

Do Aotearoa's new vaping regulations go far enough?

7 June 2023

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Summary

New regulations to reduce youth vaping include important measures that will limit disposable vapes, and recognise these devices have become the product of choice among rangatahi. The regulations also introduce some restrictions on store locations and flavour names; however, they don't address several problems that communities, researchers, advocates and rangatahi themselves have raised.

New regulations that aim to limit vaping uptake among young people in Aotearoa New Zealand were recently announced. We welcome measures to protect young people from the burden dependence on nicotine imposes.

While youth smoking rates have declined over the last decade, vaping among young people has increased; the most recent Snapshot Year 10 survey conducted by ASH(NZ) in 2022 found 10% of the 14 to 15 year olds reported vaping every day; among rangatahi Māori, 22% vaped daily. Five years ago, less than two percent of respondents reported vaping every day (data were not reported by ethnicity). Analyses of NZ Health survey data show that current (at least monthly) use of electronic cigarettes by 15 to 17 year olds increased from 1.8% in 2017/18 to 12.3% in 2020/21 (data for this age group were not provided in 2021/22).

We previously reviewed proposed changes to vaping regulations and concluded that protecting rangatahi would require stronger, more comprehensive measures. In this Briefing we outline the new measures announced, explore their potential impact, and consider how effectively they will provide rangatahi with comprehensive protection.

Vaping device measures

The new regulations will require all vaping products to have removable or replaceable batteries, a measure that should limit sales of cheap disposable vapes favoured by children. However, disposable vapes with removable batteries will soon be available in Aotearoa, suggesting this measure will be easily circumvented. An outright ban on non-refillable vapes would ensure that cheap, disposable vapes could not be sold to young people and recognise their right to protection from targeted marketing that encourages uptake of a highly addictive product.²

A Ministry of Health statement noted that Cabinet had approved measures to limit the maximum nicotine strength allowed in single-use (disposable) vapes, though did not outline the new limits, which are currently set at 50mg/ml, more than twice the concentration permitted in the EU. Reducing the nicotine concentration permitted could reduce the addictiveness of devices young people prefer. A survey undertaken by the Asthma and Respiratory Foundation and Secondary School Principals found 80% of secondary students who reported vaping at least once a week used high strength vapes (i.e., products containing 24mg/ml to 50mg/ml of nicotine).

Retail outlet measures

The new regulations will not allow new specialist vape retailers (SVRs) to operate within 300m of schools or marae. However, this measure does not apply to generic retailers, such as dairies, many of which already fall within this perimeter; nor does it apply to existing SVRs (of which there are now more than 1200). Given applications to operate as an SVR have slowed (the HARP website shows that, as of 07 June, fewer than 100 SVRs have been approved in 2023). Declining application numbers and the omission of existing outlets mean this measure is unlikely to reduce young people's access or exposure to vaping products.

Further, the SVR measure does not address the growing problem of outlet density that has caused concern among many communities and led Local Government New Zealand to pass a remit calling on the Government to limit vaping product sales to specialist stores. The "store-within-a-store" practice, where dairies create a specialist store within their footprint,¹ appears able to continue, despite concerns that children entering the dairy are often exposed to attractively packaged vaping products, visible from outside the specialist store area.

Although the measures aim to place "*vapes as far from the minds and reach of children and young people as possible*"; the measures outlined do not stop dairies from selling vaping products, do nothing to end window displays and point-of-sale promotions, and make no mention of ending online promotions. As we have previously argued, limiting sales of vaping products to SVRs that specialise in these devices would more effectively reduce young people's access and exposure to vaping products, particularly if enforcement was intensified.

Flavour names

The regulations will disallow “*potentially enticing [flavour] names*” and manufacturers will now need to use generic descriptors to indicate e-liquid flavours. While a helpful step in reducing some of the most egregious marketing directed at young people, the new measures do not appear to address the brightly coloured packaging, which has featured cartoon characters to attract children’s attention and interest.^{3 4} Requiring plain black and white packaging would have removed marketers’ use of alluring imagery and reframed vaping products as tools that support switching among people who have not been able to quit smoking using other approaches.

Perhaps most importantly, the new measures focus on flavour names, not the flavours themselves. Given many young people and non-smokers report vaping because of the flavours,^{5 6} limiting flavour names is only one step in addressing a much larger problem. Reducing flavour variety would likely reduce vaping’s appeal to young people more effectively than merely limiting permissible flavour names.

Striking a balance

The new measures attempt to balance use of vaping products by people who smoke as they either try to quit using nicotine altogether or move to a less harmful alternative, while protecting young people. The announcement noted that 56,000 people stopped smoking in the last year. However, during the same period, the NZ Health Survey reported that 119,000 young people aged 15 to 24 vaped daily.

Alongside more comprehensive measures, we hope to see greater enforcement to minimise sales to people aged under 18, and stronger monitoring of vaping trends among young people, to inform effective policy. We also need measures that will assist the many young people who have become addicted to nicotine through vaping so they can become vape-free.

We welcome steps to protect rangatahi; the proposed measures outline some important preliminary steps but do not go far enough because vaping products will remain easily accessible, highly visible and attractively packaged. More comprehensive measures, such as those we have outlined above, are needed to recognise young people’s right to protection from products that will bring them no benefits.

What is new in this Briefing

- New vaping regulations that will come into force in August 2023; these limit the location of new vape shops, reduce the disposable vapes that may be sold, and change permitted flavour names.
- The regulations leave unaddressed many concerns, particularly the number of existing vape stores, the sale of vapes from generic outlets, flavour variety, and vape product packaging.

Implications for public health policy

- Reducing youth vaping will require a comprehensive and bold approach; these regulations contain some important measures but, as yet, are an incomplete response to a major public health problem.

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