

Hansard

Legislative Assembly

Debate on the Tobacco Products Control Amendment Bill 2008

Thurs 18 March 2009

DR M.D. NAHAN (Riverton) [5.52 pm]: I support the intent of the Tobacco Products Control Amendment Bill 2008 and will give my perspective on it. I must admit I come to this bill with some problems in that I am a Liberal libertarian and have a knee-jerk reaction to people to be responsible for their own actions. Smoking has always caused a problem with that because it is clearly addictive. How does one make choices with an addictive product?

I have never been a smoker and nobody in my family, extended or otherwise, has been a smoker. Therefore, I am not exposed to the problems of it. I have a 16-year-old boy and someone asked me the other day at a school what I would do if he smoked. My first reaction was that I would mangle him and not allow him to do it.

I went home and asked my son whether any of his friends smoked. He goes to a boy's school and he said that nobody smokes there, but at the parties the girls do. As an aside, one of the problems we have is, and that this bill does not address this specifically nor should it, that our concerns about the growth in smoking lies with teenage girls.

The intent of the bill is clearly to stop the scope for people smoke; to send a message to people who smoke that smoking is harmful, particularly when it is done in front of children whether at the playground or otherwise; and to basically hassle people to limit their scope to smoking and taking up smoking. I support those intents. The question is how we do it.

I have a couple of problems, the first of which has been raised and the member for Kalgoorlie put it best; that is, enforceability. Second, is the issue of rights of smokers, and that has not been raised. As a former employer I had a number of employees who were hopelessly addicted. Even though I sent them on courses, paid for their patches and paid for acupuncture, they could not give it up. It was hopeless.

As a friend it was a problem; as an employer it was worse. They would stand on the street all the time and would not be working. It would take them forever to get up and down the stairs.

Third, is the issue of responsibility. I will explore a couple of issues on that. With reference to the specifics of the bill I do not have any problem in encouraging a ban on point-of-sale advertising. Clearly, because of the cigarette bans, for decades the cigarette companies have focused on Grand Prix races.

I understand they are the only events at which tobacco companies can advertise nowadays. If their sponsorship were taken away, the Grand Prix events would collapse. The only other thing that tobacco companies can do is to fight for market share by advertising at the point of sale. If we want to inhibit smoking it would be necessary to limit the sale and promotion of cigarettes.

I have seen how alfresco areas are provided in Queensland. Coming back to the issue of the hopelessly addicted, one of my problems was that people could not smoke in the building we occupied. If I had to have a meeting with somebody who visited my building, I would have to go to a coffee shop while they could smoke.

They could not sit in my office long enough, particularly if they were under a bit of pressure. There was a need to have nearby a coffee shop or place to eat and smoke. Those people should not be treated as total pariahs in society, even when they have to adhere to an addiction.

We do not treat heroin addicts that way. We allow them methadone and other treatments. We have to allow these people to have their fag and a coffee at the same time. The member for Alfred Cove's bill provides for alfresco areas, and that will provide flexibility for a certain section of an outside area to be set aside for smoking. I assume that the smoker who cannot take his cigarette into the main part of the restaurant is uncomfortable with that.

I refer now to playgrounds as they relate to my electorate and to the time when I had younger children. I am a non-smoker, but I cannot remember seeing too many people standing around smoking in front of their kids, which is what the member for South Perth said. However, I have seen the signals that if kids see adults smoking they are more likely to take it up.

With enforceability, will the police walk around playgrounds and say, "Madam, you are smoking. Put it out."? Will the offender be fined or will this provision be enforced in another way? I do not think so. The campaigns against smoking over the past 20 or 30 years have been successful because it is not the police on whom we have relied to enforce the laws, but parents saying, "Don't smoke. Are you mad? Do you know what you're doing?"

That would apply not so much to passive smoking but to encouraging, inducing and showing the child that it is okay to smoke. Therefore, I err not on the side of personal responsibility and giving the parents and the friends the responsibility for enforcing healthful activity.

I have problems with that. The same thing relates to cars. The member for Kalgoorlie was articulate in this. We do not make laws that the police will not enforce. It is wrong to do that.

They will not be able to drive down the road and when they see somebody smoking check their age.

Mr M.P. Whitely: What is your attitude to prostitution? You said we should not have laws that are not enforceable.

Dr M.D. NAHAN: Yes, that the police will not enforce.

Mr M.P. Whitely: That is what has been happening with prostitution.

Dr M.D. NAHAN: I am sure that we will have a debate on a prostitution bill in due course. I am sure, as the member for Alfred Cove has just told me, the police have accommodated this issue. Their issues are resources; whether society will support them in enforcing the laws; and whether it is a rational and appropriate use time of their time.

They are thinking about this legislation. I might add that if the Department of Health offered the police money to put more police on the beat, they might enforce the legislation. Huge amounts of money are raised from tobacco taxes and that money is earmarked for mainly information campaigns that could be redirected to police.

