

TO: Chair and Members of the Board of Health

FROM: Christopher Mackie, Medical Officer of Health and CEO

DATE: 2013 November 21

PROPOSED AMENDMENTS TO THE SMOKE-FREE ONTARIO ACT

Recommendations

It is recommended that the Board of Health:

- 1) *Endorse Report No. 129-13 re Proposed Amendments to the Smoke-Free Ontario Act, and*
- 2) *Send a letter, attached as [Appendix A](#), to the Right Honourable Premier Kathleen Wynne, the Honourable Deb Matthews, Minister of Health and Long Term Care, and local Members of Provincial Parliament (MPPs) urging them to pass the legislation swiftly.*

Key Points

- On November 18, Bill 131 the [Youth Smoking Prevention Act](#), which would make amendments to the [Smoke-Free Ontario Act \(SFOA\)](#) and [Ontario Regulation 48/06](#), passed first reading.
- If passed, the proposed regulatory and legislative amendments would come into effect on July 1, 2014, with the exception of smoke-free patios on January 1, 2015.
- The proposed amendments would help prevent youth from starting to use tobacco products and protect Ontarians from the harmful effects of exposure to tobacco use and second-hand smoke.

Background

The Middlesex-London Health Unit (MLHU) Board of Health has endorsed measures to reduce smoking rates and protect residents from second-hand smoke on a number of occasions, including the request for funding for nicotine replacement therapy ([Report 081-13](#)), petitioning London City Council and Middlesex County Council to establish smoke-free outdoor spaces ([Report 103-11](#)), and advocating for a ban on candy- and fruit-flavoured tobacco products that are appealing to youth and young adults ([Report 112-13](#)). The Government of Ontario has made significant investments in comprehensive tobacco control through the implementation of the Smoke-Free Ontario Strategy. The enactment of the *Smoke-Free Ontario Act (SFOA)* and corresponding Regulation 48/06 protected people across Ontario from second-hand smoke in indoor public places and workplaces, on elementary and secondary school grounds, within common areas of multi-unit dwellings and within 9 meters of entrances and exits to health and long-term care facilities. The *SFOA* also enacted stricter measures to limit how tobacco products are handled, displayed and promoted, including the provincial ban on the retail display of tobacco products. In 2009, the *Act* was amended to ban smoking in vehicles with passengers under the age of 16 years. In 2010, the sale of flavoured cigarillos became illegal, which was a protective step forward for youth; however, through legislative loopholes, the tobacco industry continues to market and sell flavoured cigars, chew, dip, snuff, snus and flavoured, unfiltered small cigars.

Current Provincial Protection from Outdoor Smoking Inadequate

Historically, exposure to second-hand smoke was assumed only to be harmful indoors; however, recent research indicates that outdoor levels of tobacco smoke within one to two meters of a lit cigarette can be just as high, and just as harmful as indoor tobacco smoke. The accumulation of dangerous carcinogens in relatively confined areas, including entrance-ways and patios, is particularly concerning. Children and youth face greater risks from exposure to tobacco smoke, both in terms of health effects and the behavioural influence of social exposure to tobacco use.

Social exposure to tobacco smoking normalizes smoking, leading to initiation among nonsmokers and relapse within those smokers who have recently quit. Provincial public support data from 2012 mirrors the data that was collected locally in 2009; according to the Ontario Tobacco Research Unit's [*Protection from Outdoor Smoking*](#), released in 2013, Ontario residents are ready for comprehensive outdoor smoking restrictions.

Summary of Proposed *Smoke-Free Ontario Act* Amendments

Tobacco Product Restrictions and Enhanced Sales and Promotion Restrictions

- Bill 131 would prohibit the sale of all flavoured tobacco products, with the exception of those flavoured tobacco products primarily used by adults, namely menthol tobacco products.
- Tobacco sales would be banned on post-secondary education campuses, in elementary and secondary schools, in day nurseries, and on specific properties owned by the Government of Ontario.
- Bill 131 would prohibit the sale of a “promotional item” together with the sale of a tobacco product, including lighters, matches, cigarette cases, another tobacco product, or any item with a tobacco brand name or logo.
- Tobacco Enforcement Officers will be granted greater tobacco product seizure powers and the amendment includes higher fines for those who sell tobacco products to minors.

Outdoor Smoking Restrictions

- Smoking would be restricted on all bar and restaurant patios; the provision would come into effect on January 1, 2015. Uncovered patios owned or occupied by a Royal Canadian Legion branch in Ontario as of November 18, 2013 would be exempt from the legislation.
- Smoking would be banned within 20 metres of playground equipment and the perimeter of sports fields, sport surfaces and spectator areas adjacent to sports fields. The prohibition would not apply to privately owned sports fields or sports surfaces, or to publicly- or privately-owned golf courses.
- Smoking would be banned on outdoor grounds of hospitals, except in outdoor areas designated by the hospital board; Bill 131 would also restrict smoking on identified outdoor grounds of specific property owned by the Government of Ontario.

Current Protection in Middlesex-London and Next Steps

Under the City of London's [*Smoking Near Recreation Amenities and Entrances Bylaw*](#), smoking is prohibited within 9 meters of recreational amenities within city parks and entrances to city-owned buildings. Under Section 6 of the *Bylaw*, if a provision conflicts with an Act or a regulation or another bylaw, the provision that is the most restrictive of smoking prevails. This means that the proposed amendments to the *SFOA* would provide greater protection for Londoners by increasing the set back from recreational amenities from 9 meters to 20 meters. Also, smoking would be banned on all bar and restaurant patios, which the majority (73%) of Middlesex-London residents support. In addition, the inclusion of smoke-free hospital grounds within the *SFOA* supports and enhances the ongoing efforts of St. Joseph's Healthcare and London Health Sciences Centre who are enacting their own 100% smoke-free grounds policies. Health Unit staff had intended to approach Middlesex County Council early in 2014 to offer assistance in the development of a county-wide smoke-free outdoor spaces bylaw; however, this action will be postponed given the introduction of Bill 131. The proposed amendments take strong action to reduce youth access to tobacco products and protecting Ontarians from the harmful effects of exposure to tobacco use and second-hand smoke; swift passage of Bill 131 is required to address the burden of tobacco use.

This report was prepared by Ms. Linda Stobo, Manager, Chronic Disease Prevention and Tobacco Control Team.



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Medical Officer of Health

<p>This report addresses the following requirement(s) of the Ontario Public Health Standards: Foundations: Principles 1, 2; Comprehensive Tobacco Control: 1, 5, 7, 11, and 13.</p>
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