



As was previously known, Health Canada plans to [move forward with regulation](#) of vaping products with the intent to balance the need to protect young people from nicotine addiction while allowing adult smokers to legally buy vaping products and e-cigarettes to help quit smoking or as a potentially less harmful alternative to tobacco.

This news brief was released: [Government of Canada Introduces New Tobacco and Vaping Products Legislation](#)

More importantly, the Senate has tabled [Bill S-5](#), *An Act to amend the Tobacco Act and the Non-smokers' Health Act and to make consequential amendments to other Acts* which has completed the first reading today (Nov 22, 2016).

NOTE: There are several steps in the process for a Senate Bill to become law ([See Passing Bills in the Senate](#)). At a high level the process is as follows:

- First reading - Completed Nov 22, 2016
- Second reading - TBD
- Committee stage - May or may not be public consultation (probably not)
- Report stage
- Third reading

At that point the Senate Bill is sent to the House of Commons, which will examine it in a similar three-reading process where we DO expect the Committee stage to include public consultation.

Also, this day... A conference call (Technical Briefing) was held by Health Canada Officials to which Stakeholders were invited to attend. We attended that briefing which included high level information about the proposed bill as well as a Question and Answers session.

Please note that we are **NOT** Lawyers and our interpretation of the bill could be different than the actual meanings. But we wanted to get something out for everyone to see as we are receiving a significant number of the same questions from different people. Our interpretations may change as we will be seeking legal advice on the full implications of this legislation.

This bill **only** provides the *framework* for the law. They are not the literal enforceable regulations. The development of the regulations and details will come AFTER the bill has passed through the House of Commons, to Royal Assent. All of the answers are not known, yet.



Some of the more significant take-aways from that briefing and brief review of Bill S-5 are as follows:

- The current path to Market Authorization (DIN) remains, HOWEVER... This bill is creating a NEW pathway to market as a Recreational Tobacco Harm Reduction product which is where we believe want to be as an industry.
- Nicotine in commercial e-liquid will be removed from the food and drug regulations and placed under the new “tobacco and vaping products legislation”. This will enable the import, manufacture and sale of e-liquid with nicotine throughout Canada, supported by law.
- The new legislation defines vaping products as **NOT** a tobacco. They are *vaping products* and tobacco is tobacco. This Bill sets out specific regulatory frameworks for each, some for tobacco and some for vaping products. Only a few of these frameworks will be shared by both product categories.
- The new legislation appears to be based on the HESA report and recommendations. ECTA was involved with the HESA hearings and felt the results were a reasonable compromise
- The Importer is responsible for ensuring that whatever product they bring into the country meets these regulations.

### **Manufacturer specific:**

- Manufacturing will be monitored and there is a framework in place for approving manufactures within Canada. This will include labeling, though “which” label standard has not yet been decided.
- You will need to submit “something” for their liquids but it’s not clear exactly what that means and they themselves may not know, yet.
- Product testing specifics will likely be forthcoming with the regulations.
- These ingredients will NOT be permitted for use in e-liquid:
  - Amino acids
  - Caffeine
  - Colouring agents
  - Essential fatty acids
  - Glucuronolactone
  - Probiotics
  - Taurine
  - Vitamins
  - Mineral nutrients
- You may be required to provide “something” to the general public



### **Retail, Wholesale Distributors and/or Manufacturers:**

- No sales to anyone under 18 (most of us should be doing this already) - Provincial regulations where the age is more restrictive (i.e. Ontario is 19) will override Federal regulation.
- No Public Lifestyle advertising (appears relaxing, enjoyable, sexy, fun, etc.)
  - **Exceptions**
    - Advertising in something that is being sent directly to an adult, by name (i.e. Magazine that is by adult subscription ONLY)
    - Places where no one under 18 is permitted
- Absolutely no advertising/promotion is allowed that might be appealing to youth.
- Use of logos, symbols or illustrations that may appeal to children will likely not be permitted.
- Words referencing or describing the following categories will not be permitted (i.e. Ice Cream Sandwich, Blueberry Cheesecake, Cola Fizz, etc.):
  - Confectionery
  - Dessert
  - Cannabis
  - Soft drink
  - Energy drink
- Hardware requirements (including package label, leaflet or tag) are still unclear
- Give-aways “appear” to be okay within your place of business (and perhaps trade shows). However, sections of the bill appear to either *contradict* or *double-down* on being able to give products away. (30.5 & 30.6)
- Testimonials and/or endorsements cannot be used for promotion
- Absolutely no health claims or misrepresentation of the products
- No promotional “comparatives” to smoking health hazards (i.e. “get rid of that smokers cough when you switch”)
- No discouragement from traditional “approved” Smoking Cessation products.
- No pictures/images on packages/bottles that would indicate a flavour (plain package labeling?)
- Inspectors are authorized to inspect and/or remove anything they believe to be out of compliance with the regulations, with or without warning.
- Vaping in federal spaces will be restricted but vaping in other public spaces will be delegated to the provincial level

Now back to the positive spin. Our government has recognized that we are **NOT** tobacco and we are very pleased that the Health Minister has done so, both publically in her



statements and within this bill.

We do not anticipate a “big bang” implementation of regulations for this bill. After it passes through the Senate and House of Commons, we expect it to be implemented in stages.

We will be working toward getting clarification and changes to some of the less practical thing in the bill as we move toward the consultation period. Realize that while we work toward less restrictive regulations, those that oppose vaping products are working hard to make things more restrictive. Not everyone will be pleased with the outcome of this bill but vaping WILL be able to continue and be supported as a Tobacco Harm Reduction technology, by law.

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