

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

Lung Foundation Australia
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Executive Summary

Lung Foundation Australia (LFA) are pleased to provide input into the **Community Affairs Legislation Committee: Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024**.

Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024. - *The importation into Australia of vaping goods, and the manufacture, supply or possession of vaping goods in Australia, is prohibited, subject to some exceptions. A person may commit an offence or be liable to a civil penalty for contravening the prohibitions (see Part 4A-2). Definitions of vaping goods and related terms are set out in Division 2 of this Part. Vaping goods includes vaping substances, vaping accessories, vaping devices and goods determined by the Minister to be vaping goods.*

We support the work of the federal government in strengthening the Therapeutic Goods and Other Legislation Bill to take much needed action to curb the access and use of e-cigarettes among non-smokers and young people whilst also maintaining and streamlining the prescription pathway that enables people who smoke, and who have been unsuccessful to quit, to have another cessation tool to use to support their cessation journey under the supervision of a medical practitioner.

Further recommendations include:

1. The need to clarify personal versus commercial quantities
2. Ongoing investment in education and cessation services

We would like to highlight the importance of taking an approach that ensures no individual is stigmatised for their addiction to nicotine.

We currently have a finite window of opportunity to take strong action and to prevent a repeat of the destruction caused by tobacco products over the last decades, and the resulting death and disability that tobacco products have caused and continue to do so. Action is needed now to make it clear to an industry whose sole focus is on profiteering from products that are harmful to health, that the health of Australians and particularly of our young people is vastly more important than profits.

These reforms are supported by experts in the health and public health fields, parents and carers, educators, and the broader community, all of whom understand the gravity of allowing the proliferative use of e-cigarettes to continue, and the health and economic damage that it will cause to future generations if action is not taken now.

We welcome the opportunity to discuss this submission. To organise a meeting please contact Paige Preston, General Manager of Policy, Advocacy and Prevention, at

Mark Brooke
CEO

Lung Foundation Australia

About LFA

Lung Foundation Australia is Australia's only national charity and leading peak body dedicated to supporting people with a lung disease, including lung cancer.

For over 31 years we have been a trusted, national touch point on matters of lung health for people living with lung disease, their families, carers, health professionals and the general community.

There are over thirty different types of lung disease and together these impact one in three Australians. Our mission is to improve lung health and to reduce the impacts of lung disease on all Australians. We are working to ensure that lung health remains a community priority through activities including promoting lung health and early diagnosis and advocating for policy change and research investment.

We raise awareness about the symptoms and prevalence of lung disease, and we champion equitable access to treatment and care. As a patient-representative charity, we partner with people living with lung disease, health professionals, researchers, medical organisations, and the Australian community.

Together, we can drive reform in the delivery of health services across the country and assist the more than seven million Australians impacted by lung disease and lung cancer. Lung Foundation Australia has offices across several Australian states. We are committed to achieving integration with state-based health systems so that the community has access to timely and accurate information and support.

Our work in vaping

Lung Foundation Australia recognised a significant gap in education and resources for vaping and have developed a suite of resources including factsheets, animations, and e-learning material.

Unveil what you inhale

In 2021, Lung Foundation Australia developed a suite of educational resources for the campaign 'Unveil what you inhale'¹ to bring attention to the harms and unknown risks of vaping.

These resources are designed by and for young Australians, educators, parents and carers, to arm them with accurate and evidenced-based information. In a pioneering study, funded by Lung Foundation Australia and Minderoo Foundation, researchers at Curtin University tested the chemicals and toxicity of 52 flavoured e-liquids, finding 100% of the e-liquids were inaccurately labelled and 21% contained nicotine, despite this being illegal in Australia.² Additional studies have emerged over the last two years which indicate often closer to 100% of samples contain nicotine, typically in extremely high concentrations.^{3,4}

Vaping eLearning modules for young people

In March 2023, Lung Foundation Australia launched eLearning for young people aiming to bring awareness to the harms of vaping, fill critical knowledge gaps around vapes and encourage participants to be vape-free advocates amongst their friends and community.⁵ Informed by a Roundtable and the emerging evidence of growing rates of youth vaping and increasing community concern, this eLearning aims to address the rapid rise in recreational use of vapes.

