

Smoke-Free Nova Scotia Law Amendments Submission Regarding Bill 90, April 22, 2015

SFNS strongly supports the ban on the sale of flavoured tobacco products, and commends the Government's leadership in including menthol in the ban.

Smoke-Free Nova Scotia (SFNS) is a coalition of 28 health-related organizations committed to reduced use of tobacco industry products and their harms.

For almost 40 years, SFNS has advocated for evidence-based, comprehensive tobacco control strategies and legislation. SFNS continually reviews emerging evidence and what we will present comes from the most credible sources of tobacco control research, as well as the same survey data used to inform decision making by provincial and national governments.

The proposed legislation coming into effect May 31, 2015, would once again position Nova Scotia as a leader in public health tobacco control by preventing the addiction, diseases and deaths from the use of tobacco industry products. The legislation is particularly important for our youth, and would also reduce the same negative impacts on adults. As a result, Nova Scotia would also be the first jurisdiction in Canada to implement a menthol ban.

Laws against selling tobacco to minors have not prevented youth from accessing flavoured or traditional tobacco. In the latest report of *Tobacco Use in Canada: Patterns and Trends 2014*, high-school aged Canadians reported that 43% bought cigarettes from a small grocery/convenience store, 26% got them for free from a family member/friend, and 16% bought cigarettes from a gas station.ⁱ

As health advocates, our primary goals are to prevent youth from starting to use tobacco and to protect the health of all Nova Scotians from the proven health risks of tobacco use.

The tobacco industry (along with its product distributors and local retailers) has consistently demonstrated their goal is to derail, weaken or delay any legislation that could lower tobacco sales or financial gains.

We applaud the Government for the swift implementation date of May 31, 2015. Given the evidence before us, it is prudent to eliminate access to flavoured tobacco products as soon as possible.

This submission provides our evidence for supporting Bill 90, along with comments about exemptions and implementation.

The ban on the sale of all flavoured tobacco products, including menthol, will protect the health of all Nova Scotians, especially youth and women who often use menthol products.

The potential impact of Bill 90 on youth is huge. It will reduce the likelihood they will try tobacco products, transition to regular tobacco use and then have to battle their nicotine addiction when they want to quit, usually as adults.

Bill 90 as written will support youth in avoiding the lasting cognitive and behaviour changes nicotine causes in adolescent brain development. They will also be able to avoid the related risks of heart and lung diseases, cancer and early death.

Tobacco is the only legal product that kills 1 of 2 long term users prematurely when used exactly as intended by the manufacturer.

Tobacco is only legal in Canada today because so little was known when new cigarette manufacturing technologies made them widely available. If tobacco products were submitted for approval by Health Canada today, they would never be approved given the evidence about their negative health effects.

Women having babies will also benefit, as more will be able to reduce nicotine exposure from tobacco during fetal development which has lasting adverse effects for the unborn child's brain development and contributes to many adverse outcomes, including preterm birth and stillbirth. Reduced exposure to second-hand tobacco smoke will also reduce the likelihood of babies having:

- Sudden Infant Death Syndrome (SIDS)
- Pneumonia and bronchitis
- Asthma, chronic coughing and wheezing
- Ear infections
- Low birth weight

The ban on the sale of menthol is especially important to protect our youth.

Menthol is the most popular flavour among NS youth (with 1 in 3 (34%) students aged 15-19 who had smoked in the last 30 days reporting they smoked menthol) and almost half (48%) used flavoured tobacco products.ⁱⁱ

This contrasts sharply with 1 in 25 Canadian adults who reported they smoked menthol cigarettes in the 2010-2011 *International Tobacco Control Survey* (PROPEL Centre for Population Health Impact, University of Waterloo). Menthol cigarettes make up 4.5% of the cigarettes sold to adults in Canada.

Another Propel study found that Canadian high school students who smoke menthol reported smoking 65% more cigarettes per week than non-menthol smokers (43 versus 26 per week). They were almost three times more likely to report they intended to continue smoking in the next year, compared to students who smoked but did not smoke menthol.ⁱⁱⁱ

Tobacco industry internal documents admit that, if menthol cigarettes were banned, some new and experimental smokers would choose not to smoke rather than experience the harshness of tobacco smoke from non-menthol products.^{iv}

In a 2015 Nova Scotia government telephone survey, Nova Scotians gave the Government a clear mandate. They are more likely to support banning flavoured tobacco products than to oppose it:

- 69% are very or somewhat concerned about the availability of flavoured tobacco products in NS
- 62% of Nova Scotians support a ban on menthol flavoured tobacco products.

