

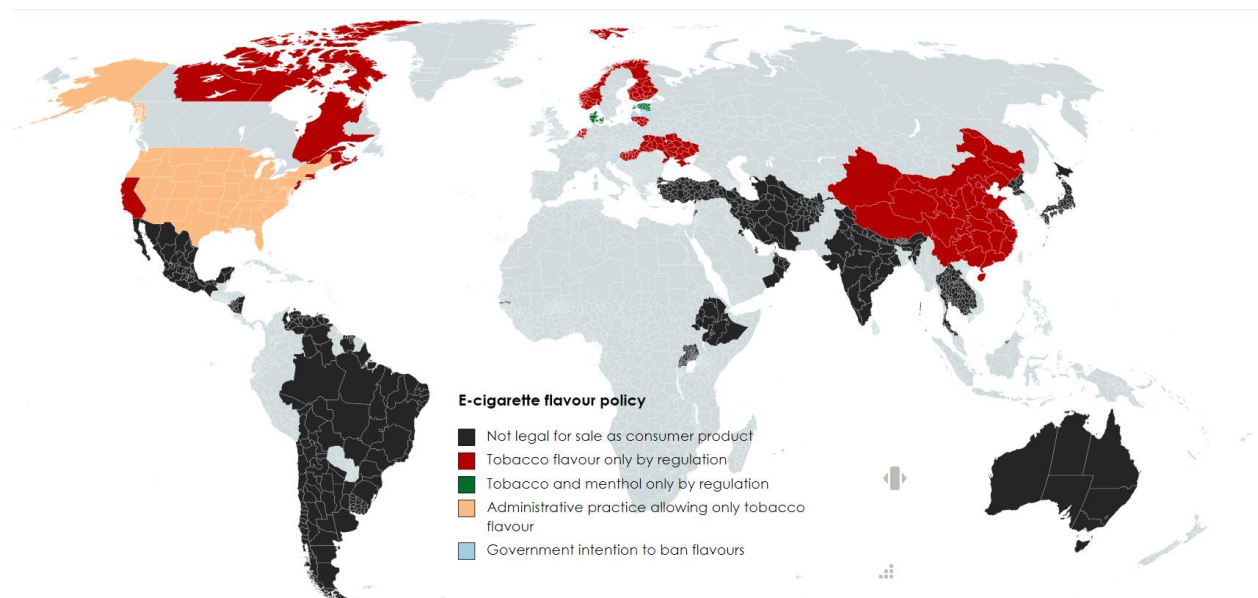
Restrictions on e-cigarette flavours

January 2024

Overview

Over 30 countries do not permit the sale of e-cigarettes as consumer products, and by extension do not permit the sale of flavoured e-cigarettes.¹ Among the countries which permit their sale, 6 have introduced national-level bans on flavours other than tobacco flavour (Finland, Hungary, Netherlands, Ukraine, Lithuania, China), two have banned flavours other than tobacco and menthol (Denmark and Estonia) and two (Canada and the United States) have sub-national restrictions in place. By administrative practice, the United States Food and Drug Administration has denied marketing orders to e-cigarettes with flavours other than tobacco, and has denied orders to some menthol-flavours. Several other countries have announced an intention to ban flavourings.

Figure 1: Global policies on e-cigarettes and e-liquid flavours



North America

Canada:

- On June 19, 2021, the federal government published proposed regulations to restrict flavourings and additives in vaping liquids.² There are 3 elements to the proposed regulations:
 - Restricting flavours in vaping products to tobacco, mint, menthol, and a combination of those flavours.
 - Prohibiting all sweeteners and sugars and most flavouring ingredients in vaping liquids
 - Prohibit vaping products from producing a “sensory attribute” that is different than the ones typical for tobacco, mint, or menthol.

Physicians *for a* Smoke-Free Canada

134 Caroline Avenue ♦ Ottawa ♦ Ontario ♦ K1Y 0S9
www.smoke-free.ca ♦ psc@smoke-free.ca

Since August 2022, the response to these proposed regulations has been under review. The federal intention to finalize the regulation was called into question in March 2023, when the revised Departmental Plan was published which made no reference to this regulation.

- Of Canada's 13 provincial and territorial governments, 6 have adopted legislation or regulations to ban the sale of any e-cigarette liquid other than tobacco flavour. As shown in Table 1, these are: Nova Scotia, Prince Edward Island, New Brunswick, Northwest Territories, Nunavut and Quebec.
- Three Canadian provinces have adopted regulations to restrict the sale of flavoured vaping liquids to specialty vape shops where children are not permitted to enter. As shown in Table 1, these are (in order of implementation): British Columbia, Ontario and Saskatchewan.

