

## **INQUIRY INTO ILLEGAL TOBACCO TRADE**

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OFFICIAL



# NSW Government Submission

Portfolio Committee on Justice and  
Communities inquiry into the illegal tobacco  
trade in New South Wales

6 March 2026

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## Glossary

<b>ABF</b>	Australian Border Force
<b>AFP</b>	Australian Federal Police
<b>ACIC</b>	Australian Criminal Intelligence Commission
<b>AIHW</b>	Australian Institute of Health and Welfare
<b>ATO</b>	Australian Taxation Office
<b>Closure Order</b>	An order authorised under NSW tobacco regulatory frameworks allowing premises selling illicit tobacco or vaping goods to be temporarily or permanently closed
<b>CRE</b>	Centre for Regulation and Enforcement, a unit within NSW Health responsible for regulating tobacco retailing licence scheme along with leading compliance and enforcement activity
<b>DCJ</b>	NSW Department of Communities and Justice
<b>DCS</b>	NSW Department of Customer Service
<b>Illegal vaping goods</b>	Vaping products that are unregulated, non-compliant or unlawfully supplied.
<b>Illicit tobacco</b>	Tobacco products that are imported, manufactured, supplied, possessed or sold in breach of Australian or NSW law.
<b>Mandatory Tobacco Licensing Scheme</b>	NSW regulatory scheme requiring retailers and wholesalers to hold a licence to sell tobacco and non-tobacco smoking products
<b>NITEC</b>	National Illicit Tobacco and E-cigarette Coordination forum
<b>OCNs</b>	Organised Crime Networks
<b>OMCGs</b>	Outlaw motorcycle gangs
<b>Phoenixing</b>	A new company, often illegally, resumes the operations of a liquidated or abandoned business. This can be to avoid regulatory compliance or paying debts, such as taxes.
<b>Tobacco excise duty</b>	A Commonwealth tax that applies to tobacco products imported or manufactured in Australia and is administered by the Australian Taxation Office.
<b>TCO</b>	The Cabinet Office
<b>TSOC</b>	Transnational serious and organised crime groups

## **Acknowledgement of Country**

The NSW Government acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal and Torres Strait Islander people and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past and present and acknowledge the Aboriginal and Torres Strait Islander people who contributed to the development of this submission.

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## Introduction

The NSW Government welcomes the opportunity to make a submission to the Portfolio Committee on Justice and Communities' inquiry into the illegal tobacco trade in NSW.

The NSW Government is also contributing to the Commonwealth Senate inquiry into the Illegal tobacco crisis in Australia.

This submission provides information about the prevalence and causes of the illegal tobacco trade in NSW. It also provides information about related government strategies and recent reforms to combat illegal tobacco.

Tobacco control initiatives at international, national, and state levels focus on reducing the prevalence of tobacco use to minimise the health, social, environmental, and economic harm it causes. Strict regulations target the supply, availability, and accessibility of tobacco products, aiming to protect the community.

Tobacco use remains the leading cause of preventable death in Australia and the second highest contributor to the national burden of disease, responsible for an estimated 7.6% of total disease burden in 2024.<sup>1</sup> Tobacco related harm is significant, costing individuals, communities, and the Australian health system an estimated \$159.7 billion in 2022/23.<sup>2</sup>

The NSW Government's approach to illicit tobacco is underpinned by public health, seeking to reduce supply and demand for tobacco products, seeking to reduce tobacco use, and protecting the community from tobacco-related harm. This approach includes public awareness and education campaigns, support to quit smoking and vaping, a strong compliance and enforcement program of smoke-free environment and tobacco retailing laws, and targeted programs for groups with high smoking or vaping rates.<sup>3</sup>

Illicit tobacco bypasses regulatory controls, funds organised crime and erodes the safety and amenity of local retail precincts, particularly where illegal sales become entrenched. It undermines the public health objectives of tobacco control by making it easier and cheaper to access tobacco products in the community.

Since mid-2024, the NSW Government has introduced a series of legislative reforms to respond to the increasing availability of illicit tobacco in the community, including:

- Introducing the NSW tobacco licensing scheme, for tobacco retailers and wholesalers, in effect since 1 July 2025
- Empowering NSW Health tobacco inspectors to close premises supplying illicit tobacco, or supplying tobacco without a valid licence
- Allowing landlords to terminate leases of premises used to sell illicit tobacco
- Substantially increasing penalties for offences relating to the sale and possession of illicit tobacco and illegal vaping products, including very significant fines and custodial sentences.

