



**Health**  
South Eastern Sydney  
Local Health District

Public Health Unit

**Tobacco and E-Cigarette Control**

**Annual Report, 2021-2022**

South Eastern Sydney Local Health District

December 2022

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**Authors and Acknowledgements:** The authors of this report are Lucy Armstrong, Wade Dillon, Mark Ferson, Toni Cains, and Vicky Sheppard. Acknowledgements for the tobacco and e-cigarette work to Alexander Kiss, Brian Huang, Misha Klingstrom, Sinead Flanigan and Toby Hannan.

## 1 NSW LEGISLATION

Tobacco and e-cigarette retailing laws in NSW (New South Wales) can be found in the **Public Health (Tobacco) Act 2008** and the **Public Health (Tobacco) Regulation 2022** (NSW Health, 2022).

Key inclusions:

- A notification (registration) and negative licensing scheme for retailers selling tobacco products or non-tobacco smoking products or e-cigarettes (electronic cigarettes) – known as a RIN (retailer identification number).
- A ban on the sale of tobacco products, non-tobacco smoking products, e-cigarettes, and e-cigarette accessories to anyone under 18.
- E-cigarettes and accessories cannot be sold from temporary and mobile premises such as a market stall or stand, a tent or a car, and cannot be given out as a free sample (NSW Health, 2022).
- A ban on the display of tobacco products, non-tobacco smoking products, smoking accessories, e-cigarettes, and e-cigarette accessories in shops.
- All tobacco sold must be packaged correctly with appropriate health warnings.
- Allowing only a single point of sale (POS) for tobacco products, non-tobacco smoking products, smoking accessories, e-cigarettes, and e-cigarette accessories in retail outlets – if more than one POS is present within the retailing premise signage must indicate which POS will be dedicated for tobacco retailing.
- Restricting tobacco or e-cigarette vending machines to licensed venues restricted to over 18s.
- Ensuring that tobacco or e-cigarette vending machines comply with product display bans and are only activated by a staff member or by a token which is only available from a staff member.
- A ban on tobacco products, non-tobacco smoking products and e-cigarette products in shopper-loyalty programs.
- Displaying health warnings and a notice regarding sales to minors at the point of sale. For more information, see **How to display the compulsory warning signs**.

It has been noted many tobacco retailers are also selling e-cigarettes (or ‘vapes’). These products are often found to contain liquid nicotine. The sale and supply of schedule 4 drugs such as nicotine is set out in the **NSW Poisons and Therapeutic Goods Act 1966 and NSW Poisons and Therapeutic Goods Regulation 2008**. This means e-cigarettes containing nicotine cannot be sold or supplied in NSW without a prescription. The retailer must also be an authorised and registered health practitioner (i.e., a pharmacist) licensed to dispense nicotine.

E-cigarettes cannot be purchased by individuals without a prescription from a medical doctor to support smoking cessation efforts. The regulations state:

- From 1 October 2021, e-cigarettes and e-liquids containing nicotine are a prescription only medicine.
- It is illegal for retailers (other than pharmacies) to sell e-cigarettes or e-liquids that contain nicotine, including online sales.
- Retailers can only sell e-cigarettes and accessories from a single point of sale in each retail outlet and cannot promote or include these products in a shopper loyalty program.

Smoking tobacco and using e-cigarettes are banned in all enclosed public areas and certain outdoor public areas, under the **Smoke-free Environment Act 2000** and the **Smoke-free Environment Regulation 2016** (NSW Health, 2022).

- The Regulations extend to cover areas within 4 metres of a pedestrian entrance to or exit from a public building. For example: shopping centres and malls, schools, colleges and universities, childcare facilities, community centres, halls and places of worship, theatres, cinemas, libraries and galleries, accommodation hotels and motels, restaurants, and cafes.
- Using e-cigarettes on public transport vehicles (e.g., trains, buses, light rail, ferries) is banned under the *Passenger Transport (General) Regulation 2017*.

