

# E-cigarette use in young people – urgent action needed to avert a public health crisis



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## Background/summary

Poor enforcement of federal and state/territory rules that make the sale of nicotine e- cigarettes without a valid prescription unlawful has led to high levels of use in young people, as shown in anecdotal, and a growing body of observational and empirical, evidence.

On 1 October 2021, the Therapeutic Goods Administration (TGA) created a legitimate pathway for adult smokers with a valid medical prescription to access nicotine e-cigarettes from a registered pharmacy or via the Personal Importation Scheme.<sup>1</sup> However, gaps in government enforcement have allowed unlawful products to be imported, transported and stored in breach of federal, state and territory rules. Local wholesalers, retailers and online merchants are increasingly breaking established laws for the control of harmful substances.

The proliferation and availability of e-cigarette devices and liquids not labelled as containing nicotine or claiming to be nicotine-free is hampering government compliance and enforcement efforts and spurring ease of access by minors. State and territory regulations that prohibit sales to minors have failed to curb their use among young people.<sup>2</sup>

The only way to halt the epidemic of e-cigarette use among young people is to significantly strengthen enforcement of existing laws. To this end, **all sales of e-cigarette products, components and liquids that fall outside of the existing TGA prescription pathways should be eliminated.** This includes both domestic retail sales (brick-and-mortar and online) and overseas imports. This action is urgently needed in response to the alarming rate of e- cigarette uptake among young Australians.

## Recommendations

Cancer Council and other leading public health organisations make the following recommendations:

### State and territory governments must:

- immediately intensify compliance and enforcement measures, including product seizures, in relation to both non-pharmacy retailers that sell nicotine e-cigarette products and storage facilities housing illegal products;
- set a date to ban the retail sale and supply of all non-prescription e-cigarette products, components and liquids;<sup>3</sup>
- introduce tough penalties for non-pharmacy retailers selling e-cigarette products, components and liquids after the ban and inform retailers that strong enforcement measures will be in place.

### The Federal government must:

- immediately strengthen its enforcement action to intercept imports of nicotine e- cigarette products unless accompanied by a valid medical prescription and/or documentation declaring that they are bound for a registered pharmacy or licensed pharmacy storage facility;

- amend the *Customs (Prohibited Imports) Regulations 1956 (Cth)* to declare all e-cigarettes, components and liquids a ‘prohibited import’, with a clear exemption for products that may be obtained by pharmacy wholesalers and individuals with a valid prescription under the existing TGA access arrangements.

All governments should:

- proactively monitor and take strong action against illegal advertising and promotion of e-cigarettes online and via social media.

## **Why urgent action is required**

### **E-cigarette use by young Australians is high and increasing**

- E-cigarette use is increasing and is most common among young people. In 2019, 26.1% of people aged 18-24 reported ever-use of e-cigarettes compared to fewer than ten percent among those 40 years and older.<sup>4</sup>
- In the 2017 Australian Secondary Students’ Alcohol and Drug Survey (ASSAD),<sup>5</sup> 14% of 12-17 year old school students indicated that they had tried e-cigarettes. These figures are expected to be significantly higher when results of this year’s ASSAD are released (currently in field).
- Only 21% of the students who reported in the ASSAD survey that they had used e- cigarettes had smoked more than 9 cigarettes in their lifetime at the time they first tried an e-cigarette. Sixty-eight percent of them had never smoked a cigarette or had only had a few puffs (20%).<sup>6</sup>
- In the combined years of 2020 and 2021, the NSW Population Health Survey estimated that e-cigarette use was highest among young people aged 16-24, both for ever-use (32.7%) and current use (11.1%).<sup>7</sup> Similarly, the NSW Smoking & Health Survey 2021 found that adults under 40 were significantly more likely to have tried or used e- cigarettes than those aged 40 and over.<sup>8</sup>
- Reports of e-cigarettes being used by students in school bathrooms and classrooms (including primary schools) are being reported by mainstream media.<sup>9</sup>
- In the 2019 NDSHS, over one-third of current e-cigarette users were aged under 25, and over half were aged under 30.<sup>10</sup>

### **E-cigarettes harm young people and public health**

The most up-to-date comprehensive systematic review of the global evidence, undertaken recently by The Australian National University (ANU)<sup>11</sup>, found:

- conclusive evidence that e-cigarettes can cause burns and injuries including severe injuries serious enough to cause death;
- conclusive evidence that intentional or accidental exposure to nicotine e-liquids can lead to poisoning, which can be severe and can result in death;
- conclusive evidence that use of e-cigarettes can result in acute nicotine toxicity;
- conclusive evidence that use of e-cigarettes can lead to seizures;
- documented cases of interference in cardiac devices;
- conclusive evidence of acute, serious respiratory diseases among both smokers and non-smokers including illness serious enough to require hospitalisation and intubation;
- conclusive evidence that use of e-cigarettes results in increased airborne particulate matter in indoor environments;
- substantial evidence that e-cigarettes can cause fires and environmental waste; and
- substantial evidence of dependence on e-cigarettes among non-smokers.

