

# HRA BLOG SPOT...



Image from article in *The Conversation* on 24 February 2026

## WA's New Illicit Tobacco & Vape Laws: Tougher Isn't Better... A Harm Reduction Perspective

By: Dr Annie Madden AO  
HRA Executive Director

Western Australia has recently moved to introduce some of the harshest penalties in the country for illicit tobacco and vaping offences, a development that has been widely reported in mainstream media, including [The Australian](#) that said:

*"... Western Australia [has] introduced some of the nation's toughest penalties for illicit tobacco and vape offences, introducing large fines and 15 years' jail under new laws tabled on the first sitting day of parliament this week. Individuals in possession of a large commercial quantity of illicit tobacco or vaping products could face fines up to \$4.2m, while companies could be slugged \$21m."*

This push by the [Cook Labor Government](#), which includes doubling down on enforcement powers, store closure orders of up to 90 days, and multimillion-dollar fines, may grab headlines, but it also raises critical questions about whether punitive enforcement is the right tool to reduce nicotine-related harms or whether it will simply exacerbate current problems and/or create new ones.

# HRA BLOG SPOT cont...

## ***What's actually changing?***

Under amendments to the Tobacco Products Control Act 2006, WA will dramatically increase enforcement powers against illicit tobacco and vape supply:

- Individuals caught with large commercial quantities of illicit products could face fines up to A\$4.2 million- or 15-years' imprisonment.
- Companies could be fined up to A\$21 million.
- Authorities will also have the power to close businesses for up to 90 days while investigations proceed.

Under the current legislation, maximum fines are \$20,000 for individuals and \$80,000 for companies, with no offences carrying potential imprisonment.

The government says these changes will ensure WA has among the strongest illicit tobacco penalties in Australia, targeting organised crime and protecting communities.

While there is no question that unlawful trade in tobacco and vaping products is a concern, including violent competition among sellers and involvement by organised crime networks, increasing penalties is not the solution it is purported to be.

## ***Punitive penalties don't necessarily reduce harm***

Evidence from Australia and globally suggests that simply increasing penalties rarely eliminates illicit markets. In 2025, WA authorities issued just 93 infringement notices for illegal tobacco, totalling under A\$90,000 in fines – despite police describing the black-market trade as both a public safety and criminal issue.

Critically, punitive enforcement often drives markets further underground, making products harder to trace, pushing distribution into unregulated online channels, and increasing risk for consumers. This is especially true for products like nicotine vapes, which are already subject to complex regulatory regimes in Australia including prescription requirements for nicotine vaping products and bans on retail sales without prescriptions.

Steep increases in fines in other states, for example, Queensland, have resulted in a [majority of fines going unpaid](#). Moreover, harsh penalties invariably [fall on those most visible and vulnerable](#) (e.g., mules sitting in shops) rather than the kingpins raking in the profits.

WA's tough new approach may well increase convictions, closures, and headlines, but it is unlikely to address the underlying drivers of the growing black market in illicit nicotine products and/or the increasing levels of violence and harm associated with this trade.

## ***A harm reduction perspective on tobacco and vaping policy***

While governments and some public health advocates argue that enforcement helps prevent youth uptake and reduce disease, Harm Reduction Australia (HRA) takes a different approach. We argue that the current laws and policies in Australia are too restrictive and punitive, and that reform, not escalation, is needed.

## HRA BLOG SPOT cont...

In our recent [Tobacco Harm Reduction Policy Brief](#) we argue that:

- Nicotine dependence should be treated as a health and social issue, not a criminal one.
- People who cannot or choose not to quit combustible tobacco should have access to safer alternatives without fear of prosecution.
- Policies that prioritise cessation support, accessible alternatives, and evidence-based information are more effective than punitive enforcement at reducing long-term harm.

Punitive laws like those proposed in WA risk widening the gap between policy and practice, pushing nicotine use further underground and creating additional harms without reducing overall nicotine dependence.

### ***What should WA and other states do instead?***

A harm reduction approach would direct attention toward:

- Accessible cessation services, especially for marginalised groups.
- Policy and regulatory reform that differentiates between high-harm products (combustible tobacco) and lower-harm alternatives (vaping).
- Education and outreach rather than criminal penalties for people who use or possess products.
- Monitoring and evaluation to understand how laws affect consumer behaviour and health outcomes over time.

WA's proposed laws may make headlines for their severity, but severity alone is not a measure of effectiveness.

If Australia truly wants to reduce tobacco-related harm, state and federal governments should pivot away from escalating punishment and toward policies that meet people where they are, address demand and dependence, and expand harm reduction pathways, rather than expanding the shadow of the criminal law into people's lives.

