



November 2, 2020

Standing Committee on Legislation  
Re: Amendments to Bill 57 (Tobacco and Smoking Act)

Dear Members of the Standing Committee on Legislation,

Rights4Vapers is pleased to have the opportunity to present this submission that outlines our views on the importance of flavours in vapour products and ask that you do not limit the sale of flavoured vapour products in Nunavut with changes to Bill 57 (Tobacco and Smoking Act)

## WHO ARE WE

Rights4Vapers is Canada's largest vapour consumer advocacy group. We represent the voices of the vape consumer, 98% of whom are former smokers. We have collected the largest survey data set of Canadians who vape, with over 5,000 respondents. We are dedicated to the advancement of Canadian-based research on vaping. Rights4Vapers is a volunteer collective of committed tobacco harm reduction advocates. Our work is guided by unpaid academic advisors.

At the outset, we would like to stress that we do not think that minors should vape. Vaping products contain nicotine, an addictive substance. This being said there is a question of access. Despite strict federal regulations that govern the sale of vapour products, and in particular the sale of these products to minors, minors are still vaping. The current federal regulations need to be enforced.

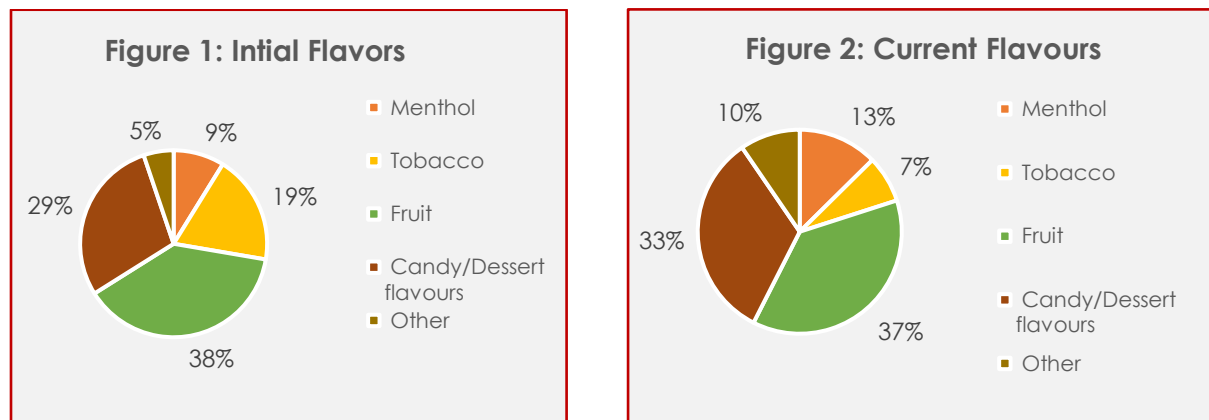
**Flavours are an important component to the vaping experience for adult smokers. Flavours help smokers migrate from traditional cigarettes to vapour products.**

Flavours have become one of the most controversial areas of the vaping debate. The role of flavours in vaping products is complex. What we know is that flavours are an important component to the vaping experience. Smokers have told us that flavours give them a reason to switch from the traditional cigarette. Having a less-harmful alternative that does not taste like burnt tobacco is critical for smokers to initially make the switch and stick with it. Restricting access to these flavours would hurt adults who are looking to quit smoking.

## FLAVOURS AND THE CANADIAN VAPER

In the largest ever survey of Canadian vapers (5,000 + respondents), our organization found that adult vapers need flavours. Vapers begin using a single flavour that is almost never tobacco or menthol. As time passes, they increase the number and variety of flavours they use to remain smoke free.

Respondents were also asked about the flavours they used when they began vaping (see Figure 1), as well as the flavours they currently use (see Figure 2). It should be noted that 57.9% reported using only one flavour when they began vaping, while just 20.9% currently use a single flavour.



In terms of initial flavour choice, just 19.1% of respondents who had quit smoking because of vaping used tobacco flavour when they started vaping, and just 8.7% reported using menthol.

Based on a sample of over 5,279 adults, these data support the following conclusions:

1. Adults are using vaping to quit smoking. The vast majority (97.9%) of respondents reported quitting smoking because of vaping. Among the few respondents (286) who did not fully quit, 246 or 86.0% reported they were smoking less because of vaping.
2. Adult vapers need and enjoy flavours. Vapers begin using a single flavour that is almost never tobacco or menthol. As time passes, they increase the number and variety of flavours they use to remain smoke-free. As with any flavoured products, variety is key to reaching as many smokers and former smokers as possible.

## FLAVOURS ARE IMPORTANT IN SMOKING CESSATION

Research indicates that flavours are an important driver in the decision to quit smoking and the ability to remain smoke-free. A recent study, *Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation*, confirms that, “Relative to vaping tobacco flavors, vaping non tobacco-flavored e-cigarettes was not associated with increased youth smoking initiation but was associated with an increase in the odds of adult smoking cessation.”<sup>1</sup> The five year study surveyed 17,929 respondents between the ages of 12 and 54 years old.