In addition, the review could provide no reassurance (i.e., found that there is no available evidence) that e-cigarette use by non-smokers does not also increase the risk of cardiovascular conditions, cancer, diabetes or other as yet unidentified health problems.

Finally, there is strong evidence that non-smokers who use e-cigarettes are three times as likely to go on to smoke combustible tobacco cigarettes as non-users, supportive of a gateway effect.<sup>12</sup>

According to a report of the US Surgeon General, exposure to nicotine during adolescence may have long-term consequences for brain development, impacting learning, memory and attention, and increasing the risk for rapid and lasting addiction and future use of other drugs.<sup>13</sup>

### **The e-cigarette industry continues to grow rapidly**

- The e-cigarette market is growing globally worldwide and is predicted to continue its rapid growth in the future. The market for e-cigarettes is now estimated to be a multi-billion US dollar market and tobacco companies now own many of the leading e-cigarette brands.<sup>14</sup>
- In Australia, young people are subject to increased exposure to e-cigarettes through retail promotion and access as well as online advertising.<sup>15</sup> It is estimated that 30- 50% of sales are conducted online globally<sup>16</sup>, facilitated by aggressive promotion of these products over the internet.<sup>17</sup>
- E-cigarette products are widely available and can be purchased from 'vape' stores, tobacconists, convenience stores, online stores and online marketplaces facilitated by social media.

### **Current controls are failing to protect young people**

- Nicotine e-cigarette products that are imported without a medical prescription can be intercepted at the border and referred to the TGA for investigation and enforcement action. However, the Australian Border Force does not have power to seize and destroy the products and take direct enforcement action because they are not currently prohibited goods under the *Customs (Prohibited Imports) Regulations 1956* (Cth).
- Drawing a distinction between non-nicotine and nicotine e-cigarette products further hampers enforcement efforts at the Australian border and also in the domestic retail environment because this can only be determined by laboratory analysis;
- Nicotine has been found in samples of e-cigarette liquids labelled as 'non-nicotine'.<sup>18</sup>
- Since January 2022, NSW Health has seized more than \$1million worth of illegal e-cigarettes and liquids containing nicotine.<sup>19</sup> Similarly, WA Health has recently seized almost 1000 illegal e-cigarettes and in the past three years, has seized more than 16,000 illegal nicotine e-cigarette products.<sup>20</sup> There have also been reports of large seizures in the ACT. However there are few reports of seizures in Victoria, Queensland or South Australia, despite obvious high levels of illegal sales in those states too.
- The escalation in prohibited product seizures and reports of increasing product use in young people suggest non-pharmacy retailers are not deterred by current rules and changes from 1 October 2021 and will continue to build a market for nicotine e-cigarettes outside the prescription pathway.
- Products purchased online are being delivered to residential addresses from warehouses located in Australia, indicating that there are storage facilities in major Australian cities housing illegal products.
- Legislation that prohibits the sale of e-cigarette products to minors has failed to stop these

products falling into the hands of children. This result is inevitable when the products are so widely available.

- E-cigarette products have no place in the general retail market. The existing TGA pathways for accessing e-cigarette products with a prescription is in line with the limited evidence supporting their use for smoking cessation purposes in the clinical context in combination with behavioural counselling.<sup>21</sup> Outside of this setting, the sale of e- cigarettes serves no constructive purpose, and has the potential to undermine decades of progress in reducing smoking prevalence.
- All Australian governments must take action to eliminate e-cigarette retail sales outside the pharmacy sector, together with greatly enhanced enforcement of breaches in all states and territories and stronger federal enforcement of unlawful product imports.

## Conclusion

All Australian governments support the principles set out in the “Policy and regulatory approach to electronic cigarette (e-cigarettes) in Australia”<sup>22</sup> being:

- Protecting the health of children and young people;
- Protecting the health of current adult cigarette smokers;
- Evidence-based;
- Relevant to Australia’s national circumstances;
- Precautionary approach;
- Protecting public health gains;
- Protecting public health policy from all commercial and other vested interests related to e-cigarettes, including the interests of the tobacco industry;
- Legal clarity to the public;
- Complementary with jurisdictional regulation and existing health and social policy frameworks.

