

# Restrictions on e-cigarette flavours

April 2022

## Overview

Over 30 countries do not permit the sale of e-cigarettes as consumer products, and by extension do not permit the sale of flavoured e-cigarettes. Among the countries which permit their sale, 6 have introduced national-level bans on flavours other than tobacco flavour) and two (Canada and the United States) have sub-national restrictions in place.<sup>1</sup>

## Canada:

- On June 19, 2021, the federal government published proposed regulations to restrict flavourings and additives in vaping liquids.<sup>2</sup> There are 3 elements to the proposed regulations:
  - Restricting flavours in vaping products to tobacco, mint, menthol, and a combination of those flavours.
  - Prohibiting all sweeteners and sugars and most flavouring ingredients in vaping liquids
  - Prohibit vaping products from producing a “sensory attribute” that is different than the ones typical for tobacco, mint, or menthol.

The restrictions are unlikely to be in place before late 2022: following a 75-day comment period on the proposed regulations, the comments must be reviewed, and the regulations finalized before they are published in the Canada Gazette. The government indicates it will allow a 6-month implementation period.

- Of Canada’s 13 provincial and territorial governments, 5 have adopted legislation or regulations to ban the sale of any e-cigarette liquid other than tobacco flavour. As shown in Table 1, these are: Nova Scotia, Prince Edward Island, New Brunswick, Northwest Territories. A coming-into-force date for Nunavut’s law has not been set.
- Three Canadian provinces have adopted regulations to restrict the sale of flavoured vaping liquids to specialty vape shops where children are not permitted to enter. As shown in Table 1, these are (in order of implementation): British Columbia, Ontario and Saskatchewan.

## United States

- The U.S. Food and Drug Administration has not yet authorized the sale of e-cigarettes but has adopted a policy of not enforcing a ban on their sale until September 9, 2021. Each manufacturer who wishes to sell e-cigarettes has been required to submit an application and to demonstrate that there is a public health benefit to allow the sale of these products. The U.S. federal policy on flavourings is thus not yet fully developed.
  - In January 2020, the FDA notified that it would be enforcing against the sale of pre-filled cartridge-based e-cigarettes. Only those with tobacco or menthol flavours would be permitted. Flavourings for vaping liquids for other devices were not affected.
  - In June 2021, a U.S. Congress committee held hearings on FDA regulation of e-cigarettes, with representatives encouraging a ban on all flavours.<sup>3</sup>

**Table 1: Regulatory controls on e-cigarette flavourings**

Country	Status	Description	Implementation date
<b>Canada</b>	Regulatory Proposal <sup>4</sup>	All flavours other than tobacco, mint and menthol are prohibited.	
<b>British Columbia</b>	Regulation <sup>5</sup>	Flavours other than tobacco can only be sold in age-restricted specialty vape stores	September 15, 2020
<b>New Brunswick</b>	Law <sup>6</sup>	Only tobacco-flavour is permitted	Sep 1, 2021
<b>Nova Scotia</b>	Regulation <sup>7</sup>	Only tobacco-flavour is permitted	April 1, 2020
<b>Nunavut</b>	Law <sup>8</sup>	Only tobacco-flavour is permitted. Law awaiting proclamation	TBD
<b>Northwest Territories</b>	Regulation <sup>9</sup>	Only tobacco-flavour is permitted	March 25, 2022
<b>Ontario</b>	Regulation <sup>10</sup>	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	July 1, 2020
<b>Prince Edward Island</b>	Regulation <sup>11</sup>	Only tobacco-flavour is permitted	March 1, 2021
<b>Saskatchewan</b>	Regulation <sup>12</sup>	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	September 1, 2021
<b>United States</b>	Policy <sup>13</sup>	Flavours other than tobacco and menthol are banned in pre-filled cartridge-based e-cigarette systems	February 6, 2020
<b>California</b>	Law <sup>14 15</sup>	All flavours other than tobacco flavour are prohibited. Law requires voter confirmation in November, 2022	TBD <sup>16</sup>
<b>Massachusetts</b>	Law <sup>17</sup>	All flavours other than tobacco flavour are prohibited (exception for on-site consumption at specialized bars)	November 27, 2019
<b>New Jersey</b>	Law <sup>18</sup>	All flavours other than tobacco flavour are prohibited	April 20, 2020
<b>New York</b>	Law <sup>19 20</sup>	All flavours other than tobacco flavour are prohibited	May 18, 2020
<b>Rhode Island</b>	Regulation <sup>21</sup>	All flavours other than tobacco flavour are prohibited	March 26, 2020
<b>District of Columbia</b>	Law <sup>22</sup>	All flavours other than tobacco flavour are prohibited. Implementation will occur after funding in budget	TBD
<b>Utah</b>	Law <sup>23</sup>	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	July 1, 2020
<b>Europe</b>			
<b>Denmark</b>	Law <sup>24</sup>	All flavours other than tobacco flavour or menthol are prohibited	April 1, 2022
<b>Estonia</b>	Law <sup>25 26</sup>	All flavours other than tobacco and menthol flavours are prohibited	July 2019, rev. May 2020
<b>Finland</b>	Law <sup>27</sup>	All flavours other than tobacco flavour are prohibited	2016
<b>Hungary</b>	Regulation <sup>28</sup>	No flavours are permitted	May 2020
<b>Lithuania</b>	Law <sup>29</sup>	All flavours other than tobacco flavour are prohibited	July 1, 2022
<b>Netherlands</b>	Law <sup>30</sup>	All flavours other than tobacco flavour are prohibited	Jan 1, 2023 (prop)
<b>Ukraine</b>	Law <sup>31</sup>	All flavours other than tobacco	July 11 2023
<b>Sweden</b>	Proposed Law. <sup>32 33</sup>	All flavours other than tobacco	Jan 1, 2023 (prop)
<b>Other</b>			
<b>China</b>	Regulation <sup>34 35</sup>	All flavours other than tobacco	Oct 1, 2022 <sup>36</sup>

