

*The Council of Ontario
Medical Officers of
Health (COMOH) is a
Section of*



**alPHA's members are
the public health units
in Ontario.**

alPHA Sections:

Boards of Health
Section

Council of Ontario
Medical Officers of
Health (COMOH)

Affiliate

Organizations:

Association of Ontario
Public Health Business
Administrators

Association of
Public Health
Epidemiologists
in Ontario

Association of
Supervisors of Public
Health Inspectors of
Ontario

Health Promotion
Ontario

Ontario Association of
Public Health Dentistry

Ontario Association of
Public Health Nursing
Leaders

Ontario Dietitians in
Public Health

October 8, 2018

Laura Pisko, Director
Health Protection Policy and Programs Branch
Ministry of Health and Long-Term Care
393 University Avenue, Suite 2100
Toronto, ON M7A 2S1

Re: Proposal 18-HLTC024, Smoke-Free Ontario Act, 2017 Regulation 268/18

Dear Ms. Pisko,

On behalf of the Council of Ontario Medical Officers of Health (COMOH), I am writing to provide our feedback on the proposed amendments to the Smoke-Free Ontario Act, and to indicate COMOH's support for the input submitted by the Association of Local Public Health Agencies (alPHA).

Regulation 268/18, as currently proposed, has the potential to result in the largest increase in psychotropic drug use in Ontario, and perhaps Canadian, history.

While there are several components of the regulation that may increase the use of cannabis, it is the absence of limits to the number of vendors that is the most concerning. Allowing for the sale of cannabis at an unlimited number of vendors will most likely result in fierce competition for consumer attention and may lead some retailers to use more and more aggressive tactics to entice clients to purchase their cannabis products. Please consider limiting the number and density of cannabis retailers in municipalities, or at a minimum, allowing municipalities the leeway to do so through cannabis zoning bylaws.

Allowing the smoking of cannabis (by default) in all except a limited subset of public spaces will significantly increase exposure to second-hand cannabis smoke. Currently, individuals wishing to avoid exposure to cannabis smoke are easily able to do so. If cannabis smoking is allowed in places like sidewalks, we anticipate a dramatic increase in complaints about cannabis smoke from people who are being unwillingly exposed. The attendant normalization of cannabis smoking will likely result in further increases in its use.

Tobacco remains the number one killer of Ontarians and costs the people of Ontario \$4.5 billion dollars in healthcare costs and lost productivity each year. Cannabis smoke, being generally unfiltered, presents unique, and by some measures, more potent health risks. COMOH and alPHA both firmly believe that policy interventions aimed at reducing the use of both tobacco and cannabis have the potential for major positive health impacts, and government savings.

Please find attached a collation and synthesis of input gathered from COMOH members and their local tobacco control staff.

As a section of the Association of Local Public Health Agencies (alPHA), COMO H is part of a committed, professional, and capable organization that is a valuable healthcare system asset. You will already have received [alPHA's feedback](#) on the proposed amendments, and we support this submission implicitly. We trust that you will accept this letter and the attached Collated and Referenced Notes as input from Ontario's public health leadership and give it due consideration.

Please contact Loretta Ryan, Executive Director, alPHA at 647-325-9594 or loretta@alphaweb.org, should you have any questions or require further information regarding this submission.

Yours sincerely,



Dr. Chris Mackie
Chair, Council of Ontario Medical Officers of Health

COPY: Hon. Christine Elliott, Minister of Health and Long-Term Care
Dr. David Williams, Chief Medical Officer of Health
Roselle Martino, Assistant Deputy Minister, Health and Long-Term Care, Population and Public Health Division
Dr. Robert Kyle, President, Association of Local Public Health Agencies
France G elinas, Health Critic, New Democratic Party of Ontario

Encl.

Ontario Regulation 268/18 Collated, Referenced Notes for COMO H

**Bill 36-SCHEDULE 4: Amendments to the *Smoke Free Ontario Act, 2017* and amendments to
Ontario Regulation 268/18
Collated, Referenced Notes for COMOH**

BACKGROUND

[Bill 36, *Cannabis Statute Law Amendment Act, 2018*](#) proposes to amend several Ontario statutes, including the [SFOA, 2017](#) and the *Cannabis Act, 2017*. The proposed amendments, if passed, would:

- Make the *Smoke Free Ontario Act (SFOA), 2017* apply to the smoking and vaping of cannabis, both medical and non-medical;
- Prohibit the smoking of cannabis in the same places where the smoking of tobacco and the use of electronic cigarettes are prohibited, and prohibit any method of cannabis consumption (e.g. smoking, vaping, ingestion) in a vehicle or boat that is being driven or under a person's care or control; and,
- Amends the *SFOA, 2017* to create regulations for the display and promotion of vapour products and other products/ substance prescribed in the regulations, that are less than the restrictions on the display, promotion and handling of tobacco products.

