to give up smoking.

Support for the Quitline, media campaigns to induce quitting behaviour, and the promotion of pubs and clubs as smoke free work and recreation places, is a key strategy to reduce smoking related harm in the NSW community.

I commend the Bill to the House.

The Hon. ROBYN PARKER [9.00 p.m.]: The Smoke-free Environment Amendment Bill phases out smoking in enclosed areas. I will deal with the definition of "enclosed area" later in my speech; there is some confusion about it. Nevertheless, the bill phases out smoking in enclosed areas of hotels, clubs, casinos and nightclubs by 1 July 2007. The table game area of Star City Casino's high roller room will be exempt, subject to an annual review, similar to exemptions in legislation in other States. The bill seeks to prohibit smoking from 1 January 2005, as per the voluntary "share the air" bans, in gaming machine venues with more than one gaming machine, and from 1 July 2005 in foyers, dance floors, toilets and auditoriums.

The bill provides for the following temporary exemptions during the phase-out period: from 1 July 2005 to 30 June 2006, one bar, gaming or recreation room or area comprising up to 50 per cent of the area of such rooms; and from July 2006 to June 2007, one bar, gaming or recreation room or area comprising up to 25 per cent of the area of all such rooms. The Act will also allow for new regulations to deem when a covered outside area is enclosed. Smoking areas—exempt areas,

as they are termed—must be separated from non-smoking areas by a partition or a 1.5 metre buffer zone. I interpret that to mean a row of large pot plants, for example, but not necessarily a floor-to-ceiling wall. That definition is a little hazy, if you will forgive the pun, as I would have thought smoke would drift across any barrier.

The bill allows for a gradual phasing-in, but not quite the phasing-in that some hotels and clubs expected. They were expecting these bans to be in place by 2007. From discussions we have had I do not think they were prepared for the January 2005 deadline because of the short lead time, which will cause difficulties with costs and planning approvals—provisions that differ from those agreed in the "share the air" proposals. Whilst hotels and clubs were aware of the 2007 deadline, the short lead time to January 2005 will cause some problems for some in the hotel and club movement with whom the Opposition has had discussions.

Smoking is obviously legal and is a matter of choice. In this country people have a right to smoke cigarettes. There is evidence worldwide of the harm that smoking causes to one's health—as there is about the over-consumption of alcohol—but at the end of the day people make such choices and it is not for others to tell people how to live their lives. However, it is important that we take steps to minimise the harmful effects of passive smoking and to make the environment safer for those who are not actively participating in smoking.

Smoking is an interesting debating topic because individuals have a right to smoke and because tobacco is a legal substance. We tend to look at the harmful effects of smoking on those who have decided they will smoke rather than discuss, as we should more often, the realities of the effects of smoking. The World Health Organization has identified smoking as the single most preventable cause of disease in the developed world. Smoking-related diseases claim more than 90,000 lives annually in Australia. That is roughly the equivalent of the entire population of Mount Isa. It is also equivalent to the loss of life that would result from one jumbo jet filled with passengers crashing every week. From my comments honourable members will realise I am personally against smoking and the harmful health aspects of smoking, and the statistics support my view.

Each year smoking kills more than 10 times the number of people killed on Australia's roads. Tobacco is responsible for around 82 per cent of drug-related deaths compared with around 16 per cent for alcohol and only 2 per cent for illicit drugs. Smoking is a major cause of heart disease and is associated with more than 30 per cent of all cancers, including lung cancer, cancer of the oesophagus and larynx, cancer of the stomach and cancer of the uterus, et cetera. Smokers are 10 times more likely to die of lung cancer than are non-smokers. Other conditions such as colds and gastric ulcers have also been linked to smoking. It is well known that smoking accounts for 30 per cent of all cancer deaths, but smoking also contributes to death as a major cause of cardiovascular disease and pulmonary disease. One in two smokers eventually dies of smoking-related illness and approximately one in six long-term smokers develops lung cancer.

Because of the complex nature of smoking, increasingly, attempts to tackle the problem have to be multifaceted. This bill is only one way to reduce the harmful effects of smoking. Its provisions must be combined with continuing education programs. The bill at least goes some way towards creating some sort of enforcement approach to smoking. Smoke-free environments attempt to protect hotel and club workers, entertainers and patrons from the harms of passive smoking.

