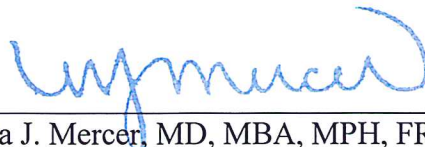


Report to: Board of Health
Submitted by: Dr. Nicola Mercer, Medical Officer of Health & CEO
Prepared by: Blair Hodgson, Health Promotion Specialist & Shawn Zentner,
Manager, Health Protection
Approved by: Rob Thompson, Director, Health Protection
Subject: IMPLEMENTATION OF ECA AND CHANGES TO SFOA

RECOMMENDATION(S)


- (a) That the Board of Health receives this report for information.



Nicola J. Mercer, MD, MBA, MPH, FRCPC
Medical Officer of Health & CEO

The Electronic Cigarettes Act & Amendments to the Smoke-Free Ontario Act

Electronic Cigarettes Act (ECA)

 E-cigarettes are devices that heat liquids and produce a smoke like vapour that users inhale.

Research suggests heavy use may negatively affect health, but they do not seem to be as dangerous as cigarettes.¹



Teens & young adults experiment with e-cigarettes more than any other age group.²



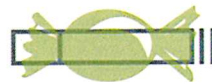
1 in 5 teens has used an e-cigarette.

Under the ECA it is illegal to:

- Sell or supply e-cigarettes to minors
- Sell e-cigarettes in vending machines

WDGPH will enforce the ECA through educational visits with e-cigarette vendors and Youth Test Shops to ensure vendors do not sell to minors.

Smoke-Free Ontario Act (SFOA)



Flavouring in tobacco products helps to mask the harsh taste of tobacco.

Young people are much more likely to use flavoured tobacco products.³



of high school smokers used flavoured tobacco in the last month.⁴

The SFOA Amendments:

- Ban most flavoured tobacco
- Double max fines for selling to minors
- Ban smoking on hospital ground

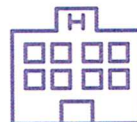
Under the SFOA inspectors may seize banned tobacco products. A complaints-based system will be used to address smoking on hospital grounds.

Raising Awareness

WDGPH is working to raise vendor and public awareness about the ECA and SFOA



Letters explaining the changes have been sent to e-cigarette and tobacco vendors



Consultations will be offered to hospitals to discuss enforcing the smoking ban



Information for vendors and the public has been posted on the WDGPH website



Information will be shared in a media release and social media will be used to spread awareness

References

1. Granna R, Benowitz N, Glantz SA. E-cigarettes: A scientific review. *Circulation*. 2014 May; 129: 1972-1986.
2. Reid JL, Rynard VL, Czoli CD, Hammond D. Who is using e-cigarettes in Canada? Nationally representative data on the prevalence of e-cigarette use among Canadians. *Prev med*. 2015 Dec; 81: 180-183.
3. Villanti AC, Richardson A, Vallone DM, Rath JM. Flavoured tobacco product use among US young adults. *Am J Prev Med*. 2013; 44(4): 388-391.
4. Minaker LM, Ahmed R, Hammond D, Manske S. Flavoured tobacco use among Canadian students in grades 9 through 12: prevalence and patterns from the 2010-2011 youth smoking survey. *Prev Chronic Dis*. 2014 Jun; 11:E102.

EXECUTIVE SUMMARY

On January 1st, 2016, the portion of the *Electronic Cigarette Act* (ECA) that bans the sale of electronic cigarettes to minors came into effect. Several amendments to the *Smoke-Free Ontario Act* (SFOA) also came into effect, including a ban on selling most flavoured tobacco products. This report provides information on this new legislation, enforcement activities that will be undertaken by the health unit and activities that have been undertaken to inform vendors and the general public of these changes.

BACKGROUND

On January 1st, 2016, part of the ECA and several amendments to the SFOA came into effect in Ontario. The ECA introduces legislation governing the sale of electronic cigarettes (e-cigarettes) to minors and is the first of its kind in Ontario. The amendments to the SFOA address various topics related to tobacco enforcement. A brief description of the ECA and SFOA changes are listed below:

Electronic Cigarettes Act

The ECA defines electronic cigarettes as vaporizers or inhalant devices that contain a power source and heating element designed to heat liquids and produce vapour intended to be inhaled by the user directly through the mouth. This definition does not include the liquid (called e-liquid) as an electronic cigarette component. However, it is expected that future amendments to the ECA will alter the definition so that it include e-liquids.

As of January 1st, 2016:

- It is illegal to sell or supply e-cigarettes or their components to anyone less than 19 years of age;
- E-cigarette vendors are required to check the identification of anyone who appears to be less than 25;
- Vendors are also required to post two signs, one related to the age restriction and another related to identification requirements; and
- It is illegal to sell e-cigarettes in vending machines.