## 2 SOUTH EASTERN SYDNEY LOCAL HEALTH DISTRICT

South Eastern Sydney Local Health District (SESLHD) is the most densely populated health district in NSW with a resident population of over 930,000 in 2017. Moreover, it includes the Sydney CBD with a daily inflow, prior to the COVID-19 pandemic, of over 500,000 workers, students, and other visitors. The current tobacco retailer notification database lists **2,780 tobacco retailers** located within SESLHD boundaries.

## 3 KEY PERFORMANCE INDICATORS

The Ministry of Health implements key performance indicators (KPIs) for public health units in relation to the tobacco and e-cigarette compliance requirements. All KPI data is sourced from the Public Health Issue Management System (PHIMS).

Retail stores include tobacconists, convenience stores, supermarkets, newsagents, and service stations.

*Table 1 Key Performance Indicator targets for South Eastern Sydney Public Health Unit*

Local Health District	KPI - sales to minors inspection target	KPI - point of sale checks
South Eastern Sydney	84	168

### 3.1 Sales to Minors Compliance Testing

In NSW it is illegal to sell tobacco, non-tobacco smoking products, e-cigarettes, or e-cigarette accessories to a person under the age of 18. The maximum penalty for selling any of these products to minors differs between individuals and corporations (Section 22) (NSW Health, 2022).

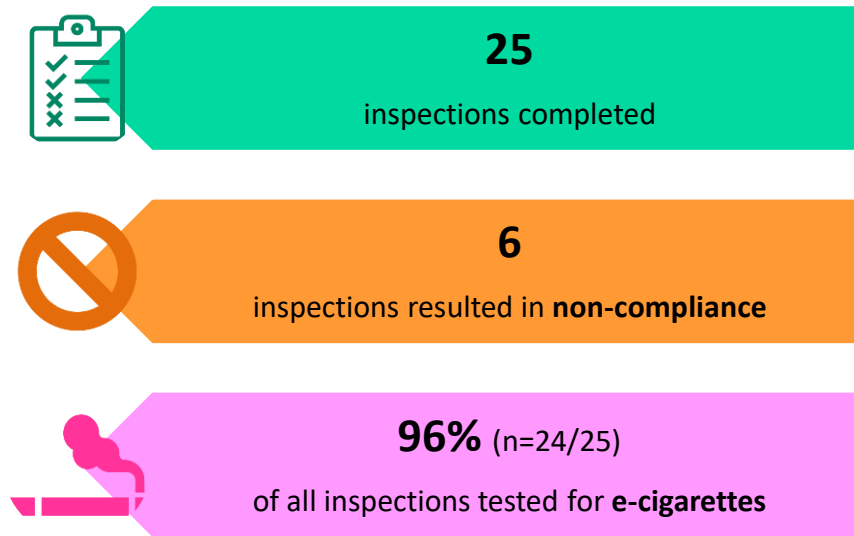
	For individuals:	For corporations:
<b>First offence</b>	up to \$11,000	up to \$55,000 (max. penalty)
<b>Second or subsequent offence</b>	up to \$55,000	up to \$110,000

