



February 27, 2014

The Honourable Deborah Matthews, MPP, London North Centre  
Minister of Health and Long-Term Care  
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Toronto, ON M7A 2C4

Ms. France Gélinas, MPP, Nickel Belt  
Room 186, Main Legislative Building, Queen's Park  
Toronto, ON M7A 1A5

Dear Minister Matthews and Ms. Gélinas:

**RE: Bill 130 (Prohibiting Flavoured Tobacco, New Tobacco Products and Smokeless Tobacco) and Bill 131 (Youth Smoking Prevention Act), Amendments to the Smoke-Free Ontario Act**

I am writing on behalf of the Ottawa Council on Smoking or Health (OCSH) in support of the proposed amendments to the *Smoke-Free Ontario Act* (SFOA). We are a local volunteer organization established in 1978. Our goals are to: protect the public from second-hand smoke (SHS); prevent youth from starting to smoke; encourage smokers to quit; and advocate for better smoking cessation resources.

The OCSH was instrumental in advocating for the City of Ottawa's smoke-free bylaws for indoor public places and workplaces in 2001 and for the City of Ottawa's smoke-free bylaw for outdoor public places and workplaces in 2012. Despite having strong smoke-free municipal bylaws and provincial legislation in place, members of our community continue to be exposed to SHS. We receive complaints on a regular basis regarding exposure to SHS in public places, workplaces and multi-unit dwellings.

We thank Ms. Gélinas for proposing Bill 130 (Prohibiting Flavoured Tobacco, New Tobacco Products and Smokeless Tobacco, 2013) and Minister Matthews for proposing Bill 131 (Youth Smoking Prevention Act, 2013). However, we are concerned about the significant gaps in Bill 130 and Bill 131 that will not protect the public, workers, and residents in multi-unit dwellings. Failure to address these gaps will result in significant detrimental effects on the public's health, on our health care system, and on taxpayers' wallets.

## [Bill 130 \(An Act Prohibiting Flavoured Tobacco, New Tobacco Products and Smokeless Tobacco, 2013\):](#)

The OCSH supports a ban prohibiting flavoured tobacco, new tobacco products and smokeless tobacco.

### [Recommendations:](#)

- We strongly recommend that **menthol** be banned from all cigarillos and tobacco products due to its role in facilitating or allowing nicotine addiction to be tolerated by the smoker.<sup>1</sup>

## [Bill 131 \(Youth Smoking Prevention Act, 2013\):](#)

We support the following amendments proposed in Bill 131:

- Reducing youth access to tobacco products by doubling fines for those who sell tobacco to youth.
- Prohibiting tobacco sales on post-secondary campuses (especially since Carleton University in Ottawa has three tobacco retailers on campus) and specified provincial government properties.
- Prohibiting the sale of flavoured tobacco products to help prevent youth from starting to smoke and becoming regular smokers.
- Clarifying that it is prohibited to offer promotional items with the sale of tobacco.
- Prohibiting smoking and holding of lighted tobacco on playgrounds, sport fields, and on restaurant and bar patios.
- Further restricting smoking on outdoor grounds of hospitals and on specified provincial government properties.

### [Recommendations:](#)

The OCSH strongly recommends that Bill 131 be **further strengthened** by:

- Banning smoking on **post-secondary campuses**, thus creating a level playing field with all other educational campuses covered under the SFOA. All students, regardless of their age, deserve equal protection from exposure to SHS. Smoke-free college and university campuses would further help to denormalize tobacco use, prevent young adult smoking uptake, encourage young adults to quit, and reduce butt litter.
  
- Making **all restaurant and bar patios 100% smoke-free with no exemptions for any category of establishment, e.g., Legions or private clubs.**
  - Creating exemptions for some businesses undermines the spirit of the SFOA and municipal smoke-free bylaws that are designed to create a level playing field for all businesses.
  
  - Heather Crowe, the Ottawa waitress who died in 2006 from lung cancer after working as a waitress in smoke-filled restaurants for 40 years, wanted to be “the last person to die from second-hand smoke.”<sup>2</sup> In 2006, the Ontario Government created the *Heather Crowe Award* to recognize individuals and organizations across Ontario who made a significant contribution to tobacco control efforts at the local level. In 2009, the City of Ottawa honoured Heather Crowe posthumously by commemorating a smoke-free park in her name.<sup>3</sup> However, the best way to honour Heather Crowe is to fulfill her dying wish to protect **all** workers from exposure to second-hand smoke.
  
