~~PROHIBITION~~
DOES NOT WORK

NETHERLANDS POLICY FAILURE PROVIDES STARK WARNING TO EU:

HOW A VAPE FLAVOUR BAN BACKFIRED

EXECUTIVE SUMMARY

After two years of prohibition the clear evidence demonstrates the Dutch Government's ban on non-tobacco-flavoured vapour products has failed to achieve its stated public health goals. Rather than eliminating flavoured vaping or even reducing youth vaping prevalence, the measure has succeeded only in shifting demand towards illegal and informal channels, while enforcement data and consumer surveys clearly indicate that banned products remain widely available, outside the regulated system.

This shift has had serious effects on public health: adult users increasingly report turning to cross-border purchases and to illicit online and in-person sellers as well as potentially dangerous home mixing, while underage access has been made easier through informal channels that do not ask for ID. International evidence and emerging domestic trends suggest that removing regulated flavoured options risks expanding uncontrolled supply, increasing product safety uncertainties and undermining progress in smoking reduction, without directly addressing the drivers of youth access.

- Stated aim vs. reality – Not only has the ban failed to address youth vaping concerns, it has undermined youth prevention so significantly that underage access doubled during last two years: from 3.7% in 2023 to 7.6% in 2024.[1]
- Market contraction – The vapour market fell to just over half of its 2023 size by 2026; adult vaping prevalence declined from 3.86% (2023) to 2.3% (2026).
- A catastrophic public health outcome – There are already early indications that the country's decline in smoking rates may reverse: evidence now shows that the total number of cigarettes consumed in the Netherlands actually increased by 1% in 2024[2] – the same year vapour product flavours were restricted. Netherland's National Institute for Public Health and the Environment (RIVM)[3] also reported that 27% of those who quit vaping because of the flavour ban either started smoking more (13%) or initiated cigarette smoking for the first time (9%).
- Flavours continue to drive demand – 85% of adult vapers surveyed said flavours are important to their use; fruit flavours remain dominant despite being illegal.
- Shift to illicit sourcing – 69% continue to use nominally banned flavours: 27% buying them from abroad, 31% from illicit online sellers, and 33% from local shops disregarding the ban.
- Widespread non-compliance – Inspections found almost half of retailers (42%) and inspected imported brands (45%) violating the rules; authorities seized 235,000+ products in 2025.
- Higher-risk behaviours emerging – Open-system (self-filled) vapour product use rose from 50% in 2022 to an estimated 87% in 2026, largely due to DIY flavour mixing that increases exposure to unverified ingredients and potentially excessive nicotine levels.

1 Lifestyle; Personal characteristics, Statline, 2026

2 Illicit cigarette consumption in Europe, KPMG, 2025

3 https://www.rivm.nl/sites/default/files/2025-07/Poster-e-cigarette-flavor-ban.pdf

HOW REGULATION REDUCES HARM

Vapour products are fundamentally different from cigarettes. They contain no tobacco and involve no combustion, the process responsible for generating the toxic substances linked to smoking-related disease.[4] The weight of independent scientific evidence demonstrates that vaping exposes users to significantly lower levels of harmful chemicals than smoking,[5] and research has further shown that vapour products frequently outperform traditional nicotine replacement therapies in helping smokers quit.[6]

A central and often misunderstood element of switching is the role of flavours: For many smokers, non-tobacco flavours help break the sensory link with cigarettes and encourage switching. For many others, a broader variety of available flavours simply increases the appeal of vaping and remaining cigarette-free. It's unsurprising then that sales data,[7] academic research[8] and consumer polling[9] all show that smokers consider flavours a critical factor in their decisions to quit and stay away from smoking when they try (and continue using) vapour products.

Furthermore, comprehensive literature reviews have found no evidence that non-tobacco flavours pose greater health or addiction risks,[10] and the so-called "gateway" hypothesis, which claims vapour products – particularly flavoured ones – frequently incite underage smoking has also consistently been disproven. [11] [12]

"MATCHING NEW FLAVOUR POLICY DATA TO RETAIL SALES DATA, WE FIND A TRADEOFF OF 12 ADDITIONAL CIGARETTES FOR EVERY 1 LESS 0.7 ML [VAPOUR PRODUCT] SOLD DUE TO... FLAVOUR RESTRICTIONS."

Abigail Friedman, Associate Professor,
Yale School of Public Health (2024)

More notably, compelling academic evidence also shows that there are no significant differences between flavour preferences across age groups – both younger and older vapers simply prefer a broad variety of flavours, including sweet and fruity ones.[13] On the other hand, evidence consistently shows that when flavoured vapour products are banned, cigarette sales increase [14] [15] and significant illicit markets arise to address underlying demand, with a host of negative unintended consequences. [16] Put simply, prohibiting legal supply does not reduce the demand.

