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**Monday 16 May 2016**

**Journal  
des débats  
(Hansard)**

**Lundi 16 mai 2016**

**Standing Committee on  
General Government**

Smoke-Free Ontario  
Amendment Act, 2016

**Comité permanent des  
affaires gouvernementales**

Loi de 2016 modifiant la Loi  
favorisant un Ontario sans fumée

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Monday 16 May 2016

Lundi 16 mai 2016

*The committee met at 1401 in committee room 2.*

**SMOKE-FREE ONTARIO  
AMENDMENT ACT, 2016**

**LOI DE 2016 MODIFIANT LA LOI  
FAVORISANT UN ONTARIO SANS FUMÉE**

Consideration of the following bill:

Bill 178, An Act to amend the Smoke-Free Ontario Act / Projet de loi 178, Loi modifiant la Loi favorisant un Ontario sans fumée.

**The Chair (Mr. Grant Crack):** Good afternoon, members of the committee, ladies and gentlemen, Clerk, Hansard and legislative research. It's a glorious afternoon here in Toronto.

I'd call the Standing Committee on General Government to order. Today we're here to hear from interested stakeholders regarding Bill 178, An Act to amend the Smoke-Free Ontario Act. Today we have, it looks like, 10 delegations to present. Each delegation has up to 10 minutes to make their presentation, followed by three minutes of questioning or comments from the three parties.

So we'll get down to business.

**ONTARIO LUNG ASSOCIATION**

**The Chair (Mr. Grant Crack):** I will call the first delegation forward, who is no stranger to this place: from the Ontario Lung Association, Chris Yaccato, provincial manager, government relations and public affairs. Welcome, sir. You have 10 minutes.

**Mr. Chris Yaccato:** Thank you, sir. Dear Chair, Vice-Chair, members and Clerk, thank you for the opportunity to speak today about the proposed changes to the Smoke-Free Ontario Act contained in Bill 178, the Making Healthier Choices Act.

The Ontario Lung Association welcomes the proposal to prohibit the smoking of medical marijuana and the use of e-cigarettes wherever smoking tobacco is currently banned.

I want to stress that the Ontario Lung Association has never proposed, and does not now propose, banning the sale and use of e-cigarettes. While we support the prohibition on sales to anyone under 19, we recognize that many current tobacco users may turn to vaping in an attempt to overcome their addiction to nicotine. The Ontario Lung Association believes that the proposed

regulatory changes accommodate these e-cigarette users while providing a measured response to the lung health concerns associated with the growing popularity of e-cigarettes and the use of marijuana for both medical and recreational purposes.

We also believe that there are further opportunities to expand the Smoke-Free Ontario Act to deal with all inhaled substances that damage not only the user's lungs but also affect the health of those who breathe these substances second-hand. Every Ontarian has the right to breathe clean, fresh air. We urge the committee to respect that right by moving this legislation through committee without further delay. I'm sure you are all aware of our tagline: "When you can't breathe, nothing else matters."

That is my deputation to you today, and my request. I'm here to answer any questions you may have.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Yaccato. I think that's a record. I appreciate that.

We'll begin questioning from the official opposition: Mr. Yurek?

**Mr. Jeff Yurek:** Thanks for coming in and your quick deputation. I appreciate the work the lung association does for all Ontarians. It was great working with you on Ryan's Law. We just passed the one-year anniversary.

I don't have too much to ask on this. This bill is just filling in for what they forgot to do in the last bill.

**Mr. Chris Yaccato:** Yes.

**Mr. Jeff Yurek:** Unfortunately, we've got to use this whole process to get this added in.

If you have anything else to add, go right ahead.

**Mr. Chris Yaccato:** No. I think you've said it: It was a reaction to something that was overlooked. I think you guys are taking a really great approach to this. You respect everyone's right to use e-cigarettes and so forth as they see fit, but with reasonable and measured limits. I think that it's a fair approach, and I don't have much further other than that.

**Mr. Jeff Yurek:** How much time do I have?

**The Chair (Mr. Grant Crack):** Gee, two full minutes.

**Mr. Jeff Yurek:** Oh, then I can fill up the time.

Medical marijuana: What are the lung association's thoughts on medical marijuana and designated places for people to go and take their medication?

**Mr. Chris Yaccato:** Yes, I've heard that. It's twofold. I know that there are some conflicting jurisdictions.

Some of these medical marijuana storefronts: First and foremost, something needs to be done with regulating those. It's becoming a bit of a dispensary for everyone and anyone who want to go in and get pot.

On the medical marijuana component specifically: In the end, your lungs are a vital organ. Whatever you put in those lungs could potentially damage them. In the end, it's clean air only that should be inhaled into your lungs.

There are alternatives to smoking. Oil, for example, has been highly effective or used quite a bit. That doesn't involve having to inhale a substance that could cause lung cancer and other carcinogens that are associated with medical marijuana and recreational marijuana. I've heard the arguments stand alone.

In the end, it's also a workplace hazard. If you're in a hospital room and you have a patient who feels that they want medical marijuana—a lot of these hospitals have shared rooms. Someone could have other respiratory disease in that same room—and the doctors, the nurses, the cleaning staff, and those who bring in the food.

The more you use a substance like marijuana and the smoke that it produces or even the vapour over time, we're very concerned that that could lead to significant lung disease. The long-term effects haven't been thoroughly studied yet.

In the end, it's a workplace, and everyone has a right to a safe workplace. Unfortunately, it's something that we can't support.

**The Chair (Mr. Grant Crack):** Thank you very much; appreciate it.

We'll move to the third party: Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you for coming. I have five directions of questions that I would like you to think about. If you don't feel comfortable or you're not ready to answer, I'm okay with that too.

**Mr. Chris Yaccato:** Certainly.

**M<sup>me</sup> France Gélinas:** In your opening remarks, you talk about all substances, not just tobacco and marijuana. What are you referring to?

**Mr. Chris Yaccato:** It could be hookahs and shisha, for example. We are part of an effort—others in this room, as well—to work in the region of Peel to prohibit hookah bars. The shisha used in hookahs is obviously a very large concern as well. That would be one particular item.

**M<sup>me</sup> France Gélinas:** Do you feel that the regulations that we have in Ontario right now are sufficient, or would you like to see more?

**Mr. Chris Yaccato:** For hookahs and shisha specifically, I think that it needs to be a broad approach, province-wide.

**M<sup>me</sup> France Gélinas:** Okay. When it comes to dispensing, right now the government is putting forward the idea that it could be available in the LCBO only. Do you support that?

**Mr. Chris Yaccato:** It's something that the lung association would have to look at. I think that the idea is sound. They're trained staff. The workers there are great at recognizing young people coming in. The mechanism

seems to work. I've heard the argument, as well, for pharmacies.

I suppose that if there is proper regulation in place regardless, I think that we're open to listening to that. I couldn't say that we're 100% behind it at this point just because we don't know enough about what the government has proposed with respect to regulation. I will say that they do need to get on this right away. It's kind of a Wild West out there.

On my way home today, I'll pass—I think that I last counted—15 dispensaries. There are line-ups out the door. I know that people are sick and would like to use it, but I think there's a reality there that something needs to be done, and it can't wait.

**1410**

**M<sup>me</sup> France Gélinas:** When we talk recreational marijuana, some people would like us to regulate it more than tobacco, as in not available to young people under the age of 25 or young people under the age of 21. Does your association have a position on that?

**Mr. Chris Yaccato:** No, but it is something that we have talked about and I think it is something that we could probably end up supporting. If you're going to go along those lines, you need to really define why it's needed—the reasons why, for example, smoking marijuana would have to supersede an oil or so forth and so on.

A 25-and-up proposal: I think it's something that we would have to talk about. I couldn't firmly say the lung association is behind that at this time, but it's something worth a look-through, absolutely.

**M<sup>me</sup> France Gélinas:** The same thing with 21?

**Mr. Chris Yaccato:** Same thing.

**M<sup>me</sup> France Gélinas:** Okay. There are a lot of people who are afraid—

**The Chair (Mr. Grant Crack):** Final question. You're over, but we've got a little time, so one more.

**M<sup>me</sup> France Gélinas:** Thank you. There are a lot of people who are afraid that because a lot of people who smoke marijuana roll it with tobacco so that the joint holds better, the crossover will mean that more people will become tobacco smokers as well. Does the lung association support those claims or no?

**Mr. Chris Yaccato:** I've heard that. I have witnessed that. It is a very deep concern, because you are absolutely right and you raise a really good point. I think that really needs to be on the forefront, because people do mix it with tobacco to make it last longer or to try to make it easier for them. I don't know why you would want to do that, but again, that raises some very good points, because then all our work over all these years in helping to lower tobacco rates could very well be wiped out. All the good work that the NDP, the Liberals and the Tories have done on this file could just be wiped out in a matter of weeks, years, months.

**M<sup>me</sup> France Gélinas:** I agree—if we don't act quickly. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll move to the government. You have three minutes.

**Ms. Ann Hoggarth:** Thanks for your presentation, Chris. It's good to see you, as always.

This bill is written in a way that allows the government to prescribe products in regulation that may need to be subject to similar rules to tobacco. Have you seen a need for other products to be subject to rules regarding second-hand smoke?

**Mr. Chris Yaccato:** That's a good question. We had talked about hookah and the proliferation. The city of Ottawa had looked at this issue—Peel, Mississauga. I think that's kind of an issue that would need to be addressed fairly soon, because it's very patchwork right now. Peel, Toronto and others will need to follow suit.

Absolutely, because there may be a time in the future where a new product comes on the line. Cigarette companies, as I have been advised, are looking at alternative products. What they are exactly I couldn't speak to fully, but I know that allowing some leeway with respect to regulating those types of things—absolutely. It certainly needs to be looked at and done.

**Ms. Ann Hoggarth:** Great. Thank you very much.

**The Chair (Mr. Grant Crack):** Thank you. We appreciate it, Mr. Yaccato. Have a great afternoon.

#### ONTARIO CAMPAIGN FOR ACTION ON TOBACCO

**The Chair (Mr. Grant Crack):** Next on the agenda, we have from the Ontario Campaign for Action on Tobacco Mr. Michael Perley, who is the director. We welcome you, Mr. Perley. You have 10 minutes, sir.

**Mr. Michael Perley:** Thank you, Mr. Chairman, Vice-Chair and members of the committee. On behalf of the Ontario Campaign for Action on Tobacco's partners, the Canadian Cancer Society's Ontario division, the Heart and Stroke Foundation, the Non-Smokers' Rights Association and the Ontario Medical Association, it's a pleasure to appear before you to support another new component of the Smoke-Free Ontario Strategy.

As you know, Bill 178 extends the definition of what is regulated by the Smoke-Free Ontario Act from "lighted tobacco" to "a prescribed product or substance." The new definition is proposed in order to allow the government to specifically restrict the smoking of medical marijuana wherever tobacco smoking is prohibited.

Beyond just medical marijuana, however, the new definition embodies the understanding among experts that inhaling any combusted organic matter carries similar health risks to inhaling tobacco smoke. We support the government's intention, but we also recommend that the new definition be used to restrict another relatively new and dangerous practice: the smoking of both herbal and non-herbal shisha in water pipes or hookahs.

During the past five years, researchers from Canada and other jurisdictions have studied the health impacts of first-hand and second-hand exposure to emissions from water pipes, whether they are burning herbal shisha or tobacco-based shisha. The results should be of concern to us all. Research carried out in water pipe cafés in Toronto

several years ago determined that air quality levels in indoor water pipe cafés were hazardous to human health. Smoking tobacco-based shisha in a water pipe consistently exposes users to larger volumes of smoke and higher levels of tobacco toxicants, compared with a single cigarette. Water pipe smoking sessions can typically extend to an hour or often longer, exposing users and those around them to the equivalent of many cigarettes. Both tobacco-based and non-tobacco-based shisha smoking are equally dangerous to health. Studies have typically found that the only difference between emissions from the two types of shisha, herbal and tobacco-based, is the nicotine in the tobacco-based product, in terms of toxicity.

These and other health impact results make clear that water pipe smoking in indoor premises should be banned, as is tobacco smoking. The city of Toronto and the region of Peel, as you just heard, have recently joined several other smaller Ontario municipalities in banning this practice. This in turn has created an unlevel playing field in Ontario, which the original Smoke-Free Ontario Act was specifically designed to eliminate vis-à-vis the smoking of tobacco in workplaces and public places.

Beyond the health evidence, numerous media and anecdotal reports make clear that many young people consider hookah smoking, especially non-tobacco shisha smoking, a safe alternative to cigarette smoking, partly because of a belief that because herbal shisha is non-tobacco and natural, it cannot be as harmful as tobacco. As the research shows, this is not true.

Perhaps of most concern is the fact that in last year's Ontario Student Drug Use and Health Survey, 8.3%, or 76,200 grades 7 to 12 students across the province, reported smoking hookah in the past year. This compares with 8.6%, or 82,700, grades 7 to 12 students who reported past-year smoking of cigarettes. The section from the survey on water pipe use is attached, in order that you can see what the water pipe use rate is in your part of the province.

This is, of course, an extremely disturbing trend. We may soon be at a point where hookah smoking is a more attractive first smoking experience to young Ontarians than cigarettes. As you know, young Ontarians today are smoking cigarettes less often as more and more learn of tobacco's dangers. None of us want to see these important gains undermined by more and more of our youth experimenting with water pipes.

We strongly urge the committee to recommend to the government that it use the new definition in Bill 178 in order to prohibit the indoor smoking of either herbal or non-herbal shisha. Numerous Middle Eastern countries have taken similar steps, and it is time for Ontario to follow their lead.

Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much, sir. We appreciate your input. We shall be with Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Good afternoon. Always nice to see you, Mr. Perley.

**Mr. Michael Perley:** Thank you.

**M<sup>me</sup> France G elinas:** You were there when I asked my questions, so I will shorten them. The first one has to do with dispensing. Do you agree that Ontario should limit the dispensing of marijuana, once it is recreationally legal, to the LCBO?

**Mr. Michael Perley:** Our partners haven't landed on a specific outlet type, but they've agreed in general—and Mr. Cunningham can speak more, on behalf of the cancer society—that there must be a regulated outlet system. Exactly what type of outlet—we haven't landed on that yet.

**M<sup>me</sup> France G elinas:** Okay. How about age? Are you opposed to increasing the age to 21 or 25, or are you indifferent?

**Mr. Michael Perley:** We're not opposed to it. I think that absolutely deserves serious consideration.

In the legislative summary of the health impacts and harmful effects of marijuana, there's a note to the effect that marijuana can effect cognitive impairment, create altered perception and lead to decreased impulse control. If you have younger people, who are just getting used to driving, under those kinds of influences, we think the risk of car accidents, just to name one negative side effect, increases significantly, so an increase in age should absolutely, seriously be considered.

1420

**M<sup>me</sup> France G elinas:** All right. You've seen that some cigar makers and cigarillo makers now sell the tobacco flavouring separately, but at the same outlet. Would you support the government going further in banning flavoured tobacco, to really go after those manufacturers who circumvent the spirit of the bill?

