



## E-cigarettes, vaping and the law



**Evidence ratings:**



This resource has undergone expert review. See our Help/Q&A section for more details.

**Year:**

**Targeted Drugs:** Electronic Cigarettes/Vaping

**Tags:** e-cigarettes, vaping

**Time Allocated:** Partial lesson (under 45mins)

**Origin:** Australian

**Cost:**

Free

### Key messages

- It is illegal to sell e-cigarettes to people under 18 years of age, unless prescribed
- Illegal e-cigarettes typically contain nicotine, even if the packaging says they don't
- Legal e-cigarettes can only be obtained with a prescription through a pharmacy
- In most states and territories, it is illegal to use e-cigarettes in smoke-free areas
- Laws are expected to change from the 1<sup>st</sup> of October 2024

### What are e-cigarettes?

E-cigarettes or electronic cigarettes (also known as vapes) are battery powered devices that heat liquids, known as e-liquids, creating an aerosol (or vapour). This aerosol is breathed in, carrying the chemicals to the user's lungs, and is then exhaled as a fine vapour.

While some e-cigarettes are 'flavour-only', the e-liquid inside e-cigarettes most often contains nicotine, which is the same highly addictive drug that is in cigarettes and other tobacco products. E-cigarettes can also contain or produce over 200 chemicals like propylene glycol, glycerol, ethylene glycol, formaldehyde, and acetaldehyde – some of which are toxic and known to cause cancer.

For more general information on e-cigarettes, see our Drugs A-Z factsheet on electronic cigarettes and vaping.

### E-cigarettes and the law

There are some overarching rules at the national level which apply throughout the country. E-cigarettes are also included in state and territory tobacco control acts and regulated in similar ways to traditional cigarettes.

See below for more information about the laws regarding the sale, use, and marketing of e-cigarettes across Australia. We note that the laws around e-cigarettes are expected to change in the coming months, and more information on the changes is available [here](#). This information is a general summary and should not be taken as comprehensive legal advice.

### Laws for people under 18

Like traditional cigarettes, it is illegal to sell e-cigarettes or e-liquids (both flavour only e-cigarettes, and e-cigarettes containing nicotine) to a person under 18 years of age. This includes selling to friends or over social media. Exceptions apply for people under 18 who have been prescribed e-cigarettes to quit smoking.

## Laws for people over 18

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**Myth:** anyone over 18 can buy e-cigarettes

**Fact:** e-cigarette products are prescription only and must be purchased from a pharmacy with a valid prescription

In Australia, e-cigarettes are a prescription only medication, sold through a pharmacy to adults over 18 years old with a valid prescription. E-cigarettes that are prescribed to support someone to quit smoking are known as therapeutic e-cigarettes.

Nicotine replacement therapy (NRT) is a type of treatment that can help people quit smoking. There are currently no e-cigarettes approved for use in NRT in Australia. However, unapproved e-cigarettes that meet regulatory requirements may be prescribed by medical or nurse practitioners in some circumstances. Unapproved goods have not been assessed by the Therapeutic Goods Administration (TGA) for safety or efficacy.

E-cigarettes sold through pharmacies need to meet product standards, which include plain packaging, limited flavours (mint, menthol, or tobacco), and restricted nicotine concentrations.

**Myth:** you can tell what you are vaping

**Fact:** when illegal e-cigarettes have been seized and tested, they often contain nicotine, even when the label states they are nicotine free. Other prohibited ingredients with known health risks have also been found

It's important to note that e-cigarette labelling is not always correct when you are buying illegal e-cigarettes. You can't be sure what is in an e-cigarette and whether you are being exposed to harmful ingredients such as nicotine.

## Laws around selling and importing e-cigarettes

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Only pharmacies can sell e-cigarettes. Retailers such as convenience stores, vape shops, and tobacconists, cannot legally sell e-cigarette products, even to an adult with a prescription. Penalties for illegally selling e-cigarettes may include fines and imprisonment.

Individuals cannot order e-cigarettes directly from overseas. This ban includes therapeutic and non-therapeutic e-cigarettes – even if you have a prescription.

Businesses need an import licence and permit to import e-cigarettes from overseas. With a valid licence and permit, e-cigarettes need to meet specific product requirements. There are limits on the concentration of nicotine, flavours, and ingredients. Businesses also cannot import disposable e-cigarettes.

**Myth:** it's okay to sell e-cigarettes to your friends or on social media

**Fact:** it is illegal to sell e-cigarettes to people under 18, and to sell e-cigarettes that contain nicotine, including selling to a friend or over social media

## Laws around the use of e-cigarettes and smoke-free areas

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**Myth:** second-hand e-cigarette exposure isn't harmful

**Fact:** the vapour that e-cigarette users exhale isn't just water vapour - it contains harmful substances including nicotine

E-cigarettes are not harm free and expose bystanders to vapour which could be harmful to their health. In most parts of Australia, you can't vape where you can't smoke. These laws have been introduced to reduce second-hand exposure to e-cigarette vapour.

Smoke-free areas include:

- All indoor public places, including restaurants, shopping centres, and schools.
- Outdoor public places, including commercial eating and drinking areas, and public transport waiting areas.
- In a car with a child under 16 years of age in the vehicle.
  - In Victoria and Tasmania, it is prohibited to use e-cigarettes in a car with a child under 18 years of age in the vehicle.

Penalties for using e-cigarettes in smoke-free areas are set by States and Territories.

Please see below for State and Territory specific information about smoke-free areas and associated penalties:

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

## Evidence Base

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The information provided in this factsheet was correct in July 2024. However, laws around e-cigarettes are expected to change.

From the 1<sup>st</sup> of October 2024, adults over 18 years old will be able to purchase e-cigarettes through pharmacies without a prescription. E-cigarettes purchased without a prescription will have a lower maximum nicotine concentration. For more information about the upcoming changes, visit the TGA vaping hub.

For the most up-to-date and more specific information about e-cigarettes and the law in your state or territory, see the below links:

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

#### **Evidence Base:**

This factsheet outlines the laws for e-cigarette-related offences in Australia. This information is a general summary and should not be taken as comprehensive legal advice. If you have been charged with an offence you should contact a criminal lawyer for assistance.

This factsheet was developed in consultation with the PREMISE and Matilda Centre Youth Advisory Board (YAB) and underwent expert review by the Program Lead of Smoking, Vaping and Mental Health at the Matilda Centre for Research in Mental Health and Substance Use at the University of Sydney. A full list of sources which informed this factsheet can be seen below.

## **Sources**

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