

Yukon Legislative Assembly
32nd Yukon Legislative Assembly

**Report of the Select Committee
on Anti-Smoking Legislation**

November 2007

November 21, 2007

Honourable Ted Staffen, MLA
Speaker of the Yukon Legislative Assembly

Dear Sir:

Your Select Committee on Anti-Smoking Legislation, appointed by Order of the Assembly on June 13, 2007, has the honour to present its report, and commends it to the House.

Hon. Brad Cathers
Chair of the Committee
(MLA – Lake Laberge)

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Darius Elias
Member of the Committee
(MLA – Vuntut Gwitchin)

A handwritten signature in cursive script, appearing to read "Darius Elias", written above a horizontal line.

John Edzerza
Member of the Committee
(MLA – McIntyre Takhini)

A handwritten signature in cursive script, appearing to read "John Edzerza", written above a horizontal line.

Select Committee on Anti-Smoking Legislation

Members of the Committee:

Hon. Brad Cathers, Chair of the Committee
MLA (Lake Laberge)

Darius Elias
MLA (Vuntut Gwitchin)

John Edzerza
MLA (McIntyre Takhini)

Substitute Members:

Don Inverarity
MLA (Porter Creek South) -- substitute for Darius Elias

Steve Cardiff
(MLA – Mount Lorne) -- substitute for John Edzerza

Clerk to the Select Committee:

Linda Kolody
Deputy Clerk of the Yukon Legislative Assembly

Acknowledgements

The Select Committee on Anti-Smoking Legislation wishes to thank Don Inverarity (MLA – Porter Creek South) and Steve Cardiff (MLA – Mount Lorne) for their work as substitute Members of the Committee.

The Committee would also like to thank Cynthia Callard (Director) and Neil Collishaw (Research Director) from Physicians for a Smoke-Free Canada, who served on behalf of the Canadian Cancer Society as technical experts to the Committee. As well, the Select Committee appreciates the technical advice provided to the Committee by staff of the Department of Health and Social Services.

The Select Committee would especially like to thank the hundreds of Yukoners, as well as those interested groups, who expressed their views to the Committee at the Committee's public hearings, by answering the questionnaire, or through written submissions. We listened to and learned from what you had to say, and your contributions have informed our recommendations.

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Introduction

On April 30, 2007, Bill No. 104, *Smoke-free Places Act*, a Private Member's Bill,¹ was introduced in the Yukon Legislative Assembly by Todd Hardy (MLA for Whitehorse Centre, Leader of the Third Party). On May 9, 2007, during the time set aside for Private Members' Business, the motion for second reading of this bill was moved and debated in the House. At the conclusion of the debate, Bill 104 passed second reading – giving it approval in principle – with each of the MLAs present voting in favour of the bill.² Pursuant to the Standing Orders of the Yukon Legislative Assembly,³ the bill stood referred to the Legislative Assembly's Committee of the Whole.⁴ At Mr. Hardy's request, the House then resolved into Committee of the Whole to continue consideration of the bill. In his remarks, Mr. Hardy said, "I hope we can do that work together, move forward and, at the end of the day, do our jobs as MLAs and bring forward the best legislation possibly for the people of the territory..."⁵

The Hon. Mr. Cathers then stated,

...We believe that it is a timely point in time for taking this next step and for moving forward collaboratively with all three parties involved.... It is a very sweeping change. It will have an impact on workplaces in many areas and may have an impact on individuals in areas of rural Yukon not currently covered by smoking legislation. With that in mind, that is why we believe it's important for MLAs to go directly to the people, in a non-partisan manner, to discuss the issues, to determine the proper wording of the legislation, and to move forward in a timely manner.... The government does feel there is a need for all parties to consider some of the wording of the clauses and to do public consultation. We have already shared with the third party some of the areas we've identified in review since the members shared the bill with us. To that end, we'd like to give the opportunity for all three parties to work constructively and collaboratively on the wording of this and involve the public.⁶

On June 13, 2007, the Select Committee on Anti-Smoking Legislation was established by Order of the House. As it has been 15 years since the Yukon Legislative Assembly last appointed a Select Committee,⁷ it may be useful to review the features of this type of committee. The purpose of a select committee is to look into a specific issue that the House deems to be of particular importance. This type of committee is made up of a limited number of Members of the House. Once a select committee submits its final

¹ A Private Member's Bill is a bill introduced by a Member of the Yukon Legislative Assembly who is not a Cabinet Minister.

² Except for the Speaker of the Legislative Assembly, who only casts a vote to break a tie.

³ Standing Order 57(4) of the May 11, 2006 Standing Orders reads: "Unless otherwise ordered by the Assembly, when a Government Bill or a Private Member's Bill is read the second time, it stands ordered for consideration by Committee of the Whole."

⁴ The Committee of the Whole is a committee whose membership includes all of the Members of the Legislative Assembly. (It is at the Committee of the Whole stage that the specific clauses of the bill are examined by the House. This is sometimes referred to as "clause-by-clause").

⁵ *Hansard*, Yukon Legislative Assembly, May 9, 2007, p. 665.

⁶ *Ibid.*

⁷ The Special Committee on Land Claims and Self-Government was first formed on June 3, 1992, and then again on December 16, 1992, under a new government. The Special Committee submitted its report to the Yukon Legislative Assembly on March 15, 1993.

report to the House, the committee is considered to have fulfilled its purpose, and ceases to exist (it is said that the committee has "dissolved"). The Select Committee on Anti-Smoking legislation is an "all party" committee; that is, each of the three parties represented in the Yukon Legislative Assembly has one Member on the Committee. The Members of the Committee are the Hon. Brad Cathers (Yukon Party), Darius Elias (Liberal), and John Edzerza (New Democratic Party).

Mandate

The Select Committee on Anti-Smoking Legislation's terms of reference were set out in Government Motion #143, moved on June 13, 2007. The Committee's mandate included holding public hearings to receive the views and opinions of Yukoners and interested groups on legislative options for banning smoking in public places. The motion, moved by the Hon. Brad Cathers, Government House Leader, carried, becoming the aforementioned Order of the House. The text of the Order, as recorded in the *Journals*, follows:

THAT a Select Committee on anti-smoking legislation be established;

THAT the Hon. Brad Cathers be the Chair of that Committee;

THAT the honourable Members Darius Elias and John Edzerza be appointed to the Committee;

THAT Bill #104, entitled *Smoke-free Places Act*, be referred to the Committee;

THAT the Committee hold hearings for the purpose of receiving the views and opinions of Yukon citizens and interested groups on legislative options for banning smoking in public places;

THAT decisions by the Committee require unanimous agreement by members of the Committee;

THAT the Committee report to the Legislative Assembly no later than the 15th day of the next regular sitting of the Legislative Assembly:

- (a) its findings, if any, related to public opinion on options for legislative change; and
- (b) its recommendations, if any, regarding what form of legislation implementing changes recommended by the Committee should take;

THAT, in the event the Legislative Assembly is not sitting at the time that the Committee is prepared to report, the Chair of the Committee forward copies of the report to all Members of the Legislative Assembly, thereafter make the report public, and subsequently present the report to the Legislative Assembly at the next sitting of the Legislative Assembly;

THAT, during its review of public opinion on legislative options for banning smoking in public places, the Committee be empowered:

- (a) to invite officials from the Government of Yukon to appear as witnesses on technical matters;
- (b) to invite representatives of the Canadian Cancer Society to appear as witnesses on technical matters;
- (c) to engage a technical expert who is not a Member of the Legislative Assembly or an employee of the Government of Yukon to act as a facilitator at the public hearings;
- (d) to invite such other persons as it deems necessary to appear as witnesses on technical matters;
- (e) to hold public hearings;
- (f) to print such papers and evidence as may be ordered by it; and

THAT the Clerk of the Legislative Assembly⁸ be responsible for providing the necessary support services to the Committee.

Methods through which opinions were expressed to the Committee

There were three ways that Yukon citizens and interested groups registered their views on legislative options for banning smoking in public places with the Select Committee. These avenues were: (1) the Committee's public hearings, (2) the Committee's questionnaire, (3) and written submissions. Note: Some people availed themselves of more than one means of expressing their opinions to the Committee. Of the 74 members of the public who spoke at the public hearings, 33 (i.e., 45%) also submitted questionnaire responses, and/or written submissions.

Public Hearings

The Select Committee on Anti-Smoking Legislation scheduled public hearings in 17 communities across the territory. The hearings took place in September and October, 2007, in 14 of these communities. While the Committee traveled to Pelly Crossing, Ross River, and Destruction Bay, the meetings were never called to order, as no one attended.

In 79% of the communities in which public hearings were held, a majority of the people who spoke before the Committee expressed their **support** for anti-smoking legislation (i.e., 11 out of 14 communities). These 11 communities were: Beaver Creek, Burwash Landing, Carcross, Carmacks, Dawson City, Marsh Lake, Mayo, Old Crow, Tagish, Watson Lake, and Whitehorse.

At the Committee's public hearings in the remaining 3 communities – Faro, Haines Junction, and Teslin -- opinions were fairly evenly split between those who supported, and those who opposed, the implementation of anti-smoking legislation.

⁸ The Clerk of the Yukon Legislative Assembly is Dr. Floyd McCormick.

The public hearing schedule was as follows:

Mayo	September 11, 7 p.m.	5 people attended
Dawson City	September 12, 7 p.m.	10 people attended
Pelly Crossing	September 13, 1 p.m.	n/a
Carmacks	September 13, 7 p.m.	4 people attended
Ross River	September 14, 1 p.m.	n/a
Faro	September 14, 7 p.m.	12 people attended
Haines Junction	September 15, 7 p.m.	8 people attended
Destruction Bay	September 16, 10 a.m.	n/a
Burwash Landing	September 16, 1 p.m.	1 person attended
Beaver Creek	September 16, 7 p.m.	2 people attended ⁹
Watson Lake	September 22, 7 p.m.	11 people attended
Teslin	September 23, 1 p.m.	2 people attended
Marsh Lake	September 24, 7 p.m.	4 people attended
Carcross	September 27, 7 p.m.	3 people attended
Old Crow	September 28, 1 p.m.	7 people attended
Tagish	September 29, 7 p.m.	2 people attended
Whitehorse	October 2, 7 p.m.	20 people attended

The attendance numbers provided are approximate, and reflect the Committee's understanding of how many members of the public were in attendance at a given meeting (reporters, staff, and representatives of organizations [except those in attendance to make presentations to the Committee] are not included). 91 people attended the public hearings, 74 of whom spoke at the hearings.

⁹ The two people in attendance were residents of Whitehorse, in Beaver Creek on business. (They did not attend the meeting in Whitehorse.)