I recall growing up in a household of smokers. I spent time with my grandmother in an environment where everybody smoked. In hindsight I wonder just how much smoke I inhaled during that time. As a non-smoker I am very aware of the smell of cigarette smoke. My son recently started playing in a band that plays at a number of venues at which patrons smoke. Entertainers are exposed to an incredible amount of passive smoke. My son comes home smelling strongly of cigarette smoke; he has no choice in the matter. The bill will provide at least a small amount of protection for entertainers and people who work in hotels, clubs, restaurants and other venues. Evidence about the dangers of passive smoking is mounting.

It is difficult to balance the rights of smokers against the rights of those who do not smoke. I understand that people have the right to participate in a legal pursuit. However, we are looking at ways in which to provide protection and rights for everyone. The people who make the choice to smoke have their smoke filtered by the cigarette they are smoking, whereas the lungs of passive smokers are not protected even slightly. Sidestream smoke is unfiltered and has a much lower temperature than smoke inhaled by smokers, and this means that the poisons in the smoke are not burnt out. Some evidence suggests that sidestream smoke is 130 times stronger than smoke inhaled by smokers. I do not have a source for that information; it is just off the top of my head. It is claimed that sidestream smoke contains up to 15 times more carbon monoxide and up to 21 times more nicotine than smoke inhaled by smokers. The particles that make up sidestream smoke are small and are therefore easy to inhale and they remain in the body longer.

In addition, passive smoke causes irritation to the eyes and nose, and can aggravate asthma and bronchial conditions. In some legal cases, passive smoking has been found to cause permanent damage. As with normal smoking, the damage depends on the amount of contact. Occasional contact with people in a smoking environment certainly does not have the same effect on non-smokers as sustained and long-term contact with people in a smoking environment, such as is experienced by those who work in entertainment environments, and behind the bars of clubs and hotels.

The bill provides that from 1 July 2007 smoking will not be permitted in enclosed spaces in licensed premises. The Opposition welcomes this provision, as I am sure do a large number of people in New South Wales. However, I have concerns about what will happen before 1 July 2007 with regard to exemptions and what will constitute an outdoor area. The bill provides for temporary exemptions during the phase-out period, allowing for exempt smoking areas to be separated from non-smoking areas by the buffer zone that I referred to earlier. The concern is that buffer zones in single rooms will simply be artificial barriers that will be of no real benefit to non-smokers and workers because there is no requirement for an actual barrier or an air extraction or exhaust system. The Australian Medical Association has mounted a strident campaign against smoking. Its President has been very involved in this campaign over the past 12 to 18 months. The association argues that patrons are being fooled into believing that they are in a smoke-free area when all

that stands between them and a smoking area is some kind of partition.

I acknowledge that, having regard to the short lead time, the hospitality industry must be given time to accommodate the new laws. Further consideration of these exemptions will provide greater health benefits, and that is what the bill is all about. We are disappointed that the bill does not deal more directly and specifically with enclosed outside areas. The bill allows for new regulations to define whether a covered area is deemed to be "enclosed". It is unfair to the owners of hotels, clubs and bars for this matter to be contained in regulations. We are asking them to make major changes to the way they do business, yet the Government has not defined for them what is meant by an "outdoor area". So it is difficult for them to make any changes. We have to protect their opportunity to do business, and I am sure many of them want to adhere to the legislation. But it is unfair not to provide that sort of information in the bill. A matter that will have a significant impact has been left out of the bill and will be covered later in a regulation. If the definition were included in the bill, the owners of hotels, clubs and bars would know where they stand and what their responsibilities are.

We must also ensure that the financial viability of venues is protected. Assurances have been given in this regard, but we would all be aware that proprietors are concerned about the long-term effects. Legislation to ban smoking in public areas in California has had an enormous impact. California has had smoke-free bars since 1998. In that year, per capita cigarette consumption declined by more than 40 per cent. In California virtually all places of indoor employment, including restaurants and bars, are now smoke-free and 64 per cent of all homes apply a voluntary smoking ban. This means that 87 per cent of all children are protected. Last week the Scottish Parliament passed legislation that will ban smoking in public buildings from 2006.

