



**Smokefree Environments and Regulated Products
Amendment Bill (No 2)**
A submission by Whānau Āwhina Plunket
September 2024



Introduction

Whānau Āwhina Plunket is the largest provider of health and wellbeing support services to tamariki under five and their whānau in Aotearoa New Zealand. We see three-quarters of all new babies across Aotearoa New Zealand, including nearly 6 out of 10 Māori pēpi. We have been supporting pēpi, tamariki and their whānau for 117 years.

This submission is guided by our vision: Setting the path of wellness in our communities for the early years, for generations to come. Our vision is underpinned by our strategic goals: Pae ora (Healthy futures); Mauri ora (Healthy babies and children); Whānau ora (Healthy confident families); Wai ora (Healthy environments and connected communities) and our equity goal (all our services are delivered equitably by 2025).

In 2020, Whānau Āwhina Plunket released Te Rautaki Māori – Ngā Pae o te Harakeke, founded on Te Tiriti o Waitangi principles. Te Rautaki Māori sets out the equity roadmap for Whānau Āwhina Plunket. This, along with our strategy, is driven by our core values of māia, māhaki, tūhono and manaaki.

We welcome the opportunity to engage on the Smokefree Environments and Regulated Products Amendment Bill (No 2) “the bill” – which has the potential to contribute to preventing vaping uptake in youth who have never smoked tobacco.

We support all the proposed regulations. We also offer some recommendations to strengthen the implementation of the legislation.

Section A: Our Smokefree Mahi

1. Our nurses and kaiāwhina provide health education to parents about the risks to pēpi and tamariki of being exposed to second hand vapour, and how to minimise vapour exposure. Our messaging aligns with Health New Zealand (2024) vaping information for stop-smoking services and health workers. The key messages are:
 - a. The best thing for anyone's health is to be smoke-free and vape-free
 - b. Vaping is likely less harmful than smoking cigarettes, but its long-term effects are not currently known
 - c. Vaping can be helpful for adults who wish to quit smoking – it is a less harmful way of delivering nicotine
 - d. Vapes are not harmless and produce a range of toxicants including some carcinogens, heavy metals like lead, volatile organic compounds (but at lower levels than tobacco)
2. We collect information on the mother’s smoking and vaping status antenatally at the first core visit. At every core visit we ask the primary caregiver what their smoking and vaping status is. We also ask other smokefree related questions; however, these are about tobacco only.
3. Our data shows that for the whānau we serve, parental vaping is much higher for Māori (24%), Pacific (18%) and parents under 25 (31%) than for other groups.

Section B: Our Concerns About Vaping

4. We are concerned about the number of people that are vaping who have never been tobacco smokers, especially youth (including young parents). As noted in both Regulatory Impact Statements (Ministry of Health, 2024a; Ministry of Health, 2024b), while the long-term harms of vaping are not yet known, the short-term harms of vaping for non-smokers are clear.
5. The 2023 Action for Smokefree 2025 survey showed that 16.4% of Year 10 students are regular vapers. However, this is concerningly disproportionate with regard to ethnicities; 13.9% of Pakeha students were regular vapers, whereas 32% of Māori students and 22.5% of Pacific students were regular vapers. This is an area which relates also to the point above as it is significant to note that 9.5% of students who have never smoked tobacco, regularly vape.
6. Vaping in youth is associated with an increased asthma risk, and increased coughing and wheeze. Long-term impacts are not yet known (Peters & Vandeleur, 2024; American Academy of Pediatric Dentistry, 2015).
7. Nicotine is highly addictive in all forms and has a lasting negative impact on brain development. Nicotine can affect memory, learning, and cognition (American Academy of Pediatric Dentistry, 2015; Jenssen et al., 2023). Studies indicate that the younger a child or youth is when they start using nicotine products, including vapes, the more difficult it is for them to quit (Jenssen et al., 2023).
8. We are also concerned about the potential risk to others, especially children, of exposure to nicotine and other potentially toxic substances of vaping indoors. Nicotine can be absorbed through second hand vapour (American Academy of Pediatric Dentistry, 2015). Nicotine absorption from second hand vapour is lower than the absorption from second hand smoke exposure. However, nicotine absorption in children exposed to second hand vapour is approximately five times higher than in children who are not exposed to either second hand smoke or vapour (Tattan-Birch et al., 2014). Vapes also emit other harmful chemicals, many of which are also present in smoked cigarettes (Jenssen et al., 2023).
9. We are concerned that, like tobacco smoking, the health burden of vaping will be inequitably distributed (Walsh & Wright, 2020; Mason & Borman 2016). Māori and Pacific youth have the highest vaping prevalence (Action for Smokefree 2025, 2023) and are therefore likely to experience higher rates of health issues due to vaping compared to other ethnic groups.
10. This concern extends to health impacts on Māori and Pacific tamariki and pēpi who are exposed to second hand vapour at higher rates. As stated in the Supplementary Regulatory Impact Statement (Ministry of Health, 2024b), strengthening the regulations to protect youth and children from vaping is good governance in context of Te Tiriti o Waitangi.