Flavoured tobacco is marketed towards children.

Flavouring tobacco achieves a few important goals for the tobacco industry:

It masks the true harshness of unflavoured tobacco and makes the product more palatable (it improves the actual taste and reduces coughing and irritation during the first smoking experiences).

It encourages experimentation (teens trade products to experiment with different flavourings).

It reduces the perception of harm (assumptions are made that these products are less harmful or addictive than traditional cigarettes).

Flavoured brand extensions – traditional cigarette brands that have created flavoured variations – have boosted sales by almost 10% since the late 1990s.

Further, cigarillos and cigars are among the most popular flavoured tobacco products used by NS students in grade 6-12 students – 73% smoked flavoured cigarillos and 58% smoked flavoured cigars.^v They are affordable at less than \$2 each in Nova Scotia. These products on the market are not captured by current federal and provincial legislation. Their packaging is kid-friendly and resembles products like lip gloss, eye shadow, markers and gum.

Banning flavoured tobacco products, including menthol, will reduce the number of youth who start to use tobacco and will ultimately lead to reduced tobacco-related diseases, disabilities and death.

The 2012 Surgeon General report, *Preventing Tobacco Use among Youth and Young Adults*, emphasizes the following key points regarding flavoured tobacco products, e-cigarettes and the marketing techniques used by industry to promote these products:

- **The use of tobacco products such as cigarettes, cigars and smokeless tobacco that are available in flavours have increased among high school students.**

The cigars preferred most by adolescents and young adults are flavoured (peach, grape, apple, and chocolate).

- **Tobacco manufacturers have used menthol and cherry flavoured smokeless products as part of a 'graduation strategy.'**

These 'low nicotine content' products encourage new users to start with particular products and progress to others with higher levels of nicotine. With many of these flavoured products on the market, smokeless tobacco use has been increasing among adolescents.

- **Mint flavoured smokeless tobacco products play a role in the initiation and maintenance of smokeless tobacco use.**

The majority of first and current use of smokeless tobacco products was flavoured. A significant number of those who started use with unflavoured products eventually switched to flavoured products to sustain use, specifically mint or wintergreen.

- **Is easier for youth to become addicted to nicotine in tobacco products and do so more quickly and with less overall nicotine use compared to adults.**

- **Cigarettes have been researched, designed, and manufactured to increase the likelihood that initiation will lead to dependence and difficulty stopping use** due to:
 - contents and emissions in addition to nicotine (e.g., ammonia compounds and menthol);
 - design features that may increase nicotine [uptake]and produce larger puffs (filter-tip ventilation);
 - and other factors that reduce the concerns for smokers and increase the attractiveness of the products, [such as appealing flavourings and aromas].

- **The addiction caused by the nicotine is critical in the transition of smokers from experimentation to sustained smoking, and continued smoking for the majority of smokers who want to quit.**

Smoking typically begins with experimental use of cigarettes and the transition to regular smoking can occur relatively quickly with the smoking of as few as 100 cigarettes.

- **Advertising and promotional activities by tobacco companies have been shown to cause the onset and continuation of smoking among adolescents and young adults.**

Cigarette smoking by youth and young adults has immediate adverse health consequences (including addiction), accelerates the impairment of the respiratory and cardiovascular systems and many long-term diseases associated with smoking (such as lung cancer) that are more likely among those who begin to smoke earlier in life.

- **Prevention must focus on both adolescents and young adults because for adults who become daily smokers, nearly all (88%) first used cigarettes by age18, and 99% by age 26.**

Informed choice for adults is an element of this Bill. However, given that 4 in 5 adult smokers begin smoking as teens, and that most teens cite peer influence or “fitting in” as the primary influences for smoking, young people are rarely making an informed choice.

[With regard to use of menthol and other flavoured tobacco products by women and youth,] the evidence is sufficient to infer that nicotine exposure during fetal development has lasting adverse consequences for the unborn child’s brain development and contributes to multiple adverse outcomes such as preterm delivery and stillbirth.

The evidence is suggestive that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development including effects on working memory and attention. The potential long-term cognitive effects of exposure to nicotine in this age group are of great concern.

The evidence is already sufficient to provide appropriately cautious messages to pregnant women, and women of reproductive age, and adolescents about the use of nicotine-containing products as alternatives to smoking [tobacco], such as smokeless tobacco and electronic cigarettes, and newer forms of nicotine-containing tobacco products.

