

WHITE PAPER

Analysis of Flavored Vaping Products as a Harm Reduction Method

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INTRODUCTION

The report *Vaping Works. International Best Practices: United Kingdom, New Zealand, France and Canada*, published by Property Rights Alliance in Summer 2021, outlined several proven strategies for reducing the harm of tobacco and nicotine use in countries around the world.¹ Among the best practices for harm reduction presented in the report was ensuring the freedom and accessibility of flavored vaping products, as a useful alternative to much more harmful cigarettes.

Despite the positive track record of flavored vaping products in achieving harm reduction in various countries, flavor bans continue to be proposed and enacted. In Europe alone, Denmark² and Estonia³ have banned all flavors except tobacco and menthol; Finland⁴ and Lithuania⁵ have banned all flavors except tobacco; and Hungary⁶ and Ukraine⁷ have banned flavors altogether. Similar bans have been proposed in Latvia, Netherlands, Norway, and Sweden, among others, and the World Health Organization Regional Office for Europe has stated that “flavors should be banned to reduce the appeal of e-cigarettes to children and adolescents.”⁸

Youth protection is indeed the most common justification for flavor bans. Only Finland and the Netherlands have argued that banning flavored vaping products would additionally contribute to their respective ambitions of a 5% rate nicotine use by 2030⁹ and a smoke-free generation by 2040,¹⁰ despite empirical evidence to the contrary as outlined below.

This addendum report summarizes the key benefits of flavored vaping accessibility for achieving harm reduction, and the unintended dangers that can accompany well-intentioned bans of these products. By following the recommendations outlined in this report, governments may be best prepared to tackle the important issue of tobacco and nicotine harm reduction.

1. https://www.propertyrightsalliance.org/wp-content/uploads/PRA_VapingWorks.pdf
2. <https://www.retsinformation.dk/eli/lt/a/2020/2071>
3. <https://www.riiqiteataja.ee/akt/119052020001>
4. [https://www.tobaccocontrol.org/files/live/Finland/Finland%20-%20Tobacco%20Act%20\(No.%20549_2016\).pdf](https://www.tobaccocontrol.org/files/live/Finland/Finland%20-%20Tobacco%20Act%20(No.%20549_2016).pdf)
5. <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/fc4af810ce7111eb91e294a1358e77e9>
6. <https://net.jogtar.hu/joaszabaly?docid=a1300039.kor#lbj80id8ad8>
7. <http://www.golos.com.ua/article/354960?fbclid=IwAR3MdklGOjosjR7r0XmyAoD5iKkaOHVQe9VmrnoaJlZYqLqFhX9LNpT4G7c>
8. https://www.euro.who.int/_data/assets/pdf_file/0005/528989/10-regulation-e-cigarettes-2022-eng.pdf
9. <https://valtioneuvosto.fi/-/1271139/tyoryhma-tupakka-ja-nikotiiniipolitiikka-kehittamalla-suomi-savuttomaksi>
10. <https://www.rijksoverheid.nl/actueel/nieuws/2021/05/21/e-sigaretten-met-smaakjes-in-de-ban>

COUNTRIES THAT EMBRACE VAPING WITNESS A DECREASE IN SMOKING RATES THAT IS TWICE AS FAST AS THE GLOBAL AVERAGE.

Scientific evidence has consistently indicated that vaping is “95% safer than smoked tobacco.”¹¹ As a positive example highlighted in *Vaping Works*, this fact has been most recently recognized and promoted by the New Zealand government in their “Vaping to Quit Smoking” campaign, which encourages smokers to switch to vaping products to improve their health outcomes.¹²

Indeed, in addition to being significantly safer, vaping has been shown to be a highly effective tool for helping smokers quit. A study by the UK Cochrane Tobacco Addiction Group recently found that nicotine e-cigarettes are 67% more effective at helping users quit smoking as compared to nicotine-replacement therapy or nicotine-free e-cigarettes, and 150% more effective than having no support or only behavioral support.¹³ In the case of New Zealand, thanks to the pro-vaping harm reduction policies, the daily smoking rate fell from 12.0% in 2020 to 10.5% in 2021.¹⁴ Similar results were found from a more liberal approach to vaping in the United Kingdom. According to *Vaping Works*, “The UK dropped 25% in its smoking rate since 2012, unlike the European Union that only decreased one percentage point between 2014 and 2020.”¹⁵

ACCESS TO FLAVORS MAKES QUITTING EASIER.

