

RE: TVPA - enforcement

Locke, Krista (HC/SC) <krista.locke@hc-sc.gc.ca>

Wed 12/8/2021 2:09 PM

To: Cynthia Callard <ccallard@smoke-free.ca>

Dear Ms. Callard,

Apologies for the delay in responding to your follow-up question.

Thank you for sharing the findings of the Physicians for a Smoke-Free Canada, as well as identifying additional research contained in the Vaping Industry Trade Association's submission to the Department's recent public consultation on flavour restrictions. I am always happy to receive additional information, which may help increase the foundation upon which our operational compliance and enforcement decisions are made. I am also pleased to learn that your organization is supportive of our efforts to publicize the results of non-compliant inspections.

As you are aware, a number of new sets of regulations have been advanced in recent years. The Department continues to take compliance and enforcement measures, based on risk, to ensure the vaping industry is aware of and complies with the new requirements.

In addition to inspecting over 3000 retailers and 300 social media accounts since 2018, the Department's enforcement actions have resulted in over 80,000 seized vaping products, the removal of lifestyle advertising or ads featuring endorsements from television and in store displays, as well as the removal of social media content that encourages vaping. Health Canada followed up with non-compliant SVEs and convenience stores to conduct compliance promotion on the new regulations that came into force in 2020. In addition, the results of the 3,300 inspections have informed our inspection priorities on vaping products over the past year.

Concerning your question pertaining to the number of charges laid, the Department has not pursued any prosecutions against regulated parties manufacturing or selling vaping products under the TVPA. In most cases, compliance with federal requirements can be achieved during the inspection through negotiated compliance in addition to any enforcement actions (e.g. seizure of products). If compliance cannot be achieved, subsequent enforcement actions are pursued depending on a range of factors, including but not limited to:

- severity/impact of the alleged non-compliance;
- continuation or the probability of reoccurrence of the non-compliance;
- compliance history of the establishment;
- program priorities and available resources.

In closing, I'm pleased to tell you that this year's suite of retail inspections resumed in August 2021, including inspections of gas and convenience stores, as well as specialty vaping establishments. Health Canada continues to monitor for repeat non-compliances and uses intelligence from compliance and enforcement activities to inform planning for both on-site and on-line inspections for vaping products.

Thank you again for writing.

Krista Locke
(she | elle)

Director General, Consumer Products and Controlled Substances Directorate
Regulatory Operations and Enforcement Branch
Health Canada, Government of Canada
Krista.Locke@hc-sc.gc.ca / Tel: 902-407-7810 / Cell: 902-401-8951

Directrice générale, Direction des produits de consommation et des substances contrôlées
Direction générale des opérations réglementaires et de l'application de la loi
Santé Canada, Gouvernement du Canada
Krista.Locke@hc-sc.gc.ca / Tél : 902-407-7810 / Cell : 902-401-8951

From: Cynthia Callard <ccallard@smoke-free.ca>
Sent: 2021-09-07 9:27 AM
To: Locke, Krista (HC/SC) <krista.locke@hc-sc.gc.ca>
Subject: TVPA - enforcement

Dear Ms. Locke:

I am writing you in the belief that you remain in charge of the enforcement of the Tobacco and Vaping Products Act.

Earlier this summer two independent efforts were made to assess the compliance of vaping product suppliers with federal regulation. One was conducted by ourselves, and the second was conducted by a (yet anonymous) agency on behalf of the Vaping Industry Trade Association and submitted as an appendix to its submission on the proposed flavour restrictions. Both of these are attached.

These short reports used different methods, but the results are similar in demonstrating that there are worrisome signs of non-compliance with the most basic of regulatory requirements. These include the absence of health warnings on retail websites, the promotion of restricted flavours, the presence of testimonials and lifestyle advertising.

I welcome the public release of reports on your enforcement efforts, and note that both sets of reports (this year on social media, previously on brick-and-mortar outlets) show that independent vape stores are more likely than not to be non-compliant with respect to the issue being investigated.

I would be grateful if you could provide me with some additional information on the Compliance and Enforcement (C&E) actions to date -- or, if you are not in a position to share the information, if you could direct me to where I could obtain it.

Specifically, I would like to know:

- Since May 2018, how many charges have been laid as a result of contraventions by vaping product suppliers with the TVPA? (If so, how many?)
- Are physical inspections of retail vaping stores currently taking place (or are they still affected by COVID-19 restrictions)?

With best wishes,

Cynthia Callard

Executive Director

Physicians for a Smoke-Free Canada

613 600 5794