Questionnaire

Many people took advantage of the Select Committee's questionnaire to register their views. The questionnaire was posted on the Legislative Assembly's website.¹⁰ In addition to the online version of the questionnaire, hardcopies were available at the Committee's public hearings. Questionnaire responses were submitted both online and by mail. The questionnaire was as follows:

Name: _____¹¹

Community: _____

- 1) Do you agree that territorial legislation should be implemented to restrict or ban smoking in public places?
- 2) If you agree that territorial anti-smoking legislation should be implemented, should such legislation ban smoking in:
 - a. All public facilities, including outdoor patios on restaurants and bars;
 - b. All enclosed public facilities;
 - c. Only in public facilities which allow minors;
 - d. Temporary facilities, such as tents for special occasions.
- 3) If territorial legislation is implemented to ban smoking in public places, should establishments where the owner(s) are the only workers, and have no employees, be considered "public places" where smoking is not permitted?
- 4) Should territorial legislation ban display and advertising of tobacco products in retail stores?
- 5) If the Yukon Legislature passes legislation banning smoking in public places, should the legislation take effect:
 - a. As soon as possible;
 - b. After 1 year;
 - c. After 2 years.

177 Yukoners responded to the questionnaire. The majority of respondents – 58% – **support** the implementation of anti-smoking legislation (i.e., 103 in favour; 73 opposed). Note: Responses to questionnaires received from non-Yukoners (e.g., Alaskans), and those who did not identify their community (or indicate that they were from the Yukon), were not included in the survey results.

¹⁰ The Yukon Legislative Assembly's homepage is: www.legassembly.gov.yk.ca

¹¹ Note: This was an optional field in the online version (i.e., the questionnaire could be submitted online without completing this section).

The 177 questionnaire respondents came from 14 communities across the territory. In 86% of these communities, a majority of respondents supported anti-smoking legislation (i.e., 12 out of 14 communities.) The 12 communities in which the majority of respondents were in favour of the implementation of anti-smoking legislation were: Burwash Landing, Carcross, Carmacks, Dawson City, Destruction Bay, Faro, Haines Junction, Lake Laberge, Marsh Lake, Mayo, Old Crow, Teslin, Watson Lake, and Whitehorse. The two communities in which a majority of questionnaire respondents were opposed to anti-smoking legislation were Dawson City and Haines Junction.

(See Appendix 2 for a breakdown of questionnaire responses.)

Written Submissions

Written submissions were the third method available to Yukoners and interested groups to register their opinions on anti-smoking legislation. The Committee received 17 written submissions that either supported, or opposed, anti-smoking legislation. Of these submissions, 82% *favour* the implementation of anti-smoking legislation (i.e., 14 out of 17). (See Appendix 3.)

Findings

Pursuant to the Select Committee's terms of reference¹, the Committee may report to the Legislative Assembly its findings, "if any, related to public opinion on options for legislative change." The Committee's findings are as follows:

(1) In many places across the Yukon, measures banning smoking in public places are already in effect:

Both Whitehorse and Dawson City have already adopted municipal anti-smoking by-laws. The majority of the territory's population is therefore already living in communities in which anti-smoking measures are in effect.

The federal government also prohibits smoking in its buildings. So does the territorial government. As well, many Yukon First Nations governments have long since banned smoking in their buildings.

(2) The majority of opinions expressed support the implementation of legislation banning smoking in public places.

The majority of opinions expressed through each of the three methods available to Yukoners and interested groups – i.e., the Committee's public hearings, the questionnaire, and written submissions to the Committee – favour the implementation of anti-smoking legislation.

¹ contained in Motion #143 (see pg. 7 of this report)

(3) Opinions *supporting* the implementation of anti-smoking legislation often fell into certain broad categories:¹³

(a) Health

The Committee listened as Yukoners opened up about family members and friends who had died from cancer, and those who still suffered from smoking-related illnesses, like emphysema.

The Committee heard from Yukoners who indicated that, both out of short term (e.g., coughing, the worsening of pre-existing conditions like asthma) and long-term (e.g., cancer) health concerns, they did not want to breathe in second-hand smoke.

The Committee also heard from people who were severely allergic to smoke. These Yukoners indicated that something others might take for granted, like going out to Bingo, or to the local restaurant or bar, would have drastic health consequences for them. The Committee heard from people who experienced after-effects of exposure to second-hand smoke that could persist for days after the exposure. After-effects could include difficulty breathing, and tightness in the chest. Sometimes medical intervention was required. One individual's reaction to second-hand smoke had been so severe that she (mistakenly) believed she had been having a heart attack.

Many people expressed concern for the health of children exposed to second-hand smoke. The Committee's technical advisor confirmed that the impact of second-hand smoke on children is greater than on adults. Infants, for example, breathe in air at three times the rate that adults do, and their lungs are still developing. Infants and children in vehicles in could be breathing in second-hand smoke for most of the year, as the windows would be rolled up due to the cold weather. As well, children exposed to second-hand smoke are at greater risk of developing asthma.

Views were expressed that territorial anti-smoking legislation was needed to protect the health and safety of workers, who could be exposed to second-hand smoke at their workplace over long periods of time. It was noted that for most people, working is not a choice, but an economic imperative. Workers should not be forced to breathe in second-hand smoke that can make them ill, and that in time could even kill them, in order to make ends meet.

(b) Non-infringement of smokers' rights on the rights of others

The opinion was frequently expressed that smokers, like others, have rights and freedoms, but that the limit of these rights is the point at which they infringe upon the rights, freedoms, and health of others – i.e., smokers' rights do not override those of non-smokers. A number of people expressed the opinion that smokers' rights should not trump what they believed to be a fundamental right – the right to breathe clean air.

¹³ Note: There is some overlap among the categories.

It was noted that smokers had the option to briefly leave a non-smoking environment to have a cigarette, but that people who were allergic to smoke could not even enter a smoking facility. One non-smoker noted that although her taxes had helped to build the local community centre, she was effectively barred from using it, as smoking was allowed on the premises. Others stated that smokers' exercising their personal choice to smoke, had the effect of taking away their option (as non-smokers) to participate in social events.

Particular concern was expressed by a number of people about protecting the rights of children. It was noted that a baby breathing in second-hand smoke in a vehicle has absolutely no choice in the matter, and cannot ask for clean air. Who will look after the rights of children, people asked? Many Yukoners said it was important that anti-smoking legislation protect children's welfare, as children often have no voice, and no choice, about being exposed to second-hand smoke.

Workers' rights were also of concern to a number of people. The opinion was expressed that, particularly in small communities, it is not a solution for owners to indicate that theirs is a smoking establishment, and that people who oppose smoking are "free" to seek work elsewhere. Jobs can be scarce, and people should not be forced to endanger their health in order to earn a paycheque.

(c) Economic Benefits

The committee heard that there would be economic benefits to implementing measures banning smoking in public places. Some people noted that there would be financial benefits to business owners in the form of greatly reduced insurance rates (for smoke-free hotels, for e.g.), reduced cleaning and repair bills, and increased worker productivity (if the employees were to quit smoking). Other people expressed the view that there was the potential for businesses to attract more customers, as people who had formerly stayed away due to the second-hand smoke, would come out. As well, if the legislation helped people to cut back on smoking, or to give it up altogether, they would have more disposable income in hand (which in turn could be spent at local businesses).

(d) Social Benefits

One individual who was allergic to smoke noted that second-hand smoke curtailed her ability to do volunteer work in her community. If smoking was banned in public places, she would have the opportunity to contribute more to her community, which would benefit from her increased volunteering efforts.

The opinion was voiced that people allergic to smoke would be less isolated if there was a ban on smoking in public places. These people would be more able to participate in the social and public life of the community.

Friends and families would lose fewer loved ones to cancer and other smoking-related diseases.

The view was expressed that because nicotine is highly addictive, some people may be diverting money from the family budget for healthy meals and warm clothing, to buy cigarettes.

(e) Reduced healthcare expenses

Many expressed the view that anti-smoking legislation could contribute to a reduction in future healthcare costs. In response to a question, the technical expert noted that cigarette taxes do not even come close to covering the expense of treating smoking-related illnesses. The opinion was expressed that while some smokers said it was their choice to smoke, and no one else's affair, treatment for smoking related illnesses is expensive, and everyone's tax dollars go to pay for it.

(f) Aversion to smoke

Many Yukoners said they did not like the smell of smoke. (Several people used the term "stinky" to describe the smell of cigarette smoke.) One individual recalled that when she had worked in a smoking establishment, her clothes smelled of smoke at the end of her shift, and needed to be washed. This had presented an additional challenge, as she did not have running water at home.

(4) Opinions *opposing* anti-smoking legislation generally fell into two categories:¹⁴

(a) Economic concerns

People opposed to anti-smoking legislation frequently expressed the concern that the economic impact of such legislation on businesses would be devastating. Fear was expressed that bars and restaurants would be forced to close, and that people would lose their businesses. If businesses closed, employees, too, would lose their jobs and livelihoods.

Some Yukoners expressed the concern that tourism would be negatively impacted, as people might choose to hold their conventions, or take vacations, in communities that allowed smoking in public places.

Some people residing in rural areas expressed the opinion that while anti-smoking legislation might work in cities like Whitehorse or Dawson City, with their larger population base, that if similar measures were applied in rural communities, the effect could be severe. In Whitehorse, the economy could absorb the closing of a local business. In a small town, however, the impact of a business closure on the community could be extreme, and could also have a domino effect. In a small community, people already have fewer choices and fewer venues. If the local bar shuts down, then the attached hotel could be shut down too, and residents would be left with fewer (or no) similar facilities available.

Yukoners expressed interest in the economic effects of the anti-smoking legislation that had been implemented in other jurisdictions. The Committee's technical expert and technical advisor cited Canadian studies indicating that a

¹⁴ Note: There is some overlap among the categories.

three month dip in sales appears to be typical, followed by a recovery to previous levels – sometimes *above* previous sales levels – after the implementation of anti-smoking legislation. Some people expressed skepticism that these results would be replicated in small, northern, rural communities in the territory.

(b) Personal freedoms / less government intervention

Many people expressed the view that smoking was a personal choice, and a right. They did not want the government babysitting them or telling them how they should live their lives. Some Yukoners pointed out that things other than smoking were harmful (e.g., poor diet, wood smoke, idling vehicles, alcohol abuse), yet they did not see the same type of crusade against other social ills or unhealthy practices. Many people indicated that they opposed excessive government intervention, and that anti-smoking legislation was overly intrusive. A number of people viewed the Yukon as “the final frontier,” and said that they lived here because of the great measure of personal freedoms that Yukoners enjoy. Some Yukoners commented that smoking is legal, and the government makes tax money from it, so why persecute or criminalize smokers as a group? Some smokers, and friends and family of smokers, were concerned that smokers would be cut out of social events if they were not allowed to light up in public places.

A few people expressed the view that a decision to impose anti-smoking measures – or not – should remain a choice that is made at a local level, rather than something that is imposed on all communities by the territorial government.

(5) Desire for a level playing field

Many times, the Committee heard the view expressed that if anti-smoking legislation is to be implemented, that it should be implemented in a way that created a “level playing field” for businesses. The view was expressed that implementation should take place at the same time for restaurants and bars. This would avoid a situation in which bars in which anti-smoking measures were being phased-in over a period of time, would benefit financially at the expense of non-smoking restaurants.