Section C: Our Feedback on the Bill

Prohibit the manufacture, sale, supply, and distribution of disposable vaping products

11. We support the prohibition of the manufacture, sale, supply, and distribution of disposable vaping products. The introduction of cheap disposable vapes has been associated with an increase of vaping in youth (Peters & Vandeleur, 2024). As noted in the Supplementary Regulatory Impact Statement (Ministry of Health, 2024b), disposable vapes are disproportionately used by children and young people.

12. We suggest considering ways to mitigate the risk of “product-dumping”. We are concerned that disposable vapes may be sold by Specialist Vape Retailers (SVR) at a very low cost prior to legislation being enforced, encouraging youth to stock up. Similar behaviour has been observed previously in New Zealand in the lead up to other changes in vaping legislation implementation (Ministry of Health, 2024b).
13. We suggest removing section 33(4) in the legislation which allows SVR to distribute their products for free or at a reduced charge; however, this will not prevent any “product-dumping” prior to the implementation of the bill.

Increase penalties for unlawful sales of regulated products to minors

14. We support increased penalties for unlawful sales of regulated products to minors. As noted in the Regulatory Impact Statement (Ministry of Health, 2024b), the current fines and infringements are not an effective deterrent to sellers. 14.5% of retailers in the 2023-2024 year sold vaping products to minors during controlled testing operations.
15. We agree with the Ministry of Health (2024b) that evaluation of the current compliance and enforcement measures is necessary, as increased penalties will require adequate enforcement to be an effective deterrent to sellers.
16. Additionally, we suggest considering implementing legislation that requires a more robust online age verification process. We know that youth do purchase vaping products from online stores (Frost et al., 2024). The Supplementary Regulatory Impact Statement (Ministry of Health, 2024b) notes that while the rates of online purchasing in youth are currently low, they may increase in response to new regulations.
17. Currently, most online vape sellers in New Zealand only have a “check the box” age verification requirement, and a formalised ID verification process is rarely required (Bara et al., 2023). This is an issue that is being addressed by other countries. As mentioned in the Supplementary Regulatory Impact Statement (Ministry of Health, 2024b), Canadian legislation specifies that a simple “check the box” method of age verification is not sufficient. Strengthening this requirement in New Zealand would be a proactive measure to prevent a potential increase in online sales to youth.

Impose retail visibility restrictions for vaping products

18. We support retail visibility restrictions for vaping products. Exposure to marketing of vaping products has been associated with future vape use (Peters & Vandeleur, 2024). As stated in the Regulatory Impact Statement (Ministry of Health, 2024a) it is likely that visibility of vaping products has contributed to youth uptake. This is due to the attraction and normalisation of vaping as a regular consumer product, instead of it being seen as a harm reduction tool for people who smoke.
19. Some vaping products are displayed and sold at General Vape Retailers (GVR). GVR include petrol stations, dairies, and dollar stores. These types of stores are frequented by children and young people. To protect them, vaping products must not be visible inside these stores.
20. Many existing Specialist Vape Retailers (SVR) are in close proximity to schools. Although these shops are 18+, the products are often highly visible from outside the shop. It is important that children and youth are protected from these displays, which the Regulatory Impact Statement (Ministry of Health 2024a) describes as, essentially, advertising.
21. The Regulatory Impact Statement (Ministry of Health 2024a) compares this measure to the regulation that required tobacco products to be stored out of sight in closed cupboards in stores. The removal of tobacco from sight was successful in both New Zealand and overseas.

Children in England were less likely to notice tobacco products, and less cigarettes were sold in stores. In New Zealand, the tobacco display ban of 2012 was successful in reducing smoking rates in 14 – 15-year-old children (Ministry of Health 2024a).

Include restrictions on the sale of vaping products within certain boundaries of schools, marae, and early childhood centres.

22. We support extending restrictions on the sale of vaping products within certain boundaries to include Early Childhood Education (ECE) centres.
23. However, it is unclear why the bill proposes that new SVR cannot open in 100m proximity to ECE centres, and not the 300m restriction that applies to schools and marae. This reasoning was not explained in the Regulatory Impact Statements (Ministry of Health, 2024a; Ministry of Health 2024b).

Conclusion

Whānau Āwhina Plunket welcomes the opportunity to provide a submission on the Smokefree Environments and Regulated Products Amendment Bill (No 2). It is important to prevent youth who have never smoked tobacco from initiating vaping. We support this bill and the potential it has to contribute towards reducing the initiation of vaping in youth.

This bill also has potential to reduce the negative health outcomes for pēpi and tamariki caused by exposure to second hand vapour. We know that exposure to second hand-vapour poses risk to users and non-users in the short term, and we also know that long-term harms of vaping for people who do not smoke tobacco are not yet evident. All pēpi and tamariki must be protected from both short-term harm, and potential long-term harm.

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