The *Sydney Morning Herald* reported today that the British Government plans to impose a sweeping public smoking ban across England and Wales. We must look at the potential impact of banning smoking in such venues in this State. Does that mean people will be outside on the footpath drinking and smoking? In what position does that put the general public? If we get to the point at which local government interferes and there is a great deal of confusion, the aim of the legislation will be defeated. Councils should not have the opportunity to tinker with the legislation and thereby negate some of its positive effects.

The Opposition has other concerns about the consultation process. The restrictions and share-the-air bans left much of the industry feeling as though it had not been effectively consulted. The short lead time raises legitimate concerns in clubs and pubs across the State. Those businesses, which employ a large number of Australians, should be given consideration. They should be given a reasonable lead time during which to implement legislation that will have such a dramatic effect on them. These businesses should be given assurances about possible loss of revenue as a result of being required to provide smoke-free environments. They should also be assured that the no-smoking policy applied to hospitality venues will not harm their businesses. Indeed, their businesses could improve as more people might use their venues because the environment will no longer present a passive smoking risk and there will be equitable access to entertainment venues because people will smoke in designated areas and non-smokers will not have to endure the effects of smoking while having a drink with friends.

A review that has been undertaken suggests that there will be no adverse economic impact on smoke-free pubs and hotels as a result of this legislation. I know that the proprietors of these premises would like an assurance along those lines from the Government. Perhaps the Minister will provide further information about the findings of that review. Bar and tobacco lobbyists predicted the loss of 65,000 jobs if New York's hospitality venues went smoke-free. In fact, employment in the sector increased by almost 10,000 and bars and restaurants paid 12 per cent more in business tax in the year after the bans were imposed than they did in the previous year. That indicates that being smoke-free is good for business. More recently, Ireland and Norway have followed suit with totally smoke-free pubs, clubs and casinos. As I said previously, last week the Scottish Parliament banned smoking in public buildings from 2006.

I hope the Government continues to work and consult with the hospitality industry until January to ensure that the short lead time does not have a detrimental effect or create liability issues prior to the legislation coming into effect. I hope clubs and hotels will take comfort from the fact that research shows that 77.9 per cent of people who regularly attend hotels do not smoke. About a decade ago that figure would have been closer to 60 per cent. That is an indication of how many people are quitting the habit or not taking it up. Another Australian survey indicated that half the respondents said that the smoke-filled environment was their reason for not going to hotels and clubs. I hope that continues to be the case and that, for the sake of those businesses, people decide to enjoy themselves at those venues. I support my son's rock and roll band and I would be very pleased if the venues he played at were smoke free so that I did not have to suffer passive smoking.

This bill brings the State's legislation more in line with legislation in other States that have imposed total and partial smoking bans. It will eliminate and minimise exposure to environmental tobacco smoke, and that will obviously have a positive impact on the health and wellbeing of all residents of New South Wales, particularly those working in the hotel and club industry. The Opposition does not oppose the bill.

The Hon. DON HARWIN [9.27 p.m.]: I almost feel unqualified to participate in this debate because, as a fanatical opponent of smoking, I have never smoked a cigarette in my life. I hate the things! It is wonderful that we are finally debating this bill. I do not pretend to do anything in this speech other than represent myself, given the highly inflammatory remarks I am about to make. I take this opportunity to pay personal tribute to all those from many organisations who for so long have done what they could to highlight the dangers and evils of smoking and to bring us to the point at which one of the things that aggravates me more than anything else—a smoky, enclosed space—will soon be a thing of the past in New South Wales.

The Smoke-free Environment Act prohibits smoking in an enclosed public place. However, it contains certain exemptions

in relation to a hotel, club or nightclub. Of course, the object of the bill is to phase out those exemptions by 1 July 2007. That date cannot come soon enough as far as I am concerned. Sadly, the New South Wales Government has spent a very long time consulting and negotiating with hotels and clubs. During that decade the occupational health and safety of workers in the hospitality industry have not been given the priority they deserve. As patrons we can choose not to go into smoke-filled hotels, clubs, pubs or restaurants. However, there are plenty of people who but for their jobs in the hospitality industry would not have a livelihood. It is a great day for them that the end is in sight.