(6) Compassion for smokers

The view was often expressed that smokers and non-smokers are all Yukoners. Smokers are friends, colleagues, and family members, and shouldn't be demonized. Smoking is addictive, and many smokers are struggling with this addiction. A number of people noted that if it were easy to simply quit, many smokers would already have done so. The Committee heard people express the opinion that smokers should be shown compassion, and, where possible, efforts to accommodate them should be made. For example, the suggestion was made that if legislation banned smoking within a certain distance of a building's entrance, that a shelter be provided for smokers, to protect them from the elements.

(7) Quitting smoking / smoking prevention

Many people suggested that public programs currently in place to help Yukoners to quit be stepped up, along with the public education campaign aimed at getting

young people, in particular, not to take up smoking. The view was expressed that these measures would complement the effectiveness of anti-smoking legislation. As well, it was suggested that measures like counseling, education, and positive incentives to quit would be preferable to an approach that was all “stick” and no “carrot.”

Interest was expressed in the possibility that the territorial government might consider, at some point in the future, covering the cost of “the patch” to help smokers to quit.

One person indicated that she would like to see a residential treatment centre in the territory, to help smokers to break the habit. As a smoker, she said it would be helpful to be away from everyday life while dealing with withdrawal symptoms, and that it would help to make the effort to quit successful.

(8) Implementation suggestions

The Committee heard suggestions from several people to the effect that anti-smoking legislation, if passed, should not be implemented during peak tourist season, or in the wintertime.

It was also suggested that a cigarette-butt management strategy be considered, so that when cigarettes are smoked outside, the butts are properly disposed of, not littered across the ground.

(9) Enforcement

Many people expressed interest in and concern about how anti-smoking legislation, if implemented, would be enforced. One man strongly expressed the view that the government should not download the enforcement component onto business owners. Business owners, managers, and staff did not want to be in the position of policing their customers and enforcing legislation. (The Committee Chair noted that this was not even being contemplated. The only anticipated requirement on owners and managers would be to report an infraction to whatever authority the enforcement function of the legislation was ultimately delegated to.)

Recommendations

Within the Select Committee’s terms of reference,¹ it may make recommendations to the Legislative Assembly about anti-smoking legislation. The Committee’s recommendations may range from proceeding with Bill #104 in its current form, and as it is currently worded; to suggesting changes to the bill; proposing that an entirely new bill be introduced; or recommending that the Assembly *not* proceed with anti-smoking legislation. It should be noted that once the Select Committee’s report has been presented to the House, it is up to the Legislative Assembly to accept, or reject, any or all of the Select Committee’s recommendations.

¹ Contained in Motion #143

The recommendations of the Select Committee on Anti-Smoking Legislation are as follows:

- (1) THAT the Legislative Assembly pass legislation banning smoking in public places (either as a Private Member's Bill, or as a Government Bill).
- (2) THAT implementation of the legislation occur as soon as possible after the legislation's passage, and that this implementation occur either in the spring or fall -- not in peak tourist season, or in the winter.
- (3) THAT the legislation provide for regulations that would allow the banning of candy cigarettes and other confectionery products.
- (4) THAT, with respect to the definition of a public place (which remains to be defined), there be no exceptions made for bars, "mom and pop" operations, or temporary facilities such as special occasion tents.
- (5) THAT legislation ban the display and advertising of tobacco products in retail stores, and that there be a phase-in period of one year to allow for compliance.
- (6) THAT the legislation allow for regulations to restrict any areas of tobacco promotion or advertising which fall within territorial jurisdiction.

Appendix 1: Bill 104, *Smoke-free Places Act*

Bill No. 104 Smoke-free Places Act

The Commissioner of Yukon, by and with the advice and consent of the Legislative Assembly, enacts as follows:

Interpretation

1 In this Act,

“employee” means a person who performs any work for or supplies any service to an employer, and includes a person whose services are contracted for by an employer, who is receiving instruction or training or serving an apprenticeship, who is self-employed, or is a volunteer;

“employer” means any person who has control over or direction of, or is directly or indirectly responsible for, a person’s activities as an employee, including a contractor, owner, proprietor, manager, or supervisor;

“enclosed public place” means the inside or other enclosed part of a building, vehicle or watercraft or other indoor space to which members of the public have access by express or implied invitation, whether or not a fee is charged for entry, and whether covered by a roof or not, or any other place prescribed by regulation but does not include a private residence;

“group living facility” means a facility in which services are provided for the care of adults or children, including homes for children in the care of the Minister, prisoners, veterans, nursing, palliative, or hospice homes, psychiatric or addictions treatment facilities, women’s transition homes or shelters, halfway houses, shelters for the homeless, or any other place prescribed by regulation;

“health care facility” means a place where a person may receive medical examination, treatment or care, including a hospital, medical clinic, dental clinic, practitioner’s office, or any other place where health care is provided;

“inspector” means an inspector appointed pursuant to this Act;

“manager” means any person who has responsibility for and control over the activities of an enclosed place, and includes the lessee or owner of the place;

“Minister” means the Minister of Health and Social Services or a person designated to act on the Minister’s behalf;

“minor” means a person under the age of nineteen;

“place of employment” means an enclosed place, other than a vehicle, in which employees perform the duties of their employment and includes an adjacent corridor, lobby, stairwell, elevator, escalator, eating area, washroom, restroom or other common area frequented by employees during the course of their employment but does not include a rental unit of roofed accommodation;

“public vehicle” means a bus, taxi, watercraft, or other vehicle that is used to transport members of the public for a fee;

“restaurant” includes a coffee shop, lunch counter, snack bar, canteen, banquet facility, cafeteria, sandwich stand, food court, catering outlet and service, delicatessen, bakery, food vending outlet, food take-out establishment, grocery store that contains a snack bar or other place where food is served, and any other eating establishment or outdoor eating area that is part of or operated in conjunction with a restaurant;

“school” means a public or private elementary or secondary school, training centre, or postsecondary institution;

“smoke” means to smoke, hold or otherwise have control over ignited tobacco, whether it is in cigarettes, cigarillos, cigars, pipes, or any device;

“tobacco” means a product manufactured from tobacco;

“tobacco-related product” means a cigarette paper, cigarette tube, cigarette filter, cigarette maker or pipe, or any thing used in association with tobacco and prescribed in the regulations.

Application of Act

2 (1) This Act binds the Government of Yukon.

(2) Nothing in this Act affects the rights of aboriginal people respecting traditional aboriginal spiritual or cultural practices or ceremonies, or the use of tobacco by a group prescribed by regulation, for a prescribed purpose.

Supervision of Act

3 The Minister has the general supervision and management of this Act.

Prohibitions

4 (1) No person shall smoke in any enclosed place that is or includes

- (a) a building or vehicle of the Government of Yukon, a municipality, a village, town, or any agency thereof and of profit or non-profit organizations, circles, or clubs;
- (b) a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry;
- (c) a Territorial correctional institution, detention centre, lock-up or reformatory or another penal institution;
- (d) a daycare or pre-school or a licensed family child care home in the space where children are being cared for, whether or not they are present;
- (e) an elementary or secondary school, training centre, post-secondary institution;
- (f) a library, meeting place, classroom, art gallery, museum, or place of worship;
- (g) a health-care facility;
- (h) a cinema or theatre;
- (i) a video arcade or pool hall;
- (j) a recreational facility where the primary activity is physical recreation, including, but not limited to, a bowling alley, fitness centre, gymnasium, pool or rink;
- (k) a multi-service centre, community centre or hall, arena, tent used for special events or gatherings, fire hall or church hall;
- (l) a meeting or conference room or hall, ballroom or conference centre;
- (m) a retail shop, boutique, market, store or shopping mall;
- (n) a laundromat;
- (o) a ferry, ferry terminal, bus, bus station or shelter, taxi, taxi shelter, limousine or public vehicle carrying passengers for a fee;
- (p) a vehicle used in the course of employment while carrying two or more persons;
- (q) the common area of a commercial building, hotel, motel, bed and breakfast, or multiunit residential building including, but not limited to, corridors, lobbies, stairwells, elevators, escalators, eating areas, washrooms and restrooms;
- (r) a restaurant or other eating establishment;

(s) a lounge, bar, beverage room, cabaret, club, beer parlour, or other premises with a license to sell liquor, including a private club;

(t) a place that is being used for bingo;

(u) a group living facility;

except as permitted by Section 5.

(2) No person shall smoke

(a) within a prescribed distance from a doorway, window or air intake of a place described in subsection 4(1), paragraph (2)(c) below, or subsection 6(1);

(b) in an outdoor eating or drinking area;

(c) in a building, facility or place designated by the regulations.

(3) No person shall smoke or use tobacco on the grounds of a school.

(4) No manager of an enclosed place referred to in subsections (1) to (3) shall permit any person to smoke in that place, on those grounds, or in that area.

(5) The manager of a place where smoking is prohibited or permitted under this Act must ensure that signs indicating that smoking is prohibited or permitted are posted and continuously displayed in accordance with the regulations.

(6) No person other than a manager or a person acting under the manager's instructions shall remove, alter, deface, conceal or destroy a sign that is posted or displayed under this Act.

Exceptions

5 (1) No person shall smoke in any enclosed place referred to in subsection 4(1) except

(a) if the person is within a building, structure, vehicle, or part of a building or structure that is used as a private residence unless a home health-care worker, probation officer, or social worker requests a person not to smoke in his or her presence while he or she is providing services;

(b) if the person is a registered person or is the guest of a registered person in a hotel, motel, or bed and breakfast room designed primarily as sleeping accommodation and designated as a smoking room by the manager;

(c) if the person is a resident of a nursing home, a resident of a home for aged or disabled persons, or a resident of part of a health-care facility used for the acute or long-term care of veterans.

(2) Persons excepted in paragraph (1)(c) must use only cigarettes and smoke in an area of the enclosed space of the designated residence that is separately enclosed, has floor-to-ceiling walls, a self-closing door, and is separately ventilated, as prescribed by the regulations;

(3) No manager of an enclosed place referred to in subsection (2) shall permit any person to smoke in that place except as provided in paragraph (1)(c);

(4) No person under the age of nineteen years shall enter or be in an enclosed place referred to in subsection (2);

(5) No manager of an enclosed place referred to in subsection (2) shall permit any person under the age of nineteen years to enter or be in an area in which smoking is permitted;

(6) If a person contravenes this Act in an enclosed public place, the manager, owner, or proprietor shall request the person to immediately stop smoking or holding lighted tobacco and to immediately extinguish the lighted tobacco, shall inform the person that an offence has been committed, and refuse to provide that person with the good or service customarily provided in the enclosed public place until that person ceases contravening the Act;

(7) A manager shall ensure that a person who refuses to comply with this Act does not remain in the enclosed public place, on those grounds, or in that area.

Places of employment

6 (1) No person shall smoke in any place of employment except as permitted by Section 5

(2) No employer or manager shall permit any person to smoke in any place of employment except as permitted by Section 5.

(3) No employer shall take adverse employment action against an employee because that person provided information in good faith under this Act.

Ashtrays not permitted

7 No employer or manager shall permit any ashtrays or other receptacles used for smoking materials in any place at any time where smoking is prohibited in that place by this Act.

Supplying tobacco to minors prohibited

8 (1) No person shall supply or offer to supply tobacco or a tobacco-related product to a minor.

