

**Submission
No 37**

E-CIGARETTE REGULATION AND COMPLIANCE IN NEW SOUTH WALES

Organisation: Healthy Cities Illawarra

Date Received: 3 November 2023

Partially
Confidential

3/11/2023

To the Chair and members of the Committee on Law and Safety inquiry on e-cigarette regulation and compliance,

I am writing to you as the CEO of Healthy Cities Illawarra, a non-Government Health Organisation committed to the health of our community, on e-cigarette regulation and compliance in NSW. As a team of health professionals, we see the effects of e-cigarette use in our community. This includes in schools and other community settings.

In our capacity, we work with a number of local schools to improve the health of their students. Many schools have contacted us asking for support and advice in how to address vaping by their students.

Teachers are reporting increasing numbers of students vaping. This was occurring in toilets, school grounds, corridors and classrooms. Often in a disruptive manner, preventing classes being conducted and students learning effectively.

A local pilot project was conducted to determine what students were vaping, collecting and analysing hundreds of confiscated vapes. The analysis found that over 90% of vapes were disposable and almost 99% contained nicotine, mostly around 5% nicotine. The number of puffs in these vapes ranged from 300 puffs to 6000 puffs.

According to Prochaska et al. 2021, one 5% nicotine, 200 puff Juul pod contains the equivalent of one packet of cigarettes. This suggests that the vapes confiscated in NSW schools have great potential for nicotine addiction among a group who had previously had very low tobacco cigarette use. In 2017, 6.4% of secondary students smoked in NSW, while only 1.3% of 16-24 year olds were current users of e-cigarettes. This increased to 16.5% in 2021/2022 (NSW HealthStats). While more recent NSW data for secondary school students e-cigarette use is not available (the last survey was conducted in 2017), a locally conducted survey (2022) found that 33% of secondary students had ever vaped, while 11% reported vaping everyday (unpublished data).

This increase in prevalence is despite nicotine containing e-cigarettes being illegal for purchase for under 18 years olds, and without a GP prescription for those over 18. While the majority of student respondents to our unpublished survey said they got vapes from friends (59%), 41% said they got them “under the counter” from tobacconists, petrol stations and convenience stores. Social media was reported as a source of vapes for 30% of students. These results suggest that young people are easily able to purchase illegal nicotine containing e-cigarettes.

The ease of access to illegal products by young people, often from local businesses, highlights the need for tighter regulations and compliance of e-cigarettes. To date, in the Illawarra Shoalhaven Local Health District between 1st of January 2020 and 30 June 2023, only 2 Illawarra Shoalhaven business were successfully prosecuted for the illegal sale of nicotine containing e-cigarettes. Suggesting that little emphasis or priority is

Healthy Cities. Healthy People.

Healthy Cities Illawarra Inc
ABN 83 964 176 052
6-10 Princes Hwy, Fairy Meadow NSW 2519
PO Box 607 Fairy Meadow NSW 2519

t. +61 2 4283 8111
f. [REDACTED]
e. [REDACTED]
www.healthycities.org.au



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given to this issue, despite potentially thousands of young people purchasing an addictive product every week, in this region alone. In addition, businesses caught selling cigarettes or e-cigarettes to minors often avoid fines or public scrutiny, despite going to court. While very little is being done to address business selling e-cigarettes, nothing is being done to prevent individuals (who don't even disguise their identity) selling e-cigarettes on social media platforms such as Facebook Marketplace

[REDACTED]

This highlights that there is currently little or no disincentive, or fear of prosecution, in NSW, preventing individuals or businesses selling these illegal products, often to children and young people. We would like to know at least the name of the businesses that threaten the wellbeing of our children and young people. We urge the NSW Government to address this issue and prevent another generation of young people becoming addicted to nicotine.

We recommend the following:

- NSW Government continue to advocate to the Federal Government for strong legislation in line with recent TGA proposed changes, including the complete ban on the sale of all electronic cigarettes (including non-nicotine e-cigarettes) by businesses, with the exception of pharmacies with a GP prescription.
- Increase funding linked to an increase the number of FTE Local Health District (LHD) Environmental Health Officers (EHOs) with linked LHD level KPIs on e-cigarette compliance and enforcement, including sales to minors.
- Penalty Infringement Notices (PINS) be issued to individuals/businesses caught selling e-cigarettes or selling e-cigarettes to minors. Fines to be increased and commensurate with the offence.
- Publication of Individuals and business names caught selling electronic or tobacco cigarettes to minors.
- In the event that the federal government DOES NOT ban the sale of all e-cigarettes in all retail settings, except pharmacies, NSW Government introduction of a Positive Licensing Scheme, similar to Tasmania where businesses pay an annual fee to sell electronic and tobacco cigarettes. The annual license cost be used to offset education, compliance checks and enforcement.
- Limit the number of tobacconists/businesses where these products are sold, including restrictions on their sale within a suitable distance from schools
- LHD EHOs to work closely with NSW and Federal police to identify, seize e-cigarettes and prosecute individuals selling on social media or internet platforms.
- Require by law and fund the seizure, secure storage and destruction of e-cigarette products by LHD EHOs

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- Conduct annual NSW Secondary School Student surveys on e-cigarette and tobacco cigarette use, including where they acquire the products and if they have tried to quit using e-cigarettes.
- NSW Health to work with NSW Department of Education to support teachers, Student Support officers and WHIN Nurses are trained and have resources to prevent the uptake of vaping by students and promote and support vaping cessation by those who have already started.
- Conduct a public awareness campaign that No Smoking means No Vaping to reduce exposure to secondhand smoke or vape aerosol in public places.

Healthy Cities Illawarra will continue to advocate on this topic and trust the NSW Government will do all in its powers to prevent our young people from becoming addicted to a product sold by unscrupulous businesses with little or no regard for their health or welfare.

Yours sincerely,



Kelly Andrews

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CONFIDENTIAL ATTACHMENT

The photo attached depicts a shop that was illegally selling vapes