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<sup>1</sup> Australian Institute of Health and Welfare, *Alcohol, tobacco and other drugs in Australia*, website accessed 13 February 2026

<sup>2</sup> Gadsden T, et al, 'Updated social and economic costs of alcohol, tobacco and drug use in Australia, 2022/23', The George Institute for Global Health, November 2023. Note: This estimate covers both the direct and intangible costs of premature mortality, morbidity, health care utilisation, lost productivity and reduced quality of life

<sup>3</sup> NSW Government, *Tobacco and smoking control in NSW*, website accessed 13 February 2026

The NSW Parliament is also currently considering the Public Health (Tobacco) Amendment (Landlord Offences) Bill 2025, which proposes creating a new offence for landlords who knowingly allow tenants to sell illegal tobacco or vapes.

The NSW Government also established a Centre for Regulation and Enforcement (**CRE**) within NSW Health, dedicated to strengthening compliance and enforcement of tobacco and vaping laws.

The NSW Government looks forward to considering the Committee's findings.

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## **Illicit tobacco is a national issue that requires consistent and coordinated national action**

Illicit tobacco is a nationally driven, cross-jurisdictional market influenced by a range of policy settings outside of the NSW Government's control, including tobacco excise, border controls and national intelligence arrangements.

While the NSW Government has significantly strengthened enforcement, penalties and oversight of the tobacco retail sector, these measures alone cannot address the upstream drivers of the illicit supply or national market conditions. There are clear opportunities to better align national levers with state-based enforcement to improve outcomes in NSW, and for all Australians.

### **1. Review the tobacco excise duty to ensure it is still meeting its intended objectives**

The Commonwealth should review the tobacco excise duty to ensure it continues to support its intended objectives and effectively balances public health objectives.

Sustained excise increases have widened the price differential between legal and illicit tobacco products, amplifying the financial incentives to import and distribute illicit tobacco products. This has incentivised organised crime involvement in the illicit tobacco trade and is pushing consumers into buying much cheaper illicit tobacco products over legal products. The proliferation of illegal sales will continue so long as it is significantly cheaper to purchase illegal products, placing increased and sustained pressure on legal retail channels.

### **2. Strengthen nationally coordinated intelligence and targeting of illicit tobacco supply chains**

The Commonwealth could further enhance state-based national intelligence capability to support strategic targeting of high-risk import pathways and organised crime networks (**OCNs**) operating across borders. This should include ongoing dedicated national illicit tobacco intelligence resources with data capability. This could be achieved by improving intelligence sharing, strategic targeting and coordination across jurisdictions. It could also support more effective upstream disruption.

### **3. Enhance national policy settings that support state licensing and compliance regimes**

The Commonwealth should consider taking additional measures that assist states in effectively implementing existing licensing schemes and executing compliance and enforcement activities. Taking a national approach to address 'phoenix' companies and businesses is one such measure. This would enable identification and disruption of operators who dissolve and re-establish entities across jurisdictions to evade state-based licensing, closure orders and enforcement actions.

#### **4. Provide consistent and ongoing national funding for enforcement-related costs borne by states**

States are facing significant, ongoing costs for enforcement, investigating and prosecution, as well as the seizure, storage and destruction of illicit goods in response to nationally driven illicit markets. As States respond to these issues, the Commonwealth should consider providing increased long-term support for the costs associated with these activities, given national policy is a significant contributor to these local and regional level challenges. Nationally coordinated, ongoing long-term funding and/or cost-sharing arrangements should be investigated to ensure state enforcement activity remains sustainable and effective without diverting resources from other public safety priorities.

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## **The NSW Government continues to take decisive action to tackle the illicit tobacco trade**

The NSW Government has and continues to take decisive action to tackle the illicit tobacco trade, introducing mandatory tobacco licensing and legislating tough new regulatory and enforcement powers. The NSW Government is proactively targeting hostile tobacco retailers linked to organised crime and collaborating through NSW Health's new CRE and NSW Police with the Australian Border Force (ABF), Therapeutic Goods Administration, and Australian Federal Police on active criminal investigations. These efforts have resulted in criminal charges, regulatory enforcement actions, and closure orders.

The goal is to deter tobacco retailers from selling illicit tobacco and vape products, and to minimise organised crime's role in their sale through targeted enforcement. NSW Health is leading this work, with considerable experience in conducting public health regulatory compliance. NSW Police provide intelligence and operational support to NSW Health during enforcement activities, and interagency collaboration is facilitated through the NSW Illicit Tobacco Taskforce.

While NSW maintains control over retail tobacco licensing, persistent challenges remain as businesses attempt to circumvent closure orders, particularly through phoenixing, covert opening hours, moving online, and other forms of repeat non-compliance. These issues occur across jurisdictions underscoring the need for coordinated national action.

There are opportunities to further align national policy settings with state-based enforcement and licensing regimes. For example, a national approach to addressing phoenixing could support states in preventing repeat non-compliance and improve the effectiveness of retail level enforcement, particularly closure orders.