(2) In a prosecution or proceeding for a contravention of this Act, the accused has a defense if it can be proven on a balance of probabilities that, before supplying or offering to supply tobacco to a minor, the accused attempted to verify that the minor was at least 19 years of age by asking for and being shown documentation prescribed in the regulations for the purpose of verifying age, and reasonably believed that the documentation was authentic and that the person was at least 19 years of age.

Tobacco advertising, promotion and sale

9 (1) No person shall advertise or promote tobacco in any manner prohibited by the regulations.

(2) No person shall deal in, sell, offer for sale or distribute tobacco in a place where such activity is prohibited by regulation.

Inspectors

10 (1) The Minister may appoint or designate inspectors for the purpose of this Act.

(2) For the purpose of ensuring compliance with this Act and the regulations, an inspector may

(a) enter and inspect any place to which this Act applies, at any reasonable time without warrant or notice, and make such examinations and inquiries and conduct such tests as the inspector considers necessary or advisable, but an inspector is not entitled to use force to enter and inspect a place;

(b) be accompanied and assisted by any person who, in the opinion of the inspector, has special knowledge or expertise;

(c) make enquiries of any person who is or was in a place to which this Act applies;

(d) require the production of drawings, specifications, floor plans, maintenance records or other documents for a place to which this Act applies and may inspect, examine, copy or seize them;

(e) exercise such other powers as are prescribed by the regulations;

(f) exercise such powers as are incidental to the powers set out in paragraphs (2)(a) to (2)(e);

(3) An inspector shall produce, upon request, evidence of his or her appointment.

Compliance order

11 (1) No person shall obstruct, interfere with or fail to co-operate with an inspector in the execution of the inspector's duties under this Act.

(2) No person shall knowingly make a false or misleading statement to an inspector or produce a false document or thing to an inspector.

(3) No person shall remove, cover up, mutilate, deface or alter any sign required pursuant to this Act or the regulations.

(4) Where an inspector finds that a manager or employer is not complying with a provision of this Act, the inspector may order the manager or employer to comply with the provision and may require the order to be carried out immediately or within such period of time as the inspector specifies.

(5) An order made pursuant to this Act shall indicate generally the nature and, where appropriate, the location of the non-compliance with this Act.

Offences

12 (1) Every person, manager, employer, owner, or lessee who contravenes this Act or the regulations or fails to comply with an order made pursuant to this Act or the regulations is guilty of an offence and liable on summary conviction to a fine as prescribed in the regulations;

(2) If any person contravenes this Act, each manager, lessee, owner, or employer of the place is deemed to have contravened that subsection and is liable for the contravention;

(3) Subsections (1) and (2) apply whether or not the person who smoked tobacco or held lighted tobacco, or any other person, is charged with contravening the Act;

(4) In addition to any penalty levied upon conviction for an offence contrary to this Act, an authority authorized to suspend or cancel any license or permit issued in respect of the premises where the offence was committed may suspend or cancel that license or permit;

(5) No person shall interfere with or harass a person who provides information under this Act;

(6) Any prosecution for an offence under this Act may be commenced within two years after the date the offence is committed and no later.

Non-liability

13 No action or proceeding shall be commenced against the Minister, the Department, an enforcement officer, an employee or agent of the Department or any other person appointed to administer all or any of the provisions of this Act or the regulations for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by the Act or the regulations unless the person was acting in bad faith.

Regulations

14 (1) The Commissioner in Executive Council may make regulations

- (a) designating any enclosed space, building, or facility for the purpose of this Act;
- (b) prescribing the nature of any enclosure with regard to safety, the health of others, ventilation for the purpose of Section 6, and the number and location of rooms that can be designated for smoking;
- (c) setting air-quality standards for any part of an enclosed place where smoking is not permitted by this Act if smoking is permitted in another part of that place or for any part of an enclosed place where smoking is permitted by this Act;
- (d) determining design criteria for ventilation or for ensuring air quality;
- (e) prescribing the obligations of employers and managers respecting the maintenance of air-quality standards set by the regulations;
- (f) prescribing the records to be kept by employers and managers for the purpose of ensuring compliance with this Act and the regulations;
- (g) requiring the content and the posting of signs for the purpose of this Act
 - (g.i) governing or prohibiting tobacco advertising and promotion;
 - (g.ii) prescribing places where tobacco shall not be dealt in, sold, offered for sale or distributed;
- (h) prescribing the appointment, powers, and duties of inspectors;
- (i) defining any enclosed space where smoking is prohibited;
- (j) defining any other word or expression used but not defined in this Act or further defining any word or expression defined in this Act;
- (k) specifying any product or class of product considered to be tobacco;

(l) regulating the entry into, and work in, a designated smoking room by employees, including establishing the circumstances, duration, and requirements for such entry or work and the use and cleaning of designated smoking rooms;

(m) respecting any matter that the Commissioner in Executive Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) No regulation may be made pursuant to paragraph (1)(m) unless the regulation is recommended to the Commissioner in Executive Council by the Minister where the Minister is of the opinion that there are rare and extenuating circumstances justifying the regulation and that the regulation does not compromise the intent and purpose of this Act.

(3) A regulation made pursuant to this Act may be of general application or may apply to such individual or individuals, such class or classes of persons, such class or classes of places or such class or classes of matters or things as the Commissioner in Executive Council determines and there may be different regulations with respect to different individuals, different classes of persons, different classes of places and different classes of matters or things.

Conflict of Act with other authority

15 (1) Nothing in this Act affects any other authority to regulate, restrict or prohibit smoking.

(2) Where there is a conflict between this Act and any other authority, regulating, restricting or prohibiting smoking, the more restrictive authority prevails to the extent of the conflict.

Coming into force

16 This Act comes into force June 1, 2008, or on such earlier date as may be fixed by the Commissioner in Executive Council.

Appendix 2: Questionnaire Results*

1) Do you agree that territorial legislation should be implemented to restrict or ban smoking in public places? (Yes or No)

OVERALL RESULTS:

58% of the respondents supported anti-smoking legislation
(103 out of 177 respondents)

Community	# of respondents	1) Yes	1) No
Burwash Landing	1	1	0
Carcross	3	3	0
Carmacks	3	3	0
Dawson City	51	17	34
Destruction Bay	1	1	0
Faro	5	4	1
Haines Junction	48	17	31
Lake Laberge	1	1	0
Marsh Lake	5	5	0
Mayo	3	2	0
Old Crow	1	1	0
Teslin	2	2	0
Watson Lake	11	9	2
Whitehorse	42	37	5
TOTALS	177	103	73
As a %	100%	58%	41%

Not Included in the Statistics Above:

Community	# of respondents	1) Yes	1) No
Alaska	2	0	2
Unidentified	28	5	23
TOTALS	30	5	25
As a %	100%	17%	83%

*Note: Percentages have been rounded up or down to the nearest whole number. In some cases, responses to a given question (e.g., question No. 5) do not add up to 100%, as some respondents did not answer every question on the questionnaire.

QUESTIONNAIRE RESULTS BY COMMUNITY:

86% of the communities that responded supported anti-smoking legislation
 (12 out of 14 communities; Dawson City and Haines Junction were opposed)

Community	# of respondents	1) Yes	1) No
Burwash Landing	1	1	0
As a %	100%	100%	0%
Carcross	3	3	0
As a %	100%	100%	0%
Carmacks	3	3	0
As a %	100%	100%	0%
Dawson City	51	17	34
As a %	100%	33%	67%
Destruction Bay	1	1	0
As a %	100%	100%	0%
Faro	5	4	1
As a %	100%	80%	20%
Haines Junction	48	17	31
As a %	100%	35%	65%
Lake Laberge	1	1	0
As a %	100%	100%	0%
Marsh Lake	5	5	0
As a %	100%	100%	0%
Mayo	3	2	0
As a %	100%	67%	0%
Old Crow	1	1	0
As a %	100%	100%	0%
Teslin	2	2	0
As a %	100%	100%	0%
Watson Lake	11	9	2
As a %	100%	82%	18%
Whitehorse	42	37	5
As a %	100%	88%	12%

RESULTS BY COMMUNITY: Not included in the Statistics Above:

Community	# of respondents	1) Yes	1) No
Alaska	2	0	2
As a %	100%	0%	100%
Unidentified	28	5	23
As a %	100%	18%	82%

2) If you agree that territorial anti-smoking legislation should be implemented, should such legislation ban smoking in:

a. All public facilities, including outdoor patios on restaurants and bars (Yes or No)

b. All enclosed public facilities (Yes or No)

c. Only in public facilities which allow minors (Yes or No)

d. Temporary facilities, such as tents for special occasions (Yes or No)

Community	# of respondents	2) a. Y	2) a. N	2) b. Y	2) b. N	2) c. Y	2) c. N	2) d. Y	2) d. N
Burwash Landing	1	1	0	1	0	0	1	1	0
Carcross	3	3	0	3	0	0	3	3	0
Carmacks	3	0	3	1	2	1	2	3	0
Dawson City	51	10	30	15	24	19	18	11	30
Destruction Bay	1	1	0	1	0	0	1	1	0
Faro	5	4	1	5	0	1	4	4	1
Haines Junction	48	12	29	16	24	18	20	13	28
Lake Laberge	1	1	0	1	0	0	0	1	0
Marsh Lake	5	3	2	4	0	0	3	4	1
Mayo	3	1	2	1	0	0	1	0	1
Old Crow	1	0	0	1	0	0	0	0	0
Teslin	2	2	0	1	0	0	1	1	0
Watson Lake	11	8	2	8	1	2	7	7	2
Whitehorse	42	32	7	33	4	3	32	31	6
TOTALS	177	78	76	91	55	44	93	80	69
As a %	100%	44%	43%	51%	31%	25%	53%	45%	39%

Not Included in the Statistics Above:

Community	# of respondents	2) a. Y	2) a. N	2) b. Y	2) b. N	2) c. Y	2) c. N	2) d. Y	2) d. N
Alaska	2	0	2	0	2	0	2	0	2
Unidentified	28	2	13	2	11	6	6	3	10
TOTALS	30	2	15	2	13	6	8	3	12
As a %	100%	7%	50%	7%	43%	20%	27%	10%	40%

3) If territorial legislation is implemented to ban smoking in public places, should establishments where the owner(s) are the only workers, and have no employees, be considered "public places" where smoking is not permitted? (Yes or No)

Community	# of respondents	3) Yes	3) No
Burwash Landing	1	0	1
Carcross	3	3	0
Carmacks	3	0	3
Dawson City	51	17	34
Destruction Bay	1	1	0
Faro	5	4	1
Haines Junction	48	13	33
Lake Laberge	1	0	1
Marsh Lake	5	2	3
Mayo	3	2	1
Old Crow	1	1	0
Teslin	2	2	0
Watson Lake	11	7	3
Whitehorse	42	30	10
TOTALS	177	82	90
As a %	100%	46%	51%

Not Included in Statistics Above:

Community	# of respondents	3) Yes	3) No
Alaska	2	0	2
Unidentified	28	3	23
TOTALS	30	3	25
As a %	100%	10%	83%

4) Should territorial legislation ban display and advertising of tobacco products in retail stores? (Yes or No)

Community	# of respondents	4) Yes	4) No
Burwash Landing	1	1	0
Carcross	3	3	0
Carmacks	3	2	0
Dawson City	51	21	28
Destruction Bay	1	1	0
Faro	5	5	0
Haines Junction	48	23	22
Lake Laberge	1	1	0
Marsh Lake	5	4	1
Mayo	3	2	1
Old Crow	1	1	0
Teslin	2	2	0
Watson Lake	11	9	1
Whitehorse	42	33	8
TOTALS	177	108	61
As a %	100%	61%	34%

Not Included in the Statistics Above:

Community	# of respondents	4) Yes	4) No
Alaska	2	0	2
Unidentified	28	5	21
TOTALS	30	5	23
As a %	100%	17%	77%

5) If the Yukon Legislature passes legislation banning smoking in public places, should the legislation take effect:

a. As soon as possible;

b. After 1 year;

c. After 2 years.