**Mr. Michael Perley:** I don't know how we'd do that, but we'd certainly like to see that happen. For other members, Madame G elinas is referring to cards that are infused with flavours that can be inserted into a pack of cigarillos—or cigarettes, presumably—to give them a flavour. The flavour seeps from the card into the cigarette product or cigar product. We just became aware of these on Thursday, so we haven't discussed them at all, but for sure, they should not be available in the market. I don't know how we'd do that, but they should not be available.

**M<sup>me</sup> France G elinas:** You spend a lot of time on tobacco. You've heard that a lot of marijuana smokers also smoke tobacco because rolling is easier for whatever reason with tobacco in it. Are you afraid that if we don't act quickly, then the good work we've done to decrease tobacco smoking will actually go the other way?

**Mr. Michael Perley:** It's distinctly possible. We've debated everything from the fact that it appears there will be a more regulated system for marijuana sales than for tobacco sales. The research we have on both substances at present indicates that tobacco is more dangerous. It has no safe level of use. We don't know whether marijuana has a safe level of use. Tobacco kills half of its long-term users when used as intended. We have no idea what marijuana does to its long-term users.

So to create a system which regulates marijuana more strictly than tobacco doesn't make any sense. It also can very possibly lead to new smokers, or people who've quit but start using tobacco to roll their joints starting again. There's a very serious problem if we don't deal with both topics at the same time.

**M<sup>me</sup> France G elinas:** Do you feel like the Legislative Assembly is ahead of this or missing the boat as to how fast we move on those issues?

**Mr. Michael Perley:** I don't know of any Legislature in the world that's ahead of the tobacco industry. They have a remarkable ability to anticipate the needs of their customers, new trends and so on. I don't think I'd say anything about the Legislature except that it has consistently maintained a strong attitude over many years to restricting these products.

Having said that, we're into a new era with legalized marijuana, medical or not. In our view, I think we have to deal with both marijuana and tobacco at the same time in a different way than how we're dealing with them separately right now.

**M<sup>me</sup> France G elinas:** I agree, and the faster, the better.

**The Chair (Mr. Grant Crack):** Thank you very much; appreciate that. We shall move to the government side: Mr. Fraser?

**Mr. John Fraser:** Thank you very much for being here today and for your presentation. I do want to just thank you for your support of the bill and for your comments. The only thing I might add in terms of the regulation—it's not our responsibility—and the dispensing of marijuana at this point is that some of the greater regulation in that regard has got to do with the newness and the intoxicant effects. That's probably why they're sort of seen as—there's no question that the more we restrict tobacco products, the fewer people we'll have smoking. That's the direction that we have to head in.

The thing that I really found interesting in your presentation is the uptake in shisha use amongst adolescents. When I look at this, the numbers are quite shocking, actually.

**Mr. Michael Perley:** Yes, they are.

**Mr. John Fraser:** I'm from eastern Ontario, so I'm not surprised, because I represent probably one of the largest populations of Arabic descent in all of Canada in the riding. So it's a question I have in terms of—I don't know if it would be anecdotal evidence. Where is that happening? To me, it sounds like culturally, inside the home, the adults are permitting their adolescents, and it's concerning in that regard because there is, obviously, risk. So I don't know if you have any comments in that regard.

**Mr. Michael Perley:** Well, the analyses that have been done about where this epidemic started—and it is an epidemic of use—generally agree that it's among young people worldwide. It's not among adult traditional or typical users.

The products are flavoured. With the increasing number of bans on smoking indoors, it has become a bit

of a fad or a trend among many younger groups—and because you can do it; it's not restricted now. So if you're 16, 17 or 18, you can now go to a hookah bar—maybe not in Toronto, as of fairly soon, and not in the region of Peel, but in many other places in Ontario—and sit with your friends and smoke hookah, if you're 16 or 17 years old. You can't do that with tobacco. The proliferation of flavoured products has made them more attractive.

There's a relationship between the device that's used—the water pipe—and smoking marijuana, which is part of the youth culture today, so there's a bit of a crossover there.

So there are a number of reasons why this has proliferated, but the term we use is that it's not a cultural practice.

**Mr. John Fraser:** That's just determining where it's happening, right?

**Mr. Michael Perley:** Right.

**Mr. John Fraser:** That's a very good point. I'm glad you raised that, in terms of there being no restriction inside—

**Mr. Michael Perley:** Unless there is a specific municipal bylaw, at this point.

**Mr. John Fraser:** I'll knock on doors in my riding, and there are a lot of houses where the pipe is right on the front step, and you'd be walking up and people would be smoking. That is a real concern.

How much time do I have?

**The Chair (Mr. Grant Crack):** Actually, none, but just go ahead.

**Mr. John Fraser:** It is a real concern when you see that kind of prevalence amongst—it's almost 20% amongst males. That's incredible.

**Mr. Michael Perley:** To equal cigarettes—I think this is what caught us all off guard, and the US has very similar numbers. We are aware of the US statistics. The head of the FDA recently said we could perhaps look forward to a day—not look forward to it, but there may be a day soon when water pipe smoking may overtake cigarette smoking as someone's first smoking experience. Hence my comments. This is something we absolutely need to nip in the bud.

**Mr. John Fraser:** Thank you very much.

**Mr. Michael Perley:** Thank you.

**The Chair (Mr. Grant Crack):** We'll move to the official opposition. Mr. Yurek.

**Mr. Jeff Yurek:** Thanks very much for coming in today and sharing your thoughts.

We've had two bills from this government in the last two years with regard to dealing with decreasing smoking in the province. However, we haven't seen any serious action from this government with regard to contraband cigarettes, which I think is a whole open-ended area. Many youth who get banned from getting access to this type of nicotine—which is great—are only going to seek it on the illegal side of the trade.

What are your thoughts on how the government can do better with contraband cigarettes or tobacco?

**Mr. Michael Perley:** I guess I'd start by saying that the main groups that advocate about the seriousness of contraband—led by Imperial Tobacco, which regularly puts ads in the Hill Times in Ottawa about contraband, relating it to every other tobacco control issue, saying that contraband should be Canada's number one tobacco control priority—the groups that are funded, such as the National Coalition Against Contraband Tobacco and the convenience stores association, that work very closely with the industry, all share the same view, and advocate, that contraband should be our main priority.

Is there a contraband problem? Yes, there is. Has sufficient action been taken? Not until it's stomped out. Are there many measures in place to actually stop contraband and provide enforcement tools to police—and I mean at both the federal level, with Bill C-10, that makes repeat trafficking and contraband a Criminal Code offence—that was very welcome—to the ability of local police to seize contraband in plain view.

There are a number of other regulations to do with the crop that have come in, to monitor raw leaf in Ontario—and it's grown considerably here—and to make sure that it doesn't divert into the contraband system.

There are a number of other enforcement measures that have been put in place, as well as a new task force that was just announced a couple of months ago.

If you look at Quebec, Quebec is slightly ahead of us in terms of enforcement activity. They state that their contraband prevalence is 15%. If you look at what the national coalition says, it says it's 40% in Ontario. I don't think it's anywhere near 40%. We have no evidence to indicate that it is. We think that's simply a tobacco industry propaganda campaign designed to have Legislatures focus uniquely on contraband and not at all on other issues, most particularly tax increases. So is there enough being done? There can always be more.

**1430**

I think the Quebec experience tells us—and I'll just conclude on this: Funding of specific groups of law enforcement officers to undertake specific investigations. It's called, in Quebec, the ACCES tobacco program. A very similar program has now been set up here.

I think we're on the road to doing it, but there are some holes in the system; no question. There is the allocation system—we don't have time to get into that today. It's being reviewed. There is the fact that there's no on-reserve enforcement to speak of, unless a particular First Nations police force wants to do it. Our enforcement people can't go on reserve. Smoke shacks are doing a brisk trade in many parts of the province—not everywhere.

So there's still a big problem, but it's not as big as the tobacco industry would have us believe. I think, with some more enforcement and more resources, and some public education, which we don't have any about contraband—there hasn't been a single public education campaign of any visibility about contraband for 10 years.

**Mr. Jeff Yurek:** So that would be a good role for the health promotion branch of the government.

**Mr. Michael Perley:** It would be.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate it, Mr. Perley—coming before committee this afternoon and sharing your thoughts.

#### GATEWAY NEWSTANDS

**The Chair (Mr. Grant Crack):** Next, from Gateway Newstands, we have the president, Mr. Noah—Aychental?

**Mr. Noah Aychental:** Close enough.

**The Chair (Mr. Grant Crack):** I'm sure you can clarify that for us.

Welcome, sir. The floor is yours, and you have up to 10 minutes.

**Mr. Noah Aychental:** Noah Aychental; thank you.

Just a very little bit about Gateway Newstands: We are a chain of almost 400 stores in Canada, 100% franchised, offering many Canadians—hundreds of Canadians and a lot of new Canadians—opportunities to run their own independent businesses under a franchise system. We are very proud of one unique aspect of our franchise in that we share all of our rebate revenues, anything that we derive from non-retail income, back into our stores' hands to increase their profitability.

I want to thank you very much for your time today to hear our issues relating to Bill 178. This bill is designed to minimize or even curtail vaping in any form, including medicinal marijuana, in a public place like e-stores and lounges, the areas where e-stores want free rein.

Gateway Newstands fully supports Bill 178, ensuring that e-cigarettes or any type of vaping deliverable should not be smoked in a retail environment like a c-store or even an e-cigarette store. We encourage the committee to ensure that these products are handled the same way as tobacco in Ontario.

As a convenience chain operator, I am here to present my concern with this government's approach to e-cigarette retailing as indicated in the draft regulation that was recently posted for consultation under this bill. The regulation, as it is written, will allow competing vape shops to operate under a lower standard than the Smoke-Free Ontario Act currently sets out. That puts our stores at a competitive disadvantage. Passing this regulation will be a regression in an otherwise very progressive tobacco retailing environment here, an environment that our stores are proud to have played a central role in. Gateway has an outstanding record for checking for ID for any tobacco sale, and that can be easily verified by checking with any municipal health board.

Convenience stores, like Gateway, are naturally upset with the special exemption that vape stores are receiving. By allowing vape shops to retail e-cigarettes without restriction, other than to limit access to their stores to people of age, the government will be increasing the popularity of a product that the FDA recently reported should be treated the same way as tobacco. In addition, the government will be punishing Gateway stores and others, to the benefit of this new, unregulated channel.

On the special exemption, we are confused as to how the government will ensure that patrons under 19 will not be able to access vape shops in Ontario, of which there are now hundreds if not thousands in Canada. Enforcement will require more resources for regional public health units, which will undoubtedly cost the public more money. With inadequate enforcement, we feel it is inevitable that youth will continue to access these stores and be exposed to the exciting displays and promotions that vape shops will be allowed to continue to invest in.

From a public health perspective, granting vape shops this exemption doesn't make sense; from an industry perspective, this exemption could be devastating. The convenience sector is struggling, and enabling our competition doesn't help. Convenience stores need to find replacement categories of products for our declining tobacco, magazine and lottery sales. We are currently over-reliant on tobacco users to drive revenue.

Consumer trends indicate that a greater portion of tobacco users are switching to e-cigarettes. If our traditional tobacco customers are making this product transition, why is government telling them to go to unregulated competitors?

It is only logical for our customers to be offered a less harmful product that reduces the customer's use of tobacco. We want to keep our customers coming back to our stores. Please, we must have a level playing field.

Convenience stores should be the trusted retailer of these controversial products because:

(1) Gateway stores have a long-established history of complying with regulation and enforcing the spirit of the Smoke-Free Ontario Act. Our power walls are a good example of that. We have been completely blind with any form of tobacco for many, many years.

(2) Gateway stores do not exploit the loopholes in Canadian law and do not retail e-cigarette products that contain nicotine.

(3) Gateway stores have already established good working relationships with regional public health inspectors.

(4) Gateway stores are the best at checking for ID, as proven through third-party research. We are subject to the highest fines and penalties if we're caught.

If the concern is for our customers vaping inside our stores, do other customers in the stores know if the vapour is a health concern or not?

My ask: Instead of accommodating vape shops that continue to retail nicotine products illegally, we are asking that the government abolish the exemption and make vape shops subject to the same display, access and dispensing requirements as the c-store channel.

**The Chair (Mr. Grant Crack):** Thank you very much; appreciate that.

We shall start with the government side: Mr. Fraser.

**Mr. John Fraser:** Thank you very much for being here today, and thank you for your presentation.

Just on a technical side: You said something—my background is in the grocery business, so I understand your business somewhat—about your rebates. In other



words, your rebates from selling all sorts of products go directly back to the store and not to your head office.

**Mr. Noah Aychental:** We split it 50/50.

**Mr. John Fraser:** You split it 50/50? Okay. Well, that's good.

**Mr. Noah Aychental:** With the group buying power of hundreds of stores, it really creates an opportunity for them to take advantage of an extra margin in an already low-margin business.

**Mr. John Fraser:** Are you a franchise model as well too, or are you corporate?

**Mr. Noah Aychental:** One hundred per cent franchised.

**Mr. John Fraser:** One hundred per cent franchised. Okay; that's great.

I appreciate very much your concern on second-hand smoke inside your stores and your support of this specific bill that relates to the smoking of marijuana in public spaces.

In terms of your comment directly in terms of regulations: One of the challenges is, obviously, for youth, vaping as a gateway to smoking and maybe as a gateway to, as you've just heard, hookah use. What you're suggesting is to have a stronger set of regulation—in other words, for those shops that exist right now—

**Mr. Noah Aychental:** Well, we are heavily regulated, and they're not. That's the big concern. It's the age gap. We're quite used to regulation for a lot of age-contentious products. It has been a part of our makeup for forever. I think that the main concern is that there's no regulation on these pop-up vape shops.

**Mr. John Fraser:** Yes. I understand what you're saying. It would be similar to the kind of concern that you would have with tobacconists that were grandfathered in. There's no question from the point of—how much time do I have?

**The Chair (Mr. Grant Crack):** A couple of minutes.

**Mr. John Fraser:** Okay, thanks.

**Mr. Noah Aychental:** Not none, like last time.

**Mr. John Fraser:** He's not going to cut me off.

There's no question, in my experience with convenience stores in my community, in terms of the uptake on the ability to ensure that you're not selling cigarettes to minors. There's no question that, over a period of a decade and bit, there has been incredible work. The challenge becomes when you're restricting a store to say, "If you're not a certain age, you can't go in that store," just like you have in liquor stores. So you can understand the conundrum that exists there, right?

I appreciate your comments in those regards, and I do understand what you're saying in terms of trying to level the playing field. On this side, our challenge is to balance those interests as well.

But I want to thank you very much for being here today and for your presentation and for your support of the bill.

1440

**Mr. Noah Aychental:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you, Mr. Fraser. We shall move to the official opposition: Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you for being here today. I'm wondering if you could help clarify something with regard to comments shared earlier. You mentioned that vape shops possibly aren't as regulated as other industries such as yourselves or convenience stores, etc., but they possibly sell safer products. Can you clarify that, or how do you come to that determination?

