

TO: Chair and Members of the Board of Health

FROM: Graham L. Pollett, MD, FRCPC  
Medical Officer of Health

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## **SUPPORTING SMOKE FREE ONTARIO BY REDUCING CONTRABAND TOBACCO ACT**

### ***Recommendation***

*It is recommended that Report No. 072-12 re Supporting Smoke Free Ontario by Reducing Contraband Tobacco Act be received for information.*

### **Background Information**

Despite significant advances in tobacco control, tobacco use remains the leading cause of preventable disease and death in Ontario, accounting for 13,000 deaths per year – three times the combined deaths caused by alcohol, drugs, suicide, homicide, motor vehicle collisions and AIDS. While tobacco use has declined significantly in much of the Western world since its peak in the 1950s, the tobacco epidemic has not yet been solved, and with good reason. The addiction to nicotine and the psychosocial addiction to using tobacco products are two of the toughest addictions to break, and the disease vector in this epidemic, the tobacco industry, is resourceful and resilient. Tobacco use is a significant burden on the Ontario economy, costing \$7.73 billion (B) annually -- \$1.93 B in direct health care costs and \$5.8 B in productivity losses.

### **The Smoke-Free Ontario Strategy 2005-2010 and its Renewal for 2011-2016**

The provincial government's Smoke-Free Ontario Strategy (2005-2010) combined social marketing with programs, policies and legislation to reduce tobacco use and lower risks to non-smokers under the three pillars of the Strategy: cessation, prevention and protection from exposure to second-hand smoke. In May 2009, the government began a process of engaging stakeholders and reviewing the evidence to support future evolution of the Strategy. As a result of the deliberations, an additional Strategy investment of \$5 million (M) (total investment of \$47.8 M) was confirmed with a focus on:

- Increasing the availability and coordination of cessation supports;
- Enhancing youth prevention activities;
- Maintaining enforcement of existing second-hand smoke protections; and
- Stepping up action on illegal tobacco.

### **Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011**

The Ministry of Finance (MOF) is responsible for collecting Ontario's tax on tobacco products under the Tobacco Tax Act. In fiscal 2010/2011, tobacco taxes generated approximately \$1.2B in revenues. There is strong evidence that increases in the price of cigarettes result in decreased demand and consumption of cigarettes, and increased intention to quit. Since 2003, Ontario has raised the tobacco tax four times; however, the availability of cheap, illegal tobacco products has undermined tobacco control efforts. Non-governmental sources indicate that illegal tobacco products account for 30-50% of the Ontario cigarette market.

The sale and trafficking of illegal tobacco is complex; the RCMP reports a significant involvement of organized crime groups who are also involved in other illegal activities. For some First Nations reserves,

tobacco is a major economic staple, providing income, jobs and community supports. The sale and distribution of illegal tobacco in Ontario requires the cooperation among the federal government, provincial government, First Nations leadership, and numerous law enforcement agencies from Ontario, Quebec and New York State.

Despite these complexities, Ontario has taken some steps to address illegal tobacco. In 2011, the province passed the Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011, which provides the MOF with new regulatory powers to address illegal tobacco, including:

- The regulation of raw leaf tobacco to strengthen the controls over the supply of tobacco;
- Plain view seizure and restructuring of offence provisions;
- Marking and stamping of fine cut tobacco to regulate and track the distribution of tobacco; and
- Authority for arrangements and agreements with First Nations.

## Progress to Date

Deterring the illegal manufacture and sale of tobacco requires a cross-sectoral, cross-governmental approach, and the province has made some progress.

- The MOF has engaged First Nations leadership in a dialogue on tobacco-related matters. The Ministry hired a facilitator to conduct a listening exercise and report back on First Nations' views of tobacco matters on reserve.
- The MOF has strengthened partnerships with the federal government and numerous law enforcement agencies, including tobacco enforcement within public health units, to share information and conduct joint inspections.
- From April 2008, to December 2011, about 182 M illegal cigarettes, 1.7 M untaxed cigars and 56 M grams of fine-cut tobacco or other tobacco products were seized by MOF.
- From March 2006 to December 2011, penalties assessed under the Tobacco Retailer Inspection Program (conducted by MOF Inspectors) totaled more than \$21.6 M.

## Conclusion

If the uptake of tobacco use was immediately halted, there would still be approximately 2.1 million adult smokers in Ontario who would continue to accrue health consequences and ultimately increase health care costs in the short and long term. In Middlesex-London, just over 22% of adults aged 19 years and over reported that they were current smokers. The unfortunate reality is that the uptake of tobacco has not halted and access to illegal tobacco threatens to undermine tobacco control efforts. In addition to the renewed Smoke-Free Ontario Strategy, the Ontario Liberal Plan 2011-2015 made new tobacco commitments, in particular, to increase fines for sales of contraband off reserve and to double contraband enforcement activity. This level of government commitment and continued partnerships between the government and public health are required to address the burden of illegal tobacco.

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

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<p><b>This report addresses</b> the following requirement(s) of the Ontario Public Health Standards: Foundations: Principles-1, 2, 4 (Need, Impact, Partnership and Collaboration); Foundational Standard: 3, 8, 9, 10, 11, 13; Comprehensive Tobacco Control; <b>1, 5, 7, 11, 13.</b></p>
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