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Reconstructing Criminal Law Policy on Narcotics-Containing Vapes in Indonesia and Singapore

Rekonstruksi Kebijakan Pidana atas Peredaran Vape Mengandung Narkotika di Indonesia dan Singapura

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Abstract

The distribution of narcotics-containing vapes poses legal challenges concerning substance classification, criminal liability, and the effectiveness of device regulation in Indonesia. This study aims to reconstruct Indonesia's criminal law policy by comparing it with Singapore's approach to controlling vapes and psychoactive substances. It employs normative legal research using statutory and comparative legal approaches based on legislation and secondary legal sources. The findings indicate that Indonesia's framework relies on substance classification and the elements of criminal offences, whereas Singapore regulates vape devices and specified psychoactive substances under the Tobacco and Vaporisers Control Act 1993. This study recommends evaluating the feasibility of a comprehensive vape prohibition, supported by clear legal provisions, stronger distribution monitoring, substance identification mechanisms, and differentiated treatment of suppliers and users. Its contribution lies in formulating a policy reconstruction framework that incorporates legal certainty and proportionality in criminal sentencing.

Keywords: Criminal Law; Vaping; Narcotics; Comparative Law; Psychoactive Substances

Abstrak

Peredaran vape yang mengandung narkotika menimbulkan tantangan hukum terkait penggolongan zat, pertanggungjawaban pidana, dan efektivitas pengendalian perangkat di Indonesia. Penelitian ini bertujuan merekonstruksi kebijakan hukum pidana Indonesia melalui perbandingan dengan kebijakan Singapura dalam mengendalikan vape dan zat psikoaktif. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan perbandingan hukum berdasarkan regulasi serta sumber hukum sekunder. Hasil penelitian menunjukkan bahwa kerangka hukum Indonesia bertumpu pada penggolongan zat dan unsur tindak pidana, sedangkan Singapura mengatur perangkat vape dan zat psikoaktif tertentu melalui Tobacco and Vaporisers Control Act 1993. Penelitian ini merekomendasikan evaluasi terhadap kemungkinan larangan vape secara menyeluruh, disertai kejelasan norma, penguatan pengawasan distribusi, mekanisme identifikasi zat, dan pembedaan penanganan pemasok serta pengguna. Kontribusi penelitian ini terletak pada perumusan arah rekonstruksi kebijakan yang mempertimbangkan kepastian hukum dan proporsionalitas pemidanaan.

Kata Kunci: Pidana; Vape; Narkotika; Perbandingan Hukum; Zat Psikoaktif

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INTRODUCTION

Indonesia is a state governed by the rule of law, as stipulated in Article 1(3) of the 1945 Constitution of the Republic of Indonesia.[1] In the context of narcotics trafficking, law enforcement faces increasingly complex challenges when illicit substances are concealed in everyday consumer products, including electronic cigarettes (*vapes*). Based on laboratory testing conducted through August 12, 2026, the Indonesian National Narcotics Agency (BNN) reported that 1,716 of the 1,745 tested e-liquid samples were found to contain narcotics or new psychoactive substances. Of these, 1,552 samples, representing 88.9 percent of all samples tested, contained *etomidate*.[2] These figures indicate a substantial occurrence of illicit substances among the tested samples, but do not establish that all vapes on the market contain similar substances. Accordingly, this study focuses specifically on the distribution of products whose prohibited contents have been established through reliable laboratory testing, rather than on vapes generally or all vape users.

This issue warrants serious attention because the physical appearance, packaging, and design of vape devices do not necessarily reveal the substances contained in their e-liquids. Indonesia's National Agency of Drug and Food Control (BPOM) has explained that vape liquids can be used to conceal liquid narcotics, including methamphetamine and synthetic cannabinoids, while newly emerging psychoactive substances may appear before they are explicitly regulated under existing laws.[3] Consequently, law enforcement authorities must establish the chemical composition of the liquid and determine the legal status of the substances involved rather than relying solely on the product's appearance or suspected use. If the legal classification of substances, the elements of criminal offences, or evidentiary procedures are inadequate, criminal proceedings may encounter legal uncertainty and inconsistent enforcement. Nevertheless, these challenges do not automatically justify creating new offences or prohibiting all vapes. Any regulatory reform must instead be grounded in a systematic assessment of existing legal provisions and demonstrable obstacles to their enforcement.

In Indonesia, the control of narcotics trafficking primarily relies on Law No. 35 of 2009 concerning Narcotics, with the application of criminal provisions depending on the legal status of the substance, the conduct involved, and the fulfilment of the relevant elements of the offence.[4] Using a vape as a delivery mechanism does not, in itself, eliminate the unlawful character of conduct involving prohibited substances. Challenges arise when newly emerging psychoactive substances are not clearly covered by existing classifications or when laboratory evidence and the alleged offender's involvement in distribution are difficult to establish. To evaluate possible policy responses, this study compares Indonesia with Singapore without assuming that the two legal systems are identical. The Singaporean government states that the *Tobacco and Vaporisers Control Act* came into force on May 1, 2026, prohibiting products

1 "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Dalam Satu Naskah" (1945), https://peraturan.bpk.go.id/Download/92288/UUD45_SatuNaskah.pdf.