Community	# of respondents	5) a.	5) b.	5) c.
Burwash Landing	1	1	0	0
Carcross	3	3	0	0
Carmacks	3	1	0	0
Dawson City	51	17	5	7
Destruction Bay	1	1	0	0
Faro	5	4	0	0
Haines Junction	48	12	6	12
Lake Laberge	1	1	0	0
Marsh Lake	5	4	0	1
Mayo	3	2	0	0
Old Crow	1	1	0	0
Teslin	2	2	0	0
Watson Lake	11	8	1	1
Whitehorse	42	30	6	3
TOTALS	177	87	18	24
As a %	100%	49%	10%	14%

Not Included in the Statistics Above:

Community	# of respondents	5) a.	5) b.	5) c.
Alaska	2	2	0	0
Unidentified	28	5	1	8
TOTALS	30	7	1	8
As a %	100%	23%	3%	27%

Appendix 3: Written Submission Responses

OVERALL RESULTS: 82% of the submissions expressing a preference supported the implementation of anti-smoking legislation (14 out of 17)

Member of Public / Organization	Community	In Favour	Opposed
Canadian Cancer Society – Scott Kent, Manager, Yukon Region	Whitehorse	✓	
Clean Air Coalition of BC – Jack Boomer, Director	British Columbia	✓	
Member of the Public	Haines Junction		✓
Member of the Public	Haines Junction	✓	
Member of the Public	Mayo	✓	
Member of the Public	Watson Lake	✓	
Member of the Public	Whitehorse	✓	
Member of the Public	Whitehorse		✓
Member of the Public	Whitehorse	✓	
Member of the Public	Whitehorse	✓	
Member of the Public	Whitehorse	✓	
Member of the Public	Whitehorse		✓
Member of the Public	Whitehorse	✓	
Physicians for a Smoke-Free Canada – Neil Collishaw, Research Director	Ottawa	✓	
Village of Mayo – Margrit Wozniak, Chief Administrative Officer	Mayo	✓	
Yukon Federation of Labour – Alex Furlong, President/CEO	Whitehorse	✓	
Yukon Lung Association – Doug MacLean, President	Whitehorse	✓	
# expressing a preference:	17	14	3
Expressed as a %	100%	82%	18%

Appendix 4: Written Submissions from Organizations

Attached are the written submissions the Select Committee received from organizations.

These organizations, all of whom indicated their **support** for the implementation of anti-smoking legislation, are:

Canadian Cancer Society – Scott Kent, Manager, Yukon Region

Clean Air Coalition of BC – Jack Boomer, Director

Physicians for a Smoke-Free Canada – Neil Collishaw, Research Director

Village of Mayo Council – Margrit Wozniak, Chief Administrative Officer of Mayo

Yukon Federation of Labour – Alex Furlong, President / CEO

Yukon Lung Association – Doug MacLean, President



Canadian
Cancer
Society

BRITISH COLUMBIA AND YUKON

Recommended amendments to Yukon Bill 104, *Smoke-free Places Act*

Recommended amendments

1. Prohibit visible tobacco displays and signage at point of purchase.
2. Prohibit tobacco sales in
 - a. pharmacies and establishments containing a pharmacy;
 - b. hospitals and health facilities;
 - c. post-secondary institutions (colleges/universities);
 - d. restaurants and bars;
 - e. athletic, recreational and cultural facilities;
 - f. territorial and municipal buildings and property;
 - g. buildings and property of government-controlled corporations;
 - h. outdoor, temporary and movable locations;
 - i. other places prescribed by regulation;
 - j. and by vending machines.
3. Prohibit smoking in vehicles carrying someone under the age of 19.
4. Establish regulatory authority to establish product standards (e.g. to ban flavoured cigarettes) and to establish requirements for packaging and labelling (regulations might be done in conjunction with other provinces/territories).
5. Prohibit smoking at the following outdoor places: children's playgrounds; municipal parks; bus stops; line-ups; outdoor seating structure; sports fields; within 10 metres of a parade route.
6. Prohibit brand-stretching, that is the use of logos on non-tobacco goods (e.g. lighters, matches with a tobacco brand name).
7. Prohibit cigarette carrying cases (containers intended to hold cigarettes).
8. Provide that retailers are to ask for identification for anyone appearing to be under age 25.
9. Provide that a retailer may not permit a person under the age of 19 to supply tobacco products to customers.
10. Establish regulatory authority to require tobacco companies to provide information on marketing activities (including sample ads and packages), sales volumes, and other required reports.
11. Prohibit confectionaries and toys resembling a tobacco product (e.g. candy cigarettes).

Other Recommendations

12. The Committee should also recommend an increase in cigarette taxes by at least \$15.60 per carton to match the rate found in the Northwest Territories and Nunavut, and close the tobacco tax loophole that allows roll-your-own tobacco to be taxed at a lower rate.

Recommended amendments to Yukon Bill 104, *Smoke-free Places Act*

Recommended amendments

1. Prohibit visible tobacco displays and signage at point of purchase.

Retail promotion is today the leading type of tobacco industry marketing. Canada-wide, in 2006, tobacco manufacturers paid retailers \$107 million for the prominent display of tobacco products, such as through “power walls” (large visual tobacco product displays in prominent locations) and counter top displays. Such displays expose children to tobacco products, increase the perceived popularity of tobacco products, and increase smoking to levels higher than would otherwise be the case.

Children should not grow up in an environment where cigarettes are displayed as an every day product and placed beside hockey cards and bubble gum. Prominent displays encourage impulse purchases, including among kids who are not yet addicted, and including among the one-fifth of smokers who are occasional, non-daily smokers. Such displays also stimulate cravings among ex-smokers who are struggling to remain smoke-free.

On January 19, 2005, the Supreme Court of Canada unanimously dismissed a legal challenge attempting to strike down Saskatchewan’s legislation regarding displays at point of purchase. The provinces/territories of Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Prince Edward Island, the Northwest Territories, and Nunavut have all adopted legislation to prohibit such displays, at least in stores accessible to minors. In BC, the *Tobacco Sales (Banning Tobacco and Smoking in Public Places and Schools) Amendment Act, 2007*, intended to come into effect on January 1, 2008, provides regulatory authority curb such displays at retail. In Alberta, Bill 45 includes a provision to ban retail displays; the bill had all-party support at Second Reading and is expected to received Third Reading in November, 2007 and come into force in 2008. Thus the Yukon, New Brunswick and Newfoundland are the only provinces/territories left to ban retail displays, and New Brunswick and Newfoundland may themselves bring forward legislation.

Legislation to prohibit visible tobacco product displays at point of purchase is also in place in Iceland and Thailand, and adopted but not proclaimed in Ireland.

In the Yukon, Bill 104, the *Smoke-free Places Act*, provides regulatory authority to curb advertising and promotion of tobacco, including a ban on retail displays. However, it would be better to include the ban on retail displays in the Act itself.

2. Prohibit tobacco sales in

- a. pharmacies and establishments containing a pharmacy;** (legislation already adopted in AB, ON, QC, NB, NS, PEI, NL, NWT, Nun)

- b. hospitals and health facilities;** (BC, AB, SK, ON, QC, NS, PEI, Nun)
- c. post-secondary institutions (colleges/universities);** (BC, AB, QC, NS, PEI)
- d. restaurants and bars;** (QC, NS)
- e. athletic, recreational and cultural facilities;** (BC, QC, NS, PEI)
- f. territorial and municipal buildings and property;** (BC, SK, NS, PEI)
- g. buildings and property of government-controlled corporations;** (BC, SK)
- h. outdoor, temporary and movable locations;** (QC, NS)
- i. other places prescribed by regulation;** (BC, SK, ON, QC, NB, NS, Nun)
- j. and by vending machines.** (ON, QC, NS, PEI, NWT, Nun)

The sale of tobacco products should be prohibited in all pharmacies, premises which contain a pharmacy, and kiosks associated with a pharmacy. Selling tobacco products is entirely inconsistent with the profession of pharmacists, just as it would be unthinkable for cigarettes to be sold in a doctor's office. It is a conflict of interest for pharmacists to sell an addictive drug which makes people sick, and at the same time sell medications to make people better. Selling tobacco products in a pharmacy sends the wrong message to children and undermines educational and tobacco cessation initiatives. In Quebec, the Quebec Order of Pharmacists has concluded that it is professional misconduct for pharmacists to sell tobacco products in any part of their stores.

Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland & Labrador, Northwest Territories, and Nunavut have all adopted legislation to prohibit the sale of tobacco products in pharmacies. The Yukon should do the same. Outside of North America, it is practically unheard of that tobacco would be sold in pharmacies.

In Nova Scotia, legislation bans tobacco sales in pharmacies and establishments that contain a pharmacy, hospitals and health facilities, restaurants and bars, athletic and recreational facilities, libraries, art galleries, museums, cinemas, theatres, amusement parks, video arcades, pool halls, gaming premises, provincial and municipal government buildings, multi-service centres, and community centers/halls.

In Prince Edward Island, legislation bans the sale of tobacco products in pharmacies and establishments that contain a pharmacy, hospitals, health facilities, nursing homes, provincial and municipal government buildings, schools and other buildings operated by a school board, post-secondary educational institutions, recreational facilities, athletic facilities, theatres, arcades, and amusement parks.

Saskatchewan has prohibited tobacco sales in provincial and municipal government buildings, provincial Crown corporation buildings, video arcades, amusement parks, theatres, schools, and defined health facilities.

Quebec prohibits tobacco sales in restaurants and bars, colleges and universities, and recreational and athletic facilities. B.C. is moving to ban tobacco sales at colleges and universities; pharmacies and establishments containing a pharmacy; public athletic and recreational facilities; and government buildings. In Alberta,

Bill 45 would ban tobacco sales in pharmacies and establishments containing a pharmacy; colleges and universities; and hospitals and health facilities.

Vending machines should also be banned. Federal law prohibits vending machines except in bars. Ontario, Quebec, Nova Scotia, PEI, the Northwest Territories, and Nunavut have gone further and prohibited vending machines altogether.

Tobacco sales should also be prohibited in areas where at-risk groups gather, or where government should show leadership, such as hospitals and other health facilities, provincial and municipal government buildings and property, schools and other educational facilities, and cultural, athletic, and recreational facilities.