### United States (continued)

- In September 2021, the FDA began implementing its restrictions on e-cigarette sales. It authorized the sale of one device (VUSE solo), but not for any flavours other than tobacco flavour. It denied authority for flavours other than tobacco on the grounds that the marketing of these products was inappropriate for the protection of public health and deferred a decision on menthol.<sup>37</sup>
- Five U.S. States and D.C. have enacted bans on the sale of flavoured e-cigarettes, and 4 of these bans are in place.<sup>38</sup> As shown in Table 1, restrictions are in place (in order of implementation) in: Massachusetts, New Jersey, New York, and Rhode Island. California's legislation is pending a referendum vote scheduled for November 2022.<sup>39</sup> Implementation of the District of Columbia law will occur after funding is provided in the budget.
- One State (Utah) restricts the sale of flavored e-cigarettes (except mint/menthol) to adult-only retail tobacco specialty businesses.

### Other international

- The 2014 Tobacco Directive of the European Union requires countries to permit the sale of e-cigarettes but permits them to adopt domestic legislation to restrict certain marketing practices.<sup>40</sup> As shown in Table 1, 7 European countries have adopted flavour restrictions on e-cigarettes. These are: Finland, Estonia, Hungary, Denmark, the Netherlands, the Ukraine and Lithuania. Sweden is reviewing a legislative proposal to do so.
- In April 2022, China adopted regulations on mandatory national standards for electronic cigarettes, which bans flavours other than tobacco on October 1, 2022.

## References

- 1 Countries which ban the sale of e-cigarettes as consumer products include: Antigua and Barbuda, Argentina, Bhutan, Brazil, Brunei, Cambodia, Chile, Colombia, East Timor, Ethiopia, Gambia, India, Japan, Kuwait, Lebanon, Mauritius, Mexico, Nepal, Nicaragua, North Korea, Oman, Panama, Qatar, Seychelles, Singapore, Sri Lanka, Suriname, Syria, Thailand, Turkey, Turkmenistan, Uganda, Uruguay, and Venezuela. Despite these restrictions, sales are tolerated in some countries. Australia permits the sale under prescription but not as a consumer product.
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- 12 Saskatchewan. Tobacco and Vapour Products Control Amendment Regulations, 2021. (Order in Council <https://publications.saskatchewan.ca/#/products/112599>)
- 13 U.S. Food and Drug Administration. FDA finalizes enforcement policy on unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint. <https://www.fda.gov/news-events/press-announcements/fda-finalizes-enforcement-policy-unauthorized-flavored-cartridge-based-e-cigarettes-appeal-children>
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Funding for this report was provided by Health Canada's Substance Use and Addictions Program (SUAP) The views expressed herein do not necessarily represent the views of Health Canada