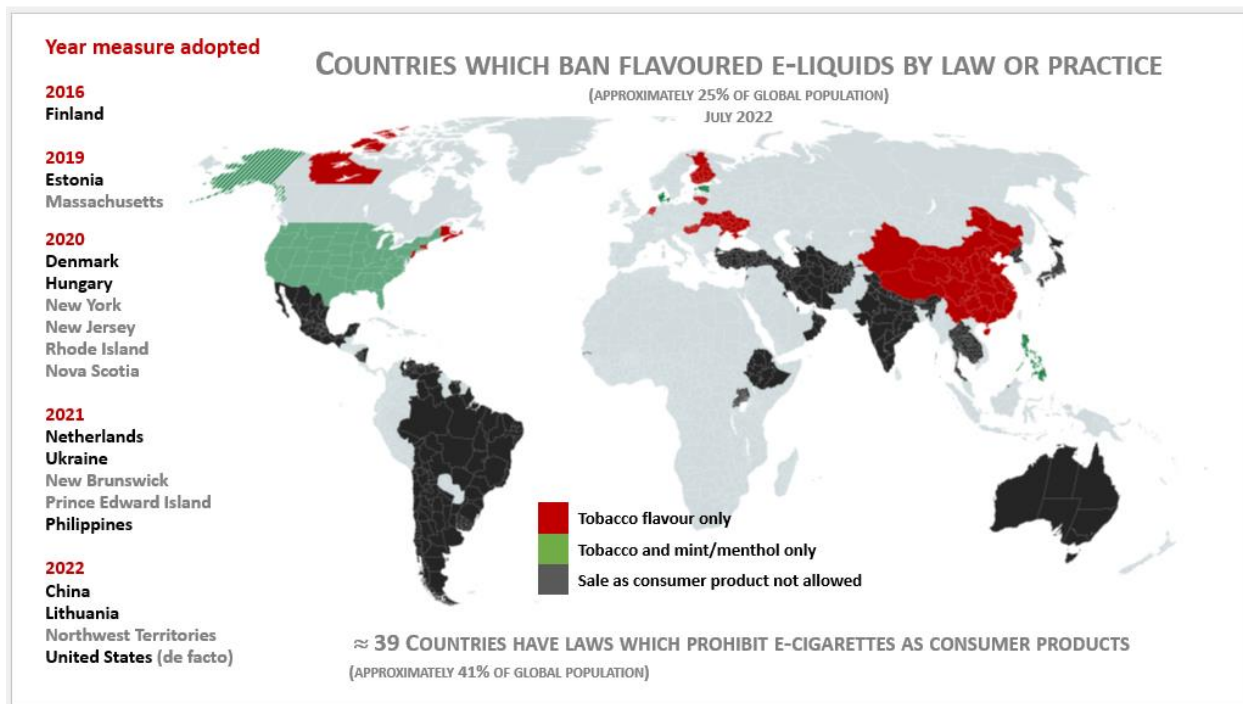


# Restrictions on e-cigarette flavours

July 2022



## Overview

Over 30 countries do not permit the sale of e-cigarettes as consumer products, and by extension do not permit the sale of flavoured e-cigarettes. Among the countries which permit their sale, 6 have introduced national-level bans on flavours other than tobacco flavour (Finland, Hungary, Netherlands, Ukraine, Lithuania, China), three have banned flavours other than tobacco and menthol (Denmark, Estonia, and the Philippines, later rescinded) and two (Canada and the United States) have sub-national restrictions in place.<sup>1</sup> By administrative practice, the United States Food and Drug Administration has denied marketing orders to e-cigarettes with flavours other than tobacco and menthol.

## Canada:

- On June 19, 2021, the federal government published proposed regulations to restrict flavourings and additives in vaping liquids.<sup>2</sup> There are 3 elements to the proposed regulations:
  - Restricting flavours in vaping products to tobacco, mint, menthol, and a combination of those flavours.
  - Prohibiting all sweeteners and sugars and most flavouring ingredients in vaping liquids
  - Prohibit vaping products from producing a “sensory attribute” that is different than the ones typical for tobacco, mint, or menthol.

Since August 2022, the response to these proposed regulations has been under review.

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- Of Canada's 13 provincial and territorial governments, 5 have adopted legislation or regulations to ban the sale of any e-cigarette liquid other than tobacco flavour. As shown in Table 1, these are: Nova Scotia, Prince Edward Island, New Brunswick, Northwest Territories. A coming-into-force date for Nunavut's law has not been set.
- Three Canadian provinces have adopted regulations to restrict the sale of flavoured vaping liquids to specialty vape shops where children are not permitted to enter. As shown in Table 1, these are (in order of implementation): British Columbia, Ontario and Saskatchewan.

## United States

- The U.S. Food and Drug Administration has authority over the authorization of e-cigarette sales. Each manufacturer who wishes to sell e-cigarettes has been required to submit an application and to demonstrate that there is a public health benefit to allow the sale of these products.
  - Prior to 2020, the FDA was not enforcing the prohibitions on selling e-cigarettes for which authorization had not been received.
  - In January 2020, the FDA notified that it would be enforcing against the sale of pre-filled cartridge-based e-cigarettes. Only those with tobacco or menthol flavours would be permitted. Flavourings for vaping liquids for other devices were not affected.
  - In June 2021, a U.S. Congress committee held hearings on FDA regulation of e-cigarettes, with representatives encouraging a ban on all flavours.<sup>3</sup>
  - Beginning in the autumn of 2021, the FDA began to issue market authorization orders, and marketing denial orders. All products authorized to date have been tobacco-flavoured. The FDA has deferred decisions on menthol-flavoured and has consistently denied market authorization to other flavours. The U.S. federal policy on flavourings is in development, but is currently being administered as a ban on all flavours other than menthol and tobacco.
- Five U.S. States and D.C. have enacted bans on the sale of flavoured e-cigarettes, and 4 of these bans are in place.<sup>4</sup> As shown in Table 1, restrictions are in place (in order of implementation) in: Massachusetts, New Jersey, New York, and Rhode Island. California's legislation is pending a referendum vote scheduled for November 2022.<sup>5</sup> Implementation of the District of Columbia law will occur after funding is provided in the budget.
- One State (Utah) restricts the sale of flavored e-cigarettes (except mint/menthol) to adult-only retail tobacco specialty businesses.