2 Agatha Olivia Victoria, "BNN Temukan Ribuan Sampel Cairan Vape Mengandung Narkotika," 2026, https://www.antaranews.com/berita/5766215/bnn-temukan-ribuan-sampel-cairan-vape-mengandung-narkotika.

3 Biro Kerja Sama dan Hubungan Masyarakat, "BPOM Soroti Ancaman Zat Adiktif Pada Rokok Elektronik Bagi Generasi Muda" (Badan Pengawas Obat dan Makanan, 2026), https://www.pom.go.id/berita/bpom-soroti-ancaman-zat-adiktif-pada-rokok-elektronik-bagi-generasi-muda.

4 "Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika" (2009), https://peraturan.bpk.go.id/Details/38776/uu-no-35-tahun-2009.

containing specified psychoactive substances, including *etomidate* and its analogues, while strengthening oversight of vaporisers.[5]

Previous studies have examined vape-related substance misuse and regulatory responses, but their research questions and scopes differ. Pranata, Budiartha, and Karma, in an empirical legal study conducted in Denpasar, found that the National Narcotics Agency carried out public education and inspections at vape shops and within user communities every three months.[6] They identified difficulties in identifying offenders because distribution networks were fragmented and intermediaries were disconnected. Nugraha, through a literature-based legal analysis, identified the use of vapes to consume THC, methamphetamine, and liquid psychotropic substances, and emphasised education, surveillance, law enforcement, and rehabilitation.[7] Meanwhile, van der Eijk et al. mapped vape policy responses across Southeast Asia and documented differences between strict prohibitions and partial regulatory approaches.[8] Their review highlighted weaknesses in Indonesia's regulatory approach during the period examined, but did not specifically formulate a comparative criminal-law reconstruction framework for the distribution of narcotic-containing vape liquids in Indonesia.

In response to this research gap, this study aims to assess the adequacy of Indonesia's criminal-law policies governing the distribution of vapes containing confirmed narcotics and to formulate potential policy reforms through comparison with Singapore. The analysis focuses on the clarity of the legal status of substances, the definition of punishable conduct, the evidentiary requirements for establishing the contents of vape liquids, and the differentiation of liability among manufacturers, distributors, and users. The comparison does not seek to transplant Singaporean policies directly into Indonesia but rather to identify elements that could be adapted consistently with the principles of legality, legal certainty, and proportionality in sentencing. The study is particularly important because it addresses the need to respond to evolving trafficking methods without expanding criminalisation indiscriminately. Its findings are expected to provide a more focused normative basis for criminal-law reform, strengthen legal certainty in enforcement, and clarify inter-agency coordination in addressing emerging psychoactive substances.

Method

This study employs normative legal research to examine the legal norms, principles, and statutory provisions governing the distribution of narcotics-containing *vapes*.[9] It adopts a statutory approach to analyse Indonesian criminal law, particularly Law No. 35 of 2009 concerning Narcotics and related regulations, and a comparative legal approach to examine Singapore's policies under the *Tobacco and Vaporisers Control Act 1993* (TVCA) and related provisions governing specified psychoactive substances. The comparison focuses on substance classification, the scope of prohibitions, the definition of punishable conduct, and the regulation of criminal sanctions.

5 Government of Singapore, "What Is the Tobacco and Vaporisers Control Act?" (gov.sg, 2026), https://www.gov.sg/explainers/what-is-the-tobacco-and-vaporisers-control-act.

6 Yoga Wira Pranata, I Nyoman Putu Budiartha, and Ni Made Sukaryati Karma, "Peranan Badan Narkotika Nasional Dalam Menanggulangi Tindak Pidana Liquid Vape Yang Mengandung Narkotika," *Jurnal Preferensi Hukum* 3, no. 1 (2022): 201–7, https://doi.org/10.22225/jph.3.1.4684.201-207.

7 Riko Nugraha, "Penyalahgunaan Narkotika Dan Psikotropika Pada Rokok Elektik Vape Dalam Perspektif Hukum Indonesia," *Jurnal Ilmiah Hukum Dirgantara* 16, no. 2 (2026), https://doi.org/10.35968/jihd.v16i1.2090.

8 Yvette van der Eijk et al., "E-Cigarette Markets and Policy Responses in Southeast Asia: A Scoping Review," *International Journal of Health Policy and Management* 11, no. 9 (2022): 1616–24, https://doi.org/10.34172/ijhpm.2021.25.

