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Restricting Vaping Retail to Adult Only Stores: Theory, Evidence and Regulatory Policy

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Executive Summary

Literature Review

Evidence Adult Only Store Regulations and Youth Access to E-Cigarettes

- Vape shops often offer a wide variety of e-cigarette products, including re-usable and modifiable products which may provide youth with long term continuous access to e-cigarettes that can be shared with peers.
- It is hypothesized that allowing exemptions to adult only stores (sampling, marketing) may allow governments to more heavily regulate other types of retailers that are frequented by youth however no evidence was found for this regulatory approach.
- Regulations to further restrict e-cigarettes sales to adult only vape shops may be facilitated by study findings demonstrating that in both Canada and the United States, most vapers bought their products from vape shops. Adults who purchase e-cigarettes from vape shops are also more likely to quit smoking.
- Adequate enforcement of sales at adult only vape shops have been weak in the past and would need to be ramped up for this intervention to be effective.

Jurisdictional Scan

Canadian Federal E-Cigarette Adult Only Store Regulations

- There are no federal measures in place related to adult only stores.
- This contrasts with retail of alcohol and cannabis which is required to be sold in specialty age restricted stores.
- It is estimated that there are over 1,100 brick and mortar vape shops in Canada

Canadian Provincial/Territorial E-Cigarette Adult Only Store Regulations

• PEI is the only province in Canada which restricts the sale of all e-cigarettes to adult only specialty stores.

- Most Canadian provinces and territories require vape shops to register and restrict access to adults. The minimum age to enter ranges across provinces from 18-21, with most provinces restricting access to those under 19.
- Adult only vape shops differ from alcohol and cannabis retailing because regulations do not require that all sales of e-cigarettes take place in specialty shops, but rather offer positive exceptions for specialty retailers.
- Most provinces make exceptions for adult only stores regarding the sale of flavours, testing/sampling, and advertising and promotion.
- Ontario and Quebec have the highest number of brick and mortar vape shops at 350 and 300 respectively, and Alberta is estimated to have 130.

Canadian Provincial/Territorial Alcohol and Cannabis Adult Only Store Regulations

- Many retail restrictions on cannabis and alcohol retailers are not applied to e-cigarettes including requirements that products only be sold in specialty age restricted stores.
- Government is the major retailer of alcohol in most provinces.
- Cannabis retailers include privately owned stores, government owned stores, and hybrid stores.

U.S Federal Regulations

- Vape shops are not consistently regulated in the US, and norms for regulatory oversight have not yet been defined (US Food and Drug Administration).
- The FDA has recently proposed that all sales of flavoured tobacco products should be limited to adult only facilities.

Effects

- There is no evidence that restricting the sale of certain vaping products to specialized vaping stores will decrease youth access to e-cigarettes.
- Studies show that youth are making illicit purchases of e-cigarettes from vape shops, and enforcement efforts must be increased significantly for an adult only store strategy to be effective.

Technical Feasibility

- It should be technically feasible to restrict all sales of e-cigarettes to adult only vape shops following the precedent of PEI, and the examples of cannabis and alcohol retail in many provinces.
- Many provinces are already restricting the most harmful product (re-usable devices, flavours, and high nicotine > 20mg/ml) and practices (sampling, marketing/promotion) to adult only stores, so it should be technically possible to close gaps in remaining jurisdictions.
- Enforcement efforts will need to be ramped up to ensure that a strategy to restrict sales does not have the unintended impact of allowing access to youth. While technically feasible, this will require investment of resources, and following best practices set out in the literature for enforcement of vape shops.
- It should also be technically feasible to further increase restrictions on all-ages retailers (eg. convenience stores and gas stations). The precedents of alcohol and cannabis retailing in Canada may provide important lessons.

Political Viability

- Strong public support for restricting youth access to e-cigarettes, and precedents from alcohol and cannabis should strengthen the political viability for further restricting e-cigarette sales to adult only stores.
- Restricting sales entirely or at least partially to adult only stores will still allow access for adults who are trying to use e-cigarettes to quit conventional tobacco.
- It is likely that convenience store associations, generally associated with the tobacco industry may oppose adult only store regulations.

