

Tobacco and Smoking Reduction Act Review

Backgrounder

October 25, 2019

Background

- On October 2, 2019, Minister of Health Tyler Shandro announced a review of Alberta's tobacco legislation to further protect Albertans from the harm of tobacco, second-hand smoke, tobacco-like products and vaping
- MLA Jeremy Nixon is leading the review
- MLA Nixon, along with a team from Alberta Health, is visiting cities across the province until end of November to hear from health stakeholders/experts and business owners
- Albertans and stakeholders can take the online survey to provide feedback until November 29, 2019

Alberta's Tobacco Control Legislation

What Tobacco Control Legislation exists in Alberta?

- *Tobacco and Smoking Reduction Act (TSRA)*
- *Tobacco and Smoking Reduction Regulation (TSRR)*
- *Tobacco Reduction Amendment Act (TRAA)*

TSRA Establishes measures to prevent and reduce harms of tobacco and second-hand smoke such as public consumption, provisions for retail and advertising, tobacco-related offences and penalties, prohibition on flavoured tobacco etc.

TSRR Identifies requirements related to tobacco control such as prescribed distances for public consumption, identification requirements, inspection authorities, minimum package sizes etc.

TRAA Consists of unproclaimed sections addressing further controls on tobacco-like products (hookah/waterpipe) in public places and workplaces

Why We're Reviewing Tobacco Legislation

The TSRA was enacted in 2013 and requires a review of the Act to begin by November 2019

Since that time vaping has emerged as a key health threat and new tobacco product technologies have been introduced

The review will assess the effectiveness of the current legislative framework to address tobacco-related harms and emerging issues

Updates to legislation will allow us to further protect Albertans from tobacco-related harms and emerging issues like vaping and use of tobacco-like products (herbal shisha in hookah/waterpipe).

What We're Reviewing

In-scope	Out of Scope
<ul style="list-style-type: none">• Issues related to the use and sale of tobacco, vaping and tobacco-like products	<ul style="list-style-type: none">• Ceremonial use of tobacco by First Nations
<ul style="list-style-type: none">• Potential policy options in order to inform possible changes in legislation	<ul style="list-style-type: none">• Policy recommendations that fall under the authority of municipalities, First Nations or the federal government
<ul style="list-style-type: none">• Review of legislation of other Ministries to identify and reduce potential overlap, inconsistency or conflict	<ul style="list-style-type: none">• Issues related to the use of cannabis products• Health care cost recovery litigation against tobacco manufacturers• The decision to impose a tax on vaping products

What to Keep in Mind

- We need to address the growing concerns around the increase in vaping, especially among young people
- Smoking costs our communities over \$1 billion a year, in health care costs, as well as lost productivity and other indirect costs. We want smoking rates to keep going down, especially among young people
- We need to balance concerns about health, especially for young people, with the rights of the adults to make choices as consumers
- We also need to consider the potential impacts on small businesses

Tobacco Smoking in Public (to Protect Albertans from Second-hand Smoke)

Background

- Exposure to second-hand smoke is a significant health risk
- Evidence indicates that second-hand smoke contains more than 7000 chemicals and at least 70 of them can cause cancer
- People who are exposed to second-hand smoke can have immediate and long-term health risks such as increased heart rate, less oxygen to the heart, lung cancer and other lung diseases, heart attacks and stroke
- Children who breathe second-hand smoke are at higher risk for health issues, including breathing problems, asthma attacks, pneumonia and Sudden Infant Death Syndrome (SIDS)

Tobacco Smoking in Public

Current State

- To protect Albertans from second-hand smoke, smoking of tobacco is currently prohibited in public places, workplaces, public vehicles and within 5 meters of a doorway, window or air intake of a public place or workplace
- Smoking is currently allowed on school grounds, hospital grounds, outdoor spaces of child care premises and in some other areas frequented by children (e.g., playgrounds, skateboard or bicycle park)

Jurisdictional Scan

- Alberta's prohibited places definition differs from other provinces:
 - British Columbia, Ontario, and New Brunswick prohibit smoking on hospital grounds
 - British Columbia, Saskatchewan, Ontario, Quebec, New Brunswick, and Nova Scotia prohibit smoking on school grounds
 - Ontario, Quebec, and New Brunswick restrict the consumption of tobacco in children's playgrounds, sports fields/areas, and spectator stands at sports fields/areas

Vaping Tobacco/Nicotine Products or E-cigarettes

Background

- Vaping is not without risks
- More research is needed to understand the health effects of vaping, but some evidence has shown that there are risks, such as lung damage, increased risk of heart attack, nicotine poisoning and addiction (particularly in youth) and other unknown health impacts
- Vaping can model and renormalize smoking behaviour among youth
 - Evidence indicates that youth who use vaping products with nicotine may become addicted and are at increased risk of becoming smokers
- For adults, there is some evidence that vaping can help smokers reduce the harm to their health if they quit smoking completely

Vaping Tobacco/Nicotine Products or E-cigarettes

Current State

- The emergence of vaping products in recent years has resulted in a large number of Albertans using these products
 - In Alberta, teen vaping rates surged from 8% in 2014-15 to 22% in 2016-17
- Currently, Alberta's tobacco laws do not specifically address vaping products