4 Content of toxic components of cigarette, cigarette smoke vs cigarette butts: A comprehensive systematic review, Science Direct, 2022

5 Nicotine Vaping in England: An Evidence Update Including Health Risks and Perceptions, Office for Health Improvements and Disparities, 2022

6 Electronic cigarettes for smoking cessation, Cochrane Library, 2022

7 E-liquid Market Size, Share & Trends Analysis, Grand View Research, 2021

8 Patterns of e-cigarette use among adult vapers in the USA, University of Patras, 2023

9 Survey: Denmark Vaping Flavour Ban, Tholos Foundation, 2023

10 Flavoured Vaping Products in Tobacco Harm Reduction: A Regulatory Perspective, Cureus, 2025

11 Association of quarterly prevalence of e-cigarette use with ever regular smoking among young adults in England: a time–series analysis between 2007 and 2018, Addiction, 2022

12 Effects of reduced-risk nicotine-delivery products on smoking prevalence and cigarette sales: an observational study, National Institute for Health and Care Research, 2023

13 Research suggests adults, not just teens, like electronic cigarette flavours, Penn State, 2020

14 E-cigarette Flavor Restrictions' Effects on Tobacco Product Sales, SSRN, 2024

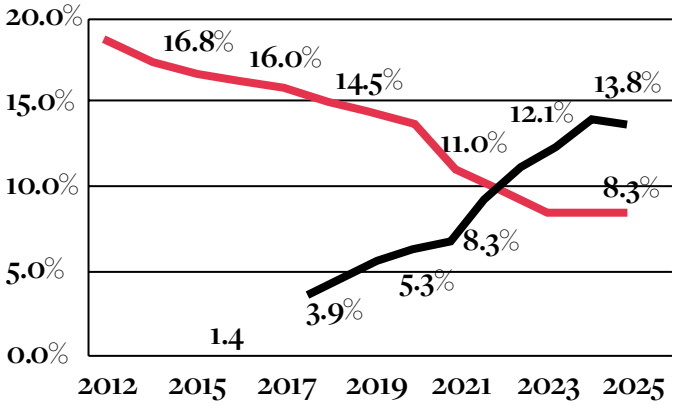
15 Restricting Sales of Flavored Nicotine Vaping Products: Effects on Cigarette and Nicotine Vaping Product Sales in Canada, SSRN, 2025

16 Tholos Releases Research Papers Analysing Impact of Flavor Bans and Best Practices to Reduce Underage Use, Tholos Foundation, 2025

Moreover, while some regulators and 'tobacco control' voices claim that banning flavours (or banning the entire category) is the only way to address youth uptake, academic evidence shows that other measures – such as those prohibiting underage-appealing designs and names on product packaging[17] – could be much more effective at deterring underage use while not harming public health in the way that a sweeping flavour ban would. Experience from various countries demonstrates this: In New Zealand for example, authorities have implemented a regulatory framework that allows adults to access a wide range of flavoured vapour products while restricting youth exposure by mandating objective flavour descriptors[18], limits on packaging and retail display[19] [20] - including prohibiting designs appealing to the underage – and strict enforcement of age-of-sale laws. Furthermore, general retailers may sell only tobacco or mint flavours, with other flavours being confined to specialist licensed adult-only vape shops.[21] Violations also carry substantial penalties.[22]

The effect of these measures is clear: in New Zealand adult smoking rates have continued to decline to record lows, while youth smoking has been essentially eliminated, with just 1.2% of 14-15year-olds and only 3% of 15-24-year-olds smoking daily. At the same time, underage access to vaping has not increased, with evidence showing that youth vaping declined for the fourth year in a row in 2025.[23]

Figure 1: Current (i.e. at least once monthly) smoking (pink) and vaping (black) in New Zealand aged 15 and over (1)



New Zealand also recently prohibited disposable vapes off the back of population survey data and market surveillance demonstrating that they were the most popular product among the underage. At the same time, pre-filled pod systems (the most popular with adults) and flavours in licensed adult stores were retained on the basis of government endorsement for the role of vaping in accelerating smoking decline. Penalties for breaches were also increased [24] [25]. The New Zealand experience since 2019 demonstrates that regulated access and strong enforcement, including careful management of flavours allows for the protection of young people without undermining harm reduction potential for adult smokers. Moreover New Zealand conclusively shows that vaping products are a pathway out of smoking, not the widely fearmongered view they are a gateway into smoking for non-smokers. [26]

17 Impact of E-liquid Packaging on Vaping Product Perceptions Among Youth in England, Canada, and the United States: A Randomized Online Experiment, Nicotine & Tobacco Research, 2024

18 Vapour products sold in New Zealand may only describe their flavours using a pre-approved list of objective descriptors, such as "Vanilla", "Tobacco" and "Peach" (NZ Ministry of Health), preventing the marketing of explicitly youth-targeting products with concept flavours such as "Unicorn Ice Sparkle".

19 Packaging and labelling requirements for vaping products, New Zealand Ministry of Health, 2025

20 Recent changes to Smokefree laws, New Zealand Ministry of Health, 2025

21 Restrictions on colours and flavours of vaping products, New Zealand Ministry of Health, 2023

22 Welcome progress on youth vaping, New Zealand Government, 2024

23 ASH Year 10 Snapshot Survey, Action on Smoking and Health New Zealand, 2025

24 Welcome progress on youth vaping | Beehive.govt.nz

25 Smoking rate reduces to 6.8 per cent | Beehive.govt.nz

26 We're winning the smokefree race - but it's no time to let up | Stuff

FROM MANAGED REGULATION TO MARKET ELIMINATION

In contrast to New Zealand, the Netherlands experience shows that heavy-handed regulation not only fails to achieve its stated goals, but frequently also carries negative unintended consequences that undermine public health. Vapour products entered the Dutch market in 2007[27] and because tobacco control legislation at the time applied only to tobacco-containing products,[28] they were initially classified as consumer goods and slowly gained popularity.