**Mr. Noah Aychental:** Well, there's the issue of vape being a cessation product. We're encouraging, through the sale of these products, a much safer option than tobacco, and I think that has been demonstrated.

I have to disagree with what was said earlier about it being an encouraging thing for people to start vaping from no smoking experience. I think that more than anything this is working amongst a lot of people I know who are former smokers who use this as eventually a way to go from smoking to not smoking at all.

For us in the youth environment side, I don't know if I mentioned—we are in a lot of age-sensitive areas. We're throughout the TTC, in the subway system, and in hospitals and shopping centres as well. So we service a lot of young people. That's why I think we're in the best areas to really consciously protect youth from access to these products and do whatever we can to make sure that there's an option out there for not using tobacco. I hope that answers your question.

**Ms. Lisa M. Thompson:** Interesting. Okay.

**The Chair (Mr. Grant Crack):** Thank you very much; appreciate that. We'll move to Madame Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you so much for coming. I was a little bit curious. When you went through your presentation, you said that none of your vaping products have nicotine in them. Did I hear you right?

**Mr. Noah Aychental:** We are not selling anything with nicotine. We're following the rules that have been laid out. Gateway has chosen, as have many other people in our association—major chains are following the rules to not sell any nicotine additives. They are available at vape shops in a big way. That's part of the contentious nature of this product: that you can obtain nicotine additives for all of these products. That has to be regulated, right? But we have chosen to follow the rules and co-operate with the guidelines that the government has put on us as the legitimate business of tobacco sales and the fact that we're licensed to sell tobacco. But because of the grey area we're staying away from the contentious nature of vape nicotine-based products.

**M<sup>me</sup> France Gélinas:** This is rather interesting. Would smokers actually buy non-nicotine cartridges?

**Mr. Noah Aychental:** There are variations of the nicotine power that's available. I guess the theory behind these products is that you can start off with a higher level of nicotine and eventually wean yourself down to nothing but a flavour with no nicotine additives. That's the whole purpose of making it a smoking cessation device.

**M<sup>me</sup> France G elinas:** But you don't do this; you just sell the cartridges with no nicotine in them?

**Mr. Noah Aychental:** That's correct.

**M<sup>me</sup> France G elinas:** Okay. So they have to already be at the stage where they don't need nicotine anymore or they continue to smoke?

**Mr. Noah Aychental:** For now, we're selling to people who are just enjoying flavours without the nicotine additives.

**M<sup>me</sup> France G elinas:** Okay. We've heard a lot that Health Canada does not test those cartridges. How do you know for sure what's in those cartridges and that there is no nicotine in them?

**Mr. Noah Aychental:** There's packaging that has to indicate that they have nicotine additives. We're very careful with the suppliers that we are selling products for. We're examining anything before it goes out into distribution to our stores.

**M<sup>me</sup> France G elinas:** Where are your suppliers coming from? Are they Canadian?

**Mr. Noah Aychental:** Some are. All the distributors are receiving products from all over the world, but I think they're made in various different markets and shipped to Canada.

**M<sup>me</sup> France G elinas:** So your point is really that you are against the special exemption. You feel that every convenience store should be allowed to sell and work with the same rules as everybody else. So no special exemption for a vape shop: If you sell vaping equipment or cartridges or flavours, the same regulations would apply to everybody who sells.

**Mr. Noah Aychental:** And on top of that—yes, I agree with everything you said—when it is time for us to sell nicotine additives, we are in the right position, because we are licensed to sell tobacco and tobacco products. They're not. A lot of vape shops don't have tobacco licences at all. That business should be coming to our stores. That business should be coming to our partners in our association, because we are the professionals at age-testing and selling tobacco products—period.

We're co-operating now with the rules that the government has laid out. We are refraining from selling a contentious product because there haven't been any rules put into place yet. It's kind of open season on nicotine additives in these products. We feel that that is our area of expertise, where we should benefit from the time when these products are legitimately made available to the public for consumption.

**M<sup>me</sup> France G elinas:** And you feel you would be able to do this, even with the power walls, where people would not see the products and would have to call it and all this?

**Mr. Noah Aychental:** We will follow all the rules, but I know that the consumers are already used to coming to our stores for hundreds of years. Our convenience-style, tobacconist-style stores are the outlet for tobacco products, and we should continue to be that. We shouldn't be beat on an unlevel playing field by non-legitimate stores that are selling without proper regulation.

**M<sup>me</sup> France G elinas:** Do you have any preference what the regulations should be like? Should it be behind the walls? Should you be allowed to show the different—

**Mr. Noah Aychental:** We are complying now with a completely blind environment for tobacco products. That's something that we've also co-operated with the government on, and we have since 2006 or 2007, where there have been no tobacco products visible at all. We will continue to comply and use the resources that we have to educate the consumers in whatever limited capacity that we have legally available.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Aychental. Thank you for your comments.

#### ONTARIO KOREAN BUSINESSMEN'S ASSOCIATION

**The Chair (Mr. Grant Crack):** Next we have, from the Ontario Korean Businessmen's Association, Mr. Don Cha, who is the general manager. Welcome, sir. How are you today?

**Mr. Don Cha:** Great.

**The Chair (Mr. Grant Crack):** Good.

**Mr. Don Cha:** Never can get used to this, but I'll try my best.

**The Chair (Mr. Grant Crack):** That's great. Welcome, sir. You have up to 10 minutes.

**Mr. Don Cha:** Thank you, sir. Good afternoon, members of the committee and Mr. Chair. Thank you for the opportunity to speak to you today. My name is Don Cha. I am the general manager for the Ontario Korean Businessman's Association, also known as the OKBA.

I am here to ask some questions about Bill 178, specifically some proposed amendments on how e-cigarettes are sold in Ontario. Before I comment on that, I would first like to talk a little bit about our organization and who our members are.

Our business association was launched in 1972, during a period of significant immigration to Canada by tens of thousands of Korean-born nationals like myself. Today, it is estimated that several hundred thousand Korean-born nationals now call Ontario home. Koreans, by nature, are hard-working and humble people. We did not come to Canada to ask for handouts or any special treatment. We play within the rules and seek a fair shot at success, like all Canadians, regardless of their background, religion or what we do to generate an income for our families.

With a strong work ethic and entrepreneurial spirit, many Korean immigrants ended up owning and operating small convenience stores. At our peak, we had more than 2,000 Korean families who owned and operated independent convenience stores across the province in cities and small towns of all sizes. With few exceptions, we have members in every riding across the province and most likely in each of your ridings. Our members operate their business like many small business owners. They work long days, often seven days a week, and keep their stores open for long hours, maintaining 18-hour days.

1450

As you know, convenience stores can be a cornerstone of a community, particularly in small towns. Our owners know many of their customers on a first-name basis and see hundreds of people every day. Our members know better than most the inevitable changes that are impacting the retail landscape, and that in business, nothing stays the same. As a result, our member stores are diversifying the products they sell in order to stay in business. Gone are the stores that just sell lottery tickets and newspapers. However, a significant portion of our revenue still comes from the responsible sale of licensed and taxed tobacco products.

Since the current government brought in the Smoke-Free Ontario Act, we have dutifully followed all regulatory changes and have continued to be responsible retailers. However, if some of the proposed amendments in Bill 178 go through and current unregulated vapour shops are permitted to sell e-cigarettes with fewer restrictions, our members will face further hardships, and more hard-working family businesses in Ontario will close permanently.

I mentioned earlier that when our association was the largest, we had over 2,000 members. Today, less than 1,500 stores remain in operation; 25% of our member stores have closed since 2009. Many factors are increasingly making it difficult for small, independent convenience stores to survive. Increased competition from big box retailers, higher electricity costs and increased regulations and red tape all add pressure to our members as they try to make a living.

Since being introduced several years ago, we have seen many smokers transition from traditional tobacco to e-cigarettes. Our retailers are pleased to be able to provide these products. For years, our members have struggled in an environment where contraband tobacco has flourished and been made readily available. While we appreciate government efforts to battle that problem, it still exists, and the unlevel playing field that our members have been forced to compete on has largely been responsible for so many of our members closing their doors. Now we are facing a similar problem with e-cigarettes.

I would like to question aspects of the proposed amendments in Bill 178 and challenge the government and this committee to consider the impact to hard-working Ontario business owners, like OKBA stores. I need to provide my members with some answers, so I hope you can help me here.

First, allowing a double standard: As indicated earlier, along with all convenience store retailers, the OKBA has worked with this government to enforce the many different rules and changes that were part of the Smoke-Free Ontario Act. We do not understand why the government is now proposing two sets of rules around the sale of e-cigarettes. If retailers like us must cover displays and not have any in-store advertising, then all stores should have to follow the same rules. Anything less would be a regression in what has become a progressive tobacco retailing environment.

Second, enforcement of vapour shops: If the bill is passed as it's currently written, vapour stores will be allowed to sell openly displayed e-cigarettes, providing they restrict access to only those 19 years of age or older. This will undoubtedly result in increased costs to government, as it would have to spend more money through regional health boards to conduct more mystery shops. Our retailers already have good relationships with these regional health officials. We are already well aware of the laws surrounding the sale of many age-restricted products. The c-store sector has repeatedly proven to be among the best at checking ID. How can these vapour shops assure their communities that they are really restricting access to only those 19 years of age and older, and how can the government enforce it?

Third, trust the convenience store sector: As mentioned earlier, the landscape for our members to remain profitable these days is difficult. However, our remaining members continue to work hard, pay our taxes and play by the rules. Convenience stores owners have a long-standing history with regulatory compliance and enforcement. We do not exploit loopholes and do not retail e-cigarettes with nicotine, something many existing vape shops currently do. We want to continue to be a trusted partner to government. Trust us to help you enforce the laws for everyone.

Our request to this committee is simple: Please ensure that any regulatory changes around the sale of e-cigarettes are fair and treat every retailer the same. Do not accommodate vapour shops to continue to retail nicotine products illegally. All stores that sell these products must be subject to the same display, access and dispensing requirements, whether they are vapour shops or convenience stores.

Regrettably, some of our members who closed their stores have actually gone back to Korea. Those of us who remain are proud Canadians and proud to call Ontario home.

Thank you for the opportunity to present today, and I welcome any questions you may have.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Cha.

We'll start the questioning with Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I think it was them.

**The Chair (Mr. Grant Crack):** The first round went PC, NDP, Liberal. Then it's NDP, Liberal, PC. So right now, it's NDP.

**M<sup>me</sup> France Gélinas:** Huh. Well, there you go.

Thank you for presentation. Very well done.

**Mr. Don Cha:** Thank you, ma'am.

**M<sup>me</sup> France Gélinas:** I'll go straight to it. I fully understand that you want the rules to apply to everybody who sells e-cigarettes, whether it be the e-cigarettes or the cartridges themselves. If you had a say, how would like those regulation to roll out?

**Mr. Don Cha:** As I mentioned earlier in my presentation, I would like to have the same even playing field. If they're open, we should be open. Right now, the bill says that we cannot display from January 1, 2017. So if it goes

to that effect, the vapour shops should not be able to display the products.

**M<sup>me</sup> France Gélinas:** Okay. You were there when the other person was presenting. How do you know that the cartridges that you sell don't contain nicotine?

**Mr. Don Cha:** Any manufacturer, if they sell e-products, they have to provide if it does contain nicotine or not. Some contain 1% and it goes up to 10% of nicotine, so it varies, but they have to clarify to us that these products do not contain nicotine.

**1500**

Last year, we had a trade show. It's a Canadian company who presented that. That product sells in Loblaws all across Ontario, and that product does not contain nicotine. So that's how we verify the products.

**M<sup>me</sup> France Gélinas:** So right now, none of the convenience stores that are members of your association sell cartridges that contain nicotine?

**Mr. Don Cha:** Let's put it this way: I do not go to all the stores, but we have a publication that comes out every two weeks. Regarding e-cigarettes, we clarify what the rules are of e-products. There is no regulation in Ontario, as far as I understand, but at the federal level, they did clarify that. So we do not recommend for the members to sell e-cigarettes which contain nicotine. We put it out, every three months, to make sure they have a clear understanding of it. Because a lot of our members do not speak good English, we provide that service to my members.

**M<sup>me</sup> France Gélinas:** To make sure. Okay. Thank you.

**The Chair (Mr. Grant Crack):** We shall move to the government: Mr. Fraser?

**Mr. John Fraser:** Mr. Cha, thank you very much for being here today. I do know that the people that you represent often work very hard, long hours at small family businesses. In the adjustment around the necessary changes to a smoke-free Ontario, I know they were difficult, but I do want to thank your association for the support that you've given in terms of sales to minors. I think it's very critical.

I've heard your comments with regard to the regulations around vaping, which, of course, are separate to why we're here today, and I appreciate those comments.

But I want to come back to the bill. I just want to understand: You do support the bill in terms of designating products that may be harmful to people's health and subject to no-smoking rules, so marijuana or any other substance, going forward from there?

**Mr. Don Cha:** Yes.

**Mr. John Fraser:** Okay. Thank you very much. That's all I have.

**The Chair (Mr. Grant Crack):** Thank you—

**Mr. Don Cha:** All I'm asking for is an even playing field. If the vaping shops are allowed to display the products, where are the customers going to go? We are selling tobacco already, so if we're not allowed to display it, they shouldn't be able to display it, because all our members' customers are going to go to the vaping shops.

It isn't a fair playing ground. All I'm asking for is a fair playing ground.

**Mr. John Fraser:** Thank you very much, Mr. Cha.

**The Chair (Mr. Grant Crack):** Thank you, sir. We'll move to the official opposition: Mr. Yurek.

**Mr. Jeff Yurek:** Thanks for coming in today. It's unfortunate that small businesses such as yours, as you've noted here, are having difficulty making ends meet under this government's high electricity costs, which, it was leaked today, are really going to skyrocket when they pull your natural gas from your business. Increased regulations and red tape will definitely add to the business cost environment.

Was your association consulted at all during the creation of this bill?

**Mr. Don Cha:** No.

**Mr. Jeff Yurek:** I guess the question to ask the government is—hopefully, when they draft the regulations to this bill and still Bill 45—that your association is part of those regulations to ensure that it's a fair field for all going forward. The legislation is set in the House, but you've got to get the structure built, and that's when the regulations come forward. Hopefully, this government will start to consult with those that are going to be directly affected by their laws that they're putting forward.

**The Chair (Mr. Grant Crack):** We thank you, Mr. Cha, for coming before committee this afternoon. It's much appreciated.

**Mr. Don Cha:** Thank you.

#### CANADIAN CANCER SOCIETY, ONTARIO DIVISION

**The Chair (Mr. Grant Crack):** Next we have, from the Canadian Cancer Society, Ontario division, Mr. Zachary Nichols, who is senior coordinator, public issues.

We welcome you, sir. You have up to 10 minutes.

**Mr. Zachary Nichols:** Thank you, Chair and members of the committee. It's a privilege to be here.

My name is Zachary Nichols, and I'm here today on behalf of the Canadian Cancer Society, Ontario division. I'd like to express the society's thanks for the expediency in the handling of this bill and that all parties expressed their support during second reading. Likewise, we are hopeful to see this legislation passed in a timely manner.