9 Marjan Miharja, *Buku Ajar Metode Penelitian Hukum* (Bandung: CV Cendekia Press, 2023).

The legal materials consist of primary sources, including Indonesian and Singaporean legislation, and secondary sources, including books, scholarly journal articles, and relevant previous studies. The materials are collected through library research by identifying, selecting, and cataloguing sources according to their relevance to the research problem. They are subsequently analysed qualitatively through legal interpretation and normative comparison to assess the clarity and adequacy of Indonesia's legal framework, identify similarities and differences between Indonesian and Singaporean policies, and formulate alternative approaches to criminal-law policy reconstruction in accordance with the principles of legality, legal certainty, and proportionality in sentencing.

RESULTS AND DISCUSSION

Criminal Law Regulation about Narcotics-Containing Vapes in Indonesia

Criminal law regulation concerning the distribution of narcotics-containing vapes in Indonesia must be examined in light of the legal status of the substances involved, the conduct performed, and the fulfilment of the elements of a criminal offence. The problem arises when electronic cigarette liquids are used as a medium for storing, transporting, or distributing illicit substances. In practice, law enforcement authorities must do more than identify the device or its packaging; they must establish the liquid's chemical composition through laboratory testing and link the findings to the conduct of the parties involved. Ramadhani and Zulkarnain specifically examined criminal law enforcement against narcotics distribution through electronic cigarettes, or *pod getar*, within the jurisdiction of the Medan City Police.[10] Their study demonstrates the relevance of this issue to law enforcement practice. Accordingly, the use of vapes as a means of distribution must be assessed under the applicable narcotics legislation rather than solely on the basis of the device's physical characteristics.

The principal legal basis for addressing narcotics distribution in Indonesia is Law No. 35 of 2009 concerning Narcotics. This law regulates various prohibited activities, including offering narcotics for sale, selling, purchasing, acting as an intermediary, transferring, possessing, storing, and controlling narcotics, with the applicable provisions varying according to the substance's classification. Article 114 governs specified distribution-related activities involving Category I Narcotics, while Article 119 addresses certain activities involving Category II Narcotics. Accordingly, determining the applicable provision in cases involving vape distribution requires consideration of the substance's identity and classification, as well as the specific conduct of the offender. Newly emerging psychoactive substances cannot automatically be treated as narcotics before their legal status has been established under the applicable regulations. This principle is essential to maintaining legal certainty and preventing the application of criminal provisions without a clear legal basis.

The urgency of addressing this problem is illustrated by laboratory findings reported by the Indonesian National Narcotics Agency (BNN). ANTARA reported that, as of August 12, 2026, 1,716 of the 1,745 electronic cigarette liquid samples examined had been found to contain narcotics or new psychoactive substances, while 1,552 samples, or 88.9 percent, contained *etomidate*.[11] These figures describe the results of testing the sampled products and should not be interpreted as the prevalence of such substances in all vapes circulating in Indonesia. During a working meeting with Commission III of the Indonesian House of Representatives in April 2026, the head of BNN also proposed banning vape distribution. On that occasion, he reported

10 Namira Ramadhani and Zulkarnain, "Penegakan Hukum Pidana Terhadap Peredaran Narkotika Dalam Bentuk Rokok Elektrik (Pod Getar): Di Wilayah Hukum Polrestabes Medan," *Al-IHKAM: Jurnal Hukum Keluarga* 18, no. 1 (2026): 321–37, https://doi.org/10.20414/alihkam.v18i1.16261.

11 Victoria, "BNN Temukan Ribuan Sampel Cairan Vape Mengandung Narkotika."

test results from 341 samples, of which 23 contained *etomidate*, 11 contained synthetic cannabinoids, and one contained methamphetamine.[12] These reports concern separate testing reports and should not be conflated. In addition, *etomidate* was classified as a Category II Narcotic under Minister of Health Regulation No. 15 of 2025.[13] These findings underscore the urgency of law enforcement, but they do not, by themselves, establish that a blanket ban on all vapes is the only appropriate policy option.

The legal problem must therefore be distinguished between a normative gap and difficulties in applying existing legal provisions. Ardiansyah et al., in a normative legal study of sanctions for the distribution of novel narcotics through vape products among adolescents, concluded that the response remains grounded in Law No. 35 of 2009.[14] They also identified obstacles involving difficulties in obtaining evidence, limitations in supporting infrastructure, evolving modus operandi, and the absence of specific regulations governing narcotics distribution through vape liquids. These findings indicate the need to assess the adequacy of the existing legal framework, but they do not automatically establish that all conduct involving narcotics distribution through vapes falls outside the reach of the law. Where existing provisions already cover the conduct in question, the problem may lie in evidentiary requirements or law enforcement implementation. Conversely, if a demonstrable regulatory deficiency or ambiguity exists, amendments to the legal framework may be considered. This distinction provides an important basis for proportionate criminal-law policy reconstruction.

