



Health Education Charitable Trust Board #CC53899

Thank you for the opportunity to comment on the Smokefree Environments and Regulated Products (Vaping) Amendment Bill. We nominate Nancy E. Loucas to present our submission directly before the Health Select Committee via weblink/Zoom/Skype and to answer any questions around this submission.

Disclosure:

I am writing this on behalf of Aotearoa Vapers Community Advocacy (AVCA). I am one of the co founders and currently a co-director of this organisation. AVCA is an independent, volunteer run and community funded organisation that is registered as a Health Education Charity (# CC 53899) with the New Zealand government. **AVCA does not have any affiliation or vested interest in industry - Tobacco, Pharmaceutical and/or the local Vaping manufacturing or retail sectors.**

Introduction:

We, the board of directors of AVCA, are fully aware that New Zealand has been a world leader in its approach to regulating safer nicotine products, and has led the way in terms of tobacco harm reduction through interaction in our “day jobs” as nurse, doctor, public health advocates, stay at home parents, etc. We all fully believe that this bill, if it is comprehensive, clear and future proofed, is an opportunity to create ground-breaking risk proportionate regulation for safer nicotine products (SNP).

However, there are some glaring omissions that prevent it from being a comprehensive and pragmatic risk proportionate piece of legislation. It is our belief that this legislation is being rushed to law without the appropriate input from and reviewed by all stakeholders and that is why it is in such disarray. Regardless, we will address those omissions in this submission, from the perspective of our own personal experiences and knowledge as vapers in New Zealand in the hope that the legislation can be clarified, amended and made “whole” prior to its becoming law.

It is our belief, that has driven us all in our advocacy work, that **safer nicotine products (SNP) should be regulated differently to smoking as they are far safer** and can help smokers quit. We fully acknowledge that the government had decided four years ago to address the issue of RRP's vis a vis the Smoke Free Environment Act (SFEA) in the interest of expediency and lack of resources. Whilst we still believe that they should be addressed separately, as the original intent of the SFEA was to protect citizens from the harms of combustible tobacco, the harms of which are not present in SNP.



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In light of this, we ask that the legislation should be guided by the goal of SmokeFree 2025 - and be a weapon in the fight against combustible tobacco smoking - so that we, as a country reach our stated goal. Therefore **the intent of the legislation should be guided more by strategies to encourage smokers to switch to vaping and less by concerns and unsubstantiated claims about youth uptake in Aotearoa.** The benefits of quitting for adult smokers are far greater than the potential risks to youth from vaping and **robust legislation that addressed the former issue will prevent any potential of the latter issue becoming a problem.**

Our concerns around the proposed legislation are categorised and addressed as follows:

- **Prohibition of “flavours”**

There is no feasible way to ban “flavours” wholesale. Flavours are made up of many different ingredients and the ingredients themselves should be classified according to harm with lower, optimum and maximum limits allowed in e liquid products.

Suggestion: The creation of a table that lists possibly harmful substances (constituents) that need to be limited in use for e liquid manufacture. (Ingredients, such as diacetyl, which is present in combustible tobacco at much higher levels than e liquid, can and should be limited for use, but not banned in e liquid manufacturing.) This requires the government to actually consult with chemists and scientists who have the knowledge base to understand and make those determinations based on evidence.

- **Availability of flavours in non registered specialist vape retailers**

Whilst we understand the reason to limit flavours in non registered specialist vape retailers is to limit access to youth to prevent an epidemic of vaping, such as what has been seen in the United States, this also limits the choices that smokers have to access vape flavours.

The particular suggested limit to tobacco, mint and menthol shows the lack of understanding by the government (and lack of consultation with the consumer stakeholders knowledgebase) on how people use vape to get away from combustible tobacco. Most former smokers found their flavour profile amongst the fruit and dessert e liquid flavours and AVOIDED tobacco, mint, and menthol as they were too similar to combustible cigarettes.



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Suggestion: If the government must limit flavours in retailers other than specialist vape shops, there needs to be at the least fruit and dessert flavours available alongside menthol, mint and tobacco. My personal suggestion, based on personal experience and experience assisting vapers to switch is to make available in these retailers: Berry, Custard and Fruit flavours.

