

**TOWARDS HONESTY AND INTEGRITY IN GOVERNMENT:
A REQUEST FOR FAIR AND REASONABLE
REGULATIONS ON TOBACCO**

A submission regarding

**Bill 90 - Tobacco Access Act (amended)
An Act to Amend Chapter 14 of the Acts of 1993, the Tobacco Access**

Presented to:

**The Law Amendments Committee
Government of Nova Scotia**

Presented by:

Brigham
est. 1906

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April 22, 2015

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INTRODUCTION

We would like to thank the Law Amendments Committee for the opportunity to provide the government with a written submission regarding Bill 90 - *Tobacco Access Act (amended), An Act to Amend Chapter 14 of the Acts of 1993, the Tobacco Access*. In support of the statements made in our submission to the Committee, we have provided the following two Annexes:

ANNEX 1 – Youth Smoking Survey (YSS) GRAPH 2012-2013

ANNEX 2 – Correspondence from Health Canada about YSS

Annex 1 provides evidence dispelling the myth that flavoured tobacco products are a “proven gateway” to kids becoming smokers. Arguably, youth interest in and initiation to smoking via flavoured tobacco products is statistically negligible from a tobacco control standpoint.

Annex 2 provides formal responses from Health Canada – supporting our submission statements. Specifically:

- That the only specific flavour in tobacco known to be “tried” by kids – is Menthol.
- That Health Canada’s research does not identify Brigham’s flavoured tobacco products as being of interest/tried by kids.
- That flavoured cigar products are not a “proven gateway” to youth initiation to smoking. YSS data shows youth initiation to smoking (via flavoured cigars and flavoured little cigars) at only 0.5% and 0.7% respectively (compared to 7.9% for cigarettes).

ABOUT BRIGHAM ENTERPRISES INC.

- Brigham was founded in 1906 and is headquartered in Toronto.
- In Nova Scotia alone, Brigham works in legitimate and licensed partnerships with over 25 wholesale/retail partners across the province. Our products contribute to the financial well-being and bottom line of hundreds of business throughout Nova Scotia.
- As a specialty tobacco business, Brigham products unquestionably service adult consumers who have a personal interest in and appreciation for pipe tobacco, cigars and flavoured tobacco products in general.
- Brigham and its partners are licensed and regularly inspected companies that have absolutely no interest in selling tobacco products to kids.

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ABOUT BILL 90

- Government Bill 90 would ban the sale of all flavoured tobacco products in the province – an initiative justified as a way to mitigate youth initiation to tobacco and youth smoking.
- Government Bill 90 would expect such a ban to be implemented as at May 31st, 2015 (5 weeks from now).
- Bill 90 finds its foundation and leverage exclusively in Health Canada survey data (i.e. *Youth Smoking Survey (YSS)*). **Health Canada has since formally confirmed to us (see Annex 2) that their Youth Smoking Survey (YSS):**
 - ✓ Does not identify which specific flavours are of interest to kids (aside from Menthol).
 - ✓ Does not identify any of Brigham's flavoured cigars or pipe tobacco as being of interest to kids.
 - ✓ Does not confirm the use of flavoured little cigars as a statistically relevant source of youth initiation to smoking (i.e. only 0.7% of never smokers "tried" a flavoured cigar in the previous 30 days of their survey).

Bill 90 would nonetheless, in its dangerously blind and broad reach - come to arbitrarily destroy Brigham's historical, legitimate business activities in Nova Scotia – a business which government inspectors regularly confirm services adults.

Placing Bill 90 and the government's concern with flavoured tobacco products in perspective, it is worth noting that according to Health Canada's Youth Smoking Survey findings:

- 41% of high school kids use alcohol
- 29% of high school kids binge drink (alcohol)
- 19% of high school kids use Marijuana
- 5.6% of high school kids use Other Illicit Drugs
- 4.5% of high school kids use tobacco (all products)
- 4% of high school kids use Pharmaceutical Drugs
- 1.8% of high school kids use Cocaine
- 0.7% of high school kids "tried" a flavoured little cigar (never smokers, flavour unknown)
- 0.5% of high school kids "tried" a flavoured cigar (never smokers, flavour unknown)

ABOUT OUR FLAVOURED TOBACCO PRODUCTS

- Adults in Nova Scotia who smoke have come to expect and enjoy in their chosen tobacco products the same flavours found in their other consumer products of choice.
- Brigham's flavoured tobacco products (cigars and pipe tobacco) are sold in a variety of flavours also found in alcohol products - which are approved for sale, publicly marketed and sold by the Government of Nova Scotia every day. More precisely, the Government of Nova Scotia currently sells the exact same flavours found in our tobacco products (and more) in well over 60 different alcohol products – through 100+ retail stores; 2,100 licensees; and 54 agency stores.
- Brigham's flavoured tobacco products (cigars and pipe tobacco) – are well-established brands and flavours which have serviced legal-age adult-Nova Scotians' for several decades. This fact is easily proven and verifiable through sales records and other professional documentation.
- Brigham's flavoured tobacco products were selling in Nova Scotia long before any Canadian government identified or expressed any concern with any alleged "market-spike" in youth interest in/consumption of flavoured tobacco products (circa mid-2000s).