*Table 2 KPI: Sales to minors inspection target (1 July 2021 to 30 June 2022)*

Local Health District	Target	Actual
South Eastern Sydney	84	25*

*\*Impacted due to COVID lockdowns of businesses*

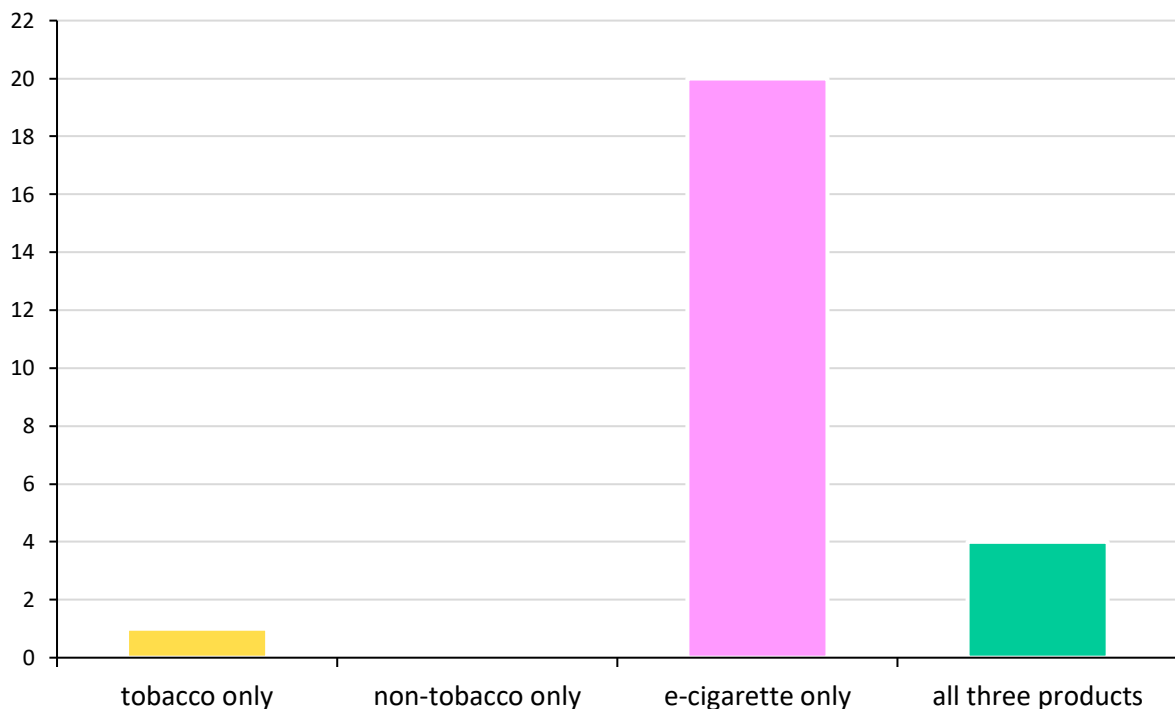
Figure 1 Sales to Minors compliance inspections key findings (1 July 2021 to 30 June 2022)



A retailer or employee must ensure the customer is over 18 before selling these products to them. Proof of the customer’s age must be requested and checked before any tobacco product, e-cigarette or e-cigarette accessory is sold to any young person (NSW Health, 2022).

The law is monitored through the NSW Sales to Minors Program. The Monitoring Compliance with the Sales to Minors Prohibition - Procedures Manual sets standards for Authorised Inspectors and others in undertaking compliance monitoring activities relating to sales to minors. Retail outlets are randomly visited to test their compliance with the law. Employers and staff working in newsagents, tobacconists, convenience stores, supermarkets and petrol stations have been prosecuted for selling tobacco products to people under the age of 18. Figure 2 shows the sales to minors compliance tests conducted by South Eastern Sydney Public Health Unit (SES PHU) between 2021-2022.

Figure 2 Sales to Minors compliance inspections (1 July 2021 to 30 June 2022)



### 3.2 Point of Sale Inspection

A key requirement under the tobacco and e-cigarette retailing laws in NSW is allowing only a single point of sale for tobacco products, non-tobacco smoking products, smoking accessories, e-cigarettes and e-cigarette accessories in retail outlets. In addition, retailers must display health warnings and other notices in retail outlets where tobacco products, e-cigarettes or e-cigarette accessories are sold, including vending machines (NSW Health, 2022).

Environmental health staff are authorised under the *Public Health (Tobacco) Act 2008* to monitor point of sale compliance with the legislation. Inspectors educate retailers and can issue verbal and written warnings, fines or initiate prosecutions against retailers that do not comply with the legislation.

If during an inspection, retailers are found to have display breaches, for example public display of tobacco and/or e-cigarette products, smoking accessories OR no display of health warnings and sales to minors signage, they expose themselves to regulatory action. There are significant penalties for display breaches including \$1,100 penalty infringement notice for individuals and \$5,500 for corporations.