With 99% of all first tobacco use occurring by age 26, more youth and young adults will remain tobacco-free. This means few people will begin to smoke or use smokeless tobacco products.

Preventing youth from starting to use tobacco is the primary goal of banning the sale of all flavoured tobacco products, especially menthol.

Fewer people starting to use tobacco products will ultimately lead to reduced tobacco-related disease, disability and death along with all the associated economic, personal and societal costs in Nova Scotia.

Bill 90 has the potential to generate significant economic savings and improved health.

The Cost of Tobacco Use In Nova Scotia (GPI Atlantic, 2007) report commissioned by the 2007 NS Government, showed smoking tobacco and exposure to second-hand tobacco smoke killed approximately 1,748 Nova Scotians per year. This accounts for 1 in 5 (or 21%) of all deaths in the province.

The GPI report showed tobacco use also adds a significant cost burden to the Nova Scotian economy. In 2007, tobacco resulted in \$171.3 million in direct health care costs and an additional \$526 million in indirect costs (productivity losses due to long and short-term disability and premature mortality).

When additional costs such as prevention and research costs and losses due to fires are added, smoking costs the Nova Scotia economy an estimated \$943.8 million a year, or more than \$1,000 for every person in the province.

Some \$538 million, or 57% of the total cost of tobacco use in Nova Scotia is paid for by society. This is far greater than the potential \$18 million in losses from Bill 90 publicized by the Atlantic Convenience Store Association or the \$5 million dollars projected by the Government. In these times of budget constraint, the millions of dollars saved and improved health among our population resulting from Bill 90 will support a more vibrant economy and a healthier Nova Scotia.

Nova Scotia's comprehensive Tobacco Strategy (2011) supports the implementation of a wide range of tobacco reduction interventions based on proven best practices, including:

Action 4.1 c) to support new public health tobacco control measures to prevent tobacco manufacturers from being able to attract new users and retain existing smokers.

Bill 90 with its May 31st implementation date is one of these public health measures.

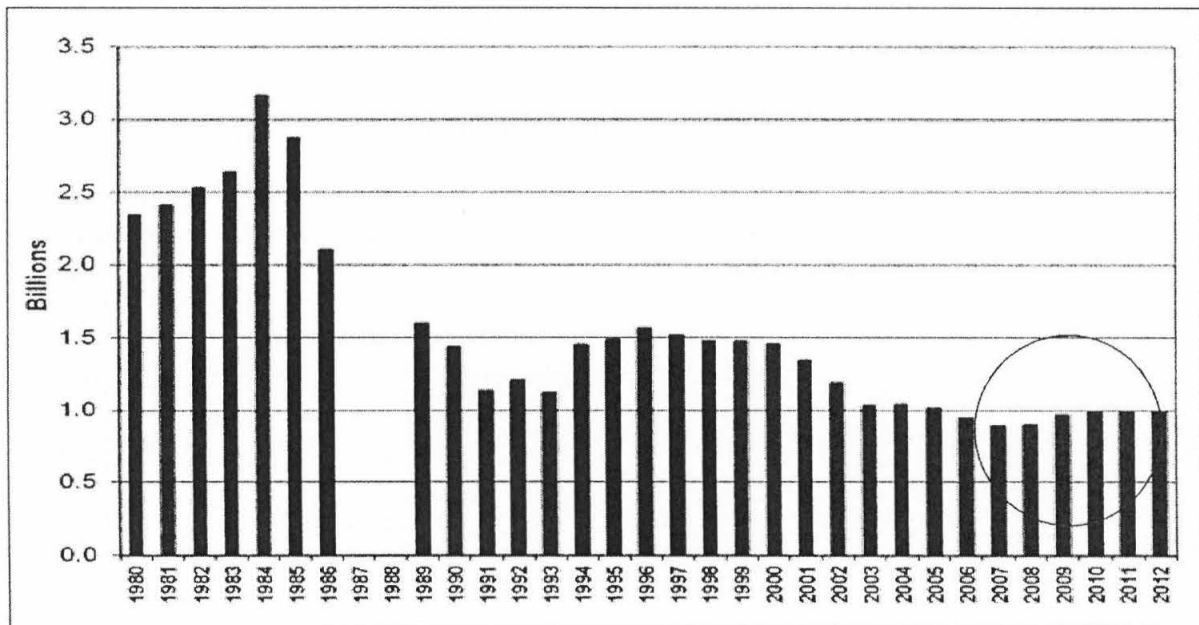
Evidence-based legislation in NS has not reduced the sale of legal cigarettes contrary to retailer fears about increased contraband.