In light of these issues, criminal-law policy reconstruction should focus on evaluating substance classification, the clarity of criminal offence definitions, the adequacy of evidentiary procedures, and the proportionality of sanctions. Testing vape liquids should be accompanied by investigations into the origin of the substances, mixing processes, distribution patterns, sales transactions, and the involvement of each party, so that criminal liability is established on the basis of conduct and evidence that can withstand legal scrutiny. The study by Pranata, Budiartha, and Karma on the role of BNN in addressing criminal offences involving narcotics-containing vape liquids provides a basis for examining the role of law enforcement institutions in responding to this problem.[15] In addition to strengthening inter-agency coordination and testing capacity, policymakers should assess whether specific regulation of products or devices is necessary to complement the existing narcotics framework. Such regulation must distinguish ordinary vapes from products proven to contain prohibited substances. Further evaluation may compare Indonesia's approach with Singapore's framework to develop policy alternatives consistent with the principles of legality, legal certainty, and proportionality in sentencing.

Vape Prohibition in Singapore and the Control of Psychoactive Substances

Singapore has adopted a prohibition-based approach to electronic cigarettes (*vapes*) through a legal framework that regulates the devices, related products, and substances consumed through them. According to the Health Sciences Authority (HSA), the importation, sale, distribution, possession, and use of *vapes* have been prohibited under a regulatory framework that was implemented in stages, with the prohibition on purchase, possession, and use taking effect on

12 Dwi Rahmawati, "Rapat RUU Narkotika di DPR, Kepala BNN Usul Larangan Vape," 2026, https://news.detik.com/berita/d-8433178/rapat-ruu-narkotika-di-dpr-kepala-bnn-usul-larangan-vape/amp.

13 Asmin Fransiska, "Medical Law in Indonesia," in *Routledge Handbook of Indonesian Law* (London: Routledge, 2026), 660–77, https://doi.org/10.4324/9781032709840-70.

14 Ardiansyah et al., "Criminal Sanctions for the Circulation of Novel Narcotics in Vape Products Among Adolescents," *Yustisia Tirtayasa: Jurnal Tugas Akhir* 6, no. 2 (2026): 66–93, https://jurnal.untirta.ac.id/index.php/yustisia/article/view/41893/17482.

15 Pranata, Budiartha, and Karma, "Peranan Badan Narkotika Nasional dalam Menanggulangi Tindak Pidana Liquid Vape yang Mengandung Narkotika."

1 February 2018.[16] On 1 May 2026, the *Tobacco (Control of Advertisements and Sale) Act 1993* was renamed the *Tobacco and Vaporisers Control Act 1993* (TVCA).[17] This amendment strengthened the regulatory framework governing *vaporisers*, including products containing specified psychoactive substances. The policy reflects an approach that focuses not only on the substances contained in vape liquids but also on controlling devices that can be used to consume harmful substances. Singapore has therefore established a legal basis for addressing offences involving both the devices themselves and the misuse of substances delivered through them.

An important development in Singapore's policy is the regulation of *Specified Psychoactive Substances* (SPS), which are psychoactive substances designated under the TVCA framework. Effective 1 May 2026, *etomidate* and its analogues were included in the SPS category, bringing them within a legal framework specifically governing *vaporisers* and substances consumed through these devices. The framework also allows the government to bring additional substances or products within the scope of regulation when the prescribed criteria are met. Before this change, *etomidate* had been temporarily classified as a Class C controlled drug under the *Misuse of Drugs Act*. This regulatory development demonstrates Singapore's efforts to adapt its legal instruments to emerging patterns of substance misuse involving *vapes*. However, the SPS framework does not mean that all psychoactive substances automatically fall within this category; their designation must comply with the applicable legal requirements.

Singapore differentiates penalties according to the type of offence and the offender's role. Under the TVCA, suppliers of products containing SPS may face imprisonment for two to ten years and two to five strokes of the cane, while importers may face imprisonment for three to twenty years and five to fifteen strokes of the cane. Individuals who possess, purchase, or consume SPS-related products may be liable to a fine of up to SGD 20,000, imprisonment for up to ten years, or both, if prosecuted and convicted under the applicable provisions. Penalties for ordinary *vape* offences differ from those imposed for offences involving products containing SPS.[18] Enforcement also extends to online trade. The HSA monitors retail websites, social media, and messaging applications and works with digital platforms to remove listings for prohibited products. In addition, since 1 May 2026, operators of certain entertainment venues have been required to take action against the possession or use of *vapes* on their premises.

In addition to enforcement, Singapore incorporates rehabilitation and education into its *vape* control policy. The HSA explains that, since 1 September 2025, users of *vapes* containing *etomidate* and certain repeat offenders have been required to participate in rehabilitation programmes. The TVCA subsequently provided a legal basis for community-based rehabilitation orders and institutional care and rehabilitation for individuals who meet the relevant criteria. This approach distinguishes the treatment of users from enforcement against suppliers and importers of prohibited products, who face more severe criminal penalties. Rehabilitation is also accompanied by compliance monitoring, and legal action may be taken against individuals who fail to meet their obligations. For Indonesia, this approach offers a relevant point of comparison because it demonstrates how controls on devices and prohibited substances can combine law enforcement, prevention, and user recovery. Nevertheless, any adoption of this approach must be adapted to Indonesia's national legal system and the criteria governing criminal liability.