First Nations young people

This project aims to address the rapid rise in recreational use of e-cigarettes by young people through the development of accessible, practical resources for Aboriginal and Torres Strait Islander young people and their families/teachers.⁶ Resources includes a series of three short animations on key topics relating to vaping and an additional factsheet for further information. Topics discussed include health harms of vaping, environmental harms, and how vaping impacts your life. The factsheet includes discussion questions for individuals to self-reflect on or to facilitate discussion amongst groups.

Support for government action

In 2022, Lung Foundation Australia conducted a national YouGov survey and found 83% of Australians think the government needs to do more to protect children from using e-cigarettes.

Then, in December 2022, a survey by Lung Foundation Australia with over 550 responses found 96% of respondents were extremely or moderately concerned about youths accessing vaping products and almost half reported having a friend or family member who vapes. Additionally, 84% said it was extremely important for the government to take urgent action on vaping products.

In 2023, Cancer Council Australia released a new report re-iterating support for policy action to limit e-cigarette availability and use by the public with almost nine in ten Australian adults supporting government action to stop a new generation of Australians becoming addicted to nicotine.⁷

Additionally, those aged 18-24 years strongly agree that e-cigarettes are highly addictive, e-cigarettes should be regulated to stop a new generation of Australians from becoming addicted, advertising of e-cigarettes in and around shops should not be allowed and vaping should not be allowed on public transport, in pubs, restaurants or other indoor venues.⁷

E-cigarettes and health impacts

When it comes to e-cigarettes, the long-term health impacts remain unclear, however there are well established immediate and short-term health impacts that include poisoning, acute nicotine toxicity including seizures, burns and injuries, lung injury, dual use with cigarette smoking, and increased smoking uptake in non-smokers.⁸

Nicotine is harmful to the developing brain and may increase the risk for future addiction to other drugs. There is a risk of the onset or worsening of mental health disorders such as anxiety and depression.^{9,10} Chronic nicotine exposure during adolescence can have long-term consequences causing diminished cognitive function which could result in reduced attention span and enhanced impulsivity in adulthood.¹¹

In addition to nicotine, more than 200 chemicals¹² have been associated with e-liquids which can cause potential lethal side effects in small quantities. There has been an increase in calls to poisons hotlines particularly for young children, and hospitalisations due to vaping.¹³

Toxic chemicals found in e-cigarettes include:

- Heavy metals such as nickel and silicon¹⁴
- Volatile organic compounds such as benzene, which is found in car exhaust and can be toxic at sufficient doses¹⁵
- Cancer-causing chemicals such as acetaldehyde, acrolein, and formaldehyde which are known to cause lung and heart disease¹⁶
- Phthalates which are used to make plastics, many have reproductive toxicity, and can be endocrine disrupting¹²
- Pesticides¹²

Less direct evidence indicates adverse effects of e-cigarettes on cardiovascular health markers, including blood pressure and heart rate, lung function, and adolescent brain development and function.¹⁷

E-cigarettes are detrimental to oral health and contribute to gum disease, teeth staining, bad breath, cavities, and irritation in the mouth that can lead to mouth sores such as thrush which are unsightly and cause difficulties in speaking and eating. Nicotine can promote tooth grinding which can lead to cracked or shortened teeth, lock jaw and headaches.¹⁸

Short-term exposure to passive vaping, also called second hand smoking, has been shown to irritate eyes, irritate airways and worsen respiratory conditions through the exposure to dangerous toxins from e-cigarette aerosols.¹⁹ Various toxic chemicals have been detected in second hand smoke including nicotine, heavy metals, diacetyl which is linked to lung disease, and benzene found in car exhaust.²⁰