REQUEST FOR CONSIDERATION – IN SUPPORT OF GOVERNMENT ACCOUNTABILITY

It remains our hope that the government of Nova Scotia is committed to protecting the rights and freedoms of all Nova Scotians – no matter their lifestyle choices and preferences. It also remains our sincerest hope that the government of Nova Scotia would never knowingly and arbitrarily introduce laws that are not well supported by actual research and expert review.

1. Actual review of the survey data leveraging Bill 90

- The government of Nova Scotia should, prior to the passage of any law/prohibition – secure directly from Health Canada an accurate understanding of the survey data that exclusively forms the basis (and purpose) of Bill 90. In keeping with our own responses since received from Health Canada (about their survey data) – we trust the government of Nova Scotia would also find that the allegations/assumptions made about our flavoured tobacco products are grossly unfounded. It is simply not true that kids start to smoke because of flavoured tobacco products.
- At this time, the government of Nova Scotia has but secured third party interpretations of the YSS data from (arguably) extremely biased sources whose mandates are to destroy tobacco companies at any cost (even the truth).

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2. Prescribing Brigham's well-established flavoured tobacco products – as exempt under currently proposed law

If no sincere, comprehensive expert public review of Health Canada data is forthcoming - we would ask that our century-old company and its well-established legitimate flavoured tobacco products be immediately exempt from Bill 90's regulatory (tobacco) purge.

The rationale for such a request follows:

- The government's currently proposed ban on flavoured tobacco products is simply too far reaching, unjustified and unwarranted. As written, Bill 90 will come to arbitrarily and without any value to anyone simply destroy legitimate companies and legitimate jobs in Nova Scotia.
- Health Canada's research (i.e. Youth Smoking Survey) – largely the basis and justification for Nova Scotia's proposed ban on flavoured tobacco products – alleges a "market-spike" in youth interest in flavoured tobacco products circa 2007. Brigham's flavoured tobacco products had long been established in Nova Scotia's marketplace – decades prior to this government research (findings) and/or any government concern regarding alleged youth interest in (initiation to) flavoured tobacco products.
- Brigham's flavoured tobacco products in no way target, appeal or entice kids into becoming smokers. There exists no government research, public evidence or proof whatsoever that any of Brigham's products are being consumed by kids. Health Canada itself has confirmed this (see Annex 2). *We could secure more formal evidence from Health Canada, if required.
- Regular government inspections of our retail distributors – clearly confirm that our long established flavoured tobacco products are being sold to adults. Our long-established clientele are unquestionably adult Nova Scotians who have made a personal choice to purchase and consume our flavoured tobacco products. This is part of their chosen lifestyle.
- All Nova Scotian's, despite their personal choices and lifestyle preferences – should be treated with equal respect and consideration by their elected government.

3. Reasonable Implementation/Enforcement dates

If no actual review of the research (Health Canada) or exemptions for our legitimate adult-oriented products is forthcoming – we would then respectfully request that any implementation date for any proposed ban consider the commercial realities of our partners in Nova Scotia.

It would be unfair and unreasonable to expect that our wholesale/retail partners in the province liquidate their legitimate inventories within a 5 week timeframe. Under such a scenario, we would suggest that a phase-in period of 9-12 months be granted to industry stakeholders. Such a phase-in period is part and parcel of (historical) best practices within Canadian governments on tobacco-related issues (new regulations).

We thank you for your time in this matter and would of course welcome meeting with you and/or answering any questions you might have regarding our submission, our company or our products.