More enforcement activity must take place to target retailers and wholesalers that sustain the illicit tobacco trade. The involvement of organised crime networks (OCNs), who profit from this illicit black market, significantly increases the risk profile to the enforcement workforce. The NSW Government is investing to ensure NSW Health and NSW Police can continue to grow their operations; however, the extensive proliferation and breadth of the activity means that additional assistance is urgently needed.

The Commonwealth could consider strengthening nationally coordinated approaches to intelligence and information sharing. For example, better data sharing and coordination could better support state enforcement agencies in targeting organised illicit tobacco supply chains operating across borders.

## NSW has some of the toughest tobacco retailing laws in Australia

The NSW Government has been implementing a series of legislative reforms targeting illicit tobacco and vaping goods. These reforms span 2024 to 2026, and have introduced new regulatory measures, new offences, and significantly higher penalties for a range of existing offences.

The CRE was established within NSW Health in August 2025 to regulate the retailing and wholesaling of tobacco products in NSW, and to tackle the sale and distribution of illicit tobacco and vaping products. NSW Health works with a range of key stakeholders to carefully monitor the roll out and impact of new regulatory and enforcement powers to ensure they have the intended effect.

### NSW established a mandatory tobacco licensing scheme in 2025

The NSW Tobacco Licensing Scheme (**Scheme**), introduced through the *Public Health (Tobacco) Amendment Act (No 2) 2024* (NSW), has been in effect since 1 July 2025.<sup>4</sup> The scheme requires all tobacco retailers and wholesalers in NSW to obtain a licence to sell tobacco or non-tobacco smoking products. To obtain a licence, businesses must submit to a criminal record check and pay an annual fee. The scheme reinforces existing regulations and leverages existing federal legislation relating to restrictions on the sale of vaping goods. At this time, selling products without a valid licence attracted fines of up to \$11,000 for individuals (first offence), \$44,000 for repeat offences, and \$220,000 for corporations.<sup>5</sup>

### NSW Health has already shut down 105 premises selling illicit tobacco

Following amendments enacted 15 September 2025, the *Public Health (Tobacco) Act 2008* (NSW) empowers NSW Health inspectors to enter, inspect, and close premises selling illicit tobacco, illegal vaping products, or operating without a valid tobacco licence.<sup>6</sup> The NSW Health Secretary (or delegate) can now issue short term closure orders (up to 90 days), and a Local Court can issue long term closure orders (up to one year) for ongoing non-compliance under the Act.<sup>7</sup>

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<sup>4</sup> See *Public Health (Tobacco) Act 2008* (NSW) Pt 5, Div 2 (ss 32–36, 37) (as amended by the *Public Health (Tobacco) Amendment Act (No 2) 2024* (NSW))

<sup>5</sup> *Public Health (Tobacco) Act 2008* (NSW) s 37 (as in force from 1 July 2025, prior to subsequent penalty increases)

<sup>6</sup> *Public Health (Tobacco) Act 2008* (NSW) Pt 5A (ss 42A–42R) see also s 48 powers of inspectors to enter and inspect premises (as amended by the *Tobacco Legislation (Closure Orders) Amendment Act 2025* (NSW))

<sup>7</sup> *Public Health (Tobacco) Act 2008* (NSW) Pt 6A (as amended by the *Tobacco Legislation (Closure Orders) Amendment Act 2025* (NSW))

As of Monday 2 March 2026, NSW has issued 105 short-term closure orders to tobacco retailers since the new laws came into effect in November 2025.

The Act also significantly increased penalties under the licensing scheme, establishing a new maximum penalty of \$660,000 for individuals and \$880,000 for corporations. There are also offences for falsely claiming to hold a tobacco licence, with a maximum penalty of \$880,000.

### **Strong penalties deter the sale of illicit tobacco and illegal vaping products in NSW**

The amendments to the Act also involved the introduction of new offences for the sale and possession of illicit tobacco products. The new offence for selling illicit tobacco carries a maximum penalty of 7 years imprisonment, a fine of \$1.54 million, or both.<sup>8</sup> Possession of a commercial quantity of illicit tobacco operates under a tiered system, the most serious of which attracting a maximum penalty of 7 years imprisonment, a fine of \$1.54 million, or both.<sup>9</sup> Landlords were also granted powers to terminate the lease of premises use for illicit tobacco.

From 1 January 2025 to 31 December 2025, inspectors conducted approximately 1,700 retailer inspections and seized more than 16.2 million cigarettes, over 2,650kg of other illicit tobacco products and approximately 215,000 illegal vaping goods with a combined estimated street value of approximately \$24.9 million.

Between 1 January to 31 December 2025, NSW Health finalised 22 successful prosecutions, including a District Court Appeal which was affirmed in favour of NSW Health, imposing a combined total of \$784,700 in fines for tobacco retailing and vaping goods offences. As of 20 February 2026, a further 18 prosecutions are before the Local Court.