Tobacco sales should also be prohibited in bars and other licensed premises. Alcohol can remove inhibitions such that a single cigarette can return an ex-smoker into being a pack a day smoker. Prohibiting tobacco sales in bars would eliminate the possibility of “cigarette girls” as a tobacco industry marketing tactic whereby models are hired to work in bars to promote cigarettes, a practice that occurs in Canada in 2007.

Generally, reducing the number of retail outlets reduces the easy availability of tobacco products, as is the case with a controlled distribution system for alcoholic beverages. A smaller number of retailers reduces the cost of enforcing tobacco control laws (including laws regarding tobacco sales to minors, tobacco promotion, and tobacco contraband laws).

Although Bill 104 contains regulatory authority to prohibit the sale of tobacco in certain locations, it would be better to include specific provisions in the Act itself.

- 3. Prohibit smoking in vehicles carrying someone under the age of 19.** Secondhand smoke is harmful to the health of non-smokers. Children are particularly susceptible. Children should not be exposed to second-hand smoke in a confined space such as vehicles.

There has been recent legislative activity in this area, with laws first adopted in 2006 and continuing in 2007. Laws prohibiting smoking in vehicles carrying children have been adopted in the U.S. states of Arkansas and Louisiana, the U.S. municipalities of Bangor (Maine), Keyport (New Jersey), and Rockland County (New York), as well as Puerto Rico and the Australian state of South Australia. Bills are currently before several U.S. state legislatures, the South African Parliament and the Parliament of the Australian state of Tasmania. The government of the Australian Capital Territory is also considering bringing forward such legislation.

The minimum age varies by jurisdiction, but in the three recently adopted laws by U.S. municipalities the minimum age is 18, the same as the minimum age for tobacco sales to minors. Consequently, we recommend that the minimum age of 19 apply for the Yukon in terms of smoking in vehicles with kids – the same age as the age of majority.

How would such a law be enforced? In the same way that seat belts are. Police officers would be able to give warnings or issue tickets as appropriate while conducting their regular enforcement duties. It was once said that seat belt laws could not be enforced. However, over time, the percentage of people wearing seat belts has increased dramatically, with very high compliance today. Legislation reinforces educational messages.

There is tremendous public support for a ban on smoking in vehicles carrying children. A 2006 nation-wide Environics survey conducted for the Canadian Cancer Society found that a large majority of Canadians supported a ban on smoking in vehicles carrying children under the age of 13.

4. **Establish regulatory authority to establish product standards (e.g. to ban flavoured cigarettes) and to establish requirements for packaging and labelling (regulations might be done in conjunction with other provinces/territories).** B.C. and Quebec currently have such regulatory authority. Such a provision would allow regulations to ban cigarettes with fruit flavours, as several U.S. and Australian states have done. It would also allow regulations to ban flavoured cigarillos (little cigars) sold with fruit and candy flavours. These flavoured cigarillos are often sold individually, with some indications of increased popularity among youth in some parts of Canada.
5. **Prohibit smoking at the following outdoor places: children's playgrounds; municipal parks; bus stops; line-ups; outdoor seating structure; sports fields; within 10 metres of a parade route.** A growing number of jurisdictions are prohibiting smoking in certain outdoor locations, especially if people can be in close proximity to each other, and especially if it is a place frequented by children. Apart from the question of health effects and nuisance, the benefits of such laws include environmental protection (cigarette filters do not biodegrade easily), reduced negative role-modeling for children, and further encouragement for smokers to quit.
6. **Prohibit brand-stretching, that is the use of logos on non-tobacco goods (e.g. lighters, matches with a tobacco brand name).** This measure would prohibit the sale or offering for sale of lighters, matches and other non-tobacco products depicting a tobacco brand name. In some parts of Canada, tobacco companies are increasingly marketing tobacco-branded ashtrays, including large stand-up ashtrays placed on sidewalks outside bars, thus acting as a mini-billboard. Federal legislation has partial restrictions on brand-stretching. Quebec and pending BC legislation prohibit all brand-stretching involving non-tobacco goods.
7. **Prohibit cigarette carrying cases (containers intended to hold cigarettes).** These cases, which are sold empty, normally do not have health warnings. Thus, by allowing consumers to transfer cigarettes to these cases, the effectiveness of health warnings is undermined. Further, these cases allow consumers an opportunity to conceal contraband cigarettes, by transferring cigarettes from its contraband packaging to the cigarette case.

8. **Provide that retailers are to ask for identification for anyone appearing to be under age 25.** This helps enforce tobacco sales to minors legislation. It ensures that retailers ask for ID in such a way as to remove any doubt as to the age of the customer. Such a provision is found in Ontario legislation.
9. **Provide that a retailer may not permit a person under the age of 19 to supply tobacco products to customers.** This would help enforce tobacco sales to minors legislation by ensuring more responsible staff serving customers. Further, it is inappropriate for someone under age, perhaps alone in the store, to have such easy access to tobacco products. Legislation in Saskatchewan, Manitoba and NWT in effect requires staff to be at least 18 to provide tobacco to customers. In the case of alcohol, it is common for there to be a minimum age to provide alcoholic beverages to customers.
10. **Establish regulatory authority to require tobacco companies to provide information on marketing activities (including sample ads and packages), sales volumes, and other required reports.** Several provinces have established regulatory authority for reporting requirements. This gives would give the Yukon Government flexibility to require reports to assist with the monitoring, enforcement and review of its territorial tobacco control strategy, including legislation.
11. **Prohibit confectionaries and toys resembling a tobacco product (e.g. candy cigarettes).** Nova Scotia (not yet proclaimed) and Nunavut have adopted legislation to prohibit candy tobacco products, as have several Australian states. Products such as candy cigarettes legitimize tobacco at very early ages.

Other Recommendations

12. **The Committee should also recommend an increase in cigarette taxes by at least \$15.60 per carton to match the rate found in the Northwest Territories and Nunavut, and close the tobacco tax loophole that allows roll-your-own tobacco to be taxed at a lower rate.**

Higher tobacco taxes are the most effective measure available to reduce smoking, including among price-sensitive teenagers. Increasing tobacco taxes are a win-win, improving public health and increasing government revenue. Regrettably, the Yukon has among the lowest tobacco taxes in Canada, lower than any province or territory except for Ontario and Quebec. The Yukon government has not implemented a tax increase since 2002. The following table indicates the current federal/provincial/territorial tobacco tax rates.

**Comparative Federal/Provincial/Territorial Tobacco Tax Rates
(As of January 1, 2007) ¹**

	200 Cigarettes Cigarettes (100g)	200 roll-your-own Cigarettes (100g)
Nun	\$42.00	\$14.00
NWT	\$42.00	\$13.60
N&L	\$40.96 (\$35.00)	\$31.03 (\$27.50)
Sask	\$40.35 (\$36.60)	\$19.93 (\$18.30)
Man	\$40.15 (\$35.00)	\$18.70 (\$16.50)
Alta	\$37.00	\$18.50
BC	\$35.80	\$17.90
PEI	\$34.90	\$14.00
NB	\$28.47 (\$23.50)	\$10.32 (\$8.49)
Yuk	\$26.40	\$4.68
Ont.	\$24.70	\$12.35
Que	\$20.60	\$10.30
Federal	~\$20.00 (\$16.41)	~\$7.30 (\$5.59)

¹ Notes re the table:

Federal, provincial and territorial tobacco tax rates 200 manufactured cigarettes and 200 roll-your-own cigarettes are reproduced in the table. The rates include PST/HST for Sask, Man, N&L, NS and NB. For these five provinces, the rate in round parentheses represents the tobacco tax rate not including PST/HST. For the federal government, the number in round parentheses represents tobacco taxes not including GST; federal GST varies slightly by province depending on provincial tobacco tax rates (Note: there is no PST on tobacco products in BC, Alta, Ont, Que, PEI.). For the products on the market today using "expanded" tobacco, 100g of roll-your-own (or even less) is enough to make 200 cigarettes.

A tax increase of \$15.60 per carton of 200 cigarettes (from \$26.40 to \$42.00) would put the Yukon on par with Nunavut and the Northwest Territories.

The emergence of a “discount brands” cigarette market comprising more than roughly 50% of the Canadian market has resulted in many brands being sold for \$10-\$20 less per carton than premium priced brands. This manufacturer price war makes cigarettes more affordable, and provides further reason to increase tobacco taxes. Governments, including the Yukon government, need to respond by filling the price gap left by tobacco manufacturers.

In the Yukon, roll-your-own tobacco is taxed at only 18% of the tax rate applied to cigarettes (\$26.40 for a carton of 200 cigarettes, but only \$4.68 for 200 roll-your-own cigarettes (100g)). The difference is astonishing. This loophole impairs both the health objectives of a high tobacco tax strategy.

At one time, 1g of roll-your-own tobacco was used to make one cigarette. However, to exploit the tobacco tax structure, manufacturers have used “expanded” tobacco so that only 0.5g or less is needed to make one cigarette. Because roll-your-own is taxed on a per gram basis, the actions of manufacturers have created a loophole that allows unacceptably low taxes for roll-your-own. To close the loophole, the tax on 0.5g of roll-your-own tobacco should be the same as on one cigarette.



September 21, 2007

The Select Committee on Anti-Smoking Legislation
Yukon Legislative Assembly (A-9)
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6

Attention: Hon. Brad Cathers, MLA
Committee Chair

Dear Hon. Cathers:

Re: **Bill No. 104, *Smoke-free Places Act***

On behalf of the Clean Air Coalition of BC, which is made up of the Heart and Stroke Foundation of B.C. & Yukon and the BC Lung Association, we would like to submit our letter to The Select Committee on Anti-Smoking Legislation containing our views on your proposed legislation for banning smoking in public places. We support Bill No. 104, however we would like to highlight a number of issues that you may wish to consider.

As it stands today, the Yukon is one of the few remaining jurisdictions in Canada without 100% smoke-free laws in restaurants and bars. By introducing this legislation, your government is joining almost every other Canadian province and territory to implement tough anti-smoking legislation to tackle this public health crisis. You have also signalled your commitment to public health by proposing measures that will not only ban smoking in public places, but will limit where tobacco can be sold and restrict advertising and promotions.

Here are some of our recommendations to strengthen this legislation:

Section 4 1. (p) could be strengthened by stating that a vehicle used in the course of employment should be 100% smoke-free. The toxic effects of second-hand smoke linger in an enclosed space long after an individual quits smoking. As such, if a vehicle is used by multiple employees, including smokers and non-smokers alike, those who are non-smokers will be exposed to the toxins in the smoke. We encourage you to make all vehicles used in the course of any employment, 100% smoke-free.

Section 4.2, we encourage you to develop regulations that extend the prescribed distance from doorways, windows or air intakes to be at least 7.5 metres. This is the distance noted by many experts in the field including Dr. James Repace, (a ventilation and air quality expert), the California Environmental Protection Agency, and the LEED Building Guidelines.

Section 4.3, while we applaud the section to ban smoking or use of tobacco on school grounds, we would encourage you to strengthen this section by being explicit about the

type of tobacco considered. You may wish to use the term 'smokeless tobacco' or be even more explicit and include the various forms of smokeless tobacco such as spit, chew and snus.