We welcome the proposed expansion of the definition of what can be regulated under the Smoke-Free Ontario Act. We believe that including other products is a positive step for public health and towards the prevention of cancer.

The intention of this bill, to regulate the smoking of medical marijuana, is an important measure that we believe will be supported by health professionals at large. Smoking any combustible material constitutes health risks, period. As such, we feel that prescribed products that fall under the act should include both herbal and non-herbal shisha that are smoked in water pipes.

There are many misconceptions surrounding the smoking of water pipes. Many users feel that it is less

harmful than cigarette smoking, because the smoke passes through water. But smoking tobacco through water does not filter out cancer-causing chemicals. Moreover, hookah sessions typically last for an hour or more, and are equivalent to smoking many cigarettes.

Hookah lounges are becoming increasingly popular in Ontario, especially among youth. They circumvent the Smoke-Free Ontario Act legislation by claiming that shisha is an herbal mixture, yet tobacco enforcement officers have reported many instances of tobacco in the shisha mix or sold to accompany the mix. This is particularly concerning, as there are no age restrictions at hookah lounges or for hookah smoking.

Second-hand smoke exposure inside hookah lounges is also a concern for patrons and staff. A recent study conducted by the Ontario Tobacco Research Unit measured the air quality in indoor water pipe cafés in Toronto and determined that staff and patrons are exposed to air quality levels considered hazardous to their health.

Perhaps one of the most disturbing trends is the increase in normalization of hookah smoking among Ontario youth: 8.3%—we've heard that number today; that's one in 12—of grades 7 to 12 students across the province report smoking hookah in the past year, according to the Ontario Student Drug Use and Health Survey. This is nearly as high as for cigarettes, which currently stands at 8.6%.

Several municipalities in Ontario and across Canada are taking action and implementing measures to ban indoor water pipe smoking in restaurants, cafés and bars. Jurisdictions in Ontario with indoor bans include Toronto, Barrie, Peterborough, Orillia, Bradford West Gwillimbury and, most recently, Peel. Bans are also currently being proposed in Ottawa.

When the Smoke Free Ontario Act came to be, municipalities were taking action on second-hand smoke. Regarding hookah, municipalities are doing the same. We feel that it is time for the province to follow their example. A patchwork system where municipalities are filling in the gaps is not adequate where public health and cancer are concerned.

You'll notice today that I was supposed to be joined by one of our youth advocacy leads, Rubina Kharel. Unfortunately, she was not able to make it today because she fell ill. But she has spoken out about this issue many times, and is a strong advocate in her community. I'd like to read to you some of her comments that she recently made at a deputation to the Toronto Board of Health:

"Just last week, a young girl I know turned 16. She went out to dinner with her friends to celebrate her birthday. I follow her on Instagram and Facebook, and she posted several pictures of her friends and herself smoking hookah, and the comments below the pictures were equally 'cool' and full of praise from her other friends on how much 'fun' they were having and how they should do it more often. I was taken aback ... by the way that young girls of 15 and 16 were smoking" hookah "so freely, most probably without the knowledge of their parents ... and seemed very proud about it, judging from their comments posted on the pictures.

"But then I realized I should not have been surprised at all, for we all know that hookahs are a giant loophole in the smoking laws in Ontario. But why should we be worried? Water pipes supposedly 'don't contain any tobacco,' are supposedly less harmful than cigarette smoking because the smoke is filtered through water, and herbal shisha is supposedly less harmful than tobacco shisha. They even look pretty exquisite on Facebook pictures.

"The amount of freedom and casual shrugs that hookah smoking receives, especially from young adults, are among the very reasons I support the recommendations on prohibiting the use of hookah in licensed establishments. My grandparents and great-grandparents were addicted hookah smokers, but despite their own habits, they restricted my parents and all of their 14 siblings from ever smoking those water pipes.

"I cannot speak for everyone, but it amazes me that my grandparents had the insight to not let their kids be exposed to the dangers of hookah smoking four decades ago, when my parents were growing up, and it disappoints me that we have not been able to do the same for our residents in Ontario. Yes, culture is valuable, but I am proud to say that my grandparents made the right decision to not pass this particular tradition to their kids and grandkids, because living a long life in good health and spending quality time with family and friends is the only tradition my family needs.

"More and more jurisdictions outside North America, including in Lebanon, Turkey, the United Arab Emirates and a number of Middle Eastern cities, have already banned or severely restricted water pipe use or are currently considering doing so. It is time for Ontario to do the same."

Thank you for your time.

**The Chair (Mr. Grant Crack):** Thank you very much. Appreciate that. We shall start with Mr. Rinaldi, from the government side.

**Mr. Lou Rinaldi:** Thank you very much for being here today, and for your presentation and, above that, all the good work that the Canadian Cancer Society, along with all its affiliates, does to protect our lives. It's very, very much appreciated. A good example is your being here today.

I want to get your reaction and comment to the fact that the medical use of marijuana in Canada has grown by leaps and bounds. It's reported that, in September 2015, there were well over 30,000 users. There needs to be some kind of framework to protect other folks because we really don't know, as we heard from the previous presenter, what the outcome of that second-hand smoke and so forth is yet. You commented on how Bill 170 approaches that, but can you also give some insight on how we can make it even better?

1510

**Mr. Zachary Nichols:** On medical marijuana?

**Mr. Lou Rinaldi:** On marijuana.

**Mr. Zachary Nichols:** Our position is that we know that medicinal marijuana is often used to help with the

symptoms of cancer and in cancer treatment. We think this is a serious issue that patients need to discuss with their doctor. We have concerns around second-hand smoke of marijuana. We believe it should be regulated in Ontario the same way as tobacco, and we believe strongly that it should not be accessible to minors. But we also understand that there's a lot of research in this area that still needs to be undertaken.

**The Chair (Mr. Grant Crack):** Over to the official opposition: Mr. Yurek.

**Mr. Jeff Yurek:** Thanks very much for coming in today and your points on hookah smoking. My question was along the same lines of medical marijuana. I didn't see much talked about here. The dispensaries which allow for them to smoke in the clinics—what's the Canadian Cancer Society's thought on using—

**Mr. Zachary Nichols:** We do have concerns around the smoking of medical marijuana, but our position is that we believe patients should have access in the form that their doctor prescribes.

**Mr. Jeff Yurek:** Should medical marijuana be the same as tobacco-smoking laws, which prohibit smoking near parks, out near the fronts of buildings? Should they be outside when they have to have their medical marijuana?

**Mr. Zachary Nichols:** We do believe that it should be regulated in the same way as tobacco. I believe Michael Perley also reiterated our position on that as well.

**Mr. Jeff Yurek:** Lisa has a question.

**Ms. Lisa M. Thompson:** I appreciated the comments you shared from your colleague who was going to be here today. It brings up the concept and question around age testing. Do you feel that hookah shops etc. have trained appropriately to ensure that young people are protected, as is the integrity of the type of testing that, say, convenience stores have achieved to date?

**Mr. Zachary Nichols:** The issue with hookah shops is currently that they are not regulated under the Smoke-Free Ontario Act because the mixture that's sold is purported not to be tobacco. So they're not subject to the same types of conditions. We believe that hookah shisha should be regulated in the same way as tobacco under the Smoke-Free Ontario Act. Absolutely, this is a concerning trend among youth, and we don't believe that anyone under 19 should have access.

**Ms. Lisa M. Thompson:** Perfect. Thank you very much.

**Mr. Zachary Nichols:** You're welcome.

**The Chair (Mr. Grant Crack):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I think you were there when I was asking some of the questions before. Would the cancer society have any problem if the regulations for recreational marijuana come in at a later age, as in 21 or 25?

**Mr. Zachary Nichols:** I don't have a position to offer you on that. I could absolutely get back to you in writing, but that is something we would definitely look at, should that come into force.

**M<sup>me</sup> France Gélinas:** I wouldn't mind if you could get back to the committee, if you have time, as to your position on that.

**Mr. Zachary Nichols:** Yes.

**M<sup>me</sup> France Gélinas:** Can you see any reason why we would not move ahead with regulating shisha and hookah pipes and water pipes? Is there any reason why we're not doing it now, that you know of?

**Mr. Zachary Nichols:** I don't believe there's any reason why we should not do it. I think it's definitely an option to have it as a prescribed substance should Bill 178 pass.

**M<sup>me</sup> France Gélinas:** I know you worked with us and many others on flavoured tobacco. Were you aware that the flavouring is back on with those new flavouring packets that you put in with your cigarillos?

**Mr. Zachary Nichols:** Yes, I have seen those flavour packets and I would say that it is concerning and it is a product that is designed to target youth. I am not sure what the best avenue to regulate those particular products would be, but that would be something we would definitely be concerned about.

**M<sup>me</sup> France Gélinas:** Do you see this as a way to circumvent the law we put forward to ban flavoured tobacco?

**Mr. Zachary Nichols:** As I said, we would definitely be concerned about these particular products, but I don't know what the best way to regulate them would be.

**M<sup>me</sup> France Gélinas:** How important do you rate contraband tobacco in everything that the Smoke-Free Ontario Act should do?

**Mr. Zachary Nichols:** Contraband tobacco is absolutely of concern. Tobacco is tobacco, period. We do want to see the ability to enforce more, but as I said, tobacco is tobacco, period.

**M<sup>me</sup> France Gélinas:** Does the cancer society have an opinion as to where recreational marijuana should be available, as in LCBOs only, in corner stores or in dispensaries?

**Mr. Zachary Nichols:** We would want to see some kind of licence system in place, but we don't know what that would look like yet.

**M<sup>me</sup> France Gélinas:** Okay. And no preference?

**Mr. Zachary Nichols:** As I said, that's something that we're currently looking at, but we don't know what that would look like yet.

**M<sup>me</sup> France Gélinas:** How worried are you that more people will end up smoking tobacco—because once recreational marijuana becomes available, people often cross from tobacco to marijuana or mix the two together. Is this a worry for the cancer society?

**Mr. Zachary Nichols:** We know that many recreational marijuana users do mix their marijuana with tobacco. We don't want to see any kind of smoking behaviour re-normalized, so that is something we would be concerned about.

**M<sup>me</sup> France Gélinas:** You're concerned right now?

**Mr. Zachary Nichols:** Yes.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you, Mr. Nichols, for coming before committee this afternoon and sharing your thoughts.

REGISTERED NURSES'  
ASSOCIATION OF ONTARIO

**The Chair (Mr. Grant Crack):** Next, we have from the Registered Nurses' Association of Ontario Andrea Baumann and Cindy Baker-Barill. Hi. We welcome you both. You have up to 10 minutes for your presentation to the committee.

If you'd introduce yourself and position; we have time.

**Ms. Andrea Baumann:** Thank you. My name is Andrea Baumann. I'm a registered nurse and a nursing policy analyst at the Registered Nurses' Association of Ontario. We're the professional association representing registered nurses, nurse practitioners and nursing students in Ontario.

With me today is Cindy Baker-Barill. She's a public health nurse who works in tobacco control, and she's a past president of the Community Health Nurses' Initiatives Group, an interest group of RNAO.

Our association and its members advocate for healthy public policy and aim to influence decisions that affect nurses and the public we serve. We welcome this opportunity to provide input to the standing committee on Bill 178. RNAO has a long and successful history of leadership that advances evidence-based practices and evidence-based advocacy for healthy public policy, specifically on the issue of tobacco cessation and control.

Nurses are leaders in tobacco prevention and cessation. RNAO supports them in building their capacity to engage in tobacco cessation interventions with clients through our best practice guideline and our multi-pronged, province-wide tobacco and nicotine intervention initiative, including the extremely effective Smoking Cessation Champions Network. You'll see in your packages that there's a sheet about the tobacco and nicotine intervention initiative.

RNAO was a key member of the Tobacco Strategy Advisory Group, which was established in 2009 to advise the government on a five-year plan to follow its Smoke-Free Ontario Strategy. Since that time, RNAO has played a substantive role in provincial initiatives, including the hospital-based tobacco cessation initiative committee, the youth engagement strategy committee and the Ontario Tobacco Research Unit knowledge exchange advisory group.

RNAO's Tobacco and Nicotine Intervention Initiative was launched in 2007 with funding from the Ministry of Health and Long-Term Care. It equips nurses and other health professionals with the knowledge and skills to integrate smoking cessation best practices into their clinical settings. RNAO's best practice guideline, Integrating Smoking Cessation into Daily Nursing Practice, is an evidence-based tool used provincially, nationally and internationally. It's the initiative's foundational

document and an essential resource to support health providers in their tobacco-cessation-related work. This guideline provides practical interventions for nurses and others to help engage and support clients who use tobacco and want to quit.

This initiative also supports organizations to implement best practices in their health care settings with strategies to strengthen and sustain those best practices, including the engagement of nurses and other health professionals, knowledge transfer events, networking opportunities and support from a tobacco cessation coordinator. There are over 4,000 champions in Ontario leading evidenced-based tobacco cessation within their organization. Recent evaluations have demonstrated the impact of RNAO's strategy in nurses' and organizational capacity in smoking cessation and helping clients quit across the province.

It is encouraging that these efforts have helped to decrease smoking rates in Ontario, and yet, people still smoke. Nurses know all too well the cost of tobacco use on our community, our health care system and our young people. Tobacco use remains a significant and completely avoidable cause of illness and death, and an unnecessary burden on tobacco users, non-users and the health system. According to the Ontario Lung Association, 13,000 people in Ontario die annually from tobacco-related causes, and the province spends an estimated \$1.6 billion per year in direct health care system costs caring for tobacco-related illnesses.

**1520**

In terms of public policy, RNAO supports the regulation of the promotion, sale and use of tobacco and electronic cigarettes as part of an overall control and cessation strategy. RNAO has voiced its support for the Smoke-Free Ontario Act in the past and continues to support the government's efforts to strengthen smoking and vaping laws and regulations in Ontario. Most recently, RNAO was pleased to provide written feedback in response to the ministry's public consultation paper entitled Strengthening Ontario's Smoking and Vaping Laws: Proposed Changes to Regulations Made under the Smoke-Free Ontario Act and Electronic Cigarettes Act, 2015.

**Ms. Cindy Baker-Barill:** I'm Cindy Baker-Barill and I'm here in my volunteer role today with the RNAO as the past president of the Community Health Nurses' Initiatives Group. I'm just making that clear because I do work in tobacco control as well, so I have a strong background in this area.

The Smoke-Free Ontario Act protects the public by prohibiting smoking in enclosed public spaces and workspaces as well as certain outdoor public places. Currently, however, it only applies to tobacco. RNAO supports the efforts to expand the reach of the SFOA to include medical marijuana. We applaud the Ontario government for proactively taking steps to regulate its use in public spaces to address our concerns around the potential risks of exposure to second-hand marijuana smoke resulting from its combustion.

Medical marijuana may be smoked or may be delivered in an alternate method such as orally. Given that medical marijuana is legal in Canada, RNAO respects it as a clinical option for practitioners and patients to lawfully consider. RNAO supports the rights of individuals who, based on medical need, qualify to use marijuana for medical purposes, according to the federal marijuana for medical purposes regulations.

