

**PUBLIC AND STAKEHOLDER ENGAGEMENT
WHAT WE HEARD REPORT
VAPOUR PRODUCTS INTENTIONS PAPER**

MARCH 24, 2020

MINISTRY OF HEALTH



BACKGROUND AND ENGAGEMENT PROCESS

Vaping, or the use of electronic cigarettes (e-cigarettes) is a rapidly evolving public health concern, for adults but particularly amongst youth. Using these products has health risks to youth, including nicotine dependency, with long-term health impacts yet to be determined.

To address the rise in youth vaping, on November 14, 2019, the Honourable Adrian Dix, Minister of Health, on behalf of the Province of British Columbia (the Province), announced a comprehensive 10-point action plan (Action Plan). The Action Plan included direct engagement with youth to address vaping, and in addition, the introduction of new regulations.

The Ministry of Health's (the Ministry) proposed regulatory changes were outlined in the *Vapour Product Intentions Paper* (Intentions Paper). The Intentions Paper was posted online at www.gov.bc.ca/vaping and <https://engage.gov.bc.ca> from December 17, 2019, through January 24, 2020. Stakeholders and partners were invited to provide submission to vaping.info@gov.bc.ca or through regular mail.

This report summarizes responses received by the Ministry during this engagement period.

The proposed regulatory changes outlined in the Intentions Paper are aimed at protecting youth from the harms of vaping, and include:

1. *Prescribe nicotine as a health hazard, prescribe e-substances as a health hazard.*
2. *Restrict nicotine concentration in vapour products.*
3. *Restricting the sale and distribution of e-substances and nicotine-containing products.*
4. *Restrict the sale of flavoured vapour products.*
5. *New labelling, packaging and health warning requirements.*
6. *Strengthening restrictions on public advertising.*

WHO WE HEARD FROM

The Ministry received a total of 686 submissions from December 17, 2019 to January 24, 2020.

The respondents self-identified themselves as belonging to one of the following groups: local government, educators, public health practitioners, organizations concerned with tobacco and vapour product use by young people and adults, consumers of vapour products, and those from the industry including business owners, manufacturers of vapour products, and retail associations. These groups were categorized into the following three over-arching categories of respondents: the public, the public sector and health experts, and industry and associations.

RESPONSES TO THE INTENTIONS PAPER

The responses have been grouped according to the proposed regulatory measures outlined in the Intentions Paper. The perspectives of the various respondents (the public, the public sector and health experts, and industry and associations) are provided within each regulatory measure.

Overall, the responses from all categories of respondents indicate there is support for the Province's 10-point Action plan, the intent to strengthen regulatory oversight, the need to protect youth from the harms of vaping, and to prevent non-smokers from beginning to use vapour products.

Prescribe Nicotine as a Health Hazard, Prescribe E-Substances as a Health Hazard

“The Ministry intends to use existing legislative authorities to identify certain matters and activities related to vaping as health hazards. The following items are proposed as public health hazards:

- *nicotine, unless it is authorized under other legislation; and*
- *e-substance vapour products without cannabis and nicotine (non-nicotine and non-cannabis e-substance).”*

More than half of all submissions, including submissions from public health organizations, educators and industry associations supported the proposal to prescribe nicotine as a health hazard. Respondents indicated this would be a signal to youth and non-smokers that vaping nicotine is not safe and not meant for those that do not smoke. Those who expressed opposition to this measure included consumers of vapour products. They did not agree that nicotine is harmful and therefore, they do not think it should be deemed a health hazard.

There were mixed responses regarding prescribing e-substances not containing nicotine or cannabis as a health hazard. Health experts generally supported this proposal, agreeing that youth begin vaping by using ‘non-nicotine non-cannabis’ products and eventually transition to the nicotine containing products.

Health experts also noted that there is no evidence that suggests reducing nicotine concentration (eventually to zero) in vapour products will address nicotine addiction. Former smokers and smokers trying to quit, expressed concerns that banning non-nicotine products removes a key step in their journey to quit smoking.

Industry and association stakeholders suggested that youth seek the high concentrations of nicotine in vapour products to achieve a ‘nicotine-buzz’ or similar reaction. One public health organization emphasized the need to align the regulations with how they believe psychoactive substances should be controlled; lower risk products such as non-nicotine and non-cannabis

containing e-substances should be subject to fewer restrictions than higher risk products (i.e. nicotine and cannabis containing e-substances).

Restrict Nicotine Concentration in Vapour Products

“The Province intends to place limits on the concentration of nicotine in e-substances. The allowable concentration of nicotine in vapour products sold or distributed in BC will be expected to meet the following criteria:

- *the e-liquid nicotine strength must not exceed 20 mg/mL;*
- *e-cigarette tanks and pods cannot exceed a capacity of more than 2 mLs; and,*
- *the maximum volume of nicotine-containing e-liquid for sale in one refill container cannot exceed 10 mLs.”*

Public health organizations and health experts supported the 20 mg/mL limit, acknowledged the success in other jurisdictions in limiting nicotine concentration, and applauded the Ministry’s effort to curb nicotine intake amongst youth. Regarding the 10 mL refill container, this group noted that the smaller package size would limit the resale of product, and the ability for youth to experiment with vapour products including adding flavours or other harmful additives.

Former tobacco users opposed the 20 mg/mL measure and stated that this concentration was too low to satisfy their nicotine cravings.

Industry and associations raised concerns about the environmental impact generated from the smaller 10 mL containers. Retailers were concerned that 10 mL containers would not be available, particularly if there was not enough time for manufacturers to adapt.

