

HEALTH CANADA CONTINUES ITS STRUGGLE FOR 'BALANCE'

FEDERAL APPROACH TO VAPING SEEKS TO REDUCE HARM AND PROTECT YOUTH, BUT SATISFIES NEITHER GOAL.

Six years have passed since the federal government introduced legislation to legalize the sale of vaping products and more than four have elapsed since S-5 became law in May 2018.

Health Canada's approach to e-cigarettes continues to be guided by the department's expectations that:

- ◆ smokers will turn to these products as a "less harmful" way of satisfying their nicotine addiction
- ◆ additional controls on conventional products are not required to switch smokers to e-cigarettes; and
- ◆ collateral damage in the form of youth vaping can be reduced to an level acceptable to public health.

These beliefs were reflected in the 2018 legalization of vaping products and the choice of 'light touch' regulatory controls on this market.

This harm reduction approach has faced a harsh reality check during the subsequent four years.

Health Canada has not been able to produce evidence of any reduction in the overall harms to Canadian smokers, but has faced abundant evidence of how these products have introduced additional young Canadians into nicotine addiction. (See inside for more information on smoking and vaping rates since 2018.)

In response, the department initiated several measures to address the growth in youth vaping. These controls—most of which were called for by health groups like ours during the review of the legislation—have been slow to come on line, however. It has taken years rather than months to curb promotions and cap nicotine concentration. In June 2021, the government indicated that flavourings other than tobacco and mint-menthol would be banned in vaping products, 18 months later, as we write this, these regulations have not been finalized and no projected timeline has been provided. Other important controls on packaging and product design or better barriers to youth access and price promotions are not even on the federal agenda.

The federal tobacco and vaping law is not complied with—not even by the federal government

Those restrictions that are in place are often ignored by retailers and manufacturers. Health Canada inspectors have reported that more than half of vape stores failed routine inspections.

Disturbingly, the federal government is among those who have broken this the law without penalty. During the parliamentary review, a provision was added to the *Tobacco and Vaping Products Act* to require the Minister to produce a review of the legislation before its fourth anniversary. Despite this clear legal obligation, the government failed to report in time. Only after Physicians for a Smoke-Free Canada applied to the Federal Court for an order to force the Minister to comply was a report given to Parliament—200 days overdue.

In most developed countries the nicotine market is being transformed from a mostly cigarette market to one where a diversity of nicotine products are sold. Also diverse are the opinions of experts and health authorities on the benefits and risks of these products and the policies which should apply to them. The public health community is no longer united in its recommendations on how to regulate this industry.

There is currently no political or social consensus in Canada to phase out tobacco use (let alone nicotine addiction). Other countries are taking action, Canada is not.

Other countries, however, are moving in this direction. Among those aiming to end cigarette smoking is New Zealand which passed legislation in late 2022 to ban the sale of cigarettes to all individuals born after 2009 and to remove the nicotine from combustible cigarettes. Its policies on vaping, however, are more relaxed than those currently in Canada.

Finland, on the other hand, has legislated its ambition to end the use of "tobacco products and other nicotine-containing products that are toxic to humans and cause addiction." It aims to treat all non-therapeutic nicotine drugs equivalently. A few municipalities in the United States, led by Beverly Hills, have banned the sale of tobacco products, including e-cigarettes.

Common to these "Endgame" approaches is a political willingness to adopt more powerful approaches and a community in support of such action. Our continuing task is to generate such support in Canada.

Banning cigarette filters would be good for health—and the environment

Tobacco products have a devastating impact on both human health and on the environment.

- ◆ Cigarette filters mislead smokers into thinking they have reduced the harms of smoking, when instead these are linked to higher rates of adenocarcinoma.
- ◆ Cigarette butts are one of the most littered products, leaching microplastics and toxins into waterways and other sensitive environments.

This year the World Health Organization (WHO) and the United Nations Environment Program (UNEP) combined efforts to push for actions to address tobacco waste in the context of human health. This campaign was timed with the launch of negotiations for a global treaty on single use plastics.

This summer, Physicians for a Smoke-Free Canada lead an inquiry into the views within the public health community about the best way to address filter waste. The resounding answer was that a ban on filters would be the most effective way to reduce

both smoking and the environmental damage it causes.

There are major challenges, however, to achieving a ban on filters. These include:

- ◆ The long-standing (but mistaken) view that filters reduce smokers' exposure to toxins or otherwise make smoking less dangerous.
- ◆ The efforts by tobacco companies to present false solutions—like community clean-ups or public education efforts. (Such greenwashing campaigns are already underway—#UNSMOKE)
- ◆ The reluctance of government to interfere with the core design of cigarettes.

The federal government has taken an ambitious approach to these negotiations, and is a leading nation with respect to plastics regulation. It has not, however, yet decided whether or how it will regulate the filters in cigarettes.

Advocacy efforts will be needed to head off the compromise solution that appears to be the favourite of Health

Canada — a requirement for biodegradable filters.

Biodegradable filters will receive less opposition from tobacco companies but are not a good solution for Canada as they would address only some of the environmental concerns, and would do nothing about the human health aspects.