[Proposed amendments to Ontario Regulation 268/18](#) under the *SFOA, 2017* would:

- Permit the display and promotion of vapour products in stores, as long as the display or promotion complies with the *Tobacco and Vaping Products Act (Canada)*
- Remove the rules for the display and promotion of tobacco products and tobacco product accessories from applying to vapour products manufactured or sold for use with tobacco but packaged without a tobacco component.

COMMENTS

Places of Consumption

- The smoking of tobacco, the use of e-cigarettes and the smoking and vaping of cannabis, whether or not it is used for medical purposes, will be under one single legislative framework, banning use in enclosed workplaces and many public spaces.
- Voluntary compliance tends to increase when the rules are consistent; consistency in rules increases understanding and awareness, while also supporting enforcement. Therefore, this direction is generally positive.
- However, allowing cannabis to be consumed wherever tobacco can be consumed raises concerns regarding the risk of normalization, second-hand smoke exposure and impairment:
 - **Smoke from cannabis** is similar to that of tobacco, containing fine particles, cancer causing compounds, volatile organic chemicals, carbon monoxide and heavy metals. There is no safe level of exposure to second hand smoke [i, ii]
 - **Children tend to copy what they observe** and are influenced by normality of any type of smoking around them. From the lessons learned from tobacco and alcohol, normalization of cannabis use could lead to increases in rates of cannabis use [ii, iii, iv].
 - **Cannabis impairment** can have side effects including paranoia, panic, confusion, anxiety, and hallucinations. Public safety and unintended cannabis smoke exposure related to cannabis impairment should be considered [v].

- **Areas that are not included under the proposed changes to Regulation 268/18** that are of public health concern, include entranceways to public buildings and workplaces, transit stops, sidewalks in downtown cores, and post-secondary campuses:
 - Research on tobacco use suggests that social exposure to tobacco smoke, which includes exposure to visual and sensory cues related to the use of tobacco or related products, can influence individual smoking behaviour, including initiation and relapse [ii, iii].
 - Existing research also shows that second-hand cannabis smoke contains many of the same toxic chemicals as those found in tobacco smoke which are known to cause cancer, and heart and respiratory diseases [vi]. Special risk groups including children, pregnant women, older adults and those with pre-existing conditions such as asthma, chronic obstructive pulmonary disease and heart conditions, should avoid exposure [i, v, ix].
- Public Health also supports the Provincial Government to consider amendments to the *Ontario Municipal Act/City of Toronto Act* to allow municipalities to create bylaws which further protect public health and safety through greater controls on tobacco, e-cigarette and cannabis use.
- Public Health recommends the Province align with the City of Toronto Bylaw Municipal Code, [Chapter 709](#) and ten other Provinces in establishing a nine metre smoke-free perimeter from all entrances/exits and air intakes to all publicly accessible buildings.

Display, Promotion and In-Store Testing

- Public Health recommends that the same rules for tobacco product display, promotion and handling at retail be applied to vapour products. It is recommended that the proposed amendment to the provisions in section 4 (1) and (2) of the *SFOA, 2017* NOT PROCEED.
 - Evidence suggests that there is a positive association between exposure to point of sale tobacco promotion and increased smoking. In the U.S., point-of-sale displays have been demonstrated to increase sales by 12 to 28% [vii]. This same principle can be applied to the promotion of e-cigarette products.
 - Children and youth will be exposed to products and promotional material in places where they frequent (convenience stores, gas station kiosks, etc.). Display and promotion of e-cigarettes at all vendors will continue to support youth uptake of e-cigarette use. There is substantial evidence that the use of vapour products by youth and young adults increases their risk of initiating combustible tobacco (cigarette) smoking over time [viii]. The role vapour products play in initiating cannabis use among youth is not clear, however, it should be noted that over one quarter (28%) of those who had used cannabis in 2017 reported using a vaporizer to consume cannabis including 33.0% of youth aged 15–24 [ix]. Several provinces including New Brunswick and Nova Scotia have already banned visible vapour product displays at retail outlets.
 - The federal restrictions under the *Tobacco and Vaping Products Act* prohibit advertising that is appealing to youth, that displays a vaping product-related brand element by means of lifestyle advertising, and vapour company event sponsorship; however, does not prohibit displays and advertising for information, which will be difficult to enforce, and will not stop the use of 3D displays, signs and posters at retail.
- Public health units recommend that the province take a precautionary approach to flavoured vapour products by prohibiting flavours that are attractive to youth (e.g., unicorn vomit, candy-flavours, and fruit).
- Public Health has concerns regarding in-store testing. Allowing sampling may create loopholes that could be used by retailers to allow employees to vape in the store or to allow customers to socialize

and vape (“vaping lounge”). From an enforcement perspective it may difficult to ensure that only “two people at a time are sampling vapour products”.

