



Petition

Registration No.	26
Title	Support Vapers' Rights
Presented on	30 October 2018
Presented by	Ms Ngaree Ah Kit MLA (Member for Karama)
Referred to	Minister for Health (Hon Natasha Fyles MLA) and to the Economic Policy Scrutiny Committee for consideration to debate
Assembly debate	If the Committee recommends the Petition be debated it will appear on the Notice Paper
Date referred	30 October 2018
Response due	19 March 2019
Response received	12 December 2018
Response is to be presented	12 February 2019

Petition

This document is a tool to show that vaping has been a successful quitting alternative to smoking for many members of the public.

We, the undersigned, are concerned citizens who urge our leaders to act now to support vapers rights to vape with and without nicotine in Australia.

We the undersigned declare formally that we have made a successful transition from smoking tobacco to vaping.

We declare that through vaping we are now NON SMOKERS and as part of the community request that our rights to vape with and without nicotine be supported by government legislation.

Response

A Bill to amend the Northern Territory *Tobacco Control Act* is currently before Parliament, including provisions to regulate electronic cigarettes and electronic cigarette accessories to treat them as if they are a tobacco product. The main purpose of the Bill is to ensure that electronic cigarettes and their accessories are not able to be purchased by underage persons.

Pending the passage of the Bill through Parliament, persons over the age of 18 years will be able to purchase these products as they have in the past from their local retailer. The proposed legislation requires that these products may not be used in enclosed public areas or enclosed workplace areas and any other areas where tobacco products may be restricted. People are free to use these products anywhere in the community where smoking is permitted

Nicotine Juice is listed as a Schedule 7 Poison under the National Poison Standard maintained by the Therapeutic Goods Administration of the Australian Government. Each Jurisdiction is responsible for the regulation of Poisons. Schedule 7 poisons are legislated in the Medicines, Poisons and Therapeutic Goods Act (the Act) of the Northern Territory. Section 36 of the Act requires the Retailer of a Schedule 7 substance be licensed, and Section 42 & 44 of the Act restricts the supply and use of Schedule 7 poisons to registered users only.

The Chief Health Officer of the Northern Territory (CHO) has responsibility for licensing Wholesalers and Retailers of Schedule 7 poisons. The CHO does not issue licences for the sale of Nicotine Juice by retail to the general public in the Northern Territory as the CHO has no control over the dosages used by any potential registered user. A request to be a registered user based on therapeutic grounds would not be approved.

The Australian Government's position on electronic cigarettes is provided in an attachment to this brief.

Attachment

The Australian Government's position on e-cigarettes

The Australian Government is taking an informed and considered approach to e-cigarettes and is continuing to monitor emerging evidence regarding their safety, role in smoking cessation, dual use with conventional tobacco products and concerns around take-up by non-smokers. The Government's position on e-cigarettes is based on the need to consider the overall impacts that e-cigarettes pose to population health, including on non-smokers and smokers.

The Ministerial Drug and Alcohol Forum, which includes Commonwealth and state and territory Ministers, has agreed to national guiding principles for e-cigarettes. The guiding principles, which can be found on the Department of Health's website (<http://www.health.gov.au/internet/main/publishing.nsf/Content/principles-underpin-in-current-policy-regulatory-approach-electroniccigarettes-eeCigarettes-australia>), reflect the Government's considered approach to e-cigarettes and affirm that the current national regulatory framework remains appropriate.

The existing evidence indicates that e-cigarettes are not harmless products. On 3 April 2017, the Chief Executive Officer of the National Health and Medical Research Council (NHMRC) issued an updated statement on e-cigarettes, which notes that there is insufficient evidence to support claims that e-cigarettes are safe or to conclude whether e-cigarettes can assist smokers to quit. The statement is available on the NHMRC website. More broadly the Government recognises the need for further research into e-cigarettes and notes that the NHMRC has funded ten grants, committing over \$8.5 million for research into e-cigarettes since 2011.

E-cigarette regulatory settings

E-cigarette regulation is a shared responsibility between the Commonwealth, state and territory governments. The current regulatory framework draws on existing legislation and regulations that may apply to tobacco products, therapeutic goods, poisons and consumer goods.