There are a few problems with this bill, but it is a great step forward. One of its problems is that the definition for "outdoor area" was not included in the bill. It has not been, and I am concerned that the health benefits that are expected to flow from this legislation may be watered down by the definition of an "outdoor area" in the regulations. I am sure we have all sat in a coffee shop or restaurant that has a bi-fold door opening on to the pavement, separating smoking patrons outside and non-smoking patrons inside. The patrons inside, in what is supposedly a smoke-free environment, are forced to suffer when the wind carries the cigarette smoke inside. It makes a mockery of the whole idea of a smoke-free environment.

Those sorts of problems are going to continue under this legislation and, to be totally fair about it, I am not one who believes that you can simply say smoking should be banned in outdoor areas, in coffee shops, and in restaurants. That is unrealistic. There has got to be a balance in this legislation between the rights of people who are participating in what is a legal, although completely stupid and unhealthy practice. Those people have to be able to smoke somewhere, but patrons have to be protected and, importantly, hospitality workers also must be protected.

It is going to be difficult to draft regulations that will satisfactorily define what an outdoor area is, but I still think that the Government, having taken almost 10 years to introduce this bill, could have gone that extra mile and defined "outdoor areas" in the bill. It has been said that 90 per cent of the health benefits from this bill will be available from 1 July 2005. I certainly hope that is true, but I am very sceptical about that because that is based in large part on the idea that large, open spaces can be artificially divided into smoking areas and non-smoking areas. The reality is that there will be very few existing premises that have the sort of air-conditioning systems that will be needed to support allegedly smoke-free environments in enclosed areas.

In reality, this legislation will not confer most of the health benefits until a complete smoking ban is introduced in 2007, rather than in 2005, as has been represented, although we will start to see some benefits from the middle of next year. I just do not think that is realistic. I am sure that plenty of members have experienced being in areas that were allegedly smoke-free but, because of the nature of the building, the cigarette smoke just wafted into the smoke-free area, resulting in other people being subjected to passive smoking. So, there are a few problems with the bill, but, given the health impacts of smoking, we can be happy that the bill is a start.

Tobacco smoke contains around 130 toxic substances and 43 carcinogenic substances. Smoking accounts for an estimated 84 per cent of lung cancers in men and 77 per cent of lung cancers in women. It accounts for an estimated 73 per cent of larynx cancers in men and 66 per cent in women. It accounts for an estimated 57 per cent of mouth cancers in men and 51 per cent in women.

The Hon. Dr Arthur Chesterfield-Evans: Highly conservative figures.

The Hon. DON HARWIN: They may be highly conservative but they are the Quit Victoria study figures, and I rely on them. In addition to its association with cancer, smoking is strongly associated with cardiovascular disease, stroke, emphysema, hypertension, peptic ulcers, eye cataracts and macular degeneration—both of which can lead to blindness—impotence, and premature facial wrinkling. There are approximately 142,500 smoking-related hospital admissions in Australia each year. These are the 1997-98 figures, the latest I could find. There were approximately 19,000 smoking-related deaths in Australia in 1998, and I am sure that, if anything, that number is probably increasing rather than decreasing—although I hope that is not the case.

So-called environmental tobacco smoke—passive smoking—is smoke that is exhaled by smokers or smoke that comes directly from burning cigarettes, pipes and cigars. Passive smoking increases the risk of lung cancer, heart disease, asthma, chest infections and eye irritations. In children passive smoking increases the risk of middle ear infections, croup, bronchitis and asthma. That is what smokers are doing to their children.

In 2001 only 21.1 per cent of men and 18 per cent of women smoked in Australia. Among men, the age group with the highest rate of daily smoking is the 20 to 29 year age cohort, and they account for 28.5 per cent of male smokers. Among women, the age group with the highest rate of daily smoking is slightly older: it is the 30 to 39 year age cohort, which accounts for 24.3 per cent of female smokers. A 1999 survey of Australian secondary school students found that 6 per cent of 12-year-olds smoked, while in the 17-year-old age bracket 33 per cent of boys and 30 per cent of girls were smokers.

