



**A U S T R A L I A N
R E T A I L E R S
A S S O C I A T I O N**

V I C T O R I A



**Australian Retailers Association Victoria
Hairdressing and Beauty Industry Association
Australian Beauty Committee**

Review of the Health Act 1958

**Submissions in response to the
Discussion Paper "A new legislative
framework for public health in
Victoria"**

28 October 2004



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2. Scope of Submission

2.1. This submission is provided by the Australian Retailers Association Victoria on behalf of its retail members and the Hairdressing and Beauty Industry Association (incorporating the Australian Beauty Committee) on behalf of the Hair and Beauty Industry. This submission is in response to the discussion paper entitled "Review of the Health Act 1958 – A new legislative framework for public health in Victoria" August 2004 by the Department of Human Services Public Health Group.

2.2. As the discussion paper states in its Foreword, it raises "complex issues" and covers more ground than directly relates to our representative sectors. Therefore this submission has focussed on the key questions within the discussion paper which directly relate to our constituency and



is based on direct feedback from the members themselves. Given the discussion paper is a starting point for further legislative reform, the ARAV and HBIA would like to formally request participation in the next phase(s) of the process.

3. Background

3.1. The Australian Retailers Association Victoria is the Victorian Division of the Australian Retailers Association, an employer association registered as an organisation under the Workplace Relations Act 1996 and is the peak organisation for retail employers in Victoria.

3.2. The ARAV represents the retail industry in Victoria, which consists of more than 35,000 retail businesses, employing hundreds of thousands of Victorians.

3.3. Members of the ARAV vary in size and composition and include most national chain retailers in all sectors of the industry.

3.4. However the ARAV predominantly consist of small retail members, with some 85% of the ARAV membership consisting of employers with less than 20 employees. The ARAV is therefore also an advocate for retail small businesses as well as the retail industry generally.

3.5. The ARAV also has approximately 1,200 hairdressing and beauty industry member employers, through their dual



membership of the Hairdressing and Beauty Industry Association ("the HBIA") and the ARAV.

3.6. The ARAV / HBIA provides comprehensive services to its members in employment related areas providing industry level industrial relations advocacy, representation in award matters, assistance in employment policy development, representation in unfair dismissal and equal opportunity matters, assistance in agreement making, as well as providing occupational health and safety and WorkCover advice to members.

4. About the Hairdressing and Beauty Industry

4.1. The Hairdressing and Beauty Industry employs on average 2/3 employees per salon and is amongst the smallest member group of the ARAV. The terminology hair and beauty is very broad and covers a vast range of services. The industry has strived to achieve a high level of professionalism and care and currently operate effectively under the self regulatory environment.

5. Specific Responses to Issues for Comment

Q77. Do the current provisions appropriately address the public health risk associated with hairdressing, beauty therapy and skin penetration?

5.1. The Industry believes the current provisions for the management of public health risk are appropriate at present and do not require modification.



5.2. The HBIA and Associated Beauty Committee were committed contributors to the recently completed Health Guidelines for personal care and body art industries. Indeed it is fair to say that it has been disappointing that although a lengthy and thorough consultation occurred for the Health Guidelines taking some 3 years to complete that many key issues were not satisfactorily resolved for the beauty industry, leading to additional unnecessary procedures which hamper the effective operation of small business. This is naturally what concerns industry greatly that this unnecessary regulatory environment could be increased making it more difficult for this small business sector to operate.

5.3. Nevertheless the HBIA and Associated Beauty Committee have continued to promote and encourage industry to closely adhere to the Guidelines and best practice in their salons which has proven to be most successful. The industry strongly believes that the Health Guidelines sufficiently provide industry with the necessary information to ensure that the salons supply professional, competent, safe and hygienic practices in clean premises. It would be fair to say that these Guidelines would still very much be in the implementation stages with the distribution of these Guidelines only occurring earlier in the year and environmental officers only recently calling on salons.

5.4. The Industry is extremely conscious of the critical need to ensure that the transmission of infectious diseases is prevented and that at all times consumers are serviced in a clean and hygienic environment. The distribution of



Standards of Practice booklets assist greatly in providing practical and critical information to assist salon owners to protect themselves, their clients, their staff and the public.