Moreover, because such filters are not yet in use or required by regulation, extensive time would be required to establish the regulatory basis for them. Based on current regulatory timelines, even if given the green-light to do so, it would take Health Canada 5 years or more to establish rules for biodegradable filters.

Including cigarette filters in Canada's ban on single-use plastics is simpler, more powerful and easier to police than alternative measures. Not surprisingly, Canada's leading environmental groups are also calling for these plastics to be banned.

E-waste and the need to ban disposable e-cigarettes

Concerns about e-cigarette waste have grown as JUUL-style cartridge systems and disposable e-cigarettes have become favoured by vapers.

Disposable e-cigarettes are now the driving youth vaping in the United States and the United Kingdom, and are on the way to doing the same in Canada. In the summer of 2022, the world's largest tobacco companies began marketing cheap disposable vaping devices in Canada and are displacing JUUL-style devices.

These products are quickly discarded (they are the equivalent to a couple of packages of cigarettes). The discarded plastics, toxic e-liquids and lithium

batteries leave long-lasting environmental effects. Even if their young users were encouraged to dispose of them properly, their size and components makes them difficult to recycle.

In the U.K. disposable e-cigarettes result in more than 10 tonnes of lithium waste a year—equivalent to the batteries in 1,200 electric vehicles.

Governments in Ireland and Belgium are now proposing bans on disposable vapes (as the island nation New Caledonia has already done). Other countries (France, Switzerland) are looking at special taxes to deter their use. The United States has increased its enforcement actions against the

sale of unauthorized disposable e-cigarettes and the US EPA has declared discarded e-cigarettes to be hazardous waste.

Canadian regulators appear unprepared to respond to the health or environmental threats of disposable and other e-cigarettes or other new market challenges.

Managing environmental and health risks would be made easier if Canada placed pre-market requirements on manufacturers to seek market authorization (as the United States is doing) or to provide pre-market notification (as European countries do).

Measuring progress

Preventing youth from smoking even 1 cigarette has led success

Canada has made great strides against tobacco use: smoking rates have fallen from 1 in 2 adults the mid 1960s to slightly under 1 in 10 last year.

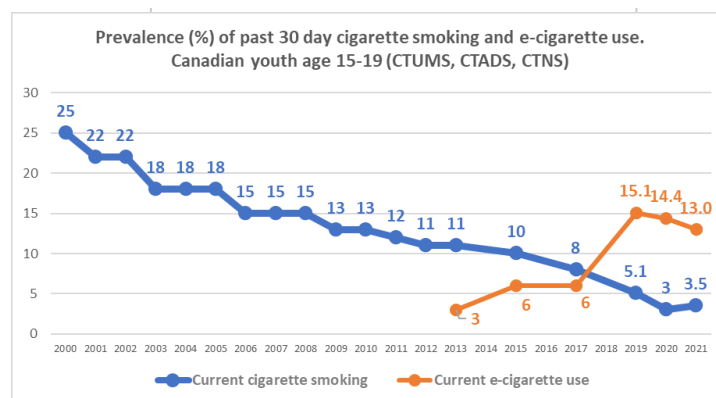
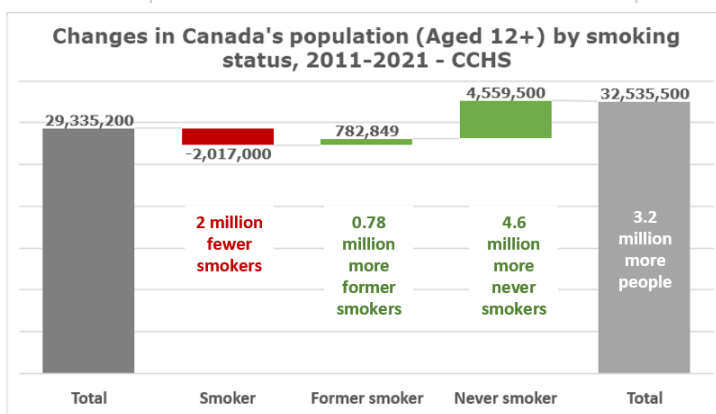
CESSATION has helped...

Some of this progress can be attributed to the cumulative success of smokers quitting. The proportion of ever-smokers who have quit has grown from 55% in 2011 to 67% in 2021.

... but PREVENTION has been key

The data suggest that the main reasons that smoking rates have fallen have been the growth of the Canadian population, and success in preventing tobacco companies from recruiting new smokers to replace those who quit or died.

Over the past 10 years, for example, the overall Canadian population has



grown by about 3.2 million people. Canada lost 2 million smokers during that period, but gained only 780

thousand former smokers.

The big population change is the much larger increase in the number of Canadians who say they have never smoked even one cigarette: 4.6 million.

Continued progress depends on maintaining low rates of initiation.

Tobacco companies no longer use race-cars and glamour ads to promote smoking—they use them instead to promote their other nicotine products —e-cigarettes and nicotine pouches.

With these products, the companies are threatening the gains we have made in reducing nicotine addiction.