I have absolutely no doubt that most people strongly support smoke-free environments, and in passing this bill tonight we are not only doing something that the latest surveys indicate has the support of 70 per cent of people in the community, we are also doing something that is right, and that is important too. Total indoor smoking bans are certainly supported by the majority of hospitality workers, including musicians and entertainers. Thank goodness they do; they would be mad if they did not. A report to the Cancer Council in April 2004 by Professor James Repace estimates that between 73 and 97 deaths from heart disease and cancer can be attributed to smoky workplaces in New South Wales every year—and 59 of those people are non-smokers.

A recent Heart Foundation survey of pub and club managers found that 83 per cent believe that smoking restrictions are best achieved through legislation, 72 per cent say a total ban is inevitable, 80 per cent believe that cigarette smoke can damage the health of their workers, and 80 per cent believe that cigarette smoke can damage the health of their patrons.

So the people who manage these venues know the risk, and I am pleased to see from that survey that they understand that something needs to be done about it. There has been concern in some quarters about the economic impact of the legislation, and I suppose that pub and club managers might be expected to be worried about that. But, as those survey figures show, they are overwhelmingly in favour of change.

There are smoke-free environments in a number of jurisdictions around Australia and, arguably, New South Wales has been dragging its feet. For example, a total ban in Australian Capital Territory pubs and clubs will take effect in December 2006—before New South Wales. South Australian legislation for a total ban in pubs and clubs will take effect in 2007—New South Wales is ahead of that State. Victoria already requires one smoke-free room if there is more than one room; and gaming machine areas in one-room venues must be smoke-free. In Queensland, smoking is already banned in bingo areas and around gaming tables. In the Northern Territory, hotels already must provide smoking and non-smoking areas. In Tasmania all nightclubs, cabarets and gambling areas are to be smoke-free from January 2005. So Tasmania is the place to go. From December 2006 in Western Australia, smoking will be allowed in only one bar or room in hotels, taverns, and other licensed venues.

My colleague the Hon. Robyn Parker averted to legislation around the world, so I will not go through that in detail. Suffice to say that Norway announced a nationwide ban on smoking in restaurants and bars in June this year, and opinion polls show that the majority of the population overwhelmingly supports it. Even Ireland, with its historic pub culture—which has played such a role in our own pub culture through the enormous and wonderful Irish heritage we have in Australia—introduced smoke-free pubs and clubs in March 2004.

New Zealand will ban smoking in pubs and clubs from December 2004 and six American States have total or partial bans on smoking already in clubs, pubs and restaurants. As my colleague noted, today the United Kingdom Government announced a ban on smoking in all workplaces and anywhere that food is served. The ban will affect most pubs, restaurants, cafes, offices, and factories. That is fantastic. Finally—I cannot help this personal idiosyncrasy—the land where gross national happiness, not gross national product, is the national objective—Bhutan—has gone completely smoke-free. I am determined to get there one day.

Some people have used the impact on business as an argument against this bill. In Ireland the number of non-smokers visiting pubs and bars has increased since the ban was introduced, and the number of smokers visiting has remained unchanged. It is interesting that the ban is not driving away smokers but is bringing back non-smokers. In New York, employment in the hospitality industry increased after the introduction of the ban, with a 12 per cent increase in business tax paid by bars and restaurants since its introduction, suggesting improved business.

Finally, the taxable annual sales in eating establishments in California has increased since the smoking ban was introduced in 1998. I dare say that no member of the House will vote against the bill. I very much welcome it and enthusiastically support it. The Opposition understands that industry feels there have been some problems with consultation and lead times but, overwhelmingly, the bill is in the public interest and it will be our great pleasure to not oppose it.

Reverend the Hon. FRED NILE [9.42 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Smoke-Free Environment Amendment Bill. This is an historic moment because the bill closes loopholes in the original legislation, which provided various exemptions with respect to bars and hotels. I acknowledge that it has been a slow process. The bill will phase out smoking in enclosed public places in licensed premises in two stages. From July 2005 smoking will be banned in thoroughfares, dance venues, auditoriums and toilets and all but one bar or gaming area in each premise. Partial bans will become law from the commencement of the legislation, including restrictions that are currently part of the voluntary agreement that will come into effect on 1 January 2005.