However, there must be a balance of individual rights, including autonomy and self-determination, with those of collective justice and the protection of the public. Smoking marijuana involves combustion, and there is evidence to suggest that there may be risks associated with exposure to second-hand marijuana smoke. Given that marijuana smoke contains tar and other known carcinogens that are present in tobacco smoke, it stands to reason that it should be regulated similarly to tobacco smoke to ensure public safety. Thus, RNAO agrees with the proposed amendments to section 2 of the SFOA to expand its reach to apply to prescribed products and substances, making the smoking of medical marijuana and other substances subject to the same public safety regulations as the smoking of tobacco.

RNAO is in favour of smoke-free public spaces in order to normalize smoke-free living. When children and youth see adults smoking in a public place, whether it's tobacco or marijuana, it normalizes smoking and may make them more likely to try it. Restricting smoking in public spaces helps reduce the visibility of smoking, which can affect perceptions of smoking among youth by promoting the message that smoking is not the norm and is not acceptable.

The current exemption, however, under section 9 of the SFOA that permits tobacco smoking in designated indoor spaces, such as long-term-care homes and designated hotel rooms, would not apply to medical marijuana under the proposed SFOA changes. RNAO asserts that both tobacco and marijuana smoking should be banned in all indoor public spaces. Thus, RNAO calls for an amendment to the bill to ensure these exemptions are immediately repealed to protect employees and the public from the potential harm of second-hand smoke, whether from tobacco or marijuana.

In summary, RNAO supports efforts to strengthen healthy public policy in Ontario. We applaud the provincial government for its efforts to strengthen smoking laws and we urge you to implement legislative changes with our recommendations incorporated. We believe these evidence-based and pragmatic measures are in the best interests of Ontarians and will continue to advance our shared vision of a healthier Ontario.

Thank you for giving us this opportunity to present our analysis. We look forward to ongoing collaboration on this important issue.

**The Chair (Mr. Grant Crack):** Thank you very much to the both of you for your presentation. We shall start the line of questions and comments from the government: Ms. Malhi?

**Ms. Harinder Malhi:** Thank you for coming out to present to us. I was just going to say that you talked a lot

about the use of marijuana and medical marijuana. Do you think we need to increase the scope of this act to include medical marijuana and have the same things apply in terms of the Smoke-Free Ontario Act to tobacco smoking?

**Ms. Andrea Baumann:** Yes. RNAO's position is that we would like to see the same level of regulation as for tobacco for medical marijuana, given the potential risk to the public. There is some evidence to suggest that second-hand smoke has adverse health effects, and research is ongoing. There is a need for further study, but until such a time where we know that it's safe for those exposed to second-hand smoke, that is our position: that we would like to see it regulated.

Do you have anything to add?

**Ms. Cindy Baker-Barill:** Yes. Sorry. I wasn't getting her question right away. So I would have said what you said. It needs to be banned in similar places to protect the public and to protect young people from being exposed to other people smoking medical marijuana. There are alternative methods that could be used for public places.

**Ms. Harinder Malhi:** As far as the research we've seen so far, is second-hand smoke from medical marijuana as harmful as or less harmful than that of tobacco smoke?

**Ms. Cindy Baker-Barill:** There needs to be more research, which we did hear from the last speaker, but based on the fact that it's a combustible product, it is likely as harmful as cigarette smoke, but we need to see. The research on that hasn't been funded to date at the same level.

**Ms. Harinder Malhi:** Great. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We shall move to the official opposition: Mr. Yurek.

**Mr. Jeff Yurek:** Thanks for coming out. Hopefully you had an enjoyable Nursing Week last week, and I look forward to Take Your MPP to Work Day next week during const week. I think I have two locations I'm going to, so it'll be fun to get out and see that.

You touched a little bit on your nicotine intervention initiative that was formed. I know, last week, RNAO put out this report expanding their goals for the government with regard to nursing care in Ontario. Would the expansion of RN prescribing independently help improve the tobacco initiatives? Explain how that would improve getting people off tobacco.

**Ms. Andrea Baumann:** Yes, that's a great question. I think one thing that comes immediately to mind with RN prescribing is the ability to prescribe nicotine replacement products. For example, I used to work in primary care and I did some work in smoking cessation, but nurses of course don't have the authority to prescribe. You needed to either have a medical order or a medical directive to prescribe nicotine replacement products. I think definitely with independent RN prescribing, an RN who is trained in smoking cessation, who has the knowledge, skill and judgment to make those decisions to recommend nicotine replacement therapy, is a great ex-



ample of how it could improve access to quitting services in Ontario.

**Mr. Jeff Yurek:** Good. Also a question that's not covered in here: RNAO's position on contraband tobacco in the province and the battle to deal with that. What are your thoughts as an organization?

**Ms. Andrea Baumann:** I think that, in general, we'd like to see tighter regulations on contraband tobacco. I don't have a position, but I can get back to you with that information.

**Mr. Jeff Yurek:** That would be great. Thanks.

**The Chair (Mr. Grant Crack):** Thank you very much. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you. You've heard some of the other speakers talk about shisha, hookahs, water pipes, etc. Do you also support that regulations should include those products?

**Ms. Cindy Baker-Barill:** Using the same logic that we have with medical marijuana, e-cigarettes and cigarettes, it makes the same sense for hookah shisha to be regulated in the same manner.

**M<sup>me</sup> France Gélinas:** Do you have a position towards who would be dispensing recreational marijuana? There's a train of thought that it should be in the LCBO. Others think it should be made available in corner stores. Any thoughts?

**Ms. Cindy Baker-Barill:** What we do know is that there have been some regulations and some dispensing in places like Colorado where they've been doing some research. It would be important to look at what they've learned from those sites to best decide the most appropriate location in Ontario, but it would need to be very well regulated and controlled. So if that would be the LCBO—but I think it would be good to learn from what has happened elsewhere.

**M<sup>me</sup> France Gélinas:** Have you got any thoughts about age—making recreational marijuana only available after the age of 21 or after the age of 25 rather than 18?

**Ms. Cindy Baker-Barill:** We talked about this. The older, the better, because of the brain development in the young adult and the potential effects of marijuana during brain development. So the later ages would make more sense based on that for young people.

1530

**M<sup>me</sup> France Gélinas:** Does RNAO agree with the statement that once recreational marijuana becomes available, we may see an increase in the number of smokers because of the cross between the two where people roll with tobacco and marijuana together, or is this not something that you worry about?

**Ms. Cindy Baker-Barill:** I think, with all of these products, that one can lead to the other. So with marijuana, medical marijuana, legalization of marijuana, e-cigarettes—I recently saw a product in a retailer. It looked like a cigarette and it was a marijuana cigarette, which would be illegal at this point in time, but it looks like a cigarette. So you've got that worry about normalizing that whole smoking tobacco again.

**M<sup>me</sup> France Gélinas:** I've also seen that more and more of those slim ladies' cigarettes. Any ideas as to what other legislation would further protect public health when it comes to smoking of all sizes, shapes and substances?

**Ms. Andrea Baumann:** Well, I would just like to reiterate the one point from our submission today around amending section 9 of the act, to protect the public who might be in these spaces that currently have exemptions. For example, in long-term-care homes, the concern would be about staff and other members of the public who might be exposed to second-hand smoke there. Another example is hotel rooms. I think that's one area where we'd like to see the legislation strengthened.

**Ms. Cindy Baker-Barill:** And multi-unit dwellings would be really helpful. When you survey people living in multi-unit dwellings, most of them would like to live in a smoke-free housing environment, and there is more and more demand for that. So it would be great if there were legislation to help protect people in their own living environment.

**M<sup>me</sup> France Gélinas:** Okay. Thank you.

**The Chair (Mr. Grant Crack):** All right. Thank you very much, and thank you to both of you for coming before committee this afternoon. We appreciate it.

#### ONTARIO CONVENIENCE STORES ASSOCIATION

**The Chair (Mr. Grant Crack):** Next on the agenda we have, from the Ontario Convenience Stores Association, Mr. Dave Bryans, who is the chief executive officer. We welcome you, sir. I think we've seen each other before.

**Mr. Dave Bryans:** Yes.

**The Chair (Mr. Grant Crack):** You have up to 10 minutes. Thank you.

**Mr. Dave Bryans:** Great. Thanks, everyone. Great to be here. As you know, I'm CEO of the Ontario Convenience Stores Association. I do represent over 6,000 members throughout the province, and I'm pleased to have the opportunity today to comment on Bill 178. It's great to see so many familiar faces again at the table.

Before I start, let me remind the committee about the c-store industry in Ontario. Let me just talk to you a bit about it. While made up of small business, we amount to big business from an economic standpoint. The OCSA represents a little over 6,000 convenience stores in the province. We interact with over 2.7 million Ontarians each and every day. We collect \$3.8 billion in tax revenue for the province of Ontario every year, and in 2015, we accounted for \$2.7 billion in lottery revenue for the OLG for the government. We are an \$18.4-billion industry in Ontario, and we support over 65,000 jobs in the province.

Despite these statistics, our industry is struggling. Margins are extremely small, and shrinking under pressure from suppliers and costs associated with accommodating new regulations.

Let me begin my comments on Bill 178 by stating that we are wholly supportive of Bill 178. From the retail perspective, we are pleased to see further restrictions put on where the public is allowed to use vapour products. The reasons we welcome the legislation are twofold: (1) it helps ensure the retail environment in our stores will not be compromised; and (2) it improves workplace safety for our clerks.

As mentioned, our stores service almost three million Ontarians every day. There is a convenience store in virtually every corner of this province. Most people find themselves in a convenience store two to three times a week, and in rural and northern communities it can be much more. They are used as public spaces, and they need to be clean, safe and inviting.

I'm proud to point out that our stores are often part of the social fabric in many communities. They are a place where people congregate, have coffee, talk with their neighbours and pick up snacks and groceries. We are a destination for families and youth. It is imperative to our businesses that we keep our retail environments safe and inviting to our core demographic.

As our sector continues to struggle and compete against big box stores, expanding large grocery outlets and drugstores like Shoppers Drug Mart, we have had to look inward to recognize the qualities of our industry and to better showcase them.

Indeed, our relevance for the community building prospect remains one of our lone competitive advantages that we have in the retail landscape. We feel it is very important to our industry that this association with community be preserved and grown where possible.

One of the potential threats to this would be to allow the use of vaporizers, even for medical needs, in public and in our stores. It is not a stretch to recognize that the c-store environment would be a natural victim of the allowed use of certain products in public places.

In recent months and years, e-cigarettes have increased in popularity. Convenience stores have become a leading destination for Ontarians wanting to purchase and try these new e-cigarettes and vaporizers. This makes sense when you recognize that the majority of Ontarians have always bought their tobacco products from us. Now that many are switching to e-cigarettes, our stores are able to maintain its customer base by providing these alternative products. It is a natural fit, and who better to retail them but the convenience store?

That fact, along with the high traffic and the community meeting place characteristics that many of our stores have or aspire to embody, greatly increases the risk that our operators and clerks would have to face and protect against, should certain vapour products be allowed to be consumed indoors at our shops.

Understanding that this legislation was largely drafted to address the concerns with medicinal marijuana, I'd like to comment on that from a retailer perspective as well.

We recognize that marijuana serves a public health need and welcome the fact that governments are starting

to look at ways to make the product more available to those who can legitimately benefit from it.

That said, we're starting to see more and more medicinal marijuana stores pop up in our communities, and that does cause concern. There are reports that it is becoming increasingly easy to purchase marijuana products at these stores and that the process of even getting a prescription is fairly easy.

While government will need to come up with creative ways to properly regulate the retail aspect as it goes down the legalization path, we welcome the fact that Bill 178 at least ensures that marijuana will not be consumed in our stores, as well as in other public places. As always, the c-store industry is here and available to provide support of any kind in helping this government address the coming challenges.

The proliferation of marijuana shops is coinciding with another market reality that c-stores are becoming concerned with, and that is the increase in specialty e-cigarette stores or, as we know them, vape shops. While I'm optimistic that the government will act soon to rein in the marijuana retail landscape, I'm somewhat concerned and not sure the Ontario government is acting appropriately with respect to e-cigarette retailing.

Convenience stores have capitalized on the growing interest in these new e-cigarette products and continue to dispense them in a very socially responsible way. For example, you cannot test these products in our stores. We do not engage in the illegal selling of nicotine e-juice, and we always check for age.

The objectives of the Ontario government with respect to tobacco and now e-cigarette retailing have always been clear to us, and we are always happy to do our part.

Vape shops are exploiting an enforcement loophole to enter our communities and sell illegal products in a completely unregulated environment. I say "illegal products" because they are. Vape shops openly sell nicotine with their e-cigarettes and e-juices. Nicotine is a banned substance by Health Canada, and I'm told that each of these stores has received cease-and-desist orders from the federal government, yet they continue to openly defy this order in communities across the province.

This leaves our members, who are reliant on a replacement category product for dramatically declining cigarette sales, in another dire situation.

The fact that, through regulation, vape shops will be allowed to continue to divert customers away from our legitimate, law-abiding members is upsetting. I hope that we can build enough support to overturn this decision in time.

It is great to have the opportunity to support Bill 178. We've always seen our industry as a partner with government on a number of key public policy and health issues. In recent years, they have included minimum wage, the Healthy Kids Panel recommendations and all newly introduced tobacco retailing regulations.

We are disappointed that the ministry is exempting vape shops from the same regulations that our stores are

held to, and we have co-operated with this government for years.

In the spirit of Bill 178, which seeks to limit the use of vaporizers in public spaces for the benefit of all, most notably youth, we hope that vape shops and c-stores can operate under the same regulation when it comes to retailing these sensitive items.

I thank you for the opportunity, and I'd be glad to answer any of your questions.

1540

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Bryans, for your presentation. We shall start with the government side: Mr. Fraser.

**Mr. John Fraser:** Thank you very much, Mr. Bryans, for being here today, and thank you for your presentation. I'll just reiterate something I said earlier on to Mr. Cha, that the transition to a smoke-free Ontario was challenging for some retailers, especially small retailers, and we appreciate their support, especially in terms of dispensing tobacco to minors. As I said before, the uptake, or the commitment of the members to take care of that, is evident in my community, as I'm sure it is across Ontario.

I thank you very much for support of this bill. Again, I appreciate your comments in regard to the issue not at the table today, which is regulations, and I understand why those were raised.

But with regard to products, we know that we're talking about medical marijuana here—it's the thing that's most top of mind today—but we did have a discussion about shisha. In your stores, is that a product that you sell?

**Mr. Dave Bryans:** I'm not aware of—I think they deal directly with the shisha bars, the distributors. We don't hear anything of it until today, and I don't think that even under the public health units, the 36, we've had any issues with shisha.

**Mr. John Fraser:** Yes. It's an interesting question, because if you take a look at the prevalence, as Mr. Perley brought forward, it is quite high, as a product, and you wonder where everybody's getting it, right?

**Mr. Dave Bryans:** I can tell you, at least in the convenience stores, if it's there—that's why I don't know, because it's out of sight, out of mind. There's everything that we've agreed under the smoke-free act, and we work with the 36 public health units, to ensure that there's no visibility of any tobacco products in our stores.