- Even if only legitimate sampling is occurring, we would still have concerns about the possible health effects for the employees due to unknown long-term health effects from exposure to vapour.
- Reusing e-cigarettes while only requiring a new one-time use mouthpiece is a public health concern. Saliva is able to transfer disease to another mouth with samples of tuberculosis, *Neisseria meningitidis*, Herpes simplex, *Helicobacter pylori*, *Shigella sonnei* and *Salmonella infantis* [x]. Beyond the single use mouth piece, there needs to be a cleaning and disinfection process for all surfaces where saliva is present. It is not recommended for an e-cigarette to be shared between customers.

Public Education

- Is there a comprehensive province-wide education campaign planned regarding the laws (*SFOA, 2017, Cannabis Act 2017*), health risks of cannabis use, and lower risk cannabis use guidelines?
- Given some of the possible challenges in trying to enforce some of the amendments named under the *SFOA, 2017*, it would be important that effective community messaging be designed and implemented to help enhance community awareness. In addition, a collaborative approach amongst Ministries at the Provincial and local level would be beneficial to ensure a coordinated approach with the roll out of these amendments.

Public Health Unit Capacity

- Will there be dedicated funding and training to support enforcement, population health surveillance, and public education-related activities?
 - Public health anticipates that there will be a significant increase in complaint investigations and inquiries from the public regarding health concerns related to both vaping and cannabis.
 - Will there be public health funding over and above the allocations that are being provided to municipalities (\$40 million across Ontario municipalities)?

Other/Questions

- It was announced that there would be a minimum buffer distance between cannabis retail locations and schools, which is supported by public health. Would the government consider application of a minimum buffer zone around other youth-serving facilities and other cannabis retail stores to reduce store density, and underage exposure/access?
- Consider adding herbal (non-tobacco) shisha as a prescribed product under the *SFOA, 2017*. While the *SFOA, 2017* will comprehensively regulate tobacco, vapour products and the smoking/vaping of cannabis, it does not address herbal shisha despite the allowance in the *Act* to add prescribed products and substances in the regulation. Herbal shisha smoking in enclosed public places poses a health risk to both the user and to those exposed to the second-hand smoke.

-
- i Smoking and Health Action Foundation. Secondhand Marijuana Smoke: Health effects of exposure (2016). Smoking and Health Action Foundation. Retrieved from: <https://nsra-adnf.ca/key-issue/secondhand-marijuana-smoke/>
- ii Smoke-Free Ontario Scientific Advisory Committee. Evidence to Guide Action: Comprehensive tobacco control in Ontario (2016). Public Health Ontario (April 2017): 193.
https://www.publichealthontario.ca/en/eRepository/SFOSAC%202016_FullReport.pdf
- iii Smoke-Free Ontario Scientific Advisory Committee. Evidence to Guide Action: Comprehensive Tobacco Control in Ontario (2010). Toronto, Ontario: Ontario Agency for Health Protection and Promotion. Retrieved from <http://www.oahpp.ca/services/documents/evidence-to-guide-action/Evidence%20to%20Guide%20Action%20-%20CTC%20in%20Ontario%20SFO-SAC%202010E.PDF>
- iv Linkenbach, J. The Main Frame: Strategies for Generating Social Norms News. Montana, US: Montana State University, 2002.
- v National Academies of Sciences, Engineering, and Medicine. *The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research*. Washington, DC: The National Academies Press. 2017. doi: 10.17226/24625.
- vi Moir D et al. A comparison of mainstream and sidestream marijuana and tobacco cigarette smoke produced under two machine smoking conditions. *Chemical research in toxicology* 21.2 (2007): 494-502.
- vii Robertson L, McGee R, Marsh L, Hoek J. A systematic review on the impact of point-of-sale tobacco promotion on smoking. *Nicotine Tob Res.* 2015;17(1):2-17. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4832971/>
- viii Soneji, S., Barrington-Trimis, J., Wills, T., et al. Association Between Initial Use of e-Cigarettes and Subsequent Cigarette Smoking Among Adolescents and Young Adults: A Systematic Review and Meta-analysis. *JAMA Pediatrics*. 2017; 171(8): 788-797.
- ix Canadian Centre on Substance Use and Addiction. Canadian Drug Summary: Cannabis (2018). Retrieved from: <http://www.ccsa.ca/Resource%20Library/CCSA-Canadian-Drug-Summary-Cannabis-2018-en.pdf>.
- x Arend. Transmission of infectious diseases through mouth-to-mouth ventilation: Evidence-Based or Emotion-Based medicine? *Arq Bras Cardiol.* 2000; 74(1): 86-97.