## Other international

- The 2014 Tobacco Directive of the European Union requires countries to permit the sale of e-cigarettes but permits them to adopt domestic legislation to restrict certain marketing practices.<sup>6</sup> As shown in Table 1, 7 European countries have adopted flavour restrictions on e-cigarettes. These are: Finland, Estonia, Hungary, Denmark, the Netherlands, the Ukraine and Lithuania. Governments in two other countries (Sweden and Iceland) have proposed legislation to ban flavourings, but these measures were defeated in the legislature in June 2022.<sup>7 8</sup>
- In April 2022, China adopted regulations on mandatory national standards for electronic cigarettes, which bans flavours other than tobacco on October 1, 2022.

- In 2020, the Philippines adopted a regulation which outlawed “the manufacture, importation, sale and distribution of Vapor Products with flavoring other than plain tobacco or plain menthol”. This measure was originally scheduled to come into effect in May 2022, but was rescinded by legislation adopted by the Philippine Congress in 2022, but which was neither vetoed nor confirmed by President Duterte before the transfer of power to a new President in July, 2022. The bill lapsed into law 30 days after the new president received it from Congress, and the flavour ban is believed to have been rescinded.<sup>9</sup>

**Table 1: Regulatory controls on e-cigarette flavourings**

Country	Status	Description	Implementation date
<b>Canada</b>	Regulatory Proposal <sup>10</sup>	All flavours other than tobacco, mint and menthol are prohibited.	
<b>British Columbia</b>	Regulation <sup>11</sup>	Flavours other than tobacco can only be sold in age-restricted specialty vape stores	September 15, 2020
<b>New Brunswick</b>	Law <sup>12</sup>	Only tobacco-flavour is permitted	Sep 1, 2021
<b>Nova Scotia</b>	Regulation <sup>13</sup>	Only tobacco-flavour is permitted	April 1, 2020
<b>Nunavut</b>	Law <sup>14</sup>	Only tobacco-flavour is permitted. Law awaiting proclamation	TBD
<b>Northwest Territories</b>	Regulation <sup>15</sup>	Only tobacco-flavour is permitted	March 25, 2022
<b>Ontario</b>	Regulation <sup>16</sup>	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	July 1, 2020
<b>Prince Edward Island</b>	Regulation <sup>17</sup>	Only tobacco-flavour is permitted	March 1, 2021
<b>Saskatchewan</b>	Regulation <sup>18</sup>	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	September 1, 2021
<b>United States</b>	Policy <sup>19</sup>	Flavours other than tobacco and menthol are banned in pre-filled cartridge-based e-cigarette systems	February 6, 2020
<b>California</b>	Law <sup>20 21</sup>	All flavours other than tobacco flavour are prohibited. Law requires voter confirmation in November, 2022	TBD <sup>22</sup>
<b>Massachusetts</b>	Law <sup>23</sup>	All flavours other than tobacco flavour are prohibited (exception for on-site consumption at specialized bars)	November 27, 2019
<b>New Jersey</b>	Law <sup>24</sup>	All flavours other than tobacco flavour are prohibited	April 20, 2020
<b>New York</b>	Law <sup>25 26</sup>	All flavours other than tobacco flavour are prohibited	May 18, 2020
<b>Rhode Island</b>	Regulation <sup>27</sup>	All flavours other than tobacco flavour are prohibited	March 26, 2020
<b>District of Columbia</b>	Law <sup>28</sup>	All flavours other than tobacco flavour are prohibited. Implementation will occur after funding in budget	TBD
<b>Utah</b>	Law <sup>29</sup>	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	July 1, 2020
<b>Europe</b>			
<b>Denmark</b>	Law <sup>30</sup>	All flavours other than tobacco flavour or menthol are prohibited	April 1, 2022
<b>Estonia</b>	Law <sup>31 32</sup>	All flavours other than tobacco and menthol flavours are prohibited	July 2019, menthol added May 2020
<b>Finland</b>	Law <sup>33</sup>	All flavours other than tobacco flavour are prohibited	2016
<b>Hungary</b>	Regulation <sup>34</sup>	No flavours are permitted	May 2020
<b>Lithuania</b>	Law <sup>35</sup>	All flavours other than tobacco flavour are prohibited	July 1, 2022
<b>Netherlands</b>	Law <sup>36</sup>	All flavours other than tobacco flavour are prohibited	Jan 1, 2023 (prop)
<b>Ukraine</b>	Law <sup>37</sup>	All flavours other than tobacco flavour are prohibited	July 11 2023
<b>Other</b>			
<b>Philippines</b>	Regulation <sup>38</sup>	All flavours other than “plain tobacco or plain menthol” are prohibited	May 12, 2022. – Rescinded July 2022
<b>China</b>	Regulation <sup>39 40</sup>	All flavours other than tobacco flavour are prohibited	Oct 1, 2022 <sup>41</sup>

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