

Comments on the Proposed Changes to the Smoke-Free Ontario Act, 2017 Regulation 268/18

The *Smoke-Free Ontario Act, 2017 (SFOA 2017)* received Royal Assent on December 12th, 2017 and is scheduled to come into force on a day to be proclaimed by the Lieutenant Governor. The Government proposes a date of effect of October 17th, 2018. Once in force, *SFOA 2017*, will repeal the current *Smoke-Free Ontario Act* and *Electronic Cigarettes Act, 2015*, and replace them with a single legislative framework to regulate tobacco products and vapour products.

Introduced on September 27th, 2018, Bill 36, *Cannabis Statute Law Amendment Act, 2018* proposes to amend several Ontario statutes, including *SFOA 2017* and the *Cannabis Act, 2017*, to make the *SFOA 2017* apply to the consumption of cannabis, both medical and recreational (non-medical).

Middlesex-London Health Unit - Comments on the Proposed Amendments to Regulation 268/18:

Sect. of Reg	Proposed Change	Potential Impact	Public Health Consideration
1. (2)	Added a clause that specifies that the restrictions on the display and handling of tobacco products prior to purchase does not apply to “brands of a substance” that contains tobacco and that is intended exclusively for use in vapour products.	Permits “heat not burn” vapourizers to be on display and handled prior to purchase. The tobacco sticks that are used within the vapourizers cannot be on display or handled prior to purchase.	<p>Evidence suggests that there is a positive association between exposure to point of sale tobacco promotion and increased smoking. For example, in the U.S., point-of-sale displays have been demonstrated to increase sales by 12 to 28% [i]. This same principle can be applied to the promotion of e-cigarette products.</p> <p>Further, most retailers that sell “heat not burn” vapourizers are frequented by children and youth (e.g. convenience stores, gas station kiosks, etc.), exposing young customers to vapour products on display at retail and in reach of young customers, increasing product normalization and youth access.</p> <p>Display and promotion of e-cigarettes at all vendors will continue to support youth uptake of e-cigarette use. There is substantial evidence that the use of vapour products by youth and young adults increases their risk of initiating combustible tobacco (cigarette) smoking over time [ii].</p>
7(3)(c)	Veterans organizations and Legions are permitted to allow smoking tobacco on their uncovered patios, if	Updates the legislation to include the prohibition on non-medical cannabis use. The proposed regulatory	Legions and Veterans organizations tend to operate restaurants, bars and public halls that service and cater to many

	the patio was established prior to November 18, 2013, and if e-cigarette use and smoking and vaping of cannabis is strictly prohibited.	change maintains the exemption that was previously provided to Veterans organizations and Legions.	members of the community. Hospitality workers, volunteers and patrons (may be all ages) are not being protected from second-hand tobacco smoke exposure due to the exemption. There is no safe level of exposure to second-hand smoke [iii].
21	Added a clause that specifically allows “heat not burn” vapour products to be on display prior to purchase and are exempt from restrictions on promotion and advertising as long as it is not packaged with a tobacco product/tobacco sticks.	Permits “heat not burn” vapourizers to be on display, handled prior to purchase and can be promoted in the stores as long as the tobacco sticks are packaged separately.	Most retailers that sell the “heat not burn” vapourizers are frequented by children and youth (e.g. convenience stores, gas station kiosks, etc.), exposing young customers to vapour products on display at retail and in reach of young customers, increasing product normalization and youth access.
22	All vapour products can be on display, handled prior to purchase, and promoted in the stores as long as they comply with federal <i>Tobacco and Vaping Products Act (Canada)</i> .	<p>The federal legislation’s regulations only restrict advertising that is appealing to young persons, promotes a “lifestyle”, or is tied to an event, person, entity, activity or permanent facility.</p> <p>The federal regulations will be difficult to enforce at retail due to the subjective nature of the parameters that have been assigned to vapour product advertising. There are no rules to limit the use of vapour products, 3D exhibits, branded vapour accessories and promotional materials to normalize vapour products and promote sales.</p>	<p>Evidence suggests that there is a positive association between exposure to point of sale tobacco promotion and increased smoking. For example, in the U.S., point-of-sale displays have been demonstrated to increase sales by 12 to 28% [i]. This same principle can be applied to the promotion of vapour products. Most retailers that sell vapour products are frequented by children and youth (e.g. convenience stores, gas station kiosks, etc.). Vapour products (e.g. Juul, Vapur, Vype, etc.) will continue to be promoted extensively at retail using displays, 3D exhibits, and other promotional material and in reach to customers.</p> <p>Display and promotion of e-cigarettes at all vendors will continue to support youth uptake of e-cigarette use. There is substantial evidence that the use of vapour products by youth and young adults increases their risk of initiating combustible tobacco (cigarette) smoking over time [ii]. The role vapour products play in initiating cannabis use among</p>