Service Nova Scotia reports contraband tobacco has dropped significantly in recent years to 5-10%.

You can see in the graph below depicting the Health Canada Wholesale Sales Data for *Cigarette and Fine-Cut Sales in Nova Scotia 1980-2013*, sales of legal tobacco were not reduced despite a significant tobacco tax increase in 2009. This was counter to predictions by the tobacco industry and the Atlantic Convenience Stores Association who opposed the tax increase. Increased tobacco price has been demonstrated to reduce initiation and tobacco use by youth as they are particularly price sensitive.

These groups also opposed the NS legislation to ban point of sale tobacco product displays and promotions, another measure primarily focused on reduced youth initiation of tobacco use.

Cigarette Sales in Nova Scotia 1980-2012



Source: <http://www.hc-sc.gc.ca/hc-ps/tobac-tabac/research-recherche/indust/sales-ventes/ns-eng.php>

It is important to maintain the May 31, 2015 implementation date.

Delays will allow more youth to experiment with flavoured tobacco products that seem appealing and are perceived as less harmful than conventional tobacco. As a result, fewer tobacco users may be motivated to quit smoking.

In the 2010-2011 *International Tobacco Control Survey* (PROPEL Centre for Population Health Impact), **35% of Canadian menthol smokers of all ages said they would quit smoking entirely if menthol cigarettes were not available.** Another 40% said they would switch to another tobacco product and 21% did not know what they would do.

Comments on the Exemptions in Bill 90

The flavoured cigar exemption: SFNS recommends no flavour exemption be allowed. If the exemption remains, the cigar price, weight and flavours limits specified in the current exemption make it is unlikely that these would be appealing 'starter' tobacco products for youth. We recommend tobacco companies be prohibited from combining other flavours with the rum, whiskey, port and wine flavourings to mimic alcohol drinks such as rum and coke.

The e-cigarettes and e-juice exemption: Canadian youth are now using e-cigarettes in significant numbers. The Canadian Tobacco, Alcohol and Drugs survey reports that 9% of Canadians aged 15 years and older have ever tried an e-cigarette. However, 20% of youth aged 15-19 and 20% of young adults aged 20-24 have ever tried an e-cigarette.

The NS Government telephone survey reported that the majority (70%) of Nova Scotians are "very" or "somewhat" concerned about the availability of flavoured e-juice in Nova Scotia.

Currently, e-cigarettes and juice are unregulated products. It is unknown how safe e-cigarettes are because they have not been in widespread use long enough for scientific assessment of their long-term biological effects and effectiveness to help people stop smoking tobacco. The research about these products is emerging almost daily.

SFNS will continue to bring forward evidence about these products as it becomes available to inform public health decisions based on scientific evidence.

E-cigarettes and e-juice will remain an advocacy priority for SFNS, but today we applaud what is currently the most progressive legislation in Canada to protect the health of our youth from flavoured tobacco products.

ⁱ Propel Centre for Population Health Impact – University of Waterloo. Tobacco Use in Canada: Patterns and Trends 2014 Edition. http://www.mantrains.ca/assets/tobaccouseincanada_2014.pdf

ⁱⁱ Manske SR, Rynard V, Minaker L. 2013 (October). Flavoured Tobacco Use among Canadian Youth: Evidence from Canada's 2012/2013 Youth Smoking Survey. Waterloo: Propel Centre for Population Health Impact. Retrieved from https://uwaterloo.ca/canadian-student-tobacco-alcohol-drugs-survey/sites/ca.canadian-student-tobacco-alcohol-drugs-survey/files/uploads/files/yss12_flavoured_tobacco_use_20140910.pdf

ⁱⁱⁱ Propel Centre for Population Health Impact –University of Waterloo. Smoking intensity and intent to continue smoking among menthol and non-menthol adolescent smokers in Canada <https://uwaterloo.ca/news/news/menthol-cigarettes-linked-increased-smoking-among-teens>

^{iv} Yerger, Valerie B, McCandeless, Phyr M. *Menthol sensory qualities and smoking topography: a review of tobacco industry documents*. Tobacco Control 2011; 20 ii37-ii43.

^v Propel Centre for Population Health Impact – University of Waterloo. Flavoured Tobacco Use among Canadian Youth: Evidence from Canada's 2010/2011 Youth Smoking Survey. <https://uwaterloo.ca/propel/news/flavoured-tobacco-big-issue-canadian-youth>