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**The Royal Australasian College of  
Physicians' submission to the  
Health Committee on the  
Smokefree Environments and  
Regulated Products Amendment  
Bill (No 2)**

**Mahuru 2024**

## Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the [Smokefree Environments and Regulated Products Amendment Bill \(No 2\)](#) (the Bill).

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

## RACP position on the bill

The RACP supports the proposed ban on disposable vapes, significant increases in fines for sales to under 18s and proposed visibility / proximity restrictions on retail outlets. Enforcement capability will be crucial to ensure implementation of these restrictions.

## Background

Concern has arisen among health professionals and organisations about the rising prevalence of vaping among young “never” smokers<sup>1</sup>. Vaping products were introduced to Aotearoa NZ in 2017 and originally marketed as smoking cessation tools to achieve the Smokefree Aotearoa 2025 goal<sup>2</sup>, but have now become widely available as a “normal” consumer item, including for young people who have never smoked. Research based on Action for Smokefree 2025 (ASH) Year 10 data between 2019 and 2023 shows the proportion of daily vapers that had never smoked doubled over four years, to 40% of daily vapers<sup>3</sup>. There are also substantial inequities in the prevalence of youth vaping. In a 2022 ASH survey daily (21.7%) and regular (33.8%) vaping were most prevalent among Māori year 10 students, with prevalence highest among Māori girls: daily vaping 25% and regular vaping 39%<sup>4</sup>.

The government has responded by introducing the [Smokefree Environments and Regulated Products Amendment Bill \(No 2\)](#) which introduces four main amendments to prevent youth vaping.

- A complete ban on disposable vapes.
- Significant increases in fines for sales to under-18s - the maximum fine for selling vapes or other regulated products to under-18s will increase from \$10,000 to \$100,000. The penalty for infringement offences will rise from \$500 to \$1,000 for individuals and to \$2,000 for businesses.
- Retail visibility restrictions for vaping products - vapes will not be allowed to be visible from outside specialist vape retailers and inside stores that people under the age of 18 are allowed to enter, such as dairies, supermarkets, and petrol stations.

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<sup>1</sup> Manatū Hauora | Ministry of Health. Consultation on electronic-cigarettes: Analysis of submissions. Wellington: Manatū Hauora | Ministry of Health; 2017. Accessed 19 Sept 2024. Available from: [Consultation on Electronic Cigarettes: Analysis of submissions | Ministry of Health NZ](#)

<sup>2</sup> Te Hā Ora | Asthma and Respiratory Foundation NZ. A reference guide: To support rangatahi to quit vaping. [Internet]. Te Hā Ora | Asthma and Respiratory Foundation NZ, October 2023. Accessed 19 Sept 2024. Available from [Te-Hā-Ora-Asthma-and-Respiratory-Foundation-New-Zealand-A-Guide-to-Support-Rangatahi-to-Quit-Vaping.pdf \(asthmafoundation.org.nz\)](#)

<sup>3</sup> Hoek, J, Ball J, Gendall P. Smoking and vaping among 14 to 15 year olds: Government action urgently needed. [Internet]. Wellington: Public Health Communications Centre; 17 January 2024. Accessed 19 Sept 2024. Available from: [Smoking and vaping among 14 to 15 year olds: Government action urgently needed | PHCC](#)

<sup>4</sup> Edwards R, Hoek J, Waa A, Ball J. What is happening with vaping among adolescents and young adults in Aotearoa? [Internet]. Wellington: Public Health Communications Centre; 17 May 2023. Accessed 19 Sept 2024. Available from: [What is happening with vaping among adolescents and young adults in Aotearoa? | PHCC](#)

For those stores with websites, online advertising will be restricted to a list of names and prices.

- Proximity restrictions for specialist vape retailers - new stores must be at least 100 metres from early childhood centres. This builds on the existing requirement to be at least 300 metres from a marae or school.

