

Dear Representatives,

I write on behalf of the 34 members of the New Zealand Association of Convenience Stores after numerous submissions on the Ministry of Health on 'proposals for the smoked tobacco regulatory regime'.

NZACS is a not-for-profit trade organisation representing 11 organised retail groups representing well over 1000 branded outlets from North Cape to Bluff.

NZACS supports the Smokefree Goal to reduce smoking rates to 5% or less by 2025. However, we have deep concerns with the way the latest 'smokefree' measures are being implemented and the negative outcomes they will create for retailers, and New Zealand society at large.

We would welcome the opportunity to discuss these issues at your earliest convenience.

1. The 'smoked tobacco' legislation as introduced for first reading included proposals to reduce retail availability and to set limits on nicotine in cigarettes, via regulation.
2. The final 'smoked tobacco' legislation instead bypassed this critical step of much needed consultation, entrenching both measures into the primary Act – with a fixed limit of retail stores set at 600 from 1 July 2024, and a near-zero nicotine limit from 1 April 2025 (a prohibition on all conventional tobacco products, and a limit we understand none of the current suppliers can meet).
3. This is, in our view, a flawed, experimental, social-engineering policy which will inflict deep pain not only on retailers, but on the wider community.
4. The current reality facing retailers considering applying for one of the 600 licenses includes very high requirements for suitably secure premises, high fees, a low prospect of success, and a mere 9 months of sales of conventional tobacco products before the entire category is prohibited by the nicotine rule. It begs the question why retailers should even bother, given the investment required, and the eventual removal of normal tobacco rendering the entire scheme redundant.
5. The consequence of this drastic retailer reduction combined with the removal of almost all nicotine from tobacco is a perfect storm that will drive hardworking retailers out of business, and the entire supply of preferred tobacco underground.

6. Customs New Zealand¹, the Customs Minister², and leading public health NGO, ASH New Zealand³ have all warned that such a heavy-handed approach forcing hundreds of thousands of adult smokers cold-turkey will turbo-charge the black market. A black market fueled by organized criminal gangs, and who do not ask for ID.

With New Zealand facing unprecedented levels of crime, rising gang numbers and economic pressure – we have to ask – why are gangs being presented with yet another lucrative illegal activity at the expense of hardworking Kiwi businesses selling legal products?

With no further substantiation coming forward to justify this set of smokefree measures since the original consultation, but overwhelming evidence continuing to be released that the proposals are significantly flawed⁴ and will drive perverse outcomes – it remains to be seen how any cost-benefit-analysis could possibly stack up.

Vastly increased Customs and Police resourcing will be required to police a booming black market and surging ram-raids on top of over \$2bn in lost excise revenue. All of which could be avoided by delaying these proposals in favour of upweighted support and encouragement for harm reduction alternatives which will reduce demand, get New Zealand to Smokefree 5%, and avoid the criminal consequences of prohibition.

We urge you to consider a simple fix. In the event of the successful formation of a new Government post-election, replace the ‘smoked tobacco’ bill with the original version which required the retail licensing scheme, and nicotine rule to be set by regulation – with robust consultation to follow.

Having these limits fixed in legislation provides no flexibility for future governments to react to market, or black-market dynamics.

We propose two alternative options to mandating the near-zero nicotine tobacco rule (which we repeat, has been found to be a “significantly flawed” proposal by ASH New Zealand) for your further consideration:

- A. adopt the EU limits for tar, nicotine and carbon monoxide – this is more aligned to a harm reduction approach, by focusing on the tar which kills, versus nicotine which is not the harmful constituent of tobacco smoke.
- B. alternatively – while very low nicotine cigarettes can already be marketed in New Zealand, the lone producer clearly has no desire to introduce them to the market if they need to compete with conventional cigarettes – hence the monopoly gifted to

¹ [Concerns over Smokefree plan as illegal tobacco manufacture operation discovered | Stuff.co.nz](#)

² [Budget 2022: \\$10m to crack down on tobacco smuggling spike - NZ Herald](#)

³ [Robert Beaglehole: Smokefree by 2025 - fairly and simply - NZ Herald](#)

⁴ [Assumptions behind plans to remove nicotine from cigarettes “significantly flawed” - ASH NZ](#)

them by Dr Verrall. Instead, why not incentivize them with reduced excise, to be sold alongside conventional tobacco, at a reduced price. This would facilitate choice in the market, rather than the criminal black market being the only choice.

New Zealand can achieve its Smokefree 5% target without any of these punitive, social-engineering policies by instead better embracing harm reduction. Such an approach is championed not only by ASH NZ, but international experts too⁵. It is also proven, with Sweden set to achieve a 5% smoking rate this year, thanks for its preferred harm reduction tool, snus⁶.

This legislation has largely flown under the radar with NZ voters but will not just directly affect the almost 400,000 smokers but the livelihoods of many more thousands and their families. We hope you will consider these issues, and the disastrous societal and economic consequences which can be avoided should you sensibly choose to address them.

Thank you for your attention.

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⁵ [Researchers: Rethink e-cigarettes' role in treating cigarette smokers' nicotine addiction | University of Michigan News \(umich.edu\)](https://umich.edu/news-researchers-rethink-e-cigarettes-role-in-treating-cigarette-smokers-nicotine-addiction/)

⁶ [Sweden's Snus Success Story, as Country Nears "Smoke Free" Status \(filtermag.org\)](https://filtermag.org/sweden-snus-success-story-as-country-nears-smoke-free-status/)