The initial response from authorities in 2008 was centred on the precautionary principle: the then Health Minister Edith Schippers stated that vapour products "could potentially have positive effects on public health, for example, if [they] encourage people to smoke less", but until the products' status was agreed at EU level, the Government's "provisional position" was that the products be classified as medicines[29]; a position later confirmed via court ruling.[30] Importantly, this decision did not restrict the products' sales, but served to bring vapour advertising – which was reportedly pervasive at the time[31] – in line with the rules applicable to tobacco.

TIMELINE OF THE DUTCH FLAVOUR BAN:

MAY 2020

Public Health State Secretary Paul Blokhuis announces the Government's intention to ban flavours,[32] citing RIVM[33] and Trimbos Institute[34] research on flavours' "harmfulness" and appeal to youth.

OCT 2021

RIVM proposes a flavour regime based on a positive list of 21 permitted ingredients,[35] while explicitly warning the policy could lead to "DIY flavouring," reduced appeal as a cessation tool, lower vaping use, growth of smoking rates and black markets.[36]

MAY 2022

RIVM narrows the list to 16 ingredients and claims 23% of tobacco-flavoured e-liquids would remain compliant.[37] The vapour industry disputes this, arguing the measure would effectively eliminate the legal market, but its concerns are dismissed.[38][39]

NOV 2022

The flavour ban is formally adopted.[40] Explanatory notes rely on RIVM's 23% estimate to reject arguments that the measure amounts to a de facto ban.

JUNE 2023

RIVM issues an addendum conceding that only **0.2**% of notified liquids clearly meet the new criteria, with compliance of the remainder uncertain due to incomplete data — contradicting its earlier "23%" claim.[41]

JAN 2024

The clearance period ends in January, and in November the Hague District Court upholds the ban,[42] cementing one of the most restrictive flavour regimes in Europe.

27 Smoking in the Netherlands: Key statistics for 2024, Trimbos Institute, 2025

28 Act of 10 March 1988 containing measures to limit tobacco use, in particular to protect non-smokers (Tobacco Act), Dutch Government, 1988

29 Answers to parliamentary questions from Schippers about the electronic cigarette, Medical Facts, 2008

30 ECLI:NL:RBSGR:2008:BC3893, The Hague District Court, 2008

31 Prevalence and reasons for use of electronic cigarettes among smokers: Findings from the International Tobacco Control (ITC) Netherlands Survey, International Journal of Drug Policy, 2015

32 E-cigarettes more harmful than thought: study, NL Times, 2020

33 Reducing the attractiveness of e-liquids to youth: a proposal for a restrictive list of tobacco-related flavouring ingredients, National Institute for Public Health and the Environment, 2022

34 FACTSHEET ELEKTRONISCHE SIGARETTEN (E-SIGARETTEN), Trimbos Institute, 2020

35 Flavour additives in e-cigarette liquids: a proposal for an exhaustive list, National Institute for Public Health and the Environment, 2021

36 RIVM Positive List Consequences, Eisgbond, 2021

37 Health effects of the 23 flavorings in e-cigarette liquids, National Institute for Public Health and the Environment, 2022

38 Request based on the assumption that 23% of tobacco-flavored e-liquids will remain on the market, Esigbond, 2022

39 Parliamentary Question on the RIVM's proposed positive ingredient list, Dutch Parliament, 2022

40 Regulation of the State Secretary for Health, Welfare and Sport of 22 November 2022, reference number 3456548-1038502-WJZ, amending the Tobacco and Tobacco Products Regulation to regulate flavours for e-cigarettes, Dutch Government Gazette, 2022

41 Reducing the attractiveness of e-liquids to youth: A proposal for a restrictive list of tobacco-related flavouring ingredients, National Institute for Public Health and the Environment, 2023

42 ECLI:NL:RBDHA:2024:17892, Hague District Court, 2024

By 2012, the products' regulatory classification shifted again, with them being re-designated as consumer goods following a successful lawsuit by an importer brought against health authorities' attempts to block sales.[43] Advertising restrictions were lifted and the market expanded rapidly. Ingredient notification requirements were introduced later that year, coming into effect in January 2013,[44] providing the first structured oversight without banning adult access.

In November 2014, in response to increasing reports of accidental oral ingestions of e-liquids from unsecured containers,[45] the Government introduced a temporary Decree[46] implementing provisions that anticipated the EU Tobacco Products Directive,[47] including a nicotine limit of 20 mg/ml, tank and refill size caps, health warnings and child-proof packaging. In 2016, the Decree was superseded by the transposition of the TPD into Dutch law and was supplemented in 2017 by an Act[48] extending tobacco age-of-sale rules to vapour products.

However, in parallel with this process, a growing political backlash against vapour products began to take hold, particularly focusing on flavours and their supposed appeal to youth. Despite academic evidence clearly indicating that this concern was misguided, and that measures targeting underage-appealing packaging and enforcement would have been more successful, the media frenzy peaked with the 2018 publication of a paper by the National Institute for Public Health and the Environment (RIVM)[49] – an independent agency within the Dutch Ministry of Health – which among other points claimed that:

- "The wide variety of designs and flavours make e-cigarettes increasingly popular and potentially risky for non-smokers."
- "In particular, the wide choice of flavours, especially sweet and fruity ones, contributes to the attractiveness of e-cigarettes for young people."
- "The extensive choice of flavours was seen by non-smoking youth, but also by other user groups, as a risk for starting e-cigarette use with a potential gateway to tobacco cigarettes."

