

Regulatory update

Flavour bans on tobacco products in Canada and selected other jurisdictions.

May 2020

Canada and its provinces were among the world's first jurisdictions to ban the use of flavouring agents in tobacco products. There is currently a comprehensive ban on flavourings in cigarettes across Canada, although the sale of other flavoured tobacco products (cigars, pipe or smokeless) is allowed in some provinces

Two approaches are used in Canada:

1. Banning the use of additives, including flavouring agents. This is the approach taken by the federal government.
2. Banning the sale of cigarettes or other tobacco products which have a "characterizing flavour". This is the approach taken by Canadian provinces.

Restrictions on flavours in Canadian tobacco products have been introduced incrementally over the past decade





- Starting in 2009, the federal government banned the use of several additives in cigarettes, blunt wraps and small cigars, including flavouring agents. Menthol was initially excluded from this restriction, but by November 2018 menthol was banned in all tobacco products across Canada.
 - The federal government currently does not restrict the use of additives in large cigars, pipe tobacco, kreteks, waterpipe tobacco, snuff, chewing tobacco, roll your own tobacco or heated tobacco.
- Seven Canadian provinces and two territories have implemented bans on flavoured tobacco:
 - Nova Scotia was the first province to ban menthol in Canada, a measure it introduced in the spring of 2015.
 - Three provinces and one territory subsequently put in place comprehensive bans on flavours in all tobacco products: Quebec (2016), New Brunswick (2016), Prince Edward Island (2017) and Yukon (2020).
 - In addition to Nova Scotia, three other provinces and one territory have adopted flavour bans which exempt some categories of tobacco products. These are Alberta (2015), Ontario (2016), Newfoundland and Labrador (2017) and Northwest Territories (2020).

Because Canadian lawmakers do not always define e-cigarettes as 'tobacco products', bans on flavours on tobacco products do not apply to vaping products. The notable exception to this is Nova Scotia, which removed the exemption on its flavour ban for e-cigarettes, effective April 1, 2020.

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FIGURE 1: RESTRICTIONS ON FLAVOURED TOBACCO PRODUCTS IN CANADA.

	CA	BC	AB	SK	MB	ON	QC	NB	NS	PEI	NFLD	YK	NWT	NU
Prohibited additives														
Menthol, cloves	A													
Port, wine rum or whisky	B													
Other flavouring additives including spices, sugars, fruits and vegetables	C													
Controls on characterising flavours														
Bans on characterizing flavours			F		G	E	A	A	D	A	D	A	H	
Resulting in														
Ban on sale of:														
• Menthol cigarettes														
• Other menthol tobacco														
• Other flavoured cigarettes														
• Other flavoured small cigars														
• Flavoured blunt wraps														
• Rum-whisky-cigars 1.4 to 5-6 g														
• Rum-whisky-cigars > 5-6 g / \$4														
• Other flavoured cigars 1.4 to 5.6 g														
• Other flavoured Cigars > 5-6 g / \$4														
• Flavoured smokeless														
• Other flavoured waterpipe														
• Rum-whisky- pipe tobacco														
• Other flavoured pipe tobacco														
• Other heated tobacco (IQOS)														
• Other flavoured RYO														
Legend														
	Measure in place; see legend below for details													
	Federal measures apply													
	Legislation passed, but not proclaimed													
	Regulatory Authority													
A =	All Tobacco Products													
B =	(1) Cigarettes, (2) Cigars that have a wrapper that is not fitted in spiral form, cigars that have tipping paper and little cigars, (3) Blunt wraps													
C =	(1) Cigarettes, (2) Cigars that have a wrapper that is not fitted in spiral form, cigars that have tipping paper and little cigars, (3) Blunt wraps, 4) Cigars that weigh between 1.4 g but not more than 6 g.													
D =	All tobacco products except a) cigars with a retail price of \$4 or more, weighing 5 grams or more having a wine, port, rum or whiskey flavour and b) pipe tobacco having a wine, port, rum or whiskey flavour.													
E =	All tobacco products except small cigars weighting between 1.4 grams and 6 grms that are flavoured with wine, port, whisky or rum; cigars over 6 grams, pipe tobacco other than waterpipe tobacco.													
F =	All tobacco products except cigars with a retail price of \$4 or more which weigh more than 5 grams and pipe tobacco.													
G =	All tobacco products except snuff, chewing tobacco, pipe tobacco or menthol													
H =	All tobacco products except except small cigars weighting between 1.4 grams and 6 grms that are flavoured with wine, port, whisky or rum; cigars over 6 grams if they are not flavoured with menthol or cloves													