Respondents from all categories of respondents were not clear about the link between small containers and youth protection. Public respondents were concerned that this restriction caused unnecessary inconveniences for legal consumers. Another perspective raised by the public was that small packages and small devices would be easier for youth to conceal. Respondents from industry and associations recommended a grace period for both manufactures and retailers to reduce existing stock and comply with new requirements.

Restricting the Sale and Distribution of E-Substances and Nicotine-Containing Products

“The proposed regulations include provisions to require retailers to notify the health authorities and/or Ministry if they are engaging in selling vapour products. The new proposed regulations will also create different classes of retailers to distinguish between those retailers that are accessible to all-ages and those retailers that have age restrictions in place to enter the establishment (i.e., 19 years of age).”

More than half of respondents were supportive of this proposed measure, including industry, industry associations, public health organizations, and the public. Those in support acknowledged the need to better regulate retailers who sell vapour products and suggested using a similar model to how alcohol is sold. Respondents from the public explained that staff in specialty retail stores tend to be more knowledgeable, and better trained and equipped to sell vapour products because

they understand the needs of adult consumers and engage with consumers on a more personal basis.

Respondents from industry and associations were in opposition and indicated that this decision was based on limited research and evidence. This group also indicated that youth are more likely to purchase their products online or through ‘social sources’ than through retail locations.

Restrict the Sale of Flavoured Products

“The Ministry is considering implementing restrictions on the sale of flavoured vapour products. The Class 1 vapour product retailers are all-ages access retailers where age-verification is required to purchase (e.g., convenience store), and they will only be able to sell tobacco flavoured e-liquids or pods.”

Respondents across health and education professionals, industry, governments, and subject matter experts supported restricting flavoured products to Class 2 retailers and limiting Class 1 retailers to tobacco-only flavours. There was support from public health organizations and health experts to restrict the availability of flavours that could be attractive to youth while balancing the needs of adult consumers.

Public respondents opposed to these restrictions expressed concern that adult smokers would be prevented from transitioning to vaping. Industry and associations indicated that youth are not accessing products for the flavours but rather looking for high concentrations of nicotine. Respondents from both the public and industry stated that restricting flavours could potentially lead to an increase in the production of black-market and homemade do-it-yourself products. Respondents from industry and associations again raised the notion of having a grace period in order to comply with new rules.

New Labelling, Packaging and Health Warning Requirements

“Consumers will have the necessary information to make informed decisions about using vapour products. The Ministry will require that retailers may only sell vapour products that contain the following labelling and packaging features:

- *nicotine is an addictive substance and the concentration of nicotine in the e-substance;*
- *a hazard symbol and text to warn that the contents are poisonous;*
- *product ingredients; and,*
- *plain packaging to reduce the appeal to youth.”*

A large proportion of respondents supported this measure, including industry associations, public health organizations, municipalities, and the public. They agreed that this measure will reduce the appeal of vapour products to youth. The Ministry was applauded for proposing plain packaging and going beyond the federal requirements.

Those in opposition were from industry and associations and indicated that the Ministry does not need to introduce new regulations as the Federal Government has recently announced similar labelling and packaging regulations. There were also concerns from the public and industry that

the amount of text required would be difficult on the small surface area of the 10 mL refill containers, and that plain packaging will confuse consumers. Respondents from industry and associations recommended a grace period for retailers and manufacturers to reduce existing stock and provide new products that meet these requirements.

Strengthening Restrictions on Public Advertising

“New regulations will strengthen restrictions on public advertisements so that children and youth are not exposed to messaging and advertising when they are riding the bus or waiting at bus stops, spending time in community parks or shopping malls, or from billboards as they are travelling in their communities. Restrictions will also apply to advertising and messaging of flavoured vaping products.”

Respondents from industry and consumer associations, retailers, manufacturers, education and health professionals, and consumers and non-consumers of vapour products supported this measure. Respondents agreed with the decision to focus on youth exposure to advertising and suggested there is no need for adult consumers to see vapour product advertisements. There were very few comments in opposition to this proposal.

General Feedback

Most submissions provided opinions and perspectives on the proposed regulatory measures outlined in the Intentions Paper. A small proportion of submissions provided more general statements such as suggesting that the vaping industry have relaxed rather than strengthened restrictions, opinions on taxes placed on vapour products, and the education and youth awareness campaigns currently in development

SUMMARY

The Ministry received a total of 686 submissions in response to the *Vapour Products Intentions Paper* which was open for public engagement from December 17, 2019, through January 24, 2020.

Overall, the responses submitted to the Ministry indicate support for the Province’s 10-point Action plan, the intent to strengthen regulatory oversight, the need to protect youth from the harms of vaping, and to prevent non-smokers from beginning to use vapour products to protect youth from the harms associated with using vapour products.

There were differences of opinions on specific proposals. The proposed regulation that was widely supported across all stakeholder groups was the need to strengthen advertising restrictions. Also widely supported, though not to the same extent as advertising, was to prescribe nicotine as a health hazard. Consumers of vapour products raised concerns that prescribing nicotine as a health hazard, and placing restrictions on sales, distribution, and available flavours may reduce their access and thus their ability to transition from smoking to their less perceived harmful alternative, vaping.

Industry and associations, and retailers highlighted the need to have a grace period so that there was time to reduce existing stock, and source (or produce) new stock that complies with the new rules. Retailers noted that they were unsure if they could source 10 mL refill containers.

Submissions received during the engagement period will be considered in development of regulatory measures to address the rising incidence of youth vaping.