



Heart Foundation

**Submission to Senate Community
Affairs Legislation Committee
Therapeutic Goods and Other
Legislation Amendment (Vaping
Reforms) Bill 2024**

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1 The choice facing the Australian Parliament

The Australian Parliament has choice to make with respect to how people access therapeutic vaping products.

1.1 Voting for this Bill will ensure:

- Continued access for nicotine-vaping products for any person that needs access to them to manage their nicotine dependency.
- Vaping products will be regulated to ensure they meet minimum standards
- Advertising of vaping products will no longer be allowed.
- Colourful packaging and flavours appealing to children will no longer be allowed.
- The irresponsible vaping industry will no longer be able to flout Australian law through the retail sale of nicotine vaping products.

1.2 Voting against this Bill will result in:

- More people, including young people and children, who have never smoked becoming addicted to vaping, a practice which is known to be harmful to human health.
- The irresponsible vaping industry continuing to illegally flood Australia with highly addictive illegal nicotine vaping products.
- The continued retail sale of vaping products in colourful packages and with flavours that appeal to young people, including children.

1.3 This Bill will **NOT** result in a ban or prohibition on vaping

This Bill will not 'ban vapes' – it will shift access to vapes from the irresponsible retailers that have helped get a whole new generation addicted to nicotine, to primary practice and pharmacies who can help people manage their nicotine addiction.

2 Introduction

2.1 About the Heart Foundation

For over 60 years, the Heart Foundation has been the trusted peak body working to improve heart disease prevention, detection and support for all Australians. While improvements to the cardiovascular health of the nation have been achieved there is still much to be done. This is particularly the case with respect to new emerging threats

to cardiovascular health such as the increased prevalence and use non-therapeutic vaping products.

2.2 Support for the Bill

The Heart Foundation strongly supports the passage of the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024.

Vaping is not safe and is harmful to cardiovascular health as well as a range of other health conditions.

The proposed legislation will protect Australians from the harms of vaping products, whilst making it easier for doctors and nurse practitioners to prescribe therapeutic vaping products to those that need them.

3 Executive summary

- Vaping is harmful to human health and increases the risk of cardiovascular disease.
- More people are taking up vaping who have never previously smoked.
- Vaping is a pathway to tobacco smoking, which is a major risk factor for heart disease and a range of other diseases.
- The vaping industry has been exploiting loopholes and flouting Australian law by selling nicotine vaping products in retail settings.
- This Bill will close such loopholes and ensure that vaping products are provided through appropriate therapeutic pathways (through primary practice and pharmacies) to any person that needs them to manage their nicotine dependency.
- The Bill will also put an end to colourful and bright packaging of vaping products, as well as flavours that are known to be attractive to young people, including children.
- The Bill will not ban or introduce a prohibition on vaping products and will not criminalise any end-user.
- Nicotine-vaping products will continue to be available to any person that needs access to them to manage nicotine dependency.
- The Heart Foundation supports the passage of the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024.

4 Cardiovascular disease and vaping

4.1 Cardiovascular disease continues to remain a threat to the nation's health

Cardiovascular disease (CVD) claims the lives of more people than any other disease group. In Australia:

- CVD claims the lives of approximately 123 Australian every day.ⁱ
- Every year cardiovascular disease is responsible for 600,000 hospitalisations in Australia.ⁱⁱ
- Over one third of CVD deaths and one quarter of acute coronary syndrome hospitalisations in Australia for people aged under 65 can be attributed to smoking.ⁱⁱⁱ

While significant progress has been made over the last fifty years in reducing the burden of CVD on health, particularly through tobacco control measures, this progress is now under threat as the nation has seen a dramatic uptick in those vaping.^{iv} The evidence is now clear, there are real health risks from vaping, including an increased risk of CVD.

4.2 Heart disease and vaping

There is now evidence that vaping impacts on cardiovascular health:

- **E-cigarette use and heart attack risk:** a systematic review and meta-analysis published in 2023 describes that any use of e-cigarettes was associated with a 33% increased risk of having a heart attack when compared to people that had never used e-cigarettes.^v The same study identified that e-cigarettes and vaping are linked to a range of other health issues including cancer and lung disease.
- **E-cigarettes use and heart failure risk:** a paper presented at the 2024 American College of Cardiology's Annual Scientific Sessions outlined that people who used e-cigarettes at any point were 19% more likely to develop heart failure compared with people who had never used e-cigarettes.^{vi}

4.3 Other health impacts of vaping

In addition to the health impacts on cardiovascular disease, vaping and e-cigarettes have been found to present a range of other health problems. The most up-to-date comprehensive systematic review of the global evidence, undertaken by the Australian National University,^{vii} found that identified risks of e-cigarettes include addiction,

intentional and unintentional poisoning, acute nicotine toxicity, seizures, burns and injuries and lung injury. In addition to this, e-cigarettes and vapes contain a range of known carcinogens which present increased health risks to users.^{viii}

5 Vaping is a pathway to nicotine addiction and tobacco smoking

5.1 Increasing prevalence of vaping among young people and people who have never smoked

There is now evidence that shows vaping can be a gateway to smoking and nicotine addiction.^{ix x}

Rather than being a product to assist people to quit smoking, vapes are a product being used to get young people who have never smoked hooked on nicotine.