CHRONOLOGY OF EVENTS RELATED TO FLAVOUR RESTRICTIONS IN CANADA AND ELSEWHERE

Date	Event
2009	
May	Federal Health Minister tables C-32, “ <i>Cracking Down on Tobacco Marketing Aimed at Youth Act.</i> ” The law bans additives in cigarettes, little cigars and blunt wraps. Menthol is an exempt additive. Little cigars are defined as cigars weighing no more than 1.4 grams or having a cigarette filter. No restrictions on additives in smokeless are included.
September	US Family Smoking and Prevention Act bans the use of characterizing flavours in cigarettes, but exempts menthol ¹
October	Federal bill C-32 gets Royal Assent. ²
2010	
April	New federal restrictions on additives come into force.
July	Indonesia opposes the US ban on clove cigarettes at the World Trade Organization, claiming that they should not be banned if menthol cigarettes were allowed. ³
2012	
March	Brazil’s regulatory agency, ANVISA, bans the use of additives in cigarettes and other tobacco products. ⁴ The measure is stalled by court decisions.
April	WTO supports Indonesia’s complaint about US ban on clove cigarettes ⁵
December	European Commission proposes a new Tobacco Products Directive which will ban characterizing flavours, including menthol. ⁶
2013	
July	U.S. Food and Drug Authority seeks public comments on a potential ban on menthol in cigarettes. ⁷
December	Assent given to Alberta’s Tobacco Reduction (Flavoured Tobacco Products) Amendment Act , banning sale of tobacco products with characterizing flavour ⁸ . Bill is not proclaimed.
2014	
March	US and Indonesia reach agreement which allows ban on clove cigarettes to continue. ⁹
May	The European Union’s revised <i>Tobacco Products Directive</i> comes into force. Countries have 2 years to translate the ban on characterizing flavours in cigarettes into domestic law, after which there will be a 4 year phase out of menthol cigarettes.
November	Alberta passes regulations which exempt menthol from flavour restrictions in unproclaimed law. ¹⁰ Ontario introduces legislation to ban flavours in tobacco products. ¹¹
2015	
April	Nova Scotia introduces legislation to ban flavours in tobacco products. ¹² Turkey adopts legislation to ban menthol in cigarettes and rolling tobacco, effective May 20, 2020. ¹³ Moldova adopts legislation to ban the sale of tobacco products with characteristic flavours, effective May 20, 2020. ¹⁴
May	Nova Scotia prohibits the sale of flavoured cigarettes and tobacco, including those flavoured with menthol. Quebec introduces legislation which bans flavours in all tobacco products. ¹⁵

Date	Event
	Ontario gives Royal Assent to ban on flavours in tobacco products, with exceptions. ¹⁶
June 1	Alberta adopts regulations to ban menthol, with exceptions. ¹⁷
June 15	Prince Edward Island introduces legislation to ban flavours, including menthol. ¹⁸ New Brunswick gives Royal Assent to law banning flavoured tobacco products, with exceptions. ^{19 20}
September	Ethiopia ban on characterizing flavours in cigarettes, including menthol comes into force. ²¹ Alberta ban on menthol comes into force. ²² Quebec legislation is adopted, including bans on flavours and menthol. ²³
2016	
January	Ontario flavour ban comes into force (with delay for menthol and cloves)
April	Federal government seeks input on proposed ban of menthol in cigarettes, blunt wraps and some cigars. ²⁴
May	EU country deadline to ban cigarettes and roll your own tobacco with characterizing flavours, other than menthol Quebec ban on menthol comes into force. ²⁵
June	Newfoundland and Labrador adopts legislation to ban flavours. ²⁶
July	Senegal adopts legislation to ban characterizing flavours, including menthol, in tobacco products ²⁷ .
November	Federal government proposes draft ban on menthol in cigarettes. ²⁸
2017	
January	Menthol and clove ban comes into force in Ontario .
April	Federal government finalizes ban on menthol in cigarettes, cigars and blunt wraps. ²⁹
May	PEI flavour ban comes into force.
July	Newfoundland flavour ban comes into force
November	Federal Tobacco and Vaping Products Act , (S-5) introduced to Parliament.
2018	
May	Federal Tobacco and Vaping Products Act (TVPA) receives Royal Assent
November	Federal ban on selling menthol cigarettes, blunts and small cigars comes into force
2019	
August	Northwest Territories amends its tobacco laws and bans sale of flavoured tobacco. ³⁰
September	Uganda adopts legislation to prohibit additives in tobacco products, including flavourings, and also bans the word menthol on packages. ³¹
October	Yukon Territories amends its tobacco laws and bans sale of flavoured tobacco. ³²
November	Saskatchewan amends its Tobacco Control Act, and includes authority to regulate flavours. ³³ Massachusetts becomes first US state to ban menthol in tobacco products, effective June 1, 2020
2020	
May	European Union Directive ban on menthol comes into force.