These studies, media narratives and public discourse culminated in the National Prevention Agreement[50], which aimed to reduce smoking rates below 5% by 2040. Ironically however, rather than embrace vapour products as an essential tool in this push towards a tobacco endgame, authorities increasingly framed vapour products as part of the problem, claiming that "creating a smoke and tobacco-free environment means that children will not encounter new types of tobacco products [such as] e-cigarettes... By using these products, children can become addicted to nicotine... [and] may start smoking tobacco." This claim relies heavily on the so-called 'gateway' hypothesis — an assumption that has been repeatedly challenged and remains empirically unproven.[51] [52]

43 Notably, while the court ruled that the state was wrong to prevent plaintiff United Tobacco from importing and selling vapour products, on appeal it ruled that relief from restrictions imposed by the Medicines Act would apply only to the plaintiff and not all vendors and manufacturers.

44 VRegulation of October 24, 2012 on the Electronic Notification and Publication of Tobacco Ingredients 2013, Tobacco Control Laws, 2013

45 Commission Implementing Decision (EU) 2015/744 of 8 May 2015 authorising the provisional measure taken by the Netherlands, EUR-Lex, 2015

46 Temporary Commodities Act Decree on Electronic Cigarettes, Dutch Government, 2014

47 DIRECTIVE 2014/40/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, Official Journal of the European Union, 2014

48 Act of 10 February 2017 amending the Tobacco and Tobacco Products Act to regulate electronic cigarettes without nicotine and further regulation of herbal products intended for smoking, Dutch Government Gazette, 2017

From then onwards, a series of increasingly restrictive measures were introduced on vapour products, including bans on public place use (July 2020) and on retail display (2021), on online sales (July 2023), on sales in supermarkets and hospitality establishments (July 2024) and, notably, a ban on products with flavours other than tobacco (January 2023).[53] However, rather than follow international examples on how to implement such a ban, Dutch authorities eventually implemented one of the world's most restrictive bans after repeatedly ignoring and disregarding input from relevant stakeholders.

Together, these measures marked a decisive shift toward a policy framework designed to suppress the legal vapour market itself. By the time the flavour ban was fully implemented and upheld in court, the Netherlands had moved from structured oversight of a lower-risk alternative to a regime in which product availability, consumer choice and retail viability were severely constrained.

49 E-cigarette attractiveness for smokers and non-smokers, National Institute for Public Health and the Environment, 2018

50 National Prevention Agreement, Dutch Government, 2020

51 Association of quarterly prevalence of e-cigarette use with ever regular smoking among young adults in England: a time–series analysis between 2007 and 2018, Addiction, 2022

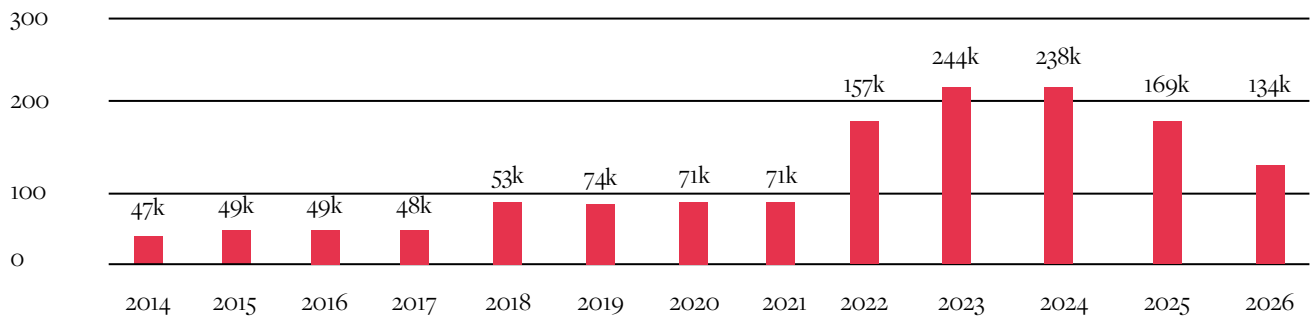
52 Effects of reduced-risk nicotine-delivery products on smoking prevalence and cigarette sales: an observational study, National Institute for Health and Care Research, 2023