Section 5 of your proposed legislation should be strengthened. If I understand correctly, the legislation allows workers who provide services in someone's home to make the choice about whether they wish to work in a smoky environment. Workers who provide services in someone's home should be treated the same way and provided the same protection in their workplace as any other workers in the Yukon, such as Members of the Legislative Assembly. We encourage you to strengthen this part of the legislation.

Regarding Section 9, while the Bill is silent on this issue, we believe this section could be strengthened by adding the word "displayed" so that no person shall advertise, promote and *display* tobacco products Moreover, when regulations are developed, we encourage you to ban all retail displays regardless of whether children or adults may view them. This is a gold standard in Canada and not all provinces or territories have adopted this standard.

We encourage you to consider placing restrictions on where tobacco products may be sold, and we see no provisions within your Bill that would allow you to do this. For example, the legislation is silent on the issue, so technically someone could sell tobacco products on school grounds, but the purchaser would not be permitted to smoke or use the tobacco on the school grounds. You may wish to further restriction where tobacco products are sold by including publicly owned buildings and health care facilities.

Many jurisdictions have explicitly banned the sale of tobacco products in pharmacies. Most pharmacists find it sends a conflicting message to sell tobacco products at the same time as they are providing services to support healthy living.

Finally, I would encourage you to consider banning the use of tobacco products in vehicles where children under 19 are present. In this small, enclosed space, the effects of second-hand smoke can be very detrimental. As such, we encourage you to consider including this in your legislation.

Thank you for the opportunity to provide comment, as you pursue new legislation to help improve the health of the citizens of the Yukon.

Most sincerely,



Jack Boomer
Director, Clean Air Coalition of BC

Cc: Bobbe Wood, President and CEO, Heart and Stroke Foundation of B.C. & Yukon
Scott McDonald, Executive Director, BC Lung Association



Physicians *for* a Smoke-Free Canada

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October 15, 2007

The Select Committee on Anti-Smoking Legislation
Yukon Legislative Assembly (A-9)
PO Box 2703
Whitehorse, Yukon
CANADA Y1A 2C6

Dear Mssrs. Cathers, Edzerza and Elias,

Cynthia Callard and I are grateful to you for affording us the opportunity to participate in the public hearings of the Select Committee in Yukon communities during September and October. The warm hospitality that you and other Yukoners showed to us was very much appreciated. We only hope that our modest contributions were helpful to the process.

That the hearings took place at all is testimony to the fact that active, participatory democracy is alive and well in the Yukon. Despite the modest attendance at several of the community meetings, the people who did attend gave thoughtful presentations and all views were respectfully heard by members of the Select Committee. It was an exemplary practice of democracy that deserves to be emulated in the Yukon and other territories and provinces of Canada too.

The remainder of this letter constitutes the comments of Physicians for a Smoke-Free Canada on Bill 104.

Physicians for a Smoke-Free Canada favours all sections of Bill 104 in its current form and endorses all twelve recommendations made by the Canadian Cancer Society to the Select Committee for additions to Bill 104, *Smoke-Free Places Act*, and for higher taxes on tobacco products.

In particular, we would like to draw your attention to Recommendations 1, 2, 3 and 12 of the Canadian Cancer Society.

Recommendation 1 calls for a ban on visible tobacco displays and signage at the point of purchase. This is a measure that has been adopted by eight other provincial and territorial jurisdictions in Canada. Saskatchewan was the first jurisdiction to adopt such a measure, and their law was upheld in January, 2005 by a unanimous 9-0 decision of the Supreme Court of Canada.

Recommendation 2 calls for a ban on tobacco sales in ten different kinds of locations. As explained by the Canadian Cancer Society, such bans are already in place in several jurisdictions in Canada. Tobacco sales in pharmacies have been banned in nine jurisdictions in Canada. Depending on the category, tobacco sales have been banned in 2-8 jurisdictions for the nine other kinds of locations recommended for such bans by ourselves and the Canadian Cancer Society. Such restrictions help contribute to a comprehensive, coherent policy of discouraging tobacco use.

Recommendation 3 calls for a ban on smoking in vehicles carrying children or adolescents. A growing number of jurisdictions are implementing such bans. The latest of these is California where on October 10, Governor Schwarzenegger signed into law a bill to ban smoking in vehicles if people under 18 are present. California joins other jurisdictions including South Australia, Puerto Rico, Arkansas and Louisiana that have enacted similar laws. The town council of Wolfville, Nova Scotia is considering a similar enactment at today's (October 15, 2007) council meeting. Banning smoking in cars when children are present is a valuable child protection measure. It also is a valuable contribution to a comprehensive coherent policy of protecting non-smokers and discouraging tobacco use.

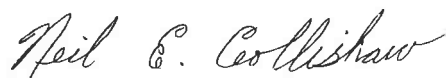
Recommendation 12 calls for an increase in tobacco taxes in the Yukon. Experience in the Yukon and elsewhere has shown that tobacco prices are inelastic. That means that raising prices through taxation will decrease tobacco consumption, but it will also increase tax revenue because consumption will decline by a proportionately smaller amount than the increase in price brought about by increased taxation. Yukon legislators need to be mindful that raising taxes in certain categories triggers corresponding reductions in federal transfer payments. Tobacco taxation is not one of these categories. All the new revenue generated by higher tobacco taxes will stay in the Yukon.

Licensing tobacco retailers

In addition to the recommendations of the Canadian Cancer Society, we would urge you to consider using the provisions of Section 9 (tobacco advertising promotion and sale) and Section 14 (regulations) to establish a system of territorial licensing of tobacco retailers. Such a licensing system would encompass both restrictive and facilitative measures, and would have two main purposes. One purpose would be to establish a system under which conditions of tobacco retailing could be monitored and enforced. Another would be to encourage tobacco retailers to make positive contributions to the health and well-being of Yukon communities. For example, retailers could be providing encouragement to their smoker customers to quit smoking and they could be directing smokers to community smoking cessation resources. Should you decide to proceed with enactment of Bill 104, you may find that, just as you may wish to pay various media outlets to be sources of information about the new law, you may similarly wish to pay tobacco retailers to also be sources of written and spoken information about the new law. In the longer term, you may discover that a continuing series of incentive payments could be usefully offered to licensed tobacco retailers in exchange for their ongoing contributions to the health and well-being of Yukon communities. Some changes to the wording of Sections 9 and 14 may be needed to ensure that such a licensing system could be established by regulation.

We believe that Bill 104, if enacted, will make a very positive contribution to the health and well-being of Yukoners. That positive contribution could be made even stronger by the adoption of the recommendations of the Canadian Cancer Society and Physicians for a Smoke-Free Canada.

Yours sincerely,



Neil E. Collishaw
Research Director



VILLAGE OF MAYO

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September 18, 2007

Select Committee on Anti-Smoking Legislation
Yukon Legislative Assembly
P.O. Box 2703 (A-9)
Whitehorse, Yukon
Y1A 2C6

200-820-35



Dear Committee Members:

Thank you for coming to Mayo to hold a public hearing for the purpose of receiving the views and opinions of Yukon citizens and interested groups on legislative options for banning smoking in public places. The Village of Mayo Council has dealt with this issue locally by passing a bylaw in January 2007 which designates all Village of Mayo buildings and vehicles as smoke-free zones.

The Council for the Village of Mayo reviewed and discussed Bill No. 104, the Smoke-free Places Act, at their September 12, 2007 meeting.

Council is in favour of the Government of Yukon implementing territorial legislation to restrict or ban smoking in all enclosed public facilities, including temporary facilities, such as tents for special occasions. Council believes that, if territorial legislation is implemented to ban smoking in public places, establishments where the owner(s) are the only workers, and have no employees, should also be considered "public places" where smoking is not permitted. Council further believes that territorial legislation should ban display and advertising of tobacco products in retail stores, and if the Yukon Legislature passes legislation banning smoking in public places, the legislation should take effect as soon as possible.

Sincerely,

Margrit Wozniak
Chief Administrative Officer

Submission:

Anti Smoking Legislative Committee

Oct 2, 2007

Thank you for the opportunity to address the committee. My name is Alex Furlong President and CEO of the Yukon Federation of Labour representing 4000 plus members in Yukon.

During our last convention, our members felt strongly enough to pass a resolution which was unanimous which called upon the current government to enact legislation to ban smoking in all public places within in Yukon. I am here today on behalf of all those members.

I am pleased to see that we are moving forward with this committee and I look forward to your recommendations.

The statistics on smoking are compelling and I need not relay them to you. I would like to point out that there are 2 main issues I believe that you must decide as you debate the issue and receive feedback.

The first issue is does smoking in a public place cause a health concern. The answer to that question is yes. Smoking by all accounts limits someone's life and can inflict serious and often fatal outcomes for those who choose to smoke. It creates medical health issues for that person and for the system in general.

Another compelling argument is that it increases the actual cost of health care and places further burden on our health care system in dealing with smoke related health issues and often places a government of the day with difficult decisions in relation to that demand.

The second question you must answer is does second hand smoke create further health concerns. The answer again is yes. Medical studies have now confirmed that second hand smoke is actually worse than smoking itself. A further question is does this pose a health and safety concern for those working in those conditions, your answer is absolutely.

Workers today are often faced with difficult challenges in the workplace. If your workplace allows smoking do you work there? Some workers because of economics may not have a choice and simply must work in a workplace that allows smoking. The cost of workplace injuries as you are aware is increasing and we must take the necessary action to reduce the injury rate among our workers. Our current systems we have in place simply cannot afford to be sustained with the pace we are on.

Now a question will or may be raised as to what about the right of a person to smoke. We have no objection with that and if someone chooses to smoke as an adult then that is their

decision. We do feel though that no one has the right to inflict injury or a health concern on someone when it is not their choice to do so.

If we look at most jurisdictions in Canada, we see the trend, the leadership of both provincial and municipal governments and the general public on smoking and second hand smoke. We see here in Yukon the leadership of the Whitehorse City Council who amongst dooms dayers who predicted the world would fall with a complete smoking ban the opposite has happened. Business has survived and continues to have both smoking and non smoking clientele.

In closing, we all know what needs to be done. The benefits far out way any negative aspect. I have reviewed the proposed legislation put forward and on behalf of workers in the territory I urge you to bring forth a recommendation to adopt legislation which will go towards creating a healthier and safer workplace of Yukon workers.

Thanks You

A handwritten signature in black ink, appearing to read 'Alex Furlong', with a long, sweeping horizontal stroke extending to the right.

Alex Furlong
President/CEO
Yukon Federation of Labour

THE  LUNG ASSOCIATION™
Yukon

P. O. Box 33122, Whitehorse, Yukon, Y1A 5Y5

October 12, 2007

The Select Committee on Anti-Smoking Legislation
Yukon Legislative Assembly (A-9)
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6

Attention: Hon. Brad Cathers, Chair

Dear Hon. Cathers:

Re: Bill #104, Smoke-free Places Act

The purpose of this letter is to provide our support for the proposed legislation to restrict or ban smoking in public places. I am pleased to confirm that the Yukon Lung Association supports the legislation banning smoking in all public facilities, including outdoor patios, enclosed facilities, facilities which allow minors, and temporary facilities, without exception. We also support the proposed ban on display and advertising of tobacco products in retail stores and believe that it is in the public's best interest that the legislation take effect as soon as reasonably possible.

