Health Canada Santé Canada

Canada

How Vaping is Regulated and Why It Matters

How the federal government regulates vaping products

In light of the growing presence of vaping products on the Canadian market, and in response to the 2015 report of the House of Commons' Standing Committee on Health entitled 'Vaping: Toward a Regulatory Framework for E-Cigarettes', the legal framework for regulating vaping products was changed in 2018 to protect young persons from nicotine addiction and tobacco use while allowing adults access to vaping products as a less harmful alternative to smoking.

Vaping products supplied on the Canadian market are subject to, among others, the following Acts and their Regulations:

Tobacco and Vaping Products Act (TVPA)

The TVPA regulates the manufacture, sale, labelling, and promotion of tobacco and vaping products manufactured and sold in Canada, including online. The TVPA and its regulations are a key component in advancing the government's strategy to protect Canadians from tobacco-related death and disease.

Canada Consumer Product Safety Act (CCPSA)

The CCPSA establishes legislative and regulatory requirements to help protect the public by addressing or preventing dangers to human health or safety posed by consumer products in Canada. The manufacturing, importation, advertisement and sale of vaping products that do not make therapeutic claims (e.g., helping to quit smoking) are subject to the CCPSA, while also being subject to the TVPA.

For more information about the CCPSA and how it applies to vaping products, consult https://www.canada.ca/en/health-canada/services/consumer-product-safety/reports-publications/industry-professionals/vaping-products-canada-consumer-product-safety-act/document.html

Vaping Products Labelling and Packaging Regulations (VPLPR)

The VPLPR sets out the requirements for the labelling and packaging of vaping products in two parts: labelling requirements pursuant to the TVPA and packaging and labelling requirements pursuant to the CCPSA, such as child-resistant container requirements.

For more information on the VPLPR, consult https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-353/FullText.html

Nicotine Concentration in Vaping Products Regulations (NCVPR)

The NCVPR sets out a maximum nicotine concentration of 20 mg/mL for vaping products manufactured or imported for sale in Canada. The NCVPR also prohibits the packaging and sale of vaping products if the nicotine concentration displayed on the package exceeds 20 mg/mL.

For more information on the NCVPR, consult https://laws-lois.justice.gc.ca/eng/regulations/SOR-2021-123/FullText.html

Vaping Products Promotion Regulations (VPPR)

The VPPR sets out requirements in two parts: Part 1 relates to advertising requirements and point of sale promotions of vaping products and Part 2 relates to required information in the advertising of vaping products.

For more information on the VPPR, consult https://laws-lois.justice.gc.ca/eng/regulations/SOR-2020-143/FullText.html

Other laws regulating vaping products

Vaping products supplied on the Canadian market may be subject to, among other legislation, the following Acts and their Regulations:

Food and Drugs Act (FDA)

The FDA applies to vaping products that make therapeutic claims (e.g., helping to quit smoking). This includes products that contain nicotine, or any other drug as defined by the FDA. These products must receive an authorization from Health Canada before they can be advertised, sold in Canada, or commercially imported. Before issuing market authorization, Health Canada reviews the evidence provided by the product sponsor to confirm the product meets safety, efficacy and quality requirements. A valid site license from Health Canada is also required before a vaping product under the FDA can be labelled, imported, packaged, or manufactured.

For more information about the FDA and how it applies to vaping products, consult https://www.canada.ca/en/health-canada/services/drugs-health-products/drug-products/announcements/tobacco-vaping-products-act-health-products.html

Cannabis Act

The *Cannabis Act* creates a legal framework for controlling the production, distribution, sale and possession of cannabis in Canada. Vaping products containing cannabis are regulated under the *Cannabis Act* and its regulations.

For more information about the *Cannabis Act*, consult https://laws-lois.justice.gc.ca/eng/acts/c-24.5/FullText.html

Vaping Products Labelling and Packaging Regulations (VPLPR)

Part 1 of the VPLPR

The objective of Part 1 of the VPLPR is to use the authorities set out in the *Tobacco and Vaping Products Act* (TVPA) to help protect young persons and non-users of tobacco from exposure to, and dependence on, nicotine and to help prevent vaping product use from leading to the use of tobacco products. More specifically, Part 1 of the VPLPR aims to enhance awareness of the health hazards of using vaping products and prevent the public from being deceived or misled with respect to the health hazards posed by their use.