16 Health Sciences Authority, "Stop Vaping—Higher Penalties for Vaping Offences" (Government of Singapore, 2026), https://www.gov.sg/stopvaping-penalties/.

17 "Tobacco and Vaporisers Control Act 1993" (1993), https://sso.agc.gov.sg/Act/TVCA1993.

18 Health Sciences Authority, "Stop Vaping—Higher Penalties for Vaping Offences."

The implementation of Singapore's policy can be assessed using official enforcement data. The HSA reported that, between 1 April and 30 June 2026, 2,428 individuals were caught possessing or using *vaporisers*. Of these, 1,971, or 81 per cent, were involved in ordinary *vape* offences, while 457 were associated with *etomidate*-containing *vapes*. During the same period, more than 3,900 *vape* devices and related components were seized at checkpoints. Nine individuals were charged over the alleged importation or supply of *etomidate* products, while 14 individuals were convicted of selling or importing such products.[19] The average of 809 cases per month in the second quarter of 2026 was also approximately 30 per cent lower than the monthly average of 1,219 cases between June and August 2025, before stricter measures were introduced on 1 September 2025. This decline provides an initial indication of a change in the number of detected offences, but it does not establish that the prohibition was the sole cause. Assessing policy effectiveness requires longer-term data and consideration of enforcement intensity and changes in distribution patterns.

Singapore's experience offers several lessons for the development of Indonesia's criminal law policy. First, specific regulations governing *vapes* and the substances consumed through them could complement the existing narcotics legislation. Second, effective control requires coordinated law enforcement, monitoring of online trade, and obligations for designated parties to prevent prohibited products from being possessed or used on premises under their management. Third, penalties for suppliers and importers should be distinguished from the treatment of users, including through rehabilitation where appropriate under the law and the circumstances of the case. Fourth, policy effectiveness should be assessed using enforcement data and changes in offence patterns rather than merely the existence of statutory prohibitions. Nevertheless, Singapore's model cannot be adopted wholesale without considering differences in legal systems, enforcement capacity, social conditions, and the protection of public rights in Indonesia. The purpose of this comparison is therefore to identify policy measures that can be adapted proportionately, rather than to replicate every aspect of Singapore's prohibitions and penalties.

Reconstruction of Criminal Law Policy: Compilation on Indo-Singapura's

A comparison of Indonesian and Singaporean law reveals fundamental differences in the approaches adopted to control electronic cigarettes, commonly known as *vapes*. Indonesia primarily relies on a narcotics law framework based on substance classification and prohibited conduct, whereas Singapore regulates *vaporisers* as a distinct object of control under the *Tobacco and Vaporisers Control Act 1993* (TVCA), including specific provisions governing products containing *Specified Psychoactive Substances* (SPS). This difference indicates that addressing narcotics distribution through *vapes* involves not only identifying substances in the liquid but also considering the devices used, distribution patterns, and the roles of parties involved in the supply chain. In Indonesia, findings by the National Narcotics Agency (BNN) concerning narcotics and new psychoactive substances detected in certain vape liquid samples provide one basis for evaluating the adequacy of the existing regulatory framework. However, findings from specific samples cannot be generalized to conclude that all *vape* products contain prohibited substances. Criminal law policy reconstruction should therefore be grounded in normative and empirical assessments that consider public protection, legal certainty, and proportionality in sentencing.

19 Health Sciences Authority, "Vaping Enforcement," accessed October 19, 2026, https://www.hsa.gov.sg/tobacco-regulation/vaping-enforcement/.

Table 1. Comparison of Legal Policies on the Distribution of Vapes Containing Prohibited Substances in Indonesia and Singapore