Alignment with the Canadian Regulatory Landscape

• There are no known international trade obligations that would interfere with adult only store restrictions.

Introduction

Youth are accessing e-cigarettes in a variety of ways—including social sources, brick and mortar stores and online retail establishments—so a multi-pronged regulatory approach to reduce youth access is required (Baker et. al, 2019; Braak, 2020). It is unlikely that a single intervention can eliminate most youth vaping (Braak et. al, 2020), however this report explores the extent to which regulations related to adult only stores are likely to be important variables.

This report explores the evidence directly related to e-cigarettes, as well as other substances including tobacco, alcohol, and cannabis. The paper also includes a jurisdictional scan of Canadian, and American regulations, as well as other notable regulations outside of North America. Finally, the paper summarizes the potential effects, technical feasibility, political viability, and alignment with the Canadian regulatory landscape.

Literature Review

Adult Only Store Regulations and Youth Access to E-Cigarettes

- Vape shops often offer a wide variety of e-cigarette products, including re-usable and modifiable products which may provide youth with long term continuous access to e-cigarettes that can be shared with peers.
- It is hypothesized that allowing exemptions to adult only stores (sampling, marketing) may allow governments to more heavily regulate other types of retailers that are frequented by youth however no evidence was found for this regulatory approach.
- Regulations to further restrict e-cigarettes sales to adult only vape shops may be facilitated by study findings demonstrating that in both Canada and the United States, most vapers bought their products from vape shops. Adults who purchase ecigarettes from vape shops are also more likely to quit smoking.
- Adequate enforcement of sales at adult only vape shops have been weak in the past and would need to be ramped up for this intervention to be effective.

Vape shops allow for the purchase of e-cigarettes but typically not cigarettes. "Vape shops" often offer a wider selection of e-cigarette products, models and accessories that allow customers to purchase re-usable products. Customers are often able to modify products purchased from vape shops with stronger batteries or larger tanks to produce more aerosols and deliver more nicotine (Brown et al., 2014). It is possible that youth who are provided one time access these re-useable and modifiable products may have long term, continuous access to e-cigarettes that could be shared with peers. A California study found that customers liked the variety of flavours, devices, and accessories available in vape shops (Sussman et al., 2014). It is common for vape shops to offer a social atmosphere, including customized e-liquids mixed on site, offering samples to customers along with other forms of entertainment including movies, food and even live music (Wells Faro Securities, 2016; Lee and Kim, 2015).

In some jurisdictions, including several Canadian provinces, vape shops are required to register and are restricted to adults to qualify for exemptions related to sampling and marketing that are applied to other retailers. In Canada and the United States most vapers bought their products from vape shops, 65.3% and 43.3% respectively (Braak et al., 2018). At the time of this study, no vaping products containing nicotine were approved for sale in Canada, however enforcement efforts were reportedly weak at the time (Braak et al., 2018). As of May 2018, Canadian retail outlets were permitted to sell vaping products with nicotine (Braak et al., 2018).

Several studies have shown that smokers who purchase nicotine containing e-cigarettes from vape shops are more likely to stop smoking cigarettes (Polosa et al., 2015; Wagener et al., 2016). Experts hypothesize that this may be due to the characteristics of the people who choose to buy from vape shops instead of other types of retailers, or because they are likely to get better instruction on how to quit smoking by vaping compared to those buying from retail stores or online (Braak et al., 2018). Because vape shops do not sell cigarettes, vape shop staff are incentivized to help customers to quit smoking (Yang and Lee, 2018).

Some experts suggest that the establishment of retail licensing systems could include stipulations that require e-cigarettes to be sold in adult-only, vaping-only stores (Physicians for a Smoke Free Canada, 2020). For this strategy to be effective it is important that vape shops are included in tobacco control compliance and enforcement efforts to ensure that youth are unable to access and makes purchase at these outlets (Counter Tobacco, 2021). Data from California found that about half of tobacco and vape shops that primarily sell tobacco and vape products did not check IDs for youth and 44.7% sold to them (Roeseler et al., 2019). The rates of sales to underage youth in vape shops was significantly higher than other types of stores (Roeseler et al., 2019).

