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Monday 30 May 2011

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Lundi 30 mai 2011

**Standing Committee on
Finance and Economic Affairs**

**Comité permanent des finances
et des affaires économiques**

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

Loi de 2011 appuyant
la stratégie Ontario sans fumée
par la réduction du tabac
de contrebande

Chair: Pat Hoy
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Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Monday 30 May 2011

Lundi 30 mai 2011

The committee met at 1401 in room 151.

**SUPPORTING SMOKE-FREE ONTARIO
BY REDUCING CONTRABAND
TOBACCO ACT, 2011**

**LOI DE 2011 APPUYANT
LA STRATÉGIE ONTARIO SANS FUMÉE
PAR LA RÉDUCTION DU TABAC
DE CONTREBANDE**

Consideration of Bill 186, An Act to amend the Tobacco Tax Act / Projet de loi 186, Loi modifiant la Loi de la taxe sur le tabac.

The Chair (Mr. Pat Hoy): The Standing Committee on Finance and Economic Affairs will come to order.

We are here for clause-by-clause consideration of Bill 186, An Act to amend the Tobacco Tax Act. Are there any comments or questions before we begin?

Hearing none, we'll go right into consideration. We have two amendments. The first one is due to be read into the record now. Ms. Gélinas, if you would read it.

M^{me} France Gélinas: I move that the bill be amended by adding the following section:

"0.1 The Tobacco Tax Act is amended by adding the following section:

"Health promotion

"0.1 The government of Ontario shall discourage the use of tobacco by,

"(a) investing in health promotion activities; and

"(b) implementing the proposals of the Tobacco Strategy Advisory Group that were made public in October 2010."

We don't necessarily oppose the punitive aspects that are brought forward in the bill, but in isolation, the chances of being successful in what we all want to do—at the end of the day, we want the number of smokers in Ontario to decrease, we want to help smokers quit and we want to make sure that new smokers do not pick up the habit. The way that the bill is written up now, it is a one-legged stool. It has so many chances of falling, of being used as a wedge to divide communities rather than attain its aim that we all share; that is, to make tobacco less available as well as have fewer people using it. I don't want this bill to go out as a punitive aspect in isolation, which is why I thought it should at least have a health

promotion couple of lines in it to bring it a little bit of balance.

The Chair (Mr. Pat Hoy): Is there any other comment?

Mr. Toby Barrett: I don't know if there are any comments from the parliamentary assistant.

The Chair (Mr. Pat Hoy): Mr. Delaney.

Mr. Bob Delaney: While I appreciate the spirit within which my colleague offers her suggestion, I'd just like to point out that the amendment proposed by the motion doesn't appear to be within the scope of the bill or indeed of the Tobacco Tax Act.

The bill deals with five matters: raw leaf tobacco, fine-cut tobacco, arrangements and agreements with First Nations representatives, the enforcement of the act, and matters of terminology. The subject matter of the Tobacco Tax Act is the raising of revenue through the taxation on the consumption of tobacco. The amendment proposed by the motion deals with the government's role in discouraging the use of tobacco. The difficulty is that it's not within the scope of the bill or within the scope of the Tobacco Tax Act.

The Chair (Mr. Pat Hoy): In regard to that, the bill is on the edge of being within the bill or outside of the bill. In that we only have two amendments and the fact that the bill is very close to either side of either being within the bill or outside the bill, I allowed it to go forward.

Mr. Bob Delaney: Okay.

The Chair (Mr. Pat Hoy): Mr. Barrett.

Mr. Toby Barrett: It's a two-part amendment, (a) and (b). Certainly (a), "investing in health promotion activities," especially with whether it's the person's weight or using tobacco or alcohol—there probably cannot be enough health promotion investment, not only by government but by other organizations and agencies. It's one of the more effective strategies of disease prevention. When you look at the Ministry of Health budget, a very small percentage is devoted to health promotion and disease prevention or prevention of accidents and all the other things that normally would be under a Ministry of Health. I know that the focus is on health care, but health promotion is very important.

Some of this legislation mirrors, somewhat, the federal legislation of several years ago. Maybe only two or three years ago, I think some posters were put out by the federal government. I don't recall seeing them anywhere. I would suggest that that education or information or

health promotion initiative was lacklustre. So I would vote yes for (a).

However, (b), with respect to the Tobacco Strategy Advisory Group: The proposals last fall, which were not picked up immediately by this government, obviously—at this stage, I think the horse is out of the barn on that one. I feel that we don't agree with all of the proposals of the Tobacco Strategy Advisory Group as the priority way to go.

Those are my comments on this.

The Chair (Mr. Pat Hoy): Are there any other comments? Mr. Lalonde.

Mr. Jean-Marc Lalonde: Let me tell you that we are committed to helping all Ontarians stay healthy.

Our 2010-11 funding for smoke-free Ontario is over 400% higher than it was in 2003. It means that since 2003 we have invested over \$300 million towards the smoke-free Ontario strategy. We've been working on it by having programs in schools and in the public health sector.