			youth is not clear, however, it should be noted that over one quarter (28%) of those who had used cannabis in 2017 reported using a vaporizer to consume cannabis including 33.0% of youth aged 15–24 [iv]. Several provinces including New Brunswick and Nova Scotia have already banned visible vapour product displays at retail outlets.
23	The Tobacco Manufacturer exemption to the display and promotion rules remain in effect. The exemption that had previously been included for Vapour Product Manufacturers has been revoked.	The amendment to this section of the regulations supports the removal of the section that permitted exemptions to the display and promotion rules for vapour product manufacturers. This section is not required since there are no proposed restrictions on display, handling prior to purchase and the promotion of vapour products.	The exemption being proposed to exclude vapour products from a ban on the display, promotion and handling prior to purchase restrictions that are in place for tobacco products may require more careful review.
32	Within a specialty vape shop, no more than two persons may sample a vapour product by using an electronic cigarette at the same time (turning it on, and inhaling and exhaling, creating a vapour). The device must be their own to sample a product, or if supplied by the vape shop, a fresh one-time disposable mouthpiece must be used for sampling. The electronic cigarette must not contain cannabis, tobacco or a controlled substance.	<p>Specialty vape shops shall not permit a person who is less than 19 years old to enter; therefore, those are in the store being exposed to vapour are of legal age.</p> <p>The limit of 2 people testing at one time means specialty vape shops will be prohibited from operating vape lounges and establishes limits on the amount of vapour that patrons and employees will be exposed to at one time.</p> <p>Reusing e-cigarettes while only requiring a new one-time use mouthpiece is a public health concern. Saliva is able to transfer disease to another mouth</p>	<p>This proposed change provides enforcement authority to public health units to pursue enforcement action against those employers/proprietors operating illegal vape lounges/consumption lounges.</p> <p>The proposed regulations limit the amount of vapour that employees and patrons will be exposed to in an indoor, retail environment; however, the long-term health effects associated with vapour exposure are not yet known.</p> <p>Within a vape shop, allowing customers to activate an e-cigarette, while only limiting two customers to sample the products (inhale/exhale) may not be manageable, for both the retailers and public health units attempting</p>

		with samples of tuberculosis, <i>Neisseria meningitidis</i> , Herpes simplex, <i>Helicobacter pylori</i> , <i>Shigella sonnei</i> and <i>Salmonella infantis</i> [v]. Beyond the single use mouth piece, there needs to be a cleaning and disinfection process for all surfaces where saliva is present. It is not recommended for an e-cigarette to be shared between customers.	to conduct youth access inspections. Due to the risks associated with infectious disease transmission, the proposed regulations on the requirement for a new one-time single use mouthpiece requires further review.
37	<p>The proposed changes intended to prohibit any method of cannabis consumption (e.g. smoking, vaping, ingestion) in a vehicle or boat that is being driven or under a person's care or control, subject to exemptions, which include medical cannabis users being able to use medical cannabis as long as it is isn't vaped or smoked.</p> <p>There is an exemption to this prohibition that would permit passengers to consume medical cannabis in non-smoked and non-vaped form.</p>	<p>This section of the <i>Act</i> and Regulations intends to address concerns related to drug-impaired driving and exposure to second-hand smoke and vapour.</p> <p>The exemption to passengers using non-smoked and non-vaped cannabis puts cannabis in close proximity to the operator of the vehicle, which may cause distraction to the driver, or may influence the driver to use cannabis due to close proximity.</p>	This section of the <i>Act</i> and the Regulations requires further review to consider the potential unintended consequences of medical cannabis use in non-smoked/non-vaped form by a passenger in a vehicle.
Sect. 12 of the <i>SFOA 2017</i>	The legislation intends to prohibit the non-medical smoking and vaping of cannabis in all places where tobacco use is prohibited under the <i>SFOA 2017</i> .	The smoking of tobacco, the use of e-cigarettes and the smoking and vaping of cannabis, whether or not it is used for medical purposes, will be under one single legislative framework. Compliance tends to increase when the rules are consistent; consistency in rules increases understanding and awareness, while also supporting enforcement.	<p>Allowing cannabis to be consumed wherever tobacco can be consumed raises concerns regarding the risk of normalization, second-hand smoke exposure and impairment.</p> <p>Smoke from cannabis is similar to that of tobacco, containing fine particles, cancer causing compounds, volatile organic chemicals, carbon monoxide and heavy metals. There is no safe level of exposure to second hand smoke [vi].</p>