**Mr. John Fraser:** Okay, that's good. That's very helpful. That's really the only question I had for you. I appreciate very much your presentation and your comments with regard to the bill, and your comments outside of that as well too. Thank you very much.

**Mr. Dave Bryans:** Right. Thank you. I appreciate it.

**The Chair (Mr. Grant Crack):** Thank you. We'll move to the official opposition: Mr. Yurek.

**Mr. Jeff Yurek:** Ms. Thompson will have a question in a minute.

Thanks for coming in. My question to you—I went and visited one of my vape stores in St. Thomas, just to view what they do, and was quite taken aback that some-

one—an older lady had come in. Her husband is bed-ridden and couldn't smoke anymore. She didn't want to smoke in the house, but she had bought an electronic cigarette, and the person went through the process of teaching her how to use it and what to watch for. It was quite a long time.

I'm just wondering: Would this same type of service happen at the convenience store level, as compared to what's going on in the vape shops?

**Mr. Dave Bryans:** I appreciate you pointing that out, because I've been in many vapour shops, and there are some very well-put-together vapour shops in Toronto, and then there are some with hundreds of products from China. The jury will always be out.

We have levels of retailers who could actually handle that, but we haven't entered into it only because we only sell prepackaged single sticks or prepackaged vapour sticks. We do not, at this time, enter into a training session, because a lot of these products, if you look on the Internet, are handmade in the stores, and wind up with wires. The guy made me one.

There are no packaging regulations, product regulations, nothing today in that bill that says we should look at a vapour shop and say, "You know what? Health Canada says they're not supposed to be there; their products aren't supposed to be there; and we should all of a sudden bless them because there's a metal thing that nobody knows how to use yet."

I think that's easily done, if properly managed by the convenience sector, who manages every type of tobacco-product.

**The Chair (Mr. Grant Crack):** Ms. Thompson.

**Ms. Lisa M. Thompson:** You touched on an answer that I was looking for. Earlier this afternoon, we heard from a deputant that products are coming in from all over the world. You referenced in your deputation that products are illegal, and you cited e-juice as an example. I was wondering if you could clarify that. Are they not subjected to the same disciplines as we see with tobacco products now? And where does Health Canada fit in?

**Mr. Dave Bryans:** I went to Ottawa and I met with Health Canada—it was a room about this size, with as many people—to talk about e-cigarettes and vapour. I asked them, "Why haven't you gone down the street and charged a store for selling liquid nicotine when you won't approve it?"

They said it's because liquid nicotine must go through the same exercise as any other type of drug in the province of Ontario, and there's not one manufacturer that has come forward and gone through the process.

Most of these products are being made in China. They're fly-by-night outfits. There are some legitimate people that we would buy off of, because we don't buy nicotine. But I'll tell you, there has to be a huge concern when everyone's ignoring that the shop down the street, from a legal, hard-working family, can do anything it wants and everybody's pretending we're going to approve it. No one should be approving something that

hasn't been approved by Health Canada. No government should, is my idea.

**Ms. Lisa M. Thompson:** Thank you for clarifying.

**The Chair (Mr. Grant Crack):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I think you made your point really well and very clearly. The regulations, first of all, should be applied and, secondly, should be applied to all retailers equally. By levelling the playing field, then we make sure that your members stay in business and we make sure that Ontarians' health is protected. Did I cover you well?

**Mr. Dave Bryans:** We have to believe that smokers are the majority of people who are morphing to the vapour business or the e-cigarette business. You don't get out of bed tomorrow morning and say, "I think I'll run down and buy a great nicotine vaporizer." You're actually a smoker who's trying and perceives it's healthier; I won't say it's cessation, but it's healthier. If that's the case, then there's nothing wrong with a retailer in Ontario participating.

We have agreed, and I think anyone in this room should agree, that we don't want to go backwards on the Ontario smoke-free act by having two levels of people operating retail stores: One that can have bells, whistles, flashing lights and coloured back bars that we got out of years ago, and we've had that discussion, and another one that manages professionally for this government and the 36 public health units. All I'm saying is that the playing fields have to be equal. If they want to sell vapour products, I'm with them, as long as they follow the same rules as the Ontario Convenience Stores Association and our members.

**M<sup>me</sup> France Gélinas:** You and I have had this conversation, but your association has ideas about contraband tobacco. Have you seen any movement forward that would help your members when it comes to contraband?

**Mr. Dave Bryans:** First off, tobacco is the most contentious product in the world, and add into that contraband, which is the most illegal product in Ontario. We've seen the government make some efforts, and hats off to them for trying.

There is a very complicated aboriginal issue, as we know, so we don't want to attack the aboriginal community. We want to work with all parties to figure out how we correct this illegal delivery to our communities. I don't care what happens on reserves, but you can be sure that if we can't correct contraband tobacco, soon there will be production of e-cigarettes, vapour products and marijuana products on reserves, delivered by white vans to every community. I think we all have to work together.

One of the areas I've always harped on, and you understand it better than most, is: Let's make it illegal—I said it to the minister the other day—for anyone under 19 to possess, consume or purchase any type of tobacco product, like our liquor laws. If we'd started seven years ago when I said this, today there wouldn't be one young person standing beside a high school snapping on a cigarette, but it's still going on and we're closing our eyes to it. If we're going to protect youth, let's work together and get serious about it for all of these products.

**M<sup>me</sup> France Gélinas:** My last is, do you know if any of your stores have started to sell those flavouring cards to put into cigarillos so that it goes around the ban on flavoured tobacco?

**Mr. Dave Bryans:** That's interesting, because I heard another speaker speak today. I have never even heard of that till I walked in here today and I caught the tail end. This is quite a surprise to me, and it's probably some area that should be regulated by public health units and I hope our members—but you know, the smaller the retailer, the easier the influence. We would work with government to ensure that that doesn't happen. We're not here to circumvent the law. We're here to work with you, all of the parties and the public health units to make sure that, as we've done in the past, we manage this most contentious product as professionally as possible for this government.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Bryans, for coming before committee this afternoon; much appreciated.

**Mr. Dave Bryans:** Appreciate it.

**The Chair (Mr. Grant Crack):** Good. We are half an hour ahead of schedule.

Is Mr. Dorsk here, by chance? Darrell Dorsk? I don't believe so. Matt Mernagh: Is he here? He is not. Is Mr. Cunningham from the Canadian Cancer Society, National Office, here? I believe not.

I would suspect it would be a good time to take a few minutes' recess and hopefully one of the other presenters will show up.

**Ms. Lisa M. Thompson:** Fifteen?

**The Chair (Mr. Grant Crack):** Ten minutes.

*The committee recessed from 1549 to 1606.*

**The Chair (Mr. Grant Crack):** I'll call the meeting back to order. I hope everyone enjoyed their 17 minutes.

MR. DARRELL DORSK

**The Chair (Mr. Grant Crack):** Our next presenter—we're almost 15 minutes ahead, but we have Mr. Darrell Dorsk with us.

Mr. Dorsk, we welcome you to committee. Please take a seat. You have up to 10 minutes to make your presentation, followed by three minutes of questioning from each of the parties.

Welcome, sir. The floor is yours.

**Mr. Darrell Dorsk:** Thank you for allowing me to speak. I want to thank Trish Sarnicki for inviting me here today. I only became aware of Bill 178 about two weeks ago, and I was very excited to learn of the probability of this becoming the law of the land. I called the Legislature to find out when it might pass—hopefully before the summer recess—and Trish invited me to make a brief address, so thank you so much.

The reason I'm interested in this bill so much is from my own personal experience. I started to purchase a mixed-use building at Bloor Street and Delaware Avenue in the fall of 2014, where I will move my small shop sometime at the end of this year or the beginning of 2017.

after working on Markham Street in Mirvish Village since the late 1970s. All that property has been sold for redevelopment. That's why I started to purchase this building.

There's a store, and then there are two floors above it with two apartments on each floor above. So it's zoned mixed-use commercial and residential. I've been renting the store space out as soon as I bought it to tenants to help pay the mortgage, and then I will be moving in there when I have to leave Markham Street.

In November 2015, I rented the store space for the purpose of having a marijuana medical dispensary there. When I met the tenants, the first thing I said, within five minutes of meeting them, was, "You cannot have a grow-op in the basement and you cannot smoke marijuana in the store and have the tenants upstairs complaining."

I didn't feel any moral qualms myself about having a medical dispensary there, but I think that smoking is a public health issue. I was so happy when the Smoke-Free Ontario Act came into effect against smoking tobacco because at my store on Markham Street, I don't have air conditioning, and I keep the doors and windows open when the weather gets warm. There's restaurants right next door. People would be smoking and it would be drifting in, and as a former cigarette smoker, it just irritated me to no end that I couldn't get these people to stop. Bill 178 would address the problem.

I've asked these people repeatedly. They said, "We're going to have these air scrubbers that are going to eliminate any odours." They've put these ventilating machines in with activated charcoal, but it's not exhausting any fumes out of the building; it's attempting to scrub tens of thousands of cubic feet of air with these air scrubbers, and it's not working.

I have a great tenant in the apartment above who has been plagued by the smoke ever since they've moved in. They just won't listen to reason. The irony is they call themselves—the acronym is the CARE Center, standing for Cannabis Access Resource and Education, but as my wife pointed out, I don't think they really care at all. They just won't stop smoking. I've told them, I hope they succeed in their business, but as they grow their business, they're allowing more and more people to smoke in there, and it's driving me crazy. So I'm really hoping that Bill 178 comes through third reading and is voted upon and becomes the law of the land before the recess.

I don't think I'm going to go 10 minutes. My own personal experience has been that people are smoking inside of a shop, and I don't think it should be allowed. I think it's a public health issue that, hopefully, will be addressed by the Legislature and become the law of the land, and that people will be forced to quit smoking anywhere inside buildings where people go in to do their business or whatever.

The tenant on the second floor is a very smart fellow. He's tried to engage the Toronto police department, and because the legislation regarding cannabis is so up in the air, the police haven't intervened. On his behalf, I phoned the city of Toronto Public Health department and ex-

plained the situation. I said there's a smoke problem, and they said, "What kind of smoke?" I said cannabis smoke, and he said, "Oh, I don't know if we can do anything. It's all up in the air. I think I can give you someone who can help."

He switched me over, the phone started to ring and the next fellow came on the line. I said, "Who are you?" He said, "I'm from the province of Ontario's Ministry of Health." I said, "I hope you can help." I explained the situation and he said, "Oh, it's all up in the air. I don't know if I can help you, but I think I can connect you with somebody who can help." The phone rings again, and lo and behold, I'm hooked back up to the city of Toronto Public Health department. Get it? Going in circles—nowhere, right?

I didn't feel there was a moral qualm to allow somebody to dispense cannabis, but I find the smoking to be—it should be banned in public spaces, just as tobacco is. It's a public health issue and I strongly feel that passing Bill 178 is the right thing to do, and I'm really hoping it happens before the summer recess. I just want to thank you for listening to my point of view, and I hope that Bill 178 becomes law soon. That's brief, but that's why I came in today and I'm glad I was allowed to do so.

**The Chair (Mr. Grant Crack):** Thank you. You have up to 10 minutes. That's perfectly fine if you don't use all 10. We'll start the line of questioning with the official opposition: Mr. Yurek.

**Mr. Jeff Yurek:** Thanks very much for coming in and thanks for discussing for discussing your situation. They're smoking marijuana in the shop? Is that what's going on?

**Mr. Darrell Dorsk:** That's what they're doing. They're inviting people—they are trying to be legitimate in that they're demanding a prescription from a physician that they then check up on, and then once they've proved that a physician has allowed the person to purchase, they will sell it to them and allow, if not encourage, people to sit and relax in there. The contradiction is, the more they succeed in growing their customer base, the worse the smoking problem becomes.

**Mr. Jeff Yurek:** Do they vape? Is it vaping?

**Mr. Darrell Dorsk:** There is some vaping. Yes, there are vaporizers in there, but they're also—sometimes I'll pass by on my way home. I live about a three-minute bike ride from this building and I'll see people. I can see smoke being burned, but yes, there is vaping going on as well. But it's not exclusively vaping.

**Mr. Jeff Yurek:** Okay. Obviously, you're not going to get satisfaction until rules and regulations are finally decided upon federally, but if you're talking about maybe switching to a vape-only location, that's supposed to decrease the smoke or not even have any smoke under vaping.

**Mr. Darrell Dorsk:** I said, "You know, guys, I'm trying to be fair, but when I met you at the real estate office, I said you can't smoke if the tenants are being bothered." They have this sense of entitlement, "I'm a patient. I have this disability. I'm allowed to smoke

anywhere.” I said, “Does this mean you can go to No Frills and push a shopping cart around while you’re buying vegetables and smoke reefers?” They said, “No, no, no. It means that if the business owner who is”—I was speaking to the son of the family. “If the business owner, who happens to be my mother, says it’s okay, then it’s perfectly legal.”

I’m going, “I’m the owner of the building and it’s not okay with me. Like, how long do you think you’re going to be here?” They were asking for a two-year lease. Because I intend to move there myself, I said, “I can’t give you a two-year lease.” I could perhaps extend it a few months more than a year, but the way things are going now, I’ve no desire to let them stay any longer than the one-year lease. I think I’m on the cusp of losing this tenant on the second floor, and he’s a great guy. I really like him. I want him to stay, but he just can’t enjoy his own premises.

**Mr. Jeff Yurek:** I think the committee work will finish here in two weeks, and then we have one week before we break for summer recess. So it’s in government hands. You’ll get them in a few minutes to ask questions, but they will decide if we debate third reading in the last week or not.

**Mr. Darrell Dorsk:** It has gone through second reading, and once it’s finished third reading, it’s then voted upon, and if it passes—

**Mr. Jeff Yurek:** We’ll have one more vote after third reading, which is not as long as debate, and then—

**Mr. Lou Rinaldi:** After second reading.

**Mr. Jeff Yurek:** We’re talking third reading. We’ve already done second reading. After committee, it goes to third reading. We’ll debate it, it’ll be voted on, then it goes to the Lieutenant Governor for royal assent and the regulations will be put into effect.

**Mr. Darrell Dorsk:** Is there a delay between royal assent by the Lieutenant Governor and it becoming law, or is it—

*Interjection.*

**Mr. Darrell Dorsk:** It may or may not become law immediately.

*Interjections.*

**The Chair (Mr. Grant Crack):** Thank you very much. Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I don’t like to give people false hope. The chance that we pass a bill that will help you faster than your tenant’s length of patience is slim. Just so that you know: Nothing happens fast here.

This being said, if the law was to be passed so they’re not allowed to smoke on the premises that you rent to them, do you think that then they would smoke on the sidewalk right in front of the door?