There will be increasing restrictions from July 2005 and July 2006, with a complete ban from 1 July 2007. Even though this bill has been introduced in 2004, the final loophole will not be closed until there is a complete ban from 1 July 2007. By coincidence, that is after the March 2007 election and one wonders whether a Coalition government will have a different view if it wins that election. It is interesting that the Labor Government has chosen a date following the next election. Perhaps the smoking lobby hopes to amend the legislation at that time.

I have been a passionate critic of the impact of smoking on the health of individuals and I have a deep concern about the effect of passive smoking. I have experienced health effects first-hand because my wife and I have bronchial asthma, which is easily irritated by smoke, even when coming from some distance away in a restaurant or from a passer-by in the street. Even without those health problems I would not have supported smoking, but they have made us aware of the impact that smoking has had on our own health.

My parents and my wife's parents were heavy smokers, so there was a lot of smoking in our homes. We grew up in that environment, but at that time people did not think smoking would have adverse long-term health effects upon people in their fifties, sixties and so on. Obviously our parents would not have smoked if they had known the impact it would have on their children. My wife's mother died tragically from the effects of smoking and we witnessed her gasping for her last breath in Bankstown Hospital.

I have raised this issue since I was elected to Parliament in the 1980s. In November 1987 I asked the Hon. Deirdre Grusovin, who was then Minister for Consumer Affairs, whether the Labor Government would support the Federal Government's long awaited policy of enforcing non-smoking regulations to prohibit smoking on internal airlines, public and private bus transport, rail transport, and railway stations, to protect the public from the proven health dangers of passive smoking. In those days the proposals seemed radical, but now smoking is not allowed on those forms of transport and on railway stations. On 2 December 1986 I said in debate on the Public Health (Tobacco) Amendment Bill:

I instance a Victorian lady dying of lung cancer who obtained permission from the Supreme Court to sue a cigarette manufacturer and distributor for damages—

that would have been one of the first cases—

In recent times there has been more and more evidence presented on the effect that smoking has on one's health. Surely it must be obvious that smoking does pose a health risk. However, smokers are doubters and must be convinced ...

Smoking presents a danger not only to smokers but also to non-smokers in their vicinity ...

I am concerned that smokers make bad drivers because, according to a recent study, they are risk-takers. Apparently it is not simply because they light a cigarette while driving, which no doubt is one cause of accidents. I have frequently seen people take their hands off the wheel to light up a cigarette. As well, smoking drivers have the problem of winding down windows to dispose of cigarette ash while driving through busy traffic.

Subsequent to that speech I have suggested on a number of occasions that smoking should be prohibited in motor vehicles because it has a harmful effect on drivers and passengers and, as the Hon. Tony Kelly said, to prevent people throwing cigarette butts out of car windows, because that can start bushfires, which create havoc in our community.

On 22 September 1991 I introduced a private member's bill, the Tobacco Advertising Prohibition Bill. It was controversial at that time, and at one point it was strongly opposed by the then Coalition Opposition's spokesman, the Hon. Dr Brian Pezzutti. As we all know, he was a heavy smoker and always seemed to defend smokers. But eventually the Coalition changed its view on the bill, and I was pleased when my bill was passed by the House.

At that time the Tobacco Institute spent millions of dollars attacking me and misrepresenting what I was doing. The institute said that I was trying to ban cigarettes in Australia and that I was another Hitler. At that time John Singleton's company placed full-page advertisements in newspapers with a picture of me on a soap box, a bit like Hitler, with the words "Today tobacco, tomorrow the world". The company used other hysterical advertisements as well. I am pleased that they did not have any serious effect and that the legislation was passed.

I followed that up with questions about passive smoking. On 11 March 1993 I asked a question regarding the claims by the Tobacco Institute of Australia that passive smoking was harmless and that there should be no restriction on smoking in the workplace. As honourable members know, the Tobacco Institute of Australia is the propaganda arm of the tobacco companies. Rather than Philip Morris or other tobacco companies making statements, they put their money into the Tobacco Institute as their political lobbying organisation. I believe that the Tobacco Institute distributed false information that passive smoking was harmless to stop any move in the direction we are taking tonight with this legislation.