The Chair (Mr. Pat Hoy): Ms. Gélinas.

M^{me} France Gélinas: Given the comments that we just heard, can I ask for a vote on (a) and (b) to be separate, as in, point 0.1(a) would be voted on and then we would vote on point 0.1(b)?

The Chair (Mr. Pat Hoy): Do we have unanimous consent for that?

Mr. Toby Barrett: Is that possible?

The Chair (Mr. Pat Hoy): First of all, I should check if we can actually do that.

Interjection.

The Chair (Mr. Pat Hoy): I'm told it's one amendment.

M^{me} France Gélinas: Okay. Can I make an amendment to my amendment?

The Chair (Mr. Pat Hoy): Yes.

M^{me} France Gélinas: I can? Okay, how about—

The Chair (Mr. Pat Hoy): We'll check to see if it's amendable.

M^{me} France Gélinas: Check away.

Interjections.

The Chair (Mr. Pat Hoy): Since it was time-allocated it could change the outcome of your question.

Interjections.

1410

The Chair (Mr. Pat Hoy): Amending an amendment would be similar to bringing in a new one, and that's not allowed under the time allocation, so it would have to be dealt with as one amendment.

M^{me} France Gélinas: Can I ask for unanimous consent to make an amendment?

The Chair (Mr. Pat Hoy): No. It was time-allocated and it's an order from the House, so it can't be amended.

Mr. Toby Barrett: Just further to the discussion, I'm interested in the intent of the NDP to break it into two. I know my discussion of (a) and (b) is that it was, I felt, two different issues. I thought it was important to put our position down and make it public in Hansard. I don't get to do that by a yes or no vote on each one, but I thought it

was important to explain our position on (a) and (b). I would like to hear—I don't know about the NDP, but maybe the parliamentary assistant could explain their position on both (a) and (b) specifically. I know you said it wasn't legal or something.

Mr. Bob Delaney: In my previous remarks, I did provide the rationale.

Mr. Toby Barrett: Just to remind me, what was the rationale for (b) specifically, the Tobacco Strategy Advisory Group?

Mr. Bob Delaney: The subject matter of the Tobacco Tax Act is in fact the raising of revenue through the taxation of the consumption of tobacco. The amendment proposed by the motion deals with the government's role in discouraging the use of tobacco, which means that it's not within the scope of either the bill or the Tobacco Tax Act. Meaning no disrespect to the member from Nickel Belt: I appreciate what she's trying to do, it's just that what's she's trying to do is propose a salutary amendment. The amendment, regardless of its intent, doesn't fall within the scope of either the bill or the act itself.

Mr. Toby Barrett: So you would oppose implementing the proposals of the Tobacco Strategy Advisory Group?

Mr. Bob Delaney: I think I've just stated the government's position on that.

The Chair (Mr. Pat Hoy): Any other comment? No other comment.

I'll put the question. All in favour? Those opposed? The motion is lost.

Now the NDP has a second motion. If you would read it into the record, please.

M^{me} France Gélinas: No problem. I move that the bill be amended by adding the following section:

“0.2 The act is amended by adding the following section:

“Education on 2011 amendments

“0.2 The minister shall ensure that the contents and legal effect of the Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2001 are communicated to the public before October 1, 2012.”

This date is the date that was referred to in the bill, which is why, but basically, it deals with the fact that the practice of purchasing illegal tobacco has become normalized in many areas of this province. It certainly is in many areas of my riding, where we can commonly see members of the Sudbury regional police going into the smoke shacks, if they are smokers, to make purchases. We also see people who are strict, law-abiding citizens and a lot of elderly people on fixed incomes who would go and purchase what is contraband tobacco because they have no idea that what they're doing is illegal. Here again, if this act is rolled out without a strong education campaign, then we will make criminals out of people who have no idea what they're doing. The last thing I want is my 87-year-old Aunt Lou in a chain gang cleaning the ditches because she bought her cigarettes where she has been purchasing them for the last 12 years. So we need a strong education campaign.

The Chair (Mr. Pat Hoy): Thank you. I'm just going to ask you to read the second line again; I think you said "2001." So if you'd just read the second line over again.

M^{me} France Gélinas: The "Education on 2011 amendments"?

The Chair (Mr. Pat Hoy): Yes.

M^{me} France Gélinas: And I said "Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011"?

The Chair (Mr. Pat Hoy): That's fine now.

M^{me} France Gélinas: Sorry about that.

The Chair (Mr. Pat Hoy): You had said 2001.

Very good. Any other comments? Mr. Delaney.

Mr. Bob Delaney: Although the notion of the chain gang presupposes the will of the electorate, I think it was meant to be more of a colloquial expression.

However, the amendment that's proposed—and again, I do appreciate the spirit within which the suggestion is offered—would require the minister to communicate to the public the contents and legal effect of the Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011. Currently, the Legislation Act, 2006, requires the publication of every act on the e-Laws website, which means that it's not clear what else the minister would be required to do in order to communicate the contents of the act to the public, because, clearly, it is already required.