53 Government Measures to Discourage Smoking, Dutch Government, 2025

WHEN REGULATION SHRINKS CHOICE AND FUELS THE BLACK MARKET

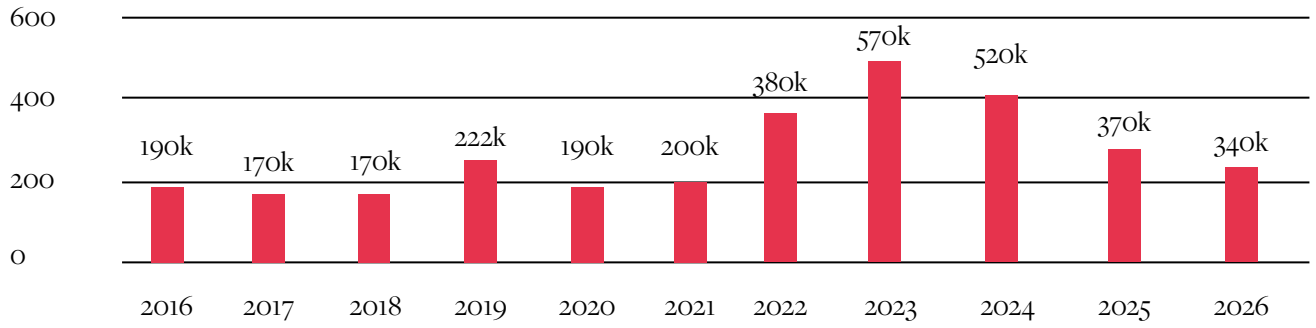
The expected result of all these policies has been a significant contraction in the Dutch vapour product market. Given the breadth and severity of the measures implemented by the Dutch Government, it is unsurprising that by 2026 the market was estimated to be barely over half the size of its 2023 peak. Evidence suggests that many vendors and importers chose to exit the market entirely following the implementation of the flavour ban, with the steepest declines occurring after 2024.[54]

Figure 2: Size of the Dutch vapour product market, in USD Millions (ECI Data, 2026 values are estimates)



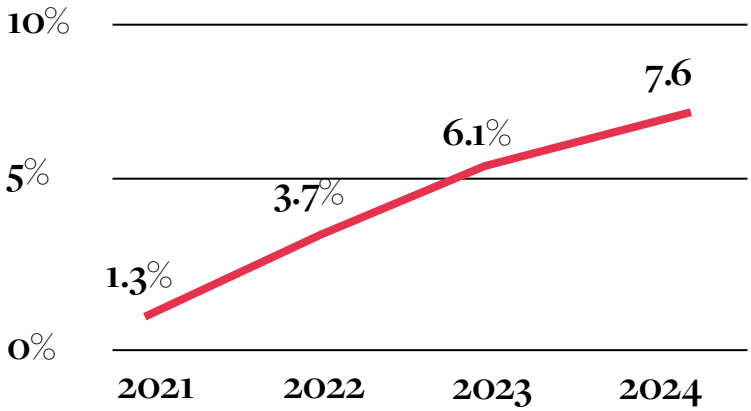
A similar pattern is visible in adult vaping prevalence. After peaking in 2023 at approximately 3.86% of the adult population, the share of adult vapers fell to an estimated 2.3% in 2026. This decline is most plausibly linked to the sharply reduced diversity of legal retail products following the flavour ban.

Figure 3: Number of current adult vapers in the Netherlands (ECI Data, 2026 values are estimates)



54 The Netherlands Food and Consumer Product Safety Authority (NVWA) reported on compliance with flavour restrictions following their entry into force in early 2024, finding that "9 [of 31] importers/manufacturers had ceased vape sales altogether" (NVWA). While not a representative sample, the figure nevertheless gives an indication of legitimate business' response to the new rules.

Figure 4: Current (at least once monthly) vaping among Dutch 12- to 18-year-olds



Viewed in isolation, these figures could be interpreted as evidence that the Government's regulatory approach has been successful. However, this narrow interpretation overlooks the substantial negative effects of the restrictions imposed on the vapour market, as well as the unintended consequences that often arise when consumer demand is constrained through supply-side prohibitions. Perhaps the most notable among these has been the ban's effect on underage access to flavoured vapour products, and consequently underage vaping rates as a whole, as despite being the principal justification for restricting flavours, evidence shows that underage vaping actually increased more than twice during last two years: from 3.7% in 2023 to 7.6% in 2024[55] – a point dissected in more detail below.

Comparable outcomes have been observed in other jurisdictions that adopted strict flavour bans. In Estonia, a ban introduced in 2019 prohibited all vapour product flavours except tobacco.[56] Within a year, however, the Government was forced to lift the ban on menthol-flavoured e-liquids following a documented increase in illicit trade.[57][58] Enduring consumer demand for flavours was later confirmed by a 2022 survey conducted by the Tholos Foundation, which found that despite the flavour ban, 60% of vapers continued using flavoured products—either by sourcing them from the black market or by mixing their own e-liquids at home.[59]

But to better understand the consequences of the prohibition, it is important to comprehend just how important flavours are to Dutch vapers. According to a survey done by Dynata[60] and commissioned by 'Prohibition Does Not Work' conducted among current adult vapers in the Netherlands in December 2025–January 2026, flavours were identified as crucial in users' decision to vape, with 85% claiming they were either "Important" or "Very Important."[61]

55 Lifestyle; Personal characteristics, Statline, 2026

56 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

57 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

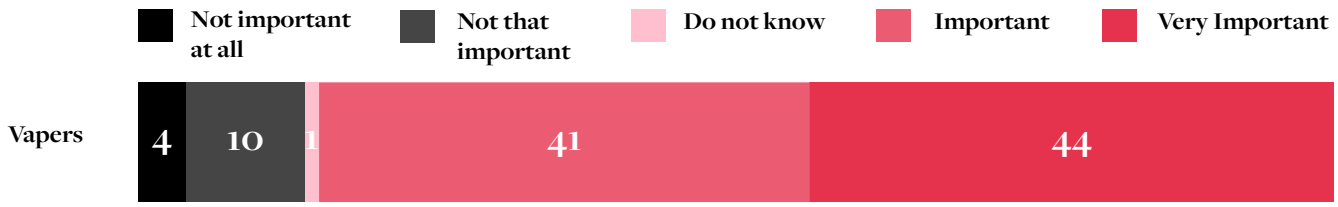
58 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

59 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

60 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

61 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

Figure 5: Responses to "How important are flavours in your decision to vape?"