The NSW Government introduced significant changes to the regulatory framework for vaping goods in line with the national vaping reforms.<sup>10</sup> Supply of vaping goods is only allowed by pharmacists, medical practitioners or nurse practitioners for smoking cessation or management of nicotine dependence, and to allow the importation and wholesale supply of therapeutic vaping goods.<sup>11</sup>

### **New powers for landlords to terminate leases break the retail cycle, making it harder for illicit tobacco retailers to do business**

The NSW Government also gave established new grounds for landlords to terminate retail leases where premises are being used for illicit tobacco trading. The changes allowed certain lessors or landlords to terminate a retail lease if a tobacco closure order has been issued.<sup>12</sup> This supports landlords to protect their property and their community from the risks associated with organised criminal activity being carried out on their rental premises, and creates an effective break in the retail cycle.

The NSW Government is now seeking to strengthen these powers with separate penalty provisions currently under consideration by Parliament. In late 2025, the NSW

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<sup>8</sup> *Public Health (Tobacco) Act 2008* (NSW) s6 (as amended by the *Tobacco Legislation (Closure Orders) Amendment Act 2025* (NSW))

<sup>9</sup> *Public Health (Tobacco) Act 2008* (NSW) s 6A (as amended by the *Tobacco Legislation (Closure Orders) Amendment Act 2025* (NSW))

<sup>10</sup> *Public Health (Tobacco) Amendment Act 2024* (NSW)

<sup>11</sup> *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024* (Cth),

<sup>12</sup> Enacted under the *Tobacco Legislation (Closure Orders) Amendments Act 2025* (NSW), inserted into the *Public Health (Tobacco) Act 2008* (NSW), s 50J

Government conducted direct stakeholder engagement and broader public consultation, with 76% of Have Your Say survey participants supporting the introduction of offences for landlords who knowingly permit their premises to be used by tenants to sell illicit tobacco.<sup>13</sup>

The Public Health (Tobacco) Amendment (Landlord Offences) Bill 2025 proposes a new offence for landlords who knowingly permit their premises to be used by tenants to run illicit tobacco and vape businesses, carrying a maximum penalty of \$165,000 and up to 1 year imprisonment.

The landlord offence would include a reasonable excuse defence for landlords, protecting landlords who have been subject to threats or intimidation by tenants, and landlords who have made good faith efforts to comply with the law.

### **NSW's Illicit Tobacco Taskforce coordinates efforts against the illicit tobacco trade**

In 2025, the NSW Government established a cross-agency Illicit Tobacco Taskforce. The Taskforce comprises senior representatives from NSW Health, NSW Police Force, the Department of Customer Service, the Department of Communities and Justice, the Department of Creative Industries, Tourism, Hospitality and Sport, and The Cabinet Office. The Taskforce collectively develops options and recommendations for the NSW Government to enhance compliance and enforcement efforts to decrease the presence of the illicit tobacco trade throughout NSW.

As members of the Taskforce, NSW Health, and NSW Police work closely on illegal tobacco enforcement activities. NSW Police provide risk-based information to CRE to inform compliance activities and front-line resourcing assistance across NSW. CRE comprises a statewide team of 78 full time equivalent staff, including enforcement officers, policy, legal and project officers.<sup>14</sup> These staff are jointly funded by the NSW Government and the Commonwealth Government.

The CRE is currently expanding its regional operations to support an inclusive regulatory framework across metropolitan, regional, and remote areas.

### **NSW collaborates nationally on enforcement and intelligence to bolster compliance efforts and break up illicit tobacco trade networks**

The organised crime landscape connected to tobacco in NSW is distinct from other states, with differences in the diversity of criminal groups and ownership structures within the retail network. These characteristics shape how illicit tobacco markets function locally and influence enforcement priorities.

NSW Health works closely with NSW Police and federal regulatory, enforcement and intelligence agencies to inform compliance activities and administer the tobacco licensing scheme. NSW agencies also take part in a range of cross-jurisdictional groups, including the National Illicit Tobacco and E-cigarette Coordination (**NITEC**) Forum.

The NITEC Forum is a senior level group designed to facilitate a whole of government, inter jurisdictional approach to combat the illicit tobacco and vaping goods market in Australia. This group is jointly chaired by the NITEC Commissioner and the NSW Health

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<sup>13</sup> NSW Department of Customer Service, [Have your say: Proposed landlord offence relating to illicit tobacco sales in NSW](#) survey results 2026

<sup>14</sup> NSW Government [More boots on the ground to tackle illegal tobacco](#) accessed online 12 February 2026

Secretary. NSW Health also participates in the cross-jurisdictional Illicit Tobacco Enforcement and Compliance Working Group, convened by the ABF.