Dr J.M. Woollard: The police have said they support the issue.

Dr M.D. NAHAN: My problem is that I do not think we should make laws that the police rationally say are not enforceable and to which they will not give high priority. I think that this goes too far.

Mr M.P. Whitely: What about prostitution?

Dr M.D. NAHAN: Prostitution has historically been a problem in this area. Different countries and states introduce laws to ban prostitution but it is a reality of life. Police are confronted with the issue of accommodating prostitution that is illegal and is also related to all sorts of other illegal activity. That is why the police have pushed for all sorts of changes to prostitution legislation. I understand the complexity of the issue.

The analogy with prostitution that the member makes is absolutely correct; that is, we are contemplating introducing a law whereby people cannot smoke in cars with children under the age of 17 and we will expect the police to enforce it.

It is visibly difficult to do—to judge who is under the age of 17, who is a child, whether a cigarette is lit or when it was lit. Will we breath-test for smoking? No, because the police always need to have dual collaboration; that is, two policemen must see the person smoking.

Again, I fully support people not smoking in cars. If we were to give a good example of a situation in which passive smoking was a real problem, that would be it. Anybody who opens the ashtray in a taxi or car where people smoke a lot will find that it reeks. I would like to debate these issues, but would I fight to the death on them? No.

I am a beachgoer on a daily basis and I hardly ever see people smoke on the beach. I have no problem with banning smoking on beaches but not for the reason of passive smoking. In fact, I think the idea that passive smoking is an issue on Western Australian beaches is ridiculous.

One of the strengths of the anti-smoking campaign to date has been its evidence base. This claim goes too far. Can members tell me that passive smoking on the beach during a south-wester or in the morning in a strong easterly wind is dangerous to people on the beach? I struggle to believe that.

Mr J.E. McGrath: You'd struggle to light up!

Dr M.D. NAHAN: That is right; people would struggle to light a cigarette. In fact, a person could put a cigarette in his mouth and it would disappear within five seconds because the wind is so strong!

I think the member for Kalgoorlie addressed this issue quite nicely. He said that if smokers want to smoke on the beach, they can smoke outside the flags. That is fair enough, but members should not make this an issue about passive smoking because it is not.

A big problem for employers is that workers addicted to smoking lose a lot of productivity, especially if they work in a high-rise building because they need to go all the way down to the ground floor to stand on the street amongst each other smoking.

Apart from in cars, on the streets is where the effects of passive smoking would be worst, as smokers pollute the alleyway by putting their butts everywhere, although sometimes containers are provided. They also have huge amounts of downtime.

This issue is an offshoot of the Tobacco Products Control Amendment Bill. I do not say that we should go back to smoking in buildings, but it is an issue that I think we should address. We are forcing people to become pariahs. Smokers can go out on the street—I can live with that—but we lose a lot of productivity through this downtime. Do we do that with heroin addicts? No; we give them methadone.

This is a side issue, but I would like the Minister for Health perhaps in this bill to look at the issues and the idea of smoking rooms. Yes, we can put hurdles in front of smokers to inhibit them, which is the member for Alfred Cove's major objective and I do not mind that, but going up and down —

Mr J.E. McGrath: Who would you have the smoking rooms for—the workers?

Dr M.D. NAHAN: Yes.

A government member interjected.

Dr M.D. NAHAN: Look at it as an employer: it is better to have a smoking room than to have those people all of a sudden have a craving, nicking out and going down to the alleyway to smoke, coming back stinking and losing all that productivity in downtime. I have never seen anyone do this, but if we were to ask businesses how much downtime they had from addicted smokers, we would find that it would be significant.

Mr I.C. Blayney interjected.

Dr M.D. NAHAN: I always thought we could invest in something like the cone of silence from the TV show *Get Smart* to suck the smoke up somewhere. I thought that would be a good idea—maybe we could assist with that.

Let us be fair. There is an issue with smokers who, mainly to get out of the rain, sit next to doorways smoking, and we want them further from buildings. This concern lies not with the smokers, but with the non-smokers who are significantly interfered with as a result. I am pretty relaxed about the distance—five metres or whatever—smoking should be from buildings, although I would like smokers not to have to be outside in the first place.

I think I have covered most of the issues with the Tobacco Products Control Amendment Bill. Ban smoking on beaches between the flags, but do not say it is because of passive smoking. Ban smoking within five metres of public buildings; fair enough, but give smokers a place to go to get out of the rain.

I think we have a real problem with the enforcement of a smoking ban in cars. As the member for South Perth said, I would rather see public pressure through advertising to just simply tell people not to smoke in cars with kids. Again, I do not think a smoking ban is enforceable in playgrounds.

Persuasion is better than laws because we will not get the local police to stop chasing kids out of the skate park to arrest a woman who is smoking at the swings. Point-of-sale advertising should have been banned a long time ago. Therefore, in general I support the bill, but I think we must worry about enforceability and we should not go too far or else we will lose touch with the science on passive smoking.