Useful resources

Canadian Cancer Society.

Overview Summary of Federal/Provincial/Territorial Tobacco Control Legislation in Canada. October 2017.

http://support.cancer.ca/documents/Legislative_Overview-Tobacco_Control-F-P-T-2017-final.pdf

CounterTobacco.org. Flavored Tobacco Products

<https://countertobacco.org/resources-tools/evidence-summaries/flavored-tobacco-products/>

Couture Ménard, Marie Eve et a. La fin des petits cigares au punch tropical : le Canada est-il exemplaire pour contrer les astuces de l'industrie du tabac. McGill Journal of Law and Health. 2017.

<https://www.canlii.org/en/commentary/journals/8/33/>

Institute for Global Tobacco Control. John Hopkins University.

State of the Evidence. Flavored Tobacco product bans or restrictions. 2019.

https://www.globaltobaccocontrol.org/sites/default/files/state_of_the_evidence_-_flavor_ban_or_restriction_0.pdf

Public Health Law Centre/tobacco Control Legal Consortium

How Other Countries Regulate Flavored Tobacco Products. 2015.

<https://publichealthlawcenter.org/sites/default/files/resources/tclc-fs-global-flavored-regs-2015.pdf>

Public Health Law Centre/tobacco Control Legal Consortium

Leading from up north. How Canada is solving the menthol tobacco problem. 2017.

<https://www.publichealthlawcenter.org/sites/default/files/resources/tclc-Canadian-Menthol-CaseStudy-2017.pdf>

U.S. Food and Drug Administration

Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus nonmenthol cigarettes. 2013.

<https://www.fda.gov/media/86497/download>

World Health Organization

Advisory note. Banning Menthol in Tobacco Products. WHO Study Group on Tobacco Product Regulation (TobReg) 2016

https://apps.who.int/iris/bitstream/handle/10665/205928/9789241510332_eng.pdf;jsessionid=CE93CF396CCBD648AEBDF9777FB5A903?sequence=1

CANADIAN LEGISLATION AND REGULATION

Jurisdiction	Legislation	Last revised:
Canada (federal)	<p>Tobacco and Vaping Products Act https://laws-lois.justice.gc.ca/eng/acts/T-11.5/</p> <p>Regulations Excluding Certain Vaping Products Regulated Under the Food and Drugs Act from the Application of the Tobacco and Vaping Products Act (SOR/2018-133) https://laws-lois.justice.gc.ca/eng/regulations/SOR-2018-133/index.html</p> <p>Vaping products Labelling and Packaging Regulations (SOR/2019-353) https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-353/index.html</p>	2019
Newfoundland and Labrador	<p>Smoke-Free Environment Act, 2005 https://assembly.nl.ca/Legislation/sr/statutes/s16-2.htm</p> <p>Smoke-Free Environment Regulations, 2005 https://www.assembly.nl.ca/Legislation/sr/regulations/rc050054.htm</p> <p>Tobacco and Vapour Products Control Act https://assembly.nl.ca/Legislation/sr/statutes/t04-1.htm https://www.cssd.gov.nl.ca/healthyliving/pdf/changes_smokefree_tobacco_acts.pdf</p> <p>Tobacco and Vapour Products Control Regulations, 2017 https://www.assembly.nl.ca/Legislation/sr/regulations/rc170055.htm</p>	2018
Prince Edward Island	<p>Tobacco and Electronic Smoking Device Sales and Access Act https://www.princeedwardisland.ca/sites/default/files/legislation/t-03-1-tobacco_and_electronic_smoking_device_sales_and_access_act.pdf</p> <p>Tobacco and Electronic Devices Sales and Access Act Regulations. https://www.princeedwardisland.ca/sites/default/files/legislation/t03-1g-tobacco_and_electronic_smoking_device_sales_and_access_regulations.pdf</p>	2019
Nova Scotia	<p>Smoke-Free Places Act https://nslegislature.ca/sites/default/files/legc/statutes/smoke-free%20places.pdf</p> <p>Smoke-Free Places Regulations https://novascotia.ca/just/regulations/regs/sfpregs.htm</p> <p>Tobacco Access Act https://nslegislature.ca/sites/default/files/legc/statutes/tobacco%20access.pdf</p> <p>Tobacco Access Regulations https://novascotia.ca/just/regulations/regs/tobacc.htm#text</p>	2019
New Brunswick	<p>Tobacco and Electronic Cigarette Sales Act https://www.canlii.org/en/nb/laws/stat/snb-1993-c-t-6.1/150176/snb-1993-c-t-6.1.html</p> <p>Regulations 94-286 http://laws.gnb.ca/en/showfulldoc/cr/94-57//20190722</p>	2015
Quebec	<p>Tobacco Control Act http://legisquebec.gouv.qc.ca/en/showdoc/cs/L-6.2</p> <p>Regulation under the Tobacco Control Act. http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/L-6.2,%20r.%201/</p>	2015
Ontario	<p>Smoke-Free Ontario Act, 2017, SO 2017, c 26, Sch 3 https://www.ontario.ca/laws/statute/17s26</p> <p>General, O Reg 268/18 https://www.canlii.org/en/on/laws/regu/o-reg-268-18/latest/o-reg-268-18.html</p>	2019
Manitoba	<p>The Smoking and Vapour Products Control Act https://web2.gov.mb.ca/laws/statutes/ccsm/s150e.php</p> <p>The Non-Smokers Health Protection Amendment Act (Prohibitions on Flavoured Tobacco and Other Amendments) (not proclaimed) https://web2.gov.mb.ca/laws/statutes/2014/c01814e.php</p>	2018

