

# A Plan to Transition Australian Retail Out of Cigarettes

**Urgent intervention is needed to prevent flawed legislation impacting 3 million smokers and 20,000 Australian businesses while a more responsible and practical solution exists.**

Right now, the Commonwealth Department of Health and the Therapeutic Goods Administration (TGA), are proposing to reverse a ban on the sale of nicotine vaping products in Australia.

We commend the Government for finally considering reform, however the model being proposed by government is seriously flawed and won't help Australians transition away from cigarettes.

The National Retail Association (NRA) recommends a more effective, practical and controlled regulatory framework that provides a pathway for Australian retail to transition out of cigarettes.

## THE FACTS

- 20,000 retail outlets, many of them small or family businesses, who sell tobacco products are heavily reliant on the income but they want to transition out of cigarettes without going out of business.
- Smoking costs 21,000 Australian lives and the economy.
- The Australian Government has tried multiple methods to reduce smoking rates but smoking rates are no longer going down.
- Over 3 million Australians still smoke.
- Health authorities state that alternatives like nicotine vapes, e-cigarettes and heated tobacco are less harmful than smoking.
- Smokeless alternatives are regulated and available for sale in over 50 countries, including New Zealand, the UK, the US, Canada and Japan.
- Health authorities, including Britain's National Health Service, state that these alternatives are helping people to quit smoking.
- Over 500,000 Australians currently vape. But most people don't know that buying or importing nicotine vapes without a doctor's script is illegal in Australia.

## Flawed Government Model

**The Government is proposing an academic model** where nicotine is entered to Schedule 4 through the TGA so that:

- Australians must get a doctor's prescription to purchase nicotine alternatives like e-cigarettes, vapes and heated tobacco.
- Australians would only be allowed to purchase these alternatives through pharmacies or online via non-Australian overseas sellers.

### IMPACTS

- ✗ Normal cigarettes and tobacco will be more widely available than less harmful alternatives.
- ✗ 500,000 vapers would clog up GPs and pharmacies, taking places away from those who really need medical help.
- ✗ This model has already failed as a prescription is required under current law but less than 2% of Australian vapers actually get one.
- ✗ Only large chemist chains will carry the products as Australian community pharmacies have stated they don't support their sale.
- ✗ Inferior, risky and counterfeit nicotine products will continue to be imported from anywhere. These products would remain largely unregulated, untested and accessible to minors.
- ✗ International sellers would have more rights and options than Australian business owners.
- ✗ 20,000 Australian retailers would not have a viable option to transition away from cigarettes.

## Responsible Regulatory Model

**The National Retail Association recommends a realistic plan** to transition Australia out of cigarettes with the creation of a new legislative and regulatory framework to govern the manufacture, distribution and sale of smokeless products.

- A strict regulatory model to control the sale of nicotine alternatives similar to the extensive restrictions on tobacco.
- Existing laws apply such as product safety regulation, standards, notification requirements, recalls and mandatory reporting.
- Heavy penalties and bans are enforced to protect minors, and strict packaging and labelling laws are applied to products.

### IMPACTS

- ✓ Vapes and smokeless alternatives will have the same strict and essential restrictions as cigarettes, regulated by the ACCC.
- ✓ Smokeless alternatives are banned from advertising, selling to minors, and indoor use.
- ✓ Smokeless alternatives are held to strict labelling and packaging laws.
- ✓ Businesses face severe penalties for breaching regulations.
- ✓ Smokers will be presented with less harmful alternatives where they normally purchase cigarettes.
- ✓ Retailers have resources to educate smokers on switching to less harmful alternatives.
- ✓ The Australian economy would benefit from income and taxes which are currently going overseas.
- ✓ 20,000 Australian retailers currently selling tobacco products can be regulated so they can phase in less harmful alternatives and phase out cigarettes.

# A responsible regulatory model

The National Retail Association proposes a realistic plan to transition Australia out of cigarettes with the creation of a new legislative and regulatory framework to govern the manufacture, distribution and sale of smokeless products.

This would sit within the existing Australian Consumer Law framework, enforced by the ACCC. This already includes provisions which govern product safety, standards, notification requirements, recalls and mandatory reporting.

## 1. CORE PRINCIPLES FOR REGULATION

- ✓ **Reduce Harm** - The use of smokeless nicotine products has been shown to be significantly less harmful than smoking cigarettes.
- ✓ **Help Australian Smokers** - Less harmful products should not be more difficult to obtain than cigarettes to help smokers switch.
- ✓ **Protect Australian Kids** - Strict consumer protections need to be applied to all nicotine products to protect users and prevent youth or non-smoker uptake.

## 2. STRICT PROHIBITIONS

Vaping products should be strictly controlled in Australia like current tobacco regulation, including:

-  A prohibition on the sale of smokeless products to people under the age of 18
-  A prohibition on the advertising and sponsorship of smokeless products
-  A prohibition on the use of smokeless products in indoor spaces

## 3. PACKAGING AND LABELLING REQUIREMENTS

Unlike unregulated overseas imports, a responsible regulatory model would apply Australia's strict packaging and labelling requirements:

- Child-resistant packaging
- Listing of all ingredients
- Nicotine content
- Batch number
- A warning to "keep out of reach of children"
- Tamper-evident packaging
- Protection against breakage and leakage
- Poisons line contact
- Country of origin

## 4. COMPLIANCE AND ENFORCEMENT

The NRA supports strict compliance with a responsible regulatory framework and severe penalties for any entity that is found to have breached the regulations. These penalties should include significant fines, loss of licence, and possible imprisonment for serious breaches of the law. Secondary resale should also be treated as an offence.

## 5. EDUCATION OF SMOKERS

Government and retailers should be able to provide factual information to smokers about alternatives.

In addition to a strict regulatory framework, the NRA proposes that a robust retailer code of conduct be introduced to supplement and go further than the regulation, setting clear standards expected of retailers.

This **code of conduct** could include:

- Abide by the laws and regulations governing the manufacture, import, distribution, and sale of smokeless products.
- Never sell smokeless products to anyone under the age of 18 or anyone purchasing on their behalf. Proof of age is to be requested if a customer is perceived to be under 25 years old.
- Ensure safeguards are in place to prevent anyone under the age of 18 purchasing smokeless products online or in store.
- Refuse entry to an unaccompanied minor, if your store predominantly sells tobacco or smokeless products.
- Ensure any nicotine components are clearly labelled (clearly distinguished) or available for the product.
- Never sell counterfeit products.
- Keep records of adverse effects and incidents involving any products you have manufactured, imported, or sold and where necessary notify the relevant authorities.
- Never engage in activities likely to bring the sector into disrepute.
- Hold valid and appropriate product, and wider as necessary, personal and product liability insurance.
- Never misrepresent a products' safety or performance criteria.
- Provide suitable warranties and guarantees consistent with prevailing consumer and sector-related legislation and when defined, Government best practice.

For more detailed information on the National Retail Association's Plan to transition Australian retail out of cigarettes, as well as the research informing our plan:

[www.nra.net.au/retailers-outline-plan-to-quit/](http://www.nra.net.au/retailers-outline-plan-to-quit/)