The UK and New Zealand also both maintain a wide range of vaping flavors accessible to smokers looking to switch away from cigarettes and endorsement of the measures by public health agencies, as seen more recently in New Zealand.¹⁶

Maintaining access to flavored harm-reduction products in particular has been proven to have a pronounced effect on the quit rates of smokers. A study published in the academic journal *Nicotine & Tobacco Research* in 2021 measured quit rates among smokers across four countries (Australia, Canada, England, and the United States)

11. <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

12. <https://vapingfacts.health.nz/vaping-to-quit-smoking/>

13. <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD010216.pub4/full>

14. https://www.propertyrightsalliance.org/wp-content/uploads/PRA_VapingWorks.pdf

15. Ibid.

16. <https://vapingfacts.health.nz/vaping-to-quit-smoking/what-vape-should-i-get/what-vape-liquid-should-i-get.html>

who also used nicotine vaping products. The researchers found that smokers who used vaping products with “sweet flavors” were 44% more likely to quit smoking cigarettes than those who vaped tobacco flavors.¹⁷ 48% of vapers who quit smoking ended up quitting vaping within two years as well, according to the researchers. Further, they found that consumers of sweet-flavored vaping products who quit smoking were no more likely than consumers of tobacco-flavored vaping products to continue vaping long-term, indicating that sweet-flavored vaping products are not more likely than tobacco-flavored vaping products to prevent users from quitting nicotine altogether.¹⁸ The researchers concluded that the use of “fruit and other sweet flavored e-liquids is positively related to smokers’ transition away from cigarettes.”¹⁹

The ability of flavored vaping products to assist in smoking cessation is a significant asset to any country which seeks to lower its smoking rates and improve public health outcomes. In countries like Finland, where a main goal is to reduce total nicotine use to 5% of the population by 2030, flavor bans would therefore be highly counterproductive. As the evidence shows, compared to unflavored vaping, flavored vaping products are more effective at helping smokers quit cigarettes and are not any less effective at helping people quit nicotine altogether.

FLAVOR BANS PUSH VAPERS BACK TO SMOKING, TO THE BLACK MARKET AND TO MIXING THEIR OWN LIQUIDS.

Research has shown that approximately half of vapers would be pushed back to smoking, to the black market, or to mixing their own liquids if flavored vaping products were banned. A recent international study by University of Waterloo’s Shannon Gravely et al. which asked current vapers what they would do if flavors were banned in their country found that 17% of vapers would switch to smoking instead, while over 28% would seek out an alternative way to obtain their preferred flavors.²⁰ Additional consumer surveys have shown that in some countries discussing flavor bans, as many as 50–60% of vapers consider these scenarios.²¹

17. <https://academic.oup.com/ntr/article-abstract/23/9/1490/6149939>

18. Ibid.

19. Ibid.

20. <https://www.sciencedirect.com/science/article/pii/S0306460321003373>

21. <https://www.propertyrightsalliance.org/wp-content/uploads/Ipsos-Consumer-Survey-April-2022.pdf>

1. *Flavor bans push vapers back to smoking*

Case studies from U.S. states affirm that flavor bans are associated with increased prevalence of smoking; after flavor bans were imposed in Rhode Island and Washington, cigarette sales grew by 4.6% higher than expected, while a full ban on electronic nicotine delivery systems in Massachusetts resulted in 7.5% higher cigarette sales than expected.²² Due to the higher level of harm caused by smoking as compared to harm-reduction products, policies which would push vapers toward cigarettes should be avoided in order to preserve better public health outcomes.

