

Written evidence submitted by the Association of Convenience Stores (ACS): Bill Committee for the Tobacco and Vapes Bill (TVB06)

ACS (the Association of Convenience Stores) represents the UK's 49,388 convenience stores including Co-op, McColls, BP and thousands of independent retailers, many of which trade under brands such as Spar, Nisa and Costcutter.¹ ACS welcomes the opportunity to provide written evidence to the Bill Committee.

In relation to the World Health Organization Framework Convention on Tobacco Control ACS has provided the Department for Health and Social Care with a statement about ACS' membership and funding structures that is included at the end of this submission and on ACS' website [here](#).

Overview

The introduction of further restrictions on the tobacco and vaping categories will have a significant impact on retailer's stores and the 437,000 colleagues who will be at the frontline on delivering these changes.² It is therefore important that the regulations are clear so businesses understand their responsibilities for complying with the law and can easily communicate the changes to their customers.

This briefing sets out amendments we would like considered at the Committee Stage of the [Tobacco and Vapes Bill](#) to help the government deliver a fit-for-purpose policy that is responsibly implemented without over burdening the retail operations of convenience stores.

ACS' Position

- We agree there is need for a **tighter regulatory framework for the sale of vapes in the UK** to prevent young people accessing them and addressing their environmental impact. New regulations must allow adult vapers to identify, access and purchase vapes in local shops to realise their benefits as a smoking cessation device.
- The **generational tobacco ban** raises significant operational challenges for retailers, who would be at the front line of implementing this policy. The government has to consider the impact on retailers and the costs of investing in public awareness campaigns.
- The **government must substantially increase the enforcement powers and resources** for trading standards services to enforce new vaping restrictions. Our analysis suggests the Trading Standards services in England would need three times the current amount of funding to enforce just the vaping regulations.

Suggested Amendments to the Tobacco and Vapes Bill

ACS proposes the following amendments to the Bill:

1. **Increase value of the Fixed Penalty Notice which can be issued from £100 to £200 for businesses found to be selling tobacco and vaping products to children. Proposed amendment:**

Page 12, Clause 24, line 14, leave out "£100" and insert "£200".

¹ ACS Local Shop Report 2023.

² ACS Local Shop Report 2023.

The Government is proposing a fixed penalty notice (FPN) of £100 for businesses found to be selling tobacco and vapes to children. Although the Bill provides powers for the Secretary of State to increase the FPN (page 13, line 9, clause 26), we believe the starting point for FPN on the face of the bill should be increased to at least £200.

We do not believe that a £100 fine will be a sufficient deterrent to a business that is willing to sell tobacco or vaping products to children. Fines are only an effective deterrent for rogue businesses when they will have a meaningful impact on operating costs. We believe that restricted premises orders and sales orders will have a greater deterrent effect on rogue businesses.

In the government's separate draft statutory instrument for banning disposable vapes the level of FPN proposed is £200.³ If £200 is deemed to be the appropriate level of penalty for the sale of a disposable vape, then as a minimum the sale of vapes and tobacco to children should have a similar penalty.

Based on engagement with Trading Standards teams, many view FPNs as a weak enforcement measure for deterring rogue businesses. Moreover, it is likely that it would cost Trading Standards teams more to collect evidence and administer a £100 fine than the cost of the fine itself.

The current approach to enforcement action outlined in the bill is representative of the government's weak and disjointed approach to enforcement of the tobacco and vaping restrictions proposed. We are concerned that the government are not investing enough in enforcement action or giving Trading Standards teams the powers to stop rogue businesses selling tobacco and vapes to children.

New research commissioned by ACS outlines the scale of the resources that are needed to deal with the illicit vaping market and preventing underage sales.⁴ The additional funding, which would start at £30.7m in year one, rising to £36.2m in year two and then gradually falling, represents an initial 28.4% increase in Trading Standards budgets, making it one of the most significant expansions of Trading Standards capability for at least a generation.

- 2. We want the government to account for the transition of statutory age of sale signage in the lead up to the introduction of the generational tobacco ban. During this period, retailers have to manage the display of a new generational tobacco ban age of sale notice alongside the existing "It is illegal to sell tobacco products to persons under 18" age of sale notice. The Secretary of State should be given powers to support retailers with the transition of signage in retail settings that will be pivotal in customer communications. If these amendments are not deemed possible, we would like re-assurance from the government that it will provide businesses with clarity on their obligations and that businesses will receive a staged enforcement approach to the age of sale notice requirements. Proposed amendment:**

Page 2, line 36, leave out 'or'.