**Mr. Darrell Dorsk:** This building is located right at Bloor and Delaware. These are 100-year-old buildings on old Bloor Street. There’s a short, dead-end laneway behind the building. It’s a side street to Delaware Avenue. I’d rather they were doing it outside, obviously. I’d rather they weren’t doing it on Bloor Street. There’s a deck on the second floor that would be accessible from

the laneway going up, but it’s just—I don’t think they’re being reasonable. I’m trying to be accommodating, but I think this is wrong, what they’re doing. That’s why I mentioned it before I rented to them. I said, “These are the only real parameters I have: You can’t grow marijuana there, and you can’t smoke there.”

I would rather that they just dispense and the people leave and go away. They feel that some of their clients—on the block between Delaware and Dovercourt, there’s a social place called Sisting. There are a lot of women who may or may not be homeless, and they’re there a lot. They’re saying, “Oh, some of these women are from Sisting, and if we didn’t allow them to sit here and consume, they might be on the street or in the park.” I’m going, “Let them go in the street or the park.”

The contents of the smoke might differ from nicotine and tobacco, but I’ll bet you that there’s lots of carbon monoxide in marijuana smoke. I know that binds to hemoglobin and makes it useless for oxygen transport. It’s not healthy. Maybe in 10 years nobody is going to smoke anything and everybody is just going to be consuming cookies or something.

That’s why I came here, and I really appreciate you letting me have my say.

**M<sup>me</sup> France Gélinas:** Yes. I would say that the only thing I can say to help you is that you can look at their supply. Lots of those lounges don’t buy their supplies from legal; they buy from illegal sources, and if they buy from illegal sources, then the police will get involved. That’s about the only time that the police get involved.

**Mr. Darrell Dorsk:** It has been on the radio a lot. CBC is giving it a lot of coverage. People will just lie. All these different dispensaries are saying—I have not done so, but I’m thinking I should call every one of these places or just stop at every one of them and ask, “Do you let people burn cannabis in here or not?”

**M<sup>me</sup> France Gélinas:** More and more of them do. They take advantage of the grey zone and, frankly, they take advantage of us not enforcing our own law.

**Mr. Darrell Dorsk:** When I got the building—there are two bachelor apartments and two one-bedroom apartments. So far, since I’ve got the mortgage on the place, I’ve managed to renovate two of the units and get the rent up. They’re beautiful. They’re brand new, really lovely apartments. You walk out the front door and you’re about 30 seconds from the Delaware Avenue entrance to the Ossington subway. It’s a really great neighbourhood. It’s lively. Dufferin Grove Park is nearby, and the Bloor/Gladstone library. It’s a great block. I need the revenue generated from the rent of the store to help pay the mortgage, and if I kick them out now, I’ll be hard pressed to find somebody to rent it for less than a year. I can’t wait for Bill 178 to become law.

1620

**M<sup>me</sup> France Gélinas:** We hear you. You want us to do our work. We’ll try to help you and do our work as fast as we can.

**Mr. Darrell Dorsk:** I appreciate it.

**The Chair (Mr. Grant Crack):** Thank you very much; appreciate that. We'll move to the government side: Mr. Fraser.

**Mr. John Fraser:** Mr. Dorsk, thank you very much for being here today and taking the time to come and express your frustration, which is obvious. I think you've been more than fair and reasonable with the people who are your tenants. We will work hard to get this done as quickly as we can.

You've got about a year left on the lease?

**Mr. Darrell Dorsk:** No. They took a lease that started in December of 2015, so the one-year lease would expire at the end of November. If they continue to allow people to smoke there, I'm definitely not going to renew the lease.

I was hoping to stay on Markham Street until I have to go. This Westbank development might be delayed. It might go to the OMB.

**Mr. John Fraser:** Just in terms of timing: that timing is not necessarily one that—there's a potential for the bill to be passed and be enacted in a way that would help you in your situation, not next week or—

**Mr. Darrell Dorsk:** Before the recess.

**Mr. John Fraser:** No, there'll be a process after recess. You have to have it sent and then the designation—

**Mr. Darrell Dorsk:** So in the fall. September, maybe.

**Mr. John Fraser:** Yes. Then the regulation that would have to come forward from that.

I just want to thank you for taking the time to come down here, because it's good to have individual citizens coming to us with their specific problems. We often hear from large organizations, which is really important because they represent large numbers of people, but we don't always hear what happens on the ground in terms of the kind of hardship that the lack of regulation in this area has caused, for you in particular. I just want to thank you for being here.

**Mr. Darrell Dorsk:** Thank you for allowing me the opportunity. I really appreciate it.

**The Chair (Mr. Grant Crack):** Thank you, Mr. Dorsk, for coming before committee this afternoon. Much appreciated.

**Mr. Darrell Dorsk:** Thank you so much. Bye-bye.

CANADIAN CANCER SOCIETY,  
NATIONAL OFFICE

**The Chair (Mr. Grant Crack):** Next we have, from the Canadian Cancer Society, National Office, Mr. Rob Cunningham, senior policy analyst. Welcome, sir, and thanks for your patience. You are here early. We took a little recess because we were way ahead of schedule, but it's good to have you here. Welcome. You have up to 10 minutes.

**Mr. Rob Cunningham:** Thank you, Chair and members of the committee, for the opportunity to testify with respect to Bill 178. We support the bill and we acknowledge and commend all parties for supporting Bill 178 at

second reading. It continues a trend that we're finding in other provinces and municipalities in Canada.

Our recommendation for years has been to ban the smoking of not just tobacco but ban smoking of anything wherever smoking is banned. This bill gives regulatory authority to do that. The government for the moment is intending to apply it to medical marijuana, but it could apply to anything. You've heard already witnesses with respect to herbal water pipe smoking; we support that.

In some other provinces, they've already done it fully. In Nova Scotia, you can't smoke anything wherever smoking is banned—herbal cigarettes, water pipes, marijuana, anything. You've heard with respect to municipalities in Ontario that have dealt with hookah, in terms of Toronto, Barrie, Orillia, Peterborough and Peel region.

The city of Ottawa Board of Health is going to come back at its June meeting to deal with this issue, once the Ontario regulations that are being considered in this bill have been dealt with. They're waiting for that.

Vancouver has had a provision to ban smoking of anything since 2009 in place. Other BC municipalities have done so.

Hookah has been banned provincially in terms of recent bills adopted in 2015 in Prince Edward Island and in New Brunswick.

Quebec for many years has had its ban on smoking apply to anything. There are a few little wrinkles that will be dealt with in the months ahead.

Ontario, in effect, is catching up with respect to other provinces.

Like other witnesses, we are very concerned by the rise in hookah smoking by youth. Michael Perley from the Ontario Campaign for Action on Tobacco gave some data from a particular survey. Let me give you another survey: the Youth Smoking Survey, Canada-wide. The most recent survey, for 2012-13, follows a trend: that high school students are increasing use.

If we look at the surveys from 2006 to 2011 to 2013, "Ever try water pipe smoking?" among grade 12 students has increased from 11% to 12% to 22%. If we look at past use in the last 30 days, it's increasing 5% to 6% to 7% in that same time period.

So while smoking is otherwise in decline among youth, it's not the case for water pipe smoking. Because it contains nicotine, you can get addicted because it's heavily flavoured. It's youth of all heritages, in terms of their personal backgrounds, who are consuming this. It's very much a youth issue.

From studies that have been done in Ontario and Alberta, we know that second-hand smoke from so-called herbal shisha—that doesn't contain tobacco—contains pretty much the same harmful substances, almost all the same ones you would find in tobacco smoke. That's why there's a need for action. That's why municipalities and now the provinces are taking action. That's why having regulatory authority for the Ontario government to take action is very important.

Similarly, basically the smoking of anything is going to emit toxic and cancer-causing substances.

There were some questions with respect to contraband. Let me agree that higher tobacco taxes are a key strategy to reduce smoking. We need to curb contraband. I'll just show you this graph: Ontario and Quebec have among the lowest tobacco taxes in Canada. They're far higher in the west and there's very little contraband. So there are remedies that are available that Ontario could do with respect to that as part of an overall strategy. We acknowledge, with appreciation, the \$3-a-carton increase in the recent budget of the Ontario government.

There are some contraband measures that are being put in place, and we support those. We need a comprehensive strategy that includes taxation, legislation and programming. This bill deals with part of the legislative component. We support it and look forward to any questions you may have.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate that. We shall start with the third party: Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** All right, I have a series of questions that I'd like to ask you. The first one is that you make it clear that you would like the bill to cover all substances—shisha, hookah pipe, water pipe, etc.—and treat them all the same. Would you be in favour, specifically for marijuana, of increasing the age for recreational at 21 or 25, or would you be opposed?

**Mr. Rob Cunningham:** We've not taken a position on that, so we wouldn't be opposed. On the tobacco front, there is an increasing trend in the United States to increase the age to 21 for tobacco. California and the state of Hawaii have done so. There are more than 140 municipalities that have done so, including Boston, New York City, Chicago, San Francisco and others.

There is a report by the Institute of Medicine published last year that said, for tobacco, that increasing the age to 21 would have a substantial reduction in youth smoking. That's something we're monitoring very closely.

**M<sup>me</sup> France Gélinas:** Now that recreational marijuana will be available, are you afraid of the cross between people who often roll with tobacco, which means that ex-smokers start to smoke again, and the rate of smoking may go up because of that?

**Mr. Rob Cunningham:** We don't have a position on the legalization of marijuana. It's fairly new in US states. It's essential that there be research and surveillance to monitor what's going on and that there be responsiveness. I know that concern has been raised, but we don't have a specific answer with respect to the evidence on that.

**M<sup>me</sup> France Gélinas:** Coming back to tobacco, I take it that you would have seen the new flavouring packets that you put into cigarillos? Any advice for us, while the smoke-free Ontario bill is open, so that we deal with this new product?

**Mr. Rob Cunningham:** It should be able to be prohibited by regulation. Quebec has clear regulatory authority to do so in their tobacco legislation. It would be really good that any of these new products intended to be used with tobacco products as an accessory, and that are

flavoured, should be banned in the same way that cigarette papers, as an accessory, should be banned. There's an opportunity for legislative remedy. We support that.

**M<sup>me</sup> France Gélinas:** I don't know if you've taken a position regarding dispensing, specifically for marijuana. Right now, it's either going to go into the LCBO or be available also in corner stores or dispensaries. Have you taken a position on that?

**Mr. Rob Cunningham:** We've not taken a position on that, but with respect to tobacco, we can learn. Our position is that we need to reduce the number of tobacco retail outlets. The ultimate objective and desirability would be to have tobacco-only stores, the way that many provinces have had for liquor. You don't want a consumer, an ex-smoker, when they're going to buy newspapers or milk or pop, to have this opportunity, because of their cravings, to buy tobacco products.

**1630**

We have a problem in that roughly one out of six convenience stores is breaking the law and selling tobacco to minors. The current system has not been successful in preventing kids from buying cigarettes in stores. We have made progress in the sense of banning vending machines, banning tobacco sales in pharmacies and banning tobacco sales on university and college campuses.

Most parts of Ontario can sell tobacco without any licence fee—that's a problem—although the city of Ottawa has an \$804 municipal licence fee. That revenue can be used for enforcement. We have way more tobacco stores than should be the case and than are warranted. I think that experience can inform other products.

It's very interesting that the number of specialty vape stores is far fewer than the number of tobacco retailers. The way the market has evolved, in terms of those specialty stores, is very different.

**M<sup>me</sup> France Gélinas:** I agree with everything you say. You were not there when we had quite a few convenience stores come and talk to us who want the same regulations for e-cigarettes for them as for the vaping stores. Do you have a position on that?

**Mr. Rob Cunningham:** We would be strongly opposed to allowing the display of e-cigarettes in convenience stores. Kids should not be exposed to this type of promotion.

However, we recognize the potential in terms of the evolving research with respect to cessation and e-cigarettes.

If they're in specialty stores, consumers can have access to them. They can go to them. They can see the products on display. They can view them individually. But the recommended regulations to apply to these stores are that kids should not be able to go in, the display should not be visible from outside the store, and the store should not sell any product other than e-cigarettes and related products, so no pop or chips or alcohol or lottery tickets or tobacco. That's the approach that Quebec and Nova Scotia have taken. They've implemented that and are implementing that.

The proposed regulation for Ontario doesn't go far enough, because they could still sell alcohol and lottery



tickets. That doesn't make any sense. But should they be promoted in convenience stores? No, they should not.

**M<sup>me</sup> France Gélinas:** Thank you very much.

**The Chair (Mr. Grant Crack):** Thank you very much. We appreciate it. We'll move to the government: Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thank you, Mr. Cunningham, for being here today and, besides being here for Bill 178, thank you for all the hard work that the Canadian Cancer Society does and has done and will continue to do. Obviously, from your presentation, your passion shows. Hopefully, we'll be in a better place so that my grandkids and great-grandkids will be able to enjoy where we live.

Just quickly, Bill 178 is really an act to amend the Smoke-Free Ontario Act to allow the minister of the day to quickly, as we get involved in new products—we don't know what they're going to be; a year ago, some of this stuff wasn't there—so we don't have to go through legislative changes for every product. I gather that your organization is supportive of that, but can you elaborate a little bit more on if this is the right approach, to be able to have access to those regulatory changes quicker than we are doing right now? It's mostly dealing with marijuana, frankly.

**Mr. Rob Cunningham:** Sure. I think it's an importance advance to give the Ontario government the regulatory authority to act. It looks like there may be a need to act soon. The federal government has announced that they intend to bring a bill forward in the spring of 2017 to legalize marijuana. We don't know what the implementation date will be, but we certainly would not want marijuana to be smoked in public places and workplaces where smoking is banned. Right now, you wouldn't want someone beside you in a movie theatre or in a restaurant to be smoking a marijuana cigarette. In the absence of action which this bill contemplates, giving the regulatory authority, there wouldn't be a provision to provide that certainty in terms of illegality, once there's federal legislation that's changed. We support the bill.

**Mr. Lou Rinaldi:** Thank you.

**The Chair (Mr. Grant Crack):** Mr. Yurek, from the official opposition.

**Mr. Jeff Yurek:** Thanks for coming in today. You weren't here for the earlier deputations with regard to electronic cigarette stores and such. Is there a role for getting electronic cigarettes more utilized in the system to help people break off the habit?

**Mr. Rob Cunningham:** There's research in this area that's ongoing. We've recognized the potential that they may have for cessation. At the same time, it's a product that needs regulation. Even if they're very effective, the regulatory measures that we've seen adopted by the Ontario Legislative Assembly make sense: no selling to kids, no using in workplaces and public places where smoking is banned, and controls on promotion including, for example, no displays in convenience stores. Those all make sense, even with a high level of effectiveness. And we'll know more as research goes along. But we certainly don't want kids using them, and there's no proposal to ban e-cigarettes, for example.

**Mr. Jeff Yurek:** You made some comments about contraband and advocating higher taxes. What about more enforcement on getting them off the streets? I mean, one of my colleagues has a bill to try to stop the selling of contraband at schools. What are your thoughts on the other aspects of contraband?

**Mr. Rob Cunningham:** I think there's a series of potential remedies that could be adopted, and Ontario has proposed some new regulations on raw leaf tobacco that we support. Another potential remedy would be to have a refund system for products shipped for intended tax-exempt sale to reserves. Six other provinces have this, but Ontario does not. Ontario currently has it for gasoline but not for tobacco. When gasoline is shipped to a reserve, it has Ontario taxes included, so there's no cheap gasoline for a non-native person to purchase. That isn't the case for tobacco. So if you send it to a reserve fully priced, including taxes, you don't have that opportunity for diversion that you currently have.

