



July 30, 2017

Ontario Legalization of Cannabis Secretariat
Ministry of the Attorney General
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RE: Consultation Paper: Cannabis Legalization in Ontario

The Ottawa Council on Smoking or Health (OCSH) is a volunteer organization established in 1978. Our goals are to: create a social environment where non-smoking is the norm; assist in establishing smoke-free environments; prevent youth from starting to smoke; encourage smokers to quit; and advocate for better smoking cessation resources.

The OCSH submits the following recommendations to the Province of Ontario regarding the legalization of cannabis.

Minimum age for having, using and buying cannabis:

The OCSH supports the **minimum age of 21** for having, using and buying cannabis. The OCSH is concerned that scientific evidence shows that cannabis may impact a person's developing brain until the age of 25. However, the minimum age of 21 is in line with recent reports from Health Canada which propose raising the minimum age of access nationally to 21 years of age for tobacco products.^{1,2} The OCSH supports the same minimum age for tobacco and cannabis products.

Where people can use cannabis:

The OCSH supported **a prohibition on the use of electronic cigarettes, recreational marijuana and medical marijuana inside all public places and workplaces, as well as certain outdoor spaces where smoking is prohibited**, which was supposed to come into force on January 1, 2016 under the Electronic Cigarettes Act, 2015.³ In 2015, the OCSH submitted three letters to the Province of Ontario, in support of Bill 45, Making Healthier Choices Act, 2015, Schedule 2 (Smoke-Free Ontario Act) and Schedule 3 (Electronic Cigarettes Act, 2014).^{4,5,6}

The OCSH strongly recommends that the Province of Ontario:

1. Close the gaps in the Smoke-Free Ontario Act (SFOA) by expanding the current definition of smoking to ***“prohibit the use of any weeds or other herbal products or substances that can be lit, smoked, burned, heated, combusted, or vapourized; and that create any smoke, vapour, gases, particles, or other substances that can be inhaled, including waterpipes, electronic cigarettes, herbal cigarettes, recreational marijuana, medical marijuana, and heat-not-burn tobacco products.”***^{7,8}

2. **Close the gaps in the SFOA by prohibiting the use of tobacco, recreational marijuana, medical marijuana, electronic cigarettes, and all other weeds and substances in all indoor and outdoor public places and workplaces** that currently allow smoking, including but not limited to:
 - All rooms in hotels, motels, inns, and bed and breakfasts;
 - Retirement homes;
 - Construction sites;
 - College and university campuses;
 - Pedestrian malls and town squares.

3. **Bring all regulations under the Electronic Cigarettes Act, 2015 into force immediately** and prohibit the use of electronic cigarettes, recreational marijuana, medical marijuana, and other weeds and substances in all indoor and outdoor public places and workplaces where tobacco smoking is prohibited, including:
 - **All** restaurant and bar patios (with no exemptions);
 - Parks, playgrounds, sports fields, beaches, docks and trails;
 - Festivals, fairs and other outdoor spectator events, including related seating;
 - All rooms in hotels, motels, inns, and bed and breakfasts;
 - Construction sites;
 - School property;
 - College and university campuses;
 - Community centres;
 - Hospitals and hospices;
 - Retirement homes;
 - Long-term care homes; and
 - Pedestrian malls and town squares.

The OCSH is very concerned about recent media reports about students who are vaping marijuana juice and oxycontin (an opioid) on school property.^{9,10} A schoolboard in North Bay, Ontario banned vaping on school property in the absence of provincial legislation.¹¹

4. **Prohibit vaping and marijuana lounges and areas in all indoor and outdoor public places and workplaces**, just as municipal bylaws and provincial legislation prohibit designated smoking areas for tobacco products.

5. Prohibit tobacco smoking, waterpipe smoking, and the use of electronic cigarettes, recreational marijuana, medical marijuana, and other weeds and substances **within a 9 metre buffer zone of entrances, operable windows and air intakes of all public buildings and workplaces**, including:
 - All restaurant and bar patios;
 - All parks, playgrounds, sports fields, beaches, docks and trails;
 - Festivals, fairs and other outdoor spectator events, including related seating;
 - Hotels, motels, inns, and bed and breakfasts;
 - Construction sites;
 - School property;
 - College and university campuses;
 - Community centres;
 - Hospitals and hospices;
 - Retirement homes; and
 - Long-term care homes.

6. Prohibit tobacco smoking, waterpipe smoking, and the use of electronic cigarettes, recreational marijuana, medical marijuana, and all other weeds and substances **inside all multi-unit housing**, including:
 - Duplexes and triplexes;
 - Rooming houses;
 - Rental apartment buildings;
 - Condominium buildings (apartment and townhouses);
 - Retirement homes;
 - Long-term care homes; and
 - Student residences, both on and off-campus, including former hotels that are being converted into student housing, and new apartment buildings designated solely for college and university students.