The ABF also leads the National Illicit Tobacco Taskforce. The National Illicit Tobacco Taskforce draws on the expertise of the Australian Tax Office, Department of Home Affairs, Australian Criminal Intelligence Commission, Australian Transaction Reports and Analysis Centre, Commonwealth Director of Public Prosecutions and law enforcement partners. Their goal is to identify, disrupt, and break up illegal tobacco networks.

Enforcement work is more dangerous as organised crime and gangs become involved, with big profits at stake. The NSW Government is investing to ensure NSW Health and NSW Police can continue to grow their operations, and while the NSW Government welcomes the Commonwealth's current support, long-term and nationally coordinated support is needed.

The Commonwealth could strengthen nationally coordinated intelligence and provide nationally coordinated long-term funding and/or cost-sharing arrangements to ensure state enforcement activity remains sustainable and effective without diverting resources from other public safety priorities.

### **Collaboration across jurisdictions is essential to address intelligence needs**

There are no cross-jurisdictional databases capable of supporting the sharing of information required to assist with the enforcement of tobacco retailing laws.

Illicit tobacco is a cross-jurisdictional issue managed at both state and national levels, which requires strong organisational collaboration. NSW Health is an active partner in combined enforcement efforts. Noting the appeal to OCNs of the illicit tobacco trade, there is significant and growing need for ongoing national collaboration and long-term national funding arrangements.

Despite increased enforcement in NSW, the illicit tobacco market remains widespread and profitable. It is well established within law enforcement and intelligence agencies that cross-jurisdictional supply chains operated by OCN's readily adapt to circumvent law enforcement methodologies. While NSW combats state-based illegal activities, national and international supply dynamics drive the market, highlighting the need for ongoing Commonwealth intervention to target importation, distribution, and criminal networks.

The Commonwealth could further enhance state based national intelligence capability to support strategic targeting of high risk import pathways and OCNs operating across borders. This should include ongoing dedicated national illicit tobacco intelligence resources with data capability to improve intelligence sharing, strategic targeting and coordination across jurisdictions. It could also support more effective upstream disruption.

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## **Despite increasing seizure and closure activity, the NSW illicit tobacco market remains challenging**

Enforcement has ramped up across Australia, including in NSW, as the illicit tobacco trade grows more complex.<sup>15</sup>

Illicit tobacco now accounts for an estimated one in five cigarettes sold nationwide and is a multi-billion dollar organised crime market.<sup>16</sup> At the national level in FY2024–25, Australian Border Force (ABF) seized 2.53 billion illicit cigarettes, 435.46 tonnes of loose tobacco, and over 6 million illegal vaping products in more than 23,097 detections, preventing an estimated \$4.36 billion in evaded customs duty.<sup>17</sup> NSW is a major entry point for illicit tobacco, with the ABF reporting high volume detections at NSW air and sea ports.<sup>18</sup>

In January 2026, NSW Health inspectors carried out 131 inspections, seizing around 560,000 cigarettes, 98 kg of illicit tobacco, and more than 6,000 illegal vaping goods, with an estimated street value of approximately \$830,000.<sup>19</sup> These seizures were conducted with operational support of NSW Police.

### **Organised crime networks are capitalising on the demand for cheap tobacco to finance other criminal activities**

OCNs have expanded their role in the illicit tobacco market in NSW. The importation and sale of illicit tobacco and vaping products have increased markedly, driven by supply chains from Asia and the Middle East. Criminal groups exploit these high volume import pathways to supply a network of retail outlets, embedding their operations across wholesale and retail points.

OCNs and outlaw motorcycle gangs (OMCGs) have diversified into illicit tobacco because of strong financial incentives, treating tobacco as a lucrative commodity alongside other criminal markets. This involvement extends beyond importation; criminal entities control or influence tobacco outlets, creating a retail environment where legitimate and illegitimate commerce can be blended to avoid detection.

This criminal infiltration of the retail sector has contributed to instances of targeting between rival groups, including arson attacks on OCN controlled tobacconists seeking to consolidate territorial or commercial advantage.<sup>20</sup> NSW has experienced fewer such incidents than Victoria or Queensland, supported by proactive joint enforcement models and ongoing operations under the Taskforce. However, incidents continue to escalate as OCNs adapt their tactics and compete for control of illicit retail networks, increasing the risk of violence despite strengthened enforcement.