Jurisdiction	Legislation	Last revised:
	Documentation for Verifying Age Regulation Smoking and Vapour Products Control Regulation	
Saskatchewan	The Tobacco Control Act, Chapter T-14.1 http://www.qp.gov.sk.ca/documents/english/Statutes/Statutes/t14-1.pdf The Tobacco Control Amendment Act (Not proclaimed) https://www.canlii.org/en/sk/laws/astat/ss-2010-c-34/latest/ss-2010-c-34.html Tobacco Control Regulations http://www.qp.gov.sk.ca/documents/english/Regulations/Regulations/t14-1r1.pdf	2019
Alberta	Tobacco and Smoking Reduction Act http://www.qp.alberta.ca/1266.cfm?page=T03P8.cfm&leg_type=Acts&isbncln=9780779805112 Tobacco and Smoking Reduction Regulation http://www.qp.alberta.ca/1266.cfm?page=2007_240.cfm&leg_type=Regs&isbncln=9780779808076	2018
British Columbia	Tobacco and Vapour Products Control Act, RSBC 1996, c 451 https://www.canlii.org/en/bc/laws/stat/rsbc-1996-c-451/latest/rsbc-1996-c-451.html Tobacco and Vapour Products Control Regulation http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/10_232_2007	2016
Yukon	Smoke-free Places Act http://www.gov.yk.ca/legislation/acts/smpl_c.pdf Smoke-Free Places Regulation, 2009/99 http://www.gov.yk.ca/legislation/regs/oic2009_099.pdf Tobacco Products Sales Regulation OIC 2010/27 http://www.gov.yk.ca/legislation/regs/oic2010_027.pdf Tobacco and Vaping Products Control and Regulation Act http://www.gov.yk.ca/legislation/acts/tovapcr_c.pdf	2019
Northwest Territories	Tobacco and Vapour Products Control Act https://www.canlii.org/en/nt/laws/regu/nwt-reg-015-2020/latest/nwt-reg-015-2020.html Tobacco Control Regulations https://www.canlii.org/en/nt/laws/regu/nwt-reg-015-2020/latest/nwt-reg-015-2020.html	2019
Nunavut	Tobacco and Vapour Products Control Act https://www.nunavutlegislation.ca/en/download/file/fid/10725 Tobacco Control Regulations https://www.nunavutlegislation.ca/en/download/file/fid/10591	2019