  - The amendment requiring patios to be 100% smoke-free should come into force on July 1, 2014 and not on January 1, 2015, as proposed. It is unacceptable that hospitality workers continue to be exposed to SHS eight years after Heather Crowe’s death. There is no business, legal or scientific justification for delaying the implementation of 100% smoke-free patios in Ontario. Even occasional and brief exposure to second-hand smoke can cause immediate lung inflammation, acute cardiac events, and damage to blood vessels that can trigger a heart attack, stroke or aneurysm.<sup>4,5</sup> Furthermore, a study of air quality on Ottawa restaurant and bar patios in 2010 revealed hazardous levels of SHS<sup>6</sup>, which helped lead to the passage of the City of Ottawa’s smoke-free outdoor bylaw. All hospitality workers and patrons in Ontario deserve equal protection from SHS.

- Making the following outdoor public places and workplaces **100% smoke-free with no exemptions:**
  - Parks
  - Beaches
  - Construction sites (34% of construction workers in Canada smoke<sup>7</sup> compared to 17.3% of the general Canadian population<sup>8</sup> and smokers cost employers more than \$4,000 in lost productivity and absenteeism per year<sup>9</sup>)
  - Hospital properties
  - Provincial and municipal properties
  - Outdoor spectator events, festivals and fairs
  - Fruit, vegetable and other markets (e.g. artistic products)
  
- Prohibiting smoking in all **outdoor public squares, pedestrian malls and outdoor shopping concourses**. We are currently dealing with a number of complaints from the public and from business owners regarding SHS exposure on Ottawa's Sparks Street Mall.<sup>10</sup> The Mall is a public gathering place and the Sparks Street Mall Business Improvement Area schedules numerous outdoor events throughout the year, including fundraisers for women's cancers and children's health organizations, blood donor clinics, sporting events, food festivals, and concerts. Workers on the Sparks Street Mall and members of the public are significantly affected by SHS on the mall and by SHS that drifts into businesses and workplaces along the Mall, including those providing health care services. The City of Toronto has declared all eight public squares 100% smoke-free, and at least 25 other jurisdictions<sup>11</sup> around the world have already adopted smoke-free policies or legislation for outdoor shopping districts and pedestrian malls (e.g. Times Square in New York City).
  
- Prohibiting smoking within a **9 metre radius** surrounding any entrance, exit, operable window or air intake of any building to which the public has access.
  
- Prohibiting smoking within a **9 metre** radius surrounding any entrance, exit, operable window or air intake of multi-unit dwellings.
  
- Prohibiting designated smoking areas on **hospital campuses**. We find the inclusion of designated smoking areas on hospital campuses to be totally unacceptable. A visit to any one of the three campuses of the Ottawa Hospital would demonstrate how a designated smoking area fails to protect patients, visitors, staff and volunteers.

- We have received complaints about SHS drifting into hospital entranceways and emergency rooms, thus exposing vulnerable patients suffering from severe medical conditions (e.g. newborns, asthmatics, cancer patients), as well as visitors, volunteers and hospital staff. Patients and staff create enough drift of SHS to contaminate supposedly protected areas.
- Hospital workers who take smoke breaks risk exposing patients to SHS through their exhaled breath.
- Third-hand smoke travels in elevators, hallways and at the patient's bedside on hospital uniforms. Third-hand smoke contains highly toxic chemicals that build up over time and get trapped in hair, skin and fabrics. It is highly dangerous for hospitalized patients and hospital staff to inhale third-hand smoke.<sup>12</sup>
- Instead of enabling nicotine addicted patients and hospital staff by providing a sanctioned smoking space, all hospitals should be required to implement the ***Ottawa Model for Smoking Cessation***<sup>13</sup> to treat patients and staff.

The OCSH continues to field complaints from the public regarding exposure to SHS inside public places and workplaces. We strongly urge that the *Smoke-Free Ontario Act* be strengthened by:

- Prohibiting the smoking and holding of lighted or heated<sup>14</sup> **waterpipes** and non-tobacco products inside all public places and workplaces, on restaurant and bar patios, and in outdoor public places such as beaches and parks (e.g. the City of Ottawa's 2012 *Outdoor Bylaw for Water-Pipes and Non-Tobacco Products*<sup>15</sup>). Doing so would eliminate the need to strengthen enforcement tools, to give health inspectors the authority to take samples from waterpipes, and to test for tobacco in places where smoking is prohibited. It would also save considerable taxpayer dollars, protect the health of hospitality workers and patrons, and protect the health of inspectors. We are concerned about high school students frequenting waterpipe establishments in Ottawa. Smoking waterpipes with tobacco or smoking waterpipes with fruit- and candy-flavoured herbal products is just as hazardous as smoking cigarettes.<sup>16</sup> A 2012 study of air quality in waterpipe cafes in Ontario showed that "staff and patrons of waterpipe cafes are exposed to air quality levels considered hazardous to human health...Results support eliminating waterpipe smoking in hospitality venues indoors and out."<sup>17</sup> It is also paramount that the

province requiring **labels and health warnings** for all **waterpipe products** to warn consumers about the risks.