Another study conducted compliance checks at 30 randomly selected vape shops in six US cities and found that less than 25% of shops asked for ID upon purchase; 16% offered free samples of e-liquids. This suggests that there is a need for stronger enforcement efforts, including increased compliance checks at vape shops (Berg et al., 2021). Studies have also shown that vape shop density and proximity in relation to schools are creating disparities in youth access to e-cigarettes, exposing higher proportions of Asian and Black youth (Venugopal et al., 2018). Best practices for compliance efforts at vape shops have been put forward in the *Standardized Tobacco Assessment for Retail Settings: Vape Shops (vSTARs)* (Counter Tobacco, 2021).

Jurisdictional Scan

Canadian Federal Adult Only Store E-Cigarette Regulations

There are no federal regulations requiring e-cigarettes to be sold in adult only stores. This contrasts with retail of alcohol and cannabis which is required to be sold in specialty age restricted stores (Physicians for a Smoke Free Canada, 2020). In 2016, the Canadian Vaping Associated estimated that there were more than 500 vape shops in Canada (Globe and Mail, 2016; Physicians for a Smoke Free Canada, 2020). By 2019, following the legalization of e-cigarettes in Canada this number had grown to 1,100 brick and mortar vape shops (E-cig Intelligence, 2019; Physicians for a Smoke Free Canada, 2019).

Canadian Provincial/Territorial Adult Only Store E-Cigarette Regulations

- Most Canadian provinces and territories require vape shops to register and restrict access to adults. The minimum age to enter ranges across provinces from 18-21, with most provinces restricting access to those under 19.
- Adult only vape shops differ from alcohol and cannabis retailing because regulations do not require that all sales of e-cigarettes take place in specialty shops, but rather offer positive exceptions for specialty retailers.
- Most provinces make exceptions for adult only stores regarding the sale of flavours, testing/sampling, and advertising and promotion.
- Ontario and Quebec have the highest number of brick and mortar vape shops at 350 and 300 respectively, and Alberta is estimated to have 130.

While many Canadian provinces have regulations for vape shops, these regulations are not always clearly defined or consistent. Adult only vape shops differ from alcohol and cannabis retailing because regulations do not require that all sales of e-cigarettes take place in specialty shops, but rather offer positive exceptions for specialty retailers. Prince Edward Island is the only province that restricts the sale of all e-cigarette products to adult only stores (Physicians for a Smoke Free Canada, 2020).

Most provinces require a minimum age to enter specialized vaping stores (Physicians for a Smoke Free Canada, 2020). Most provinces have set the minimum age to enter vape shops in line with minimum age to purchase. Quebec, Saskatchewan and Manitoba have set the minimum age to enter vape shops at 18. The minimum age to enter vape shops is set at 19 in British Columbia, Ontario, New Brunswick, and Nova Scotia (Physicians for a Smoke Free Canada, 2020). PEI has the highest minimum age for vape shops at 21(Physicians for a Smoke Free Canada, 2020). Alberta has not yet set a minimum age for entering vape shops (Physicians for a Smoke Free Canada, 2020).

Most provinces make exceptions for adult only stores regarding the sales of flavours, testing, advertising and promoting of e-cigarettes (British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan).

In 2019, it was estimated that Ontario and Quebec had the highest number of brick and mortar vape shops with 350 and 300 respectively (E-Cig Intelligence, 2019; there were with the highest numbers in Ontario (350) and Quebec (300) (E-Cig Intelligence, 2019; Physicians for a Smoke Free Canada, 2019). Industry reports indicate that Alberta has over 130 specialty vape shops (Vaping Industry Trade Association, 2019; Physicians for a Smoke Free Canada, 2021).