Third hand smoke is the accumulation of chemicals from smoking products on surfaces and clothing. Some studies have demonstrated that e-cigarettes can cause third hand smoke when used indoors. Both second and third hand smoke can have a detrimental effect on the health of children, pregnant women, the elderly and people who suffer from chronic lung or heart disease.^{17,21,22}

The environmental impacts of e-cigarette use

E-cigarettes contribute to deforestation and destruction of habitats from mining for materials, and carbon emissions from manufacturing and transportation.²³ E-cigarettes are made up of plastic, electronic and toxic waste components.

Plastics

Many e-cigarettes are made of non-biodegradable plastics with limited recycling options and end up in landfill, while others are discarded on the street as litter. Only 13% of plastic gets recycled, so even when e-cigarettes are disposed of correctly, they are likely to end up in landfill or the environment.²³

Chemical Waste

E-liquids are toxic and can contaminate water, soil and the air²⁴ and impact aquatic life.^{23,25} Almost all e-liquids sold in Australia contain nicotine even if they are not labelled as such. They are classified as hazardous waste and are harmful to humans and the environment. They must be disposed of carefully to minimise impacts on the environment. E-liquids contain a mixture of toxic chemicals that can contaminate drinking water and leach into the environment. E-cigarettes release small particles into the air creating indoor air pollution which is harmful to breathe in.

Electronic Waste

The lithium batteries used in e-cigarettes are flammable and are not recyclable, with an estimated 1.8 million e-cigarettes thrown into household garbage every week in Australia. When thrown in household rubbish or incorrectly into recycling, they have been known to cause fires in waste disposal vehicles and at waste management facilities. It is estimated there are up to 35 fires per day in recycling centres across Australia.²⁶ Lithium is a precious natural resource that could instead be used to power green technology such as electric vehicles. Additionally, e-cigarette batteries have the potential to leak corrosive electrolytes and heavy metals which pose a danger to human and animal health.²⁷

Vaping in Australia

Recent data has indicated that the prevalence of vaping in Australia continues to rise, with youth uptake of significant concern. In Australia, between 2016 and 2019 the proportion of people who had ever used e-cigarettes increased from 8.8% to 11.3% with a notable rise among youth and young adults.²⁸ Nearly 2 in 3 (64%) current smokers and 1 in 5 (20%) people who had never smoked aged 18–24 reported having tried e-cigarettes.²⁹

The Generation Vape study³⁰ found almost one-third of students sampled aged 14–17 years (32%) reported being an ever-vaper, of which more than half (54%) had never smoked prior to starting vaping. More than half of ever-vapers had used a vape that they knew contained nicotine (53%). “Flavourings and taste” were rated as the most important characteristic of vapes.³¹ Additionally, the NSW Health Population Survey found the rates of e-cigarette use has increased significantly, with ever use for 16–24-year-olds increasing from 21.4% in 2019–2020 to 32.7% in 2020–2021.³¹

According to the Australian Secondary School Students Drug survey³² 69% of students who had ever used an e-cigarette had never smoked a tobacco cigarette before their first vape, and 20% of students who had never smoked prior to trying an e-cigarette reported subsequent smoking of tobacco cigarettes. According to the National Drug Strategy Household Survey 2022–2023²⁸ rates of e-cigarette use across the country tripled, with 49% of people 18–24 having used an e-cigarette, and 28% of young people aged 14–17.

The increase in e-cigarette use particularly among young people has the potential to normalise smoking leading to increases in e-cigarette and tobacco cigarette use. Furthermore, e-cigarettes can be a gateway to smoking, with e-cigarette users at least 3 times more likely to take up combustible cigarettes, with that comes the risk that in the future tobacco rates may start to rise again if e-cigarette and tobacco use are not controlled effectively.⁸ This is an effect we are already starting to see with teen smoking rates increasing. For young people aged 14-17 smoking rates increased from 2% in 2018 to 12.8% in 2023.³³

Rapidly increasing rates in e-cigarette use will risk the positive tobacco control efforts of the past decades that have seen tobacco smoking rates decline, particularly in young people. E-cigarette use not only increases the risk of injury and disease, it also encourages the cycle of nicotine addiction and dependence which is challenging to stop and can lead to the use of tobacco cigarettes or dual use.