## Overall position on the proposed regulations

The RACP **recommends the government implement all of the above provisions to prevent the uptake of vaping among young never-smokers.** However, enforcement capability will be crucial to ensure implementation of these restrictions.

The RACP supports the potential of vaping to support smoking cessation, to reduce the deeply inequitable harm from tobacco smoking in Māori and Pasifika communities and address the Smokefree 2025 goal. However, the RACP is also concerned with the recruitment of young, non-smokers<sup>5</sup>. The increased recruitment of new nicotine users among rangatahi has occurred within the current regulatory environment and is a situation that must be addressed. Addiction has wide-ranging and long-term consequences impacting on whānau and hāpori.

As stated in our existing [Policy on Electronic Cigarettes](#), vapes are not without harm and the use of e-cigarettes presents no benefits to those who do not smoke, be they never smokers or former smokers. International evidence of physical harm is emerging, and evidence of shorter-term harms of vapes containing high levels of addictive nicotine is clear<sup>5</sup>. This stance was reflected in our submission to the Ministry of Health in 2021 on the [Smokefree Environments and Regulated Products Act 1990 - Proposals for regulations](#) which supported a regulatory environment that reduces the number of non-smokers recruited to the use of e-cigarettes<sup>6</sup>.

A number of RACP members would also like to raise the possibility of oral tobacco becoming the next nicotine product marketed at young people and children as this is now also approved in principle.

Further comment on visibility and proximity restrictions is detailed below.

## Visibility restrictions

The increased visibility of vapes as a regular consumer product has occurred at the same time as increased uptake among young “never smokers” in Aotearoa NZ. The College supports measures to restrict engaging, attractive and highly visible window displays targeted at young consumers, which have a normalising effect and have likely contributed to vaping’s appeal as a regular consumer item among never smokers.

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<sup>5</sup> The Royal Australasian College of Physicians (RACP). Policy on Electronic Cigarettes [Internet]. Sydney: RACP; 2018. Accessed 19 Sept 2024. Available from: [https://www.racp.edu.au/docs/default-source/advocacy-library/policy-on-electronic-cigarettes.pdf?sfvrsn=3a530a1a\\_8](https://www.racp.edu.au/docs/default-source/advocacy-library/policy-on-electronic-cigarettes.pdf?sfvrsn=3a530a1a_8).

<sup>6</sup> The Royal Australasian College of Physicians (RACP). Submission to the Ministry of Health on the Smokefree Environments and Regulated Products Act 1990 – Proposals for regulations. [Internet]. RACP; 2021. Accessed 19 Sept 2024. Available from: [Smokefree Environments and Regulated Products Act 1990 - Proposals for regulations](#)

International evidence is emerging around the association between vape displays and uptake in stores<sup>7,8,9,10</sup> and reinforces the significance of members' concerns. The risk that people who smoke might be less likely to take up vaping because they are out of sight could be mitigated by the provision that specialist vape retailers would still be able to display signs indoors that vaping products are available inside their stores.

## Proximity restrictions

Increased youth vaping among never-smokers is also about accessibility. College members observe a rapid growth in the number of vaping outlets, especially near schools. At 22 July 2023, 1349 specialist vape retailer applications had been approved, the vast majority of which are physical retail outlets. This has increased the visibility of vaping as a normal consumer item, made accessibility easy for rangatahi, and is also potentially widening inequalities. A study published in May 2024 found almost a third of all Aotearoa NZ's vape stores were within a five-minute walk of a school. Of significant concern, around seven times more vape stores were found in the most socioeconomically deprived neighbourhoods than in the least deprived, a difference that was particularly prominent for Pasifika populations in major urban environments<sup>11</sup>.

RACP supports proximity restrictions for specialist vape retailers which would effectively curtail the ability of new stores from being established less than 100 metres from an early childhood education centre (ECE). With around 4,597 licensed ECEs in Aotearoa NZ<sup>12</sup>, this will further restrict the locations where specialist vape retailers can set up. However, RACP notes this policy does not address the problem of removing existing retailers near schools, marae or ECEs.