It's also unclear what is meant by the words "legal effect" of the bill and what the minister must do to satisfy the requirement. The minister is clearly not in a position to offer legal advice to the public, and the ministry does routinely publish information setting out its interpretation of the Tobacco Tax Act.

Again, the member has made some well-intended proposals, but on examination of them, it seems as if the ministry is either already doing it or perhaps the intent of what the member is asking for is not sufficiently encapsulated in the words that she chose. As such, the ministry can't support the amendment, however well-intentioned it very clearly is.

The Chair (Mr. Pat Hoy): Any other comment? Mr. Barrett.

Mr. Toby Barrett: I've never actually been on the e-Laws website, and so many of the people who do buy contraband are relatively low-income, and 40% are students—and I assume the 40% of students that buy illegal cigarettes don't go on the e-Laws website. I think the NDP alluded to this: I think it's important to let these people know that it's not right to buy cigarettes this way even though you're not asked your age, and it's relatively easy to do in so many areas, and then you put them on the handlebars of your bicycle and ride into town. Those people don't check out the e-Laws website.

I'm assuming the intent of this amendment—I see words like "education" in the title and "communicated to the public." I would suggest some other information and education and community strategies beyond the e-Laws website, whatever that is. I live out in the sticks; I don't

have high-speed Internet. That goes for a very large number of people, not only in my riding but in many rural and northern communities, perhaps native communities.

So many people who buy this product to save \$50 on a carton, I don't think they understand the seriousness of the crime. I forget the penalties. I guess you would end up in a facility for two years less a day. You would have the potential, as has been proposed, to be out shovelling snow or picking up leaves if you're in a provincial facility like that rather than watching TV all day and smoking cigarettes.

I guess, going back to the previous amendment, part (a), investing in health promotion, which the government voted against—I can't predict how the government's going to vote on this one but I just find it passing strange if the total focus is on the legal side even though you're not going to communicate the legal effect, as I just heard. This is serious business, and I think it's very important to let the public know. I know that at least one of the deputants here complained that they were only given about 24 hours' notice—I think I was given 24 hours' notice to come forward and testify. I don't feel that's any way to run a government.

The Chair (Mr. Pat Hoy): Is there any other comment?

Mr. Bob Delaney: Chair, again, understanding the spirit within which the member offers his suggestions, he suggests that the manner in which a ministry and its staff may from time to time choose to formulate its communications strategy should be set forth in legislation. I would respectfully disagree with him and suggest that legislation, which is difficult and time-consuming to change and is changed very infrequently, isn't the place to etch your communications strategy in stone. I would suggest that the thing to be able to do is for the minister of the time to be able to instruct people to do something that responds to problems which are dynamic in nature and may require treatment more flexible than what can be etched in concrete in legislation.

Again, with regard to his hypothetical comments on a proposed measure which hasn't even been debated, let alone passed, I think those two are well beyond the scope of the bill. So for those reasons, the government will oppose the amendment, again, appreciating the sentiments offered within it, but it does appear to fall within action that the ministry is authorized to take, and the effective communication suggests that the ministry already does those things. Supplementary communications are inappropriate to describe in legislation. They are best described in the ministry's annual strategy.

The Chair (Mr. Pat Hoy): Any other comment?

M^{me} France Gélinas: I guess we wouldn't be where we are now had we communicated more clearly the laws that already exist in Ontario. There are laws that exist that say that people who go and buy contraband tobacco are already breaking existing laws. I didn't even know about e-Laws—and I'm an MPP—so I certainly have

never been on. I'm ready to bet that most people don't know about it either.

The idea of putting it in the bill is really to make it mandatory. Ontario has fallen flat on that part. Put it in the bill to make sure that it happens.

The Chair (Mr. Pat Hoy): Any other comment? Mr. Barrett.

Mr. Toby Barrett: I can't remember: Do you have to be the person making the motion to ask for a recorded vote or can any member of the committee ask for it?

The Chair (Mr. Pat Hoy): No, anyone can ask.

Mr. Toby Barrett: I'd like to ask for a recorded vote.

The Chair (Mr. Pat Hoy): Very good. We'll do that.

Any other comment? Hearing none, a recorded vote is requested.

Ayes

Barrett, Gélinas.

Nays

Albanese, Delaney, Jaczek, Lalonde, Pendergast.

The Chair (Mr. Pat Hoy): The motion is lost.

Sections 1 through 55 have no amendments. Shall they carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 186 carry? Carried.

Shall I report the bill to the House? Carried.

We are adjourned.

The committee adjourned at 1424.

CONTENTS

Monday 30 May 2011

Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011, Bill 186,
Ms. Aggelonitis / Loi de 2011 appuyant la stratégie Ontario sans fumée par la
réduction du tabac de contrebande, projet de loi 186, Mme Aggelonitis..... F-697

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