Province/Territory	Adult Only Vape Store Regulations
Alberta	There are no provincial age restrictions currently in place (Physicians for a Smoke Free Canada, 2020). Legislation was introduced in June 2020.
British Columbia	Persons under 19 may not enter vape shops (Physicians for a Smoke Free Canada, 2020).
	As of September 2020, all flavoured e-substances (except tobacco flavor) can be sold only at age restricted sales premises (Government of British Columbia, n.d.). Retail establishments where minors can enter (e.g., gas stations, convenience stores) are restricted to only selling e-substances that taste or smell or tobacco, with no other flavours allowed. The purpose of this restriction is to limit the range of choice in stores where youth have access (Government of British Columbia, n.d.).
	Adult only stores can promote and display e-substances, but they cannot be visible from outside the store. Any vending machines that sell e-substances must be in adult only venues (Government of British Columbia, n.d.). Sampling and testing of e-substances products is allowed only in adult only stores; however, there are restrictions against employees using products in stores, and the number of customers (n=2) allowed to use products at one time (Government of British Columbia, n.d.).
Manitoba	Persons under 18 may not enter specialty tobacco shops which display or promote products (Physicians for a Smoke Free Canada, 2020).
	For vapour product shops to qualify for the display, advertising and promotion exemption, they must meet the following requirements: no minors permitted on premises, and display, advertising and promotion of vapour products must not be visible from outside the shop (Government of Manitoba, n.d.).
New Brunswick	No one under the age of 19 can enter a vape shop unless accompanied by an adult. Outdoor advertising by vape shops is prohibited and promotional material inside the shops cannot be viewed from the outside (Cunningham, 2020).
Newfoundland and Labrador	Persons under 19 may not enter specialty vapour products shops (Physicians for a Smoke Free Canada, 2020).
Northwest Territories	No information found.
Nova Scotia	Persons under 19 may not enter tobacconist or e-cigarette specialty store (Physicians for a Smoke Free Canada, 2020).
	A tobacconist may display tobacco or tobacco products that are visible to the public from outside the tobacconist's premises but must not display any sign or material promoting or advertising the sale of or otherwise respecting tobacco or tobacco products (Government of Nova Scotia, n.d.).
Nunavut	No information found.
Ontario	Persons under 19 may not enter specialty tobacco shops which display or promote products (Physicians for a Smoke Free Canada, 2020).
	As of Jan. 1, 2020, in-store promotion of vapour products was limited to specialty vape shops and cannabis retail stores, and no longer allowed in convenience stores and gas stations (CBC, n.d.). In 2017, the <i>SFOA</i> permitted testing of e-cigarettes at specialty vape shops including inhaling or exhaling from the product (Public Health Ontario, 2018). Ontario has introduced guidelines to register as a specialty vape shop, which offers exemptions for these businesses to display, promote, test/sample vaping products. To qualify, establishments must register with their local board of health for the public health unit in which the business is located. To be registered as a vape shop minors

Table 1: Canadian Provincial and Territorial Adult Only Store Regulations

Province/Territory	Adult Only Vape Store Regulations
	under the age of 19 shall not be permitted to enter the establishment, other than the store owner, employees or a support person accompanying a person with a disability who is under the age of 19 years old (Government of Ontario, n.d.). To qualify for display and promotion exemptions in Ontario, vendors must meet the threshold of 85% for revenue or inventory from e-cigarettes (Non-Smokers' Rights Associations, 2018).
	As of July 1, 2020 the sale of flavoured vapour products is prohibited in all retail establishments that are not specialty vape shops or licensed cannabis stores, wit the exemptions of menthol, mint and tobacco flavoured products. The sale of vapour products with high nicotine concentrations (greater than 20 milligrams per millilitre) is prohibited in retail establishments that are not specialty vape stores. Specialty vape stores must ensure that any indoor displays and promotions are not visible from outside their stores (Government of Ontario, n.d.)
Prince Edward Island	In PEI, no one under the age of 21 years is permitted to enter a tobacconist shop. A variety of tobacconist shops exist, including those that sell only tobacco or ESD, and those that sell both tobacco and ESD (Government of Prince Edward Island, n.d.). PEI is the only province that restricts the sale of vaping products to age restricted "tobacconist" stores, meaning only people over minimum age can enter them (Government of Prince Edward Island, n.d.). PEI has banned the sampling of e-cigarettes in vape shops, as it would in any other workplace (The National Post, February). Nicotine vaping products will only be available in stores designated as a "tobacconist shop" – these stores are age-restricted, meaning that only people who are legal age to purchase products can enter them (Government of Prince Edward Island, n.d.).
Quebec	Quebec prohibits access to specialty vape shops for anyone under 18 years of age (Government of Quebec, n.d.).
Saskatchewan	Persons under 18 may not enter specialty shops which display or promote products (Physicians for a Smoke Free Canada, 2020).
	Only adult only stores can display and promote e-cigarettes. Retailers must ensure that people looking into the store from outside cannot see the vapour products or their promotions (Government of Saskatchewan, n.d.). Testing or sampling of vapour products is allowed in adult-only stores (Government of Saskatchewan, n.d.).
Yukon	No information found.