- Prohibiting the use of all **vaping products (e.g. electronic cigarettes and electronic cigars)**, regardless of whether or not they contain nicotine, in all public places and workplaces covered by smoke-free legislation. Individuals are circumventing Ottawa's smoke-free indoor bylaws by vaping in restaurants, bars, shopping centres, community centres and even at Ottawa City Hall. Permitting vaping in public places and workplaces also reverses the gains of denormalizing tobacco use among youth. There is a lack of scientific studies regarding the long-term health effects of vaping and a lack of scientific evidence regarding the effectiveness of e-cigarettes as a smoking cessation tool.<sup>18</sup> Preliminary scientific evidence shows that vapour from electronic cigarettes can contain nicotine<sup>19</sup> and other potentially hazardous substances,<sup>20</sup> and that children may be especially at risk.<sup>21</sup> Although the vapours seem to be less harmful than SHS, more research is needed to prove the extent to which e-cigarette vapours cause harm to human health. Therefore, we ask the MOHLTC to take action based on the **Precautionary Principle**. "This principle has been codified in several international treaties to which Canada is a signatory."<sup>22</sup> Nova Scotia plans to bring forward legislation in spring 2014 to prohibit the use of electronic cigarettes inside public places and workplaces, and on outdoor restaurant and bar patios.<sup>23</sup>
- Prohibiting the smoking and holding of lit **cigarettes containing weeds or other substances** (e.g. herbal cigarettes, marijuana) in all public places and workplaces. We have received complaints about theatres in Ottawa that circumvent local and provincial smoke-free legislation by allowing stage actors to smoke herbal cigarettes during performances.
- Prohibiting the smoking of tobacco and non-tobacco products, of cigarettes containing weeds or other substances (e.g. herbal cigarettes, marijuana), and of waterpipes in **private and public multi-unit dwellings**. The OCSH has fielded complaints for many years from residents living in apartments and condominium units who are exposed to SHS on a daily basis. Individuals who have lodged complaints with our organization include mothers of asthmatic children, cancer patients, and seniors with chronic health conditions, including heart and lung diseases. One of our members in her late 60s resorted to "couchsurfing" while she was engaged in a legal fight with her condominium board over SHS exposure in her unit. SHS can seep into a unit from a neighbour's patio or balcony; through

electrical outlets and ceiling fixtures; through the ventilation system; and through cracks around windows, floors, ceilings, and walls. Third-hand smoke (the gases and particles from tobacco smoke that are absorbed by carpets, drapery, and furniture) also pose a serious health risk, including genetic damage.<sup>24</sup> Residents feel that they have no recourse. Many are too ill to advocate for themselves. Others do not have the financial resources to engage in legal disputes with their landlord or condominium boards. A provincial law enshrining the right of individuals living in multi-unit dwellings to a 100% smoke-free space would finally offer them protection.

- Making **hotels, motels, inns, and bed and breakfast establishments** 100% smoke-free. Although some hotels have voluntarily adopted smoke-free policies, others continue to permit smoking in guest rooms. All workers deserve equal protection from SHS, regardless of whether they work in an office tower or a hotel. The *Smoke-Free Ontario Act* permits smoking in guest rooms.<sup>25</sup> It is unacceptable that the public and hospitality workers continue to be exposed to **69 Class A carcinogens** from indoor SHS, as well as third-hand smoke, eight years after the province prohibited smoking in public places and workplaces.

### Proposed Date of Enforcement:

The MOHLTC suggests the “proposed amendments come into force on July 1, 2014, except for the prohibition on smoking tobacco on patios which would come into force on January 1, 2015.”<sup>26</sup>

### Recommendations:

- We support amendments to the SFOA coming into force on July 1, 2014.
- We strongly urge that smoking on **all patios with no exemptions** be prohibited as of July 1, 2014, instead of January 1, 2015, for the reasons listed above.
- We strongly urge the adoption of 100% smoke-free legislation for multi-unit dwellings, with a phased-in approach that would start with all new leases or purchases on July 1, 2014.

In conclusion, we commend the proposed amendments to the SFOA. However, we urge that the gaps in the proposed amendments be addressed, as outlined in our submission.

Ontario residents and workers ***need and are asking for*** more comprehensive protection from SHS in public places, workplaces, and multi-unit dwellings. The strongest possible tobacco control measures are required to protect the public, to reduce the burden on our health care system, to reduce the financial burden on taxpayers, to help prevent youth from starting to smoke, to help smokers quit, and to prevent quitters from relapsing. We look forward to your response.

Respectfully submitted,

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**cc:** Hon Kathleen O. Wynne, Premier of Ontario, MPP, Don Valley West  
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The Honourable Yasir Naqvi, MPP, Ottawa Centre  
Mr. John Fraser, MPP, Ottawa South  
Ms. Lisa MacLeod, MPP, Nepean--Carleton  
Mr. Phil McNeely, MPP, Ottawa--Orléans  
Mr. Jack MacLaren, MPP, Carleton--Mississippi Mills



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