

VAPE STORES

Statement

HON DR BRIAN WALKER (East Metropolitan) [5.35 pm]: This will be short.

Hon Alannah MacTiernan: More medical advice?

Hon Dr BRIAN WALKER: Absolutely, because this morning there were some unanswered questions regarding vaping that brought up uncertainties. I thought it important that I fill in some of the blanks with some documents. My hardworking research team managed to pull this together quite quickly. It is really important to put this on the record. I will shortly seek leave to table these three papers. The first is a letter from GLR Law to the owners of a particular specialist vape shop dated July 2021 in which they relate legal advice obtained from the Department of Health. It stated —

The Tobacco Control Department of the WAHD (Western Australian Health Department) advise it is only illegal to sell a complete, working device with all components from the one outlet. It is not however illegal to sell the individual parts, or to sell all parts, provided it is between two separate outlets.

I do not understand it but there we are. The letter continues —

We are advised ...

And here is the name of the vape store —

comply with this requirement.

Secondly, I have a screenshot from the Department of Health website that explicitly states that e-cigarette liquids that do not contain nicotine are exempt from the 2016 ruling and are legal for sale in Western Australia. To my knowledge, that advice has been consistent on the website since at least 2019. It says —

The Western Australian Supreme Court decision does not encompass the sale of E-Liquids/E-Juice/Vape Juice.

I am advised that the screenshot was taken in early 2021 but I can confirm that the information has been taken down since that date. I was asked this morning how businesses could operate if the products they were selling were not legal. That was a very valid question. I believe that question has been answered.

We are dealing with some people's livelihoods, so I want to be very clear. If in April the department has taken a different view from its long-established one, that view has not been communicated anywhere near adequately to the retailers or other interested parties.

In regard to interested third parties, I have a third document, which I will also seek to table, which is correspondence from the City of Kalgoorlie-Boulder to another vendor. The city had also sought advice from the Department of Health. It reported that as long as a functioning vape device was not being sold—that is, the device was broken down into parts and those parts sold separately from different business premises—the sales were legal. Does that make sense!

That email correspondence is dated 31 January 2019, again, significantly later than the 2016 case that I believe the minister made reference to this morning. This makes me doubly glad that we brought on our motion this morning, because it has made crystal clear to all of us here there is both confusion and contradiction in the messaging from the Department of Health. That confusion and contradiction is likely to have serious impacts on the livelihood of people in those small businesses. If it is now the government's contention that these hitherto legal businesses that have been operating on and under advice from the Department of Health have now, through no change in their own practice, been deemed to have broken the law, the government needs to make its intention on the matter clear. I think the intention is quite clear—the government wants to ban it. I seek leave to table the documents I have referenced and urge the government to consider them and its position as a matter of urgency.

Leave granted.

[See paper [1750](#).]

Statement

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [5.37 pm]: I will be brief. I thank the member for bringing that information forward. That would have been useful to have when we had the debate this morning because it is quite central to the member's proposition. I will make sure that those materials are provided to the Minister for Health and we will seek to get a comprehensive response.

House adjourned at 5.38 pm
