



# THE PAEDIATRIC SOCIETY OF NEW ZEALAND

Secretariat: Denise Tringham  
P O Box 2005  
Raumati Beach  
Paraparaumu 5032  
Tel: (04) 902 4827  
Email: denise@paediatrics.org.nz  
Website: www.paediatrics.org.nz

## To the Health Committee Smokefree Environments and Regulated Products (Vaping) Amendment Bill

### Submission on behalf of the Paediatric Society of NZ

16<sup>th</sup> March 2020

The Paediatric Society of New Zealand represents the paediatrician specialists and many other child health care professionals in New Zealand. We make the following preliminary comments about the risks of e-cigarettes to children, followed by our comments on the proposed Bill.

#### Preliminary comments

1. We have been concerned for some time about the profiling and public advertising of e-cigarettes because of the likelihood of attracting young people who are not smokers to vaping, and the further risk of a renormalisation and resurgence of interest in smoking among young people as a result. The President of the Auckland Secondary School Principals' Association was quoted in Stuff NZ as saying that vaping was becoming remarkably common in schools where smoking had fallen to virtually zero<sup>1</sup>. A recent article in Lancet Public Health<sup>2</sup> has borne out these concerns based on ASH NZ Year 10 annual surveys – 31% of regular vapers and 21% of daily vapers had never smoked. In addition data from that paper and from published ASH NZ data show (Appendix) that as vaping has taken off among NZ young people, the rate of smoking decline has slowed, halted and then increased for the first time in two decades.

In addition there have been serious concerns about the safety of e-cigarettes, both as a device and as a means of inhaling an extraordinarily wide variety of flavours and additives, few of which have been tested for inhalation safety, along with nicotine. The ability of consumers to add their own constituents makes these extremely risky for risk-taking young people as the mini-epidemic of EVALI in the USA has shown. In this regard, the widely cited figure that e-cigarettes are 95% safer than cigarettes (included in the MoH website on vaping, and in the Regulatory Impact Statement: *Supporting smokers to switch to significantly less harmful alternatives*), is not evidence-based. It was cited in a report by Public Health England, but in fact was based on an opinion poll by an *ad hoc* group of self-styled experts<sup>3</sup>. There was no (and has not been since) measure of composition or dose of inhaled materials, exposed population, nor of any particular health outcome associated with that figure, as would be expected in such a statistic. We believe the Bill should not be judged in any way using that figure, therefore it would be helpful for the Ministry of Health to disavow it.

2. As health professionals we recognise that inhaled substances making a therapeutic claim require evaluation by MedSafe and restriction as prescribed items, and we do ask the Health Committee to consider if the claim of "harm reduction" is indeed a therapeutic claim in the terms of the Advertising Standards Authority and the Medicines Act 1981 (Meaning of Medical Device):  
**'Therapeutic Purpose'** – The Medicines Act provides the following definition:  
(a) preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury;
3. Finally the involvement of the tobacco industry in manufacture, marketing and advertising of e-cigarettes is a major concern. We have had to learn in the past that what the industry

claimed were safer cigarettes ('light', 'low tar', 'filter') were not indeed so. It is relevant in this regard that BAT NZ, our major cigarette vendor supports vaping and Harm Reduction.

"We know tobacco products pose real and serious health risks and the only way to avoid these risks is not to use them. But many adults choose to smoke, so the Group's top priority continues to be working towards reducing these risks and making available a range of less risky tobacco and nicotine-based alternatives." Excerpt from BAT NZ website on Harm Reduction

[http://www.batnz.com/group/sites/BAT\\_9VNKQW.nsf/vwPagesWebLive/DO9T5KLN?opendocument](http://www.batnz.com/group/sites/BAT_9VNKQW.nsf/vwPagesWebLive/DO9T5KLN?opendocument)

Many advertisements for e-cigarettes resemble previous advertisements for cigarettes (including pictures of sexy models, celebrities, sports cars) to the extent that cigarettes may indeed be being covertly advertised. We know the tobacco industry's proclivity for getting young people addicted to nicotine early. Therefore we as a Paediatric Society are perturbed by the advent of a new nicotine-containing recreational product, made and marketed by the tobacco industry, and advertising itself as 'safer', with advertisements recalling cigarette advertisements. We are concerned about the long-term impact on youth smoking, health effects unforeseen as yet, and persisting nicotine addiction.

We appreciate that there is an interest in getting adult smokers onto a less harmful product, but are not at all convinced that widespread marketing and unregulated advertisement of e-cigarettes is an appropriate way to achieve this.

1. Quoted in Stuff NZ. Vaping a serious problem in some Auckland schools - principals John Gerritsen of RNZ · 07:27, Sep 13 2019.
2. Walker N, Parag V, Wong SF, Youdan B, Broughton B, Bullen C, et al. Use of e-cigarettes and smoked tobacco in youth aged 14–15 years in New Zealand: findings from repeated cross-sectional studies (2014–19). (Including data in Supplementary appendix). *The Lancet Public Health*. 2020 Jan;1–26. Published online January 22, 2020 [https://doi.org/10.1016/S2468-2667\(19\)30241-5](https://doi.org/10.1016/S2468-2667(19)30241-5)  
[The authors of this paper stated that e-cigarettes were displacing tobacco smoking among young people, but the data over 2 decades shown in the Appendix does not bear out that conclusion.]
3. *The Lancet*. E-cigarettes: Public Health England's evidence-based confusion. *Lancet*. 2015 Aug 29;386(9996):829.

### **Comments on the proposed legislation**

In the light of the above comments on the risks to children and young people, we commend the purposes of the Bill in taking a regulatory stance on e-cigarette composition, flavours, marketing, advertising and availability and for giving further discretionary powers to the Director-General, and to the invoking of the powers of the Governor General where necessary.