The ECA also includes a section that bans the use of e-cigarettes in places where smoking is prohibited. Although initially scheduled to be proclaimed on January 1st, 2016, this section of the *Act* was delayed, pending further consultation. The delay is not expected to last longer than three months; however, a proposed proclamation date has not been released.

The *Act* also includes a ban on display and promotion of e-cigarettes in retail settings. However this section of the *Act* is not expected to be proclaimed until January 1st, 2017.

Smoke-Free Ontario Act Amendments

The SFOA amendments address several different areas. As of January 1st, 2016:

- The maximum fines for selling tobacco products to minors have been doubled;
- Most flavoured tobacco products are banned;

- Smoking is prohibited on the grounds of hospitals, psychiatric facilities and certain provincial buildings (grounds may include one designated smoking area until January 1st, 2018);
- Tobacco sales are banned at certain provincial buildings;
- Retailers may not offer promotional items with the purchase of tobacco products;
- Seizure authority for inspectors has been expanded;
- Enforcement procedure for indoor tobacco use in waterpipes have been strengthened; and
- The provincial government has expanded powers to make regulations under the SFOA.

More details regarding the SFOA amendments can be found in **Appendix A**.

Implementation and Enforcement

Public health units are responsible for implementing and enforcing both the ECA and the SFOA. Wellington-Dufferin-Guelph Public Health (WDGPH) will use a progressive enforcement approach, focusing initially on education and later on enforcement.

During the first quarter of 2016, the appointed inspector under the ECA will conduct educational visits at e-cigarette retail locations. During these visits the inspector will inform vendors of their obligations under the *Act* and will answer any questions that arise. Required signage will be delivered during these visits and information will be given regarding the restriction on sales to minors and future pending amendments to the ECA. Charges will not be laid during the initial education visits.

During the second quarter of 2016, the ECA inspector will conduct youth access inspections with youth test shoppers. These inspections will be quite similar to tobacco youth access inspections, however, youth test shoppers will attempt to purchase an e-cigarette rather than a tobacco product. If vendors sell e-cigarettes to test shoppers or if non-compliance with ECA regulations is observed, a progressive enforcement approach will be implemented. The progressive enforcement process is described in the WDGPH Youth Access-Sales to Minors procedure for ECA enforcement, which is based on enforcement directives from the Ministry of Health and Long-Term Care.

The SFOA amendments will impact tobacco enforcement procedures in two ways. Inspectors will now have the option to seize any tobacco products that are prohibited for sale under the SFOA. For example, if an inspector were to see flavoured chew tobacco offered for sale in a convenience store, they would have the option to seize it. Seizure authority is discretionary and inspectors will use their judgement in determining whether it is appropriate.

Secondly, a complaints-based system will be used to enforce the prohibition against smoking on hospital grounds. Although all of the hospitals in WDG have smoke-free policies, these policies are not uniformly enforced, especially among hospital employees. It is expected that inspectors will make several visits to hospitals and psychiatric facilities in order to enforce the smoking ban.

Outreach Activities

WDGPH has done the following to notify stakeholders affected by the ECA and SFOA amendments:

- Letters explaining the ECA and SFOA changes have been sent to approximately 225 tobacco and e-cigarette vendors;
- Vendor information about their obligations under the ECA and SFOA has been posted on the WDGPH website;
- Consultations have been offered to each hospital within WDG; and
- Educational visits and sign distribution to e-cigarette vendors has begun.

Educational visits and signage distribution will continue throughout the first quarter of 2016.

WDGPH is working to raise public awareness about the ECA and SFOA via the following:

- Issuing a media release detailing the e-cigarette age restriction;
- Posting information about the ECA and SFOA amendments has been posted on the WDGPH website;
- Using social media to raise awareness of the changes (Tweets, Facebook posts, 1 blog post on Stay Well); and
- Including information about the e-cigarette age restriction was included in the YOUth Should Know! Newsletter for the Youth Practitioner Community of Practice.

Outreach activities are also planned for when the ban on using e-cigarettes in places where smoking is prohibited comes into effect. Several outreach activities will be similar to those listed above (i.e. issuing a media release, sending letters, providing consultations) but will also include using radio advertising in order to reach a larger audience.

ANALYSIS/RATIONALE

The ECA represents an attempt to balance making a potentially effective smoking cessation product available to those who want to quit with not exposing a generation of young people to a product that has the potential to normalize smoking and lead to nicotine addiction.

The SFOA amendments are intended to make it easier for health units to provide effective tobacco enforcement. The increased maximum fines and ban on flavoured tobacco products are intended to further reduce the number of minors who initiate tobacco use.