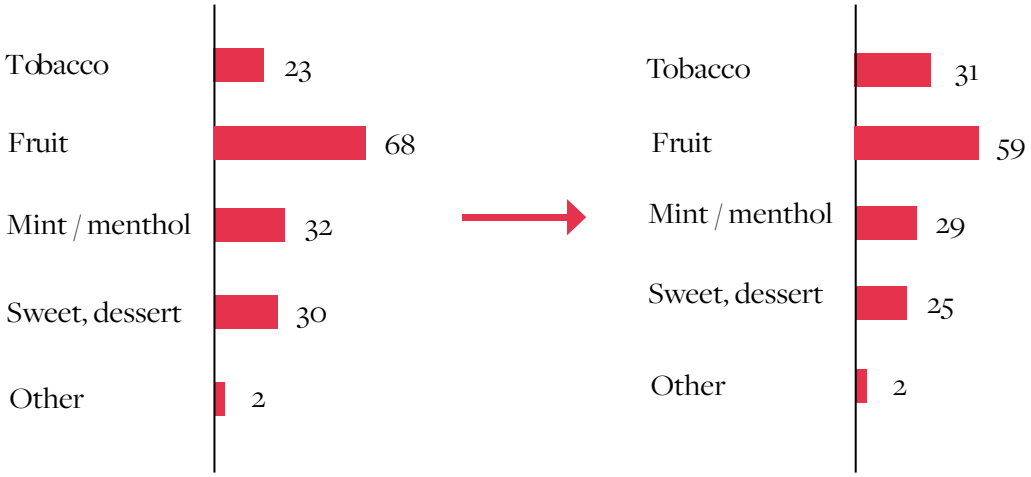


More surprisingly however, data shows that vapers' consumption patterns have not changed dramatically in the wake of the flavour ban: Despite not being legally available in the country, fruit has remained by far the most popular flavour among Dutch vapers, with tobacco – nominally the only legally available flavour – seeing only a modest increase in popularity after 2024.

This is because the prohibition has fundamentally failed to prevent sales of flavoured vapour products, instead simply moving them from a controlled legal market to the hands of illicit operators: When asked where they source flavoured products after the ban, 27% of vapers claimed they purchased them abroad – a concern previously highlighted by authorities during the regulatory process. Concerningly, 31% said they purchased their products from illicit online operators, while 33% said they could "find them in some local stores anyway."[62]

Netherland's National Institute for Public Health and the Environment (RIVM) - the same agency who advocated for the e-cigarette flavour ban and prescribed the extremely restricted ingredient list conducted their own post-implementation survey in market, 9 months following the ban. Their own survey confirmed our research findings that "many of those who still use flavors purchase them across the border". Even more alarmingly, RIVM also reported that 27% of those who quit vaping because the flavour ban either started smoking more (13%) or initiated cigarette smoking for the first time (9%) - a catastrophic public health outcome - and yet something positioned as success by RIVM[63]. Not content with their own domestic failing, RIVM can be found advocating for other countries to adopt their counterproductive, anti-science, anti-health policy agenda on the international stage.

Figure 6: Responses to "Which vaping flavour did you normally use before January 2024 and after January 2024?"



62 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

63 https://www.rivm.nl/sites/default/files/2025-07/Poster-e-cigarette-flavor-ban.pdf

This is also evidenced by data from the Dutch Food and Consumer Product Safety Authority (NVWA), the agency responsible for enforcing the flavour ban among retailers: Data from the period covering July 2024 – July 2025 shows that:[64]

- As many as **42% of physical retailers** (291 out of 701 locations inspected) were still selling banned flavoured products.
- Among **importers, 45% of product brands** (11 out of 25) were found to contain flavouring ingredients beyond the 16 permitted by the law.
- **Online sales** of flavoured products also persist despite the ban on both the products and their distance sale, with enforcement efforts leading to the removal of 619 ads on social media and 111 ads on e-commerce platforms.
- Since 1 January 2025, when seizure powers came into force, the NVWA confiscated as many as 235,000 products and 71,000 flavouring accessories, such as flavour pellets or liquids. One particular operation reportedly led to the seizure of 80,000 products at once.[65]

Figure 7: Various illegal flavoured products seized by the NVWA since January 2024 (1, 2, 3)

While some non-compliant products now entering the Netherlands originate from neighbouring EU countries and may still meet high consumer safety and manufacturing standards, an increasing share appears to come from informal supply chains outside the regulatory system. Stakeholder reports point to a rise in disposable devices and refill liquids of uncertain origin, often imported without proper ingredient disclosure, emissions testing, or nicotine verification. [66] [67]

Use of these products has reportedly already led to 14 hospitalisations in 2024,[68] but as the market continues maturing, cost pressures may incentivise importers to increase the share of unsafe products that risk exposing consumers to undeclared additives, excessive nicotine levels or other contaminants. Nowhere has this progression been better evidenced than in Australia, where the Government's severe and sustained crackdown on vaping led to a proliferation of illicit products containing toxic substances such as arsenic, heavy metals including lead and mercury [69], and even synthetic opioids.[70]

While there is not yet clear public evidence of comparable criminal entrenchment in the Netherlands, the rapid growth of an uncontrolled market creates the same structural vulnerabilities.