Comparative aspect	Indonesia	Singapore
Principal legal framework	Law No. 35 of 2009 concerning Narcotics and related regulations on narcotics classification, including Minister of Health Regulation No. 15 of 2025.	*Tobacco and Vaporisers Control Act 1993* (TVCA), as amended and effective from 1 May 2026.
Regulatory approach	Narcotics control primarily relies on substance identification and classification, as well as the forms of conduct prohibited by law.	Prohibition of *vaporisers*, supplemented by specific regulation of products containing SPS.
Regulation of substances in vape liquids	The application of criminal provisions depends on the substance identified, its legal status, and whether the elements of a criminal offence are established.	*Etomidate* and its analogues fall within the SPS framework under the TVCA from 1 May 2026.
Regulation of vape devices	Criminal enforcement must distinguish the distribution of *vape* devices from the distribution of liquids containing narcotics. The applicable legal basis must be determined according to the conduct and the elements of the relevant offence.	The TVCA prohibits various activities involving *vaporisers*, including importation, sale, distribution, possession, and use, with different provisions depending on the type of offence.
Enforcement against suppliers and importers	The criminal provisions of the Narcotics Law may apply when the relevant substance status and elements of the offence are established.	Suppliers of products containing SPS may face imprisonment for two to ten years and two to five strokes of the cane, while importers may face imprisonment for three to twenty years and five to fifteen strokes of the cane.
Treatment of users	Treatment is determined by the conduct established, the offender's role, and the applicable legal provisions, including rehabilitation where the relevant requirements are met.	The TVCA provides penalties for possessing or purchasing products containing SPS and allows for treatment or rehabilitation where statutory criteria are satisfied.
Distribution monitoring	Stronger oversight requires inter-agency coordination, laboratory testing, and distribution tracing, including through digital commerce.	Monitoring includes online sales surveillance, cooperation with digital platforms, and specific obligations for business premises operators.
Implications for policy reconstruction	Assess the adequacy of existing provisions, the clarity of criminal offence elements, substance classification, distribution monitoring, and the potential need for specific regulation of *vape* devices.	Provides a comparative basis for examining device control, the designation of regulated substances, differentiated sanctions, distribution monitoring, and rehabilitation.

Source: Compiled by the author based on Law No. 35 of 2009 concerning Narcotics, Minister of Health Regulation No. 15 of 2025, and official information from the Health Sciences Authority and the Singaporean TVCA framework.

As summarized in Table 1, the principal difference between the two countries concerns the scope of regulatory control and how devices are linked to the substances consumed through them. Indonesia's legal framework allows enforcement against conduct that satisfies the elements of a narcotics offence, but its application remains dependent on substance identification, legal status, and proof of the offender's conduct.[20] Singapore, by contrast, has established specific regulation of *vape* devices while introducing separate provisions for products containing SPS. This difference does not, by itself, demonstrate that Singapore's approach is more effective. It does, however, provide a basis for evaluating whether Indonesia's regulatory framework adequately addresses evolving methods of narcotics distribution through *vapes*. This study is consistent with previous research on law enforcement against narcotics distribution through electronic cigarettes and the need to adapt the law to emerging criminal methods.[21] Accordingly, the comparison should identify policy elements that could be adapted rather than merely compare the severity of criminal penalties.

The reconstruction of Indonesia's criminal law policy should begin with an assessment of the relationship between substance classification, the formulation of criminal offences, and criminal liability for distributing *vape* liquids containing prohibited substances. Determining which legal provisions apply requires consideration of the substance identified, its legal status under the applicable regulations, and the conduct performed by the offender. Provisions concerning the possession, storage, transportation, sale, or distribution of narcotics cannot be applied uniformly because each offence has specific elements that must be established. Legislators should therefore assess whether existing provisions adequately cover the various forms of distribution through *vape* liquids or leave ambiguities in their application. If normative deficiencies are identified, improvements may be made by amending relevant provisions or introducing specific legal rules. Conversely, if the conduct is already covered by existing law, reform should prioritize consistent enforcement, evidentiary capacity, and inter-agency coordination. This study is consistent with research on the principles of legality and legal certainty in the formulation and application of criminal law.[22]

Based on this assessment, this study recommends that Indonesia consider establishing a clear legal basis for a comprehensive prohibition of *vapes*, with explicit provisions defining the scope of prohibited products and conduct. This recommendation is based on the consideration that controls focused solely on liquids proven to contain narcotics may not fully address the misuse of devices as a means of consuming psychoactive substances. Unlike an approach that intervenes only after prohibited substances have been detected in a product, a device-based prohibition could be designed as a preventive instrument to restrict the availability of devices that may be misused. Singapore's experience under the TVCA offers a comparative reference, particularly because its regulatory framework covers both devices and products containing SPS. Nevertheless, a comprehensive prohibition should not be justified solely by the presence of narcotics in some vape liquid samples. Legislators must assess its necessity, evidentiary basis, and proportionality in comparison with alternatives such as prohibiting specific products, restricting distribution, or strengthening surveillance. A comprehensive prohibition should

20 Peter Guntara, Risky Eka Pratama, and Zakiyya Muflih Gusma Putra, "Adolescent Drug Abuse in Indonesia: A Criminological Analysis of Legal and Rehabilitative Approaches," *Symphonia: Journal of Theory and Research Output* 1, no. 1 (2026): 209–17, https://darulilmijournal.com/index.php/symphonia/article/view/122.

21 Nicholas Lassi and Su Jiang, "Etomidate-Adulterated Vaping: Fragmented Global Drug Control and Public Health Risks," *Drug and Alcohol Review* 45, no. 5 (July 11, 2026), https://doi.org/10.1111/dar.70188; Risman Setiawan, "Legal Protection and Substantive Justice under Indonesia's TPKS Law," *Symphonia: Journal of Theory and Research Output* 1, no. 2 (2026): 28–40, https://darulilmijournal.com/index.php/symphonia/article/view/149.