In addition, if retailers are found to be selling illegal e-cigarette products, the products can be seized and destroyed, and the retailer prosecuted. There are significant penalties for selling e-cigarettes containing nicotine, which includes up to 6 months in prison, or a fine of up to \$1,650, or both.

In June 2022 the NSW Health Chief Health Officer distributed a letter to all tobacco retailers in NSW about the increasing illegal sale of nicotine containing e-cigarettes.

Table 3 KPI: Point of sale inspections (1 July 2021 to 30 June 2022)

Local Health District	Target	Actual
South Eastern Sydney	168	127*

\*Impacted due to COVID lockdowns

Table 4. Point of Sales compliance (1 July 2021 to 30 June 2022)

Premises Inspected*	Total Number of Inspections**	Inspections Not Compliant	Inspections Compliant	Compliance Rate (%)
114	127	73	54	42.5 (54/127)

\* Individual premises

\*\*Total number of inspections, includes follow up inspections

Table 5. Point of Sales enforcement (1 July 2021 to 30 June 2022)

Provided Education or Verbal Warning	Warning Letters Issued	PINS Issued
27	4	13

### 3.3 Smoke Free Environment

Smoking and using e-cigarettes are banned in all enclosed public areas and certain outdoor public areas. These bans protect people from harmful second-hand tobacco smoke. There is no safe level of exposure to second-hand smoke.

There are no reportable KPIs for the Smoke Free Environment matters in NSW.

There is an [online reporting form](#) to report complaints about smoking at indoor public places, as well as certain outdoor public places such as transport stops or spectator areas of sports grounds.

**All enclosed public areas:** includes shopping centres, cinemas, libraries, trains and buses.

**Outdoor public areas:** Smoking and using e-cigarettes is banned in the following outdoor public areas.

- [Within 10 metres of children's play equipment in outdoor public places](#)
- [Public swimming pools](#)
- [Spectator areas at sports grounds or other recreational areas used for organised sporting events](#)
- [Public transport stops and platforms, including ferry wharves and taxi ranks](#)
- [Within 4 metres of a pedestrian access point to a public building](#)
- [Commercial outdoor dining areas](#)

[Smoke-free guide: No smoking within 4 metres of a pedestrian access point to a building](#) provides information on which buildings are applicable.

## 4 PROSECUTIONS

Table 6. Prosecutions (1 July 2021 to 30 June 2022)

Date of Offence	Tobacco retailer	Offence	Court Date	Court	Outcome
12/08/2021	Triple M Convenience Store Riverwood	Selling cigarettes as single items. Offence under the <i>Public Health (Tobacco) Act 2008 - section 6.</i>	11/10/2021	Sutherland Local Court	<b>Guilty.</b> Fined \$100.
13/10/2021	Cignall Tobacconist Mascot	Selling cigarettes as single items. Offence under the <i>Public Health (Tobacco) Act 2008 - section 6.</i>	03/02/2022	Waverley Local Court	<b>Guilty.</b> Section 10 1A handed down - charges and penalties dismissed due to actus reus conflicting mens rea (employee did not receive training from employer regarding tobacco retailing laws).
10/11/2021	GyMEA Bay Tobacconist	Supply of a nicotine containing product without authority (schedule 4 substance). Offence under the <i>Poisons and Therapeutic Goods Act 1966 - section 10.</i>	10/03/2022	Sutherland Local Court	<b>Guilty.</b> Fined \$1250. Issued with a 6-month community corrections order. Ordered to reimburse the vape purchase and analysis amount of \$195.
04/02/2022	Big Smoke Tobacconist Bondi Junction	Selling tobacco without health warning. Offence under the <i>Public Health (Tobacco) Act 2008 - section 7.</i>  Display tobacco products, non-tobacco smoking products and smoking accessories to the public. Offence under the <i>Public Health (Tobacco) Act 2008 - section 9.</i>	21/06/2022	Waverley Local Court	<b>Guilty.</b> Fined \$12,000.

