

Fact sheet: Smokefree Environments and Regulated Products (Vaping) Amendment Bill

The following table outlines the key changes to the regulation of the sale and supply of vaping and smokeless tobacco products, as proposed in the Smokefree Environments and Regulated Products (Vaping) Amendment Bill.

Under the current Smoke-free Environments Act	Under the Smokefree Environments and Regulated Products (Vaping) Amendment Bill
Sale to minors	
Tobacco products must not be sold to persons under the age of 18 years. There is a lack of clarity about how the law applies to vaping products. There are no restrictions on the sale of devices to minors.	Regulated products and toy regulated products (including tobacco products, vaping products and smokeless tobacco products) must not be sold to persons under 18 years of age.
Advertising, sponsorship	
Advertising and sponsorship are prohibited for tobacco products. This includes vaping liquid containing nicotine manufactured from tobacco. There are no restrictions on the advertising of devices and non-nicotine vaping liquid.	Advertising and sponsorship are prohibited (in addition to the existing prohibitions on tobacco products) for all vaping and smokeless tobacco product parts, including vaping liquids. The Bill exempts public health campaigns that are approved by the Director-General of Health from this prohibition.
Smokefree areas	
Smoking is prohibited in indoor workplaces (including bars and restaurants), early childhood centres and schools. The Smoke-free Environments Act does not restrict where people can vape.	Vaping (and using smokeless tobacco products) is prohibited in legislated smokefree areas (e.g. indoor workplaces (except for approved vaping premises – see Retailer registration below), early childhood centres, schools). The Bill does not change the ability of local authorities to determine whether to include vaping in outdoor smokefree areas (e.g. outdoor dining areas, children’s playgrounds).
Labelling / packaging	
There are no packaging restrictions or required health warnings for vaping products or smokeless tobacco devices.	Tailored packaging requirements for vaping products and smokeless tobacco products will be set in regulations. There will be public consultation before these are finalised. It is proposed that New Zealand will follow the UK model.

Under the current Smoke-free Environments Act

Under the Smokefree Environments and Regulated Products (Vaping) Amendment Bill

Product safety

There are no product safety requirements

Products will need to comply with any product safety requirements that are set out in regulations, for example, maximum nicotine content of vaping liquids, standards for vaping liquid containers, and standards for vaping devices. These requirements will be publicly consulted on before being finalised. They will come into effect 6 months after the date on which the Act receives Royal assent.

It will be the responsibility of the importer or manufacturer to ensure that products meet product safety requirements. Retailers must not sell products that do not meet safety requirements. A searchable database will be available to support retailers to meet this requirement.

Manufacturers and importers must advise the Director-General of any adverse reactions to regulated products as soon as they become aware of them. This will come into effect upon commencement of the Act.

The Bill allows for ingredients to be prohibited. Prohibited ingredients will be publicly consulted on before being finalised and published on the Ministry of Health's website. This will come into effect upon commencement of the Act.

The Director-General of Health may issue warning statements about products if he or she has reasonable grounds to believe that the product poses a risk of harm to people. Other product-safety powers the Director-General will have include recall of products, and suspension and cancelling of product notifications.

There is provision in the Bill to prohibit flavours. No flavours are prohibited at this stage. Rules relating to flavours for specialist vape retailers differ from those for generic retailers (e.g. dairies, service stations, supermarkets) as set out below.

Product notification

There are no product notification requirements.

Manufacturers and importers must notify products to the Ministry of Health before they can be sold in New Zealand. This will come into effect 6 months after the date on which the Act receives Royal Assent.

While the primary responsibility is on the importer or manufacturer, retailers must not sell regulated products that are not notified. A searchable database will be available to support retailers to meet this requirement.

A fee will be charged for product notification. The fee will be consulted on and set out in regulations.

Under the current Smoke-free Environments Act

Under the Smokefree Environments and Regulated Products (Vaping) Amendment Bill

Flavours

There are no limits to the vaping liquid flavours that may be sold.

GENERIC RETAILERS

Only tobacco, mint and menthol flavoured vaping liquid may be sold.

This will come into effect 6 months after the date on which the Act receives Royal Assent.

SPECIALIST VAPE RETAILERS

Any flavours that have not been prohibited may be sold.

This will come into effect 6 months after the date on which the Act receives Royal Assent.

Retailer registration

There are no provisions for retailer registration.

GENERIC RETAILERS

There are no provisions for retailer registration.

SPECIALIST VAPE RETAILERS

Retailers may apply to the Director-General of Health to be a “specialist vape retailer” and for their nominated premises to be “approved vaping premises”. Approval criteria include that the premise is a fixed permanent structure and that 85% of total sales from the retail premise are or will be from vaping products. Other criteria may be set out in regulations.

Approved vaping premises must be R18 and the retailer must take all practicable steps to prevent under-18s from entering.

The Bill requires specialist vape retailers to report sales information annually (by 31 January) to the Ministry of Health.

A fee will be charged for specialist vape retailer applications. The fee will be consulted on and set out in regulations.

Trading names

There are no restrictions on trading names.

GENERIC RETAILERS

Words like ‘vape’ and ‘vaping’ in trading names are prohibited.

SPECIALIST VAPE RETAILERS

Words like ‘vape’ and ‘vaping’ in trading names may be used.

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Access by minors

There are no age restrictions on who may enter a retail premise.

GENERIC RETAILERS

There are no age restrictions on who may enter a retail premise.

SPECIALIST VAPE RETAILERS

All reasonable steps must be taken to prevent the entry onto the premise of persons under the age of 18 years.

Advice to customers

Retailers may, in response to a request, do no more than identify the tobacco products available for purchase and indicate their price. This includes vaping liquid manufactured from nicotine.

GENERIC RETAILERS

Retailers may, in response to a request, do no more than identify the regulated products (including tobacco products, vaping products and smokeless tobacco devices) available for purchase and indicate their price.

SPECIALIST VAPE RETAILERS

Retailers may provide advice, recommendations and demonstrations of regulated products to customers.

Give-aways, discounting, and loyalty points

Give-aways, discounting and loyalty points are prohibited for tobacco products. This includes vaping liquid manufactured from nicotine.

GENERIC RETAILERS

Give-aways, discounting and loyalty points are prohibited for regulated products (including tobacco products, vaping products and smokeless tobacco products).

SPECIALIST VAPE RETAILERS

Give-aways, discounting and loyalty points are allowed for vaping products but not for other regulated products (including tobacco products)

Vaping within retail stores

There is no legislative provision preventing vaping in retail stores, or any other workplace.

GENERIC RETAILERS

Vaping is prohibited in retail stores and all other workplaces (as well as early childhood centres and schools).

SPECIALIST VAPE RETAILERS

Vaping is allowed within approved premises so that smokers can be better supported to successfully switch.