22 Krisztina Ficsor, "Certainty and Uncertainty in Criminal Law and the 'Clarity of Norms' Doctrine," *Hungarian Journal of Legal Studies* 59, no. 3 (September 2018): 271–89, https://doi.org/10.1556/2052.2018.59.3.3.

therefore be treated as a policy option whose suitability requires evaluation, rather than as an automatic consequence of laboratory findings.

If a comprehensive prohibition is adopted, its provisions should be formulated within an integrated legal framework to avoid overlap with existing regulations. The rules should clearly define the categories of prohibited devices and products, the legal subjects who may be held liable, the conduct subject to sanctions, the elements of each offence, and any justified exceptions where necessary. The prohibited conduct under consideration may include production, importation, distribution, sale, possession, and use, with legal consequences differentiated according to the nature of the violation and the offender's degree of culpability. The framework should also distinguish the prohibition of the device itself from criminal offences involving liquids containing narcotics. This distinction is important because possession of a device, distribution of a prohibited product, and narcotics trafficking may constitute different forms of conduct with distinct legal bases and levels of seriousness. This study is consistent with research on the formulation of criminal offences, differentiated criminal liability, and proportionality in criminal sanctions.[23] Clear provisions would provide more predictable guidance for the public and law enforcement authorities while reducing the risk of excessive or inconsistent enforcement.

In addition to legislative reform, policy reconstruction should strengthen mechanisms for identifying new psychoactive substances and determining their legal status. The emergence of substances that can be mixed into *vape* liquids requires responsive identification procedures, but such responses must remain consistent with legally established processes. Coordination among the BNN, the Ministry of Health, forensic laboratories, the police, and relevant institutions should be strengthened to support substance testing, risk assessment, legal classification, and the dissemination of information to law enforcement authorities. Laboratory findings should be linked to the formal process of substance classification so that enforcement is not based solely on suspicion or the physical characteristics of a product. These mechanisms should also ensure that changes in classification are publicly announced and accessible to relevant stakeholders. The objective is not to criminalize every new substance automatically, but to ensure that criminal provisions are applied on a clear and legally defensible basis. This approach is consistent with research on legal certainty in narcotics classification and regulatory responses to new psychoactive substances.[24]

Oversight of the distribution chain should also be strengthened so that enforcement does not stop at users or retail-level sellers. Singapore's experience demonstrates the importance of monitoring online commerce and cooperating with digital platforms to address the marketing of prohibited products. Indonesia could strengthen coordination among the BNN, the Indonesian National Police, the Directorate General of Customs and Excise, ministries responsible for trade and digital communications, and digital platform operators. Such cooperation could focus on identifying the sale of prohibited products, tracing suppliers, securing electronic transaction evidence, and uncovering distribution networks. Monitoring importation and physical distribution channels is also necessary to restrict the entry and circulation of prohibited products. All such measures must be carried out within legally authorized powers, using accountable evidentiary procedures and appropriate safeguards for relevant data. This study is consistent with research on law enforcement against narcotics

23 Faisal Faisal, Derita Prapti Rahayu, and Yokotani Yokotani, "Criminal Sanctions' Reformulation in the Reclamation of the Mining Community," *Fiat Justisia: Jurnal Ilmu Hukum* 16, no. 1 (June 7, 2022): 11–30, https://doi.org/10.25041/fiatjustisia.v16no1.2222.

24 Maria Rosaria Varì et al., "New Psychoactive Substances: Evolution in the Exchange of Information and Innovative Legal Responses in the European Union," *International Journal of Environmental Research and Public Health* 17, no. 22 (November 23, 2020): 8704, https://doi.org/10.3390/ijerph17228704.

offences involving digital commerce and the importance of inter-agency coordination in disrupting distribution networks.[25] Accordingly, policy effectiveness should be assessed not only by the number of individuals prosecuted but also by the ability to identify suppliers and reduce the availability of prohibited products.

Policy reconstruction should also distinguish between those who control distribution and individuals who use prohibited products. Individuals who manufacture, mix, import, supply, or sell *vape* liquids containing narcotics should be held liable based on the elements of the criminal offence established. The treatment of users, meanwhile, should take into account their conduct, degree of involvement, the circumstances of the case, and applicable legal provisions, including the possibility of rehabilitation where statutory requirements are met. This distinction does not mean that users are automatically exempt from criminal liability; rather, it emphasizes that their treatment should reflect their respective roles and conduct. Singapore's experience in combining enforcement with treatment and rehabilitation offers a useful point of comparison, although any implementation in Indonesia must conform to the national legal framework. This study is consistent with research emphasizing the distinction between narcotics distributors and users in criminal sentencing and rehabilitation policies.[26] Such an approach could balance public protection and criminal accountability with the recovery of users.