5.5. The Industry would agree with the statements outlines in section 8.1.1 of the Discussion Paper entitled' "Standards of Practice". The Discussion paper clearly states that "Victoria's current system of issuing Standards of Practice booklets for individual activities appears to work". As already outlined above, standards for the Hairdressing and Beauty Industry have recently been issued and are still undergoing wide implementation. To amend the Health Act (eg converting the Standards to legislation) is both premature and inappropriate given the absence of problems associated with the existing framework and the highly competitive and customer-centric nature of the industry. In the Hair and Beauty Industry, reputation and client relationships are the primary drivers of business. It is in the very best interest of the industry that the highest standards are maintained and promoted – a vision the HBIA has been actively promoting to its members for many years.

5.6. Given the "newness" of the current Standards and the ongoing education and promotional process surrounding them the Industry would like to allow the self regulatory model to continue unabated.



6. *What method of review should apply to administrative decisions made under the Act?*

6.1. The ARAV and its affiliates would agree with the suggestion made in the discussion paper to empower the Victorian Civil and Administrative Tribunal (VCAT) to hear appeals regarding administrative decisions under the Act. VCAT has a lower entry and participation cost and is far more accessible to small business than is the County or Supreme Court system. VCAT already has significant powers to rule in matters relating to (for example) Tenancy and Fair Trading and works effectively to keep dispute resolution costs lower than the legal system.

7. 41 / 42. *Risk Management Plans*

7.1. The Hairdressing and Beauty Industry believes the production of risk management strategies are already dealt with under the recently published Guidelines as mentioned previously. It does not see the need to create further legislative requirements for risk management strategies, placing extra compliance burdens on small business.

7.2. Food retailers are already required to submit food safety plans to local councils. While the template system created by Food Safety Victoria does greatly assist in this process the compliance regimes do create a burden to small businesses. The ARAV also receives regular anecdotal complaints from members regarding inconsistent application of compliance



audits by local councils. Similar feedback has also been received from Hair and Beauty members regarding the Guidelines and their interpretation by Environmental Health Officers. Please see section 9 for more information.

8. 30-36. Statutory Duty of Care

8.1. The ARAV and HBIA feel strongly that the current provisions appropriately address the public health risk associated with hairdressing, beauty therapy and skin penetration and that there is no need to put a statutory duty of care within the Health Act. Retailers, Hairdressers and Beauty Therapists already have a duty of care to their customers and employees and are already accountable under common law and occupational health and safety legislation. Businesses must also be able to gain public liability insurance in order to operate in the public domain. Breaches of a duty of care would undoubtedly result in undesirable consequences including loss of business, increased costs or revocation of insurance cover. A statutory duty of care embedded into the Health Act is not necessary for the effective enforcement of the Act and is entirely unnecessary.

9. Local Government

9.1. While the industry recognises the important role local government plays in compliance with various Acts and regulations, it is concerned about issues surrounding inconsistency in approaches to the enforcement and auditing procedures between local councils. The HBIA has received feedback from concerned members regarding the application



of onerous compliance routines imposed by Environmental Health Officers (EHOs) with limited understanding of the businesses involved. Procedures such as timed temperature testing of hair removal wax throughout the day (similar to food temperature testing but without the benefits) are placing significant burden on small businesses. The HBIA would like to see a consistent approach by local councils in the way they approach the auditing process and the level of individual interpretation by EHO's significantly reduced. Consistency would provide greater certainty to members and make it easier to comply. Record keeping requirements should be uniform and simple.

10. Conclusion

10.1. The Industry firmly believes that the current regime of self regulation is working effectively in protecting public health. The instigation of further legislative compliance will unduly affect thousands of small businesses and provide little or no benefit to public health. Given the Hair and Beauty Industry Guidelines are still in the early stages, sufficient time should be allowed to assess their performance in the real world. The Industry is very active in promoting professional competencies and skills through education, training and support mechanisms and is highly customer (therefore public) focused. It is in the Industry's best interest (and it's the law) to operate a safe environment and is doing so on an ongoing basis.

10.2. The industry believes that any further discussion regarding changes to the Health Act that may impact on the retail,



hairdressing and beauty industries needs careful consultation with industry. The ARAV and HBIA would therefore welcome the opportunity to participate in key stakeholder meetings to be held in 2005 and would request direct involvement in the ongoing legislative processes surrounding the Health Act in Victoria. The ARAV and HBIA appreciate the opportunity to put forward this submission and look forward to a favourable outcome.

28 October 2004

Australian Retailers Association Victoria

Hairdressing and Beauty Industry Association Victoria