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SMOKE-FREE ONTARIO ACT TOBACCO DISPLAY BAN

The Health and Emergency Medical Services Committee recommends the adoption of the recommendation contained in the following report, April 16, 2008, from the Commissioner of Community and Health Services:

1. RECOMMENDATION

It is recommended that:

1. The Regional Clerk circulate this report to local municipalities for their information.

2. PURPOSE

This report provides Council with an overview of the final phase of the implementation of the *Smoke-Free Ontario Act*, effective May 31, 2008. Roles and responsibilities of the Public Health Branch related to education and enforcement are outlined.

3. BACKGROUND

In December 2004, the Ministry of Health and Long-Term Care announced an expanded Ontario Tobacco Strategy. The goal of this strategy is to reduce tobacco-related illness and death by eliminating involuntary exposure to environmental tobacco smoke, preventing smoking initiation and habitual use among children and young adults, and helping smokers quit.

Smoke-Free Ontario Act

A component of the Ontario Tobacco Strategy was the implementation on May 31, 2006 of the *Smoke-Free Ontario Act*, which prohibits smoking in all enclosed workplaces and enclosed public places in Ontario, strengthens measures to ensure only those 19 years of age or older can buy cigarettes, and restricts the display and promotion of tobacco products. On May 31, 2008, the final phase of the *Smoke-Free Ontario Act* implementation will take effect, requiring a total ban on the display of all tobacco products in places where tobacco is sold.

Point-of-sale display of tobacco products will be prohibited effective May 31, 2008

Displaying tobacco products in any place where tobacco products are sold in any manner that will permit a consumer to view any tobacco product before purchasing it will be prohibited as of May 31, 2008.

Tobacco products are defined as any products that contain tobacco. This includes, but is not limited to, cigarettes, cigars, cigarillos, pipe tobacco and other specialty tobacco products including chewing tobacco, snuff and some rolling papers.

Research suggests that bans on the display of tobacco products at the point of sale are likely to be associated with decreased rates of initiation of smoking behaviour among young persons and decreased rates of smoking in the general population. These potential health-related benefits are a key component of the Smoke-Free Ontario Strategy as Ontario joins other jurisdictions such as Nunavut, Prince Edward Island, Nova Scotia, Iceland and Thailand in banning the display of tobacco.

4. ANALYSIS AND OPTIONS

Ministry of Health Promotion guidelines on acceptable storage units

It is left to the discretion of tobacco vendors to construct storage units that will meet their needs and that will comply with requirements under the *Smoke-Free Ontario Act*. To assist vendors, the Ministry of Health Promotion has developed a fact sheet that outlines some suggested acceptable units and unacceptable units. The suggested acceptable units reflect the requirement of the Act to ensure tobacco products are not displayed and to limit viewing exposure in the course of a purchase transaction. Acceptable units include:

- Overhead containers with tobacco products only visible to the clerk.
- Below-the-counter drawers or cabinets with tobacco products only visible to the clerk.
- Single package dispensing-gravity-fed devices.
- Retrofit devices covering shelves with top hinge 'flip up' covers which close automatically or immediately by gravity. These must be no larger than 30.5 cm in height by 61 cm in length, and must open one at a time.
- Slim drawers that open in sections and expose only the spine of cigarette packages.

Examples of unacceptable storage and dispensing systems, which demonstrate the potential for an unacceptable display of tobacco products at the time of sale, include:

- Garage door style covers which open to display the whole or a large portion of the stock of tobacco products.
- Large cupboards which open to permit the consumer to view the display of larger quantities of tobacco products.

- Retrofit devices covering shelves with bottom hinge 'flip down' covers that do not close automatically and would remain open unless lifted back into a closed position.
- Curtains or blinds.
- Horizontal sliding doors (like a closet door).

Tobacco vendors can promote the availability of tobacco products with signs and a tobacco product binder

Tobacco vendors can post up to three signs that indicate the availability of tobacco in their stores. These signs have a limit in size, must not be visible from outside the store and not promote specific brands of tobacco products.

To help in product selection, retailers may offer customers a binder or other reference tool containing an inventory of tobacco products that are available to purchase. The binder cannot promote one brand of tobacco over another and must be kept out of view unless needed.

Exemption for registered tobacconists and duty free shops

A registered tobacconist is exempt from the display ban requirements only as it relates to specialty tobacco products. Cigarette packages cannot be displayed.

To be a registered tobacconist a retailer must apply to the Ministry of Health Promotion and prove that at least 50 percent of the establishment's total sales from the previous 12 months are from specialty tobacco products, excluding cigarettes. A registered tobacconist must prohibit anyone under the age of 19 from entering into the store unless accompanied by someone who is at least 19 years old. In York Region there are only six registered tobacconists.

Duty free shops are exempt from the display ban provision for all tobacco products. There are no duty free shops in York Region.

Education and awareness campaign will be provided to vendors

An important component of the successful implementation of a new piece of legislation is to ensure that those affected by it have the information necessary to understand and comply with its requirements. York Region residents and tobacco vendors will receive this information through a variety of sources.

The Ministry of Health Promotion will undertake a media campaign to advise all Ontario residents of the display ban. In addition, the Ministry of Health Promotion web site provides copies of the Act and the Regulation, as well as fact sheets specific to this change.

In York Region, staff will ensure that each tobacco vendor will receive a mail out and site visits. Fact sheets and question and answer sheets will be posted on the York Region web site, and mass media messaging will be provided to bring attention to the implementation of the display ban.

Public Health Branch enforcement activities

The Public Health Branch's approach in seeking compliance with the *Smoke-Free Ontario Act* tobacco display ban will follow a normal process of education and awareness followed by progressive enforcement for those who remain noncompliant.

A fine for not complying with the display ban can be issued for up to a maximum of \$4,000 for an individual and \$10,000 for a corporation with no prior convictions. The fine amounts increase to a maximum of \$100,000 for an individual and \$150,000 for a corporation with repeat contraventions. Any revenue generated from this process is applied to offset program costs.

5. FINANCIAL IMPLICATIONS

Costs associated with education and enforcement of the ban on displays of tobacco products are contained within the proposed 2008 Public Health Budget. These costs are 100% funded through the Ministry of Health and Long-Term Care.

6. LOCAL MUNICIPAL IMPACT

The final phase of the *Smoke-Free Ontario Act* will be implemented and enforced in all York Region municipalities. Public Health staff will be responsible for education and enforcement activities, effective May 31, 2008.

7. CONCLUSION

When the final phase of the *Smoke-Free Ontario Act* is implemented on May 31, 2008, Ontario will join other jurisdictions such as Nunavut, Prince Edward Island, Nova Scotia, Iceland and Thailand in banning the display of tobacco products in places where tobacco is sold. Tobacco vendors will be responsible for constructing storage and dispensing systems that meet the needs of their specific location as well as the requirements of the *Act*, but may still promote the availability of tobacco products in their store by way of signs and a tobacco product binder.

For more information on this report, please contact Dr. Karim Kurji, Medical Officer of Health and Director of Public Health Programs, at Ext. 4012.

The Senior Management Group has reviewed this report.