In addition to other requirements, Part 1 of the VPLPR:

- requires that vaping products containing nicotine display a health warning that nicotine is highly addictive;
- requires that vaping products containing nicotine display a nicotine concentration statement; and
- sets out three permitted expressions that may be displayed on the product or package to indicate when a vaping substance does not contain nicotine.

The definitions in Part 1 of the VPLPR apply only to the requirements set out in Part 1. Additionally, the VPLPR states that all words and expressions that are not defined in Part 1 have the same meaning as those in the TVPA. Therefore, the Part 1 requirements must be read in conjunction with the TVPA.

For more information on the requirements of Part 1 of the VPLPR, consult https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-353/FullText.html

Compliance and Enforcement Measures

Health Canada uses the most appropriate actions and tools based on the impact of the non-compliance for each situation and may take a number of enforcement actions to address non-compliance, depending on the circumstances. These may include, but are not limited to:

- Publishing advisories on non-compliant products;
- Issuing warning letters to non-compliant regulated parties;
- Seizure of products; and
- Prosecution.

For the TVPA, consult https://laws-lois.justice.gc.ca/eng/acts/t-11.5/FullText.html

Part 2 of the VPLPR

For more information on the requirements of Part 2 of the VPLPR, consult https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-353/FullText.html

For the CCPSA, consult https://laws-lois.justice.gc.ca/eng/acts/c-1.68/FullText.html

For the industry guide to vaping products subject to the CCPSA, consult https://www.canada.ca/en/health-canada/services/consumer-product-safety/reports-publications/industry-professionals/vaping-products-canada-consumer-product-safety-act/document.html

Nicotine Concentration in Vaping Products Regulations (NCVPR)

Application of the NCVPR

The NCVPR establish a maximum nicotine concentration of 20 mg/mL for vaping products. This measure applies to manufacturers, including importers, of vaping products. Any manufacturer that manufacturers or sells a vaping product that does not conform with this limit will be in contravention of section 7.2 of the *Tobacco and Vaping Products Act* (TVPA). This will not affect the supply of nicotine to manufacturers of vaping products and the export of vaping products.

The NCVPR also prohibits the packaging and sale of vaping products where the package displays, in the nicotine concentration statement (required by the VPLPR), a value that exceeds 20 mg/mL.

The NCVPR prescribes a laboratory method entitled “ISO 20714” standard for determining the nicotine concentration in vaping substance. Health Canada will use this method to determine compliance with the maximum nicotine concentration. This method may be used by manufacturers and importers who wish to assess whether their products meet the prescribed nicotine standard.

For more information on how regulated parties may understand and meet the requirements for nicotine concentration in vaping products as indicated in the NCVPR and the Vaping products Labelling and Packaging regulations (VPLPR), consult https://www.canada.ca/en/health-canada/services/smoking-tobacco/vaping/product-safety-regulation/guidance-regulated-parties-nicotine-concentration-vaping-products.html

Compliance and Enforcement Measures

Health Canada inspectors conduct routine inspections of, among others, vaping product manufacturers, distributors, importers, and retailers during which inspectors monitor compliance of vaping products with the TVPA and its associated regulations. These inspections may require the sampling of vaping products for chemical analysis to determine their nicotine concentration.

When Health Canada inspectors find non-compliance(s), a range of enforcement measures may be taken, including but not limited to:

- Publishing advisories on non-compliant products;
- Issuing warning letters to non-compliant regulated parties;
- Seizure of products; and
- Prosecution.

For the TVPA, consult https://laws-lois.justice.gc.ca/eng/acts/t-11.5/FullText.html

For the NCVPR, consult https://laws-lois.justice.gc.ca/eng/regulations/SOR-2021-123/page-1.html

Resources

For more information on an inspection activity conducted at your establishment, please contact the Health Canada regional inspector.

Further questions on the responsibilities of manufacturers, importers and retailers under the TVPA can be directed to Health Canada: tcp.questions-plt@hc-sc.gc.ca

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