Canadian Provincial Adult Only Store Alcohol and Cannabis Regulations

- Many retail restrictions on cannabis and alcohol retailers are not yet applied to ecigarettes including requirements that products only be sold in specialty age restricted stores.
- Government is the major retailer of alcohol in most provinces.
- Cannabis retailers include privately owned stores, government owned stores, and hybrid stores.
- Many retail restrictions on cannabis and/or alcohol retailers are not yet applied to conventional tobacco or e-cigarettes. These include requirements that products only be sold in specialty age restricted stores (Physicians for a Smoke Free Canada, 2020).
- In all but one province (Alberta) the government is the major retailer of alcohol in the province. None of the alcohol retail systems are managed by Ministries of Health, they report either to the ministry of finance, economic development, or gaming authorities (Physicians for a Smoke Free Canada, 2020).
- Each province in Canada has taken a unique approach to regulating cannabis retail. Cannabis stores across Canada require a minimum age to enter the stores, however the minimum age varies by province ranging from 18-21 (Physicians for a Smoke Free Canada, 2020). Stores include privately run stores, government run stores and hybrid private/government run stores (Physicians for a Smoke Free Canada, 2020).

US Federal Adult Only Store Regulations for E-Cigarettes

Vape shops are not consistently regulated in the US, and norms for regulatory oversight have not yet been defined (US Food and Drug Administration, n.d.). The FDA has recently proposed that all sales of flavoured tobacco products should be limited to adult only facilities (Roessler, 2019).

Effects

There is no evidence that restricting the sale of certain vaping products to specialized adult only stores will decrease youth access to e-cigarettes. In theory restricting all e-cigarette sales, or at

least the most harmful products and practices to highly restricted vape shops, could allow for ever increasing restrictions on retailers that allow youth access. Other innovative approaches could be considered, including restricting all sales of e-cigarettes to adult only brick and mortar stores following the example of most alcohol and cannabis retailing in Canada. That said, US studies show that youth are often successful in purchasing products from vape shops, and enforcement efforts must be increased for this strategy to be effective. Penalties including license suspension or revocation for retailers that are not compliance with age of sales laws may be most effective (Roessler, 2019).

Experts suggest that retailers should be incentivized to work toward public health goals (Physicians for a Smoke Free Canada, 2020). The retail system for the sale of cannabis and alcohol distribution in several Canadian provinces may provide an important precedent for the sale of e-cigarettes in government owned adult only stores with an emphasis on further developing the public health mandate of retailers (Physicians for a Smoke Free Canada, 2020).

Technical Feasibility

PEI is the only province which restricts the sales of a e-cigarettes to adult only specialty stores. It should be technically feasible for other provinces to follow suit. The precedent of cannabis and alcohol in many provinces should further strengthen the rationale and provide important technical guidance. Many provinces are already restricting the most harmful product (re-usable devices, flavours) and practices (sampling, marketing/promotion) to adult only stores, so it should be technically possible to close gaps in remaining jurisdictions.

Enforcement efforts will need to be ramped up to ensure that a strategy to restrict sales does not have the unintended impact of allowing access to youth. While technically feasible, this will require investment of resources, and following best practices set out in the literature for enforcement of vape shops.

It should also be technically feasible to further increase restrictions on all-ages retailers (eg. convenience stores and gas stations). The precedents of alcohol and cannabis retailing in Canada may provide important lessons.

Political Viability

There tends to be strong universal support for restricting youth access to vaping products. Restricting access to harmful products to adult only specialized stores may allow for increasing restrictions on all-ages retailers, and still allow access to adults who are trying to quit conventional tobacco use. It is likely that convenience store associations, generally associated with the tobacco industry may oppose adult only store regulations.

Alignment with the Canadian Regulatory Landscape

There are no known international trade obligations that would interfere with restricting sales of products to adult only stores.

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