ENDNOTES -

- 1 US FDA. Family Smoking Prevention and Tobacco Control Act - An Overview.
<https://www.federalregister.gov/documents/2009/09/25/E9-23144/enforcement-of-general-tobacco-standard-special-rule-for-cigarettes>
- 2 Statutes of Canada 2009. Chapter 27. An act to amend the Tobacco Act.
https://laws-lois.justice.gc.ca/PDF/2009_27.pdf
- 3 World Trade Organization. US-Clove Cigarettes. DS406.
https://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds406sum_e.pdf
- 4 World Health Organization. FCTC Secretariat. Press release. March 2012. Brazil-flavoured cigarettes banned.
https://www.who.int/fctc/implementation/news/news_brazil/en/
- 5 World Trade Organization. US-Clove Cigarettes. DS406.
- 6 European Commission. Proposal for a directive of the European Parliament and of the Council.
https://ec.europa.eu/health/sites/health/files/tobacco/docs/com_2012_788_en.pdf
- 7 US FDA. Proposed Rule. Menthol in Cigarettes, Tobacco Products,; Request for Comments
<https://www.regulations.gov/document?D=FDA-2013-N-0521-0001>
- 8 Alberta. Tobacco Reduction (Flavoured Tobacco Products) Amendment Act, 2013, SA 2013, c 25
<https://www.canlii.org/en/ab/laws/astat/sa-2013-c-25/latest/sa-2013-c-25.html>
- 9 The Hill. US, Indonesia settle fight over clove cigarettes
<https://thehill.com/policy/finance/219755-us-indonesia-settle-clove-cigarette-dispute>
- 10 Alberta Regulation 201/2014. Tobacco reduction amendment regulation
https://www.qp.alberta.ca/documents/gazette/2014/pdf/22_Nov29_Part2.pdf
- 11 Ontario. Making Healthier Choices Act, 2015. Bill 45.
<https://www.ontario.ca/laws/statute/s15007>
- 12 Nova Scotia Legislature. Bill No. 90. Tobacco Access Act (amended).
https://nslegislature.ca/legc/bills/62nd_2nd/1st_read/b090.htm/
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<https://www.tobaccocontrollaws.org/files/live/Turkey/Turkey%20-%20Decision%20No.%209010%20re%20Menthol.pdf>
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<https://www.tobaccocontrollaws.org/files/live/Moldova/Moldova%20-%202015%20TC%20Amdts..pdf>
- 15 Quebec. An Act to bolster tobacco control. Bill 44.
<http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2015C28A.PDF>
- 16 Ontario. Making Healthier Choices Act, 2015. Bill 45.
- 17 Alberta Regulation 85/2015. Tobacco reduction amendment regulation.
https://www.qp.alberta.ca/documents/gazette/2015/pdf/11_Jun15_Part2.pdf
- 18 Prince Edward Island. An Act to Amend the Tobacco Sales and Access Act
https://www.assembly.pe.ca/index.php/legislative-business/house-records/bills#/home/LegislativeAssemblyBillProgress/LegislativeAssemblyBillView;e=LegislativeAssemblyBillView;id=48c6ff74-d58a-41eb-aae7-d217fde980ed;chapter=17;bill_number=10;general_assembly=65;session=1
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- 20 New Brunswick. An act to amend the Tobacco Sales Act. Bill 57.
<https://www.gnb.ca/legis/bill/pdf/58/1/Bill-57.pdf>
- 21 Ethiopian Food, Medicine and Healthcare Administration and Control Authority. Tobacco Control Directive. 2015.
https://www.tobaccocontrollaws.org/files/live/Ethiopia/Ethiopia%20-%20Tobacco%20Ctrl.%20Dir.%20No.%2028_2015%20-%20national.pdf
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- 22 Alberta Regulation 85/2015. Tobacco reduction amendment regulation.
https://www.qp.alberta.ca/documents/gazette/2015/pdf/11_Jun15_Part2.pdf
- 23 Quebec. An Act to bolster tobacco control. Bill 44.
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- 24 Canada Gazette Part I. Vol. 150. April 30, 2016
<http://gazette.gc.ca/rp-pr/p1/2016/2016-04-30/html/notice-avis-eng.html>
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- 27 Senegal. Draft Decree concernign the implementation of Law No. 2014-14 of March 28, 2014 on the manufacture, packaging, labeling sale and use of tobacco.
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 - 28 Canada Gazette Part I. Vol. 150, no. 45. Order Amending the Schedule to the Tobacco Act (Menthol)
<http://gazette.gc.ca/rp-pr/p1/2016/2016-11-05/html/reg5-eng.html>
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<http://gazette.gc.ca/rp-pr/p2/2017/2017-04-05/html/sor-dors45-eng.html>
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 - 31 Uganda Gazette. Statutory Instruments 2019, no. 66. Tobacco Control Regulations. September 6, 2019.
<https://www.tobaccocontrollaws.org/files/live/Uganda/Uganda%20-%20TC%20Regs%202019%20-%20national.pdf>
 - 32 Yukon. Bill 3. Tobacco and Vaping Products Control and Regulation Act.
<https://yukonassembly.ca/sites/default/files/inline-files/34-3-Bill003-Tobacco-Vaping-Control.pdf>
 - 33 Saskatchewan. An Act to amend the Tobacco Control Act and to make consequential amendments to other Acts. Bill 182.
<http://docs.legassembly.sk.ca/legdocs/Bills/28L4S/Bill28-182.pdf>