Page 2, line 37, at end insert -

"() management of change of the statutory age of sale notice at point of sale, or"

Page 3, line 23, leave out 'or'

Page 3, line 24, at end insert -

³ <https://assets.publishing.service.gov.uk/media/65eed42d62ff48488387b24e/single-use-vapes-SI.pdf>

⁴ <https://cdn.acs.org.uk/public/Resource%20Analysis%20for%20Vape%20Enforcement%20in%20England.pdf>

“() management of change of statutory age of sale notice at point of sale, or”

Page 20, line 19, leave out ‘or’

Page 20, line 19, at end insert

“() management of change of statutory age of sale notice at point of sale, or”

Page 24, line 24, Insert -

“In Article 5 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (S.I. 1991/2872 (N.I. 25)) (display of warning statements in retail premises and on vending machines) after “and the size of the statement to be displayed on it”, insert -

“management of change of statutory age of sale notice at point of sale”

The Government is proposing a hard deadline whereby all businesses on the 1st of January 2027 must have updated their age of sale notice to reflect the generational tobacco ban. In practice, it means that retailers must have the current notice up until their shops close to the public on 31st December 2026 and the new notice must be displayed by the time they open to the public on 1st January 2027. It is likely this will result in two sets of signs being displayed in stores that could be confusing to customers and enforcement officers.

The long-standing use of the existing age verification signage means it has often been incorporated into physical shop assets, such as gantry screens or checkout displays. Therefore, thousands of stores across the UK will need to use a professional shop fitting services to deliver signage changes. This can be achieved, but not overnight. We recommend amending the Bill to give the Secretary State powers to introduce secondary regulations to account for the transition period between the two sets of statutory signage.

Additional powers for the Secretary of State to manage the transition between statutory age of sales signage could be used to:

- **Introduce a transitional period:** Secondary regulations could clarify that retailers are permitted to have BOTH sets of statutory signage up for the first three months of the legislation being introduced.
- **Clarify the definition of the location of signage:** Clarify in secondary legislation the definition of “each point of sale of tobacco products”, which differs from the wording contained in section 4(1) of the Children and Young Persons (Protection from Tobacco) Act 1991 that only requires signage at “every premises”.
- **Clarify there will be a staged approach to enforcement:** Secondary regulations could clarify that enforcement agencies could only use warning letters to businesses during the first three month of the legislation being introduced, instead of issuing level 3 fines straight away.

We are also seeking clarification on how the government will allocate the [£5 million new funding](#) this year (£15 million thereafter) to explain the introduction of generational tobacco ban to the public, in partnership with retailers. We want the Government to lead communications activity to ensure customers understand the new generational tobacco ban so we avoid confrontation at the checkout towards shopworkers.

3. We want the bill to bring consistency to definition of ‘vape’ and ‘vaping product’. Many stakeholders have raised concerns about the differing approaches across the UK to the definition of a vape. Under the current Bill, we will create another definition of vape that differs from the government’s statutory instrument on banning disposable vapes.

Page 16, leave out lines 24 to 26 and insert –

“Vaping component” means an item which is intended to form part of a vape (including anything intended to be attached to it with a view to imparting flavour)

We would like to see Governments across the UK to work together to bring consistency to the definition of ‘vape’. We want to tidy up the definition included in the Bill to avoid creating another variation.

For further information on this briefing, please contact ACS Public Affairs Executive via email (Daniel.askew@Acs.org.uk) or phone 07513715536.

Tobacco Industry Declaration

A statement about how ACS works with suppliers, including tobacco companies, is available on ACS’ website [here](#) and copied below. The Association of Convenience Stores provides three different packages to suppliers, these are the [Connect](#), [Club](#) and [Premier Club](#) packages. The benefits of these packages are networking, events and insight about the convenience sector. The companies that sign up to supplier packages with ACS are of all different sizes and cover the full breadth of products and services sold in convenience stores, including everyone from small EPoS suppliers and technology solutions companies, to multinational FMCG businesses. All companies can access the same benefits from whichever package they take up, regardless of the category they trade in or service they provide.

*While suppliers are included in updates from ACS about policy issues, and have access to briefings on policy developments through the ACS Member Portal, suppliers are **not** involved with the decision making process on policy issues and are **not** able to influence policy submissions or briefings to decision makers. ACS has a number of expert groups and committees that are made up of its retail members, as well as its main and independent boards. No tobacco manufacturers are or ever could be represented on the ACS board or other policy-making groups.*

ACS’ core purpose is to engage with Government and other decision makers on the issues that matter to its members. ACS members are [all retail businesses](#), ranging from independent retailers running one store through to large businesses operating hundreds of convenience stores across the UK. ACS members are consulted and involved in the policy forming process for all submissions to Government, which are [all available here](#).

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