Further, we support the recommendations made by the Canadian Cancer Society of British Columbia and Yukon, the Heart and Stroke Foundation of B.C. and Yukon, and the BC Lung Association in their submissions to you.

While we coordinate our efforts with these organizations in order to make best use of our available resources, we also want to add our voice as a local concerned association in support of the proposed legislation.

While we recognize that it may not be possible to implement every proposed amendment, we do ask that care be taken so that the legislation is effective, enforceable and free of loopholes, so that the public, and particularly children, are not exposed to second hand smoke against their will.

Health Canada¹ advises that "... the most harmful and widespread contaminant of indoor air is tobacco smoke." The Surgeon General in the United States² concludes: "Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke" and "... the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke." Finally, the World Health Organization³ notes that "tobacco is the second major cause of death in the world," and that the "most cost-effective [tobacco control] strategies are population-wide public policies, like bans on direct and indirect tobacco advertising, tobacco tax and price increases, smoke-free environments in all public and work places, and large clear graphic health messages on tobacco packaging."

Our niggling fears are that not enough will be done to protect children who sometimes have no control over their exposure to tobacco smoke now, and that the working of the act may not be strong enough to deal with certain situations, resulting in legislation that will be less effective.

Perhaps what is most important now is that you know that local health-focused organizations including our association, the Yukon Lung Association, strongly support the proposed legislation and that we are in-line with the views of our counterparts in the Yukon and elsewhere in recognizing that the proposed legislation is a needed step to deal with problems with indoor (and outdoor) air quality in the Yukon.

Yours truly,



Doug MacLean
President

cc. Directors

Footnotes:

1. "Smoking and Indoor Air Quality", *Health Canada*, May 1, 2005, URL: http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/second/fact-fait/air/index_e.html, (Accessed: October 12, 2007), page 1.
2. "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General", *U.S. Department of Health and Human Services*, January 4, 2007, URL: <http://www.surgeongeneral.gov/library/secondhandsmoke/factsheets/factsheet6.html>. (Accessed October 12, 2007), page 1 and page 3.
3. Tobacco Free Initiative: Why is tobacco a public health priority?", *World Health Organization*, URL: <http://www.who.int/tobacco/en/>, (Accessed: October 12, 2007), page 1.

Attachments:

1. Copies of the web pages from which the above quotes were taken.



Health Canada Santé Canada

Canada

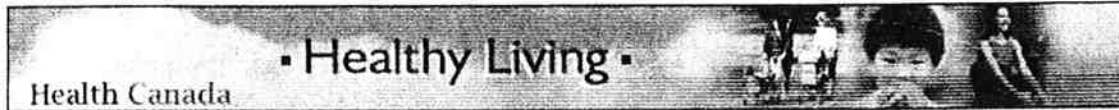
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Home > Healthy Living > Tobacco > Second-hand Smoke > FAQs & Facts > Smoking & Indoor Air Quality

Smoking and Indoor Air Quality

On average, Canadians spend about 90 percent of their time indoors. As a result, the quality of indoor air can have a significant impact on our health.

In the absence of sufficient ventilation, indoor air can become contaminated by chemicals from the building materials and stored chemical products; gases from cooking and heating appliances; bacteria, fungi, mould and plant spores; animal hair and dander; dust and insects.

But the most harmful and widespread contaminant of indoor air is tobacco smoke.

Environmental tobacco smoke (ETS) or second-hand smoke

ETS is a combination of exhaled smoke and the smoke produced by an idling cigarette, cigar or pipe. It consists of solid particles, liquids and gases.

Scientists have identified more than 4,000 different chemical compounds in ETS, including nicotine, carbon monoxide, ammonia, formaldehyde, arsenic, dioxins and furans. More than 50 of these substances are known carcinogens. Others are known or suspected mutagens, capable of changing the genetic structure of cells. In fact, the U.S. Environmental Protection Agency has recently declared ETS to be a class-A-carcinogen.

Many of the components of ETS are also found in industrial effluents where they are treated as hazardous waste.

Health effects

Exposure to ETS for brief periods can produce eye, nose and throat irritation, headaches, dizziness, nausea, coughing and wheezing. ETS can markedly aggravate symptoms in people with allergies or asthma. Long-term exposure has been linked to heart disease and cancer. In young children, exposure to ETS can result in chronic respiratory illness, impaired lung function and middle ear infections. ETS can retard the growth and development of fetuses, resulting in low birth weight and a greater likelihood of complications during pregnancy and delivery.

Controls

Increasing ventilation will dilute the smoke but will not make it safe, since there is no known safe level of exposure to carcinogens. Restricting smokers to separate rooms will only work if these rooms have their own ventilation systems.

Electronic air filters and air "purifiers" may remove some smoke particles from the air, but they cannot remove those that have settled on food, furnishing, skin and other surfaces. Their effect on the gaseous components of ETS is unknown.

There is only one way to eliminate ETS from indoor air; remove the source.

Last Updated: 2005-05-01

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The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General, U.S. Department of Health and Human Services

6 Major Conclusions of the Surgeon General Report

Smoking is the single greatest avoidable cause of disease and death. In this report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*, the Surgeon General has concluded that:

1. Many millions of Americans, both children and adults, are still exposed to secondhand smoke in their homes and workplaces despite substantial progress in tobacco control.

Supporting Evidence

- Levels of a chemical called cotinine, a biomarker of secondhand smoke exposure, fell by 70 percent from 1988-91 to 2001-02. In national surveys, however, 43 percent of U.S. nonsmokers still have detectable levels of cotinine.
- Almost 60 percent of U.S. children aged 3-11 years—or almost 22 million children—are exposed to secondhand smoke.
- Approximately 30 percent of indoor workers in the United States are not covered by smoke-free workplace policies.

2. Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke.

Supporting Evidence

- Secondhand smoke contains hundreds of chemicals known to be toxic or carcinogenic (cancer-causing), including formaldehyde, benzene, vinyl chloride, arsenic, ammonia, and hydrogen cyanide.
- Secondhand smoke has been designated as a *known human carcinogen* (cancer-causing agent) by the U.S. Environmental Protection Agency, National Toxicology Program and the International Agency for Research on Cancer (IARC). The National Institute for

Surgeon General News

- **September 18, 2007**
Acting Surgeon General Joins with American Academy of Pediatrics to Protect Children from Secondhand Smoke
[Full story](#)
- **May 24, 2007**
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- [The Health Consequences of Involuntary Exposure to Tobacco Smoke](#)

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Occupational Safety and Health has concluded that secondhand smoke is an occupational carcinogen.

3. Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma. Smoking by parents causes respiratory symptoms and slows lung growth in their children.

Supporting Evidence

- Children who are exposed to secondhand smoke are inhaling many of the same cancer-causing substances and poisons as smokers. Because their bodies are developing, infants and young children are especially vulnerable to the poisons in secondhand smoke.
 - Both babies whose mothers smoke while pregnant and babies who are exposed to secondhand smoke after birth are more likely to die from sudden infant death syndrome (SIDS) than babies who are not exposed to cigarette smoke.
 - Babies whose mothers smoke while pregnant or who are exposed to secondhand smoke after birth have weaker lungs than unexposed babies, which increases the risk for many health problems.
 - Among infants and children, secondhand smoke cause bronchitis and pneumonia, and increases the risk of ear infections.
 - Secondhand smoke exposure can cause children who already have asthma to experience more frequent and severe attacks.
4. Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer.

Supporting Evidence

- Concentrations of many cancer-causing and toxic chemicals are higher in secondhand smoke than in the smoke inhaled by smokers.
- Breathing secondhand smoke for even a short time can have immediate adverse effects on the cardiovascular system and interferes with the normal functioning of the heart, blood, and vascular systems in ways that increase the risk of a heart attack.
- Nonsmokers who are exposed to secondhand

smoke at home or at work increase their risk of developing heart disease by 25 - 30 percent.

- Nonsmokers who are exposed to secondhand smoke at home or at work increase their risk of developing lung cancer by 20 - 30 percent.

5. The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.

Supporting Evidence

- Short exposures to secondhand smoke can cause blood platelets to become stickier, damage the lining of blood vessels, decrease coronary flow velocity reserves, and reduce heart rate variability, potentially increasing the risk of a heart attack.
- Secondhand smoke contains many chemicals that can quickly irritate and damage the lining of the airways. Even brief exposure can result in upper airway changes in healthy persons and can lead to more frequent and more asthma attacks in children who already have asthma.

6. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.

Supporting Evidence

- Conventional air cleaning systems can remove large particles, but not the smaller particles or the gases found in secondhand smoke.
- Routine operation of a heating, ventilating, and air conditioning system can distribute secondhand smoke throughout a building.
- The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), the preeminent U.S. body on ventilation issues, has concluded that ventilation technology cannot be relied on to control health risks from secondhand smoke exposure.

The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General was prepared by the Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC). The Report was written by 22

national experts who were selected as primary authors. The Report chapters were reviewed by 40 peer reviewers, and the entire Report was reviewed by 30 independent scientists and by lead scientists within the Centers for Disease Control and Prevention and the Department of Health and Human Services. Throughout the review process, the Report was revised to address reviewers' comments.

Citation

U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

For more information, please refer to the Resources page. Additional highlight sheets are also available at www.cdc.gov/tobacco

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Why is tobacco a public health priority?

Tobacco is the second major cause of death in the world. It is currently responsible for the death of one in ten adults worldwide (about 5 million deaths each year). If current smoking patterns continue, it will cause some 10 million deaths each year by 2020. Half the people that smoke today -that is about 650 million people- will eventually be killed by tobacco.

Tobacco is the fourth most common risk factor for disease worldwide. The economic costs of tobacco use are equally devastating. In addition to the high public health costs of treating tobacco-caused diseases, tobacco kills people at the height of their productivity, depriving families of breadwinners and nations of a healthy workforce. Tobacco users are also less productive while they are alive due to increased sickness. A 1994 report estimated that the use of tobacco resulted in an annual global net loss of US\$ 200 thousand million, a third of this loss being in developing countries.



Tobacco and poverty are inextricably linked. Many studies have shown that in the poorest households in some low-income countries as much as 10% of total household expenditure is on tobacco. This means that these families have less money to spend on basic items such as food, education and health care. In addition to its direct health effects, tobacco leads to malnutrition, increased health care costs and premature death. It also contributes to a higher illiteracy rate, since money that could have been used for education is spent on tobacco instead. Tobacco's role in exacerbating poverty has been largely ignored by researchers in both fields.

Experience has shown that there are many cost-effective tobacco control measures that can be used in different settings and that can have a significant impact on tobacco consumption. The most cost-effective strategies are population-wide public policies, like bans on direct and indirect tobacco advertising, tobacco tax and price increases, smoke-free environments in all public and workplaces, and large clear graphic health messages on tobacco packaging. All these measures are discussed on the provisions of the WHO Framework Convention on Tobacco Control.

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