For more information see [Penalties and enforcement](#) fact sheet.



## 5 E-CIGARETTE ACTION PLAN

Table 7. PHU E-cigarette Action Plan

Action	Staff Involved	Timeline	Geographical Locations	Outcome
<b>Inspections, seizures &amp; prosecutions with focus on warning letter reinspections and responding to public complaints</b>	Four PHU authorised officers (at least 1 day per week each)	Ongoing	<ul style="list-style-type: none"> <li>- CBD</li> <li>- Bondi Beach</li> <li>- Riverwood</li> <li>- Surry Hills</li> <li>- Sutherland</li> </ul>	<ul style="list-style-type: none"> <li>- Seizures</li> <li>- Prosecutions</li> </ul>
<b>Compliance review of the 23 vaping shops in SESLHD</b>	Two PHU authorised up to 3 days per week	May-June 2022	Vape shops are located across the LHD	Inspections completed. Report completed.
<b>Blitz for vape offences</b>	Ministry of Health Tobacco Enforcement Unit with PHU Officers	14-18 March 2022	<ul style="list-style-type: none"> <li>- Wollie Creek</li> <li>- Banksia</li> <li>- Arncliffe</li> <li>- Haymarket</li> <li>- Kingsford</li> <li>- Sutherland</li> </ul>	25,951 vapes seized (>\$763,000 retail value)
<b>NSW Police Central Metro Region Operations</b>	NSW Police with PHU Officers	22 April 2022	<ul style="list-style-type: none"> <li>- Brighton Le Sands</li> <li>- Bondi Junction</li> <li>- Bondi Beach</li> <li>- Rockdale</li> </ul>	2,461 vapes seized (>\$73,000 retail value)
<b>Covert purchases</b>	PHU Officers	July - September 2021	Suburbs near Aboriginal communities. <ul style="list-style-type: none"> <li>- Malabar</li> <li>- Maroubra</li> <li>- Coogee</li> </ul>	Assessed: 11 convenience stores, 3 petrol service stations, 8 tobacconists and 2 supermarkets. Resulted in 10 seizures (part of the total seizure number of 32).
<b>Prioritise and respond to public health complaints held in PHIMS.</b>	PHU Officers, Senior Medical Advisor.	Ongoing	Tobacco retailers across SESLHD	Monitored monthly.
<b>Purchase and analysis of e-cigarettes for nicotine</b>	PHU Officers	Ongoing	Tobacco retailers across SESLHD	Of the 49 covert purchase of E-cigarettes 84 % were analysed by the Government Analyst to contain nicotine.

## 6 MEDIA AND COMMUNICATIONS

Table 8. Social and media releases during 2021 and 2022 financial year

Organisation	Topic	Date
 <b>Facebook</b> <b>(5 posts)</b>	What are e-Cigarettes?	<a href="#">30 July 2021</a>
	Selling e-cigarettes containing nicotine (image of seized vapes)	<a href="#">4 April 2022</a>
	World No Tobacco Day 2022 – This year World No Tobacco Day focuses on the environmental impacts of tobacco and e-cigarettes (vapes).	<a href="#">31 May 2022</a>
	World No Tobacco Day 2022 – Authorised environmental health officers seizing illegal tobacco	<a href="#">31 May 2022</a>
	Tobacconist fined in Bondi Junction. – Multiple charges of selling tobacco without a health warning and openly displaying e-cigarettes and smoking accessories.	<a href="#">24 June 2022</a>
 <b>Twitter</b> <b>(5 posts)</b>	E-cigarettes – what are e-cigarettes?	<a href="#">30 July 2021</a>
	Selling e-cigarettes containing nicotine – image of seized vapes	<a href="#">24 March 2022</a>
	World No Tobacco Day 2022 – consider quitting smoking	<a href="#">31 May 2022</a>
	World No Tobacco Day 2022 – Authorised environmental health officers seizing illegal tobacco	<a href="#">31 May 2022</a>
	Tobacconist fined in Bondi Junction	<a href="#">28 June 2022</a>

Figure 3 Media Release: Local business caught selling illegal cigarettes

SOUTH EASTERN SYDNEY LOCAL HEALTH DISTRICT

# Media Release

Thursday, 23 June, 2022

### Local businesses caught selling illegal cigarettes

Tobacco retailers in South Eastern Sydney are being warned that if they sell illegal cigarettes and/or display tobacco and e-cigarettes products and accessories in view of the public they are breaking the law and can expect to face hefty fines.