Feedback on proposed reforms

We support the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 put forward by the government. We do make two recommendations for amendment to this Bill but seek to reinforce our overall support for this Bill passing as soon as practical.

The need for strong action now

Reducing tobacco use and nicotine addiction is a key focus area of The National Preventive Health Strategy²⁷ and the National Tobacco Strategy³⁴ which outlines policy achievements by 2030 including the implementation of stronger regulation, monitoring and enforcement for novel and emerging products including e-cigarettes, as well as increased provision and access to evidence-based cessation services and support to help people who use tobacco and other novel and emerging products, including e-cigarettes, to quit.

E-cigarette use has increased alarmingly in the last few years particularly among young people, most of whom had never smoked before.³²

The reforms take much needed action to strengthen the existing legislation to curb the access and use of e-cigarettes among non-smokers and young people, whilst also maintaining and streamlining the prescription pathway that ensures that smokers who have been unsuccessful to quit smoking via other methods, still have another cessation tool to use under the supervision of a medical practitioner.

E-cigarettes containing nicotine, a highly addictive poison, have only ever been available in Australia via prescription. To circumnavigate this regulation, industry abused the existing policy by relabelling nicotine e-cigarettes as non-nicotine e-cigarettes to allow them to be sold freely in an accessible retail environment.

Packaging was designed with bright colours, fun images, and sweet flavours to appeal to young people. Retail shops selling e-cigarettes opened within close proximity to primary and secondary schools and sporting and recreational facilities³⁵ with the focus on encouraging nicotine addiction, and fuelling the uptake and continued use of e-cigarettes and nicotine containing products.

Why the reforms put forward are necessary and appropriate

The reforms focus on strengthening the prescription pathway as the only means to access e-cigarettes for their intended use - smoking cessation. E-cigarettes should not be used for recreational use. The prescription pathway takes them out of the hands of young people and non-smokers while still allowing for people who are trying to quit smoking to access them under medical supervision.

Smoking cessation should be under the supervision of a health professional who knows the history of the patient and can maximise cessation success by recommending appropriate complementary behavioural changes based on the unique needs of each individual and as advised by the RACGP guidelines.²⁹ Lung Foundation Australia supports safe, proven, registered, therapeutic quit-smoking methods and medicines, and most importantly, developing a personalised quit plan. This strategy may include clinical counselling together with nicotine replacement therapy or other evidence-based forms of pharmacotherapy.

A lack of awareness of the dangers of e-cigarettes, encouraged by industry through the messaging of being "safer" than tobacco cigarettes, as well as marketing and advertising targeting young people, led the public to incorrectly believe e-cigarettes are safe to consume. In addition, increased use has led to their normalisation.

The reforms will reduce supply and access to e-cigarettes by young people and non-smokers as well as de-normalise vaping through the introduction of plain packaging, limited flavours, advertising restrictions, and confining the sale of e-cigarettes via Australian pharmacies under the supervision of a medical practitioner. The reforms also streamline the prescribing process making it easier for health practitioners to prescribe.

Many retailers selling e-cigarettes have been complicit in selling them to children under 18 years old demonstrating one of the reasons why it is not appropriate to sell e-cigarettes through a retail model when the industry priority is clearly profiteering over the best health interests of all Australians.

