

UPDATE

DEFENCE OF THE TOBACCO ACT

EVERY 11 MINUTES

EVERY 11 MINUTES, A CANADIAN DIES FROM TOBACCO USE. Every 10 minutes, two Canadian teenagers start smoking cigarettes; one of them will lose her life because of it. Yearly, more than a thousand Canadians who never even smoked die — from exposure to tobacco smoke. Thousands more are diagnosed with illnesses related to tobacco use. Year in and year out, more than 45,000 Canadians perish — because of tobacco.

It doesn't have to be that way. Tobacco use is the single most preventable cause of premature death and disease in Canada.

In April of 2001, the Government of Canada stepped up its efforts to ensure that Canada ultimately will be smoke-free — with the launch of the Federal Tobacco Control Strategy. This Strategy, representing the most significant effort Canada has ever undertaken to fight the tobacco epidemic, brings a comprehensive, integrated and sustained approach to tobacco control.

These communiqués detail some of the initiatives connected to the Federal Tobacco Control Strategy.

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Defence of the Tobacco Act

One of the highlights in Canadian tobacco control was the successful defence in 2002 of the Tobacco Act and its regulations. In 1997 the three major tobacco manufacturers in Canada — JTI- Macdonald Corp. (formerly RJR-Macdonald Inc.), Rothmans, Benson & Hedges Inc. and Imperial Tobacco Canada Ltd. — launched a constitutional court challenge of those sections of the Act and its regulations which impose restrictions on advertising and sponsorship, and require tobacco manufacturers to print pictorial health warning messages on cigarette packages.

Officials from Health Canada, together with lawyers representing the Attorney General of Canada, participated in the preparation for trial as well as the hearings (from January through

September of 2002). There were roughly 1000 exhibits at trial and 81 days of transcribed testimony. Twenty-six sections of the Act were challenged; four different sections of the Canadian Charter of Rights and Freedoms were invoked; there were additional arguments based on federal/provincial powers, as well as other legal issues.

In its December 2002 decision, the Quebec Superior Court fully upheld the constitutionality of the Tobacco Act and its regulations. Some excerpts from the ruling include, “The tobacco companies are in a particularly difficult position. They sell a harmful product and know it. They have the right to sell it because outright prohibition would be unrealistic. ... They offer no evidence to rebut the claimed ill effects of

cigarettes because there is none. Their evidence respecting the effects of advertising was unconvincing. ... They are trying to save an industry in inevitable decline. They have every right to do so. ... Their rights, however, cannot be given the same legitimacy as the government's duty to protect public health."

On behalf of the Canadian Cancer Society, I commend the Government of Canada for its vigorous and successful defence of the 'Tobacco Act' and its regulations. ... This historic judgement is extremely important for public health in Canada and abroad.

— *Carol Hiscock, President,
Canadian Cancer Society*



Photo provided by Info Tabac, Montreal

Canada's Legal Team