The warning comes after a tobacconist in Bondi Junction was fined \$12,000 in the Waverley Court this week after pleading guilty to multiple charges of selling tobacco without a health warning and openly displaying e-cigarettes and smoking accessories.

Dr Vicky Sheppeard, Director, Public Health Unit, South Eastern Sydney Local Health District said the harmful effects of tobacco are proven.

## 7 RETAILER EDUCATION

In early 2022, the Public Health Unit initiated development of a simplified multilingual factsheet for retailers to educate them regarding the appropriate sale of vaping devices and liquids.

An eye-catching factsheet was prepared with assistance from the Ministry of Health and the NSW Multicultural Health Communications Service, with the key messages in English, Arabic, Chinese simplified and Chinese traditional. This factsheet can be emailed or mailed to retailers and handed out during compliance checks. It is distributed to all retailers with breaches upon inspection

See [Appendix A](#) for the ‘Selling vapes? Do the right thing?’ factsheet.

## 8 MEETINGS

### 8.1 Regular Meetings

Table 9. Internal and external meetings

Led by	Meeting	Frequency
SESLHD	<b>Vaping and Shisha</b> Host: PACH Priority Populations Attendees: PHU	Quarterly
NSW Ministry of Health	<b>Tobacco Authorised Officer Meeting</b> Host: NSW Ministry of Health Attendees: State-wide Public Health Unit Authorised	Monthly

	Officers	
	<b>E-Cigarettes and Young People</b> Host: Ministry of Health Attendees: State-wide Authorised Officers & Health Promotion	Quarterly

## 9 RESEARCH AND REPORTS

Table 10. Research papers and reports

	Research & report	Year
1.	Betty S Chan, <b>Alexander Kiss</b> , Nathan McIntosh, <b>Vicky Sheppeard</b> and Andrew H Dawson, <i>E-cigarette or vaping product use-associated lung injury in an adolescent</i> , Med J Aust 2021; 215 (7): 313-314.e1.    doi: 10.5694/mja2.51244	2021
2.	<b>Misha Klingstrom, Sinead Flanigan, Toni Cains</b> , <i>Compliance Assessment of Vape Only Shops in SESLHD (May – June 2022)</i> .	2022

## Appendix A

### 'Selling vapes? Do the right thing' – Retailers factsheet

# Selling vapes? Do the right thing

Selling vapes or liquids that contain nicotine is illegal unless you are a chemist and have been given a prescription.

If NSW Health officers catch you selling vapes or liquids containing nicotine, the vapes will be seized and you may be prosecuted.

- Most vapes coming into Australia contain nicotine and other harmful substances such as heavy metals.
- Many vaping devices and liquids are wrongly labelled as to whether they contain nicotine.
- It is the seller's responsibility to make sure the vapes and liquids you sell do not contain nicotine.

Selling vaping devices and liquids even without nicotine to people under 18 years of age is illegal.

- It is illegal to sell vaping devices or liquids to people under 18 years.
- If you are unsure of a person's age, ask them for an approved form of identification, for example, a driver's licence or proof of age card.

Do the right thing to avoid fines of up to \$1,650 and imprisonment for up to 6 months.

#### Arabic

#### هل تبيع أجهزة تدخين إلكترونية (فايب)؟ افعّل الصواب

يحظر القانون بيع أجهزة التدخين الإلكترونية (فايب) أو السوائل التي تحتوي على النيكوتين إلا إذا كنت صيدلياً وتم إعطاؤك وصفة طبية. إذا ضبطك موظفو NSW health وأنت تبيع أجهزة تدخين إلكترونية (فايب) أو سوائل تحتوي على النيكوتين، سوف يقومون بمصادرة هذه الأجهزة وقد تتعرض للملاحقة القضائية.

