



**Statement of Public Interest**  
**Legislative Council: Standing Order 143**

**Tobacco Legislation (Closure Orders) Amendment Bill 2025**

**Statement 1: Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Tobacco Legislation (Closure Orders) Amendment Bill 2025 will amend the Public Health (Tobacco) Act 2008 (Tobacco Act), Retail Leases Act 1994, Poisons and Therapeutic Goods Act 1966 (Poisons Act), Medicines, Poisons and Therapeutic Goods Act 2022 (Medicines Act) and Criminal Procedure Act 1986 to give new powers and increase penalties to help tackle the illicit tobacco and vaping trade.

Illicit tobacco is tobacco that is not packaged as required under Commonwealth legislation. Illicit tobacco is generally imported illegally, is cheaper to buy than legal tobacco products and may not have the Australian standard graphic health warning and plain packaging. This makes the sale of illicit tobacco a significant public health concern.

In recent years, community concerns about the illicit tobacco trade in NSW have grown. The sale of illicit tobacco causes public health, safety and policing concerns. Communities have seen increases in the number of tobacco shops, with increasing seizures of illicit products by NSW Health in recent years. The illicit market risks attracting organised crime, with the attendant social and safety issues, particularly when combined with the trade of illicit vaping goods.

The Bill therefore seeks to grant new powers and increase penalties to tackle the illicit trade.

The Bill will introduce new offences for the possession of a commercial quantity of illicit tobacco, with penalties largely aligned with vaping goods offences under the Poisons Act. Other penalties for offences relating to tobacco and non-tobacco smoking products and vaping goods will also be increased to ensure penalties are broadly proportionate.

The Bill will also grant a new enforcement mechanism for the Health Secretary and Local Court to make closure orders for premises where breaches of the Tobacco Act occur. The Bill will allow landlords to terminate a lease for premises subject to a closure order. To support the changes, there will be new offences for a person entering premises subject to a closure order, and for a person selling tobacco products, non-tobacco smoking products, vaping goods or other products from closed premises.

The Bill will introduce a new regime for the seizure and destruction of tobacco products and vaping goods, allowing seized illicit tobacco and illicit vaping goods to be destroyed without compromising future legal proceedings. It will also introduce new enforcement and compliance powers, information sharing powers, and provisions relating to licence cancellations and the liability of licence holders.

The Department of Communities and Justice, NSW Police, the Department of Customer Service, Fair Trading NSW, Liquor and Gaming NSW, and The Cabinet Office were consulted and have provided input into the Bill.

**Statement 2: Objectives: What is the policy's objective couched in terms of the public interest?**

The objective of the Bill is to enable NSW Health and NSW Police to target and disrupt the illicit trade of tobacco and vaping goods in NSW to better protect public health and public safety.

**Statement 3: Options: What alternative policies and mechanisms were considered in advance of the bill?**

Consideration was given to modelling the closure order provisions in the Bill on South Australia's Tobacco and E-Cigarette Products Act 1997 and Queensland's Tobacco and Other Smoking Products Act 1998. Consideration was also given to Queensland's publicly available discussion paper on the Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025, which describes proposed amendments to Queensland's Tobacco and Other Smoking Products Act 1998, including in relation to closure orders.

**Statement 4: Analysis: What were the pros/cons and benefits/costs of each option considered?**

On review of other jurisdictions' legislation, NSW has identified various benefits and costs with each model. Whereas some aspects of other jurisdictions' legislation have influenced the drafting of the Bill, other aspects have not been adopted, to ensure the Bill is fit for purpose for the NSW community.

As in South Australia and Queensland, NSW has adopted a model for closure orders that only allows a senior health official (in NSW the Health Secretary) to impose short-term closure orders. This model ensures that long-term orders, which have the potential to have more detrimental impacts on retailers, lessors and owners of premises, must be referred to a Court for consideration.

However, a risk with following the exact approach adopted in other jurisdictions would be that the legislation would not be workable for the NSW context. For example, NSW short-term orders may be issued for a period of up to 90 days, which will enable graduated responses to illicit activity among retailers, based on the seriousness and repetitiveness of the behaviour. In Queensland, short-term closure orders may only be issued for a period of 72 hours and in South Australia, only for a period of 28 days, leaving less scope for adoption of a graduated enforcement approach.

**Statement 5: Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The Bill will commence on proclamation, which will allow time for agencies to prepare for changes. The Bill will be administered by the Ministry of Health.

**Statement 6: Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

NSW Health consulted with the Department of Communities and Justice, Department of Customer Service, Liquor and Gaming NSW, Fair Trading NSW, NSW Police and The Cabinet Office on the making of the policy.