These organisations are powerful and well funded with millions of dollars, and they place a lot of pressure on governments. On 22 September 1996 I asked whether the tobacco companies were ignoring aspects of the Tobacco Advertising Prohibition Act 1991, which I had introduced. The tobacco companies were trying to get around that legislation by advertising cigarettes near cash registers in retail outlets—where posters were specifically prohibited—by arranging a large number of cigarette packets in a window or near the cash register to give the effect of a poster. Not only is tobacco a health danger, but the tobacco industry also uses many dirty tricks to circumvent the law. I am sure that attempts will be made to circumvent the legislation we are passing tonight.

On 24 October 1996 I commenced the second stage of my campaign against the harmful effects of tobacco by introducing the Smoking Regulation Bill, whose object was to regulate smoking in public places, including public places that are places of employment. The bill defined "public place" and it prohibited smoking in enclosed public places with certain exemptions. It made it in an offence to fail to obey the direction of an inspector or an occupier of premises to stop smoking in contravention of the proposed Act.

I was pleased that the Legislative Council passed that bill. The Smoking Regulation Bill, which was my second major bill on smoking, was the forerunner to the bill we are now debating. Indeed, we could be debating the Smoking Regulation Bill tonight. Perhaps for political reasons, the Government decided to change the title of the Smoking Regulation Bill to the Smoke-free Environment Bill, which was passed by both Houses. I asked further questions about the immoral way tobacco companies were still trying to get around the tobacco legislation. On 31 October 1996 I asked:

Is it a fact that these tobacco retailers are using stacked cigarette packets as a form of a tobacco advertising poster, as posters are prohibited under the Act?

The battle with the tobacco industry is ongoing as it tries to find ways around the legislation. The industry blatantly breaches the legislation and should be fined heavily for doing so. On 8 April 1997 I asked the Minister for Community Services, representing the Minister for Health:

Has the media quoted the recommendations of the Government's task force report on passive smoking in the hospitality industry in favour of public health legislation to prohibit smoking in indoor places where food and/or beverages are consumed? What urgent action will the Government take to support the rapid passing and adoption of the Smoking Regulation Bill ...

In fact, that did occur. On 8 April 1998 I provided further information that for the first time there had been a decline in the number of smokers in the community since surveys began tracking smoking addiction more than 20 years ago. I asked:

Is it a fact that more people will die from tobacco-related causes than from breast cancer, melanoma, diabetes, suicide,

road deaths, leukaemia, cirrhosis, falls, AIDS, murder, narcotics, drowning and maternal deaths during childbirth combined?

In other words, there were more deaths from the effects of tobacco than from all other serious diseases. On 2 June 1998 I asked whether New South Wales was ranked poorly by the Australian Medical Association when it came to efforts to reduce smoking, and whether the New South Wales anti-smoking education program was the worst in Australia. Again, I urged the Government to take more aggressive action. I asked:

Will the Government also increase its efforts to educate the community about the health dangers related to smoking and passive smoking?

The Hon. Michael Egan: Are you attacking me again?

Reverend the Hon. FRED NILE: Yes. These are all anti Michael Egan questions, but they are not directed at you personally. It is opportune that the Treasurer has just entered the Chamber because on 29 June 1998 I addressed this question to him:

Is it a fact that per capita the New South Wales Government spends far less on anti-tobacco education programs than it did five years ago?

The Government had reduced its expenditure on those programs. I further asked:

... what action does the Government intend to take to reverse the fall in funding for tobacco education programs to improve non-smoking rates, especially among our children?

The Treasurer simply replied:

I will refer the question to my colleague the Premier for a detailed reply.

On 14 October 1999 I supported a bill, which I suppose was radical in some people's minds, introduced by the Hon. Richard Jones: the Public Health Amendment (Smoking in Vehicles) Bill. That followed a campaign I had been promoting to prohibit smoking in cars and other vehicles for various reasons, particularly the impact of smoking on other people in the vehicle, let alone the driver. Of course, that bill was not passed. Then on 29 August 2000 I introduced the Smoking Regulation Bill, which is the predecessor to this bill. As I said that day, I was pleased to support the Government's Smoke-Free Environment Bill, especially because we had introduced the basis for that bill, the Smoking Regulation Bill, which was passed by the Parliament.

