



The Tobacco and Vaping Products Act: Implications for E-Cigarette Point-of-Sale Promotion

Background: E-Cigarette Point-of-Sale Promotion

A growing number of studies over the last few years have investigated vape shop staff perspectives on vaping, particularly regarding the effectiveness of vaping as a smoking cessation strategy. These perspectives are of great relevance to researchers and policy-makers, as vape shop staff beliefs, attitudes and behaviours related to vaping likely influence the messages communicated to customers at point of sale. Information from vape shop staff has been found to be mostly gathered through personal experience or customer experiences, with minimal reported verification of this information.¹

Key Message: Vaping e-cigarettes can lead to dependence, long-term regular use and serious health effects. In spite of the Act, e-cigarettes are being promoted and marketed to young nonsmokers.

For example, personal experiences of vape shop staff who successfully quit smoking by vaping may influence the advice provided to customers looking to quit smoking, despite the limited evidence of the efficacy of vaping as a cessation strategy. Indeed, many vape shop staff have reported successfully quitting smoking by vaping, and express personal conviction their stories of quitting can help their customers who are trying to quit.² This narrative approach to vaping product promotion, often used in vape shops, has been found to be persuasive and to reduce resistance to messaging in the health communication literature.²

Moreover, vape shop staff consistently reported mostly positive views on the health effects of vaping, despite the lack of evidence on the health consequences of its long term use. In one study, 24% of retailers thought that e-cigarettes were completely safe.³ Retailers may overestimate the benefits, and underestimate potential risks, of e-cigarettes when discussing

them with customers.³ This discrepancy may be amplified by the emotional investment that some vape shop staff may have in these products, given their personal success in quitting smoking by using vaping products, leading them to have more positive views on the health effects of vaping.

Consequently, messages being communicated to vape shop customers at point-of-sale, while likely well-intentioned, may contain misinformation.

Research on Electronic Cigarettes and Waterpipe (RECIG-WP) Point-of-Sale Study

OTRU is conducting research on e-cigarettes and waterpipe to advance knowledge and understanding of product availability and marketing, trends in product use and co-use. One of the current initiatives under RECIG-WP is a point-of-sale study, which collected data on e-cigarette and waterpipe product availability and marketing at 50 retail stores. Observations and interviews took place in five different cities: Toronto, Sudbury, Ottawa, Hamilton and London. We targeted 10 in-store observations in each of these cities, including: 5 vape shops, 3 convenience stores, 1 tobacconist, and 1 head shop.

The *Tobacco and Vaping Products Act*

Bill S-5, a federal *Act* to amend the *Tobacco Act* and *Non-smokers' Health Act* and to make consequential amendments to other *Acts*, received Royal Assent on May 23, 2018. Part 1 of the *Act* amends the *Tobacco Act* to regulate the “manufacture, sale, labelling and promotion of vaping products” in Canada. Bill S-5 replaced the *Tobacco Act* (1997) with the *Tobacco and Vaping Products Act*. Many of the new federal rules will impact point-of-sale practices in the brick-and-mortar vape shops.

How Will the *Tobacco and Vaping Products Act* Affect Point-of-Sale Promotion in Ontario?

Point-of-Sale Promotion in Convenience Stores

Presently, there are no provincial restrictions on the promotion of vaping products in Ontario. Since the *Act* was passed, vaping products have been aggressively marketed in convenience stores, including product displays, posters and placement of vaping products beside candy and

sweets. In particular, promotion of British American Tobacco's Vype brand e-cigarettes is evident in chain convenience stores, at gas pumps and now also advertised on TV. This type of marketing echoes strategies used by tobacco companies in the past.

Vaping Products with Nicotine Can Be Legally Sold to Adults

Before Bill S-5 received Royal Assent on May 23, 2018, it was illegal to sell e-cigarettes and e-liquids containing nicotine in Canada. Nevertheless, e-cigarette products with nicotine have been openly sold in vape shops, convenience stores and other venues. The *Tobacco and Vaping Products Act* introduces a regulatory framework that allows adults aged 18 years or older to legally purchase vaping products containing nicotine as a “less harmful alternative to tobacco.”