ONTARIO PUBLIC HEALTH STANDARD

Chronic Disease and Injury Prevention, Requirement 13. The Board of Health shall implement and enforce the Smoke-Free Ontario Act in accordance with provincial protocols, including but not limited to the compliance protocol, 2008 (or as current)” (pg. 31).

WDGPH STRATEGIC COMMITMENT

The implementation, enforcement and outreach activities for the ECA and SFOA are related to two strategic directions from the 2016-2020 Wellington-Dufferin-Guelph Strategic Plan.

Strategic Direction: Building Healthy Communities

We will work with communities to support the health and well-being of everyone.

Strategic Direction: Service-Centred Approach

We are committed to providing excellent service to anyone interacting with Public Health.

HEALTH EQUITY

A major health equity issue related to the rise of e-cigarettes is related to use among youth. There are concerns that several of the marketing tactics used to promote e-cigarettes may be especially effective among youth. These include celebrity endorsements, a strong social media presence and flavours such as “cotton candy”, “tutti frutti” and “alien blood”.¹ Previous research in tobacco shows that youth are particularly vulnerable to these types of marketing tactics.²

Although some proponents of e-cigarettes claim that they are only used by people trying to quit smoking, there is considerable evidence that their popularity among youth is increasing dramatically. In Canada, more teens and young adults have used e-cigarettes than any other age group. One in five Canadians between 15 and 19 have used an e-cigarette. Furthermore, 55% of the youth who had used an e-cigarette had never smoked.³ In Ontario, 15% of high school students have reported using more than “just a few puffs” in the past 12 months. Of these students, more than a third used nicotine containing e-cigarettes, while an additional 20% were unsure of the nicotine content.⁴

This is especially concerning because adolescent brains are more sensitive to nicotine. It has been well established that nicotine has stronger rewarding effects on adolescent brains than adult brains and youth who smoke are considerably more likely to become addicted to nicotine than adult smokers.² Therefore, considering the widespread use of e-cigarettes among teens and their increased vulnerability to nicotine addiction, e-cigarettes have the potential to foster nicotine dependence in a new generation of youth.

APPENDICES

Appendix “A” – Changes Associated with the ECA and SFOA Amendments

REFERENCES

1. Granna R, Benowitz N, Glantz SA. E-cigarettes: A scientific review. *Circulation*. 2014 May; 129: 1972-1986.
2. Preventing tobacco use among youth and young adults. A report of the surgeon general. Rockville (MD); US Department of Health and Human Services. 2012.
3. Reid JL, Rynard VL, Czoli CD, Hammond D. Who is using e-cigarettes in Canada? Nationally representative data on the prevalence of e-cigarette use among Canadians. *Prev med*. 2015 Dec; 81: 180-183.
4. Boak A, Hamilton H A, Adlaf EM, Mann RE. Drug use among Ontario students, 1977-2015: Detailed OSDUHS findings (CAMH Research Document Series No. 41). Toronto, ON: Centre for Addiction and Mental Health. 2015.

APPENDIX “A”

Details of the ECA and SFOA Changes

ECA Changes

- Prohibit the sale and supply of e-cigarettes to anyone less than 19 years of age;
- Prohibit the sale and supply of e-cigarettes to any person who appears to be less than 25 years old without asking for identification;
- Prohibiting the use of false identification to purchase an e-cigarette;
- Prohibiting the sale of e-cigarettes in retail settings if the prescribed signs are not posted;
- Prohibiting the sale of e-cigarettes in vending machines; and
- Prohibit an employer from retaliating against an employee because the employee has acted in accordance with the *Act*.

SFOA Changes

- Double the maximum fines for selling tobacco to anyone less than 19 years of age;
- Prohibit the sale of tobacco products that contain flavouring. A temporary exemption is in place for menthol and clove flavoured tobacco products until January 1st, 2017. A permanent exemption exists for flavoured pipe tobacco, wine, port, whiskey and rum flavoured cigars between 1.4 and 6 grams and all cigars over 6 grams.
- Prohibit smoking on outdoor grounds of public and private hospitals and psychiatric facilities and specified office buildings owned by the province (ex. 1 Stone Road West in Guelph). Currently, the SFOA and ECA allow for one designated smoking area and one vaping area (as long as they do not consist of more than two walls and a roof and do not overlap one another) however, as of January 1st, 2018, there will be absolutely no smoking on these grounds.
- Prohibit the sale of tobacco at specified office buildings owned by the province, including 1 Stone Road West in Guelph;
- Improved enforcement procedures to address indoor use of tobacco in waterpipes;
- Expanded seizure authority of inspectors and updated rights of entry, inspectors are now able to seize any prohibited tobacco products offered for sale;
- Clarify that it is prohibited to offer promotional items with a purchase of tobacco products, ex free keychain with purchase of chewing tobacco.