I was pleased that eventually the Government moved more aggressively with regard to the harmful effects of passive smoking. In 2000 I wrote to the Premier, and I quoted that letter in a speech on 29 August 2000. In my letter I asked the Premier to support the legislation to reduce passive smoking. In his response he stated:
Dear Rev Nile,

Thank you for your recent letter concerning the Smoking Regulation Act 1997.

As you may be aware, the Minister for Health, the Hon Craig Knowles MP announced on Tuesday, 2 May 2000, my Government's intention to amend the Smoking Regulation Act to require enclosed public places, including restaurants and dining areas in hotels and clubs, to become smoke free.

He went on to say:

These reforms will help protect public health and improve the experience of dining out in New South Wales. Thank you for your interest in this matter.

Yours sincerely,

Bob Carr
Premier

I was pleased to be able to work with the Premier on the original Smoke-free Environment Bill. On 13 June 2002 I supported a bill introduced by the Hon. David Oldfield—again, a private member's bill—to tighten up the laws dealing with the use and possession of tobacco by schoolchildren. His aim was to bring about uniformity in our laws. That private member's bill was not passed, but it is important to have it on the record that not only I but other honourable members have taken the initiative in regard to tobacco products. The Hon. Dr Arthur Chesterfield-Evans has done so for many years—probably longer than any other member in this House.

On 21 November 2002 I asked a question about Philip Morris, the tobacco company, trying to get around the Tobacco Advertising Prohibition Act by having special venues decorated for rave and fashion shows at Fox Studios. The company would put on a fashion show and use the Philip Morris logo and publicity as part of the setting, so it would become a tobacco advertising project. I asked the Government to investigate that. On 1 July 2003 I asked the Government about loopholes left in the original bill regarding smoking in bar areas, and so on, and whether it would move to close those loopholes. I asked:

What assurance will the Government give that the smoking ban around bars will, in fact, be enforced in order to protect employees' health? Will the Government give an assurance that a total ban on smoking in pubs and clubs will be introduced by December 2003?

This bill does not do that until 2007. The Government is moving forward at a snail's pace but, thankfully, we are moving forward. On 19 November 2003 I referred to another deceptive trick by tobacco companies and asked:

Is it the fact that some tobacco additives make the tobacco products more addictive or more palatable to children ...

I asked whether the Government would investigate whether these additives were being put in cigarettes and finally ban smoking in hotels and club bars. I thought new members would be interested in the background of my involvement in the tobacco issue. Other members have referred to some tragic cases in which people have been seriously affected by passive smoking or environmental tobacco smoking [ETS], as it is referred to, which seems to be a very low-key description of something that has such a poisonous effect on people's health.

Thankfully there have been a number of very successful court cases over a number of years. People have gone to court over the effects of passive smoking in the workplace and have won large payouts. I know that one motivation for the Government is the long-term effect on WorkCover. If something is not done and if non-smokers working in the hotel and club industry find that they have lung cancer or some other serious disease, it will bring into question whether WorkCover has neglected its responsibility for people's health. I am not being critical when I say that is one motivation for the Government, but it has helped to focus the Government's attention on the need for this legislation to deal with passive smoking in club and hotel bars.

There have been some very large payouts. A man who worked for 35 years as a bus driver in Victoria and was exposed to tobacco smoke from passengers on his bus and from co-workers in the tearoom received an out-of-court settlement of \$65,000 for lung cancer. Quite a number of large payouts have been made to people affected by passive smoking, including a flight attendant working on an airline; a teacher in a school, someone working in a golf club, and, sadly, even a nurse in the health industry in 1992, after 14 years employment with staff and patients who were smokers. I imagine that court cases brought by people affected by passive smoking will continue, but it is hoped that in the future, because of this legislation, there will be no new victims of passive smoking.

There is a lot of evidence against the arguments that the effects of passive smoking can be controlled by airconditioning, and I will not go into detail about that tonight. I think honourable members are aware of that information. Other countries are moving in the same direction. Only yesterday it was announced that England could become the latest country to ban smoking in public places, including restaurants and most pubs and clubs, and similar moves have been made in America and other countries. I am pleased to support this legislation. It has been a long, drawn-out battle but hopefully we are reaching the final stages in this victory.

Debate adjourned on motion by the Hon. Peter Primrose.

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