Illicit tobacco retailing also provides opportunities for money laundering, supported by the high volume cashflow typical of tobacconist operations. Criminal groups use outlets

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<sup>15</sup> Meciar, I et al, A Content Analysis of Illicit Tobacco-Related Crimes Reported in Australian Media Open Access, *Nicotine & Tobacco Research*, Volume 27, Issue 6, June 2025, Pages 980–987, <https://doi.org/10.1093/ntr/ntae254>, accessed online 12 February 2026

<sup>16</sup> Illicit Tobacco and E-cigarette Commissioner, *Illicit Tobacco and E-cigarette Commissioner Report 2024-25*, Australian Government, 2026; Oliva Caisley, 'Australia's \$4 billion illicit tobacco trade has become one of the nation's most violent criminal markets', *ABC website*, 2025, accessed 9 February 2026

<sup>17</sup> Australian Government, *Tobacco takedown: New data reveals a historic high in illicit hauls*, The Australian Border Force website, accessed 8 February 2026; Illicit Tobacco and E-cigarette Commissioner, *Illicit Tobacco and E-cigarette Commissioner Report 2024-25*, Australian Government, 2026

<sup>18</sup> Australian Government, *ABF strikes record illicit tobacco detections across NSW*, The Australian Border Force website, accessed 17 February 2026

<sup>19</sup> NSW Government, 'Minns Labor Government shuts down five illegal tobacconists', Minister for Health, February 2026, accessed online 12 February 2026

<sup>20</sup> Walsh Liam, 'Inside the illegal tobacco trade — secret rooms, fire bombings and bags full of cash' *ABC*, website accessed 16 February 2026

to launder proceeds from illicit tobacco and other criminal activities, sometimes through direct business transactions and sometimes through fraudulent real estate loan arrangements, where illicit tobacco sales are used to repay loans and convert illegal profits into legitimate assets.

Illicit markets are increasingly shifting toward online channels, postal distribution networks and home delivery models, reducing reliance on fixed premises and complicating inspection-based compliance strategies.

In NSW, despite increased enforcement criminal supply persists due to organised and adaptive supply chains that span state borders. Ongoing seizures and swift re-emergence of illegal activity indicate the market remains large and profitable. These dynamics highlight the importance of continued Commonwealth efforts to disrupt national and international importation, distribution, and criminal networks. These costs fall outside existing state law enforcement budget allocations and are increasingly being absorbed by state agencies, including police. It is important state-based enforcement activities are nationally supported to ensure that the financial burden of addressing a nationally driven illicit market is not disproportionately transferred to the states.

The Commonwealth could consider mechanisms to better support the costs associated with these activities. For example, nationally coordinated long-term funding and/or cost-sharing arrangements to ensure state enforcement activity remains sustainable and effective without diverting resources from other public safety priorities.

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## The illicit tobacco trade undermines tobacco control, damages public health and undercuts legal trade

The NSW Government's tobacco control approach is designed to reduce tobacco use and protect public health through a combination through a combination of public awareness and education campaigns, support to quit smoking and vaping, a strong compliance and enforcement program of smoke-free environment and tobacco retailing laws, and targeted programs for groups with high smoking or vaping rates. These measures have been central to long term reductions in smoking prevalence and remain foundational to NSW's tobacco policy position.<sup>21</sup> This work is complemented by Commonwealth Government actions such as tobacco excise, advertising restrictions, plain packaging and product requirements laws.

The illicit tobacco trade undermines this work in two distinct but compounding ways. First, illicit products fail to comply with Australia's packaging, labelling and product standards, bypassing critical non-price demand reduction measures such as graphic health warnings and plain packaging. Second, illicit tobacco evades Commonwealth excise and customs duty, which is the primary driver of the retail price of legal tobacco products.<sup>22</sup> Tobacco excise and excise-equivalent customs duty account for around 70%

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<sup>21</sup> NSW Government, *Tobacco and smoking control in NSW*, website accessed 13 February 2026

<sup>22</sup> Illicit Tobacco and E-cigarette Commissioner, *Illicit Tobacco and E-cigarette Commissioner Report 2024-25*, Australian Government, 2026; Meciar, I et al, A Content Analysis of Illicit Tobacco-Related Crimes Reported in Australian Media Open Access, *Nicotine & Tobacco Research*, Volume 27, Issue 6, June 2025, Pages 980-987, <https://doi.org/10.1093/ntr/ntae254>, accessed online 12 February 2026

of the retail price of cigarettes in Australia, with GST applied on top.<sup>23</sup> The avoidance of excise enables illicit products to be sold at substantially lower prices, weakening the effectiveness of price based tobacco control and increasing affordability.

The rapid increase in tobacco excise rates over the past five years is pushing consumers into buying illicit tobacco products for considerably lower prices than the legal product.<sup>24</sup> This price distortion is a key driver of demand for illicit tobacco, particularly among price sensitive consumers, including young people and people in lower socioeconomic groups, who are known to be more responsive to tobacco price changes.<sup>25</sup> By circumventing both excise and regulatory controls, illicit tobacco increases the risk of initiation and continued use and threatens to erode the public health gains achieved through decades of tobacco control reform.

Besides weakening health policy, excise avoidance also reduces government revenue. According to the Illicit Tobacco and E-cigarette Commissioner, up to \$11.8 billion of annual revenue is lost due to the illicit tobacco trade.<sup>26</sup> At the same time, addressing illicit tobacco activities demands greater government spending on regulation and enforcement.