2. *Flavor bans push vapers to the black market*

There is a similar case with policies which could push vapers to the black market. As with many consumer goods, banning flavored vaping products often leads to a larger black-market trade of the same or more dangerous products. According to a 2020 report by Public Health England, "Vapers said that banning flavoured liquids would deter them from using vaping products to help them quit or reduce their smoking. It could also push current vapers towards illicit products."²³ The report also cited data from the ASH Smokefree Great Britain Annual Survey (ASH-A) on how vapers would respond to a ban on flavored products, with results mirroring those reflected in the Gravely et al. study. According to the ASH-A survey, approximately one in four vapers said they would still try to obtain the flavors, "suggesting they would purchase from illicit distributors."²⁴

Unlike the products which are currently sold legally, the black-market versions of nicotine products are unregulated and not subject to proper safety standards prior to distribution. Sellers on the black market are also not bound by age verification requirements, which could lead to a rise in underage use as the consumer base as a whole emboldens illicit traders. Illicit "street vapes" have unfortunately already led to hospitalizations and deaths, as they contained substances like THC and vitamin E acetate.²⁵

Further, the smuggling of illicit tobacco and nicotine products is "a favorite response" of criminal syndicates and terrorist organizations as consumers search for alternatives after onerous new regulations are placed on legal accessibility, according to a case study in the 2021 Trade Barrier Index.²⁶ The act of banning and placing unnecessary restrictions on products like flavored vapes would push a significant percent-

22. [https://www.valueinhealthjournal.com/article/S1098-3015\(22\)00008-0/fulltext](https://www.valueinhealthjournal.com/article/S1098-3015(22)00008-0/fulltext)

23. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869401/Vaping_in_England_evidence_update_March_2020.pdf

24. *Ibid.*

25. <https://cei.org/blog/if-you-vape-illicit-street-drugs-it-may-kill-you-duh/>

26. https://atr-tbi19.s3.amazonaws.com/Case+Studies/TBI_2021_CaseStudy_Philippines_v1.pdf

age of current vapers toward black-market versions, resulting in greater financing for these organizations to pursue their other forms of criminal activity.

3. *Flavor bans push vapers to mix their own liquids*

Similarly to illicitly traded vaping products, attempts at homemade versions can also carry severe health risks to users. The ASH-A survey indicated that one in ten current vapers would attempt to create their own flavored e-liquids if commercial flavors were banned.²⁷ The UK Health Security Agency, however, warns their citizens that they should “use UK-regulated e-liquids and never risk vaping home-made or illicit e-liquids.”²⁸ Martin Dockrell, Head of Tobacco Control at Public Health England, has further explained that most cases of illness related to vaping “were linked to people using illicit vaping fluid bought on the streets or homemade [products].”²⁹

FLAVOR BANS LEAD TO NEGATIVE ECONOMIC CONSEQUENCES.

Imposing a ban on vaping flavors would also have negative consequences for small- and medium-sized businesses (SMEs). After the U.S. state of Massachusetts banned certain flavored tobacco and nicotine products in 2020, excise tax revenue for neighboring states Rhode Island and New Hampshire spiked, indicating that Massachusetts users may have simply begun crossing state lines to acquire the products they desired.³⁰ This resulted in small businesses in Massachusetts closing down, such as local vape shops whose product lines were swept up in the wide-sweeping ban.³¹ Estimates have predicted that a national flavor ban in the United States could “decimate” more than 10,000 small businesses throughout the country, from retailers to small manufacturers.³² Given that small businesses account for 44% of GDP and 62% of net new job creation in the United States, government policies which promise to devastate this sector of SMEs could have far-reaching consequences for the economy as a whole.³³

27. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869401/Vaping_in_England_evidence_update_March_2020.pdf

28. <https://twitter.com/UKHSA/status/1172166081181605891>

29. <https://www.bbc.com/news/newsbeat-49649486>

30. http://www.necsema.net/uploads/1/2/2/9/122970598/menthol_press_release_january_2021_fnl.pdf