We need a series of remedies. The Ontario government has brought forward a series of positive measures, but there's more that can be done. Because Ontario has such low taxes compared to western Canada, there's an opportunity to improve public revenue and to include public health. And apart from the raw leaf tobacco regulation, there have been some recent bills that have had additional contraband prevention measures that we support.

**Mr. Jeff Yurek:** Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Cunningham, for coming before committee this afternoon. We appreciate it.

**Mr. Rob Cunningham:** Thank you.

MR. MATT MERNAGH

**The Chair (Mr. Grant Crack):** Next on the agenda, and our last delegation the afternoon, is Mr. Matt Mernagh. I hopefully pronounced that correctly.

**Mr. Matt Mernagh:** You did an excellent job, sir. Thank you.

**The Chair (Mr. Grant Crack):** Thank you. It's great to have you here this afternoon. You have up to 10 minutes for your presentation, followed by three minutes of questioning from each of the three parties. The floor is yours. Welcome.

**Mr. Matt Mernagh:** Thank you from letting me appear before your committee again. We were here on April 21, 2015, talking about medical cannabis vaporization. Thank you for providing a very narrow exemption for medical cannabis based on the owner's discretion—not the government's—at least for one day.

I inhale medical cannabis, via vapour almost exclusively, to make my life a little better from a painful brain tumour known as a schwannoma. I have fibromyalgia. It's hard for me to admit, but I recognize I'm a disabled Ontarian. The Ontario government has provided me with income supports via ODSP for 14 years. During this time I like to think you, the Ontario government, was paying

me to tell the federal government what they were doing wrong with their cannabis laws. I received a special Ontario legal aid grant to constitutionally challenge those federal laws. Those federal cannabis laws, which I had a huge hand in agitating for change on, are about to change federally and, if I understand Premier Kathleen Wynne's media statements, will include provincially run pot shops.

My income has always been precarious because of my disability. Thankfully, ODSP was there for fibromyalgia flare-ups or seizure recovery. This has all changed, and very recently, too: I no longer receive ODSP income. On February 1, 2016, I began my first full-time corporate job since 2001. A career is something we take for granted. The only way I have a career is via medical cannabis via vaporization in the workplace, and being employed by a business that understands I am disabled. Working 35 hours is a huge adjustment for me. It's going to take a year or more for me to get used to it. Even having the money I make now is a big adjustment.

My cannabis marketing skills, as you are aware, are in huge demand these days. I'm not in the office every day, but I realized that when I'm not there, I miss working with people face-to-face and I miss marketing in a corporate environment. My work colleagues understand I medicate with medical cannabis, and my day becomes more productive.

Please note: My employee/workplace agreement is confidential and I'm here as me, Matt Mernagh, a newly employed guy. I can say it takes into account my disability and how when I'm there I may medicate with medical cannabis in the workplace. It's an excellent example of using the AODA, the Accessibility for Ontarians with Disabilities Act, to accommodate someone while ensuring the safety of my fellow employees and, most importantly, my employer.

**1640**

Unfortunately, there's no requirement on this government, as there is for Ontario businesses, to examine legislation against the AODA. The committee can simply ignore the Ontario disability act, but the corporate world cannot. After all, an analysis of this bill against the AODA might make it a thorny, sticky issue. However, I think whether a person may medicate with cannabis in the workplace, a restaurant or a venue should be up to the owner, with no consequences for refusing or allowing.

Are we really afraid that disabled Ontarians are going to return to corporate work in such droves because of the powers of medical cannabis that we need to prevent them from doing so? Are you forcing people who use medical cannabis to remain in the underground workplace?

This legislation is more akin to Harper conservatism than anything I would expect from Premier Kathleen Wynne's Liberals. Is this bill simply because the associate minister, the Honourable Dipika Damerla, was caught in the media glare in a scrum providing a quote worthy of national and international media attention? Certainly, on April 21, when I was here, there was no strong urge to deal with medical cannabis. It was even a positive experience.

After the legislation was passed, quiet regulation governing medical cannabis use was brought in. You made a wonderful move. You did the left, progressive thing.

The media response was not so wonderful. You would think that the Liberal government was caught sneaking off with the treasury with the way it was reported. I've been a Google News blip. I've been caught in the eye of a media storm on many, many occasions, and I felt bad for this deputy minister. We were dealing with medical cannabis, and you'd think this MPP was caught in the worst public scandal ever.

On a trade mission, Canadian media asked the Premier about medical cannabis. MPP Damerla is not a crack-smoking mayor but an associate minister who did the left, progressive thing. It wasn't fair of Canadian media to throw her under the bus. That is why I think we are here today. The associate minister wasn't prepared on the subject like I am. She wasn't prepared with this legislation either. In December, the associate minister was doing the progressive thing and was never given an opportunity, like I was, to craft a message—because we all know political messaging is important in a media scrum.

She should have called. Getting marijuana-positive media attention has been my forte for over a decade. I'm a best-selling Canadian author of the *Marijuana Smoker's Guidebook*, published by Green Candy Press, and it has sold 7,000 copies. Not many Canadian authors have this many sales, and I look forward to using these sales figures for non-cannabis books. Being an author is awesome, but it doesn't pay the bills, so I'm often left on ODSP.

Committee members, I don't have a criminal record. I've been charged with every cannabis crime this federal government has ever had. It's crazy, but somehow, I keep getting caught up in these silly cannabis laws and winning—I have never lost—and then use it against the government to push for cannabis reform. Laws like this one are the ones that I keep getting caught up in. This is not a liberal law. I just want to be properly included and have my knowledge respected. Maybe the Premier could give me a call and we could chat.

Committee members, if we work together, we can accomplish greatness when it comes to medical cannabis. We can't let fear-mongers and more with no studies to back their "sky is falling" claims to continue to dictate government policy. Cannabis has been poorly researched. There's no credible evidence between cannabis and lung damage—none. Any study on the subject of cannabis is tainted by prohibition. After all, you, the Ontario government, are holding back a study from 1972 which involved actual cannabis use in a 98-day sequestered environment. The province paid 20 young women to inhale, or not, for 98 days and never released the results—a double-blind cannabis study. If you want to start discussing cannabis research, you can discuss it with me starting right there.

How many members of this committee are aware that this government has been hiding a 1972 study on cannabis involving these 20 women? We don't know

about this study—I do—but somehow, we all know cannabis is bad for our lungs? This I can prove. I have the healthy lungs of a non-smoker.

There's no strong scientific evidence to support or prove your legislation with regard to cannabis.

The Harper government passed legislation with no science basis to it and the Wynne government thinks this is a good course of action, and it's just shameful.

My suggestion this time is to let this bill die on the order paper. Let's create a task force with a mandate to examine all aspects of provincial cannabis law reform and where federal reform will impact our province.

I've been asking this province to create the cannabis control board of Ontario since 2005. I have the Toronto Sun newspaper clip to prove it. I don't want to fight this government anymore. I want to help this government.

Let's build an Ontario prepared to move on federal reform on cannabis in a socially and profitable manner. Let's create some sensible regulations together, and start by just letting this bill die. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Mernagh. Appreciate the comments. We'll start with the official opposition. Mr. Yurek.

**Mr. Jeff Yurek:** Thanks very much for coming in and thanks for your comments today. I guess the only question I really have is with regard to vaping of medical marijuana. The gentleman who was in previously—in his business, they were smoking it and not vaping. Would you think vaping is a better route to go with regard to medical marijuana?

**Mr. Matt Mernagh:** In the workplace, for sure. I have numerous blog posts on understanding medical cannabis and vaporization for medical patients. I think vaporization is the way to go. I think vaporization saves about 50% of their medical marijuana that they purchase, because they can go further with medical marijuana. I think having the proper temperatures for medical marijuana helps them. I think it cuts down on smell, it cuts down on side stream, if you blow it up into a bag. Everything about medical marijuana vaporization I would fully support, especially in places like the workplace.

**Mr. Jeff Yurek:** Okay. Thank you.

**The Chair (Mr. Grant Crack):** Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** I don't want to force you to share personal things that you don't feel comfortable, but you did pique my interest when you said that your employer has accommodated your disability. Could you explain to me how this is done?

**Mr. Matt Mernagh:** Yes, ma'am. My employer is aware that I am here. My employer has accommodated me through my employee agreement. It is confidential, but I can assure you that it does have a specific section on prescription drug use in the workplace and in that employment agreement, it includes a section on medical cannabis use in the workplace. This allows me things such as not operating heavy machinery. This would allow me to have a space to use medical marijuana, a space away from other employees. To be fair, it's actually in the CEO's side office, so I have to ask the boss to get access to it. It is quite secure. It has air ventilation and

also cleanser. It has a door that I open so I can also get fresh air into the room. The employees aren't at all exposed to me, I guess is the word.

Also, part of that is I require a nap in the afternoon for about an hour and a half. Sometimes I need to reset my pain. Sometimes I can't work a full workday right through the eight. Sometimes I have to work in the evening and take the afternoon off. There are those types of issues also.

**M<sup>me</sup> France Gélinas:** Have you had any comments from your co-workers?

**Mr. Matt Mernagh:** Actually, my co-workers fully support what I do. To be fair, I work for Health Canada-licensed producer now. We are licensed to produce medical cannabis. To be fair to my fellow employees, I'm one of two people in the workplace who use medical cannabis, myself and our master grower, who also would have the same agreement in his—

**The Chair (Mr. Grant Crack):** Just pull back a little bit.

**Mr. Matt Mernagh:** Sorry, sir. I work for a medical cannabis—

**The Chair (Mr. Grant Crack):** Just pull back a bit, please. Thank you.

**Mr. Matt Mernagh:** Oh. Sorry, sir. I work for a Health Canada medical-licensed producer. We are familiar with medical cannabis. I'm the only person, other than our master grower, who uses medical cannabis in the workplace. So he is also using. But it also includes that we're not allowed to share amongst each other. Those parts of the agreement are in there. It's actually very progressive, given that we are a medical cannabis place that's legal under Health Canada guidelines. It is an excellent document, and I look forward to potentially providing it to the committee in my written submission.

**M<sup>me</sup> France Gélinas:** Do you buy from your employer or do you get it mailed to you like everybody else?

**Mr. Matt Mernagh:** My employer mails it to me just like everybody else, ma'am. Part of my workplace employment agreement has that my employer—it's covered under my workplace agreement, so my medical marijuana is part of my pay.

1650

**M<sup>me</sup> France Gélinas:** And they mail it to you?

**Mr. Matt Mernagh:** They certainly do mail it to me, and I look forward to meeting my Canada Post woman once a week, and she looks forward to meeting me. She's a lovely lady.

**M<sup>me</sup> France Gélinas:** Very good. Thank you.

**The Chair (Mr. Grant Crack):** We'll move to the government side: Mr. Fraser.

**Mr. John Fraser:** Thank you very much for being here today. I appreciate very much hearing your story. Congratulations on being back in the workforce and on your employer being able to accommodate your needs.

One of the challenges that faces us when we're putting forward a bill like this is that we're looking towards the public interest. I understand, in terms of an individual's interests and their ability to use that medication that they need—we do have to realize that, in the broader context,

marijuana will be approved for recreational use sometime in the not-so-distant future. That's what seems to be the direction of the federal government. So there'll be a bit more prevalence of smoking.

As you probably heard from the Canadian Cancer Society—if you were here earlier, they were here as well—there isn't a lot of evidence in terms of the positive or negative effects of second-hand smoke, whether it be shisha or whether it be marijuana. I just want to suggest that what we're trying to achieve is a balance in that bill that protects the public interest and those individuals who don't require that either as a medical need or as recreational. That's the thing that we're trying to address, the risk of second-hand smoke, some of which we know is dangerous and some of which the evidence is out on. That's the challenge: just balancing that individual and that public interest.

It is important, the work that you've done in terms of recognizing medical marijuana and that being a recognized use of that product to ensure that people with cancer, fibromyalgia—a number of diseases—get the kind of drug and treatment that they need.

**Mr. Matt Mernagh:** Originally, in December, the regulation was quite narrow. I think the perception in the public was that it was not narrow. It was a very narrow exemption that allowed a workplace employer or a restaurant or—you talk about the public. The public is a business owner.

**Mr. John Fraser:** All I can say is that it's a balance. As you did describe, with the AODA, going forward, when you take a look at that, that'll be something that obviously you'll continue to champion in terms of your experience and what you do.

That's what we have to do here. We have to balance the interests of everyone to ensure that we do the best we can to ensure no harm or to limit harm.

**Mr. Matt Mernagh:** Again, I think you achieved balance when you originally had a very narrow exemption allowing business owners, such as my own and others, to decide whether or not medical cannabis use would be in the workplace.

When you bring up the issue of regulation, you're going to have to establish a task force. Cannabis prohibition, I'm not sure if you're aware, touches things such as Ontario legal aid; it touches our municipalities, such as the zoning issues. You can't just expect the feds to magically wipe cannabis from the CDSA and not have any blowback.

The province has a big task ahead of it. If you want cannabis legalized within a year, you have some work to do, sir.

**Mr. John Fraser:** We do, and we do have work to do in regard to a number of changes in federal legislation. In all respect, we recognize and understand that.

I just wanted to give you a broader context of what, as legislators, our responsibility is to look at the public interest and balance that in the way that we can. That's why we're having a committee hearing today.

I appreciate you very much coming in and giving us your experience and your understanding and background of the issue. Thank you very much.

**Mr. Matt Mernagh:** Thank you, sir.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Mernagh, for coming before committee this afternoon and sharing your thoughts.

That is all for the delegations this afternoon. A reminder to all committee members that we meet on Wednesday at 4 p.m. to continue the public hearing process. I look forward to seeing you all. This meeting is adjourned.

*The committee adjourned at 1655.*





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## CONTENTS

Monday 16 May 2016

Smoke-Free Ontario Amendment Act, 2016, Bill 178, Ms. Damerla / Loi de 2016 modifiant la Loi favorisant un Ontario sans fumée, projet de loi 178, Mme Damerla .....	G-1095
Ontario Lung Association .....	G-1095
Mr. Chris Yaccato	
Ontario Campaign for Action on Tobacco .....	G-1097
Mr. Michael Perley	
Gateway Newstands .....	G-1100
Mr. Noah Aychental	
Ontario Korean Businessmen’s Association .....	G-1102
Mr. Don Cha	
Canadian Cancer Society, Ontario division .....	G-1104
Mr. Zachary Nichols	
Registered Nurses’ Association of Ontario .....	G-1107
Ms. Andrea Baumann	
Ms. Cindy Baker-Barill	
Ontario Convenience Stores Association .....	G-1109
Mr. Dave Bryans	
Mr. Darrell Dorsk .....	G-1112
Canadian Cancer Society, National Office .....	G-1115
Mr. Rob Cunningham	
Mr. Matt Mernagh .....	G-1117