The scale and persistence of the illicit tobacco trade is placing sustained pressure on enforcement agencies and diverting resources from other priority public safety and regulatory functions. As OCNs expand their involvement in illicit tobacco, enforcement activity has intensified across inspections, seizures, prosecutions, storage and destruction of goods, and inter-agency coordination, all of which carry significant operational and financial costs.

From a market perspective, the illicit trade also undermines the viability of lawful retailers operating within the regulatory framework. If compliant businesses are displaced by criminal operators selling untaxed and non-compliant products, the legal retail market for tobacco is progressively weakened, increasing the risk that illicit supply becomes entrenched, or indeed, the only type of supply readily available in the community.

The NSW Government continues to review and assess policy options and is open to constructive collaboration with stakeholders to inform future approaches to the illicit tobacco trade. There are also opportunities for the Commonwealth to consider policy reform options. Reviewing the excise to better align public health objectives with the need to limit financial incentives for illicit tobacco could help reduce demand for illegal products while preserving the integrity of Australia's tobacco control framework.

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<sup>23</sup> Leach M, ['Cigarette prices spike as new excise duty rates come into effect today'](#), Nine news, September 2025, accessed online 18 February 2026; see also: Australian Tax Office, [Excise duty rates for tobacco](#), Australian Government, accessed online 18 February 2026

<sup>24</sup> Meciar, I et al, A Content Analysis of Illicit Tobacco-Related Crimes Reported in Australian Media Open Access, *Nicotine & Tobacco Research*, Volume 27, Issue 6, June 2025, Pages 980–987, <https://doi.org/10.1093/ntr/ntae254>, accessed online 12 February 2026.

<sup>25</sup> Hanley-Jones, S, Wood, L and Greenhalgh, EM. 5.12 The impact of tobacco affordability and pricing on uptake, and policy to reduce affordability. In Greenhalgh, EM, Scollo, MM and Winstanley, MH [editors]. *Tobacco in Australia: Facts and issues*. Melbourne: Cancer Council Victoria; 2025. Available from <https://www.tobaccoinaustralia.org.au/chapter-5-uptake/5-12-affordability-of-tobacco-products>

<sup>26</sup> Illicit Tobacco and E-cigarette Commissioner, *Illicit Tobacco and E-cigarette Commissioner Report 2024-25*, Australian Government, 2026

## Children and young people are especially vulnerable to illicit tobacco products

It is illegal to sell tobacco or non-tobacco smoking products to children and young people under the age of 18 years.<sup>27</sup> People under the age of 18 can only legally access vaping goods with a prescription where clinically appropriate for smoking cessation or managing nicotine dependence. While smoking rates continue to decline,<sup>28</sup> rates of vaping remain high, with people aged 16-24 years having the highest rate of vaping of any age group (20%).<sup>29</sup> This is particularly concerning as evidence shows that smoking exposure in young people can quickly lead to addiction and may cause lasting harm to cognitive function.<sup>30</sup> Concerns also exist about the content of illegal vaping products, with reports of overdoses from products laced with nitazenes, a powerful and potentially deadly synthetic opioid.<sup>31</sup>

Smoking and vaping by young people is particularly concerning as nicotine is a highly addictive substance and evidence shows that young people are particularly susceptible to nicotine addiction. Nicotine use in adolescence can lead to a lifetime of nicotine dependence and other substance use and may cause lasting harm to cognitive function.<sup>32</sup> Evidence also shows that young people who try vaping are 5 times more likely to take up smoking cigarettes than those who don't.<sup>33</sup> Supporting young people to quit remains a key priority for NSW Health with the launch of an Australian-first evidence-based vaping cessation app 'Pave',<sup>34</sup> and development of resources to support clinicians, parents, carers and school staff to help young people manage nicotine dependence and quit.<sup>35</sup> These activities support the significant legislative reforms to the regulatory framework for vaping goods.

These health risks are further amplified by the way illicit tobacco and vaping products bypass price-based controls that are critical to preventing uptake among young people.<sup>36</sup> Research exploring smoking amongst young people found that the higher the tobacco price, the less likely young people are to initiate smoking.<sup>37</sup> Cheap illicit tobacco directly undermines tobacco control.<sup>38</sup> There is a risk that the spread of illicit tobacco will increase smoking rates in children and young people.

## The involvement of criminal groups in the illegal tobacco trade threatens the safety of both communities and businesses

<sup>27</sup> *Public Health (Tobacco) Act 2008* (NSW), s 22

<sup>28</sup> Australian Bureau of Statistics, 'Microdate: Smoker Status' accessed 12 February 2026

<sup>29</sup> NSW Government, "Smoking and vaping", HealthStats NSW, website accessed 13 February 2026

<sup>30</sup> Scully M et al, 'ASSAD 2022-2023: Australian secondary school students' use of tobacco and e-cigarettes', Cancer Council Victoria, December 2023.