31. <https://www.wbur.org/news/2019/09/25/massachusetts-vaping-ban-businesses>

32. <https://www.atr.org/vape-flavor-ban-will-devastate-main-street-businesses-nationwide/>

33. <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/12/06095731/Small-Business-FAQ-Revised-December-2021.pdf>

Data gathered by Ipsos in Estonia, which banned flavors in 2020, confirms a similar scenario in Europe. Almost 60% of Estonian vapers reported using banned flavors in April 2022, with the overwhelming majority of those coming from the black market or being mixed at home.³⁴ In Hungary, where all flavors including tobacco were banned previously, estimates from the European Policy Information Center and the Institute of Economic Affairs suggest that 85% of e-liquids were sourced illegally.³⁵ The switch in consumption from legal to illegal products harms law-abiding small businesses.

FLAVOR BANS FAIL TO PROTECT THE YOUTH.

Despite a somewhat common belief that the prevalence of flavored vaping products leads to an uptick in youth nicotine consumption, studies have shown not only that flavor bans fail to provide a positive difference but may in fact lead to worse consumption rates among youth. Studies have previously indicated that among non-smoking teenage males, for example, “willingness to try plain versus flavored varieties [of vaping products] did not differ.”³⁶

As highlighted by Professor Brad Rodu of the University of Louisville at a Property Rights Alliance webinar titled “The Science & Policy of Tobacco Harm Reduction in Taiwan,” the data behind youth vaping rates is thankfully not as dire as previously believed.³⁷ Using data from the United States National Youth Tobacco Survey, Professor Rodu showed that vaping rates among high school students have fallen over the last two years, while high school smoking rates have almost disappeared completely.³⁸ The data also shows that frequent vapers who did not previously smoke represent just 3% of U.S. high school students.³⁹ While that statistic is still too high, it is far lower than commonly cited beliefs about the vaping rate and far lower than the rates of more dangerous activities like drinking alcohol (30%) or carrying a weapon (16%), indicating that the existence of flavored vaping products fortunately may not be having the previously believed “epidemic” effects among youth.⁴⁰

In case studies, flavor bans have even been associated with higher levels of youth smoking. After the U.S. city of San Francisco voted to ban certain flavored tobacco and nicotine products in 2018, the city’s ban “was associated with more than doubled odds of recent

34. <https://www.propertyrightsalliance.org/wp-content/uploads/Ipsos-Consumer-Survey-April-2022.pdf>

35. <http://nannystateindex.org/hungary-2021/>

36. <https://pubmed.ncbi.nlm.nih.gov/23332477/>

37. https://www.youtube.com/watch?v=DMVLz_nTcVs

38. <https://www.propertyrightsalliance.org/news/pr-a-webinar-growing-international-consensus-tobacco-harm-reduction/>

39. Ibid.

40. Ibid.

smoking among underage high school students” compared to similar school districts who did not implement flavor bans, according to a study published in the peer-reviewed *Journal of the American Medical Association (JAMA)*.⁴¹ While in comparable districts the youth smoking rate had fallen to an all-time low of 2.8% by 2019, San Francisco’s youth smoking rate rose to 6.2% following their flavor ban, according to the study.⁴²

RECOMMENDATIONS

Based on the wide-ranging scientific evidence and public policy experiences outlined above, it is clear that maintaining accessibility to flavored vaping products is essential for achieving harm reduction for individuals and lowering society’s overall smoking rates. The evidence indicates that the following policy recommendations would be advisable:

1. Allow adults to access flavored vaping products.

The evidence shows clearly that vaping products are significantly safer than cigarettes and that flavored vaping products assist smokers in ceasing their habit. Increasing access to flavored vaping products by ensuring they are available through a wide range of channels, like in the UK and New Zealand, will ensure more smokers are aware of the options available to them and can switch away from smoking. Both countries make vaping available, to varying degrees, online and via specialist and general retailers. The UK also offers them to smokers in hospitals. Useful harm reduction tools like flavored vaping products should certainly never be less accessible than more dangerous cigarettes.