We agree with the sentiment in the General policy statement that a balanced approach, is necessary in a country where the tobacco control lobby has been seriously divided over regulation of e-cigarettes.

Part 1.

We approve of the change to the Title of the Principal Act, and replacement of the Title of Part I  
We approve of the amendments of interpretations and definitions in Section 2  
We approve of the content of the new Section 3A. Purposes of this Act. This matches our own concerns and interests.  
We approve of the extension of restrictions on smoking location to e-cigarettes and vaping products in the remaining section amendments in Part 1

Part 2.

We approve of the content of point 22: Purposes of this Part  
We approve of Subparts 1-4.  
Subpart 5. Visibility of regulated products

- We question why this restriction on visibility outside the place of business excludes vaping products. External display of vaping products by a licensed retailer could be used to make the products attractive (in taste, colour, design or labels) to young people, even if the retailer abided by the law in regard to sales to under-18s. We know in the case of cigarettes that young people under 18 use proxies such as older siblings, friends or parents to obtain cigarettes for their use. This would potentially undermine the purpose of other provisions of the Bill.
- We recommend, therefore, that the restriction on visibility of the product is extended to apply to vaping products, but that licensed retailers are allowed to use the words "Vape" or "Vaping" in the name of their vending premises.

We approve of Subparts 6-8.

Parts 3-5.

We approve of all the amendments and regulations in these parts in their entirety

Schedules 1-3.

We approve of these amendments and added Schedules.

- In respect of Schedule 2 Part 2, we wonder whether some indicative substances might be listed – for instance diacetyl, which gives a butter-like flavour, and which has been associated with the serious chronic chest disease bronchiolitis obliterans. We appreciate that most manufacturers have withdrawn this flavour because of reports and actions in the USA, but we would want to ensure it is not reintroduced in any guise. This would also give indication of the intention of this Part.
- We recommend that **diacetyl** be listed under Schedule 2, Part 2. Prohibited flavours for all vaping products

We thank the Health Committee for giving us the opportunity to comment on this Bill.

Yours sincerely

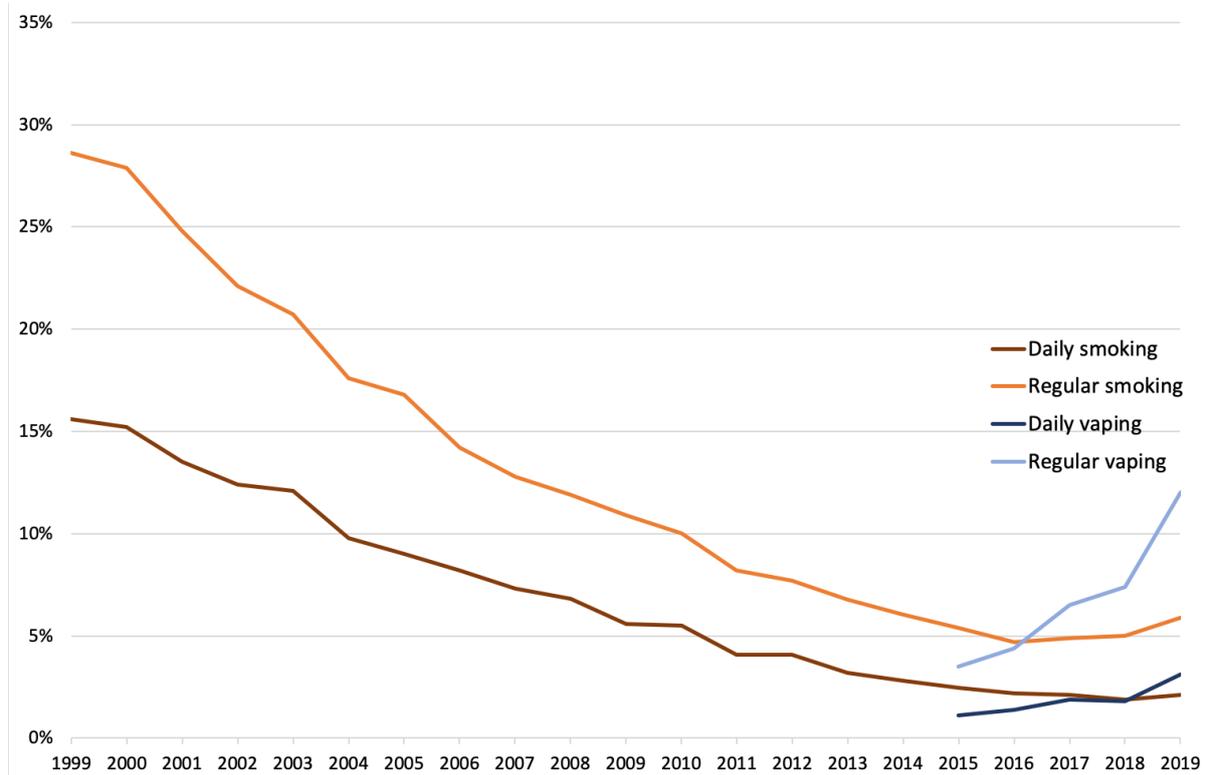


Philip Pattermore  
Associate Professor of Paediatrics, University of Otago, Christchurch

On behalf of and approved by the Paediatric Society of New Zealand

## APPENDIX:

ASH Year 10 survey data over 2 decades on daily and regular smoking and vaping in New Zealand. This figure has been submitted in a letter to Lancet Public Health and is used here with the permission of that journal.



The figure shows that daily and regular smoking were declining over 2 decades until 2016. In 2017 and 2018 there was a levelling of the smoking rates, and in 2019 an increase in regular smoking was seen for the first time. The period of levelling and increase coincides with the increased rates of vaping since data on these was first collected in 2015.