The evidence presented above shows that these recommendations are necessary to convert the principles underpinning the intergovernmental position into actions to protect the health of young Australians from the harms of e-cigarettes.

**Developed by Cancer Council’s Tobacco Issues Committee**

**Endorsed by**



## AUSTRALIAN CHRONIC DISEASE PREVENTION ALLIANCE

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<sup>1</sup> Therapeutic Goods Administration. Notice of final decision to amend the current Poisons Standard - nicotine. 21 December. Canberra: Government of Australia 2021. Available from: <https://www.tga.gov.au/scheduling-decision-final/notice-final-decision-amend-current-poisons-standard-nicotine>

<sup>2</sup> Medicines and Poisons laws ban the sale and supply of nicotine-containing products that are not accompanied by a medical prescription, except if those products are TGA approved Nicotine Replacement Therapies (NRT) for oromucosal or transdermal use. Note that in Western Australia, products that resemble tobacco products, including e-cigarette devices and their components, whether or not they contain nicotine, cannot be sold (to any customers regardless of age) by tobacco or general retailers under the *Tobacco Products Control Act 2006*. See Government of Western Australia. Department of Health. Electronic cigarettes in Western Australia. Available from: [https://ww2.health.wa.gov.au/Articles/A\\_E/Electronic-cigarettes-in-Western-Australia](https://ww2.health.wa.gov.au/Articles/A_E/Electronic-cigarettes-in-Western-Australia) [viewed on 16/6/22]. In other states and territories, however, sales of products not containing nicotine are allowed to customers over the age of 18. See Greenhalgh E, Smith L, Grace C, and Scollo M. 18B.8 Legal status in Australia, InDepth 18B: Electronic cigarettes (e-cigarettes). Melbourne: Cancer Council Victoria, 2021. Last update: Oct 2021; Viewed Available from: <https://www.tobaccoinaustralia.org.au/chapter-18-harm-reduction/indepth-18b-e-cigarettes/18b-9-legal-status>

<sup>3</sup> In Western Australia, the current prohibition on the sale of these products should be crystallised with specific legislative provisions.

<sup>4</sup> Australian Institute of Health and Welfare. Data tables: National Drug Strategy Household Survey 2019 - 2. Tobacco smoking chapter, Supplementary data tables. Canberra: AIHW, 2020. Available from: <https://www.aihw.gov.au/reports/illicit-use-of-drugs/national-drug-strategy-household-survey-2019/data>.

<sup>5</sup> Guerin N and White V. ASSAD 2017 Statistics & Trends: Australian secondary school students' use of tobacco, alcohol, over-the-counter drugs, and illicit substances: Second Edition. Cancer Council Victoria, 2020. Available from: <https://www.health.gov.au/resources/publications/secondary-school-students-use-of-tobacco-alcohol-and-other-drugs-in-2017>.

<sup>6</sup> Guerin et al op cit.

<sup>7</sup> See NSW Government, Health Stats NSW. Electronic Cigarette Use. Accessed 14 June 2022. Available from: <https://www.healthstats.nsw.gov.au/#/indicator?name=-beh-smo-ecig-phs&location=NSW&view=Trend&measure=prevalence&groups=Electronic%20cigarette%20use&compare=Electronic%20cigarette%20use&filter=Electronic%20cigarette%20use,Current%20user,Ever%20used>.

<sup>8</sup> Cancer Institute NSW. NSW Smoking & Health Survey 2021. Sydney: Cancer Institute NSW, 2022. Available from: <https://www.cancer.nsw.gov.au/getattachment/ec08f894-1b61-4916-863b-60033ac73381/nsw-smoking-health-survey-2021.pdf>.

<sup>9</sup> See, for example: Jordan Baker. 4 June 2022. Student collapses while vaping in school toilets due to massive nicotine dose. Sydney Morning Herald. Available from: <https://www.smh.com.au/national/nsw/student-collapses-while-vaping-in-school-toilets-due-to-massive-nicotine-dose-20220603-p5aqyj.html>; Samantha Hawley. 7 April 2022. How school kids got hooked on vaping. ABC News Daily (podcast). Available from: <https://www.abc.net.au/radio/programs/abc-news-daily/how-school-kids-got-hooked-on-vaping/13829910>.