2. More strictly enforce laws against access by underaged people.

Most countries already have laws banning the sale of vaping products to underaged persons. These laws must be backed by strong enforcement mechanisms and a more watchful eye to ensure that violations do not occur and that any violations are appropriately punished. Governments may also consider increasing inspections and penalties for knowingly or negligently selling nicotine products to those who are underage.

As an example of best practices, UK retailers are subject to fines of up to £2,500 for breaching the rules,⁴³ the results of which can be seen in the UK’s relatively lower

41. https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248?questAccessKey=227700a4-e3cb-4ccf-8ad5-ae5133e0009c&utm_source=silverchair&utm_medium=email&utm_campaign=article_alert-jamapediatrics&utm_content=olf&utm_term=052421

42. Ibid.

43. <https://www.haringey.gov.uk/business/licensing-and-regulations/trading-standards/trading-standards-age-restricted-sales#e-ciger-atttes>

prevalence of youth vaping, with just 1.5% reporting usage of vaping products at least once per week.

3. *Extend the effective controls to online sales.*

In addition to being registered with the competent authorities, online sellers should use robust age verification systems, which are often more reliable online than in traditional retail. In the UK, retailers maintain several layers of technology in order to verify that purchases are made by adults. Typically, when placing the first order or if using an alternative email address to what is registered to the account, the existing systems verify age through regulated methods such as driver's license, electoral roll, or national ID card.

4. *Publicize comprehensive education campaigns on vaping.*

Governments must work toward educating the public on vaping. Current smokers should receive information like that provided in this report to educate them on the benefits that can come from switching from cigarettes to vaping. Youth must be taught that vaping products are not for them, that these products still carry health risks despite being safer than cigarettes, and that vaping products serve as a method for assisting the switch away from smoking. New Zealand's Ministry of Health provides a good model for this type of campaign, through their "Vaping Facts" program, which uses accessible language and interactive tools such as quizzes and "tips for success" to educate the public on how to switch.⁴⁴

5. *If needed, limit the sale of specific flavors to adult-only channels.*

Specialized vape shops are directed specifically at adults, whereas youth frequently enter general retail locations. Acknowledging this trend, New Zealand has limited the sale of some vaping flavors to specialized retail locations, while general retail sells only tobacco and menthol flavors.⁴⁵ Specialized vape shops in New Zealand are defined as government-approved retailers where above 60% of total sales are of vaping products. Where levels of youth experimentation are uncommonly high, this can be a suitable solution to prevent youth uptake, in combination with robust age verification at general retail and online.

6. *Restrict flavor descriptors that could be particularly appealing to youth.*

Descriptors should be factual and should not encourage experimentation, which should be a relatively simple standard for regulators and industry to meet. The UK Advertising Standards Authority has set guidelines on the descriptors for vaping

44. <https://www.vapingfacts.health.nz/>

45. https://www.health.govt.nz/system/files/documents/pages/vra-general_retailer-specialist-vape-retailer-comparison_12oct2020.pdf

products to ensure they are not particularly attractive to youth,⁴⁶ which includes advice not to feature anyone under the age of 25 in advertising materials. The lower prevalence of vaping among those under the age of 18 in the UK, highlighted in ASH's annual survey, indicates that this approach has been a success and can be considered an example of best practices.

7. Restrict flavors that could be particularly appealing to youth.

The European Parliament resolution of 16 February 2022 on "Strengthening Europe in the fight against cancer – towards a comprehensive and coordinated strategy" called on the European Commission to evaluate which flavors in vaping products are particularly attractive to minors and non-smokers, and to propose a ban on these.⁴⁷ The resolution recognizes that "electronic cigarettes could allow some smokers to progressively quit smoking," and may provide extra protection against youth uptake while still protecting the flavors most commonly chosen by adults to switch and stay away from cigarettes, such as fruit flavors.⁴⁸

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46. <https://www.asa.org.uk/advice-online/electronic-cigarettes-children-and-young-people.html>

47. https://www.europarl.europa.eu/doceo/document/A-9-2022-0001_EN.html

48. Ibid.