		<p>Common Areas of Multi-Unit Housing Under the <i>SFOA 2017</i>, tobacco smoking, the use of e-cigarettes and the smoking and vaping of cannabis will be prohibited in common areas of multi-unit housing. Multi-unit housing providers, if they so choose, can regulate smoking and cannabis use inside private units through smoke-free clauses in a lease. Housing providers may choose to establish an outdoor designated smoking/vaping area to support compliance with smoke-free/vape-free policy within individual units.</p>	<p>Risk of Normalization Children tend to copy what they observe and are influenced by normality of any type of smoking around them. From the lessons learned from tobacco and alcohol, normalization of cannabis use could lead to increases in rates of cannabis use [iii,vii,viii].</p> <p>Second-hand Smoke Allowing smoking and vaping of cannabis in public places increases the exposure of second-hand smoke to the public. Just like tobacco, cannabis can produce harmful smoke and can negatively affect the health of people exposed (e.g. sidewalks, entranceways to buildings, parking lots).</p> <p>Impairment Cannabis impairment can have side effects including paranoia, panic, confusion, anxiety, and hallucinations. Public safety and unintended exposure related to cannabis impairment should be considered [ix].</p> <p>Housing Ontario's <i>Cannabis Act, 2017</i> had originally limited non-medical cannabis to private dwellings, which was a public health concern because there is no safe level of exposure to second-hand smoke inside the home, whether it is from tobacco or cannabis. The proposed changes allow for outdoor consumption of cannabis, which will enable public health units to work with housing providers on smoke-free policy that incorporates tobacco and cannabis use.</p> <p>Enforcement Tobacco Enforcement Officers within public health units are</p>
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			well-positioned to enforce the new regulations related to public consumption; however, existing funding levels may impact enforcement capacity.
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General Comments for Consideration

- Given some of the possible challenges in trying to enforce some of the amendments named under the *SFOA, 2017*, it is recommended that consistent, province-wide messaging be designed and implemented to increase community awareness about the changes to the law that will come into effect. Voluntary compliance increases when policy change is supported with a comprehensive, province-wide education campaign.
- Given the potential harms associated with cannabis use, a comprehensive province-wide education campaign that addresses the health risks of cannabis use and drug-impaired driving could help to mitigate these risks.
- It is anticipated that there will be an increase in call volume to Health Unit complaint lines requesting information and enforcement support to address the use of cannabis and e-cigarettes in places that are now prescribed under Regulation 268/18. Dedicated public health unit funding is required to support education, population health surveillance and enforcement-related activities.
- The Government may wish to take a precautionary approach to flavoured vapour products by prohibiting flavours that are attractive to youth (e.g., unicorn vomit, candy-flavours, and fruit).
- Consider adding herbal (non-tobacco) shisha as a prescribed product under the *SFOA, 2017*. Herbal shisha smoking in enclosed places poses a health risk to both the user and bystanders.

References

- i Robertson L, McGee R, Marsh L, Hoek J. A systematic review on the impact of point-of-sale tobacco promotion on smoking. *Nicotine Tob Res.* 2015;17(1):2-17. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4832971/>
- ii Soneji, S., Barrington-Trimis, J., Wills, T., et al. Association between initial use of e-cigarettes and subsequent cigarette smoking among adolescents and young adults: a systematic review and meta-analysis. *JAMA Pediatrics.* Aug 2017; 171(8): 788-797. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5656237/>
- iii Smoke-Free Ontario Scientific Advisory Committee. Evidence to Guide Action: Comprehensive tobacco control in Ontario (2016). Public Health Ontario (April 2017): 193. https://www.publichealthontario.ca/en/eRepository/SFOSAC%202016_FullReport.pdf
- iv Canadian Centre on Substance Use and Addiction. Canadian Drug Summary: Cannabis (2018). Retrieved from: <http://www.ccsa.ca/Resource%20Library/CCSA-Canadian-Drug-Summary-Cannabis-2018-en.pdf>.
- v Arend. Transmission of infectious diseases through mouth-to-mouth ventilation: Evidence-Based or Emotion-Based medicine? *Arq Bras Cardiol.* 2000; 74(1): 86-97.
- vi Sparacino, CM, Hyldburg PA & Hughes TJ. Chemical and biological analysis of marijuana smoke condensate. *NIDA Res Monogr* 99 (1990): 121-40.
- vii Smoke-Free Ontario Scientific Advisory Committee. Evidence to Guide Action: Comprehensive Tobacco Control in Ontario (2010). Toronto, Ontario: Ontario Agency for Health Protection and Promotion. Retrieved from <http://www.oahpp.ca/services/documents/evidence-to-guide-action/Evidence%20to%20Guide%20Action%20-%20CTC%20in%20Ontario%20SFO-SAC%202010E.PDF>
- viii Linkenbach, J. The Main Frame: Strategies for Generating Social Norms News. Montana, US: Montana State University, 2002.
- ix Smoking and Health Action Foundation. Secondhand Marijuana Smoke: Health effects of exposure (2016). Smoking and Health Action Foundation. Retrieved from: <https://nsra-adnf.ca/key-issue/secondhand-marijuana-smoke/>

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