7. Prohibit tobacco smoking, waterpipe smoking, and the use of electronic cigarettes, recreational marijuana, medical marijuana, and all other weeds and substances on **outdoor property of all multi-unit housing**, including:
- Balconies
 - Patios
 - Rooftops
 - Courtyards
 - Walkways
 - Within a buffer zone of 9 metres of all entrances, operable windows and air intakes.

The OCSH recently submitted comments¹² to the Ontario Ministry of Housing during the public consultation regarding amendments to the Residential Tenancies Act, 2006. We urged the Province of Ontario to allow landlords to: enforce 100% smoke-free policies in multi-unit housing; change a lease to include a no-smoking clause; and terminate a lease if a tenant violates a no-smoking agreement. The OCSH was disappointed that the Province of Ontario failed to act on these recommendations.

Second-hand smoke from tobacco and marijuana products is the number one complaint from the public that the OCSH has received for the past 10 years. We receive complaints from parents with young children, many of whom have asthma. We also receive complaints from seniors with cancer and chronic health conditions, including heart disease and COPD. Residents complain to their landlord or property manager, but to no avail since there is no legislation to protect them. Many residents cannot afford to move, and are therefore forced to suffer for years in silence.

On March 22, 2017, CTV Ottawa interviewed the OCSH regarding a complaint from an individual who was severely affected by second-hand marijuana smoke in her apartment.¹³ CTV Ottawa broadcast the story on the 6 p.m. newscast and published the story on its website. The next day, CTV News published the story on its national website.¹⁴ This story reflects the nightmare that hundreds of thousands of Ontario residents who live in multi-unit housing suffer.¹⁵

The OCSH is very concerned that the legalization of marijuana will further exacerbate this public health crisis that has gone unaddressed for decades. It is especially worrisome because the federal government is considering allowing “individuals to cultivate up to 4 legal cannabis plants per residence anywhere on their property.”¹⁶

Furthermore, some communities in Ontario are experiencing unprecedented numbers of fires in multi-unit housing caused by “incendiary materials.”^{17,18,19} Permitting marijuana smoking in multi-unit housing may increase the risk of additional fires, extensive property damage, severe injuries, and loss of life.

Since 90% of Ontario residents support smoke-free multi-unit housing,²⁰ it is incumbent upon the province to legally protect the hundreds of thousands of Ontario residents living in multi-unit housing. **Shared air is shared air, regardless of whether it is in a public place, a workplace, or multi-unit housing.** As Ontario’s population increases, as communities grow, and as the population ages, more and more individuals will be living in multi-unit housing. In the City of Ottawa, for example, city planners have recommended that Ottawa City Council amend the zoning bylaw to permit the construction of increasingly taller buildings to encourage intensification near Light Rail Transit stations.^{21,22}

Ontario residents deserve protection from second-hand smoke, no matter what the source or where they live. This is in line with Public Health Ontario’s mission to reduce health inequities related to “social and environmental factors including income, social status, gender, education, as well as the physical environment, including housing.”²³

8. **Update the Highway Traffic Act** to prohibit tobacco smoking and the use of electronic cigarettes, recreational marijuana, medical marijuana, and all other weeds and substances on:
 - Sidewalks
 - Pedestrian malls (e.g., Sparks Street Mall in the City of Ottawa)
 - Town squares.

The OCSH receives ongoing complaints from the public about second-hand smoke at entrances to public buildings and workplaces and on sidewalks. It is a significant public health issue in high density areas in inner cities. We have an overriding concern about children being exposed to second-hand smoke from tobacco and marijuana.

The OCSH has also received numerous complaints about second-hand smoke from merchants and workers on the Sparks Street Mall. The City of Ottawa has stated that it cannot prohibit smoking on the Sparks Street Mall because it is a street and it is therefore governed by the Highway Traffic Act. In reality, **vehicular traffic on Sparks Street was prohibited 56 years ago** when the street was converted to a pedestrian mall in 1961.²⁴ The Sparks Street Mall regularly hosts festivals and events geared to families and children. They deserve protection from second-hand smoke from tobacco and marijuana, and from second-hand vapour from electronic cigarettes.

The OCSH has found more than two dozen pedestrian malls around the world that have implemented 100% smoke-free regulations for pedestrian malls.²⁵

9. **Urge the federal government to extend the prohibition on tobacco smoking in all federally regulated indoor public places and workplaces** to include a prohibition on the use of waterpipes, electronic cigarettes, recreational marijuana, medical marijuana, and all other weeds and substances.

