



Submission: Smokefree Environments and Regulated Products (Vaping) Amendment Bill

About the New Zealand Council for Civil Liberties

1. The New Zealand Council for Civil Liberties is a watchdog for rights and freedoms in New Zealand. The Council is a voluntary not-for-profit organization that works through education and advocacy to promote a rights-based society and prevent the erosion of civil liberties.
2. We wish to appear before the Committee to make an oral submission.

Introduction

1. The Council is concerned with the search powers created under section 87, which allows officers to perform searches without a warrant. Section 87 applies to both registered places, which the Council finds acceptable, and to places where "the officer believes on reasonable grounds that it is a place to which this section applies". The Council believes this warrantless search violates section 21 of the New Zealand Bill of Rights Act (1990) (NZBORA) which prohibits unreasonable search¹.
2. The Council notes that section 87(4) allows the police to accompany the health inspector on the warrantless search. This weakens the controls on the Police under the Search and Surveillance Act (2012). The Council believes that additional Police powers should not be included in a bill about health.

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http://www.legislation.govt.nz/act/public/1990/0109/latest/DLM225522.html?search=sw_096be8ed80b62589_search_25_se&p=1&sr=1



3. The Council notes that this bill contains appropriate provision for search warrants in section 89.
4. The Council also notes that none of reporting of searches, oversight of searches, or complaints about searches are provided for in the bill.

Recommendations

5. The New Zealand Council of Civil Liberties recommends that section 87 be struck from the bill.
6. That bill be amended to include an acknowledgement that the reporting requirements of Section 171 of the Search and Surveillance Act (2012) apply to all searches undertaken under this act.²

²http://legislation.govt.nz/act/public/2012/0024/latest/DLM2136885.html?search=sw_096be8ed8196479d_report_25_se&p=1