

Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024

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Health, Environment and Agriculture Committee
Queensland Parliament
Submitted via online portal


To whom it may concern

Thank you for the opportunity to provide a submission to the *Inquiry into the Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024*. The Queensland Network of Alcohol and other Drugs (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network of non-government alcohol and other drug (NGO AOD) treatment and harm reduction services across Queensland. We have over 55 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information, or discuss any aspect of this submission. Please do not hesitate to contact me at [REDACTED] or by calling [REDACTED]

Yours sincerely



Rebecca Lang

CEO



Submission to the *Inquiry into
the Tobacco and Other
Smoking Products (Vaping)
and Other Legislation
Amendment Bill 2024*

June 2024

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its content is informed by consultation with QNADA member organisations providing alcohol and other drug treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

This submission focuses on the issues within the *Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024* and touches on the importance of:

- Recognising that criminalising and overly restrictive regulation of substances leads to adverse consequences for individuals and communities, while simultaneously failing to reduce use. In the case of vapes, criminalisation will likely lead to a worsening of the potential inhalational harms associated with vapes.
- Recognising that criminalising possession of vaping and other nicotine goods is out of step with existing tobacco control legislation and broader trends in illicit drug policy in Australia. Departing from Australia's well established harm reduction approach will almost certainly have detrimental effects on public health.
- Ensuring protections are in place to prevent enforcement action against people in possession of vapes/vaping goods for personal use, given the current prevalence of use in the community.

QNADA is supportive of effective responses to nicotine use which are evidence informed and likely to increase individual and community safety, as outlined in our policy position paper on [effective responses to drug use](#). We are concerned that the proposed amendments will undermine the harm reduction potential of some nicotine products leading to adverse public health effects and that the proposal risks creating a criminalised environment for individuals who use vaping and nicotine products.

QNADA does not support the prohibiting of vaping goods or other nicotine products such as pouches. Research has consistently shown that attempts to prohibit, criminalise and restrictively regulate access to substances leads to a range of adverse consequences and increases harm for individuals and communities¹. As outlined in our updated policy position paper on [Decriminalisation](#), there is strong evidence that law enforcement strategies are ineffective in reducing both rates of use and intentions to use for people who use substances.

Many of the potential harms of vaping use are associated with a poorly regulated market and a lack of quality testing. Evidence shows that the inhalational health risks of vaping are compounded due to a lack of regulation and oversight². Improved regulation and quality and safety monitoring is key to addressing these harms – not prohibition. The detrimental effect of prohibition on the safety of illicit drug supplies is well documented in the literature³. Experience shows that attempts to outright ban products, as is proposed in this amendment, are likely to heighten current risks, increase the profitability of an unregulated market, and have limited impact on actual use in the community. We

¹ Lloyd, C. (2022). More harm than good: A review of the English language literature on the policing of drug possession. *Drug Law Enforcement, Policing and Harm Reduction*, 39-63.

² Jenkins C, Powrie F, Kelso C, Morgan J. (2023) *Chemical Analysis and Flavour Distribution of Electronic Cigarettes in Australian Schools*. ChemRxiv; doi:10.26434/chemrxiv-2023-rlmhl

³ Cole, C., Jones, L., McVeigh, J., Kicman, A., Syed, Q., & Bellis, M. A. (2010). *CUT: a guide to adulterants, bulking agents and other contaminants found in illicit drugs*. Liverpool: John Moores University.

must accept that further criminalisation of vapes will likely increase the inhalational risks associated with unregulated vapes.

This proposed amendment is also out of step with Australia's successful and extensive experience in using harm reduction approaches to mitigate the potential harms associated with alcohol and other drug use. Evidence strongly points to the harm reduction potential of nicotine vaping products as substantially less harmful than tobacco and positively association with success in smoking cessation⁴. It is also concerning that this amendment will expand the definition of 'illicit nicotine products' to include nicotine pouches, considering the body of evidence which suggests their harm reduction potential⁵. By fixating on the enforcement of a vaping product ban, government is closing off policy avenues for access to effective harm reduction, with potentially serious public health consequences. This amendment may have the effect of encouraging existing users of e-cigarettes to transition – or return - to use of traditional tobacco products.

The approach proposed is also inconsistent with the regulation of other nicotine containing products in the community, with cigarettes available to those over the age of 18 years and nicotine replacement products readily available without prescription (with associated restrictions on advertisement and plain packaging). This is the preferred approach, as it would help mitigate the potential harms associated with poor quality products and ensure appropriate restrictions are in place, while avoiding inadvertently harms to the community caused by civil or criminal penalties.

QNADA is also strongly opposed to any policies which either intentionally or inadvertently focus on criminalising personal possession. Evidence shows that policing personal possession of substances are not only ineffective but carry a range of potential adverse consequences⁶. QNADA acknowledges that the intent of the amendment is to prevent the importation, manufacture, and supply of vaping devices and products in Australia, rather than targeting individual users with punitive measures. However, the limited personal use exemptions and significant criminal and civil penalties for possession of vaping goods currently contained within the draft Bill risk a range of adverse consequences for people who use e-cigarettes who consequently become engaged with law enforcement and justice systems.

Furthermore, the use of threshold quantities to distinguish between possession for the purpose of personal use and possession for the purpose of supply of illicit substances is problematic. Evidence shows that threshold amounts do not reflect usage patterns in the community or account for factors such as an individual's desire to minimise contact with illicit markets and reduce risk of engagement with law enforcement⁷. Without applicable personal use exceptions for larger quantities – nor an onus for there to be evidence that a person has intent to supply vaping goods – the draft Bill risks people facing significant criminal penalties and long lasting, negative impacts for use of vaping goods.

The risk of criminalisation will also likely produce negative health and wellbeing outcomes, discouraging people from seeking support for vaping-related harms for fear of prosecution, and through the stigma of engaging in a criminalised activity. This reduces the potential harm reduction

⁴ McNeill, Ann, Leonie Brose, Robert Calder, Erikas Simonavicius, and Debbie Robson. "Vaping in England: an evidence update including vaping for smoking cessation, February 2021." *Public Health England: London, UK* (2021): 1-247.

⁵ Grandolfo, E., Ogden, H., Fearon, I. M., Malt, L., Stevenson, M., Weaver, S., & Nahde, T. (2024). Tobacco-Free Nicotine Pouches and Their Potential Contribution to Tobacco Harm Reduction: A Scoping Review. *Cureus*, 16(2), e54228. <https://doi.org/10.7759/cureus.54228>

⁶ Lloyd, C. (2022). More harm than good: A review of the English language literature on the policing of drug possession. *Drug Law Enforcement, Policing and Harm Reduction*, 39-63.

⁷ Hughes, C., Ritter, A., Cowdrey, N., & Phillips, N. (2014). *Australian threshold quantities for 'drug trafficking': Are they placing drug users at risk of unjustified sanction?*. *Trends & issues in crime and criminal justice no. 467*. Canberra: Australian Institute of Criminology.

and smoking cessation value of vaping goods and may have the effect of encouraging existing users of e-cigarettes to transition to use of traditional tobacco products. QNADA acknowledges the intent of this amendment to avoid targeting individuals for personal use possession. This intention could be strengthened by removing threshold amounts which define possession for personal use and replacing these with broader personal use exemptions that are not contingent on the quantity of vaping devices or products a person possesses.