United States

- The U.S. Food and Drug Administration has authority over the authorization of e-cigarette sales. Each manufacturer who wishes to sell e-cigarettes has been required to submit an application and to demonstrate that there is a public health benefit to allow the sale of these products. The U.S. federal policy on flavourings is in development, but is currently being administered as a ban on all flavours other than menthol and tobacco.
 - Prior to 2020, the FDA was not enforcing the prohibitions on selling e-cigarettes for which authorization had not been received.
 - In January 2020, the FDA notified that it would be enforcing against the sale of pre-filled cartridge-based e-cigarettes. Only those with tobacco or menthol flavours would be permitted. Flavourings for vaping liquids for other devices were not affected.
 - In June 2021, a U.S. Congress committee held hearings on FDA regulation of e-cigarettes, with representatives encouraging a ban on all flavours.³
 - Beginning in the autumn of 2021, the FDA began to issue market authorization orders, and marketing denial orders. All products authorized to date have been tobacco-flavoured.
 - The FDA has deferred most decisions on menthol-flavoured (with the exception of denying marketing permission to a few menthol brands). It has consistently denied market authorization to all non-menthol/non-tobacco other flavours.
 - Some e-cigarette manufacturers have successfully stayed the implementation of market denial orders, allowing products to remain on the market.
- Five U.S. States and D.C. have enacted bans on the sale of flavoured e-cigarettes.⁴ As shown in Table 1, restrictions are in place (in order of implementation) in: Massachusetts, New Jersey, New York, and Rhode Island. California's 2020 legislation was deferred until confirmed by a referendum vote which took place in November 2022, and came into effect in December 2022.⁵
- Maryland bans the sale of flavored cartridge-based and disposable e-cigarettes other than menthol. Utah restricts the sale of flavored e-cigarettes (except mint/menthol) to adult-only retail tobacco specialty businesses and several cities have banned the sale of flavored tobacco products (including e-cigarettes).⁶

Other international

Europe

- The 2014 Tobacco Directive of the European Union requires countries to permit the sale of e-cigarettes but permits them to adopt domestic legislation to restrict certain marketing practices.⁷ As shown in Table 1, 8 European countries have adopted flavour restrictions on e-cigarettes. These are: Finland, Estonia, Hungary, Denmark, the Netherlands, the Ukraine, Lithuania and . Governments in two other countries (Sweden and Iceland) had proposed legislation to ban flavourings, but these measures were defeated in the legislature in June 2022.^{8 9} Latvia's legislature gave second reading to a bill to prohibit all flavours but tobacco in October 2022.¹⁰ In November 2023, Slovenia's health minister submitted a legislative proposal to ban on all flavours but tobacco and menthol.¹¹

Asia

- In April 2022, China adopted regulations on mandatory national standards for electronic cigarettes, which bans flavours other than tobacco on October 1, 2022.

Australasia

- **Australia** permits nicotine-containing e-cigarettes to be sold only under prescription. In May 2023 the Australian government announced that in addition to this requirement, flavourings would be banned in e-cigarettes, including those that did not have nicotine.^{12 13}

Table 1: Regulatory controls on e-cigarette flavourings

Country	Status	Description	Implementation date
Canada			
Federal law	Regulatory Proposal ¹⁴	All flavours other than tobacco, mint and menthol are prohibited.	
British Columbia	Regulation ¹⁵	Flavours other than tobacco can only be sold in age-restricted specialty vape stores	September 15, 2020
New Brunswick	Law ¹⁶	Only tobacco-flavour is permitted	Sep 1, 2021
Nova Scotia	Regulation ¹⁷	Only tobacco-flavour is permitted	April 1, 2020
Nunavut	Law ¹⁸	Only tobacco-flavour is permitted.	May 31, 2023
Northwest Territories	Regulation ¹⁹	Only tobacco-flavour is permitted	March 25, 2022
Ontario	Regulation ²⁰	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	July 1, 2020
Prince Edward Island	Regulation ²¹	Only tobacco-flavour is permitted	March 1, 2021
Quebec	Regulation ²²	Only tobacco-flavour is permitted	October 31, 2023
Saskatchewan	Regulation ²³	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	September 1, 2021
United States			
Federal	Policy ²⁴	Flavours other than tobacco and menthol are banned in pre-filled cartridge-based e-cigarette systems	February 6, 2020
California	Law ^{25 26}	All flavours other than tobacco flavour are prohibited.	December 21, 2022 ²⁷
Massachusetts	Law ²⁸	All flavours other than tobacco flavour are prohibited (exception for on-site consumption at specialized bars)	November 27, 2019
New Jersey	Law ²⁹	All flavours other than tobacco flavour are prohibited	April 20, 2020
New York	Law ^{30 31}	All flavours other than tobacco flavour are prohibited	May 18, 2020
Rhode Island	Regulation ³²	All flavours other than tobacco flavour are prohibited	March 26, 2020
District of Columbia	Law ³³	All flavours other than tobacco flavour are prohibited. Implementation will occur after funding in budget	October 1, 2022
Utah	Law ³⁴	Flavours other than tobacco, mint and menthol can only be sold in age-restricted specialty vape stores	July 1, 2020
Europe			
Denmark	Law ³⁵	All flavours other than tobacco flavour or menthol are prohibited	April 1, 2022
Estonia	Law ^{36 37}	All flavours other than tobacco and menthol flavours are prohibited	July 2019, menthol added May 2020
Finland	Law ³⁸	All flavours other than tobacco flavour are prohibited	2016
Hungary	Regulation ³⁹	No flavours are permitted	May 2020
Latvia	Proposed law ⁴⁰	No flavours are permitted	TBD
Lithuania	Legislation adopted ⁴¹	All flavours other than tobacco flavour are prohibited	July 1, 2022
Netherlands	Decree ⁴²	All flavours other than tobacco flavour are prohibited	January 2024 ⁴³
Norway	Law ⁴⁴	All characteristic flavours are banned	July 1, 2024
Slovenia	Proposed law ⁴⁵	All flavours other than tobacco flavour and menthol	TBD
Ukraine	Law ⁴⁶	All flavours other than tobacco flavour are prohibited	July 11 2023
Other			
China	Regulation ^{47 48}	All flavours other than tobacco flavour are prohibited	Oct 1, 2022 ⁴⁹
Australia	Proposed regulation ⁵⁰	All flavours other than tobacco flavouring	TBD

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