<sup>10</sup> Banks E, Yazidjoglou A, Brown S, Nguyen M, Martin M, Beckwith K, Daluwatta A, Campbell S, Joshy G. Summary Brief: Review of Global Evidence on the Health Effects of Electronic Cigarettes. Report for the Australian Department of Health. National Centre for Epidemiology and Population Health, Canberra: April 2022. Available from: <https://nceph.anu.edu.au/files/E-cigarettes%20health%20outcomes%20review%20summary%20brief%202022.pdf>

<sup>11</sup> Banks E, Yazidjoglou A, Brown S, Nguyen M, Martin M, Beckwith K, Daluwatta A, Campbell S, Joshy G. Electronic cigarettes and health outcomes: systematic review of global evidence. Report for the Australian Department of Health. National Centre for Epidemiology and Population Health, Canberra: April 2022. Available from: <http://hdl.handle.net/1885/262914>.

<sup>12</sup> Banks E, et al, op cit.

<sup>13</sup> US Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease

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Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016. Available from: [https://www.cdc.gov/tobacco/data\\_statistics/sgr/e-cigarettes/index.htm](https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/index.htm)

<sup>14</sup> Bauld L, Angus K, de Andrade M, and Ford A, Electronic cigarette marketing: Current research and policy. Cancer Research UK; 2016. Available from:

[https://www.cancerresearchuk.org/sites/default/files/electronic\\_cigarette\\_marketing\\_report\\_final.pdf](https://www.cancerresearchuk.org/sites/default/files/electronic_cigarette_marketing_report_final.pdf).

<sup>15</sup> Greenhalgh, EM, & Scollo, MM. InDepth 18B: Electronic cigarettes (e-cigarettes). In Greenhalgh, EM, Scollo, MM and Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2021. Available from: <http://www.tobaccoin australia.org.au/chapter-18-harm-reduction/indepth-18b-e-cigarettes>.

<sup>16</sup> Zhu S-H, Sun JY, Bonnevie E, Cummins SE, Gamst A, et al. Four hundred and sixty brands of e-cigarettes and counting: Implications for product regulation. Tobacco Control, 2014; 23(suppl 3):iii3–iii9. Available from: [http://tobaccocontrol.bmj.com/content/23/suppl\\_3/iii3.abstract](http://tobaccocontrol.bmj.com/content/23/suppl_3/iii3.abstract).

<sup>17</sup> Rom O, Pecorelli A, Valacchi G, and Reznick AZ. Are e-cigarettes a safe and good alternative to cigarette smoking? Annals of the New York Academy of Sciences, 2015; 1340:65–74. Available from:

<https://www.ncbi.nlm.nih.gov/pubmed/25557889>.

<sup>18</sup> Chivers, E., Janka, M., Franklin, P., Mullins, B. and Larcombe, A. Nicotine and other potentially harmful compounds in “nicotine-free” e-cigarette liquids in Australia. Med. J. Aust, 2019, 210: 127–128.

<https://doi.org/10.5694/mja2.12059>

<sup>19</sup> NSW Health. NSW Health sizes more than \$1 million of illegal nicotine vapes. 16 May 2022. Available from:

[https://www.health.nsw.gov.au/news/Pages/20220516\\_00.aspx#:~:text=NSW%20Health%20has%20seized%20more,to%20more%20than%20%243%20million](https://www.health.nsw.gov.au/news/Pages/20220516_00.aspx#:~:text=NSW%20Health%20has%20seized%20more,to%20more%20than%20%243%20million).

<sup>20</sup> Government of Western Australia, Department of Health. WA Health seizes hundreds of illegal nicotine vapes. 23 May 2022. Available from: <https://ww2.health.wa.gov.au/Media-releases/2022/May/WA-Health-seizes-hundreds-of-illegal-nicotine-vapes>.

<sup>21</sup> Banks E, Yazidjoglou A, Brown S, Nguyen M, Martin M, Beckwith K, Daluwatta A, Campbell S, Joshy G. Electronic cigarettes and health outcomes: systematic review of global evidence. Report for the Australian Department of Health. National Centre for Epidemiology and Population Health, Canberra: April 2022.

Available from: <http://hdl.handle.net/1885/262914>.

<sup>22</sup> Australian Government, Department of Health. Policy and regulatory approach to electronic cigarettes (e-cigarettes) in Australia. 28 November 2019. Available from:

<https://www.health.gov.au/sites/default/files/documents/2019/12/policy-and-regulatory-approach-to-electronic-cigarettes-e-cigarettes-in-australia-principles-that-underpin-the-current-policy-and-regulatory-approach-to-electronic-cigarettes-e-cigarettes-in-australia.pdf>.