64 Inspection results of the flavor ban and illegal trade July 2024 – July 2025, Dutch Food and Consumer Product Safety Authority, 2026

65 NVWA confiscates 80,000 illegal vapes, Dutch Food and Consumer Product Safety Authority, 2025

66 The Hague does not protest against a flood of illegal vapes from China, Argos, 2025

67 Netherlands to Boost Fines for Illegal Vapes, Nicotine Insider, 2025

68 Illegal flavored vapes from China flood Dutch market, teens hospitalized, NL Times, 2025

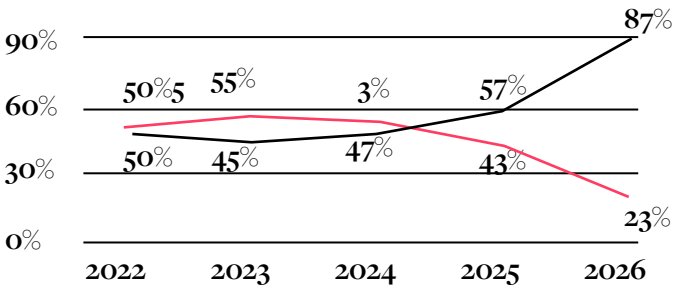
69 Shock lab results reveal what's inside popular vapes sold across Queensland, Hot Tomato, 2023

70 Nitazenes found in black market vapes as criminals make new variations to evade detection, ABC News, 2025

POLICY BACKFIRE: HEALTH AT RISK

The shift from a regulated legal market to one dominated by illicit and unregulated products has had direct consequences on health behaviours. Given vapers' strong preference for flavoured products, one of the most immediate and noticeable has been the meteoric rise in DIY and home mixing of e-liquids, quantified by the increasing popularity of "open-pod style" vapour products that allow users to prepare their own e-liquid solutions at home.

Figure 8: "Open-pod style" (black) and closed system (pink) vapour product use rate among Dutch vapers (ECI Data, 2026 values are estimates)



These open-system devices and home-mixed solutions carry significantly higher health risks than regulated products. Because most commercially available flavours are now banned, home mixers rely on illicit flavouring additives from the black market that often contain unknown or unverified ingredients. Vapers who mix their own liquids also frequently lack access to proper measurement tools and instruments, which greatly increases the risk of exposure to contaminants and excessive nicotine concentrations. In effect, the very measures intended to protect consumers have encouraged practices that are inherently more dangerous than the regulated alternatives they replace.

DIY mixing also risks exposing young children in the home to liquid nicotine solutions of not stored appropriately. Another serious consequence is the likely future impact on smoking rates: The relationship between vapour flavour bans and increased smoking rates is well studied,[71][72] and shows that many law-abiding nicotine consumers who do not wish to turn to the black market frequently choose to go back to smoking cigarettes when their choice of vape flavours is curtailed.

Similarly, public perceptions of the health effects of vapour products also play a crucial role in smokers' decisions to switch, and former smokers' decisions to continue vaping.[73][74] The continuous demonisation of vapour products by Dutch media, regulators and health authorities risks discouraging smokers from even considering switching.

There are already early indications that the country's decline in smoking rates may reverse in the near future: evidence now shows that the total number of cigarettes consumed in the Netherlands actually increased by 1% in 2024[75] – the same year vapour product flavours were restricted. These concerns are also evidenced by polling data, which shows that almost two thirds (64%) of Dutch vapers believe the ban has either "Definitely" or "Somewhat" pushed people back towards smoking.

71 E-cigarette Flavor Restrictions' Effects on Tobacco Product Sales, SSRN, 2024

72 Restricting Sales of Flavored Nicotine Vaping Products: Effects on Cigarette and Nicotine Vaping Product Sales in Canada, SSRN, 2025

73 Perceived Harm of Vaping Relative to Smoking and Associations With Subsequent Smoking and Vaping Behaviors Among Young Adults: Evidence From a UK Cohort Study, Nicotine & Tobacco Research, 2025

74 England's disposable vape ban: An inadequate solution to youth vaping with potential unintended consequences, Addiction, 2025

75 Illicit cigarette consumption in Europe, KPMG, 2025

While only a small increase on paper, in absolute terms the 1% amounts to approximately 60 million additional cigarettes consumed. Should the situation continue developing in line with current trends, the Netherlands risks seriously harming hard-won progress in reducing smoking rates, with potentially grave consequences for public health.

But perhaps most significantly, the ban has not demonstrably achieved its stated goal of deterring the underage from accessing vapour products. In fact, evidence shows that youth vaping increased significantly in the year of its introduction, continuing its pre-existing upward trend.[76]

This is because illicit vendors – who are already breaking the law by selling flavoured vapour products in the first place – are unlikely to heed age of sale restrictions, regardless of whether they are selling via online or in-person retail channels.