- **Packaging, labelling and health warnings & Manufacturing Guidelines.**

Currently, under the self regulation scheme that the vendors of VTANZ follow, bottle sizes, filling nozzles and sizes are sufficient to prevent spillage and safe storage. Labelling includes percentages of VG/PG and nicotine, as well as specifying the use of natural or artificial flavourings, the location of manufacture and the date of manufacture, as well as warnings around known allergens and nicotine use and storage safety precautions.

We acknowledge that there are issues around some labels of juice manufactured in New Zealand that may be appealing to youth with bright colours, plays on names and cartoon characters, however, the majority of these types of labelling issues are on imported e liquids and not New Zealand manufactured liquids.

Suggestion: The government should immediately adopt the VTANZ self regulation guidelines for e liquid manufacturers that include specifics on labelling, warnings, manufacturing recordkeeping. Institute a restriction on cartoon characters, name plays of existing commercial copyrights (for example, candy, and food products) and colour schemes that are reminiscent of currently branded non vape products. Also, these guidelines should be developed hand in hand with the members of VTANZ to ensure that it will be standardised across all e liquid manufacture in Aotearoa New Zealand.

- **Prohibition of vaping in legislated smoke free areas**

Nicotine-containing products exist on a continuum of risk. The harm caused by smoking comes overwhelmingly from the thousands of toxic chemicals and carcinogens released in smoke from burning tobacco leaf. Smoking is the leading preventable cause of death globally. Barriers to access and use should be stringently maintained. Smokeless products release only a tiny fraction of the toxins found in smoke and are potentially lifesaving. Barriers to their use should be minimised.



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Therefore, We urge New Zealand legislators to differentiate between far less harmful vaping and the very deadly nature of smoking combustible tobacco, to increase transition from smoking to vaping. This is particularly important when the general public remains confused about relative harms. There is no evidence of harm from passive vaping, therefore there is no justification for a blanket ban on vaping in smoke free areas on health grounds. Some restrictions are justified on etiquette grounds.

Suggestion: Allow owners and managers to determine a suitable policy for their own premises and more access to vaping in public places. Permitting considerate vaping in open spaces or even in workplaces where manual workers are employed (people who traditionally are more likely to smoke) confers benefit as it makes vaping a more valuable proposition than continuing to smoke.

- **Advertising**

This legislation calls for a ban on all advertising of e-cigarettes. However, it is essential for smokers to know that there are alternative products to cigarettes; this allows them to make informed decisions about their health and encourages them to move to a far less harmful activity. In our view advertising should be controlled but not banned.

We are especially concerned about the particulars of this section (Part 2, sections 23 & 24) as it may will limit our ability as a Health Education Charitable Trust Board to disseminate important scientific evidence to the community via our website (www.avca.org.nz) and social media (Facebook and Twitter).

Suggestion: AVCA does NOT promote specific brands or products, however we DO assist smokers and vapers in deciding which SNP may be best for their journey to switch from combustible tobacco and stay away from it. Therefore, **we need assurances and a guarantee that we will be allowed to continue our activities without threat of punitive action by the Director General (DG), the Ministry of Health, or any of their designated enforcement officers. Should that require a notice by the DB in the Gazette, please advise us on how to expedite that process.**

With regards to commercial advertisements we believe that there should be a Public Service Announcement level of advertising for reduced risk products that is brief, succinct and aimed directly at adult smokers so they are aware of the option of using SNPs to move away from combustible tobacco. Media (Radio/TV) advertising should be limited in number of broadcasts, specifically targeting adult smokers during those times that they are most likely to be exposed to such advertising.



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Conclusion:

Our interests are to educate, inform and advocate for all stakeholders of this legislation, but especially the vaping consumers and smokers of Aotearoa New Zealand. It is imperative that the government understand that THEIR interests, concerns and needs are met by risk proportionate and future proofed regulations and avoids the unintended consequences of prohibitive regulation that will not only make SNP less accessible, less diverse and less appealing but will actually protect cigarette interests, discourage smoking cessation and provide fertile ground for the creation of a flourishing black market which would create even more harm in communities across the country.

Submitted on behalf of the Board of Directors
Aotearoa Vapers Community Advocacy by:

A handwritten signature in black ink that reads 'Nancy E. Loucas'. The signature is written in a cursive, flowing style.

Nancy E. Loucas
Co-founder/Co-director

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