Unlike any e-cigarette product, all smoking cessation products lawfully available for sale in Australia have been evaluated by the Therapeutic Goods Administration (TGA) for safety and efficacy, and have been registered with the TGA. There are no restrictions on who might apply to the TGA. However, no e-cigarettes have been approved by the TGA to date.

Nicotine for use in e-cigarettes cannot be lawfully sold in Australia. The sale of nicotine for use in e-cigarettes would require an amendment to the Standard for the Uniform Scheduling of Medicines and Poisons (the Poisons Standard). The Poisons Standard is a record of decisions regarding the classification of medicines and chemicals into Schedules for inclusion in relevant legislation of the states and territories. There is a clearly defined process for amendments to the

Poisons Standard to be considered and it is important to note this process is independent from Government.

Nicotine is currently classified as a Schedule 7 Dangerous Poison under the Poisons Standard (with specific exemptions such as for certain nicotine replacement therapies and tobacco when prepared and packed for smoking). In March 2017, an application to allow nicotine for use in e-cigarettes to be sold commercially in Australia for harm reduction purposes was considered by the TGA.

The TGA did not support legalising the commercial sale of nicotine for use in e-cigarettes for numerous reasons. The risk of nicotine dependence is much higher for e-cigarettes compared to nicotine replacement therapy products currently marketed in Australia. Several published studies show that youths who initiate smoking with e-cigarettes are about three times more likely to be smoking conventional cigarettes a year later. There is little evidence regarding the safety of long-term nicotine exposure via e-cigarettes. However, there is evidence that exposure to nicotine in adolescents may have long-term consequences for brain development, potentially leading to learning and anxiety disorders. The proposed amount of nicotine to be contained in e-cigarettes could prove fatal if taken by accident (i.e. child unintentional ingestion). In the United States, accidental poisonings associated with e-cigarettes increased from one per month in 2010 to 215 per month in 2014, including one death.

The effect of this decision is that the commercial supply of nicotine for use in e-cigarettes remains prohibited under state and territory poisons legislation. The Government is confident that the TGA's scheduling legislation and underlying decision-making processes provided a robust mechanism for an assessment and determination of this issue to be made, which appropriately balanced potential risks and benefits and was informed by relevant evidence. The availability of nicotine for use in e-cigarettes will continue to be determined through the scheduling process. Under this process, anyone may make an application to propose an amendment to the Poisons Standard. If an amendment is recommended, it would still need to be adopted across each of the states and territories.

Further information about the TGA's final decision in respect to this application is also available on the TGA website.

Additionally, most public health stakeholders are aligned with a precautionary approach to e-cigarettes. A statement released on 23 February 2018 by Cancer Australia highlights those stakeholders which support the Government's precautionary approach to e-cigarettes. The statement is available on the Cancer Australia website.

Access to e-cigarettes containing nicotine through the TGA's Personal Importation Scheme

Although e-cigarettes containing nicotine are not currently available for sale in Australia, it may be lawful for people to import nicotine for use in e-cigarettes with a prescription for up to three months of personal therapeutic use under the TGA's Personal Importation Scheme (PIS). Under this scheme an importer must hold a prescription from a registered Australian medical practitioner, and the possession and use of nicotine for this purpose must also be legal within the importer's state or territory. While schemes such as the PIS may be used to import unapproved therapeutic goods into Australia, they are intended to enable access to products only in cases when suitable TGA-approved alternatives that achieve the same therapeutic purpose are not available on the Australian market. Unapproved therapeutic goods imported into Australia have not been evaluated by the TGA and therefore there are no guarantees about their quality, safety or efficacy. Further information is available on the TGA's website.

Parliamentary Inquiry on e-cigarettes and personal vaporisers

On 28 March 2018, the Standing Committee on Health, Aged Care and Sport published its final report on its Inquiry into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers in Australia. The Government will carefully consider the Inquiry's findings before providing a response. The Inquiry's final report is available on the Parliament of Australia website.