Although smoking among youth continues to fall, overall nicotine use has recently increased.

Policy change is needed to restore progress against youth initiation to nicotine use.

2022: leadership from other countries

Flavour restrictions

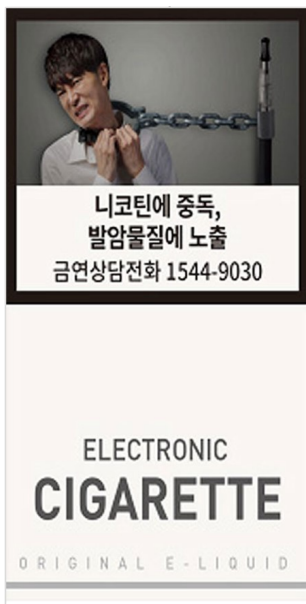
◆ In 2022 China, the Netherlands and Lithuania banned all flavours in vaping products other than tobacco flavour (joining Finland, Hungary, Ukraine)

Plain packaging

◆ Denmark and Finland adopted laws to require plain packaging for vaping products (joining Israel)

Retail restrictions

◆ In late 2022, Netherlands announced it will only allow e-cigarette sales in specialty shops after 2025, and will do likewise for cigarettes in 2032 (joining Hungary).



Picture warnings on vaping products

◆ In May 2022, Philippines required graphic health warnings on e-cigarettes (joining Korea), until the new government rescinded these measures.

Smoke-free generation

◆ In December, New Zealand became the first country to set a progressive minimum age to buy cigarettes: sale is now prohibited to anyone born after 2009.

Less addictive cigarettes

◆ New Zealand also become the first country to commit to reducing the nicotine levels in cigarettes (the United States continues to develop its approach to this).

2022

January

Imperial Tobacco runs its “Clear the smoke campaign” to promote vaping. No enforcement action is taken.

Final phase of **Health Canada’s** plain packaging requirements comes into force, with cigarettes now sold in “slide and shell” packages.

March

Flavour ban on vaping liquids comes into effect in **Northwest Territories**.

Saskatchewan raises tobacco taxes by \$4 per carton

April

Federal budget includes a new tax on vaping products. The rate is \$1 per 2 ml or fraction therefore for containers with less than 10 ml. For larger containers, the tax is \$5 for the first 10 ml and \$1 for each additional 10 ml or fraction. Provinces are invited to participate in this tax program.

May

World No Tobacco focuses on the environment—theme “Poisoning our Planet”—and the World Health Organization urges governments to consider banning plastic cigarette filters.

The **Canadian Tobacco and**

Nicotine Survey shows no decline in vaping among teenagers, and an increase among young adults.

Fourth anniversary of new federal law comes and goes without the **Minister** meeting legal obligation to report to Parliament on experience with the new law.

Prince Edward Island adopts legislation to adopt a new vaping tax coordinated with the federal government.

June

Health Canada proposes new health warning messages for cigarette packages — including warnings on individual cigarettes.

Health Canada releases draft reporting requirements for vaping manufacturers.

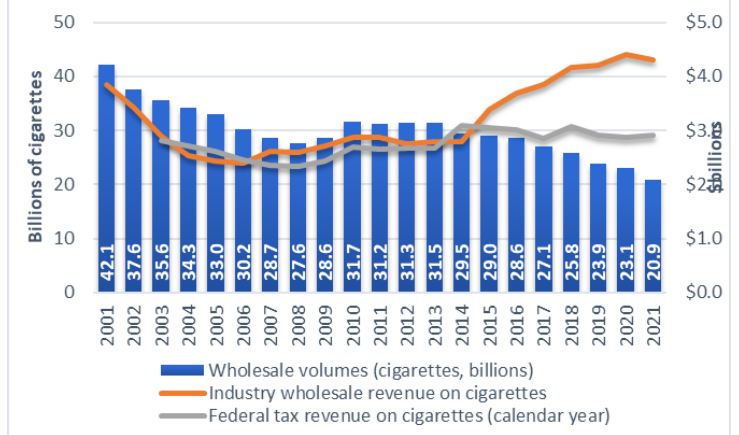
July

May to July—**Health Canada** demands Imperial Tobacco recall tens of millions of Viceroy and Players cigarettes because they do not meet self-extinguishing standards.

British Columbia adds PST to tobacco products.

September

Wholesale shipments, manufacturers' revenue and federal excise tax revenues from cigarette sales, 2001 to 2021



Ontario Court extends the litigation stay on tobacco companies until March 31, 2023. At that point, negotiations among provincial governments and the tobacco companies will enter their 5th year.

October

Federal vaping tax is applied at the manufacturers' level.

November

Physicians for a Smoke-Free Canada applies to the Federal Court for an Order requiring Health Canada to provide Parliament with its legislative review of the 2018 Tobacco and Vaping Products (TVPA), as required by that law.

December

Quebec announces it will participate in a coordinated vaping tax with the federal government.

Health Canada releases its legislative review of the TVPA

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Proposed Health-related Messages - Cigarettes