10. Urge the federal government to prohibit tobacco smoking, waterpipe smoking, and the use of electronic cigarettes, recreational marijuana, medical marijuana, and all other weeds and substances on **all federally regulated outdoor public places and workplaces**. Many festivals and events in the City of Ottawa are held on property managed by the National Capital Commission (NCC). For the past several years, individuals attending RBC Bluesfest, which is held on the front lawn of the Canadian War Museum, have complained about second-hand smoke from tobacco and marijuana. The OCSH contacted RBC Bluesfest and the NCC. Although RBC Bluesfest voluntarily adopted a smoke-free policy, it noted that it could not enforce the policy.²⁶ Subsequently, second-hand smoke remains a huge problem. Thousands of youth attend this festival, as do parents with young children.²⁷

11. **Update the Municipal Act, 2001 to require all municipalities to regulate the distance of marijuana and electronic cigarette vendors** from schools, colleges, universities, beaches, playgrounds, sports fields, community centres, sport or leisure facilities, and other locations as designated from time to time by the municipality. Also, new regulations should **limit the number of marijuana and electronic cigarette vendors within geographic areas** of a municipality. The OCSH is very concerned about the increasing number of **unlicensed electronic cigarette shops and illegal medical marijuana shops** that are operating in the City of Ottawa—many close to schools. We imagine that this is a province-wide problem.

12. **Prohibit the testing of electronic cigarettes and smoked recreational and medical marijuana products inside and outside retail establishments**, just as it is illegal to test tobacco products inside retail establishments.

Keeping our roads safe:

According to the SFOA “you must not light or use a tobacco product in a motor vehicle with anyone inside under 16 years of age. The law applies to both moving and parked vehicles—even if a window, sunroof, rooftop, door, or other feature of the vehicle is open.”²⁸ The OCSH recommends:

1. **Amending the SFOA to prohibit the use of recreational and medical marijuana smoking in all vehicles at all times, even if no children under 16 years of age are present.** Second-hand marijuana smoke poses serious health risks to both drivers and passengers.
2. **Amending the Electronic Cigarettes Act, 2015 to prohibit the use of electronic cigarettes in a motor vehicle at all times, even if no children under 16 years are present.** This regulation is needed because youth are using electronic cigarettes to vape marijuana juice and opioids, and because there are reported incidents of electronic cigarettes exploding. One youth was injured and his car caught fire when his electronic cigarette exploded while he was inside a parked vehicle.²⁹

Selling and distributing cannabis:

The OCSH recommends:

1. **Prohibiting the display and advertisement of any weeds or substances** that can be lit, smoked, burned, heated, combusted, or vapourized, including waterpipe products, electronic cigarette liquids and paraphernalia, recreational and medical marijuana, and heat-not-burn products. Regulations under the SFOA prohibiting the display and advertisement of tobacco products came into force on May 31, 2008 as part of the “Out of Sight—Out of Mind” campaign.³⁰ The same regulations should apply to all of these other products.
2. **Extending the ban of flavoured tobacco products** to electronic cigarettes, recreational and medical marijuana products, herbal waterpipes, and heat-not-burn products.

Public education:

The OCSH recommends:

1. A public education campaign about the **health risks** associated with exposure to second-hand marijuana smoke, including the fact that it contains 33 of the same carcinogens³¹ in second-hand tobacco smoke, as well as hydrogen cyanide and ammonia.³²
2. A public education campaign in support of prohibiting the use of electronic cigarettes, recreational marijuana, medical marijuana, and other weeds and substances that can be heated, lit, burned or combusted **inside public places and workplaces and at outdoor public spaces where smoking is prohibited.**

3. A public education campaign in support of 100% smoke-free and vape-free indoor and outdoor spaces for all **multi-unit housing**.
4. A public education campaign about smoke-free and vape-free **sidewalks**.
5. A public education campaign about prohibiting the use of electronic cigarettes and marijuana smoking in a **motor vehicle**.

Conclusion

The public, workers, and residents of multi-unit housing across Ontario urgently need the highest level of protection from second-hand tobacco and waterpipe smoke, recreational and medical marijuana smoke, and electronic cigarette vapour.

The Province of Ontario adopted the SFOA 11 years ago. It is time to update the legal language in the SFOA to prohibit the use of all weeds and substances that can be lit, heated, smoked, vaped and combusted inside **all public places, workplaces, and multi-unit housing, as well as at outdoor public spaces where smoking is prohibited**. New legal language is required to deal with unregulated products that are available on the market and emerging products, including the tobacco industry's new heat-not burn products.

The OCSH urges the provincial government to bring into force new regulations under the SFOA, the Electronic Cigarettes Act, 2015, the Ontario Residential Tenancies Act, 2006, and the Highway Traffic Act **before** the federal government legalizes marijuana on July 1, 2018.

Thank you for considering our comments.

Sincerely,

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