- يحتوي معظم أجهزة التدخين الإلكترونية (الفايب) التي تدخل إلى أستراليا على النيكوتين ومواد ضارة أخرى كالمعادن الثقيلة مثلاً.
- توضع على العديد من أجهزة وسوائل التدخين الإلكترونية (الفايب) ملصقات خاطئة لا تشير بوضوح إلى احتوائها على النيكوتين.
- تقع على البائع مسؤولية التأكد من عدم احتواء أجهزة وسوائل التدخين الإلكترونية (الفايب) التي يبيعها على النيكوتين.
- يحظر القانون بيع أجهزة وسوائل التدخين الإلكترونية (الفايب) حتى ولو كانت خالية من النيكوتين إلى أشخاص تحت سن 18 عاماً.
- يحظر القانون بيع أجهزة أو سوائل التدخين الإلكترونية (الفايب) إلى أشخاص تحت سن 18 عاماً.
- إذا لم تكن متأكدًا من سن الشخص، اطلب منه وسيلة معتمدة للتعريف عن الهوية، على سبيل المثال رخصة قيادة أو بطاقة إثبات السن. افعّل الصواب لتجنب دفع غرامات تصل إلى 1650 دولاراً والسجن لمدة تصل إلى 6 شهور.

#### 您在销售电子烟吗？请注意行为得当

#### Chinese Simplified

除非您是药剂师并按处方销售，否则销售含有尼古丁的电子烟 (vape) 或电子烟液就是违法的。

如果NSW Health的官员发现您销售含有尼古丁的电子烟或电子烟液，这些电子烟就会被没收，您还可能被起诉。

- 进入澳大利亚的大多数电子烟都含有尼古丁和诸如重金属等其他有害物质。
- 许多电子烟设备和电子烟液关于是否含尼古丁的标签都是错误的。
- 卖家有责任确保所销售的电子烟和电子烟液不含尼古丁。

即使电子烟设备和电子烟液不含尼古丁，向18岁以下的人销售也是违法的。

- 向18岁以下的人销售电子烟设备或电子烟液是违法的。
- 如果有些人的年龄难以确定，可以请他们出示诸如驾驶执照或年龄卡等经批准的身份证明。

请注意行为得当，以避免高达1650元的罚款和长达6个月的监禁。

#### 您在銷售電子煙嗎？請注意行為得當

#### Chinese Traditional

除非您是藥劑師並按處方銷售，否則銷售含有尼古丁的電子煙 (vape) 或電子煙液就是違法的。

如果NSW Health的官員發現您銷售含有尼古丁的電子煙或電子煙液，這些電子煙就會被沒收，您還可能被起訴。

- 進入澳大利亞的大多數電子煙都含有尼古丁和諸如重金屬等其他有害物質。
- 許多電子煙設備和電子煙液關於是否含尼古丁的標籤都是錯誤的。
- 賣家有責任確保所銷售的電子煙和電子煙液不含尼古丁。

即使電子煙設備和電子煙液不含尼古丁，向18歲以下的人銷售也是違法的。

- 向18歲以下的人銷售電子煙設備或電子煙液是違法的。
- 如果有些人的年齡難以確定，可以請他們出示諸如駕駛執照或年齡卡等經批准的身份證明。

請注意行為得當，以避免高達1650元的罰款和長達6個月的監禁。

For more information contact:

للمزيد من المعلومات اتصل بـ

詳情請聯系:

詳情請聯絡:

If you require a phone interpreter, please contact TIS National on 131 450.

إذا احتجت إلى مترجم عبر الهاتف، يرجى الاتصال بـ TIS National على الرقم 131 450.

如果您需要电话口译，请拨打131 450 跟 TIS National 联系。

如果您需要電話口譯，請打電話 131 450 跟 TIS National 聯絡。





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