A separate survey of 20,836 respondents concludes that, “Adult frequent e-cigarette users in the USA who have completely switched from smoking cigarettes to using e-cigarettes are increasingly likely to have initiated e-cigarette use with non-tobacco flavors and to have transitioned from tobacco to non-tobacco flavors over time. Restricting access to non-tobacco e-cigarette flavors may discourage smokers from attempting to switch to e-cigarettes.”<sup>2</sup> Rights 4 Vapers’ own data echo these findings in Canada.

## FLAVOUR BANS HAVE UNINTENDED CONSEQUENCES

On April 1, Nova Scotia banned the sale of flavoured vapour products and we are just now seeing the impacts. A recent Abacus Data survey found 29 percent of the vaping population in Nova Scotia is at risk of switching to cigarettes. In addition, the Atlantic Convenience Store Association is seeing a sharp increase in cigarette sales.

Nova Scotia is not alone.

The Consumer Choice Center observes that “investigations in the states of New York, New Jersey, and Massachusetts have already shown that a booming black market has emerged in response to flavor bans.” They also observe that there has been a consumer shift to purchasing from legal jurisdictions, cross border, as we can expect is happening in Canada now. “New Hampshire’s flavored product sales jumped as high as 150%, generating an additional \$9 million more in tax revenue when compared to the previous year (before the Massachusetts ban). Rhode Island’s flavored product sales jumped as high as 157% generating \$5.7 million in additional tax revenue.” They conclude that, “Given the importance of flavor availability, we estimate that flavor bans will ultimately drive consumers to other legal jurisdictions, push them towards the black market, or back to traditional cigarettes. Given that forecast, we urge legislators against the implementation of vaping flavor bans.”<sup>3</sup>

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1Friedman AS, Xu S. Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation. *JAMA Netw Open*. 2020;3(6):e203826. doi:10.1001/jamanetworkopen.2020.3826

2 Russell, C., McKeganey, N., Dickson, T. *et al*. Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA. *Harm Reduct J* 15, 33 (2018).

<https://doi.org/10.1186/s12954-018-0238-6>

3 Consumer Choice Center, Why Vape Flavors Matter, <https://consumerchoicecenter.org/why-vape-flavors-matter/>

In a 2020 report, Public Health England states that, “A ban on flavoured liquids could have adverse effects and unintended consequences for smokers using vaping products to quit. It should only be considered with caution.” They note that vaping has not undermined smoking quit rates, but they are concerned that, “Increasingly incorrect perceptions among the public about the harms of vaping could prevent some smokers using vaping products to quit smoking.”<sup>4</sup>

## FLAVOUR BANS MAY INFRINGE ON THE CHARTER OF RIGHTS

The Canadian Constitution Foundation weighed in with its own report on vaping and government restrictions. They had this to say about flavour bans: “These bans disincentivize smokers and non-smokers alike from taking up vaping, but from the smokers’ perspective, they remove what could otherwise be an attractive “carrot” that would encourage them to take up vaping, in combination with the “stick” of smoking’s ill effects on their health.”<sup>5</sup>

Vaping legislation—both restrictions on advertising and other rules, notably those regulating the content of vaping products to make them less attractive or effective—is considered from the standpoint of potential interference with the right not to be deprived of **life, liberty, and the security of the person** except in accordance with the principles of fundamental justice. This right is protected by section 7 of the *Charter*.

It is also worth noting that the government’s own discussion paper puts “curiosity” way out ahead of flavours for the reason that young people try e-cigarettes (50% versus 20%).

## CONCLUSION

Vaping is an important part of Canada’s tobacco harm reduction agenda. Health Canada has stated that [“if you are a smoker, vaping is a less harmful option than smoking.”](#)

Flavours and nicotine are not the problem when it comes to vaping. The true issues are accessibility, product standards and communications.

We believe that children should not vape. The problem is that kids are getting access to vaping products from friends and family. We need **effective education and enforcement programs not barriers that limit the choice of vaping products to adult smokers.**

Vapers need to be confident that the product they are using complies with the **highest product standards**. The proliferation of black-market devices that can be tampered with is a growing

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4 McNeill, A., Brose, L.S., et al., Vaping in England: an evidence update including mental health and pregnancy, March 2020: a report commissioned by Public Health England, 2020.

5 Dr. Leonid Sirota, Senior Lecturer, Auckland University of Technology, Law School, **Canadian Vaping Law: Overview and Constitutional Issues**, Canadian Constitution Foundation

concern. Just like with any other consumer good, e-cigarettes should adhere to safety and quality standards.

Finally, adult consumers need **to know the facts about vaping**. They need to know that vaping is less harmful than smoking. They need to know the science behind it. They need to know their options and how to use them.

We would welcome the opportunity to publicly present our positions. We trust that any changes to Nunavut's vaping regulations take into consideration the thousands of adult smokers who have chosen vaping as a way to quit smoking and reduce their risk of the particular health problems smoking will cause.