According to the National Drug Strategy Household Survey, during 2022–23, approximately 19.8% of individuals aged 14 and older indicated that they had at some point used e-cigarettes.^{xi} The highest prevalence of e-cigarette use was found in the 18 to 24-year-old age bracket, where it reached 48.8%. Another study has found that from 2016 to 2019 there was a doubling in 18–24-year-old Australians using e-cigarettes, and approximately 230,000 people aged 14 and older reporting daily e-cigarette use (2019).^{xii}

The National Drug Strategy Household Survey has found that between 2019 and 2022–23, there was a significant increase in the proportion of people who have ever vaped and who had never smoked prior to their first vape, particularly among young adults. Among Australians aged 18–24 who were ever vapers in 2022–23, the majority (57.6%) had never smoked before vaping for the first time.

5.2 Increased vaping is leading to increased tobacco smoking and is putting young people at risk

Over the last several decades, Australia has been a world leader in reducing teenage smoking rates. However, this progress is now at risk with young people now getting hooked on vaping, and then this being a gateway to tobacco use. A recent report by Cancer Council Victoria has found that there is now an increased susceptibility to smoking among Australian secondary school students^{xiii}. The Heart Foundation is of the view that this increased susceptibility is likely being driven by the increased prevalence and availability of nicotine vaping products given that there is now clear evidence that

vaping increases the risk of somebody also becoming dependent on tobacco smoking.^{xiv xv}

6 Existing regulatory framework for nicotine vaping products

6.1 The supply of nicotine vaping products through recognised health pathways

Nicotine vaping products are allowed to be prescribed by doctors and supplied by pharmacists for therapeutic purposes and this will continue to be the case once this legislation is implemented. The Government has already introduced streamlined access arrangements that make it easier for medical and nurse practitioners to prescribe vaping products.

6.2 Retail sale of nicotine vaping products is already prohibited

The consumer sale of nicotine vaping products in retail shops is already illegal.

However, importers, distributors and retailers have been flouting and disregarding the law. They have done this through deception, and by pretending that they are importing and retailing non-nicotine vaping products (which are not currently regulated), when in fact in most cases these products do contain nicotine.

The Senate Committee should disregard the reliability of any evidence put forward by an industry so willing to flout Australian laws to achieve commercial profit at the expense of the health of Australians.

6.3 Exploitation of regulatory loopholes by the vaping industry

In every Australian jurisdiction, providing a nicotine vaping product without a prescription is illegal. However, aside from Western Australia, selling non-nicotine vaping products in general retail is permitted in all other areas.

The regulatory split between nicotine and non-nicotine vaping products has opened a significant gap in Australia's vaping regulations, rendering existing enforcement measures on nicotine vaping products ineffective. Identifying the presence of nicotine in products requires complex and costly lab tests. Consequently, non-nicotine products have been exploited by so called 'responsible retailers' as a cover to sell illegal nicotine-containing products. This practice of selling mislabelled nicotine products has

become widespread, openly happening throughout Australia and is aided and abetted by the vaping industry.

During a pioneering 12-month study in Australia, led by the University of Wollongong's School of Chemistry and Molecular Biosciences for NSW Health, researchers examined 750 vaping devices.^{xvi} These comprised 428 units confiscated from vendors and 322 handed over by high schools across New South Wales. Alarming, they found that 97.5% of these devices contained nicotine, even though it was not disclosed as an ingredient, at an average concentration of 40 milligrams per millilitre.

6.4 The health impacts of non-nicotine vapes

It is crucial to recognise that non-nicotine vaping products are also not without risks. The National Industrial Chemicals Notification Scheme of the Australian Government has listed 243 chemicals found in non-nicotine e-cigarette liquids from scientific research,^{xvii} 235 of which are flavouring agents, some posing health risks. Moreover, e-cigarette devices emit carbonyl compounds from the vaporisation of the liquids, which also presents health hazards.

7 What the Vaping Reforms Bill 2024 will not do

This Bill will not ban or prohibit access to nicotine vapes for those who need them for therapeutic purposes.

This Bill will not criminalise any end-users.

8 What the Vaping Reforms Bill 2024 will do

8.1 Closing the legal loophole that allows the vaping industry to flout the law and inflict harm on the health of Australians

The Bill seeks to close the legal loophole being exploited by the vaping industry by eliminating the legal difference between nicotine and non-nicotine vaping products.

This will greatly enhance enforcement and ensure Australia's prescription access model for nicotine vaping products is able to work as originally intended. As a result, Australians seeking to access vaping products would receive appropriate advice on the risks associate with vaping, the benefits of not smoking, and any up-to-date health advice as part of their usual care.

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