## Limitations of these proposals

These proposals do not address the issue of other "social" or online sources of vapes. The ASH Year 10 survey showed that most vaping youths get their vapes from friends (40%) or family (18.5%) and fewer than 15% of vaping youths reported having purchased their vapes from a retail outlet<sup>4</sup>. There is also further potential to stop price discounting, loyalty schemes, giveaways and promotions which could make vaping products less affordable for young people, while ensuring they remain less expensive than smoked tobacco.

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<sup>7</sup> E-cigarette packaging and retail appeal in the UK: Summary for policymakers of two commissioned research projects examining e-cigarette packaging in the UK and recommendations, [Internet]. Cancer Research UK, September 2023. Accessed 19 Sept 2024. Available from: [cruk\\_policy\\_briefing\\_e-cigarette\\_packaging\\_and\\_retail\\_appeal\\_reports\\_final.pdf \(cancerresearchuk.org\)](#)

<sup>8</sup> Parnham J, Vrinten C, Cheeseman H, et al. Changing awareness and sources of tobacco and e-cigarettes among children and adolescents in Great Britain. *Tobacco Control*; Online First: 30 July 2023. Accessed 19 Sept 2024. Available here: [Changing awareness and sources of tobacco and e-cigarettes among children and adolescents in Great Britain \(bmj.com\)](#)

<sup>9</sup> Dunbar M, Martino S, Setodji C, Shadel W. Exposure to the Tobacco Power Wall Increases Adolescents' Willingness to Use E-cigarettes in the Future. [Internet]. *Nicotine Tob Res.* 2019 Sep 19;21(10):1429-1433. Accessed 19 Sept 2024. Available here: [nty112.pdf \(nih.gov\)](#)

<sup>10</sup> Best C., Haseen, F., van der Sluijs, W. *et al.* Relationship between e-cigarette point of sale recall and e-cigarette use in secondary school children: a cross-sectional study. [Internet]. *BMC Public Health* 16, 310 (2016). Accessed 19 Sept 2024. Available here: [12889-016-2968-2 \(2\).pdf](#)

<sup>11</sup> Waterman I, Marek L, Ahuriri-Driscoll A, Mohammed J, Epton M, Hobbs M. Investigating the spatial and temporal variation of retailer provision in New Zealand: A cross-sectional and nationwide study. [Internet]. *Social Science and Medicine.* 349 (2024) 116848. Accessed 19 Sept 2024. Available from: [Investigating the spatial and temporal variation of vape retailer provision in New Zealand: A cross-sectional and nationwide study \(sciencedirectassets.com\)](#)

<sup>12</sup> Evidence Data and Knowledge, Ministry of Education. Annual ECE Census 2022: Fact Sheets. [Internet]. Accessed 23 Sept 2024. Available from: [Annual ECE Census 2022: Fact Sheets | Education Counts](#)

## Comment of the repeal of the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act

The RACP remains extremely disappointed with the repeal of the key provisions of the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act, which it considers to be a backwards step which will worsen the health of many in our community and could even cost lives. This legislation offered potentially profound health benefits for people of all ages and future generations, especially to address the disproportionate harm of tobacco to Māori<sup>13</sup>. There is a contradiction implicit in reducing the availability and visibility of vaping products in communities to prevent a whole new generation of rangatahi getting hooked on nicotine, while at the same time repealing world-leading and transformative legislation aimed at doing the same.

### Conclusion

The RACP thanks the Health Select Committee for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the NZ Policy and Advocacy Unit at [policy@racp.org.nz](mailto:policy@racp.org.nz).

Nāku noa nā



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<sup>13</sup> The Royal Australasian College of Physicians (RACP). Media release -Physicians extremely disappointed in plans to repeal smokefree legislation. [Internet]. RACP; 30 November 2023. Accessed 19 Sept 2024. Available from: [-Physicians extremely disappointed in plans to repeal smokefree legislation \(racp.edu.au\)](#)