Other countries around the world are now taking Australia's lead and banning disposable e-cigarettes to protect the health of their young people, including the UK, New Zealand and France.^{36,37}

We do not want to go down the path of tobacco

Lung disease in Australia

Tobacco is the leading cause of death and disability in Australia and around the world³⁸ with 76% of the total disease burden in Australia due to lung cancer, and 73% due to COPD.³⁹ Nearly 1 in 3 Australians have a lung disease⁴⁰ including lung cancer, chronic obstructive pulmonary disease (COPD), chronic bronchitis, and asthma.

Health and financial costs

Smoking kills 20,500 Australians every year to tobacco related disease,⁴¹ and costs the economy \$136.9 billion per year.⁴² Gordon and Preston⁴³ estimated the cost of e-cigarettes on the Australian economy to be conservatively \$179.6 million per year due to the health care costs of new cigarette smokers.

Tobacco related disease and deaths are entirely preventable. The tobacco and related industries knowingly sell products that kill 1 in every 2 of their consumers when the product is used as intended.³⁸

Decades after understanding the devastating effects of tobacco on health and even with declining smoking rates, tobacco related disease is still the leading cause of death and disability in Australia. There is no justification to have the same model for e-cigarettes that could risk further increasing rates of death, disease, and economic burden from allowing a known harmful product to be freely available in a retail setting.

Stigma

Tobacco-related diseases are highly stigmatised due to the perception that people who smoke are to blame for their own ill-health. This perception is held by some community members and health professionals, and commonly by the person who smokes.^{44,45}

Internalised stigma leads to hesitancy in seeking medical care which can then lead to a later stage diagnosis of lung disease and lung cancer. When lung cancer is diagnosed at a later stage there are limited treatment options. Consumers carry with them guilt and shame which can be isolating.⁴⁶ Furthermore lung cancer patients can be stigmatized whether they smoked or not.⁴⁴ Mounting disease from e-cigarette use will further drive lung disease and stigma and perpetuate the hesitancy of people to seek treatment, driving up rates of later stage diagnosed disease and premature death. Lung Foundation Australia wants to make sure that individuals are not stigmatised or blamed for their addiction to nicotine that is the result of an insidious industry preying particularly on young people and vulnerable populations.

Environmental impact

Nicotine vaping products and devices are hazardous waste. The reforms will have a positive impact on the environment by reducing the number of e-cigarettes and minimising the risk of fires and injuries caused by burns. Pharmacies have guidelines and procedures to best advise customers on the correct and safe disposal of e-cigarettes. They have an already established "return of unwanted medicines (RUM) program" that allows customers to return e-cigarette devices and have them disposed of safely.⁴⁷

Enforcement

The proposed reforms allow for appropriate and effective enforcement by States and Territories. As all e-cigarette products and devices will only be able to be purchased through an Australian pharmacy with a prescription, the enforcement of retailers selling any e-cigarette product or device outside of this model will be more easily and effectively enforceable.

Recommendations to further strengthen the reforms

Recommendations to further strengthen the proposed reforms include:

1. Clarify personal possession versus commercial possession

Lung Foundation Australia does not want to see the criminalisation of individuals for personal possession of e-cigarettes, particularly for young people who have been targeted with these products. Criminal convictions for personal use can be detrimental to education and employment opportunities, and risk ongoing stigma. Lung Foundation Australia advocates for all measures that reduce stigma, and an approach that people are offered the compassionate support they need to quit e-cigarettes through access to appropriate treatment for nicotine dependence.

Personal possession versus commercial possession should be clearly defined so that law enforcement can focus efforts on those who sell e-cigarettes outside of the regulated pathway.

2. Appropriate education and cessation support

The priority is for people with nicotine dependence to have the right support to be able to quit e-cigarettes and/or tobacco. We implore the government to ensure that cessation programs are adequately funded and promoted to those who need them. Further, we recommend efforts that encourage consistency across all jurisdictions be explored as this will improve clarity on what is available to those seeking support to quit. Education campaigns should also be sustained to build and increase awareness on the harms of e-cigarettes and tobacco, and the options for cessation support.

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