Regards,

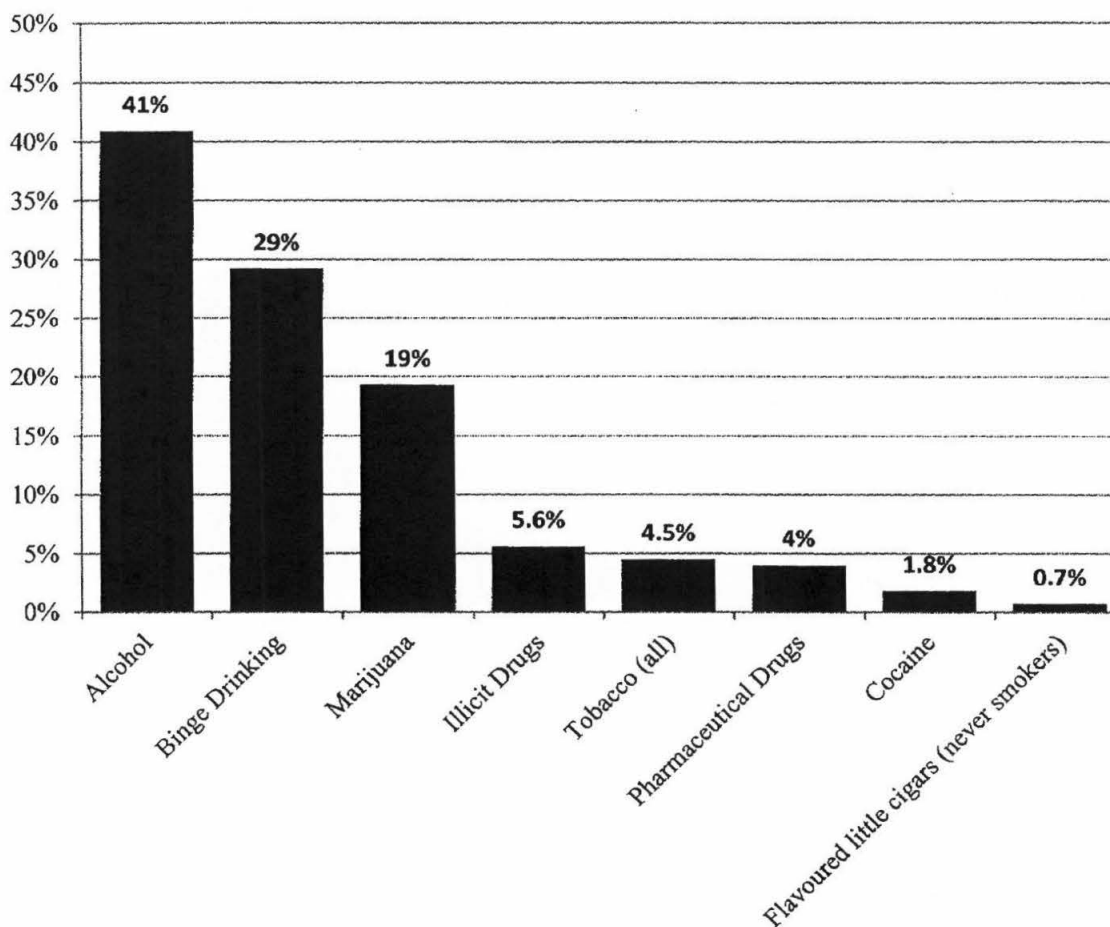


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ANNEX 1

Use of various age-restricted or illegal products Among kids in Grades 6 to 12 Canada 2012-2013



Source: Youth Smoking Survey 2012-2013, Health Canada.

Note: **Illicit Drugs (any 5)** include: Amphetamines (speed, ice, meth); MDMA (ecstasy, E, X); Hallucinogens (LSD or acid, PCP, magic mushrooms, mesc); Salvia (Divine Sage, Magic Mint, Sally D); Heroin (smack, H, junk, crank); Cocaine (coke, crack, blow, snow). **Psychoactive pharmaceutical drugs** used to get high include: Tranquillizers or Sedatives (tranqs, downers); Stimulants (uppers, bennies) or ADHD treatment; Pain Relievers (such as Percocet, Percodan, Demerol, OxyContin or any pain reliever with codeine). Data on the use of identified drugs are of kids in grades 7 to 12.

ANNEX 2 - CORRESPONDENCE FROM HEALTH CANADA ABOUT YSS

APRIL 9TH 2015 EMAIL RESPONSE (EMAIL CONTENT) SENT BY:

Mr. Mathew Cook
Manager, Regulations Division
Tobacco Products Regulatory Office
Controlled Substances and Tobacco Directorate
Health Canada

Tel.: (613) 954-9632

Thank you for your interest in the *Canadian Tobacco Use Monitoring Survey* (CTUMS) and the *Youth Smoking Survey* (YSS). The following is in response to your request for clarification on information collected in the above Health Canada surveys on the use of flavoured little cigars by underage Canadians.