Prior to the *Tobacco and Vaping Products Act*, the major transnational tobacco companies stayed out of Canada's vaping market. However, now they have actively started to promote their own e-cigarette brands and it is anticipated that there will be a major shift in the market. Similarly, JUUL brand e-cigarettes have entered the Canadian market now that it is legal to sell vaping products containing nicotine. JUUL and similar “pod mods” have very high nicotine concentrations – one cartridge (about 200 puffs) contains as much nicotine as an entire pack of cigarettes. In the US, JUUL has quickly captured more than half of the e-cigarette market with its sleek, nicotine-packed product.

Although the legislation bans sales to youth under the age of 18, lessons from minimum age stipulations for tobacco suggest that e-cigarettes containing nicotine will be easily available to young people. Since nicotine is highly addictive⁴ and has been shown to affect brain development,⁴ it will be important for the public health community to closely monitor the initiation and uptake of e-cigarettes by young people.

No Testimonials or Endorsements

Under the *Tobacco and Vaping Products Act*, “no person shall promote a vaping product through a testimonial or an endorsement, however displayed or communicated, including by means of packaging.” In our RECIG-WP point-of-sale study, vape shop employees told us that they often discuss their own experiences of quitting smoking through vaping with potential customers, a finding corroborated by other studies.² Our analysis of point-of-sale promotional

materials and of e-cigarette packaging—including flavour names—indicates that a substantial amount of vaping product promotion goes on in vape shops. Consequently, the prohibition of testimonials and endorsements outlined in the *Tobacco and Vaping Products Act* may require substantial changes in practices at vape shops.

No False Promoting of Vaping Products' Health Effects or Hazards

One of the objectives of the *Tobacco and Vaping Products Act* is to “prevent the public from being deceived or misled with respect to the health hazards of using vaping products.” Rules will be stricter around making health claims related to vaping that are unsubstantiated by evidence. Many vape shop staff interviewed in the RECIG-WP point-of-sale study said that they would not recommend vaping to a customer who did not smoke, which may indicate that staff are aware that vaping is not harmless. To support vape shop staff with implementing this new rule, clear and accurate information on health effects or hazards should be made easily accessible from a reputable, non-biased source, such as Health Canada.

No Promotion of Vaping Products Using Smoking as a Comparison

The *Tobacco and Vaping Products Act* prohibits individuals from making comparisons between the health effects resulting from the use of vaping products with those resulting from the use of tobacco products. The RECIG-WP point-of-sale study consistently found the same key message in narratives about vaping from vape shop staff—vaping is healthier than smoking. The prohibition of making comparisons between the health effects of using e-cigarettes or tobacco products may impact point-of-sale narratives that vaping is a legitimate harm reduction approach to smoking cessation. Literature shows that vape shop staff view themselves as public health advocates who believe in harm reduction.²

Conclusion

E-cigarettes are now being aggressively marketed at point-of-sale in convenience stores as well as in vape shops, with and without claims about health effects and about smoking cessation effectiveness. Our research suggests that e-cigarettes are being promoted in such a way as to attract youth and young adult nonsmokers and that vape shops serve as a major channel of the marketing and promotion of e-cigarettes for recreational purposes. Considering the addictive

properties of nicotine and the potential health effects of vaping, it will be important to study the effects of the *Tobacco and Vaping Products Act* on the use of e-cigarettes by nonsmokers.

References

- ¹ Tsai J, Bluthenthal R, Allem J-P, Garcia R, Garcia J, Unger J, Baezconde-Garbanati L, Sussman S. Vape shop retailers' perceptions of their customers, products and services: A content analysis. *Tobacco Prevention & Cessation* 2017;2(Supplement). doi:10.18332/tpc/70345.
- ² Hart J, Walker K, Sears C, Lee A, Smith C, Siu A, Keith R, Ridner S. Vape shop employees: Public health advocates? *Tobacco Prevention & Cessation*. 2017;2(Supplement). doi:10.18332/tpc/67800.
- ³ Allem J-P, Unger JB, Garcia R, Baezconde-Garbanati L, Sussman S. Tobacco attitudes and behaviors of vape shop retailers in Los Angeles. *American Journal of Health Behavior*. 2015;39(6):794-798. doi:10.5993/ajhb.39.6.7.
- ⁴ National Academies of Sciences, Engineering, and Medicine. *Public Health Consequences of E-Cigarettes*. Washington, DC: National Academies Press; 2018.