Jurisdictional Scan

- The federal *Tobacco and Vaping Products Act* (TVPA) regulates the manufacture, sale, labelling, packaging and certain forms of advertising and promotion of vaping products
 - the federal vaping legislation currently has gaps that are predominantly provincial responsibilities
- Alberta and Saskatchewan are the only provinces without vaping legislation. Saskatchewan in planning to introduce vaping legislation this fall
- All other provinces have introduced explicit vaping laws that address the gaps in federal legislation and provide additional protections such as
 - restriction of public consumption
 - restrictions for location of sale
 - minimum age for sale
 - photo identification requirements
 - limits for advertising in stores

Enforcement and Penalties

Background

- Evidence indicates that compliance rates among retailers must exceed 90% to have significant impact on youth tobacco use. Obtaining these high levels of compliance requires strong enforcement
- Active enforcement requires regular compliance checks with tobacco retailers, such as retail inspections and test shopping
- Passive enforcement (e.g., only responding to complaints) is not very effective to achieve high compliance
- Alberta has the highest levels of tobacco sales to minors of any province according to a 2014 national retail compliance study commissioned by Health Canada

Enforcement and Penalties

Current State – Enforcement

- Alberta's tobacco enforcement activities are spread across different enforcement agencies, including peace and bylaw officers from municipalities and Alberta Gaming Liquor and Cannabis (AGLC), municipal police services and the RCMP
 - Most agencies have limited ability to enforce tobacco laws because of their current capacity and other priorities
- Youth possession/use is the most frequently enforced component. For other violations, enforcement actions are usually taken only in response to complaints or calls
- Alberta currently does not have a single designated agency to coordinate or oversee enforcement. Retail inspections and test shopping are not common

Jurisdictional Scan

- All provinces/territories in Canada except Alberta and New Brunswick have adopted a 'public health' model of enforcement with dedicated tobacco enforcement officers operating under a health authority

Enforcement and Penalties

Current State – Penalties

- Alberta's tobacco legislation establishes penalties for not complying with requirements
- Selling tobacco to a minor could result in a fine of up to \$10,000 for a first-time conviction and up to \$100,000 on second or subsequent violations
- Violating the restrictions on signage, display and advertisement requirements could result in a fine of up to \$10,000 for a first-time conviction and up to \$100,000 on second or subsequent violations
- Minors can also be penalized for possession of tobacco with a fine of up to \$100

Retail Environment

Background

- Retail environment can prevent initiation of smoking/vaping among youth and support retailers to comply with tobacco laws
- Evidence indicates that actions that prevent tobacco sales to minors reduce smoking among youth
- Research shows that there is a direct correlation between age of a clerk and likelihood of selling tobacco products to minors

Retail Environment

Current State

- Currently, there are tobacco product display, advertising and promotion restrictions at retail stores and sale of tobacco is prohibited in certain locations (e.g., health facility, pharmacy). In addition, retail store managers are required to comply with certain signage requirements (e.g., post sign indicating that it is illegal to sell tobacco products to minors)
- Alberta's tobacco laws allow underage store clerks to sell tobacco products
- There is currently no provincial licensing system or mandatory training requirements for the retailers

Jurisdictional Scan

- Most provinces (Ontario, British Columbia, New Brunswick, Nova Scotia, Manitoba, Prince Edward Island, Newfoundland and Labrador) require retailers to be licensed
- No province requires the tobacco retailers to take mandatory training
- Underage clerks are allowed to sell tobacco products in all provinces

Tobacco-like Products (Herbal Shisha in Hookah/Waterpipe)

Background

- Tobacco-like products include waterpipes (also known as hookahs), containing shisha and narghile
- Health risks include: increased risk for cancer; decreased pulmonary function; spread of infectious diseases (such as herpes, mononucleosis, tuberculosis and hepatitis)
- Hookah/waterpipe smoking also carries risks for non-users who are exposed to cancer-causing chemicals when waterpipes are used in public places, work places and other enclosed areas
- Youth are attracted to hookah/waterpipe use, due to relative ease of accessibility, the social nature of use and the misconception that hookah/waterpipe smoking is not harmful

Tobacco-like Products (Herbal Shisha in Hookah/Waterpipe)

Current State

- If the product contains tobacco, hookah/waterpipe smoking is prohibited in public places and workplaces
- However, smoking herbal hookah/waterpipe products (without tobacco) is currently permitted in public places and workplaces (e.g., hookah/shisha lounges)
- Alberta has legislative provisions (the *Tobacco Reduction Amendment Act* [TRAA]) that have not been proclaimed which would ban smoking herbal hookah/waterpipe products in public places and workplaces

Jurisdictional Scan

- Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador have banned hookah/waterpipe smoking in public places
- Edmonton is considering banning hookah/waterpipe smoking in public establishments (as early as July 1, 2020) and Calgary has conducted a consultation on banning hookah/waterpipe smoking in public places and workplaces

Affordability

Current State

- Government has announced its intention to tax vaping products.
- While cigarettes are taxed at a rate of \$55 per carton provincially and \$24.38 per carton federally, neither the Government of Alberta or the Government of Canada currently levies a specific tax on vaping products
- Empirical studies have found that in high-income countries, a 10 per cent increase in the price of tobacco is expected to decrease tobacco consumption by about three to five per cent among adults. The effect on youth is about two to three times greater
- There are few studies on the effectiveness of vaping product taxes but there is some evidence to suggest similar effects as tobacco taxes

Jurisdictional Scan

- No provinces have implemented a specific tax on vaping products. All other provinces levy their provincial sales taxes on purchases
- A number of U.S. jurisdictions have implemented a tax on vaping products

How You Can Provide Input

- A public survey is a key component of the review
- Albertans and stakeholders are encouraged to take the online survey to provide feedback
- The survey will be open until November 29, 2019

Thank you