The content of the CTUMS and YSS questionnaires have changed over time. The CTUMS, conducted from 1999 to 2012, and the YSS, conducted from 1994 to 2012/13, focused primarily on tobacco use. In 2013, the above surveys were modified to have a more balanced focus between several issues such as tobacco use and substance use, including alcohol and illicit drug use as well as pharmaceutical drug abuse. The modified surveys were subsequently renamed the *Canadian Tobacco, Alcohol and Drugs Survey* (CTADS, surveying Canadians 15 years of age and older) and the *Canadian Student Tobacco, Alcohol and Drugs Survey* (CSTADS, surveying children in grades 6-12). Both are now conducted every two years. Survey content is reviewed every cycle to ensure that the information collected provides meaningful results or is replaced to collect information on emerging issues.

In response to your specific questions:

Does Health Canada's YSS ask high school kids/respondents - what specific flavoured tobacco products they have tried (i.e. specific brand names like Prime Time, Bullseye, Honey-T, Colts, Old Port, etc.).

Regarding the part of your question on whether the surveys collected information on specific flavoured tobacco products, the YSS asked students if they had smoked a menthol cigarette in the 30 days prior to the survey. With respect to questions on specific brand names, YSS (from 1994 to 2010/11) and CTUMS (from 2004 to 2012) allowed the prevalence of menthol cigarette use among youth and young adults to be derived using results of the reported usual cigarette brands containing menthol. Information on specific brands or specific flavoured tobacco products of non-cigarette tobacco products, such as little cigars or cigars, was never collected as part of the YSS.

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When high school kids/respondents answer "YES" to having tried a flavoured cigar – does the YSS allow the respondents to further qualify their answer by distinguishing between an alcohol flavour versus a fruit flavour?

The survey collects information on plain tobacco and **any** flavoured tobacco use (e.g.: menthol, cherry, vanilla) for a variety of tobacco products including little cigars and cigars. No further questions were asked to distinguish between the flavours used. It is worth noting that the breakdown of the flavour market for most of the tobacco products is available to Health Canada through sales reports from the industry.

Is it true that the flavour "Menthol" is the only specific flavour that is being monitored by Health Canada in YSS and/or CTUMS?

The YSS asked students if they had smoked a menthol cigarette in the 30 days prior to the survey. In addition, prevalence of menthol cigarette use among youth and young adults can be derived using CTUMS results based on usual cigarette brands containing menthol. We confirm that other than menthol cigarettes, information on specific flavour used was not collected by the surveys. Again, it is worth noting that the breakdown of the flavour market for most of the tobacco products is available to Health Canada through sales reports from the industry.

Is it true that YSS findings confirm "Menthol" as the flavour overwhelmingly being tried by high school (age) kids surveyed (who answered "YES" to having tried a flavoured tobacco product)?

The survey results confirm that youth, especially current smokers, are reporting using menthol cigarettes. Based on the YSS 2012-2013, 3% of students in grades 6 to 12 reported using menthol cigarettes in the 30 days prior to responding to the survey. Among grades 6 to 12 students who are current smokers, 37% have reported smoking menthol cigarettes in the past 30 days.

That said, among students in grades 6 to 12 who reported having used at least one tobacco product in the past 30 days, one in five (21%, approximately 66,000 youth) reported using menthol cigarettes and 30% (approximately 94,000 youth) reported using flavoured little cigars respectively, in the YSS 2012-2013.

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Is it true that the most recent YSS findings show that 0.7% of kids who were never smokers, tried a flavoured little cigar product (flavour unknown)? If that statistics is wrong, what is the actual statistic for kids who never smoked before, who tried a flavoured little cigar (during the last 30 days of the YSS cycle)?

Overall, 15% of students in grades 6-12 have reported using a flavoured tobacco product in their lifetime. We also confirm that, based on the YSS 2012-2013, among students in grades 6-12 who reported having never tried smoking cigarettes, 0.7% reported smoking a flavoured little cigar in the past 30 days. By comparison, 7.9% of students in grades 6 to 12 reported smoking a cigarette in the 30 days preceding the survey.

Does Health Canada's YSS survey ask high school kids/respondents – why they decided to try a flavoured cigar product (e.g. because of the flavour, because that's what was accessible to them, etc.)?

The YSS did not examine reasons why a specific flavour was tried. Survey question exploring reasons, attitudes or belief are difficult to administer. It would require an exhaustive list of possible response options and substantial landscape in the questionnaire which is costly to administer.