To ensure that the adopted policy achieves its objectives, Indonesia should establish an evaluation system based on measurable indicators. These indicators could include the number and proportion of *vape* liquid samples found to contain prohibited substances, the types of substances detected, distribution patterns, the number of supply networks uncovered, the number of cases prosecuted, and the outcomes of interventions involving users. Data should be collected using consistent methods and reported over clearly defined periods to enable meaningful comparisons. Singapore's experience can provide a reference for evaluating changes in enforcement figures before and after policy amendments. However, a decline in detected cases does not, by itself, prove that illegal distribution has been eliminated or that policy changes are the sole cause of the decline. Evaluation should therefore consider enforcement intensity, changes in distribution patterns, compliance with prohibitions, and the possible displacement of trade into illegal markets. Periodic evaluation can provide a basis for maintaining, improving, or adjusting policy in light of the available evidence.

Based on the overall analysis, this study recommends reconstructing Indonesia's criminal law policy by evaluating and, where demonstrated to be necessary and proportionate, establishing a comprehensive prohibition of *vapes* under a clear and integrated legal framework. This reconstruction should address the clarity of prohibitions, criminal liability, mechanisms for identifying new psychoactive substances, distribution-chain monitoring, differentiated treatment of suppliers and users, and periodic policy evaluation. Singapore's experience under the TVCA offers useful lessons regarding device control, the regulation of specified psychoactive substances, distribution monitoring, and rehabilitation. Nevertheless, its model cannot be adopted directly without considering Indonesia's legal system, enforcement capacity, and social conditions. BNN findings concerning narcotics and new psychoactive substances in

25 Payal Jain and Jahnavi Srivastava, "Navigating the Drugs Crisis in Developing and Developed Economies: The Role of Digital Influence and Need for Urgent Legal Reform," in *Proceedings of the International Conference on Policies, Processes and Practices for Transforming Underdeveloped Economies into Developed Economies (PPP-UD 2025)*, 2025, 339–51, https://doi.org/10.2991/978-94-6463-894-3_24.

26 Andri Winjaya Laksana et al., "The Disparities in Punishment for Narcotic Addiction: Does It Reflect the Value of Justice?," *Jurnal Media Hukum* 32, no. 1 (May 14, 2025): 134–50, https://doi.org/10.18196/jmh.v32i1.25678; Radit Fabian and Zuleka Rohmah Yantika, "Disparities in Corruption Rulings within the Same Jurisdiction: Judicial Reasoning and the Construction of State Financial Loss in Village Videography Cases," *Symphonia: Journal of Theory and Research Output* 1, no. 3 (2026): 105–14, https://darulilmijournal.com/index.php/symphonia/article/view/241.

certain *vape* liquid samples reinforce the need to evaluate existing policy, but they do not, by themselves, justify prohibiting all *vape* products. By integrating clear legal provisions, prevention, law enforcement, public protection, and evidence-based evaluation, Indonesia can develop a more targeted approach to narcotics distribution through *vapes* while safeguarding legal certainty and proportionality in criminal sentencing.

CONCLUSION

This study finds that the principal challenge in addressing the distribution of narcotics-containing *vapes* in Indonesia lies in ensuring that the existing narcotics law framework can respond effectively to emerging distribution methods while maintaining legal certainty and proportionality in criminal enforcement. Although Law No. 35 of 2009 concerning Narcotics provides a basis for prosecuting conduct involving prohibited substances, its application depends on the identification and legal classification of the substance, the elements of the offence, and the evidence establishing each offender's role. Singapore's *Tobacco and Vaporisers Control Act 1993* (TVCA) offers a comparative model by regulating *vape* devices alongside products containing specified psychoactive substances and differentiating enforcement measures according to the nature of the offence. This study therefore recommends that Indonesia evaluate the necessity and proportionality of a comprehensive *vape* prohibition, supported by clear legal provisions, responsive substance-classification mechanisms, stronger distribution monitoring, and differentiated treatment of suppliers and users. Such reconstruction is necessary not merely to increase the severity of punishment, but to establish a coherent and enforceable policy that addresses the devices, substances, and distribution networks involved while safeguarding public protection and legal certainty.

This study contributes to criminal law policy scholarship by developing a comparative analytical framework that connects substance classification, device regulation, criminal liability, distribution control, and rehabilitation within the context of narcotics-containing *vapes*. It also identifies policy implications for Indonesia by distinguishing deficiencies in legal norms from challenges in evidentiary procedures and law enforcement implementation. Nevertheless, the study is limited by its reliance on normative legal analysis and secondary sources, as well as the limited ability of a comparison between two jurisdictions to establish the effectiveness of a particular prohibition in Indonesia. The findings do not independently demonstrate that a comprehensive ban would produce better outcomes than more targeted regulatory alternatives. Future research should therefore incorporate empirical evidence from law enforcement agencies, laboratory testing, judicial decisions, and affected communities, while examining the implementation and outcomes of Singapore's policy over a longer period. Further comparative research should also assess the legal feasibility, enforcement costs, public health implications, and proportionality of alternative regulatory models before a comprehensive prohibition is adopted.

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