Far from shielding young people, the policy appears to have shifted youth access away from regulated retailers – where age checks, compliance inspections and product standards apply – toward informal and illicit sources where such safeguards are absent. In doing so, the Netherlands risks creating the very outcome the ban was meant to prevent: a less controlled market in which underage users face easier access and greater exposure to unsafe products.

Figure 10: Responses to "Do you believe the ban on flavours has sent people back to smoking cigarettes?"

Zooming out to the total tobacco control regulation environment in the Netherlands, the lack of any considered attempt to incorporate some form of harm reduction methodology in addition to traditional supply and demand side measures (as recommended by the WHO FCTC Article 1(d), of which Netherlands is a signatory.[77]), has meant the Dutch authorities have taken an absolute position of hostility towards less risky alternatives including heated tobacco products and a total ban on tobacco-free, emission-free oral nicotine products (believed to be even lower risk than vaping.[78]). Encouraging the illicit supply of the entire nicotine and tobacco market will simply continue to provide ever increasing incentives and opportunity to criminal black market operatives to expand their offerings in order to meet demand.

Countries such as New Zealand, and closer to home Sweden, are actually fulfilling their FCTC commitments more completely and coherently than prohibitionist countries such as the Netherlands. Both Sweden and New Zealand have enacted every single MPOWER measure on traditional smoking products making them extremely unaffordable and unattractive, while also incorporating the off-ramp of less-risky products per FCTC Article 1(d). This has helped to facilitate adult smoker switching at record rates, achieving two of the world's lowest total smoking prevalence, while also minimizing the incentives for black markets to exist.

76 More teenagers vaping; Decrease among young adults, NL Times, 2025

77 EB Document Format

78 Nicotine pouches: an aid in smoking cessation, or a new public health hazard? | Internal and Emergency Medicine | Springer Nature Link

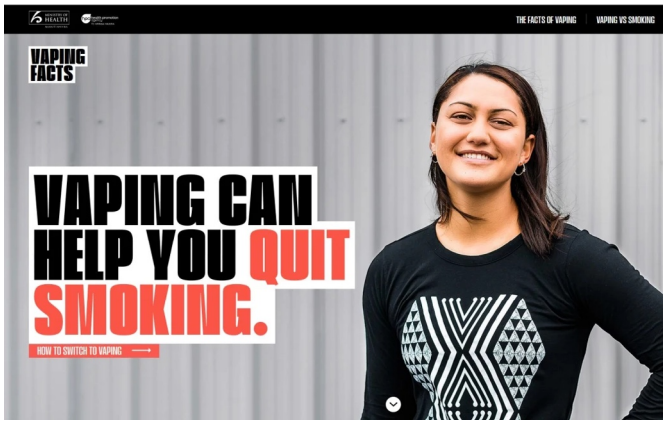
CONCLUSION

The Dutch flavour ban demonstrates how sweeping restrictions on lower-risk nicotine products can erode, rather than advance, public health goals. Youth access has not been eliminated but rather seen a twofold increase during the last two years, which shows an abject failure of prohibitive policies.

With the legal regulated market substantially weakened and unable to compete with a growing share of consumption moving into informal and illicit channels; product standards, age checks and oversight are now absent. Instead of creating a simpler and more controllable market, the policy has produced a marketplace that is less transparent, harder to supervise and potentially more dangerous for both adults and young people alike.

Crucially, this also represents a lost harm-reduction opportunity. Survey data shows that more than half (55.4%) of adult vapers say they use vapour products primarily for health reasons, including reducing or quitting smoking.[79] Limiting access to the products and flavours that help these individuals remain smoke-free risks pushing some back toward cigarettes and substantially worsening health outcomes, while diverting others into unregulated supply chains where safety controls do not apply.

The Netherlands is not the first country to encounter these unintended effects. Estonia's 2019 flavour ban[80] was followed by a documented rise in illicit trade and was partially reversed within a year,[81] [82] while subsequent survey data indicated that most vapers continued using flavours through informal sources or home mixing.[83] Such experiences highlight a broader lesson: demand for lower-risk alternatives does not disappear when legal access is restricted — it shifts outside the regulated system.



A more effective approach is well established internationally. Youth protection can be strengthened through rigorous enforcement of age-of-sale laws, retail licensing and compliance checks, targeted marketing and display restrictions, and sustained education efforts aimed at young people and parents.

When New Zealand went as far as promoting government endorsed public health messaging encouraging adult smokers to switch to vaping [84], the net effect was greater numbers of adults switching, while vaping became 'uncool' among young people[85] – the perfect public health outcome supposedly sought by Dutch and many other authorities. These measures directly address underage access without dismantling the regulated market that enables adult smokers to move away from combustible tobacco. For policymakers across Europe, the Dutch experience serves as a warning that prohibition-style approaches to harm reduction risk repeating a cycle of market distortion, illicit growth and unintended public health harm.

79 Dynata, Vaping Flavor Ban in the Netherlands, www.prohibitiondoesnotwork.com/Netherlands

80 Tobacco Act Amendment Act, 2017

81 Act amending the Tobacco Act and the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act, 2020

82 Estonia takes the first steps towards recognising tobacco harm reduction, Ethra, 8 May 2020

83 Tholos Foundation, Vaping Flavor Bans Estonia, 2022

84 New vaping website promotes smoking alternative | RNZ News

85 Vaping no longer considered 'cool' by youths as underage vaping numbers drop


PROHIBITION
DOES NOT WORK