<sup>31</sup> NSW Government, "Overdoses linked to illicit vape juice", NSW Health Pathology, website accessed 13 February 2026; Wisbey M, 'Deeply concerning: vapes found laced with nitazenes', Royal Australian College of General Practitioners - newsGP website accessed 13 February 2026

<sup>32</sup> Scully M et al, 'ASSAD 2022-2023: Australian secondary school students' use of tobacco and e-cigarettes', Cancer Council Victoria, December 2023. <https://www.sciencedirect.com/science/article/pii/S1326020024000487?via%3Dihub>

<sup>33</sup> Egger S et al, The association between vaping and subsequent initiation of cigarette smoking in young Australians from age 12 to 17 years: a retrospective cohort analysis using cross-sectional recall data from 5114 adolescents, *Australian and New Zealand Journal of Public Health*, Volume 48, Issue 5, October 2024, <https://www.sciencedirect.com/science/article/pii/S1326020024000487?via%3Dihub>, accessed online 20 February 2026.

<sup>34</sup> NSW Government, "Pave - a vaping cessation support app", NSW Health, website accessed 24 February 2026

<sup>35</sup> NSW Government, "Vaping resources hub", NSW Health, website accessed 24 February 2026

<sup>36</sup> Illicit Tobacco and E-cigarette Commissioner, *Illicit Tobacco and E-cigarette Commissioner Report 2024-25*, Australian Government, 2026

<sup>37</sup> Tobacco in Australia, 5.12 *The impact of tobacco affordability and pricing on uptake, and policy to reduce affordability*, website accessed 13 February 2026

<sup>38</sup> Illicit Tobacco and E-cigarette Commissioner, *Illicit Tobacco and E-cigarette Commissioner Report 2024-25*, Australian Government, 2026

Organised crime views the illicit tobacco market as ‘a low-risk, high-reward enterprise’, with funds likely redirected to support other criminal activity.<sup>39</sup> There is evidence of organised crime activity associated with the supply of illicit tobacco and vaping goods in all Australian jurisdictions.<sup>40</sup>

Fear of reprisal is a major barrier to reporting illegal conduct.<sup>41</sup> While NSW Health provides a reporting mechanism, businesses have reported concerns about personal exposure.<sup>42</sup> Mindful of these concerns, NSW Health works closely with NSW Police to refer matters involving serious criminal activity and organised crime.

### **Illicit tobacco trade undermines the viability of small legal retailers**

The illicit tobacco trade disproportionately affects small, legitimate tobacco retailers who often operate on slim profit margins (as low as 5%).<sup>43</sup> The availability of significantly cheaper illegal products undermines their viability and distorts competition within the retail market away from legal trade.

As the illicit market becomes more established, there is a risk that it becomes increasingly difficult for retailers to operate exclusively within the legal market. Retail activity now includes licensed retailers selling only legal tobacco products, licensed retailers selling a mix of legal and illicit tobacco, and unlicensed retailers selling only illicit tobacco. This places compliant businesses at a growing competitive disadvantage.

Lawful tobacco retailers operating within the regulatory framework are increasingly required to compete with illicit operators who continue trading despite enforcement action, including through repeat non-compliance and phoenixing practices. The Commonwealth should consider taking additional measures that assist states in the effective implementation of existing licensing schemes, this could include taking a national approach to address phoenixing.

Surveys conducted by the NSW Small Business Commission indicate widespread awareness of illegal tobacco; however, the effects are notably more pronounced in regional and rural areas of NSW, with 59% of respondents aware of illicit sales situated in these regions. Reported impacts included significant revenue loss, reduced foot traffic, and pressure to match illegal pricing, which threatened small business survival. These pressures are compounded by rising operating costs. These pressures are impacting owners’ mental health and wellbeing, particularly for family run businesses, as longer working hours are often required to remain viable.

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<sup>39</sup> Illicit Tobacco and E-cigarette Commissioner, ‘Inquiry into illegal tobacco trade, Submission no. 55’ August 2025; Australian Criminal intelligence commission, [Media statement: Illicit tobacco](#), website accessed 9 February 2026

<sup>40</sup> Meciar, I et al, A Content Analysis of Illicit Tobacco-Related Crimes Reported in Australian Media Open Access, *Nicotine & Tobacco Research*, Volume 27, Issue 6, June 2025, <https://doi.org/10.1093/ntr/ntae254>, accessed online 12 February 2026

<sup>41</sup> NSW Small Business Commissioner, Submission into Inquiry into the illegal tobacco trade, August 2025

<sup>42</sup> NSW Small Business Commissioner, Submission into Inquiry into the illegal tobacco trade, August 2025

<sup>43</sup> NSW Small Business Commissioner, Submission into Inquiry into the illegal tobacco trade, August 2025